DOWNTOWN MERCHANTS ASSOCIATION (DMA)
BEER VENDOR AGREEMENT FOR DOWNTOWN CASTLE ROCK OKTOBERFEST 2022

1. **Vendor Will Provide:**
    a. A minimum of 10 kegs for the Event, unless otherwise set forth in writing between the Vendor and DMA
    b. Brewery will be paid based on tapped kegs, not by the number of kegs provided.
        - Payment will be **$175 per keg** if agreement is delivered to DMA before **5/31/2022**
        - Payment will be **$150 per keg** if agreement is delivered to DMA before **8/12/2022**
        - Kegs will be marked periodically throughout the day. A final count will occur at 8:30 PM. Brewers may not leave before the final keg count is conducted or will forfeit any payment of kegs not recorded.
        - The DMA will not pay for kegs taped after 8:30 PM.
    c. Marketing information including brewery logo and beer type information must be provided by **8/12/22**
    d. A minimum of 2 staff members to serve beer, unless negotiated in writing with the DMA.
    e. Jokey box to serve beer
    f. Table and branded tent for beer booth.
2. **DMA Provides:**
    a. Beer booth space (10x10)
    b. Optional Merchandise booth space (free), upon request from Vendor by **8/12/22**.
    c. 12 oz cups (unless Vendor prefers to provide their own cups; is so must be 12 oz plastic cups)
    d. Marketing, including but not limited to street side banners, banners at event, posters, social media, etc.
    e. Ice.
3. **Expectations for Brewery Representatives:**
    a. All brewery representatives must be 21 years or older and present valid photo ID upon check in at the event.
    b. Promotion of your product may only occur within the confines of your booth.
    c. Brewery representatives must maintain sobriety while participating in the event. Any brewery representative deemed intoxicated during the event shall be subject to ejection.
    d. Brewery representatives must be appropriately dressed for a family friendly event during the event. Appropriate dress is at the sole discretion of the DMA.
    e. Brewery representatives should always conduct themselves with appropriate decorum. Activities by a brewery representative that endanger event attendees, event staff, event vendors or any activity that is contrary to Colorado law, may be subject to the brewery representative or the attending brewery to ejection from the event at the sole discretion of the DMA staff.
    f. Throwing items (i.e. cups, etc.) from the booth into the crowd is strictly prohibited.
    g. **Brewery representatives must load-in between 10am and 12pm the day of the Event**. If representative has not arrived and begun setting up booth by 12:00 PM, they will have forfeited booth space and all payments made.
4. **Guidelines for Serving Beer to Attendees:**
    a. All pours must be made into a clean cup.
    b. Do not serve attendees who appear intoxicated. Alert event staff or police if of the intoxicated individual.
    c. All drinks served must be in exchange for one beer token that is purchased from the DMA event staff and volunteers. If brewery representatives are not collecting tokens in exchange for beer, brewery may be subject to reimbursement to the DMA for the cost of the beer.
    d. Brewers may start serving alcohol at 12pm, indicated on the liquor license issued by the State of Colorado.

5. **Default by Brewery/Liquidated Damages:**
    a. Brewer's failure to attend and/or to provide at least 10 kegs on the day of the Event as set forth herein shall be deemed a default by Brewer.
    b. Brewer defaults in its obligations pursuant to the terms of this agreement, then, upon demand by DMA, brewer shall pay to DMA the sum of five thousand and 00/100 dollars ($5,000.00) as liquidated damages. The parties hereto expressly agree and acknowledge that DMA's actual damages in the event of a default by brewer would be extremely difficult or impracticable to ascertain and that the amount of the liquidated damages represents the parties' reasonable estimate of such damages including potential harm on the DMA's relationship and reputation with partners, sponsors, the town of castle rock and vendors.
6. **Limitation of Vendor:** Unless otherwise provided, the cash, services, benefits, and any other terms described in the 2022 Event Sponsor Opportunities packet are related solely to DMA's 2022 event season.
7. **License and Usage:** Vendor hereby grants DMA a limited, non-exclusive license to use Vendor's trade name, trademark, service mark and any other proprietary information owned by the Vendor. DMA agrees that such information will be used only in connection with specific 2022 DMA event(s) selected by vendor to provide the benefits set forth in the 2022 Event Sponsor Opportunities packet. Vendor shall provide DMA a high-resolution logo for use in promoting Vendor, as applicable.
8. **Prohibition Against Employing Illegal or Unauthorized Aliens:** Vendor certifies to DMA that Vendor shall not knowingly employ or contract with any illegal alien (*See* CRS § 8-17.5-101) or unauthorized alien (*See* 18 USC § 1324a(h)(3)). Upon request, Vendor shall provide proof of legal documentation of citizenship for any employee, volunteer, agent, official, officer, servant, contractor or any other representative of Vendor.
9. **Prohibition on Assignment, Transfer, and Subcontracting:** This Agreement shall not be assigned, transferred or subcontracted without the prior written consent of DMA.
10. **Indemnification, Duty to Defend, Release of Liability:** Vendor and DMA agree that parties often misunderstand who is responsible for damages, injuries, losses, and liabilities stemming from vendor participation at DMA Events and use of Town of Castle Rock property that is licensed for use to DMA. Thus, Vendor shall fully release, indemnify, hold harmless, and defend (with counsel of DMA's choosing at Vendor's expense) DMA and DMA's employees, agents, elected officials, officers, servants, successors, assigns, and any other representatives of DMA, from and against any and all losses, damages, liabilities, claims, suits or actions, including costs and attorney's fees, incurred as a result of the acts or omissions of the Vendor, or Vendor's employees, agents, elected officials, officers, servants, successors, assigns, and any other representatives of Vendor, arising out of or in any way connected with: 1) Vendor's participation in DMA Events, and/or 2) Vendor's use of Town of Castle Rock property licensed for use to DMA. The provisions of this paragraph shall survive the termination of this Agreement.
11. **Event Attendance:** Vendor understands that the attendance numbers are based upon estimates. No portion of the Vendor fees or in-kind services may be refunded for any reason, including but not limited to weather, except as provided herein. Vendor agrees and understands that if Vendor does not arrive at the event(s) by a minimum of sixty (60) minutes prior to Event start time, Vendor shall forfeit Vendor's booth space and any and all payments made in advance or expected to be received from the DMA, or any rights thereto.
12. **Exclusivity:** Vendor's offerings are not exclusive unless provided for in writing by the DMA.
13. **Permits and Licenses:** Vendor shall obtain and maintain appropriate business, sales tax, food sales and any other required licenses and permits as necessary and provide documentation of such to DMA no later than ten (20) business days prior to the event(s). Vendor must have a Town of Castle Rock sales tax license effective through the duration of each Event, regardless of whether Vendor sells anything.
14. **No Employment Relationship:** This Agreement shall not create any joint venture, partnership, employer/employee relationship, agency or other employment relationship between the parties. The parties intend this Agreement to explicitly prevent the Vendor from becoming or being classified as an employee, partner, agent of, or joint venture with DMA for any reason or purpose. Neither Vendor nor DMA desires Vendor or Vendor's employees, volunteers, agents, elected officials, officers, servants, successors, assigns, and any other representatives of Vendor, to be or become an employee, partner, agent of, or joint venture with DMA. Vendor acknowledges that Vendor is solely responsible to perform its obligations under this Agreement, and that DMA neither directs nor controls Vendor, except to the degree necessary for maintaining the overall professional image of DMA. Vendor acknowledges and agrees that Vendor, and Vendor's employees, volunteers, agents, elected officials, officers, servants, successors, assigns,

and any other representatives of Vendor, are not entitled to any employee benefits from DMA, including but not limited to, any employer withholdings or liability for taxes; FICA; Medicare of Medicaid; medical, life, or disability insurance; vacation, holidays, or leave; pension; workers' compensation insurance; or unemployment insurance benefits or other unemployment compensation (collectively, "Employee Benefits"). Vendor is obligated to pay federal and state taxes on any compensation earned pursuant to this Agreement. Further, Vendor acknowledges and agrees that the health insurance mandates applicable to employers under "The Patient Protection and Affordable Care Act" do not apply to DMA with respect to Vendor, Vendor's employees, volunteers, agents, elected officials, officers, servants, successors, assigns, and any other representatives of Vendor, or any engagement created by this Agreement. Vendor shall be solely responsible for compensating and providing Employee Benefits to its employees, volunteers, agents, elected officials, officers, servants, successors, assigns, and any other representatives of Vendor. Vendor understands and agrees that the DMA shall not be responsible for the payment of any overtime premium for hours worked by Vendor, or Vendor employees, volunteers, agents, and servants because such persons or entities are not employees of DMA. Vendor is responsible for paying any overtime premium required by law to any of Vendor's employees, volunteers, agents, elected officials, officers, servants, successors, assigns, and any other representatives of Vendor who qualify for such premium payment.

15. **Insurance:** Vendor shall maintain, for the duration of each Event, standard and customary liability and property insurance. Certified copy of the insurance policies required below; and a certificate of insurance which shall name the Castle Rock Downtown Merchants Association, 18 S. Wilcox Suite 202 Castle Rock, CO 80104 and Co-Events LLC, 908 Washington Ave. Golden, CO 80401 and each of their affiliates and respective board members, officers, employees, agents, volunteers, and subsidiaries as an additional insured parties; and shall provide minimum liability limits as follows:
    - General with Product Liability. Bodily Injury and Property Damage Insurance in the amount not less than $1,000,000.00 combined single limit.
    - Automobile Liability. Bodily Injury and Property Damage Insurance in the amount not less than $500,000.00 combined single limit.
16. **Changes or Alterations:** There will be no change, alteration, variation or deviation from the terms of this Agreement unless made in writing and signed by all parties hereto. No verbal understanding or agreement, past, present or future not incorporated herein shall be valid or binding on either party. This Agreement (including any and all attachments and the 2022 Event Sponsor Opportunities packet) constitutes the entire understanding and agreement of the parties, whether written or oral, and supersedes all prior and contemporaneous agreements or understandings between the parties with respect to the subject matter hereof.
17. **No Waiver:** No waiver of any provision of this Agreement will be deemed, or will constitute, a waiver of any other provision, whether or not similar, and no waiver will constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.
18. **Attorney's Fees:** If Vendor defaults under this Agreement, Vendor must reimburse DMA for all costs and expenses reasonably incurred in connection with such default, including without limitation attorney's fees. In addition, if any suit or action is filed to enforce this Agreement or with respect to this Agreement in which DMA prevails, DMA is entitled to be reimbursed by Vendor for all costs and expenses incurred in connection with the suit or action, including without limitation reasonable pre-judgment and post-judgment attorney's fees at the trial level and on appeal. All other legal remedies are hereby reserved.
19. **Severability:** If any clause, provision, section, or paragraph set forth in this Agreement is determined to be illegal, invalid, or unenforceable under present or future applicable laws, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

Additional Rules and Regulations:

1. **Food/Health Department:** Vendor shall not give away or sell food without prior permission from DMA. If Vendor is given permission to give away or sell food, Vendor must have a current Tri-County Health Department Temporary Food Vendor License or a Mobile License, unless food items are commercially packaged. The application is available by calling Tri-County Health Department at 303-663-7650. Vendors holding a Temporary Event License must submit the appropriate documentation for each event at which Vendor is participating to Tri-County Health at least two (2) weeks prior to each Event. Failure to submit said documentation at least two weeks prior to each event may result in late fees being assessed by Tri County Health Department. Copies of approval from Tri-County Health Department must be delivered to DMA 20 days prior to event(s).

2. **Access:** DMA and DMA's employees, volunteers, agents, elected officials, officers, servants, successors, assigns, and any other representatives of DMA shall have access to all Event sites at all times, regardless of whether any such site is occupied by a Vendor. Vendor shall be responsible for securing personal property; DMA shall not be responsible for any lost, stolen, or damaged property.
3. **Location:** DMA shall have the right to cancel, reschedule, and/or move the event(s) to another location or date at DMA's sole discretion if, at DMA's sole discretion, Event premises become unfit due to any cause outside the reasonable control of DMA. DMA shall also have the right to cancel, reschedule, and/or move any Vendor, when DMA, in DMA's sole discretion, decides that any such action to be in the best interest of any DMA Event. In the event of cancellation, moving, or rescheduling of the event(s) or Vendor, Vendor agrees to waive claims that may arise from said cancellation, moving, and/or rescheduling.
4. **Subleasing:** Vendor is prohibited from subleasing booth space or any portion thereof without prior written authorization from DMA. Two (2) or more businesses, groups or persons shall not share a single booth space without prior written approval from DMA.
5. **Electricity:** Vendors are not guaranteed to be provided with electricity at any booth. Vendor must submit a request for electricity at least two (2) weeks prior to the event. Submitting a request for electricity, however, does not guarantee electricity will be provided. If a request for electricity is granted, Vendor agrees to pay a fee of seventy-five dollars ($75.00) per Event; such fee shall be in addition to any other required fees or payments.
6. **Food and Alcohol Consumption:** Vendor shall not consume any alcohol in their booth space during the event(s). By dictate of the Tri-County Health Department, no food or beverage shall be consumed inside a food preparation or food serving booth.
7. **Conduct:** Vendor shall conduct its operations in a professional and orderly manner at all times and shall keep its booth area neat, clean and free from rubbish. Vendor shall at all times behave in a manner appropriate for a community and family-oriented event.
8. **Sound:** Vendor shall obtain prior written authorization from DMA before using any sound devices, including but not limited to, radios, speakers, stereos or other attention-attracting devices at any booth. DMA reserves the right to revoke permission for the use of any such sound device at any time.
9. **Set Up and Tear Down:** Vendor must set up its booth during specified set up hours. If Vendor does not arrive at the event(s) by a minimum of sixty (60) minutes prior to Event start time, Vendor shall forfeit Vendor's booth space and any and all payments made. Vendor shall not close or dismantle its booth prior to the end of an Event. In the weeks leading up to each Event, DMA will strive to finalize Vendor's need for merchandise booth space and, if Vendor notifies DMA of a need for booth space, DMA will strive to send booth assignments and set up times and instructions to Vendor via email at least two (2) days prior to the event(s).
10. **Event Booth:** Booth spaces are at least ten (10) feet by ten (10) feet. Vendor is responsible for providing Vendor's own canopy or tent structure, weights to secure the canopy or tent structure, tables and chairs.
    - Vendor shall be solely responsible for properly weighing down and securing any canopy, tent, or other structure used by Vendor. Structures that are not, at DMA's sole discretion, sufficiently weighed down or secured, shall be taken down by Vendor. Vendor shall be solely responsible for any damages, injuries, losses, and liabilities caused by Vendor's failure to appropriately weigh down or secure any structure used by Vendor.
    - Vendor shall be solely responsible for any damages, injuries, losses, and liabilities caused by Vendor's failure to appropriately weigh down or secure any structure used by Vendor. Vendor understands and agrees that Vender's booth shall be occupied by a representative of Vendor at all times. Failure to occupy Vendor's booth shall result in exclusion from future events and forfeiture of any and all payments made.
    - Vendor understands and agrees that Vendor's booth shall be occupied by a representative of Vendor at all times, unless otherwise agreed to in writing and signed by a representative from both DMA and Vendor. Failure to occupy Vendor's booth shall result in exclusion from future events and forfeiture of any and all payments made, or any claims for payment from DMA.
11. **Right of Refusal:** Any acceptance of Vendor by DMA does not imply endorsement by DMA of Vendor or its services or products. DMA reserves the right to refuse Vendor at any time if, at DMA's sole discretion, Vendor does not fit with the mission of DMA.

12. **Loss of Privileges, Eviction, Forfeiture of Payments:** Vendor shall lose all privileges, be subject to eviction from any booth and any or all Events at any time, and shall forfeit all amounts paid toward past, present or future Events if, at DMA's sole discretion, Vendor fails to comply with any portion of this Agreement.