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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: March 4, 2008

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 8(A)(1)(A)

Resolution No. R-207-08

Subject: Award Recommendation for the Clock Sponsorship Program License Agreement at Miami International Airport (Bid Waiver).

RECOMMENDATION

It is recommended that the Board waive competitive bidding procedures pursuant to Section 2-8.1 of the Miami-Dade County Code and Section 5.03D of the Home Rule Charter; award a Clock Sponsorship Program License Agreement at Miami International Airport (MIA) to GMüller LLC; and authorize the Mayor or his designee to execute said contract substantially in the form attached hereto. It is further recommended that the Board authorize the Mayor or his designee to exercise any renewal, termination or cancellation provisions therein. The Miami-Dade Aviation Department (MDAD) is requesting this bid waiver because it received only one response to its Request for Information (RFI).

SCOPE

Miami International Airport is located primarily within Commission District Six. However, the impact of this agenda item is countywide in nature as MIA is a regional asset.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 contained within the subject agreement related to identifying delegation of Board authority, the Director or designee has the authority to exercise the option to extend and terminate the agreement. Furthermore, the Director or designee has the authority to draw payment security; make any repairs, alterations and additions to any structures and locations at the Airport; and has the right to adopt and enforce reasonable and non-discriminatory rules, regulations and operating performance standards with respect to the use of locations.

FISCAL IMPACT/FUNDING SOURCE

This project is revenue generating with the following payments to the County:

GMüller has agreed to install, maintain and operate the master clock system in the Terminal at its expense. GMüller has committed to investing $665,826 based on providing the clocks at their cost and use of a contractor to install the clocks. GMüller will also provide a sales force through the hiring of an advertising agency to sell the advertising on the clocks whose fees are estimated to be 15 percent of gross revenue. GMüller shall pay the County 50 percent of gross revenues once the GMüller investment is recovered. The County expects revenues to commence at the beginning of the third year with projected revenue for the term of the contract (after GMüller's investment) of $1,009,524.

TRACK RECORD/MONITOR

GMüller does not have any existing agreements with the County. GMüller currently provides clock services in many commercial Airports in Brazil and at the Miami Free Zone. Their performance has been satisfactory based on references provided. MDAD Division Director of Commercial Operations Patricia A. Ryan will monitor the contract.

BACKGROUND

MDAD requires a master clock system as a service and convenience to its passengers. The clock sponsorship opportunity was programmed and incorporated into the MIA Signage Master Plan in 2004 by Carter Burgess, the Airport's signage consultant. Clock locations were identified in the Master Plan by the signage consultant to be in the signage/directional displays, soffit, column and ceiling mounts. Because no funds had been allocated for the clock program, it was planned that the Master Clock system would be provided by a sponsor.

In 2004, Carter Burgess estimated that the installation of clocks in the Terminal would cost $1.2 million if funded by MDAD. A recent updated cost analysis for the program estimates that it would cost MDAD $1.9 million to provide complete coverage to the Airport for a master clock system. Additionally, MDAD would need to procure a sales force to sell the advertising on the clocks (one full-time and two part-time employees), the use of outside advertising agencies, as well as production and installation services for artwork and related items. MDAD estimates that the average annual cost of these services is $266,000.

JCDecaux, the airport advertising concessionaire who has the authority to pursue advertising opportunities for the Airport, contacted several clock and watch companies known to be involved with sponsorship opportunities. The Swiss watch company Rolex showed interest and dialogue occurred for several months. However, in August 2004, Rolex decided that MIA's program was too ambitious to pursue as the company's policy toward sponsorships was changing. Technomarines and Cartier also showed interest in the project; however, the capital investment necessary to sustain the program was not available to them.

On February 14, 2007, MDAD advertised a Request for Information (RFI) for a Clock Sponsorship Program at MIA to determine if any interested parties existed in the marketplace that would be able to provide, install, maintain and operate a master clock system in the public circulation areas of MIA at their sole cost and expense. In exchange for the provision of an airport-wide self-regulating clock system ("Master Clock System"), the provider would be permitted to promote advertisers through the placement of a logo or "tag-line" on the clock face.

The RFI advised that MDAD is requesting 182 clocks are required to cover the entire passenger circulation areas at MIA, be installed as follows: South Terminal - 51 clocks, Central Terminal - 64 clocks, and North Terminal (Concourse - D Extension and new North Terminal areas) - 67 clocks. The installation is to be staged in four phases, beginning with South Terminal. All potential clock locations will be located in the signage/directional displays, wall, soffit, flag, column, ceiling suspended or floor mounted units. The size of the clocks varies depending on locations from one to two feet with the exception of the large South Terminal clock which is envisioned to be six-feet-eight-inches high.

The RFI advertisement was sent to fifty (50) potential interested parties, including clock/watch manufactures and distributors, based on extensive web searches and airport surveys. Companies such as Rolex, Cartier, Movado and Raymond Weil were contacted. Only one Proposer responded to the County's RFI public advertisement: GMüller LLC.

GMüller LLC is a Florida company with a parent company in Brazil. The company manufactures the clocks and sells advertising on the clocks' faces to third parties. The company is in most of the Brazilian Airports and in the Miami Free Zone. In the RFI, GMüller LLC committed to invest an estimated $400,000 in clocks and infrastructure. Since that date, GMüller has increased its estimated investment to $665,826. A final capital investment plan will be submitted for approval by GMüller within 30 days

from the effective date of the agreement. GMüller LLC is prepared to immediately install the controlling system and the clocks necessary as noted License Agreement phasing schedule.

Las Vegas McCarran International Airport and the New York Port Authority are the only known airports in the United States that have developed a clock sponsorship program, though on a smaller scale, with Rolex.

PROJECT LOCATION:	Miami International Airport
COMPANY NAME:	GMüller LLC.
TERM OF AGREEMENT:	Five (5) Years
OPTION(S) TO RENEW:	Five (5) Years
CONTRACT MEASURES:	There is no Airport Concession Disadvantaged Business Enterprise (ACDBE) goal established for this Agreement
COMPANY PRINCIPAL:	Carlo Barbieri
GENDER, ETHNICITY & OWNERSHIP BREAKDOWN:	GMüller is a Limited Liability Company
COMPANY LOCATION:	GMüller LLC 3003 Yamato Road C-8 1055 Boca Raton, Florida 33434
YEARS IN BUSINESS:	GMüller LLC – 1 year Parent Company - GMüller Clocks & Communications (formerly Gunter e Müller Relogios Ltd) – 50 years
PREVIOUS AGREEMENTS WITH THE COUNTY WITHIN THE PAST FIVE (5) YEARS:	None
ADVERTISEMENT DATE:	Not Applicable
USING DEPARTMENT:	Miami-Dade Aviation Department
APPROVED FOR LEGAL SUFFICIENCY:	Yes

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: March 4, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(A)(1)(A)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

✓ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(A)
03-04-08

RESOLUTION NO. **R-207-08**

RESOLUTION AWARDING A CLOCK SPONSORSHIP PROGRAM LICENSE AGREEMENT AT MIAMI INTERNATIONAL AIRPORT TO GMÜLLER LLC FOR A TERM OF FIVE (5) YEARS WITH AN OPTION TO EXTEND FOR FIVE (5) YEARS AND WHICH REQUIRES GMÜLLER LLC TO PAY THE COUNTY A PERCENTAGE FEE OF 50% OF GROSS REVENUE FOR ADVERTISING ONCE THEIR CAPITAL INVESTMENT HAS BEEN RECOUPED; AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE TERMINATION AND RENEWAL PROVISIONS CONTAINED THEREIN; WAIVING COMPETITIVE BID REQUIREMENTS PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1 OF THE MIAMI-DADE COUNTY CODE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby awards to GMüller LLC a Clock Sponsorship Program License Agreement at Miami-International Airport as described in the accompanying memorandum for a term of five (5) years with an option to extend such agreement for an additional five (5) year term and which requires GMüller LLC to pay the County a percentage fee of 50% of gross revenue for advertising once their capital investment has been recouped; authorizes the Mayor or his designee to execute the agreement between Miami-Dade County and GMüller LLC, in substantially the form attached hereto and made a part hereof, to exercise any renewal, termination and cancellation provisions contained therein and any other delegated authority described in the accompanying memorandum; and waives competitive bidding procedures pursuant to Section 5.03(D) of the

Home Rule Charter, Section 2-8.1 of the Miami-Dade County Code and Resolution No. R-1587-72.

The foregoing resolution was offered by Commissioner **Joe A. Martinez**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman **aye**
Barbara J. Jordan, Vice-Chairwoman **aye**

Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**aye**
Joe A. Martinez	**aye**	Dennis C. Moss	**aye**
Dorrin D. Rolle	**aye**	Natacha Seijas	**aye**
Katy Sorenson	**absent**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of March, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. CAL

Cynji Lee

LICENSE AGREEMENT

BY AND BETWEEN

MIAMI-DADE COUNTY, FLORIDA

AND

GMÜLLER LLC

OPERATOR

FOR THE CLOCK SPONSORSHIP PROGRAM

AT

MIAMI INTERNATIONAL AIRPORT

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Appendix E-2: Condition of Award Requirements
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Subcontracting Policies Statement (No format, insert document)
Subcontractor/Supplier Listing
Proof of Authorization to do Business (No format, insert document)

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DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended.

The terms **"Agreement or Contract"** shall mean this License Agreement including all exhibits and attachments thereto and a part thereof entered into by the County and the Operator.

The term **"Airport** or **MIA"** shall mean Miami International Airport

The term **"Approved Improvements"** are the improvements to a Location which has been approved by the Department which may include the design, engineering, construction, equipment, furniture, fixtures, and flooring and signage.

The term "**Approved Installation Areas**" or "**Locations**" shall mean areas of the Airport identified in Exhibit A by the Department for the actual placement of Clock Display Equipment.

The term "**Aviation Director** or **Director**" shall mean the Director of the Miami-Dade Aviation Department or his or her designee.

The term **"Base Building Work"** shall mean the sub-flooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures and fixtures, which the County installs or causes to be installed in the terminal building. Base Building Work includes delivery of portions of the Locations in Shell Condition.

The term **"Beneficial Occupancy"** shall mean the date the Location has passed its final inspection.

The term **"Board**" shall mean Board of County Commissioners of Miami-Dade County.

The term **"Capital Improvement Program"** or **"CIP"** shall refer to the Department's construction program that will involve the refurbishment of MIA's terminal interiors, airline relocations, changes in access to the terminal and concourses, construction of new concession spaces, and other improvements that may affect concession operations in the MIA terminal building and on the concourses.

The term **"Capital Investment"** shall mean the minimum required investment committed by the Operator pursuant to its response to the Request for Information.

The term "**Central Terminal**" shall mean the area of the terminal building and concourses, within the central part of the terminal area, landside or airside, which is now known as Concourses E-G.

The term **"Clock Display, Equipment Fixtures"** shall mean the equipment used on wall, ceiling, soffit, flag mount and any other clock display type as specified in Volume 6 "Master Clock System" and/or mutually agreed by both parties.

The term "**Clock Sponsorship Program**" shall refer to the right and privilege for a firm to finance, design, develop, install, maintain, operate, and sell advertising for the Master Clock System within the MIA terminal or on other airport property as authorized by the Department.

The term **"Code"** shall mean the Code of Miami-Dade County, Florida.

The term **"Consumer Price Index"** or **"CPI"** shall mean that index published by the United States Department of Labor, Bureau of Labor Statistics known as the Consumer Price Index for all urban consumers ("CPI-U") in the South Region Average: All items.

The term **"County"** shall mean Miami-Dade County, Florida, a political subdivision of the State of Florida.

The term **"Date of Execution"** shall mean the day upon which the Agreement is executed by the Mayor of Miami-Dade County or designee.

The term "**Days**", shall mean calendar days, unless specifically stated as other.

The term "**Department**" or "**MDAD**" shall mean the Miami-Dade Aviation Department. Wherein in this License Agreement, rights are reserved to the County, MDAD may exercise such rights.

The term **"Effective Date"** shall mean ten (10) days after the date of execution of the Agreement.

The term "**Enplanement"** shall mean airline passenger(s) who departs MIA from the North Terminal, Central Terminal or South Terminal to a destination including International and Domestic travelers.

The term **"Extension"** shall mean the addition of one (1) separate five (5) year term following the initial five (5) year term.

The term **"Gross Revenues"** shall mean all monies paid or payable to and consideration of determinable value received by the Concessionaire on all sales made by Concessionaire of advertising services, whether received or not, and other items and revenues of every kind and character derived from, arising out of or payable on account of the business conducted by Concessionaire at the Airport or from the operations of Concessionaire under this Agreement, whether for cash or credit, without any deduction for credit card discounts or credit card services, where the same shall be paid or unpaid provided, however, that the term "Gross Revenues" shall not include: (i) federal, state or municipal taxes; (ii) sales tax collection allowance paid by the State of Florida to the Concessionaire as compensation for the keeping of prescribed records and the proper accounting and remittance of state sales tax; (iii) any charges on a reimbursement basis, as mutually agree upon by MDAD and Concessionaire; (iv) 15% for maintenance and repair paid by the Operator; (v) advertising agency or employees sales commissions actually paid, not to exceed 15% of the customer billing, provided however that such agreement is written into the sales contact between the Concessionaire and advertiser and (vi) any taxes imposed by law which are separately state to and paid by the customer and directly payable by Concessionaire to a taxing authority;.

The term **"Master Clock System"** shall mean a complete time system including a self-regulating master clock, which is capable of controlling clock systems and providing a stream of digital data, which constantly check, and corrects time changes as controlling auxiliary systems.

The term "**North Terminal**" shall mean the area of the terminal building and concourses, within the north part of the terminal area, landside or airside now known as Concourses A-D.

The term **"Operator"** shall mean the person, firm, or entity that enters into this License Agreement with the County.

The term "**Request For Information**" or "**RFI"** shall mean the document issued on February 15, 2007 to which GMüller responded on March 1, 2007.

The term **"Retail Concession Design Guidelines"** shall mean MIA's distinct design guidelines in the North, Central, and South Terminal as set forth in Exhibit E.

The term "**Scope of Services**" is as set forth in Sub-Article 2.03 and details the scope of work to be performed by the Operator.

The term **"Shell Condition"** shall mean smooth concrete floors, demising studs and walls, and the utility services listed below (conduits, lines, pipes, etc.) stubbed to the lease lines of each Location or area immediately adjacent thereto for electric, telephone and data communications, heating ventilating and air conditioning systems including ducts ("HVAC"), fire alarm system and fire sprinkler system.

The term "**South Terminal**" shall mean the area of the terminal building and concourses, within the south part of the terminal area, landside or airside, which is now known as Concourse H, and the new J Concourse and connecting concession and public locations.

The term **"State"** shall mean the State of Florida.

The term **"Term"** is set forth in Sub-Article 1.01.

The term **"TSA"** shall mean the United States Transportation Security Administration, and any successor agency, office or department thereto.

The term "**Turnover Date**" shall mean the date approved by the Department for the Operator to commence installation of the Master Clock System.

LICENSE AGREEMENT FOR A NON-EXCLUSIVE OPERATOR FOR THE CLOCK SPONSORSHIP PROGRAM AT MIAMI INTERNATIONAL AIRPORT

THIS LICENSE AGREEMENT is made and entered into as of this _____ day of _____, 200__, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida and GMüller LLC ("Operator"), a company authorized to do business in the State of Florida.

RECITALS:

WHEREAS, the County is the owner of and operates Miami International Airport through the County's Miami-Dade Aviation Department; and

WHEREAS, the Department desires to implement a Clock Sponsorship Program at Miami International Airport; and

WHEREAS, the Clock Sponsorship Program will provide airline passengers and Airport patrons with a high level of customer service, and project a positive image of the Airport, the Department, and the County to visitors, as further described herein; and

WHEREAS, a Request for Information was issued by the Department and in response to the Request for Information, the County received a proposal and an award has been made to the Operator,

NOW, THEREFORE, in consideration of the Locations, Agreements, and the mutual covenants herein contained, the parties agree as follows:

ARTICLE 1 – TERM, EXTENSION AND LOCATIONS

1.01 TERM: The term of this Agreement is for five (5) years starting on the Effective Date of this Agreement.

1.02 EXTENSION: At the sole discretion of the Department, the initial five (5) years term may be extended for a maximum of one (1) five (5) year term period, provided the extension is mutually agreed to by the Department and the Operator in writing.

In the event the Department elects to extend the Agreement, the Operator shall be notified, in writing, no less than one hundred and twenty (120) calendar days prior to the expiration of the initial term. The Operator may elect not to agree to the extension, and, if so, must notify the Department thirty (30) calendar days after receipt of written notification by the

Department to extend the Agreement. In the event the Department does not give such notice, the Agreement shall expire accordingly.

In the event the Operator is in default, pursuant to **Article 12 "Default and Termination by County"** of the License Agreement beyond applicable grace and cure periods, the Department shall not exercise its rights to extend the Agreement.

1.03 APPROVED INSTALLATION AREAS OR LOCATIONS: The Department hereby makes available to the Operator Locations for the placement of Clock Display Equipment as shown in Exhibit A.

1.04 ADMINISTRATIVE OFFICE/SUPPORT SPACE/STORAGE SPACE: The Department may make available to the Operator administrative/support space/storage space, if needed at the current rental rates in place, which are subject to change.

1.05 NOT USED.

1.06 ADDITION, DELETION AND RELOCATION OF LOCATIONS: The Department may add, delete, relocate or provide alternate Locations by providing to the Operator an administratively revised Exhibit A. The Department reserves the right, without limitation, at all times during the Term of this Agreement following thirty days advance written notice to the Operator, to require the addition, deletion, or relocation of a Location. In the event the Department requires a relocation of Location, the Operator shall return the original Location to its original condition as it was at the Effective Date.

The Operator shall not add, delete or relocate the Location without the prior written approval of the Department.

1.07 NONEXCLUSIVITY: This Agreement is nonexclusive in character and in no way prevents the Department from entering into an agreement with any other parties for the sale or offering of competitive services, products or items. in other locations at the Airport during the Term of this Agreement.

1.08 CONDITION OF THE LOCATIONS: OPERATOR SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE DEPARTMENT IS PROVIDING ALL LOCATIONS TO THE OPERATOR ON AN "AS IS" BASIS AND THAT THE OPERATOR IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE DEPARTMENT OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THOSE LOCATIONS including but not limited to: (i) the quality, nature, adequacy and physical condition and aspects of the Locations, including utility systems; (ii) the existence, quality, nature, adequacy and physical condition of utilities serving the Locations; (iii) the development potential of the Locations, the use of the Locations, and the habitability, merchantability, or fitness, suitability, value or adequacy of the Locations for any particular purpose; (iv) the zoning or other legal status of the Locations or any other public or private restrictions on use of the Locations; (v) the compliance of the Locations or its operation with any applicable laws, regulations, statutes, ordinances, codes, covenants, conditions, and restrictions of any

governmental or quasi-governmental entity or of any other person or entity; (vi) the presence of hazardous materials or industrial wastes on, under or about the Locations; (vii) the quality of any labor and materials used in any improvements on the Locations; (viii) the condition of title to the Locations; (ix) the agreements affecting the Locations; and (x) the Proposal submitted by Operator to the Department, including any statements relating to the potential success or profitability of such Proposal. Operator represents and warrants that it has made an independent investigation of all aspects of its Proposal contemplated by this Agreement. Except as specifically provided in this Agreement, the Operator has satisfied itself as to such suitability and other pertinent matters by the Operator's own inquiries and tests into all matters relevant in determining whether to enter into this Agreement. The Operator accepts the Locations in their existing condition, and hereby expressly agrees that if any remediation or restoration is required in order to conform the Locations to the requirements of applicable law, the Operator assumes sole responsibility for any such work.

1.09 CAPITAL IMPROVEMENT PROGRAM: The Capital Improvement Program (CIP) is currently underway and will involve the refurbishment of terminal interiors, airline relocations, changes in access to the terminal and concourses, construction of new concession Locations, and other improvements that may affect concession operations in the terminal building and on the concourses and access at the curbside or on the airfield. The CIP may affect the operation of the Locations, and **THE DEPARTMENT NEITHER MAKES NOR IMPLIES ANY WARRANTIES AS TO THE EFFECT OF SAID OPERATIONS DURING THE TERM OF THIS AGREEMENT.** The Department shall use reasonable good faith efforts to the extent possible, so as to mitigate any adverse impact on the business operations of Locations that will not be demolished by the CIP.

ARTICLE 2 – USE OF LOCATIONS

2.01 USE OF LOCATIONS: The Operator shall have the right, privilege, and obligation to finance, design, provide, install, maintain, operate and sell advertising for the Master Clock System as depicted in Exhibit A, Locations, as approved by the Department.

The program has a total of 182 Locations, 51 in South Terminal, 64 in Central terminal and 67 in North terminal.

Installation is to proceed sequentially as follows:

1) South Terminal (Concourses H and J), opened in the fourth quarter of 2007;
2) Central Terminal (Concourses E, F and G);
3) Concourse D - Extension
4) North Terminal (Concourses/Zones A, B, C and D) which is scheduled to open in 2011.

2.02 OPERATOR SERVICES AND SALES RIGHTS: The Operator shall not allow any services or the sale of any item or product not specifically approved in this Agreement. Any sales by the Operator of services, products, or items not specifically approved herein,

Any sales by the Operator of services, products, or items not specifically approved herein, in writing by the Department, shall constitute a violation. In the event of such violation, the Operator shall discontinue the violative conduct immediately, upon written notice from the Department. Failure by Operator to discontinue such violative conduct within 24 hours shall subject the Operator to penalties pursuant to **Sub-Article 3.25.**

2.03 SCOPE OF SERVICES: The Operator shall finance, design, provide, install, maintain, operate and sell advertising for the Master Clock System, (Atomic Clock Synchronization) at (MIA) at its sole cost and expense. The Operator will be permitted to promote their company or other companies through the placement of a logo or "tag-line" on the clock's face. Final design and approval of locations is at the sole discretion of the Department.

The Operator shall have a sales organization capable of actively soliciting and selling advertising for the clock display, on a local, regional, national and international level.

The Operator shall promote Miami by highlighting regional products and tourism opportunities and the South Florida region's role as a gateway for international commerce.

The Operator shall make a capital investment as set forth in Sub Article 3.05 "Capital Investment" for all the infrastructure, clock displays, equipment and pay for the installation of the Master Clock System and all its components hardware and supporting electrical connections, in accordance with MDAD Design Guidelines manual and pursuant to Exhibit K, "Master Clock System", Volume 6.

The program includes a total of 182 clocks to be installed as follows: South Terminal-51 clocks, Central Terminal-64 clocks, and North Terminal-67 clocks (D-Extension and new areas of the North Terminal). The installation is to be staged in four phases, beginning with South Terminal. Locations are envisioned to be located in the signage/directional displays, wall, soffit, flag, ceiling suspended or floor mounted units. Clocks sizes vary based on the type as follows: flag 1' and 2', soffit 2', ceiling 1'and 2', wall mount 1' and 2' floor mounted 6'8" and 3'.

The Operator shall provide a Master clock system and clock displays as per its response to the RFI, Exhibit N, "GMuller response to the RFI", or as modified with the consent of the Department.

The Operator will implement the Clock Sponsorship Program as outlined below and adhere to Exhibit L "Standards of Operation" to this License Agreement;

- Operating hours of Clock Displays: The Clock Displays shall be operational in all Approved Installation Areas of the Airport seven (7) days a week on a 24 hour basis.

- Clock Displays : The size of all clocks is as required pursuant to Exhibit K, Master Clock System" Volume 6.

- Airport Operations: The Operator shall ensure that the Master Clock System does not interfere with normal airport operations.

- Installation and Maintenance: The Operator shall be solely responsible for the installation and maintenance of all equipment necessary for the Master Clock System. The Operator shall evaluate the Master Clock System on a regular basis, and shall respond to any maintenance or repair requests in a timely manner.

- The Clocks shall not obstruct or obscure any static advertising display, nor interfere with any operational or telecommunications requirements of the Department, air carriers, or governmental agencies at the Airport.

2.04 ANNUAL ADVERTISING PLAN SUBMISSION: The Operator shall prepare advertising sales plan. The advertising sales plan shall be submitted to the Department on or before ninety (90) calendar days prior to the commencement of each lease year, and shall represent the upcoming fiscal year for the Department (October 1 – September 30). Within forty-five (45) days from the Effective Date of this Agreement, the Operator shall submit the annual advertising plan for the first year. The Department shall have forty-five (45) calendar days after receipt of the foregoing plan to approve or disapprove the same in its reasonable discretion. If MDAD disapproves a plan, the Operator shall operate in substantial conformity with all such previous plans approved by the Department as may be modified from time to time.

The Department reserves the right to request at any time any further submission of plans.

2.05 PROHIBITED ACTIVITIES: Without limiting any other provision herein, the Operator shall not, without the prior written consent of the Department which may be withheld in its sole and absolute discretion: (a) advertise or hold any distress, fire, or bankruptcy sales, (b) cause or permit anything to be done, in or about the Locations, or bring or keep anything thereon which might (i) increase in any way the rate of fire insurance on the MIA Terminal Building or any of its contents, (ii) create a nuisance or annoyance or safety hazard, or (iii) obstruct or interfere with the rights of others in the MIA Terminal Building; (c) commit or suffer to be committed any waste upon the Locations; (d) use, or allow the Locations to be used, for any improper or unlawful purpose; (e) do or permit to be done anything in any way tending to injure the reputation of the Department, the County, the Board of County Commissioners, or the appearance of the Airport; or (f) construct any improvement on or attach any equipment to the roof of the Airport. Except as required to permit Operator to perform its maintenance and repair obligations under this Agreement, Operator shall not gain access to the roof of the MIA terminal building without the consent of the Department, which may be withheld in the Department's sole and absolute discretion.

ARTICLE 3 – RENTALS, PAYMENTS AND REPORTS

3.01 NOT USED.

3.02 NO NEGOTIATIONS OR ADMINISTRATIVE MODIFICATIONS: The Operator understands and agrees, as a condition precedent to the County's consideration of the proposal, that the terms and conditions of **Sub-Article 3.04 "Percentage Fee to the Department"** are not subject to negotiation or adjustment for any reason, including, but

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not necessarily limited to, airport construction, airline relocation, airline bankruptcies, change in airline service, and the like, except in the event of an act of God or an event of force majeure as such term is defined in **Sub-Article 21.11 "Force Majeure"**. Nor shall the County be liable for any reduction in sales or disruptions or delays caused in whole or in part by any of the foregoing at any time during the Term of this Agreement, including any extensions.

3.03 NOT USED.

3.04 PERCENTAGE FEE TO THE DEPARTMENT: The Operator shall pay the Department the percentage fee of 50% of Gross Revenues, once the capital investment has been recouped or five (5) years from the Effective Date, whichever occurs first. The monthly percentage fee shall be due on the fifteen (15th) day of the month. Percentage fees are non-taxable.

Monthly Percentage Fee payments that are payable to the Department on any unreported Gross Revenues, as determined by the annual audit or any other source required pursuant to **Sub-Article 3.20 "Annual Audit"**, are considered as having been due on the fifteen(15th) day of the month following the month during which the unreported Gross Revenues were received or accrued by the Operator. Such payment shall be remitted to the Department in accordance with Sub-article 3.16 Late Payment

3.05 CAPITAL INVESTMENT: The Operator shall submit for approval, within thirty days from the Effective Date of the Agreement, its proposed capital investment plan in accordance with the technical requirements outlined in Sub-Article 2.03 "Scope of Services". The expenditures eligible for reimbursement shall include:

(a) The design and installation costs of the Master Clock System; the design cost shall not exceed fifteen percent (15%) of the total approved Capital Investment.

(b) Clock Displays, Fixtures, and Equipment, as applicable, purchased for the operation of the Master Clock System.

The Operator shall document each expenditure to the Department's satisfaction to confirm that these expenditures have actually been paid out as a component of the capital investment expenditure. Non-receipted expenditures will not be accepted.

The Department will allow the Operator to deduct the approved Capital Investment pursuant to the capital investment plan submitted from any advertising revenues accruing to the benefit of the Department during the five (5) year term of the Agreement until such Capital Investment has been recouped by the Operator, or the term of the Agreement has elapsed. Thereafter, revenues as defined in Sub-Article 3.04 "Percentage Fee To The Department" of this Agreement are not subject to any further deductions for Capital Investments.

The design and installation of the Clock Master System shall be completed in four (4) phases:

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1. South Terminal
2. Central Terminal
3. North Terminal – D Extension
4. North Terminal build out.

3.06 NOT USED.

3.07 ANNUAL RENT: The Operator shall be required to pay rent at the prevailing Class VI Terminal rates for the lease of the support space and any administrative space and storage space. The Terminal Class VI rental rate is currently at $66.14 per square foot and is based on rates in effect as of October 1, 2007, adjusted annual for CPI.

The Department may make available the use of the Tier 3 Telecommunications room to the Operator. This room is shared between the Operator and MDAD. This room serves as the head-end for the Master Clock System.

3.08 ADMINISTRATIVE OFFICE/ SUPPORT SPACE/ STORAGE SPACE/ RENTAL RATE ADJUSTMENT: On October 1st of each year of the Agreement, the Terminal rental rates, pursuant to **Article 3.07, "Annual Rent"**, applicable to the Space rented hereunder, shall be subject to recalculation and adjustment in accordance with the policies and formulae approved by the Board, as may be amended from time to time. When such adjusted rental rates are established, this Agreement shall be considered and deemed to have been administratively amended to incorporate such adjusted rental rates, effective as of October 1st date. Such adjusted rental rates shall be reflected by letter amendment. Payments for any retroactive rental adjustments shall be due upon billing by the Department and payable within ten calendar days of same.

3.09 ASSIGNABLE CONTRACTS: In order to provide continuity to the Advertising Program, any and all advertising sales contracts that are in effect with the prior advertising concessionaire at MIA as of the Effective Date of this Agreement shall be granted continuity and assumed by the Operator as part of this Agreement.

3.10 NOT USED.

3.11 PERFORMANCE BOND FOR PERCENTAGE FEE AND RENT REQUIREMENTS: Within thirty (30) calendar days from the date the capital investment is recouped or five (5), years whichever occurs first, the Operator shall provide the Department a Performance Bond to guarantee the Percentage Fee, and of any annual rental of Administrative office support space or storage. Operator shall keep such Performance Bond in full force and effect during the Term and for any period of any Extension of this Agreement, as applicable, and thereafter, until all financial obligations, reports or other requirements of this Agreement are satisfied. The Performance Bond shall be a surety bond. In the alternative, an irrevocable letter of credit, or other form of security acceptable to the Department may be furnished. Any such form of security instrument shall be endorsed as to be readily negotiable by the Department for the payments required hereunder. The Performance Bond shall be effective as indicated above for the current year of operation with automatic renewal for each of the remaining years under this Agreement, including

any extensions naming the County as oblige, and issued by a surety company or companies in such form as approved by the County Attorney. The Surety shall initially be in an amount equal to seventy-five percent (75%) of the projected Percentage Fee, and any annual rent due as provided for in **Sub-Article 3.07 Annual Rent.**

The Department may draw upon such payment security instrument, if the Operator fails to pay any monies or perform any obligations required hereunder following applicable notice and cure periods specified herein. Provided Operator is not in default and fully complies with all the payment requirements of this Agreement, the bond will be returned to Operator within one hundred eighty (180) calendar days after the end of the Term or any Extension of the Term, as applicable.

3.12 **PAYMENT SECURITY:** Within thirty (30) calendar days from the date the capital investment is recouped or five (5) years, whichever occurs first , the Operator shall provide the County with an irrevocable standby letter of credit in the format approved by the Department or cash for the payments required by this Sub-Article in an amount equal to twenty-five percent (25%) of the forecasted Percentage Fee amount for the year, and any annual rent due for administrative office, support or storage space rent provided for in **Sub-Article 3.07 Annual Rent**. Thereafter, the amount shall be adjusted as necessary to reflect any increases in the Percentage Fee and Annual Rent. The payment security shall be kept in full force throughout the Term and any period of extension of this Agreement as applicable.

The Department may draw upon such payment security instrument if the Operator fails to make payments secured by this Sub-Article. Upon notice of any such draw, Operator shall immediately replace the payment security with a new payment security in the full amount of the payment security required hereunder. A failure to renew the payment security, or to increase the amount of the payment security, if required pursuant hereto, shall (i) entitle the Department to draw down the full amount of such payment security, and (ii) be a default of this Agreement entitling Department to all available remedies.

3.13 **TAXES:** The Operator shall be solely responsible for the payment of all applicable sales, use or other taxes, levied upon the fees and other charges payable by the Operator to the Department hereunder, whether or not the same shall have been billed or collected by the Department, together with any and all interest and penalties levied thereon. The Operator hereby agrees to indemnify the Department and hold it harmless from and against all claims by any taxing authority that the amounts, if any, collected from the Operator and remitted to the taxing authority by the Department, or the amounts, if any, paid directly by the Operator to such taxing authority, were less than the total amount of taxes due, and for any sums including interests and penalties payable by the Department as a result thereof. The provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.

3.14 **REPORTS OF GROSS REVENUES:** On or before the fifteenth (15th) calendar day following the end of each month throughout the Term of this Agreement, or any extension hereof, the Operator shall furnish to the Department, a statement of Monthly Gross Revenues, using Exhibit H "Monthly Report of Gross Revenues". The report shall report each Location under this Agreement, together with any percentage fee due applied to the Capital Investment pursuant to **Sub-Article 3.04 "Percentage Fee to the Department"**.

The Operator shall certify as to the accuracy of such Gross Revenues in such form as shall be prescribed by the Department. The Department may modify from time to time, the form of reporting upon not less than thirty (30) days written notice to the Operator. The statement must be signed by an officer (if the Operator is a corporation), partner (if a partnership), or owner (if a sole proprietorship) of the Operator, and identify all Gross Revenues reported to the Operator during such month. Failure to comply within fifteen (15) calendar days following the due date of the report shall result in a late fee penalty of $50 per day, as provided in **Sub-Article 3.25 "Penalties"**.

3.15 OTHER REPORTS: The Department may request other reports within reason, and the Operator shall supply such reports, reflecting financial data and operating statistics of the Operators operation in a format and frequency specified by the Department.

The Operator shall provide the Department with financial data and operating statistics in a format and frequency specified by the Department, and the Department shall provide no less than thirty (30) days written notice of the format and frequency required for said financial data and operating statistics.

3.16 LATE PAYMENT: In the event the Operator fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) business days of the due date, delinquency charges established by the Board will be imposed. Such rate is 1½% delinquency charge per month.

3.17 DISHONORED CHECK OR DRAFT: In the event the Operator delivers a dishonored check or draft to the Department in payment of any obligation arising under this Agreement, the Operator shall incur and pay a service fee of TWENTY-FIVE DOLLARS ($25.00), if the face value of the dishonored check or draft is fifty dollars ($50.00) or less, THIRTY DOLLARS ($30.00) if the face value of the dishonored check or draft is more than fifty dollars ($50.00) and less than three hundred dollars ($300.00), or FORTY DOLLARS ($40.00), if the face value of the dishonored check is three hundred dollars ($300.00) or more, or five percent (5%) of the face value of such dishonored check or draft, whichever is greater, plus penalties imposed by law (Fla. Stat. 832.08 and Fla. Stat. 125.0105). Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's checks or other means acceptable to the Department.

3.18 ADDRESS FOR PAYMENTS: The Operator shall pay all monies payable, as required by this Agreement, to the following:

In Person: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300

During normal business hours, 8:30 A.M. to 5:00 P.M., Monday through Friday

By Mail: Miami-Dade Aviation Department
Finance Division
P.O. Box 526624
Miami, Florida 33152-6624

By Express Mail: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
Miami, Florida 33122

By Wire Transfer: In accordance with Wire Transfer instructions provided by MDAD's Finance Division, 305-876-7383.

3.19 REVENUE CONTROL PROCEDURES: Notwithstanding anything to the contrary contained herein, the Operator shall comply with such revenue control procedures as may be established from time to time by the Department. The Department shall provide the Operator with at least thirty (30) days prior written notice together with a copy of such revenue control procedures prior to requiring the Operator to implement any such revenue control procedures.

3.20 ANNUAL AUDIT: Within ninety (90) calendar days of each anniversary of the Effective Date of this Agreement and within ninety (90) calendar days following expiration or earlier termination of this Agreement, the Operator shall, at its sole cost and expense, provide to the Department on an annual basis, an audited report of monthly Gross Revenues and percentage fees separately stating its Gross Revenues, containing an opinion, prepared and attested to by an independent certified public accounting firm, licensed in the State of Florida. The audited report, as detailed in Exhibit G "Independent Auditor Report", shall include a schedule of monthly Gross Revenues and percentage fees paid to the Department under this Agreement, prepared in accordance with Generally Accepted Auditing Standards. The report shall also be accompanied by a management letter containing the findings discovered during the course of the examination, recommendations to improve accounting procedures, revenue and internal controls, as well as significant matters under this Agreement. In addition, the audit shall also include as a separate report, a comprehensive compliance review of procedures to determine whether the books of accounts, records and reports were kept in accordance with the terms of this Agreement for the period of examination. Each audit and examination shall cover the period of this Agreement. The last such report shall include the last day of operation. There shall be no changes in the scope of the reports and letters required hereunder without the specific prior written approval of the Department.

3.21 RIGHT TO AUDIT/INSPECT: The Department and the auditors of the County shall have the right, without limitation, at any time during normal working hours, to enter into any Locations on or off the Airport, which the Operator may use as administrative, maintenance and operational Locations, in connection with its operations pursuant to this Agreement, to: (1) verify, check and record data used in connection with operation of this Agreement; (2) inspect, review, verify and check all or any portion(s) of the procedures of the Operator for recording or compiling Gross Revenues information and (3) audit, check, inspect and review all books of account, records, financial reports, financial statements, operating statements inventory records, and state sales tax returns, and work papers relating to operation of this Agreement, and other pertinent information as may be determined to be needed or desirable by the Department. Prior to entering any Locations located on the Airport, the Department shall give reasonable advance notice to the Operator.

The Department shall further have the right, upon reasonable written notice to the Operator at the sole cost of the Department except as specified below, to examine or designate a representative to examine the books and records of the Operator which relate to its operations on the Locations to determine the correctness of the percentage fees paid by the Operator to the Department for any or all of the Agreement periods immediately preceding such examination. At least ten (10) days prior written notice shall be provided by the Department to the Operator to examine any such books and records, which may be located in offices of the Operator, which are not located in the Airport. If, as a result of such examination, it is established that the percentage fees for any period examined have been underpaid to the Department, the Operator shall forthwith, upon written demand from the Department, pay the difference to the Department, together with interest thereon at the rate set forth in **Sub-Article 3.16 "Late Payment"** from the date such amount or amounts should have been paid.

Further, if such examination establishes that Operator has underpaid percentage fees for any period examined by three percent (3%) or more, then the entire expense of such examination shall be borne by Operator.

In the event of any conflict between any provisions of this Agreement and generally accepted accounting principles or generally accepted auditing standards, the provisions of this Agreement shall control even where this Agreement references such principles or standards. In particular, without limitation, the Operator shall maintain all records required under this Agreement to the full extent required hereunder, even if some or all of such records would not be required under such general principals or standards.

3.22 RECORDS AND REPORTS: The Operator shall, at all times during the term hereof and in accordance with applicable law, maintain at the Operator's principal corporate office located in the United States and make available to the Department in Miami-Dade County, Florida, complete and accurate books and records of all receipts and disbursements from its operations on the Locations, in a form consistent with good accounting practice. The form of all such books of account records and reports shall be subject to the approval of the Department and/or the auditors of the County (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by the Department, or the Audit and Management Services Department of the County) prior to commencement of operations hereunder.

The Operator shall account for all revenues of any nature related to transactions in connection with this Agreement in a manner which segregates in detail those transactions from other transactions of the Operator and which supports the amounts reported to the Department in the Operator's monthly schedules. At a minimum, the Operator's accounting for such receipts shall include the following:

1. Operator's bank account statements;
2. A compiled report of transactions by Location showing all Gross Revenues and all exclusions from Gross Revenues by category, which report shall be subtotaled by day and totaled by month. The monthly total shall correspond with the amounts reported to the Department on the Operator's monthly "Revenue Reports"; and

3. Such other records, if any, which would normally be examined by an independent certified public accountant in performing an examination of the Operator's Gross Revenues in accordance with generally accepted auditing standards and the provisions of this Agreement.

   Such records may be in the form of (a) electronic media compatible with the computers available to the Department, or (b) a computer run hard copy. The Department may require other records necessary in its determination to enable the accurate audit of Operator's Gross Revenues hereunder. Upon ten (10) business days written notice from the Department, all such books and records, including the general ledger and bank statements and all federal, state and local tax returns shall be made available, either at the Locations, or at the Department's option, at the offices of the Department, for inspection by Department through its duly authorized representatives at any time for up to three (3) years subsequent to final termination of the period to be examined to which such books and records relate (and the Operator shall not be obligated to retain such books and records subsequent to the termination of such three (3) year period); provided, however, that any such inspection on the Locations will be conducted during reasonable business hours and in such a manner and at such time as not to interfere unduly with the conduct of the Operator's business.

3.23 ADDITIONAL FEES DUE: If the Department has paid any sum or has incurred any obligation or expense for which the Operator agreed to pay or reimburse the Department, or if the Department is required or elects to pay any sum or incur any obligation or expense because of the failure, neglect or refusal of the Operator to perform or fulfill any of the terms or conditions of this Agreement, then the same shall be deemed additional fees due and subject to an administrative fee of twenty-five percent (25%) of such payment, obligation, or expense.

3.24 UTILITIES: The cost of all utilities used or consumed on the Locations shall be provided by the Department.

The cost of all utilities used or consumed in the administrative office/support space shall be borne by the Operator.If the administrative/support space is not provided with a separate electric, the Operator agrees to pay for such utility as a monthly charge, plus any applicable taxes, upon billing by the Department, or utilities company. If billed by the Department, the Department at its sole discretion, will base this monthly charge on (i) a survey of consumption by the Department and current non-discriminatory rates charged others in the Terminal Building or (ii) at the option and expense of the Operator on actual usage measured by temporary meter, arranged and paid for by the Operator. This monthly charge may also be adjusted on a non-discriminatory basis and billed retroactively from time to time based on changes in consumption and rates. Operator hereby agrees to pay the same within thirty (30) Days after it has received Department's invoice thereof. The Operator shall pay for all other utilities used by it including telephones and telephone service hook-up, data lines and additional electrical and communications services required.

Utilities including electric and telecommunications, as necessary, must be pulled by the Operator from the nearest junction box in accordance with MDAD requirements.

3.25 PENALTIES: If Operator default under any of the covenants or terms and conditions enumerated herein, the Department may elect to impose the financial penalties described below, as a result of the violation(s), on a daily basis, in addition to any other penalties permissible by law and/or pursuant to the provisions of this Agreement, until said violations are remedied:

Violation	Fee
Violation of Permitted Use of a Location	$100 per day/per Location
Failure to Maintain Required Hours of Operation	$ 25 per hour/per Location
Failure to Submit Required Documents and Reports	$ 50 per day/per Location
Unauthorized Advertising	$ 50 per day/per Location
Failure to Maintain Location Clean	$ 50 per day/per Location
Violation of Other Terms and Conditions	$ 75 per day/per Location
Failure to complete a location within 180 days from turnover date	$ 50. per day/per Location

If a violation occurs, the Department shall notify the Operator in writing within fourteen (14) days. If the violation is not cured that time frame, penalties may be assessed.

The foregoing is due and payable from the Operator. The parties agree that the exact monetary value of said damages caused by the Operator's failure to perform may be difficult and/or impractical to determine; therefore the Operator agrees that the above stated sums represent fair and reasonable estimates of such monetary value of such damages.

ARTICLE 4 – IMPROVEMENTS TO THE LOCATIONS

4.01 IMPROVEMENTS TO LOCATIONS: The Operator shall be solely responsible for the distribution cabling from the taps on the infrastructure distribution system to the Display Equipment necessary to provide the Master Clock system, all of which shall be at Operator's expense and in accordance with plans approved by the Department. All installations shall be designed to comply with the Americans with Disabilities Act (ADA), and all other applicable codes including but not limited to the South Florida Building Code and the NFPA Life Safety Code. Notwithstanding the actual amount of design and engineering costs incurred with respect to improvements for a Location, the maximum proportion of such soft costs to be permitted to include as Approved Improvements shall be fifteen percent (15%).

If a Location is not completed within the one hundred eighty (180) calendar days from the Turnover Date, a penalty may be imposed, pursuant to **Sub-Article 3.25 "Penalties"**.

All improvements shall be subject to review and approval by the Department.

Within thirty days after the Turnover Date, the Operator shall provide to the Department an irrevocable Letter(s) of Credit with automatic renewals, in a form acceptable to the Department, in an amount equal to one hundred percent (100%) of the projected

improvement costs for the anticipated Locations to be constructed. The Department may upon closing of the permit or termination and activation of the Master Clock System release such letter of credit.

An installation plan must be submitted within ninety (90) days of the date of Execution. The installation plan shall include drawings, the method of installation and placement of equipment for Department approval for Locations.

4.02 DESIGN OF IMPROVEMENTS: Planning and design must be in accordance with Exhibit E "Retail Concessions Design Guidelines", Exhibit F "Tenant Airport Construction Non-Reimbursable Projects (TAC-N) Design and Construction Procedures" or "Tenant Airport Construction Reimbursable Projects (TAC-R) Design and Construction Procedures", as applicable, the "MDAD Life Safety Master Plan", MDAD DesignGuideline Manual "13634 Synchronized Clock System", and the "MDAD Design Guidelines Manual" available at (www.miami-airport.com) As plans for the improvement of individual Locations or common area improvements are completed, the Operator shall submit to the Department for review, approval or modification detailed final plans ("Final Plans") and specifications (including materials, colors, textures and fixtures), construction cost estimates and schedules for the construction of the improvements. The Final Plans shall be prepared by an architectural interior design and/or engineering firm registered in the State of Florida and in accordance with the Florida Building Code and all applicable State and local laws, ordinances, and regulations.

4.03 NOT USED

4.04 NOT USED.

4.05 CERTAIN CONSTRUCTION CONTRACT TERMS: All contracts entered into by the Operator for the construction of the Improvements shall require completion of the improvements within the schedules submitted pursuant to **Sub-Article 4.02 "Design of Improvements"** and shall contain reasonable and lawful provisions for the payment of actual or liquidated damages to the Department in the event the contractor fails to complete the construction on time. The Operator agrees that it will use its best efforts and to take all necessary action available under such construction contracts to enforce the timely completion of the work covered thereby.

Prior to the commencement of any installation work by the Operator, the Operator shall provide or cause to be provided to the Department copies of a fixed price contract or contracts for all work to be performed at the Locations. The work to be performed under such contract(s) shall be insured by a Exhibit B, "Surety Performance and Payment Bond" provided by Operator to the Department in the form contained in Exhibit B "Surety Performance and Payment Bond" in the License Agreement. The Surety Performance and Payment bond shall be in full force throughout the term of the installation contract.

4.06 IMPROVEMENTS FREE AND CLEAR: The improvements necessary to design and install the "Master Clock System' shall become property of the Department upon installation, with the exception of the Clock Display which is a trade mark of the Operator.

The Operator agrees that any contract for construction, alteration or repairing of the improvements or Locations or for the purchase of material to be used, or for work and labor to be performed shall be in writing and shall contain provisions to protect the Department from the claims of any laborers, subcontractors or material men against the Locations or improvements.

4.07 OTHER REQUIREMENTS: The Operator shall apply for and obtain a building permit from the County for all appropriate inspections. Within sixty (60) calendar days following the completion of construction of the improvements, the Operator shall furnish to the Department one complete set each of legible prints (black line), photo mylars and 35 mm aperture card microfilm of construction drawings, and auto cad files revised to "as built", including all pertinent shop and working drawings, copies of all releases of all claims and a copy of the Certificate of Occupancy. The Operator has a duty to protect such information and shall not disseminate such information in accordance with Transportation Security Regulations (TSR), 49 C.F.R. 1520, et al., Protection of Sensitive Security Information.

Any change in the Location, concept or tenant proposed in response to the Request for Information must be approved in writing by the Department.

4.08 REVIEW OF INSTALLATION: During the design and installation process, both, the Department and the Operator shall appoint project managers. The project managers shall coordinate the project for the Department and the Operator. During such processes, all written notices required hereunder shall be submitted to the project managers as well as to the parties designated elsewhere herein. The Department's project manager shall coordinate the design review process with Operator's project manager. During installation, the Department's project manager (or his or her designee) shall have the right to inspect the progress of installation at any time, but the Department's project manager shall not be permitted to order the Operator's contractor to make changes to the work. The Department agrees that all comments regarding the work shall be delivered to Operator's project manager.

4.09 INSTALLATION FEE: The Operator shall be responsible for the payment of all permit fees required by the County's Building Department, Department of Planning and Zoning, and any other County Department for which a permit(s) must be issued for the design, demolition, installation, operation or maintenance of the Display Equipment.

4.10 CONSTRUCTION PERMIT FEE: The Operator shall pay a permit fee to the Department for improvements, which would customarily be paid to the County's Building Department as a condition to issuance of a permit. The permit fee payable by the Operator to the Department is an amount equal to one per cent (1%) of the construction cost of the improvements. Such fee shall be used to reimburse the Department its costs of maintaining its on-site Building Department staff to review Operator's plans/specifications. Such fee shall be non-refundable.

4.11 CONSTRUCTION SERVICES: The Operator shall provide at a minimum, but not limited to, the following design and construction services:

1) Operator Improvements

Pursuant to the terms of this Agreement, the Operator shall construct certain improvements. The Department shall provide the Operator with the scope of such

improvements and within a reasonable time period to be mutually agreed to by the Operator and the Department, the Operator shall provide the Department with a preliminary estimate of hard and soft costs for such improvements. Once the Department and the Operator have mutually agreed on the scope of the improvements and the preliminary estimates, the Operator shall proceed to design and construct the improvements in accordance with the provisions of this Agreement.

2) Design and Construction Coordination

Operator shall:

1. Be responsible for construction management and coordination of all improvements to the Locations and administrative support space.
2. Coordinate meetings with MDAD's architects, consultants and others, to review procedures, scheduling site surveys and develop build-out schedules.
3. Coordinate the processing and review of improvement submittals. Design and construction shall be in accordance with the MDAD Design Guidelines Manual, Life Safety Master Plan, MDAD Retail Concessions Design Guidelines, Florida Building Code and the TAC-N Procedures, MDAD Design Guideline Manual "13634 Synchronized Clock System", as well as all other applicable codes and regulations.
4. Provide required information such as, but not limited to, Leasehold Outline or As-Built drawings provided by the Department's Technical Support Division.
5. Provide and coordinate access to Location as necessary.
6. Purchase materials and services, and coordinate the fabrication and installation of the Operator development requirement, whereby such elements are the designated responsibility of the Operator, if so implemented.

3) Construction

Operator shall:

1. Attend pre-construction meetings, construction meetings, coordinate construction, monitor schedule, and coordinate Locations development with the Department as required, pursuant to the TAC-N procedures.
2. Adhere to MDAD's TAC-N Design and Construction procedures and requirements.
3. Ascertain that MDAD's TAC-N or TAC-R Design and Construction procedures and requirements, as applicable, are adhered to by all.
4. Monitor and coordinate the construction start, project timetable schedule and completion date for all Locations.
5. Monitor and report to the Department on on-site activities and progress for improvement work. The Architect/Engineer of record is responsible for day-to-day field observation of all shell and core Locations including, but not limited to, inspections, delivery, coordination and reporting.

6. Monitor construction progress with regard to the schedule and procedures established and make recommendations to the Department for maintaining and improving construction progress as necessary.
7. Establish a uniform system for the timely processing and control of drawings.
8. Review status of drawings with contractor(s) and architect(s) at progress meetings.
9. Review and advise the Department on all changes to the work with regard to cost and impact on the project pro-forma and construction schedule.
10. Monitor punch list completion and review testing and inspection reports for all Locations.
11. Organize and have available upon request completed project files.
12. Coordinate access to the Location to allow staff training and equipment testing.
13. Obtain Certificate of Occupancy for each Location.
14. Submit Record Drawings (As-Built drawings) as per the TAC-N or TAC-R requirements within sixty (60) days from the issuance date of the Certificate of Occupancy, and deliver them to the Department pursuant to the TAC-N or TAC-R procedures.

ARTICLE 5 – STANDARDS OF OPERATION

5.01 STANDARDS OF OPERATION: The Operator shall comply with the Department's "Tenant Handbook", Exhibit J, the "Standards of Operations", Exhibit L, the "MIA Terminal Standards" available on **www.miami-airport.com,** Exhibit K "Master Clock System", Volume 6 and all revisions to same promulgated from time to time by the Department.

The Department shall have the right to adopt and enforce reasonable and non-discriminatory rules and regulations and operating performance standards with respect to the use of Locations, which the Operator agrees to observe and obey. The Department may amend such rules or regulations and operating performance standards from time to time and shall provide copies thereof to the Operator. The Department shall provide the Operator with reasonable written notice, not less than fifteen (15) days, prior to the implementation of any such amendment to the rules, regulations and/or operating performance standards. Those rules include, but are not limited to, any rules and regulations imposed upon the Department by any governmental agency.

The Operator shall implement and comply with all amended requirements, within fifteen (15) days of receipt of an amendment. The Operator shall immediately implement and comply with any rules and regulations promulgated for safety or security reasons.

The Operator acknowledges the desire of the Department, as part of its obligation to ensure the highest level of public service, to provide the public and air traveler an adequate range and quality of service. The Department may monitor, test or inspect the Locations at any time through the use of its own personnel, and/or the use of a shopping service, and/or by

any other reasonable means that does not unduly interfere with the operation of the business. The results of such service audits may be employed by the Department to enforce the obligations in this Agreement.

The Department shall retain the right, in accordance with the provisions of this Agreement, to make reasonable objections to the quality of articles sold, the character of the service rendered to the public, the prices charged, and the appearance and condition of the Locations, Failure to perform any of the services under this Agreement may result in damages being imposed pursuant to **Sub-Article 3.25 Penalties.**

5.02 PRICING POLICY: An Advertising Sales Rate/Rate Card detailing the prices for all advertising Locations including package promotions must be submitted annually, or whenever such rates are adjusted, and approved by the Department prior to advertising the rate card. Any adjustment to the first year rates must be submitted to the Department for approval prior to contract execution.

The Operator who is not in compliance with the provisions of this Sub-Article shall be given seven (7) days to bring all rates into compliance. Failure to do so shall subject the Concessionaire to penalties pursuant to **Sub-Article 3.25 "Penalties"** and shall constitute a default under this Agreement.

ARTICLE 6 – OBLIGATIONS OF THE DEPARTMENT

6.01 DEPARTMENT SERVICES: The Department shall clean, maintain and operate in good condition the terminal building. This obligation includes, but is not limited to, all structural (including, but not limited to, the roof and base floor of the terminal building) and all base building work, maintenance of main electrical and mechanical systems, maintenance of walls and ceilings, and repair/maintenance of the roof. The Department shall maintain the public areas in the terminal building furnished and will provide adequate light, cold water and conditioned air. The Department agrees to make all necessary structural repairs to the Locations at its own expense; provided, however, that for purposes of this Agreement such structural repairs shall not include any repairs to any equipment installed by the Operator, and further provided that the Operator shall reimburse the Department, within ten (10) Days of receipt of written demand for such reimbursement, for the cost and expense of all structural repairs required as a result of the negligent or intentional acts of the Operator, its officers, partners, employees, agents, contractors, subcontractors, licensees, or invitees. The Operator shall give the Department written notice (or verbal notice in the event of any emergency conditions which may result in harm to the patrons of the Airport, which verbal notice shall be followed by written notice within twenty-four (24) hours) describing any repair, which is the responsibility of the Department. The Department shall commence the repair process promptly after its receipt of such written notice if the Department agrees that such repair is required and is the Department's responsibility hereunder.

A. The Operator must ascertain the extent of the existing utility capacities, before designing any new loads to be connected to existing systems and piping. The Department agrees to cooperate in providing access to the Locations.

B. Such maintenance by the Department may be subject to interruption caused by repair, strikes, lockouts, labor controversies, inability to obtain fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, and other conditions beyond the control of the Department.

C. The Operator acknowledges that the Department has made no representations or warranties concerning the suitability of the Locations for the Operator's use or for any other use, and that except as expressly provided in this Agreement, the Department shall have no obligations whatsoever to repair, maintain, renovate or otherwise incur any cost or expense with respect to the Locations or any improvements, furnishings, fixtures, trade fixtures, signage or equipment constructed or used on or in the Locations by the Operator.

The Operator hereby confirms that it has made its own investigation of all the costs of doing business under this Agreement, including the costs of furnishings, fixtures, trade fixtures, inventory, signs and equipment needed to operate from the Locations hereunder, that it has done its own projections of the volume of business expected to be generated, that it is relying on its own business judgment concerning its prospects for providing the services required under this Agreement on a profitable basis, and that the Department has not made any representations or warranties with respect to any such matters.

The Department does not warrant the accuracy of any statistics or projections relating to the Airport and its operations, which have been provided to the Operator by the Department or anyone on its behalf and the Department shall not be responsible for any inaccuracies in such statistics or their interpretation.

All statements contained in this Agreement or otherwise made by the Department or anyone on its behalf concerning any measurement relating to the Locations or any other area of the Airport are approximate only, and any inaccuracy in such statements of measurements shall not give rise to any claim by the Operator under or in connection with this Agreement. The Department shall not be liable to the Operator for any loss of business or damages sustained by the Operator as a result of any change in the operation or configuration of, or any change in any procedure governing the use of, the construction improvements of the terminal building.

ARTICLE 7–FURNITURE, FIXTURES AND EQUIPMENT

7.01 EQUIPMENT: Any equipment installed in the Locations by the Operator shall be consistent with **Exhibit E,** Retail Concession Design Guidelines keeping with the decor of the terminal building and must be approved in advance by the Department. Any such equipment shall be removed from the Locations within ninety (90) Days following the expiration or earlier termination of this Agreement.

7.02 AMERICANS WITH DISABILITIES ACT REQUIREMENTS: The Operator will be responsible, at its cost, for ensuring that the Locations and all equipment therein, and all functions it performs therein as part of the concession, conform in all respects to the

requirements of the Americans with Disabilities Act (the "ADA"), including without limitation, the accessibility guidelines promulgated pursuant thereto. The ADA imposes obligation on both public entities, like the Department and those private entities that offer services for the convenience of users of the public entities' locations. In some circumstances, the public entity must ensure that the operations of the private entity comply with the public entity's ADA obligations. In most cases, the ADA obligations of the Department and the Operator will be the same. However, the Department reserves the right to require the Operator to modify its operations or its physical Locations to comply with the Department's ADA obligations with respect to the Locations, as the Department in its sole discretion deems reasonably necessary.

7.03 DISPOSAL OF CLOCK DISPLAYS, FIXTURES, AND EQUIPMENT: At least thirty (30) calendar days prior to the expiration of this Agreement, or upon termination pursuant to Article 12 "Default and Termination by County" or Article 13 "Claims and Termination by Operator". hereof, the Department shall retain any portion of the equipment, furnishings, fixtures, signs, of the Operator in accordance with the provisions of Sub-Article 4.06 Agreement; provided however, the Department shall have no right to use or display any proprietary clock display signs or logos (e.g., clock display trademarks, brand names owned by, or licensed or franchised to Operator).

ARTICLE 8 – MAINTENANCE

8.01 CLEANING: The Operator shall, at its cost and expense, keep the Locations clean, neat, orderly, sanitary and presentable at all times. If the Locations are not kept clean as provided in Exhibit L Standards of Operation, the Operator will be so advised and shall take immediate corrective action. Failure to take immediate corrective action may result in penalties being assessed pursuant to **Sub-Article 3.25 "Penalties"**.

8.02 REMOVAL OF TRASH: The Operator shall, at its cost and expense, remove or cause to be removed from the Locations and properly disposed of in Department provided containers, all trash and refuse of any nature whatsoever which might accumulate and arise from the operations hereunder. If the Operator enters into agreements for the janitorial and trash removal service within the Locations, such service providers must have permits issued by the Department to do business at the Airport. Trash shall not be stored in any area visible to the public nor cause a private or public hazard through its means of storage. All edible items must be contained so as to minimize exposure to pests. Any trash left or stored in any area visible to the public or edible items not properly contained may result in penalties being assessed pursuant to **Sub-Article 3.25 "Penalties"**.

The Department reserves the right to back charge the Operator for waste disposal a proportionate share in a non-discriminatory manner either indirectly through rental rates or directly by a Department generated bill for actual usage. Such charges shall not exceed the Department's actual costs.

8.03 MAINTENANCE AND REPAIR OF DISPLAY EQUIPMENT: The maintenance and repair of Display Equipment **shall** be the sole responsibility of the Operator, at its sole cost. The Operator shall provide all personnel necessary to perform these functions and

address all customer complaints and inquiries, if any, during the term of this Agreement. Any problems concerning the service that comes to the attention of the County, such as any problems with the Display Equipment or customer inquiries or complaints, shall be directed to the Operator's designated local representative or communicated to the Operator as stated in this Agreement.

If the Department finds any inoperable Clock Display Equipment, the Department shall notify the Operator and the inoperable equipment shall be replaced within 48 hours after receipt of the notice.

8.04 FAILURE TO MAINTAIN: Upon failure of the Operator to maintain the Locations as provided in this **Article 8 "Maintenance"**, the Department may enter upon the Locations and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof plus twenty-five percent (25%) for administrative costs, shall constitute additional rental, and shall be billed to and paid by the Operator, in addition to any penalties imposed by the Department pursuant to **Sub-Article 3.25 "Penalties"**.

Failure to pay said costs upon billing by the Department will cause this Agreement to be in default as stated in **Sub-Article 12.02 "Payment Default"**.

8.05 ENVIRONMENTAL RECYCLING: The Department is actively engaging in the development of environmental programs. A recycling program is planned at the Airport to include the participation of all Airport Operators. Participation in this program, once established, will be mandatory. The Operator shall agree to bear any reasonable and actual costs associated with the implementation and continued operation of this recycling program, or propose for approval by the Department an alternative environmental recycling plan which such approval shall not be unreasonably withheld.

Proper disposal of contaminated and/or regulated materials generated by the Operator is the sole responsibility of the Operator. Disposal must be through the use of a licensed vendor regulated by the State of Florida and/or any other federal or local regulatory agency.

8.06 FIRE PROTECTION AND SAFETY EQUIPMENT: The Operator must provide and maintain all fire protection and safety equipment and all other equipment of every kind and nature required by any applicable law, rule, ordinance, resolution or regulation, for the Term of this Agreement, and extensions, if any, or any insurance carrier providing insurance covering any portion of the Locations.

ARTICLE 9 – ASSIGNMENT AND OWNERSHIP

9.01 NO ASSIGNMENT: The Operator shall not assign, transfer, pledge or otherwise encumber this Agreement nor shall the Operator allow others to use the Locations, without the prior written consent of the Department.

9.02 OWNERSHIP OF THE OPERATOR: Since the ownership, control, and experience of the Operator were material considerations to the County in the award of this concession

and the entering into of this Agreement, the Operator shall take no actions which shall serve to transfer or, sell majority ownership or control of the Operator without the prior written consent of the Department.

9.03 CHANGE OF CONTROL: If Operator is a corporation the issuance or sale, transfer or other disposition of a sufficient number of shares of stock (deemed to mean more than fifty-percent (50%) of the stock) in the Operator to result in a change of control of Operator shall be deemed an assignment of this Agreement for purposes of this **Article 9 "Assignment and Ownership"**. If the Operator is a partnership, transfer of any interest in the partnership, which results in a change in control of such Operator, shall be deemed an assignment of this Agreement for purposes of this **Article 9 "Assignment and Ownership"**.

ARTICLE 10 – INDEMNIFICATION

10.01 INDEMNIFICATION REQUIRED OF OPERATOR: The Operator shall indemnify, defend, and hold harmless the Department and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and cost of defense, which the Department or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Operator or its employees, agents, servants, partners, principles or any other persons. The Operator shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Department, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

The Operator expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Operator shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Department or its officers, employees, agents and instrumentalities as herein provided.

ARTICLE 11 – INSURANCE

The Contractor shall maintain the following insurance throughout the performance of this Contract until the Work has been completed by the Contractor and accepted by the Owner.

A. **Worker's Compensation**, as required by Chapter 440, Florida Statutes.

B. **Automobile Liability Insurance,** covering all owned, non-owned and hired vehicles used in connection with the work in an amount not less than:

(1) $5,000,000 combined single limit per occurrence for bodily injury and property damage for vehicles used AOA.

(2) $1,000,000 combined single limit per occurrence for bodily injury and property damage covering vehicles when being used by the Contractor off of the AOA.

C. **Commercial General Liability Insurance,** on a comprehensive basis, including Contractual Liability, Broad Form Property Damage and Products and Completed Operations, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. The County must be shown as an additional insured with respect to this coverage.

All insurance policies required herein shall be issued in companies authorized to do business under the laws of the State of Florida, with the following qualifications:

> The company must be rated no less than "A-" as to management, and no less than "VII" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc., or its equivalent, subject to approval of MDAD Risk Management.

The Contractor shall furnish certificates of insurance and insurance policies to the Owner prior to commencing any operations under this Contract. Certificates and policies shall clearly indicate that the Contractor has obtained insurance, in the type, amount, and classifications, as required for strict compliance with this Article. The certificates and policies must provide that, in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the MDAD Risk Management.

Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the Contractor from liability under any other portion of this Contract.

Cancellation of any insurance or bonds, or non-payment by the Contractor of any premium for any insurance policies or bonds required by this Contract shall constitute a breach of this Contract. In addition to any other legal remedies, the Owner at its sole option may terminate this Contract or pay such premiums, and deduct the costs thereof from any amounts that are or may be due to the Contractor.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this section remain in force for the duration of the agreement. If insurance certificates are scheduled to expire during the contract period, the Contractor shall be responsible for submitting new or renewed insurance certificates to MDAD's Risk Management Office at a minimum of thirty (30) calendar days before such expiration.

The Owner reserves the right, upon reasonable notice, to examine the original policies of insurance (including but not limited to: binders, amendments, exclusions, endorsements, riders and applications) to determine the true extent of coverage. The Contractor agrees to permit such inspection at the offices of the Owner.

ARTICLE 12– DEFAULT AND TERMINATION BY COUNTY

12.01 EVENTS OF DEFAULT: A default shall mean a breach of this Agreement by the Operator (an "Event of Default"). In addition to those defaults defined in **Sub-Article 12.02 "Payment Default", Sub-Article 12.03 "Other Defaults", and Sub-Article 12.04 "Habitual Default"**, an Event of Default, may also include one (1) or more of the following occurrences:

(A) The Operator has violated the terms and conditions of this Agreement;

(B) The Operator has failed to make prompt payment to subcontractors or suppliers for any service or work provided for the design, installation, operation, or maintenance of the advertising concessions;

(C) The Operator has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Operator's creditors, or the Operator has taken advantage of any insolvency statute or debtor/creditor law, or the Operator's affairs have been put in the hands of a receiver;

(D) The occurrence of any act, which operates to deprive Operator of the rights, power, licenses, permits or authorities necessary for the proper conduct and operation of the activities authorized herein;

(E) Abandonment or discontinuance of operations by Operator of its business by any act(s) of Operator;

(F) Any persistent violation on the part of Operator, its agents or employees of the traffic rules and regulations of the Airport, or disregard of the safety of persons using the Airport, or upon failure by Operator to correct the same;

(G) Failure on the part of Operator to maintain the quality of service required by the terms of this Agreement, including, but not limited to, any cessation or diminution of service by reason of Operator being unable for any reason to maintain in its employ the personnel necessary to keep its business in operation and available for public use, unless such use is due to strike, lockout, or bona fide labor dispute;

(H) Failure by Operator to maintain its other equipment in a manner satisfactory to the Department.

(I) the Operator has failed to obtain the approval of the Department where required by this Agreement;

(J) The Operator has failed to provide adequate assurances as required under **Sub-Article 12.09** "Adequate Assurances";

(K) The Operator has failed in a representation or warranty stated herein; or

(L) The Operator has received three (3) notices of default, of any kind, within a twenty-four (24) month period.

12.02 PAYMENT DEFAULT: Failure of the Operator to make Percentage Fee payments and other charges required to be paid herein when due and fails to cure the same within five (5)

Days after written notice shall constitute a default, and the Department may, at its option, terminate this Agreement.

12.03 OTHER DEFAULTS: The Department shall have the right, upon thirty (30) calendar days written notice to the Operator to terminate this Agreement upon the occurrence of any one or more of the following unless the same shall have been corrected within thirty (30) calendar days after written notice.:

(A) Failure of the Operator to comply with covenants of this Agreement other than those that constitute default pursuant to **Sub-Article 12.02 "Payment Default"**.

(B) The conduct of any business, the performance of any service, or the merchandising of any product or service not specifically authorized herein.

(C) Any Event of Default.

12.04 HABITUAL DEFAULT: Notwithstanding the foregoing, in the event that the Operator has frequently, regularly or repetitively defaulted in the performance of or has breached any of the terms, covenants and conditions required herein, to be kept and performed by the Operator, regardless of whether the Operator has cured each individual condition of breach or default as provided for in **Sub-Article 12.02 "Payment Default"** and **Sub-Article 12.03 "Other Defaults"** above, the Operator may be determined by the Director to be an "habitual violator". At the time that such determination is made the Aviation Director shall issue to the Operator a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Operator that there shall be no further notice or grace periods to correct any subsequent breach(s) or default (s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the Department may terminate this Agreement upon the giving of written notice of termination to the Operator, such termination to be effective upon the seventh (7) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Operator shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Operator shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with **Sub-Article 12.10 "Actions at Termination"** hereof.

12.04 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE: If an Event of Default occurs, the Department shall notify the Operator by sending a notice of default, specifying the basis for such Event of Default, and advising the Operator that such default must be cured immediately or this Agreement with the Department may be terminated. The Operator can cure and rectify the Event of Default, to the Department's reasonable satisfaction, within thirty (30) days from Operator's receipt of the Default Notice (the "Cure Period") or such other timeframe as delineated in the Agreement. The Department may extend the Cure Period and grant an additional period of such duration as the Department shall deem appropriate without waiver of any of the Department's rights hereunder, so long as, the Operator has commenced curing such default and is effectuating

a cure with diligence and continuity during such thirty (30) day period or any other period which the Department prescribes. The notice of default shall specify the Termination Date by when the Operator shall discontinue the services.

12.05 TERMINATION FOR ABANDONMENT: This Agreement may be terminated in its entirety upon the abandonment by the Operator of the Locations or the voluntary discontinuance of Operator's services at the Airport for any period of time exceeding twenty-four (24) consecutive hours, unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Operator from providing services on the Locations for the purposes authorized in **Article 2 "Use of Locations"**. The foregoing shall not include periodic vacancies in individual Locations that may occur from time to time during the Term of this Agreement.

12.06 TERMINATION FOR CAUSE: The Department may terminate this Agreement, effective immediately if: (i) the Operator attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (ii) a principal of the Operator is convicted of a felony during the Term or any Extensions thereof if applicable. The Department may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or joint venture or other entity has with the Department and that such individual, corporation or joint venture or other entity shall be responsible for all direct and indirect costs associated with such termination, including attorney's fees.

The foregoing notwithstanding, any individual, firm, corporation, joint venture, or other entity which attempts to meet its contractual obligations with the Department through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County's debarment procedures. The Operator may be subject to debarment for failure to perform, and all other reasons set forth in § 10-38 of the Code of Miami-Dade County, Florida.

12.07 ADEQUATE ASSURANCES: When, in the opinion of the Department, reasonable grounds for uncertainty exists with respect to the Operator's ability to perform the work or any portion thereof, the Department may request that the Operator, within the time frame set forth in the Department's request, provide adequate assurances to the Department, in writing, of the Operator's ability to perform in accordance with terms of this Agreement. In the event that the Operator fails to provide to the Department the requested assurances within the prescribed time frame, the Department may:

1. Treat such failure as a repudiation of this Agreement; and
2. Resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the work or any part thereof either by itself or through others.

12.08 ACTIONS AT TERMINATION: The Operator shall, upon receipt of such notice to terminate, and as directed by the Department:

(A) Stop all work as specified in the notice to terminate;

(B) Take such action as may be necessary for the protection and preservation of the Locations and other Department materials and property;

(C) Vacate, quit and surrender, and account for the administrative support space, all furnishings, fixtures, equipment, software, vehicles, records, funds, inventories, commodities, supplies and other property of the Department, on or before the date of termination.

ARTICLE 13 – CLAIMS AND TERMINATION BY OPERATOR

13.01 ADMINISTRATIVE CLAIM PROCEDURES: If the Operator has any claim against the County arising under this Agreement, it will be made in writing within thirty (30) calendar days of the occurrence of the event to the Director. The exact nature of the claim, including sufficient detail to identify the basis for the claim and the amount of the claim shall be clearly stated. The dispute will be decided by the Director, who will mail or otherwise furnish a written copy of the decision to the Operator at the address furnished in **Sub-Article 18.10 "Notices"**. The decision of the Director will be final and conclusive unless, within thirty (30) calendar days from the date of receipt of such copy, the Operator mails or otherwise furnishes to the Department a written appeal addressed to the County Manager. The decision of the County Manager, or his duly authorized representative for the determination of such appeals, will be final and conclusive unless within thirty (30) calendar days of the Operator's receipt of such decision, the Operator files an action in a court of competent jurisdiction. In connection with any appeal proceeding under this provision, the Operator shall be afforded an opportunity to be heard and to offer other evidence in support of the appeal. Pending final decision of a dispute hereunder, the Operator shall proceed diligently with the performance of this Agreement and in accordance with the County's decision. Failure to perform in accordance with the decision of the Director or the County Manager shall be cause for termination of this Agreement in accordance with **Sub-Article 12.03 "Other Defaults"**. The failure of the Operator to comply with this administrative claim procedure shall be cause for a waiver of claim and an abandonment of any claim arising out of the event.

13.02 TERMINATION: The Operator shall have the right, upon thirty (30) calendar days written notice to the Department to terminate this Agreement, without liability to the Department, at any time after the occurrence of one or more of the following events:

(A) Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes, and the injunction remaining in force for a period of more than one hundred eighty (180) calendar days.

(B) A breach by the Department of any of the material terms, covenants or conditions contained in this Agreement required to be kept by the Department and failure of the Department to remedy such breach for a period of one hundred eighty (180) calendar days after receipt of written notice from the Operator of the existence of such breach.

(D) The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control or use of the airport

locations or any substantial part, or parts thereof, in such a manner as substantially to restrict the Operator's provision of services for a period of one hundred eighty (180) calendar days.

ARTICLE 14 – NOT APPLICABLE

ARTICLE 15- RULES, REGULATIONS AND PERMITS

15.01 RULES AND REGULATIONS: The Operator shall comply with the Ordinances of the Department including the Rules and Regulations of the Department, Chapter 25 of the Code, as the same may be amended from time to time, Operational Directives issued hereunder, all additional laws, statutes, ordinances, regulations and rules of the federal, State and County governments, and any and all plans and programs developed in compliance therewith, and any County Administrative Orders and resolutions of the BCC which may be applicable to its operations or activities under this Agreement

15.02 VIOLATIONS OF RULES AND REGULATIONS: The Operator agrees to pay, on behalf of the Department, any penalty, assessment or fine issued against the Department, or to defend in the name of the Department any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, State or County governments based in whole or substantial part upon a claim or allegation that the Operator, its agents, employees, or invitees, have violated any law, ordinance, regulation or rule described in **Sub-Article 15.01 "Rules and Regulations"** or any plan or program developed in compliance therewith.

15.03 PERMITS AND LICENSES: The Operator shall obtain, pay for and maintain on a current basis and make available to the Department upon request, all permits and licenses as required for the performance of its services hereunder.

ARTICLE 16 – GOVERNING LAW

16.01 GOVERNING LAW; VENUE: This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this Agreement shall be laid in Miami-Dade County, Florida and any action to determine the rights or obligations of the parties hereto shall be brought in the courts of the State of Florida.

16.02 REGISTERED OFFICE/AGENT JURISDICTION: The Operator, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, and such designations to be filed with the Florida Department of State in accordance with Section 607.034, Florida Statutes. If the Operator is a natural person, he and his personal representative hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement. If Operator is a joint venture and not a corporation, the parties to the joint venture hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement.

ARTICLE 17 – TRUST AGREEMENT

17.01 INCORPORATION OF TRUST AGREEMENT BY REFERENCE: Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Amended and Restated Trust Agreement, dated as of the 15th day of December, 2002, as amended from time to time, by and between the County and JP Morgan Chase Bank, as Trustee, and Wachovia Bank, National Association, as Co-Trustee (the "Trust Agreement"), which Trust Agreement is incorporated herein by reference, shall prevail and govern in the event of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. A copy of the Trust Agreement may be examined by the Operator at the offices of the Department during normal working hours.

17.02 ADJUSTMENT OF TERMS AND CONDITIONS: If at any time during the Term or the Extensions thereto, as applicable, a court of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the rentals, fees and charges required to be paid hereunder to the Department by the Operator or by other Operators under other agreements of the Department for the lease or use of Locations used for similar purposes, are unjustly discriminatory, the Department, shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals fees and charges required to be paid under this Agreement in such a manner as the Department shall determine is necessary and reasonable so that terms and conditions and the rentals fees and charges payable by the Operator and others shall not thereafter be unjustly discriminatory to any user of like Locations and shall not result in any violation of the Trust Agreement or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement. In the event the Department has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the Department, pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions upon the issuance of written notice from the Department to the Operator.

17.03 INSPECTIONS: The authorized employees and representatives of the Department and of any applicable federal or state agency having jurisdiction hereof shall have the right of access to the Locations at all reasonable times for the purposes of inspection to determine compliance with the provisions of this Agreement or applicable law. The right of inspection shall impose no duty on the Department to inspect and shall impart no liability on the Department should it not make such inspection(s).

17.04 NOT USED.

17.05 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW: According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all Department contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit of any contract will be one quarter of one percent (.0025%) of the total contract amount.

Exception: The above application of one quarter of one percent (.0025%) fee assessment shall not apply to the following contracts: (a) contracts for legal services; (b) contracts for financial advisory services; (c) auditing contracts; (d) facility rentals and Licenses; (e) concessions and other rental Licenses; (f) insurance contracts; (g) revenue-generating contracts; (h) professional service Licenses under $1,000; (i) management Licenses; (l) small purchase orders as defined in Miami-Dade County Administrative Order No. 3-2; (m) federal, state and local government-funded grants; and (n) interlocal Licenses. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (.0025%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all Department contracts including, but not limited to, those contracts specifically exempted above.

ARTICLE 18 – OTHER PROVISIONS

18.01 PAYMENT OF TAXES: The Operator shall pay all taxes lawfully assessed against its interests in the Locations and its services hereunder, provided however, that the Operator shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay same after the ultimate adverse conclusion of such contest shall constitute and Event of Default, pursuant to **Sub-Article 12.03 "Other Defaults"** hereof.

18.02 ALTERATIONS BY OPERATOR: The Operator shall not alter or modify the Locations, except in accordance with **Article 4 "Improvements to the Locations"** herein, without first obtaining written approval from the Department.

18.03 RIGHTS TO BE EXERCISED BY DEPARTMENT: Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

18.04 ADMINISTRATIVE MODIFICATIONS: It is understood and agreed to that the Department, upon written notice to the Operator, shall have the right to modify administratively and to revise Articles and the Exhibits to this Agreement, including the provisions of **Sub-Article 1.06 "Addition, Deletion and Relocation of Locations"**, **Sub-Article 18.02 "Alterations by Operator"**, **Sub-Article, 21.02 "Right to Amend"**, and **Sub-Article 21.04 "Right to Modify"**.

18.05 SECURITY: The Operator acknowledges and accepts full responsibility for the security and protection of the Locations. The Operator fully understands and acknowledges that any security measures deemed necessary by the Operator for protection of the Locations shall be the sole responsibility of the Operator and shall involve no cost to the Department.

18.06 RIGHTS OF DEPARTMENT AT AIRPORT: The Department shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and locations at the Airport. The Department shall, in the exercise of such right, be free from any, and all liability to the Operator for business damages occasioned during the making of such repairs, alterations and additions except those occasioned by the sole acts of negligence or intentional acts of the Department its employees, or agents.

18.07 SUSPENSION OF SERVICES: If any strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Operator at the Airport, which results in the disruption, curtailment or discontinuance of services performed hereunder, the County shall have the right, during said period, to suspend the County's obligations under this Agreement and to cause the services required to be performed under this Agreement to be performed by others without any liability by the County to Operator. During such period, if the services are being provided by others, this Agreement shall be abated.

18.08 OTHER DEPARTMENT RIGHTS: The Operator shall be liable for any physical damage caused to the Locations by the Operator, its employees, agents, contractors, subcontractors or suppliers. The liability shall encompass: (i) the Operator's repair of the Locations, or if the Locations cannot be repaired, payment to the Department of the fair market value replacement cost of the Locations; and (ii) any other such damages to the Department or the Airport arising from the physical damage caused by the Operator and its employees, agents, contractors, subcontractors or suppliers. The Department may also initiate an action for specific performance and/or injunctive relief.

18.09 FEDERAL SUBORDINATION: This Agreement shall be subordinate to the provisions of any existing or future agreements between the Department and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. All provisions of this Agreement shall be subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to the United States of America shall be suspended.

18.10 NOTICES: Any notices given under the provisions of this Agreement shall be in writing and shall be hand delivered or sent by facsimile transmission (providing evidence of receipt), nationally recognized overnight courier service, or Registered or Certified Mail, Return Receipt Requested, to:

To the County: (Mailing Address)	Director Miami-Dade Aviation Department Post Office Box 025504 Miami, Florida 33102-5504
or (physical address):	Miami International Airport Terminal Building Director's Office Concourse E-5th floor Miami, FL 33122
To the Operator:	**Carlo Barbieri** **GMüller LLC** **3003 Yamato Rd, C-8 1055** **Boca Raton, FL 33434**

or to such other respective addresses as the parties may designate to each other in writing from time to time. Notices by: (i) facsimile shall be deemed tendered on the date indicated on the facsimile confirmation receipt; (ii) nationally recognized overnight courier service

shall be deemed tendered on the delivery date indicated on the courier service receipt; and (iii) Registered or Certified Mail shall be deemed tendered on the delivery date indicated on the Return Receipt from the United States Postal Service or on the express mail service receipt.

18.11 SEVERABILITY: If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision, and to this end, the provisions of this Agreement shall be severable.

18.12 RIGHTS RESERVED TO THE DEPARTMENT: All rights not specifically granted to the Operator by this Agreement are reserved to the Department.

18.13 DEPARTMENT LIEN: The Department shall have a lien upon all personal property of the Operator in the Locations to secure the payment to the Department of any unpaid monies accruing to the Department under the terms of this Agreement.

18.14 AUTHORIZED USES ONLY: The Operator shall not use or permit the use of the Locations or the Airport for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the Department on or invalidate any insurance policies of the Department or any policies of insurance written on behalf of the Operator under this Agreement.

18.15 NO WAIVER: There shall be no waiver of the right of the Department to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by the Operator unless such waiver is explicitly made in writing by the Department. Any previous waiver or course of dealing shall not affect the right of the Department to demand strict performance of the provisions, terms and covenants of this Agreement with performance hereof by the Operator.

18.16 RIGHT TO REGULATE: Nothing in this Agreement shall be construed to waive or limit the governmental authority of the Department, as a political subdivision of the State of Florida, to regulate the Operator or its services.

18.17 INTENT OF AGREEMENT: This Agreement is for the benefit of the parties only and does not: (a) grant rights to third party beneficiaries or to any other person; or (b) authorize non-parties to the Agreement to maintain an action for personal injuries, professional liability, or property damage pursuant to the terms or provisions of the Agreement.

18.18 MODIFICATIONS: This Agreement may be modified and revised in writing and duly executed by the parties hereto, as permitted pursuant to **Sub-Article 18.04 "Administrative Modifications", Sub-Article 21.02 "Right to Amend"**, and **Sub-Article 21.04 "Right to Modify"**. Any oral representation or modification concerning this Agreement shall be of no force or effect. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with this Agreement.

18.19 RADON DISCLOSURE: In accordance with Section 404.056, Florida Statutes, the following disclosure is hereby made: **"Radon Gas: Radon is a naturally occurring radioactive gas. When accumulated in a building in sufficient quantities, it may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."**

18.20 TRADEMARKS AND LICENSES: The Department may, from time to time, require the Operator as part of its advertising and marketing program to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the Department in the performance of this Agreement which patents, copyrights, trademarks, trade names, logos, computer software and intellectual property may have been created pursuant to the terms of this Agreement. Such permission, when granted, shall be evidenced by a nonexclusive license executed by the Operator and the Department, on behalf of the Department granting the Operator the right, license and privilege to use a specific patent, copyright, trademark, trade name, logo, computer software or other intellectual property without requiring payment of fees therefore. Failure of the parties to execute a formal license agreement shall not vest title or interest in such patent, copyright, trademark, trade name, logo computer software or intellectual property in the using party.

18.21 HEADINGS: The headings of the various Articles and Sub-Articles of this Agreement, and its Table of Contents are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

18.22 BINDING EFFECT: The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.

18.23 GOVERNMENTAL DEPARTMENT: Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County as a political subdivision of the State of Florida.

18.24 INDEPENDENT CONTRACTOR: The Operator shall perform all services described herein as an independent contractor and not as an officer, agent, servant, or employee of the Department. All personnel provided by the Operator in the performance of this Agreement shall be considered to be, at all times, the sole employees of the Operator under its sole discretion, and not employees or agents of the Department: Except as provided in § 2-11.1(s) of the Code, the Operator represents and warrants: (i) it has not employed or retained any company or person other than a bona fide employee working solely for the Operator to solicit or secure this Agreement; and (ii) it has not paid, or agreed to pay any company or other person any fee, commission, gift, or other consideration contingent upon the execution of this Agreement. A breach of this warranty makes this Agreement voidable by the Department without any liability to the Contractor for any reason.

18.25 OTHER LIENS: Operator shall not permit any mortgages, deeds of trust or similar liens to be imposed on the Locations, the leasehold, or the Clock Display, Fixtures and Equipment or any portion thereof. Operator shall not permit or suffer any liens, including mechanics', material men's and tax liens to be imposed upon the Locations, or any part thereof, without promptly discharging the same. Notwithstanding the foregoing, Operator may in good faith contest any such lien if Operator provides a bond in an amount and form acceptable to Department in order to clear the record of any such liens. Operator further agrees that it shall not sell, convey, mortgage, grant, bargain, encumber, pledge, assign or otherwise transfer its leasehold interest in the Locations or any personal property or trade fixtures in the Locations, including any Clock Display, Fixtures and Equipment or any part thereof or permit any of the foregoing to occur. Operator shall assume the defense of and indemnify and hold harmless Department against any and all liens and charges of any and every nature and kind which may at any time be established against said Locations and improvements, or any part thereof, as a consequence of any act or omission of Operator or as a consequence of the existence of Operator's interest under this Lease.

ARTICLE 19 – NOT APPLICABLE

ARTICLE 20 - WAIVER OF CLAIMS

The Operator hereby waives any and all claims it now has or may hereafter have against the County and the Department, and against any member, including, without limitation, all members of the Board of County Commissioners, officers, agents or employees of each, for any loss of anticipated profits caused by any suit or proceeding attacking directly or indirectly the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement or any part thereof, or by judgment or award in any suit or proceeding declaring this Agreement null and void or voidable, or delaying the same or any part thereof from being carried out. The Operator hereby further waives any and all claims for compensation for any and all loss or damage sustained by reason of any delay in making the Locations available to the Operator or by reason of any defects or deficiencies in the Locations or in the terminal building including any defect or deficiency in the Locations or in the terminal building which substantially impedes the Operator's ability to operate a concession at the Location(s) or because of any interruption in any of the services thereto, including, but not limited to, power, telephone, heating, air conditioning or water supply systems, drainage or sewage systems, and Operator hereby expressly releases the County and Department from any and all demands, claims, actions, and causes of action arising from any of such causes.

ARTICLE 21 - REQUIRED, GENERAL AND MISCELLANEOUS PROVISIONS

21.01 AGREEMENTS WITH STATE OF FLORIDA AND MIAMI-DADE COUNTY: This Agreement shall be subject to all restrictions of record affecting the Airport and the use thereof, all federal, State, County laws, and regulations affecting the same, and shall be subject and subordinate to the previsions of any and all existing agreements between the Department, or the State of Florida, or their boards, agencies or commissions, and to any future agreement between or among the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the

expenditure of federal, State, County funds for the development of the Airport, or any part thereof. All provisions hereof shall be subordinate to the right of the United States to occupy or use the Airport, or any part thereof, during time of war or national emergency.

21.02 RIGHT TO AMEND: In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for improvements at the Airport, Operator hereby consents to any and all such modifications and changes as may be reasonably required.

21.03 OPERATOR COVENANTS AND ASSURANCES:

A. Covenants Against Discrimination:

1. Operator on behalf of itself, its successors in interest and its assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Locations or the Airport; (2) that in the installation of any equipment at the Airport and the furnishing or services in connection therewith, no person on the grounds or race, color or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; and (3) that Operator shall operate at the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. Likewise, Operator shall comply with laws of the State of Florida, prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should Operator authorize another person or entity, with Department's prior written consent, to provide services or benefits in or in connection with its rights or obligations under this Agreement, Operator shall obtain from such person or entity a written agreement pursuant to which such person or entity shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this paragraph. Operator shall furnish the original or a true copy of such agreement to Department.

2. Operator will provide all information and reports required by said Code of Federal Regulations, or by directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its locations as may be determined by Department or the Federal Aviation Administration to be pertinent to ascertain whether there has been compliance with said Regulations and directives. Where any information required of Operator is in the exclusive possession of another who fails or refuses to furnish this information, Operator shall so certify to Department or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

3. In the event of a breach of any of the above nondiscrimination covenants, Department shall have the right to impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate. Such rights shall include the right to terminate this Agreement and to reenter and repossess the Locations and the improvements thereto, and hold the same as if this Agreement had never been made. The rights granted to Department by the foregoing sentence shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

4. Operator assures Department that no person shall be excluded on the grounds or race, creed, color, national origin or sex from participating in or receiving the services or benefits of any program or activity covered by Title 14, Code of Federal Regulations, Part 152, Subpart E, Federal Aviation Administration, Nondiscrimination in Airport Aid Program, and that it will be bound by and comply with all other applicable provisions of such Subpart E, as it may be amended from time to time. Operator also assures Department that it will require its covered sub-organizations to provide assurances to the same effect and provide copies thereof to the Department.

5. Operator further assures Department that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted at or in connection with its operations at the Locations. Operator also assures Department that it will require its contractors and sub-Operators to provide assurances to the same effect and ensure that such assurances are included in contracts and Sub-License Agreements at all tiers which are entered into in connection with Operator's services hereunder.

6. a) This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, Operator agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23.

   b) Operator agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.

7. Department may from time to time be required by the United States Government or one or more of its agencies, to adopt additional or amended provisions including nondiscrimination provisions concerning the use and operation of the Airport, and Operator agrees that it will adopt such requirements as part of this Agreement.

21.04 RIGHT TO MODIFY: The parties hereto covenant and agree that, during the Term, the First Extended Term and/or Second Extended. If applicable, this Agreement may be unilaterally modified by the Department, upon advice of its legal counsel, in order to conform to judicial or Federal Trade Commission or FAA rulings or opinions. This Sub-Article shall not preclude Operator from contesting said rulings or opinions, but the Operator shall abide by the unilateral change while such a challenge is pending. Except as otherwise specifically provided in this Agreement, this Agreement may not be modified except by a written instrument signed by both parties.

21.05 TAX EXEMPT STATUS OF DEPARTMENT REVENUE BONDS: The Operator agrees to comply promptly with any applicable provisions of any federal tax statute, and all regulations or other binding authority promulgated or decided hereunder, as required to permit the Department's capital expansion projects to be planned and constructed by the Department with revenue bonds the interest on which is generally exempt from federal income taxation, other than any applicable individual or corporate alternative minimum taxes (and other than during any period while such revenue bonds are held by a "substantial user" of the projects financed by such revenue bonds or a "related person" to a "substantial user"), including, without limitation, the execution by the Operator and delivery to the Department of an election not to claim depreciation or any investment credit with respect to any portion of such capital expansion projects or any other portion of the Airport System.

21.06 REMEDIES: All remedies provided in this Agreement shall be deemed cumulative and additional, and not in lieu of or exclusive of each other or of any other remedy available at law or in equity arising hereunder.

21.07 WARRANTY OF OPERATOR AS TO CONFLICTS OF INTEREST: The Operator represents and warrants to the Department that, except as may be disclosed in an Addendum hereto, no member, officer, employee or agent of Department has any interest, direct or indirect, in the business of the Operator to be conducted hereunder, and that no such persons shall have any such interest at any time during the Term, the First Extended Term and/or the Second Extended Term, as applicable.

21.08 REGULATIONS OF DEPARTMENT: The rights and privileges granted to the Operator hereunder and the occupancy and use by the Operator of the Locations shall at all times be subject to reasonable rules and regulations of Department as the same are now or may hereafter be prescribed through the lawful exercise of its power, including, but not limited to, all applicable provisions of Department's Policy and Procedures Manual as the same may be amended from time to time.

21.09 INTEREST: Any sums payable to the Department by the Operator under any provisions of this Agreement, which may be amended from time to time, which are not paid when due shall bear interest at the rate of (1 1/2%) per month (or, if less, the maximum rate of interest allowed by law) from the due date thereof until paid.

21.10 MISCELLANEOUS PROVISIONS: The Operator and its agents, contractors, sub-contractors and/or employees shall promptly observe and comply with applicable provisions of all federal, State, and local statutes, ordinances, regulations and rules which govern or apply to the Operator or to its services or operations hereunder.

1. The Operator shall, at its own cost and expense, procure and keep in force during the Term and any Extensions thereto if applicable, all necessary licenses, registrations, certificates, bonds, permits, and other authorizations as are required by law in order for the Operator to provide its services hereunder and shall pay all taxes, (including sales and use taxes), assessments including, without limitation, storm water utility fees and impact fees which may be assessed, levied, exacted or imposed by all governmental authorities having jurisdiction on Operator's property, on its services, on its Gross Revenues, on its income, on this Agreement and the fees payable to the Department hereunder, on the rights and privileges granted to the Operator herein, on the Locations and on any and all equipment installed on the Locations and the Operator shall make and file all applications, reports, and returns required in connection therewith.

2. The Operator agrees to repair promptly, at its sole cost and expense and in a manner acceptable to the Department, any damage caused by the Operator or any of its officers, agents, employees, contractors, subcontractors, licensees or invitees to the Airport or any equipment or property located thereon.

3. The Operator is not authorized to act as the Department's agent hereunder and shall have no authority, express or implied, to act for or bind the Department hereunder and nothing contained in this Agreement shall be deemed or construed by the Department or the Operator or by any third party to create the relationship of partnership or of joint venture. No provision of this Agreement shall be deemed to make the Department the joint employer of any employee of the Operator.

4 The Department, through its designated agents, shall have the right during the Operator's normal business hours (and at any time during an emergency) to inspect the Locations and the property of the Operator located thereon, in order to enforce this Agreement, to enforce applicable laws and regulations, and to protect persons and property.

5. The Article and paragraph headings herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision of this Agreement.

6. Time is expressed to be the essence of this Agreement.

7. This Agreement will inure to the benefit of and shall be binding upon the parties hereto and their authorized successors and assigns.

8. If any covenant, condition or provision of this Agreement is held to be invalid by any court of competent jurisdiction, such holding shall not affect the validity of any other covenant, condition or provision contain herein.

9. Except as otherwise provide herein, if certain action may be taken only with the consent or approval of the Department or the County, or if a determination or judgment is to be made by the Department or the County, such consent or approval may be granted or withheld, or such determination or judgment shall be made, in the sole discretion of the Department or the County.

10. The County's Ethics Commission has also adopted rules delineating the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics Ordinance (see Appendix L). The Proposer shall comply with these requirements.

21.11 FORCE MAJEURE: Strictly in relation to the obligations of each party to the other under this Agreement, and not for any other purpose or for any benefit of a third party and each party shall be excused from the timely performance of their respective obligations or undertakings provided in this Agreement, if the performance of such obligations or undertakings is prevented or delayed, retarded or hindered by, (i) strikes, lockouts, boycotts, actions of labor unions, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of the Operator, or (ii) embargo's, general shortages of labor, equipment, locations, materials or supplies in the open market, acts of God, acts of the public enemy, acts of governmental authority, including, without limitation, the FAA, the DOT, the TSA, the EPA, the DOJ, or civil and defense authorities, extreme weather conditions, war (declared or undeclared), invasion, insurrection, terrorism, riots, rebellion or sabotage.

21.12 ENTIRE AGREEMENT: This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements,

representations or statements with respect to such subject matter, are merged herein; provided, however, that Operator hereby affirms the completeness and accuracy of the information provided by Operator to Department in the Eligibility and Proposal Form, and in all attachments thereto and enclosures therewith, submitted by Operator to Department in connection with the award of this Agreement. None of the provisions, terms or conditions contained in the Agreement may be modified or otherwise altered except as may be specifically authorized by **Sub-article 18.04, "Administrative Modifications"** or the Sub-articles stated therein, or by written instrument executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

OPERATOR

GMÜLLER LLC
(Legal Name of Entity)

By: _____
Operator – Signature

Carlo Barbieri – President
(Print Name and Title)

WITNESS:

Kyra Hewett
(Print Name)

_____
(Signature)

WITNESS:

Aysha Hirsch
(Print Name)

AYSHA HIRSCH
(Signature)

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

By: _____
Mayor

Approved for Form
and Legal Sufficiency

Attest: Harvey Ruvin, Clerk

_____
Assistant County Attorney

By: _____
Deputy Clerk

Resolution No.: _____

Date: _____

APPENDIX E-1

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION AFFIDAVITS

APPENDIX E-1
MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION AFFIDAVITS

This sworn statement is submitted for:

PROJECT TITLE CLOCKS SPONSORSHIP PROGRAM

PROJECT NUMBER _____

COUNTY OF MIAMI-DADE

STATE OF FLORIDA

Before me the undersigned authority appeared CARLO BARBIERI (Print Name), who is personally known to me or who has provided as identification and who (did or did not) take an oath, and who stated:

That he/she is the duly authorized representative of

G MULLER LLC
(Name of Entity)

3003 YAMATO Rd # C-8 - 1055 - BOCA RATON - FL 33434
(Address of Entity)

20/58-30/906 / / / /
Federal Employment Identification Number

hereinafter referred to as the Entity being its

PRESIDENT
(Sole Proprietor)(Partner)(President or Other Authorized Officer)

and as such has full authority to make these affidavits and say as follows.

PUBLIC ENTITY CRIMES
SWORN STATEMENT UNDER SECTION 287.133(3)(a),
FLORIDA STATUTES

1. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), **Florida Statutes**, means "a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation."

2. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means "a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere."

3. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), **Florida Statutes**, means:

"1 A predecessor or successor of a person convicted of a public entity crime; or

2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate."

4. I understand that a "person" as defined in Paragraph 287.133(1)(e), **Florida Statutes**, means "any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in management of an entity."

5. The statement which is marked below is true in relation to the Entity submitting this sworn statement. **[Please indicate which statement applies.]**

PUBLIC ENTITY CRIMES
SWORN STATEMENT UNDER SECTION 287.133(3)(a),
FLORIDA STATUTES (Cont'd)

_X_Neither the Entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the Entity, nor any affiliate of the Entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____The Entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the Entity, or an affiliate of the Entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. **[Please indicate which additional statement applies.]**

_____There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. **[Please attach a copy of the final order.]**

_____The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. **[Please attach a copy of the final order.]**

_____The person or affiliate has been placed on the convicted vendor list. **[Please describe any action taken by or pending with the Florida Department of General Services.]**

DEBARMENT DISCLOSURE AFFIDAVIT
PURSUANT TO SECTIONS 10-38 AND 2-8.4.1
OF THE MIAMI-DADE COUNTY CODE

Section 10-38 of the Code relates to the debarment of any individual or other legal entity from County work. The Debarment Disclosure Affidavit requires the Entity to affirm, under oath, that neither the Entity, its officers, principals, directors, shareholders owning or controlling more than ten percent (10%) or more of the stock, partners, affiliates, as defined in the Code, nor its

subcontractors/subconsultants, have been debarred by the County. Any individual or Entity listed above that has been debarred by the County is prohibited from entering into any contract with the County during the period for which they have been debarred. Debarment may also constitute grounds for termination of any existing County contract. It is the Entity's responsibility to ascertain this information before submitting the Qualification Statement.

__X__ The Entity affirms under oath that neither the Entity, its officers, principals, directors, shareholders owning or controlling more than ten percent (10%) or more of the stock, or affiliates, nor its Subcontractor/Subconsultant have been debarred by the County.

CRIMINAL RECORD AFFIDAVIT
PURSUANT TO SECTION 2-8.6 OF THE
MIAMI-DADE COUNTY CODE

Pursuant to Section 2-8.6 of the Code, the Entity must disclose, at the time the submission, if the Entity or any of its officers, directors, or executives have been convicted of a felony during the past (10) years. Failure to disclose such conviction may result in the debarment of the Entity who knowingly fails to make the required disclosure or to falsify information.

Indicate below if the above named Entity, as of the date of submission:

__X__ has not been convicted of a felony during the past ten (10) years, nor does it, as of the date of submission, have an officer, director or executive who has been convicted of a felony during the past ten (10) years.

_____ has been convicted of a felony during the past ten (10) years, or as of the date of submission, has an officer, director or executive who has been convicted of a felony during the past ten (10) years.

DISCLOSURE OF OWNERSHIP AFFIDAVIT
PURSUANT TO SECTION 2-8.1
OF THE MIAMI-DADE COUNTY CODE

I hereby declare that the information given herein and in the documents attached hereto are true and correct.

PART I

1. The full legal name and business address* of the person or Entity transacting business with the County is:

   G MULLER L.L.C.
   3003 YAMATO ROAD #C-8 1055
   BOCA RATON FL 33434

2. If the transaction is with a Corporation**, provide the full legal name and business address* and title for each officer. This disclosure requirement does not apply to publicly traded corporations, however please indicate here whether the Entity is a publicly traded corporation.

   NOT APPLICABLE (NA)

3. If the transaction is with a Corporation**, provide the full legal name and business address* for each director. This disclosure requirement does not apply to publicly traded corporations.

   N/A

DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART I (cont'd)

4. If the transaction is with a Corporation**, provide the full legal name and business address* for each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock and state the percentage. This disclosure requirement does not apply to publicly traded corporations.

N/A

5. If the transaction is with a Partnership or joint venture, provide the full legal name and address for each partner or joint venture member.

N/A

6. If the transaction is with a trust, provide the full legal name and address for each trustee and each beneficiary of the trust.

7. The full legal name and business addresses* of any other individuals (other than stockholders owning less than five percent (5%) of the stock, subcontractors, materialmen, suppliers, laborers, or lenders) who have, or will have, any interest (legal, equitable, beneficial or otherwise) in the transaction with the County are:

N/A

DISCLOSURE AFFIDAVIT FOR MIAMI-DADE COUNTY
PART I (cont'd)

1. Does your firm have a collective bargaining agreement with its employees?

☐ Yes ☒ No

2. Does your firm provide paid health care benefits for its employees?

☐ Yes ☒ No

3. Provide a current breakdown (number of persons) of your firm's work force and ownership as to race, national origin and gender:

White:	1 Males	_____ Females
Asian:	_____ Males	_____ Females
Black:	_____ Males	_____ Females
Native American:	_____ Males	_____ Females
Hispanics:	_____ Males	_____ Females
Alaskan Natives:	_____ Males	_____ Females
_____:	_____ Males	_____ Females
_____:	_____ Males	_____ Females

(ADD EXTRA SHEETS IF NEEDED)

* **Post Office Box addresses not acceptable.**
** **If a Joint Venture, list this information for each member of the Joint Venture**

DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART II

LIST ALL CONTRACTS IN EFFECT WITH MIAMI-DADE COUNTY DURING THE LAST FIVE (5) YEARS:

CONTRACT DATE	DOLLAR AMOUNT OF ORIG.CONTRACT	FINAL AMT. OF CONTRACT	PERCENTAGE DIFFERENTIAL
(1)			
_____	$_____	$_____	_____%

Name of Dept. & Summary of Services Performed _____

N/A

_____

Litigation Arising out of Contract _____

_____

_____

==========

(2)

_____ $_____ $_____ _____%

Name of Dept. & Summary of Services Performed

N/A

_____

_____

Litigation Arising out of Contract _____

_____

DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART II (Cont'd)

CONTRACT DATE	DOLLAR AMOUNT OF ORIG.CONTRACT	FINAL AMT. OF CONTRACT	PERCENTAGE DIFFERENTIAL

(3)

_____ $_____ $_____ _____%

Name of Dept. & Summary of Services Performed _____

N/A

Litigation Arising out of Contract _____

(4)

_____ $_____ $_____ _____%

Name of Dept. & Summary of Services Performed _____

N/A

Litigation Arising out of Contract _____

(ADD EXTRA SHEET(S) IF NEEDED.)

DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART III

A. How long has Entity be en in business? 1 YEAR

B. Has the Entity or the principals of the Entity ever done business under another name or with another firm? NO
If yes, attach separate sheet(s) listing same information as in parts I, II and III of this affidavit.

AFFIRMATIVE ACTION PLAN/PROCUREMENT POLICY AFFIDAVIT PURSUANT TO SECTION 2-8.1.5 OF THE MIAMI-DADE COUNTY CODE

I, being duly first sworn, hereby state that the Respondent for this contract:

☐ has a current Affirmative Action Plan and Procurement Policy, as required by Section 2-8.1.5 of the Code , processed and approved for filing with the Miami-Dade County Department of Business Development (DBD) under the file No._____ and the expiration date of _____.

☐ had annual gross revenues in excess of $5,000,000 for the previous year and does not have a current Affirmative Action Plan and Procurement Policy as required by Section 2-8.1.5 of the Code, processed and approved for filing with the County DBD. I will contact DBD at 305-375-3111 regarding this condition of award requirement.

☒ had annual gross revenues less than $5,000,000.00 for the previous year; therefore Section 2-8.1.5 of the Code is not applicable.

☐ has a Board of Directors which is representative of the population make-up of the nation and are exempt from the requirements of Section 2-8.1.5 of the Code. I will contact DBD at 305-375-3111 in order to submit the required exemption request.

This single execution shall have the same force and effect as if each of the above affidavits had been individually executed.

(Signature of Authorized Representative)

Title President

Date Sept 20 - 2007

STATE OF: FLORIDA

COUNTY OF: Palm Beach

The above affidavits were acknowledged before me this 20 day of september 20 07

by CARLO F BARBIERI, DL # B616-106.47.082.0
(Authorized Representative)

of G. Muller LLC
(Name of Corporation, Partnership, etc.)

who is personally known to me or has produced as identification and who did/did not take an oath.

(Signature of Notary)

TAIS SILVA
(Print Name)

Notary Stamp or Seal:

TAIS R SILVA
MY COMMISSION # DD633381
EXPIRES January 25, 2011
(407) 398-0153 FloridaNotaryService.com

Notary Commission Number: DD633381

My Commission Expires: JAN / 25 / 2011

APPENDIX E-2

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION
CONDITION OF AWARD REQUIREMENTS

APPENDIX E-2

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION
CONDITION OF AWARD REQUIREMENTS

The following pages are provided for the Respondent's convenience and are a prerequisite to a contract award:

- Single Execution Condition of Award Affidavits:

  Disability Nondiscrimination
  Family Leave
  Domestic Leave
  Currently Due Fees and Taxes
  Drug Free Work Place
  Current In County Obligations
  Code of Business Ethics

- Subcontractor/Supplier Listing

- Subcontracting Policies Statement
  (Also required, but no format (insert page is provided))

- Proof of Authorization to do Business
  (Attach a copy of the Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the
  Florida Fictitious Name Statute per 865.09 F.S., if applicable.)
  (Also required, but no format (insert page is provided))

MIAMI-DADE COUNTY

MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION CONDITION OF AWARD AFFIDAVITS

This sworn statement is submitted for:

PROJECT TITLE CLOCKS SPONSORSHIP PROGRAM

PROJECT NUMBER _____

COUNTY OF Miami-Dade

STATE OF FL

Before me the undersigned authority appeared Carlo Barbieri (Print Name), who is personally known to me or who has provided _____ as identification and who (did or did not) take an oath, and who stated:

That he/she is the duly authorized representative of

GMULLER LLC
(Name of Entity)

3003 Komato Rd #C-8 1055 33434
(Address of Entity)

201158-3011906 / / / /
Federal Employment Identification Number

hereinafter referred to as the Entity being its

PRESIDENT
(Sole Proprietor)(Partner)(President or Other Authorized Officer)

and as such has full authority to make these affidavits and say as follows.

DISABILITY NONDISCRIMINATION
PURSUANT TO COUNTY RESOLUTION NOS. R-182-00 AND R-385-95,

Pursuant to County Resolution No. R-182-00, amending Resolution No. R-385-95, the Entity shall, as a condition of award, provide written certification that the firm is not in violation of the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Federal Transit Act, the Fair Housing Act, nor any other laws prohibiting discrimination on the basis of disability. Any post-award violation of these Acts may result in the contract being declared void. If any certifying Respondent or their affiliate is found in violation of the Acts, the County will conduct no further business with such attesting firm. Any violation of this Resolution may result in debarment.

__X__ The Entity affirms under oath that the Entity is not in violation of the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Federal Transit Act, the Fair Housing Act, nor any other laws prohibiting discrimination on the basis of disability.

FAMILY LEAVE
PURSUANT TO COUNTY RESOLUTION NO. R-183-00

Pursuant to County Resolution No. R-183-00, the Entity shall, as a condition of award, provide written certification that the firm provides family leave to their employees as required by the County's family leave policy. Failure to comply with the requirements of this Resolution may result in debarment.

__X__ The Entity affirms under oath that the Entity is in compliance with the County's family leave requirements.

DOMESTIC LEAVE
PURSUANT TO COUNTY RESOLUTION NO. R-185-00

Pursuant to County Resolution No. R-185-00, the Entity shall, as a condition of award, provide written certification that the firm is in compliance with the County's domestic leave policy. Failure to comply with the requirements of this Resolution may result in the contract being declared void, the contract being terminated, and/or the firm being debarred. The obligation to provide domestic leave to their employees shall be a contractual obligation.

__X__ The Entity affirms under oath that the Entity is in compliance with the County's domestic leave policy.

CURRENTLY DUE FEES OR TAXES, PURSUANT TO SECTION 2-8.1 (c) OF THE MIAMI-DADE COUNTY CODE

Pursuant to Section 2-8.1(c) of the Code, the Entity shall verify that all delinquent and currently due fees or taxes - including but not limited to real and property taxes, utility taxes and occupational licenses - collected in the normal course by the County Tax Collector, as well as County issued parking tickets for vehicles registered in the name of the Entity, have been paid. Failure to comply with this requirement may result in debarment.

__X__ The Entity affirms under oath that the Entity does not have any County delinquent and currently due fees or taxes, including but not limited to real and property taxes, utility taxes and occupational licenses, or County issued parking tickets for vehicles registered in the name of the Entity.

DRUG FREE WORKPLACE PURSUANT TO SECTION 2-8.1.2 (b) OF THE MIAMI-DADE COUNTY CODE

Pursuant to Section 2-8.1.2(b) of the Code, no person or entity shall be awarded or receive a County contract for public improvements unless such person or entity certifies that it will provide a drug free workplace. Failure to comply with this policy may result in debarment for those persons or entities that knowingly violate this policy or falsify information.

__X__ The Entity affirms under oath that it will comply with the County's drug free workplace requirements.

CURRENT IN COUNTY OBLIGATIONS AFFIDAVIT PURSUANT TO SECTION 2-8.1(h) OF THE MIAMI-DADE COUNTY CODE

Pursuant to Section 2-8.1(h) of the Code, no individual or entity shall be allowed to receive any additional County contracts, if it is in arrears in any payment under a contract, promissory note or other loan document with the County, or any of its agencies or instrumentalities, including the Public Health Trust, either directly or indirectly through a firm, corporation, partnership or joint venture in which the individual or entity has a controlling financial interest as that term is defined in Section 2-11.1(b)(8) of the Code, until either the arrearage has been paid in full or the County has agreed in writing to a payment schedule. Failure to meet the terms and conditions of any obligation or repayment schedule with the County shall constitute a default of the subject contract and may be cause for suspension, termination and debarment, in accordance with the terms of the contract and the debarment procedures of the County.

__X__The Entity affirms under oath that the Entity is current in its obligations to the County.

CODE OF BUSINESS ETHICS AFFIDAVIT
PURSUANT TO SECTION 2-8.1(i)
OF THE MIAMI-DADE COUNTY CODE

Pursuant to Section 2-8.1(i) of the Code, each person or entity that seeks to do business with the County shall adopt a Code of Business Ethics ("Ethics Code") and shall, prior to the execution of any contract between the Entity and the County, submit an affidavit stating that the Entity has adopted an Ethics Code that complies with the requirements of Section 2-8.1(i) of the Code. An entity failing to submit the required affidavit shall be ineligible for contract award.

__X__The Entity affirms under oath that the Entity has adopted an Ethics Code that complies with the requirements of Section 2-8.1(i) of the Code.

This single execution shall have the same force and effect as if each of the above affidavits had been individually executed.

(Signature of Authorized Representative)

Title PRESIDENT

Date Sept 17 - 2007

STATE OF: Florida

COUNTY OF: Palm Beach

The above certifications/verifications were acknowledged before me this 17 day of September, 2007,

by CARLO BARBIERI,
(Authorized Representative)

of G MULLER LLC,
(Name of Corporation, Partnership, etc.)

who is personally known to me or has produced as identification and who did/did not take an oath.

(Signature of Notary)

TAÍS SILVA
(Print Name)

Notary Stamp or Seal:

TAIS R SILVA
MY COMMISSION # DD633381
EXPIRES January 25, 2011
(407) 398-0153
FloridaNotaryService.com

Notary Commission Number: DD633381

My Commission Expires: January 25, 2011

SUBCONTRACTOR/SUPPLIER LISTING
PURSUANT TO SECTION 10-34 OF THE CODE

Firm Name of Prime Entity/Respondent: _____ Project No._____

Project Name: _____

Business Name and Address of First tier Subcontractor/Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/Subconsultant	Subcontractor/ Subconsultant Dollar Amount	(Principal Owner) Gender Race	
	N/A				
Business Name and Address of Direct Supplier	**Principal Owner**	**Supplies/Materials/Services to be Provided by Supplier**	**Supplier Dollar Amount**	**(Principal Owner) Gender Race**	

I certify that the certifications contained in this Subcontractor/Supplier Listing are to the best of my knowledge true and accurate

Prime Entity/Respondent Signature	CARLO BARBIERI Print Name	PRESIDENT Print Title	Date

(Duplicate if additional space is needed)

SUBCONTRACTING POLICIES STATEMENT PURSUANT TO SECTION 2-8.8(4) OF THE CODE

(Insert Here)

N/A YET

PROOF OF AUTHORIZATION TO DO BUSINESS

(Attach a copy of the Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the Florida Fictitious Name Statute per 865.09 F.S., if applicable.)

(Insert Here)

State of Florida

Department of State

I certify from the records of this office that G MULLER, LLC is a limited liability company organized under the laws of the State of Florida, filed on November 3, 2006.

The document number of this limited liability company is L06000107078.

I further certify that said limited liability company has paid all fees due this office through December 31, 2007, that its most recent annual report was filed on February 27, 2007, and its status is active.

I further certify that said limited liability company has not filed Articles of Dissolution.

Given under my hand and the Great Seal of Florida, at Tallahassee, the Capital, this the Seventeenth day of September, 2007

Secretary of State

Authentication ID: **900109501049-091707-L06000107078**

To authenticate this certificate,visit the following site, enter this ID, and then follow the instructions displayed.
www.sunbiz.org/auth.html

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