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

Memorandum

MIAMI-DADE COUNTY

Date: October 20, 2015

Agenda Item No. 8(A)(1)

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Request to Advertise a Request for Proposals for Wi-Fi System and Services RFP No. MDAD-04-14

Resolution No. R-939-15

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve a Request to Advertise a Request for Proposals (RFP) for public Wi-Fi System and Services at Miami International Airport (MIA). A copy of the RFP is attached in a substantially completed form.

SCOPE

MIA is located primarily within Commissioner Rebeca Sosa's District 6; however, the impact of this item is countywide in nature as MIA is a regional asset.

FISCAL IMPACT/FUNDING SOURCE

It is estimated that the agreement will generate a minimum of $500,000.00 a year in gross revenues, with a net return to the Miami-Dade Aviation Department (MDAD) of approximately $300,000.00.

BACKGROUND

Wi-Fi service has been available to passengers at MIA since early 2005, beginning with a deployment at the Miami International Airport Hotel. In 2006, MDAD initiated a competitive RFP process to select a company to develop and operate a program for paid public Wi-Fi service at MIA and an agreement was awarded by the Board pursuant to R-461-08 on May 6, 2008. As that agreement is expiring on June 9, 2016, a new solicitation has been prepared to continue provision of public Wi-Fi service at the Airport.

The physical network infrastructure at MIA is owned and operated by MDAD, and supports a multitude of both wired and wireless customers. MDAD's total investment in the network infrastructure is estimated at $10 million. Infrastructure improvements specifically allocable to public Wi-Fi service are estimated to be $1.5 million to date.

Expenses for the program are shared between the vendor and MDAD. The vendor is responsible for operational costs, including the portal, advertising sales, credit card processing and customer support. MDAD is responsible for costs of the network infrastructure, including maintenance and internet circuit capacity. Annual MDAD operating expenses allocable to public Wi-Fi service are currently budgeted at $200,000.00.

Revenue is generated from network usage connections, sponsorship/advertising, and roaming agreements. Connection revenue is subdivided into retail (paying for access via credit) and roaming (access via a subscription account with a third-party such as iPass or T-Mobile).

It is clear from research of other airports that free Wi-Fi access decreases revenue and carries higher costs required to support the increased usage. However, revenue from paid Wi-Fi service in the industry has continued to trend upward. Analysis suggests this is being driven by the rapid growth in mobile device adoption (iPad, tablets, smartphones, etc.).

Currently, wi-fi at MIA is available for thirty (30) minutes for a charge of $4.95 and 24-hour access is available for a charge of $7.95. Complimentary wi-fi has periodically been offered only when there is an available sponsor and the passenger downloads an application or watches a 30-second advertisement;

The new MDAD Wi-Fi solicitation includes three (3) access service levels:

Complimentary:	30-minute uninterrupted access during a 24-hour period preceded by a promotional advertisement not to exceed one (1) minute; upon conclusion of that 30 minutes, the user may log back in for an additional 30 minutes preceded by a 30-second advertisement;
Standard Pay-For-Use:	One (1) hour of uninterrupted service with no advertisement for a fee of $4.95; and
Premium Pay-For-Use:	24 hours of uninterrupted service with no advertisement for a fee of $7.95.

The main objective of including the complimentary Wi-Fi option in this solicitation is to ensure that the traveling public has unfettered access to websites that may be needed to augment or complete their journey (such as hotels, car rental companies, Miami-Dade County tourist sites, etc.) -- and to maximize their positive experience at MIA.

CONTRACT MEASURES:	20% Airport Concession Disadvantaged Business Enterprise (ACDBE)
TERM:	Eight (8) years
OPTION(S) TO RENEW:	The County reserves the right to extend the Agreement for one (1) two-year term.
USING AGENCY:	Miami-Dade Aviation Department
INSPECTOR GENERAL AUDIT ACCOUNT:	Provisions included

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: October 20, 2015

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

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

Please note any items checked.

_____ **"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**

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

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)
10-20-15

RESOLUTION NO. R-939-15

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR THE COUNTY'S MAYOR'S DESIGNEE TO ADVERTISE A REQUEST FOR PROPOSALS, RFP NO. MDAD 04-14, FOR WI-FI SERVICES AT MIAMI INTERNATIONAL AIRPORT, PRESERVING COUNTY MAYOR'S DELEGATED AUTHORITY UNDER SECTION 2-8.1 OF THE COUNTY CODE INCLUDING THE AUTHORITY TO ISSUE ADDENDA AS NECESSARY DURING ADVERTISEMENT PERIOD; AND PROVIDING FOR NOTIFICATION TO THE BOARD OF ADDENDA AT THE TIME OF AWARD RECOMMENDATION

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 authorizes the County Mayor or the County Mayor's designee to advertise the Request for Proposals, RFP No. MDAD 04-14, in substantially the form attached hereto, to solicit proposals from qualified vendors to establish Wi-Fi Services at Miami International Airport. This resolution shall not impair the County Mayor's delegated authority under Section 2-8.1 of the County Code, including the County Mayor's authority to issue addenda as necessary to address issues that may arise during the period the RFP is advertised. The County Mayor shall notify the Board at the time the contract award is recommended of what addenda, if any, were issued.

The foregoing resolution was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	**absent**		
Esteban L. Bovo, Jr., Vice Chairman	**aye**		
Bruno A. Barreiro	**absent**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**absent**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**absent**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of October, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray

REQUEST FOR PROPOSALS
FOR
Wi-Fi SYSTEM AND SERVICES
FOR THE MIAMI-DADE AVIATION DEPARTMENT
RFP No. MDAD-04-14

PRE-PROPOSAL CONFERENCE TO BE HELD ON

_____ at A.M./ P.M.

(LOCAL TIME)

Location/Conference Room ___

ISSUING DEPARTMENT:
MIAMI-DADE AVIATION DEPARTMENT
CONTRACTS ADMINISTRATION DIVISION

Contracting Officer:
Telephone: (305) 876-
Facsimile: (305) 876-8068
Email:

PROPOSALS ARE DUE AT THE ADDRESS SHOWN BELOW
NO LATER THAN

at _____(LOCAL TIME) ("PROPOSAL DUE DATE AND TIME")

at

CLERK OF THE BOARD
STEPHEN P. CLARK CENTER
111 NW 1st STREET, 17TH FLOOR, SUITE 202
MIAMI, FLORIDA 33128-1983

ALL PROPOSALS RECEIVED AND TIME STAMPED BY THE CLERK OF THE BOARD PRIOR TO THE PROPOSAL SUBMITTAL DEADLINE SHALL BE ACCEPTED AS TIMELY SUBMITTED. THE CIRCUMSTANCES SURROUNDING ALL PROPOSALS RECEIVED AND TIME STAMPED BY THE CLERK OF THE BOARD AFTER THE PROPOSAL SUBMITTAL DEADLINE WILL BE EVALUATED BY MDAD IN CONSULTATION WITH THE COUNTY ATTORNEY'S OFFICE TO DETERMINE WHETHER THE PROPOSAL WILL BE ACCEPTED AS TIMELY. PROPOSALS WILL BE OPENED PROMPTLY AT THE TIME AND PLACE SPECIFIED. THE RESPONSIBILITY FOR SUBMITTING A PROPOSAL TO THE CLERK OF THE BOARD ON OR BEFORE THE STATED TIME AND DATE IS SOLELY AND STRICTLY THE RESPONSIBILITY OF THE PROPOSER. MIAMI-DADE COUNTY IS NOT RESPONSIBLE FOR DELAYS CAUSED BY ANY MAIL, PACKAGE OR COURIER SERVICE, INCLUDING THE U.S. MAIL, OR CAUSED BY ANY OTHER OCCURRENCE.

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Attachments to the RFP document:

Appendix A: Questionnaire and Minimum Qualifications Form
Appendix B: Price Proposal Form
Appendix C: Acknowledgement of Addenda
Appendix D: Affidavit of Miami-Dade County Lobbyist Registration for Oral Presentation
Appendix E-1: Single Form Execution Affidavits
- Public Entity Crimes Affidavit
- Criminal Record Affidavit
- Work History Disclosure

Appendix E-2: Condition of Award Requirements
- Affirmation of Vendor Affidavits
- Collusion Affidavit
- Sudan/Iran Affidavit
- Contractor Due Diligence Affidavit
- Subcontracting Policies Statement (No format, insert document)
- Subcontractor/Supplier Listing
- Proof of Authorization to do Business (No format, insert document)

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Appendix F: Local Business Preference
Appendix G: Proposal Bond Guaranty
Appendix H: Not Used
Appendix I: Airport Concession Disadvantaged Business Enterprise Participation Plan/Provision
Appendix J: Not Used
Appendix K: MIA Passenger Traffic (Twelve Months Ended December 31, 2014)

6.0 Form of License Agreement

Exhibits to the License Agreement:

Exhibit A: Not Used
Exhibit B: Not Used
Exhibit C: Airport Concession Disadvantaged Business Enterprise Participation Plan/Provision (refer to Appendix I)
Exhibit D: MAG Performance Bond
Exhibit E: Not Used
Exhibit F: Not Used
Exhibit G: Independent Audit Report
Exhibit H: Not Used
Exhibit I: Quarterly Report of Wi-Fi Commission Due MDAD
Exhibit J: Implementing Order 3-58 – First Source Hiring Referral Program
Exhibit K: Tenant Handbook
Exhibit L: Wi-Fi Standards of Operation
Exhibit M: Executed Affidavits of Successful Proposer (to be inserted prior to award)

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GENERAL DEFINITIONS

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

a) The terms "**Addenda**" or "**Addendum**" shall mean the written or graphic instruments issued prior to Proposal opening that clarify, correct or change the RFP documents or the License Agreement.

b) The terms "**Agreement**" or "**Contract**" shall mean the License Agreement, including all attachments thereto and a part thereof entered into by the County and the Successful Proposer, including all of its terms and conditions, attachments, exhibits, and amendments.

c) The terms "**Airport**" or "**MIA**" shall mean the Miami International Airport.

d) The terms **"Airport Concession Disadvantaged Business Enterprises" or ACDBE"** shall have the meaning described in Section 4.0 of this RFP entitled "Airport Concession Disadvantaged Business Enterprises".

e) 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.

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

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

h) The term **"Central Terminal"** shall refer to the area of the terminal building and concourses, within the central part of the MIA terminal area, landside and airside, which is known as Concourses E-G

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

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

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

l) The terms "**Department**" or "**MDAD**" shall mean the Miami-Dade Aviation Department. Wherein in this Solicitation document, rights are reserved to the County, MDAD may exercise such rights.

m) The term **"Gross Revenues"**, as used in the License Agreement, shall mean all monies paid or payable to and consideration of determinable value received by the Operator in operation under the License regardless of when or where the order therefor is received, or services rendered, whether paid or unpaid, whether on a cash, credit or rebate basis or in consideration of any other thing of value; provided, however, that the term "Gross Revenues" shall not include: (i) any refund given to the customer because of a customer satisfaction issue which must be documented and auditable, or (ii) promotional discount and coupon offers issued to customers as a result of a Departmental approved marketing plan, or (iii) any sums collected for any federal, state, County and municipal taxes imposed by law upon the sale of merchandise or services.

n) The term **"North Terminal"** shall mean the area of the terminal building and concourses, within the north part of the MIA terminal area, landside or airside, which is known as Concourses D.

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

p) The term "**Proposal**" shall mean a Proposer's written response to this Solicitation document.

q) The terms **"Proposer"** or **"Respondent"**, **"Submitter"**, **"Vendor"**, **"Bidder"** or **"Contractor"** shall mean the person, firm, entity or organization submitting a response to this Solicitation.

r) The terms **"Request for Proposals" or "RFP"** shall mean this Solicitation document and all associated addenda and attachments.

s) The term **"Solicitation"** shall mean this Request for Proposals and all associated addenda and attachments.

t) The term **"South Terminal"** shall refer to the area of the terminal building and concourses, within the south part of the MIA terminal area, landside or airside which is known as Concourses H and J and connecting concession and public space.

u) The terms "**Subcontractor/Subconsultant**" shall mean any person, firm, entity or organization, other than the employees of the Proposer, who contracts with the Proposer to furnish labor, or labor and materials, in connection with the services that will be provided to the County, whether directly or indirectly, on behalf of the Successful Proposer.

v) The term **"Successful Proposer"** shall mean the Proposer that receives any award of an Agreement from the County as a result of this Solicitation.

w) The term **"Terminal"** shall mean the area of the MIA consisting of the terminal buildings and concourses, within the North, Central and South Terminals, landside or airside and connecting concession and public spaces.

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

y) The term **"Turnover Date"** shall mean the date approved by the Department for the Concessionaire to commence construction of a Location.

z) The terms **"Work"** or **"Services"** shall mean all matters and things required to be done by the Operator in accordance with provisions of the Agreement.

PROJECT SPECIFIC DEFINITIONS

a) The term "**Advertising Revenue**" shall mean revenue obtained by the Operator from title and/or presenting sponsors and any other related advertising revenues or agreements with other entities.

b) The term "**MAG**" shall mean Minimum Annual Guarantee.

c) The term "**MITCS**" shall mean MIA IT Concession Systems.

d) The term "**MWDS**" shall mean MIA Wireless Data System.

e) The term **"Portal"** generally synonymous with *gateway*, is for a World Wide Web site that is or proposes to be a major starting site for users when they get connected to the Web or that users tend to visit as an anchor site.

f) The term **"Splash Page"** is a graphical element that usually appears while a program is launching. The term is used to describe an introduction page on a website.

g) The term **"Service Set Identifier"** or "**SSID**" is a case sensitive, 32 alphanumeric character unique identifier attached to the header of data packets sent over a wireless local-area network (WLAN) that acts as a password when a mobile device tries to connect to the basic service set (BSS) -- a component of the IEEE 802.11 WLAN architecture.

h) The term "**WAN**" shall mean Wide Area Network.

i) The term **"Wi-Fi"** shall mean any local area wireless data system.

SECTION 1.0
INTRODUCTION, SCOPE OF SERVICES, AND MINIMUM QUALIFICATIONS

1.1 INTRODUCTION/BACKGROUND

Miami-Dade County (the "County"), as represented by the Miami-Dade Aviation Department ("MDAD"), requires the services of one qualified firm to operate and manage wireless internet service for Miami International Airport (MIA) users via MIA's owned wireless network infrastructure presently installed and maintained by MDAD. The MIA Wireless Data System (MWDS) is designed for the primary purpose of providing Wireless Local Area Network service to MIA patrons, tenants and the Miami-Dade Aviation Department. The MWDS is implemented as one of the MIA IT Concession Systems (MITCS). The Operator shall be capable of utilizing MIA's wireless infrastructure which serve customers using wireless devices to provide access to the internet for both paid and complimentary services. Services also includes a portal and a Splash Page.

The Operator will be responsible for the installation and maintenance of the equipment it uses to provide the services described herein, but will have no responsibility for the implementation or maintenance of the MIA network infrastructure.

The Term of any agreement issued as a result of this RFP will be eight (8) years with an option to renew at the County's sole discretion, for one (1) two (2) year period.

The MWDS provides wireless coverage throughout MIA and common areas such as restaurants, bars, MIA Hotel, MIA Terminal and Concourse seating areas. The MWDS consists of approximately 500 access points with IEEE 802.11A, B, G and N radios and may be updated from time to time as technology allows. The access points are presently integrated via various Power Over Ethernet (POE) switches which are anticipated to be connected by the end of 2015 to a one (1) gigabit distribution infrastructure with a ten (10) gigabit backbone core. The internet/ISP connectivity is to be provided by MIA to deliver adequate service. The Operator shall be responsible to administer the network speed allowed to the user for each level of service specified in the Portal to deliver optimal user performance.

1.1.1 MIAMI INTERNATIONAL AIRPORT GENERAL DESCRIPTION

Aviation has been a hometown industry in Miami, having started more than 75 years ago. Today, Miami International Airport enjoys top rankings as the leading international freight airport in the USA and the nation's third leading gateway for international passenger traffic.

MIA is the port of entry for 79% of all international traffic arriving by air to Florida. The Airport is the world's largest Latin American/Caribbean gateway, offering over 1,100 weekly departures with direct service to 62 destinations in the region. With 46% of total passenger traffic being international, MIA is among the top two airports in the U.S. with the highest international to domestic passenger ratios.

Miami-Dade County operates the world's leading cruise port, and more than 80% of all cruise passengers begin or end their cruise with flights to/from the Airport. In addition, Miami is the leading international financial center in the southeastern United States. The Airport stimulates much of that activity as well, through the financing of international trade facilitated through our Airport.

During the year 2014 the number of domestic passengers at MIA was 20.8 million, and international, 20.1 million for a total of 40.9 million. The growth rate for the next 5 years is estimated at 2.1% annually for both domestic and international.

1.1.2 CONCESSION GOALS AND OBJECTIVES

The Department has established concession goals and objectives to better meet or exceed the demands of today and tomorrow's traveling public.

The Department's concession goals and objectives for the Airport are to:

- Enhance the image of the Airport as a world-class airport.
- Enhance customer service and satisfaction by improving product choice, price choice, and customer service.
- Optimize sales and revenues.
- Present a local and regional identity to the traveling public.
- Increase local and Airport Concession Disadvantaged Business Enterprises (ACDBE) participation to the extent possible.

1.2 SCOPE OF SERVICES

A. SCOPE OF SERVICE: The Operator shall design, supply, install, operate, and maintain the public Wi-Fi System Portal for the Miami International Airport terminal facility and immediate adjacent areas such as the AOA tarmac and parking garages. The System does not include Wi-Fi coverage or any other services to other areas except as may be approved in writing and by the mutual consent of both parties.

B. MDAD will allocate appropriate bandwidth to the Operator for internet access. The Operator shall be responsible to administer the network speed allowed to the user for each level of service specified in the portal. The Operator shall monitor the level of service provided, inform MDAD if or in the event inadequate capacity issues arise and work with MDAD staff so the appropriate bandwidth can be allocated as necessary. The use of multiple SSIDs for different types of public Wi-Fi traffic will not be allowed unless approved by MDAD.

C. **USER INTERFACE PORTAL:** The Operator will design, install and maintain a user interface portal for the existing gateway, which will include the following minimum user options:

- Splash Page, at a minimum, in English and Spanish and other languages as may be appropriate.
- Optimize the Splash Page format for various devices
- Branding as MIA's public Wi-Fi network
- Allowing for 25% of the Splash Page for promotion of MIA products and services (e.g. airline listings; flight information; concessions directory; lost and found; parking rates; airport web site link)
- Authentication / Internet access option(s) including:
  - As You Go (AYG) - Direct bill to credit/debit cards
  - Roaming partners offering Wi-Fi subscription plans
  - Wholesale network access partners

D. **INTERNET ACCESS SERVICE LEVELS PROVIDED:**

- Complimentary with advertising or sponsorship.

  Complimentary Wi-Fi service shall be provided for a 30 minute uninterrupted access for a 24 hour period. Users will be directed to a promotional advertisement for a period not to exceed one minute to obtain complimentary access for 30 minutes. The best effort maximum connection speed provided will be 2 Mb/sec. Additionally, if during the term of the Agreement, more than twenty (20) of the top United States passenger airports provide free 60 minute uninterrupted access to their passengers, the County shall have the right, with one year prior notice, to require the Proposer to provide 60 minute uninterrupted service to MDAD passengers, and such service will be deemed Complimentary service.

- Standard Pay-For-Use.

  One hour of uninterrupted service with no advertisement. Session Fee to Passengers: $4.95. Multiple sessions will be

available if desired. The best effort maximum connection speed provided will be 8 Mb/sec.

- Premium Pay-For-Use.
  24 hours of uninterrupted service with no advertisement. Session Fee to Passengers: $7.95. The best effort maximum connection speed will be 20 Mb/sec. Subscription based plans may also be offered at a price agreed and approved by MDAD.

E. BACK-OFFICE: Operator will install and manage all local and/or remote backend systems as required to support all billing functions associated with the system. Operator will be responsible for all costs, including transaction and credit card processing fees, and customer refund requests. The Department will not be involved in any phase of this billing process.

F. CUSTOMER SUPPORT: The Operator will provide a live support center on a 24-hour / 7 days a week / 365 days a year to assist customers requiring technical support and all billing inquiries. The Operator is responsible for all costs associated with the support function including:

1. Responding to customer/passenger complaints within twenty-four (24) hours.
2. Ensuring compliance with customer service programs and processes are in place.

The Operator will accept trouble tickets or similar reports from the Department's IT Service Desk, customer service department or information desk and provide closeout detail or projected closure.

G. SYSTEM MARKETING AND OBTAINING ADVERTISING REVENUE: The Operator will market the Wi-Fi network for maximum usage and revenues. A marketing plan shall be submitted to MDAD at the commencement of the License Agreement and thereafter ninety (90) days prior to each fiscal year for MDAD (October 1 – September 30). MDAD shall have forty-five (45) days after receipt of the plan to approve or disapprove the same in its discretion. If MDAD disapproves the plan, the Operator shall operate in substantial conformity with all such plans approved by the Department as may be modified from time to time. MDAD reserves the right to request at any time any further submission of plans and may assist the Operator in the marketing effort at its discretion.

H. **OPERATING:** The Operator shall:

1. Provide quality control audits and reports to include downtime.
2. Develop annual revenue projections by month.
3. Generate and provide the Department monthly revenue reports, and such other financial and management reports as are usual and customary.
4. Prepare other technical reports and analyses as may be requested like: number of users that have connected to each tier, actual speed provided for each level of service, total load on the WAN circuit, and any other as required by MDAD.
5. Ensure compliance with MDAD, Miami-Dade County, State of Florida, and other governmental agencies.
6. Implement any new policies, and procedures, and operational directives as issued from time to time by MDAD.
7. Ensure payment is submitted quarterly to MDAD.
8. Participate in any airport-wide customer service program implemented by MDAD.
9. Provide system portal upkeep, maintenance and repair ensuring 99.9% uptime.
10. Use any method to allow access to the Network and the Internet to facilitate communication to the public. However, the Operator will be prohibited from providing private services to tenants and concessionaries of MIA to support their operation without prior approval by MDAD.
11. Operate an advertising platform fully capable of scheduling, serving and monetizing the Complimentary Wi-Fi

I. **PROHIBITED ACTIVITIES**: Without limiting any other provision herein, Operator shall not, without the prior written consent of MDAD which may be withheld in its sole and absolute discretion: (a) use, or allow the system to be used, for any improper or unlawful purposes; (b) do or permit to be done anything in any way tending to injure the reputation of MDAD, the County, the Board of County Commissioners, or the appearance of the Airport; or (c) 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 License Agreement, Operator shall not gain access to the roof of the MIA terminal building without the consent of MDAD, which may be withheld in MDAD's sole and absolute discretion.

J. **COMPENSATION TO THE COUNTY:** As part of the consideration for the privileges granted to the Successful Proposer to engage in business at the Airport, the Successful Proposer shall pay to the County a Minimum Annual Guarantee (MAG). This Minimum Annual

Guarantee is to be prorated and payable in four (4) equal quarterly payments in U.S. funds.

Every quarter, the Selected Proposer shall pay the County, without billing or demand, 50% of the quarterly Gross Advertising Revenue the Operator receives from the sale of advertising and sponsorship, monthly subscription fees, agreements with other entities, roaming from other carriers, pay-for-use transactions and internet access fees or the Minimum Annual Guarantee prorated Quarterly; whichever is greater. These Payments shall be due on the fifteen (15th) calendar day following the end of each quarter.

The Proposed Minimum Annual Guarantee shall be provided in the Price Proposal, Appendix B. The minimum that can be proposed for the Minimum Annual Guarantee is $500,000.00

1.3 MINIMUM QUALIFICATIONS

1. Proposers should provide documentation that they have continuously provided for the past three (3) years wireless internet services at a North American airport, transportation center, retail shopping center or marketplace generating at least an aggregate of $1,000,000 in annual gross sales for wireless internet and related services for such locations.
2. If the Proposer is an individual or partnership, the individual and/or the partner, who shall be responsible for the operation of the Agreement, should have met the specified minimum qualifications. If the Proposer is a Joint Venture, then at least one (1) of the Joint Venture Partners should satisfy all of the foregoing Minimum Qualifications. A Proposer, whether a joint venture or otherwise, may proffer the experience of its corporate parent, sister, or subsidiary ("an affiliated company") in meeting these minimum qualifications. However, given the unique nature of individual corporate relationships, Proposers seeking to rely on the experience of an affiliated company should be advised that the Selection Committee shall have the discretion to determine what weight, if any, it wishes to give such proffered experience on a case-by-case basis, and may base such decision on the relationship between the Proposer and the affiliate, as evidenced by whatever documentation is provided in the proposal submission or otherwise presented at the request of the Selection Committee.
3. Proposer must be authorized to do business in the State of Florida by the time of award.
4. Proposers who are less qualified than is suggested above may be considered for award. However, such Proposers may receive less

points or no points from the Selection Committee, or may be found non-responsible.

SECTION 2.0
RFP SUBMITTAL PROCESS

2.1 RFP AVAILABILITY

Copies of this Solicitation package can be obtained through the MDAD, Contracts Administration Division, in person or via courier at 4200 NW 36th Street, Building 5A, 4th Floor, Miami, FL 33122, or through a mail request to P.O. Box 025504, Miami, FL 33102-5504. The cost for each Solicitation package is $50.00 **(non-refundable) check or money order** payable to: Miami-Dade Aviation Department.

Proposers who obtain copies of this Solicitation from sources other than MDAD's Contracts Administration Division risk the potential of not receiving addenda, since their names will not be included on the list of firms participating in the process for this particular Solicitation. Such Proposers are solely responsible for those risks and the County bears no liability **(see Section 2.4).**

2.2 PROPOSAL SUBMITTAL

One (1) original and nine (9) copies (a total of 10) of the complete Proposal (Technical Proposal and Price Proposal) must be received by the due date as specified in the advertisement for this RFP ("Proposal Due Date and Time"), as may be amended by Addendum. One (1) PDF version of the complete Proposal must be submitted in a CD/DVD or flash drive format. **The original and all copies must be bound** and submitted in an envelope or container stating on the outside the Proposer's name, address, telephone number and RFP number, RFP title, and Proposal Due Date to:

Clerk of the Board
Stephen P. Clark Center
111 NW 1st Street, 17th Floor, Suite 202
Miami, FL 33128-1983

Both the Technical (Quality) Proposal and the Price Proposal Form must be signed by an officer of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer. In the absence of a corporate seal, the documents must be notarized by a Notary Public. The submittal of a proposal by a Proposer will be considered by MDAD as constituting an offer by the Proposer to perform the services outlined in this RFP, at the price submitted and in accordance with the terms and conditions herein, until the Board of County

Commissioners awards the Agreement, if the Proposer is the Successful Proposer. The Proposer also agrees to honor and comply with the terms of the executed agreement, if the Proposer is the Successful Proposer.

Hand-carried proposals may be delivered to the above address **ONLY** between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays observed by the County. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

2.3 PROPOSAL FORMAT

A. INSTRUCTIONS TO THE PROPOSERS

The Proposer should carefully follow the format and instructions outlined below, observing format requirements where indicated. All materials (except for plans and schematics, if applicable) are to be submitted on 8 ½" X 11" pages, neatly typed on one side only, with normal margins and spacing. All documents and information must be fully completed and signed as required. Proposals that do not include the required documents may be deemed non-responsive and may not be considered for contract award.

B. CONTENTS OF PROPOSAL

The Proposal must consist of two (2) separate parts: (A) Technical Proposal, and (B) Price Proposal Form as follows:

1. TECHNICAL PROPOSAL (Part A)

A Technical Proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the submittal. A Technical Proposal must include the following information:

a) Table of Contents

The table of contents should outline, in sequential order, the major areas of the Technical Proposal. All pages of the Technical Proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the table of contents.

b) Questionnaire and Minimum Qualifications Form

The "Questionnaire and Minimum Qualifications Form" (see Appendix A) is to be completed and signed by an authorized officer of the Proposer submitting the Proposal.

c) Executive Summary

The executive summary shall briefly and concisely describe the basic services offered by the Proposer; the Proposer's ability to perform the work requested in this RFP; the background, experience and qualifications of the Proposer and the Subcontractors/Subconsultants; the qualifications of the Proposer's personnel to be assigned to this project; and, any other information called for by this RFP, which the Proposer deems relevant. The executive summary should be no longer than four (4) pages.

d) Proof of Minimum Qualifications

The Proposer shall verify its qualifications (see Appendix A "Questionnaire and Minimum Qualifications Form"). Proposers who are less qualified, than is called for in this solicitation, or who are relying on qualifications of separate corporate entities, may receive less, or no points, from the Selection Committee, or may be deemed non-responsible, if such lack of experience would or could suggest that there is an inability to provide the services required in the manner contemplated by this solicitation.

e) Technical Information

1) The Proposer shall describe its specific policies, plans, procedures or techniques to be used in providing services (see Section 1.2, "Scope of Services"). The Proposer shall also describe its approach to project organization and management, and the responsibilities of Proposer's management and personnel that will perform work pursuant to this project.

2) The Proposer shall provide an organizational chart including titles for all personnel to be assigned to this project. The chart must clearly identify the Proposer's key personnel. Key personnel include all partners, managers, seniors, and other professional staff that will perform services on this project.

3) The Proposer shall describe their key personnel's experience, qualifications, functions to be performed and other vital information including relevant experience on previous similar projects. The Proposer shall also provide their resumes with job descriptions and other detailed qualification information.

Note: After proposal submission, the Proposer has a continuing obligation to advise the Department of any changes, intended or otherwise, to the key personnel identified in its Proposal.

4) Proposer shall provide examples of marketing programs undertaken to promote sales including samples of advertisements, sponsorships, monthly subscription fees, agreements with other entities, roaming from other carriers, pay-for-use transactions, internet access fees, splash pages, co-marketing and promotional materials, flyers, coupons, etc.

5) Proposer shall provide a detailed description of Proposer's ability and experience in obtaining advertising spaces for a Wi-Fi operation. Cite specific examples.

f) Proposer's Experience, Past Performance, Litigation, Convictions, Indictments, or Investigations, Affiliations, and References

1) Experience: The Proposer shall provide a history of its background and experience in providing similar services and shall state the number of years that it has been in existence, the current number of employees, and the primary markets served.

2) Specific Project Experience: The Proposer shall provide a detailed description of comparable contracts (similar in scope of services to those requested herein) which the Proposer has either ongoing or completed within the past three (3) years. For each comparable contract, the Proposer should identify: (i) the client, (ii) a description of the work performed, (iii) the total dollar value of the contract, (iv) the contract duration, (v) the client contact person and telephone number for reference, (vi) a statement or notation of whether Proposer(s) is/was the primary consultant / contractor or subcontractor/subconsultant, and (vii) the results of the project. The Proposer shall also list and describe any projects performed for government clients or similar sized private entities, and any work performed for the County.

3) Additional Experience: The Proposer shall describe any other experiences or information related to the Services described in Section 1.2, Scope of Services.

4) Past Performance: List all contracts which the Proposer has performed for Miami-Dade County. The County will review all contracts the Proposer has performed for the County in accordance with Section 2-8.1(g) of the Code, which requires that "a Bidder's or Proposer's past performance on County contracts be considered in the selection of consultants and contractors for future County contracts." The Proposer must list and describe all work

performed or being performed for Miami-Dade County, include the name of the County department which administers or administered the contract(s); the contact person(s) on the contract(s) and their contact telephone number(s); the dates covering the term of the contract(s); the dollar value of the contract(s), whether or not the County contract was audited by the County and the results therefrom, and the name, address, telephone number, responsibilities and employment status of the management team assigned to any County contract within the last three (3) years.

5) Litigation: The Proposer shall describe any prior or pending litigation, in which (i) the Proposer, (ii) any member of a joint venture, (iii) Subcontractors, (iv) any of those entities' subsidiaries, affiliates or parent companies, or (v) any of those entities' employees is or has been involved within the last ten (10) years which arise out of their employment. If so, give details.

6) Convictions, Indictments, or Investigations: Has the organization of the Proposer or any of its directors, officers, partners or supervisory personnel including those of any Joint Venture ever been party to any criminal action relating directly or indirectly to the general conduct of the business of the Proposer herein? Identify any criminal convictions or civil judgments for the last ten (10) years, and pending criminal indictments or governmental/ regulatory investigations. Information must include: (i) nature of the offense; (ii) sentence, fines, restitution or probation imposed; (iii) jurisdiction of occurrence; (iv) indicting or investigative authority; and (v) status of indictment or investigation.

7) Affiliations: Please state whether the Proposer, any Principal of Proposer, any family, member of any Principal, or any person or entity with which such person has a business relationship, has or had within the last ten (10) years (a) directly or indirectly a business relationship with Miami-Dade County (including Miami-Dade Aviation), (b) directly or indirectly receives or received revenues from Miami-Dade County (including Miami-Dade Aviation) or (c) directly or indirectly receives or received revenue from the result of conducting business on County property or pursuant to any contract with the County. Please describe such relationship.

   Please also state whether the Proposer, any Principal of Proposer or any of their family members has or had with the

last ten (10) years, a direct or indirect business relationship with any elected or appointed County official or an affiliate or with any County employee or any affiliate, and fully describe such business relationship.

8) References: The Proposer shall provide customer references for similar projects, in scope and magnitude preferably in an airport environment, which the Proposer has either ongoing or completed within the last three (3) years.

g) Financial Capacity to Perform

1. Financial Relationships:

All proposers should provide information on financial relationships and responsibilities with regard to parent, subsidiary, or related companies by including:

a. The percentage of equity of any partnerships formed. Equity shares should be specified on the form and on additional sheets, if necessary.

b. Depicted hierarchal relationship of parent, subsidiaries or related companies.

2. Capital Investment:

Proposer should submit a Financial Plan, which will indicate:

a. the source of funding to be used for start-up costs and capital improvements, and,

b. the amount of working capital and reserves the Proposer determines will be required to maintain operations.

Additional information will include, but not be limited to,

c. estimated costs for improvements and,

d. projected expenses for leasehold improvements and/or furniture, fixtures and equipment.

3. References:

The Proposer should list three (3) business references related to its business operations during the past three (3) years. Proposer should provide for each reference a contact name, title, phone number, fax number and email address.

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4. Financial Background Information:

   In order to understand the financial capabilities and stability of the proposing company, and that of any joint venture or affiliated entities, the Department requests that the following historical financial information be submitted from either the proposing corporate entity or the majority equity owners:

   a. Audited or reviewed comparative financial statements for the last **three** fiscal years prepared in accordance with generally accepted accounting principles (GAAP) or International Financial Reporting Standards (IFRS), reflecting current financial conditions; if there are no audited or reviewed financial statements available, then provide federal income tax returns filed with the Internal Revenue Service (IRS) for the previous **three (3)** fiscal periods.

   b. An interim balance sheet and income statement for any period of time in excess of six months of the financial statements submitted as part of (a) above.

   c. Proposer shall state all significant financial events occurring subsequent to the closing date of the submitted audited financial statements and is no such events have occurred, state that fact.

5. Additional Financial Information:

   The Proposer should state whether it operates as a subsidiary of another company and state whether the parent company guarantees the Minimum Annual Guarantee.and the Agreement for the subsidiary company. If so, provide a letter from the appropriate agent of the parent company verifying the parent company's intent to guarantee the Minimum Annual Guarantee and Agreement.

   Given the unique nature of individual corporate relationships, Proposers seeking to rely on the financial support of a corporate relation should be advised that the Selection Committee shall have the discretion to determine what weight, if any, it wishes to give such proffered financial support on a case-by-case basis.

h) Subcontractors/Subconsultants Performing Services

The Proposer shall also include a list of the names and addresses of all major first tier Subcontractors/Subconsultants, and describe

the extent of work to be performed by each one. Include resumes for the Subcontractors/Subconsultants' key personnel.

i) Submission of Required Documentation

The Proposer must complete, sign as required, and submit the following documents as part of its Proposal, which have been included as attachments to this RFP:

Appendix A: Questionnaire and Minimum Qualifications Form

Appendix B: Price Proposal Form

Appendix C: Acknowledgement of Addenda

Appendix D: Lobbyist Registration for Oral Presentation

Appendix E-1: Single Form Execution Affidavits

- Public Entity Crimes Affidavit
- Criminal Record Affidavit
- Work History Disclosure

Appendix E-2: Condition of Award Requirements

- Affirmation of Vendor Affidavits
- Collusion Affidavit
- Sudan/Iran Affidavit
- Contractor Due Diligence Affidavit
- Subcontracting Policies Statement (No format, insert document)
- Subcontractor/Supplier Listing
- Proof of Authorization to do Business (No format, insert document)

Appendix F: Local Business Preference

Appendix G: Proposal Bond Guaranty

Appendix I: Forms required by ACDBE Program

2. PRICE PROPOSAL FORM - (Part B)

The Proposer must submit the executed Price Proposal Form (**see Appendix B**) with the Technical Proposal. The Price Proposal Form shall be submitted in the manner required herein. There are no exceptions allowed to this requirement. Proposers who do not submit pricing in accordance with this RFP document shall be deemed non-responsive. The Price Proposal Form must contain all information required in the Price Proposal Form. Proposers cannot qualify, place conditions or additional terms with the Price Proposal Form. Proposers who place qualifications, conditions or additional terms with the Price Proposal Form may be found non-responsive. The Price as

bid is not subject to being reduced in negotiations, if negotiations are allowed.

2.4 ADDITIONAL INFORMATION/ADDENDA

Requests for additional information or clarifications must be submitted in writing via facsimile number (305) 876-8068 and/or email to the designated Contracting Officer herein, located at MDAD, Building 5A, 4200 N.W. 36th Street, 4th Floor, Miami, Florida 33122, in accordance with Section 2.7, "Cone of Silence," at least fourteen (14) calendar days prior to the originally established due date for Proposals. The facsimile cover sheet must contain the RFP number and title, the Proposer's name, address, telephone and facsimile numbers, and the Proposer's contact person.

MDAD will issue responses to inquiries, and any other corrections or amendments it deems necessary, in written addenda prior to the deadline for Proposals. The express written terms of this Request for Proposals shall take precedence over all oral statements made by County staff, and the Proposers shall not rely on any representations, statements or explanations, including but not limited to statements made at proposal conferences/project briefings in preparing their submittals. However, the Proposer may rely on representations, statements, or explanations made in this RFP or in any written addendum to this RFP. Where there appears to be a conflict between the RFP and any addenda issued, the last addendum issued shall prevail.

It is a Proposer's responsibility to ensure receipt of all addenda. The Proposer should verify with the Contracting Officer, prior to submitting a Proposal, that all addenda have been received. The Proposer is required to acknowledge the number of addenda **(see Appendix C, Acknowledgement of Addenda)** received as part of their Proposal.

2.5 RESPONSIBILITY OF PROPOSER

It is the sole responsibility of the Proposer to become thoroughly familiar with the RFP requirements and all terms and conditions of the Agreement affecting the performance of this RFP. Pleas of ignorance by the Proposer of conditions that exist, or that may exist, will not be accepted as a basis for varying the requirements of the Department, or the compensation to be paid to the Successful Proposer.

It shall be the responsibility of the Proposer to examine the entire RFP document and Agreement, and to become fully informed of the conditions to be encountered from the Agreement to be performed.

2.6 PROJECT BRIEFING

A project briefing has been scheduled for the date, time and place

specified in the advertisement for this RFP. The purpose of this project briefing is to review the scope of services and response requirements, and to afford Proposers an opportunity to seek clarifications prior to the due date for Proposals. The Proposer is encouraged to submit any questions they may have, in writing, to the Contracting Officer in advance of the project briefing.

2.7 CONE OF SILENCE/CONTRACTING OFFICER

Proposers are hereby advised that effective with the advertisement of this solicitation, Proposers and their lobbyists are prohibited from having any communication, oral or written, with Selection Committee members or the entire Selection Committee outside of the publicly noticed Selection Committee meetings. All communications shall be forwarded to the Contracting Officer with a copy to the Clerk of the Board.

CONE OF SILENCE: Pursuant to Section 2-11.1(t) of the Code and Administrative Order 3-27 ("Cone of Silence Provisions"), as amended, a "Cone of Silence" is imposed upon RFPs, RFQs, or bids after advertisement and terminates at the time the Mayor (or designee) issues a written recommendation to the Board of County Commissioners. The Cone of Silence prohibits communication regarding RFPs, RFQs, or bids between: A) potential vendors, service providers, bidders, lobbyists or consultants and the County's professional staff; B) a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners or their respective staffs; C) the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff ; D) a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the selection committee assigned to this Solicitation; E) the Mayor, County Commissioners or their respective staffs and member of the selection committee assigned to this Solicitation; F) any member of the County's professional staff and any member of the selection committee therefor.

Section 2.11.1(t) of the Code and Administrative Order 3-27, as amended, permits oral communications regarding a particular RFP, RFQ or bid for solicitation of goods or services between any person and the Contracting Officer responsible for administering the procurement process for such RFP, RFQ, or bid, provided that the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

The Cone of Silence Provisions do not apply to communications with the Office of the County Attorney or members of the staff of that office; communications with employees of the Management and Technical Assistance Unit of the County's Small Business Development Division/Internal Services Department regarding small and/or minority

business programs, the Community Business Enterprise and Equitable Distribution Programs; oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meetings, public presentations made to the Board of County Commissioners during any duly noticed public meeting, or communications in writing at any time unless specifically prohibited by the applicable RFP, RFQ, or bid document. Proposers must file a copy of any written communications with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be submitted via e-mail to the Clerk of the Board at CLERKBCC@MIAMIDADE.GOV. The Contracting Officer shall respond in writing and file a copy with the Clerk of the Board, which shall be made available to any person upon request.

In addition to any other penalties provided by law, violation of the Cone of Silence Provisions by any proposer, respondent or bidder shall render any RFP award, RFQ award, or bid award voidable. Any person having personal knowledge of a violation of the Cone of Silence provisions shall report such violation to the State Attorney and/ or may file a complaint with the Ethics Commission. Proposers should reference the actual Cone of Silence Provisions for further clarification.

All Proposers will be notified in writing when the Mayor (or designee) makes an award recommendation to the Board of County Commissioners.

The Contracting Officer for this RFP is:

Name:
Title: **Aviation Senior Procurement Contract Officer**
Name of Agency: **MDAD – Contracts Administration Division**
Physical Address: **4200 NW 36th St. Bldg. 5A, 4th Floor, Miami, FL 33122**
Mailing Address: **P.O. Box 025504, Miami, FL 33102-5504**
Telephone: **(305) 876-**
Facsimile: **(305) 876-8068**
Email:

2.8 PROPOSAL GUARANTEE DEPOSIT

Each Proposal shall be accompanied by a Proposal Guarantee Deposit of **Ten Thousand Dollars ($10,000.00) attached to Appendix A, Questionnaire and Minimum Qualifications Form,** which shall be in the form of a cashier's check, treasurers check, irrevocable letter of credit, or bank draft drawn on any state or national bank ONLY, payable to Miami-Dade County, Florida, or Proposal Bond Guaranty prepared on the form attached hereto, **Appendix G,** duly executed by the Proposer as Principal

and having a Surety thereon meeting the requirements set forth in Sub-article 3.10 of the Agreement. No other form of deposit will be accepted.

Proceeds of checks, if submitted as the Proposal Guarantee Deposit, will be held by the County without interest to the Proposer, and such proceeds will be returned to the unsuccessful Proposers after the County and the Successful Proposer have executed the Agreement for the work. Proposal Bond Guarantys will not be returned to any Proposer.

After award of an Agreement to the Successful Proposer, the Proposal Guarantee Deposit of such Proposer will be held pending receipt of the executed Agreement and evidence of insurance as required by the Agreement. If a Successful Proposer fails to (a) execute the Agreement within five (5) business days after such documents are presented to the Successful Proposer, or (b) provide evidence of insurance within twenty (20) calendar days after notice of the award by the Board of County Commissioners, or (c) provide a Performance Bond as required by Sub-article 3.10 of the Agreement, or (d) begin operations as required by the Agreement, the Proposal Guarantee Deposit will be forfeited to the County as liquidated damages to compensate the County for the delay and administrative services resulting from such failures. The County shall also be entitled, but not obligated, to award an Agreement to any other Proposer as determined to be in the best interest of the County.

Any Proposal that is not accompanied by the required Proposal Guarantee Deposit, as of the Proposal Due Date, shall be considered non-responsive and ineligible for award.

Note: All proceeds of checks provided as the Proposal Guarantee Deposit will be returned to the entity issuing the check.

2.9 MODIFIED PROPOSALS

Any modification to the Proposal by the Proposer shall be submitted to the Clerk of the Board prior to the Proposal Due Date and Time. The Proposer shall submit, in a sealed envelope, the modified Proposal forms and a letter, on company letterhead and signed by a representative of the Proposer, stating that the modified Proposal supersedes the previously submitted Proposal. No modifications of a Proposal shall be accepted after the Proposal Due Date. The Evaluation/Selection Committee will only consider the latest version of the Proposal. Notwithstanding, nothing herein shall preclude a Proposer from submitting additional or supplement information or materials at the request of the Selection Committee, or during any oral presentation.

2.10 WITHDRAWAL OF PROPOSAL

A Proposal shall be irrevocable until contract award, unless the Proposal is withdrawn. A Proposal may only be withdrawn in writing and must be addressed to the Clerk of the Board prior to the Proposal Due Date.

2.11 LATE PROPOSALS, LATE MODIFICATIONS AND LATE WITHDRAWALS

The circumstances surrounding Proposals, as well as any Modifications, received and time stamped by the Clerk of the Board after the Proposal Due Date will be evaluated by MDAD in consultation with the County Attorney's Office to determine whether the Proposal or Modification will be accepted as timely. Proposals will be opened promptly on the Proposal Due Date. The responsibility for submitting a Proposal to the Clerk of the Board on or before the Proposal Due Date is solely and strictly the responsibility of the Proposer. Withdrawal of proposals after the Proposal Due Date and before award shall entitle the County to invoke the Proposal Guaranty. The County is not responsible for delays caused by any form of delivery utilized by the Proposer, including U.S. mail, package, courier service, or by any other occurrence.

2.12 RFP POSTPONEMENT/REJECTION/CANCELLATION

MDAD may, at its sole and absolute discretion, reject any and all, or parts of any and all Proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP or in the Proposals received as a result of this RFP.

2.13 COSTS INCURRED BY PROPOSERS

All expenses involved with the preparation and submission of a Proposal to the County, or any work performed in connection therewith, shall be borne by the Proposer. No payment will be made for any responses received or for any other effort required of or made by the Proposer prior to the date set for commencement of work as defined by the Agreement approved by the Board.

2.14 VENDOR REGISTRATION

To be recommended for award the County requires that Proposers complete a Miami-Dade County Vendor Registration Package. Effective June 1, 2008, a Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form), must be completed by Proposers and returned to the Vendor Assistance Unit of the Procurement Management Division (DPM)/Internal Services Department within seven (7) calendar days of notification of the intent to recommend for award. In the event the Vendor Registration Package is not properly completed and returned within the specified time, the County may in its sole discretion, award to the next ranked Proposer. The Proposer is responsible for obtaining the Vendor Registration Package, including all affidavits by downloading from

the DPM website at www.miamidade.gov or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL 33128, (305) 375-5773.

SECTION 3.0
PROVISIONS OF LAW AFFECTING SOLICITATION

3.1 PROVISIONS OF LAW REGARDING AFFIDAVITS TO BE SUBMITTED WITH PROPOSAL AND CONDITION OF AWARD REQUIREMENTS:

A. AFFIDAVITS TO BE SUBMITTED WITH PROPOSAL:

The Affidavits described below are part of a single execution affidavit:

1. Public Entity Crimes Affidavit

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, "Any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list."

2. Criminal Record Affidavit

Pursuant to Section 2-8.6 of the Code, the Proposer must disclose, at the time the Proposal is submitted, if the Proposer 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 Proposer who knowingly fails to make the required disclosure or to falsify information.

Following contract award, if a principal of the contracting entity is convicted of a felony, the County may terminate the contract.

B. CONDITION OF AWARD REQUIREMENTS

1. The following documents are condition of award requirements and may be submitted with the Proposal. If a Proposer does not submit said condition of award documents with its Proposal, the Proposer should state in its Proposal when such documents will be provided, which shall be no later than within seven (7) calendar days of notification of the intent to recommend for award.

a) Affirmation of Vendor Affidavits

Pursuant to Section 2-8.1 of the Code of Miami-Dade County, effective June 1, 2008, vendors (Proposers) are required to complete a Vendor Registration Package, including a Uniform Affidavit Packet (Vendor Affidavits Form), before being awarded a new contract. The Successful Proposer affirms that the Vendor Affidavits Form submitted with the Vendor Registration Package is current, complete and accurate for each affidavit listed therein.

b) Collusion Affidavit

Pursuant to Section 2-8.1.1 and 10-33.1 of the Code, and as further provided in Sub-section 3.12 herein, the Successful Proposer shall, within five (5) business days after the recommendation to award has been filed with the Clerk of the Board, execute the Collusion Affidavit. Failure to submit the required affidavit shall render the entity ineligible for contract award.

c) Sudan/Iran Affidavit

Pursuant to Sections 287.135 and 215.473 of the Florida Statutes, Proposer shall certify that they are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

d) Contractor Due Diligence Affidavit

Pursuant to Resolution R-63-14, the Successful Proposer, shall as a condition of award of any contract that exceeds $1,000,000, execute the Contractor Due Diligence Affidavit, relating to its responsibility.

e) Listing of Subcontractors/Subconsultants and Suppliers

Section 10-34 of the Code requires that on County or Public Health Trust contracts, which involve the expenditure of $100,000 or more, that the entity contracting with the County shall, as a condition of award, provide a listing which identifies all first tier subcontractors/subconsultants who will perform any part of the contract work, describes the portion of the work such subcontractor/subconsultant will perform, identifies all suppliers who will supply materials for the contract work directly to the Proposer, and describes the materials to be so supplied.

A Proposer who is awarded the contract shall not change or substitute first tier subcontractors/subconsultants, direct suppliers, the portions of the work to be performed, or the materials to be supplied from those identified in the listing provided, except upon written approval by the County.

THE FORM CONTAINED IN APPENDIX E-2, OR A COMPARABLE LISTING MEETING THE REQUIREMENTS OF SECTION 10-34 OF THE CODE, MUST BE COMPLETED AND SUBMITTED EVEN THOUGH THE PROPOSER MAY NOT UTILIZE SUBCONSULTANTS OR SUPPLIERS FOR THIS PROPOSAL. THE PROPOSER SHOULD ENTER THE WORD "NONE" UNDER THE APPROPRIATE HEADING(S) ON THE ATTACHED FORM, APPENDIX E-2, IN THOSE INSTANCES WHERE NO SUBCONSULTANTS AND/OR SUPPLIERS WILL BE USED ON THIS PROPOSAL.

f) Subcontracting Policies

Pursuant to Section 2-8.8(4) of the Code, the Proposer on County contracts, wherein subcontractors/subconsultants may be used, shall, prior to contract award, provide a detailed statement of their policies and procedures for awarding subcontracts which:

1) notifies the broadest number of local subcontractors/ subconsultants of the opportunity to be awarded a subcontract;
2) invites local subcontractors/subconsultants to submit bids in a practical, expedient way;
3) provides local subcontractors/subconsultants access to information necessary to prepare and formulate a subcontracting bid;
4) allows local subcontractors/subconsultants to meet with appropriate personnel of the Proposer to discuss the Proposer's requirements; and
5) awards subcontracts based on full and complete consideration of all submitted proposals and in accordance with the Proposer's stated objectives.

The Proposer who fails to provide the required statement shall be precluded from receiving the contract.

2. **Proof of Authorization to do Business**

Pursuant to Florida Statutes Section 607.0128 F.S, Proposer must attach a copy of the Certificate of Status or Authorization, and certificate evidencing compliance with the Florida Fictitious Name Statute per Florida Statutes Section 865.09, (if applicable.)

3.2 LOBBYING AND REGISTRATION FOR ORAL PRESENTATION

All lobbyists and Proposers must comply with Section 2-11.1(s) of the Code of Miami-Dade County. Additionally for oral presentations (if applicable), all speakers addressing the Evaluation/Selection Committee on behalf of the Proposer, must be registered (listed) in the attached Lobbyist Registration for Oral Presentation Affidavit **(See Appendix D).** Appendix D must be fully completed, notarized and included with the

proposal submission.

Please contact the Miami-Dade County Commission on Ethics and Public Trust at (305) 579-2954 or at ethics@miamidade.gov if you have any questions or require clarifications associated with the County's lobbying registration process and/or requirements.

3.3 INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW

Pursuant to County Administrative Order No. 3-20 and in connection with any award issued as a result of this RFP, the County has the right to retain the services of an IPSIG, whenever the County deems it appropriate. Upon written notice from the County, the Successful Proposer shall make available to the IPSIG retained by the County all requested records and documentation pertaining to this Proposal or any subsequent award for inspection and copying. The County will be responsible for the payment of these IPSIG services and under no circumstance shall the Proposer's cost/price for this Proposal be inclusive of any charges relating to these IPSIG services. The terms of this provision herein apply to the Proposer, its officers, agents, employees and Subcontractors/Subconsultants. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities and performance of the Proposer in connection with this RFP or any Contract issued as a result of this RFP. The terms of this provision are neither intended nor shall the Proposer or any third party construe them to impose any liability on the County.

3.4 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW

According to Section 2-1076 of the Code, 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 County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit of any contract issued as a result of this RFP shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount [See below "Exception" for (f) concessions and (h) revenue-generating contracts.]

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. **Notwithstanding the foregoing, the Miami-Dade**

County Board of County Commissioners may authorize the inclusion of the fee assessment of one-quarter (1/4) of one percent 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 County contracts including, but not limited to, those contracts specifically exempted above.

3.5 CONFLICT OF INTEREST AND CODE OF ETHICS

Pursuant to Section 2-11.1 of the Code, no County employee or his or her immediate family shall be prevented from entering into any contract, individually or through a firm, corporation, partnership or business entity, in which the employee or any member of his or her immediate family has a controlling financial interest with the County, or any person or agency acting for the County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with the County or any person or agency acting for the County, if the employee works in the County department that will enforce, oversee or administer the subject contract.

Any affected County employee shall seek a conflict of interest opinion from the County Commission on Ethics and Public Trust ("the Ethics Commission") prior to submittal of a bid, response, or application, of any type, to contract with the County by the employee or his or her immediate family. A request for a conflict of interest opinion shall be made in writing and shall set forth and include all pertinent facts and relevant documents. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

If the affected employee or his or her immediate family member chooses to respond to a solicitation to contract with the County, such employee shall file with the Clerk of the Board a statement, in a form satisfactory to the Clerk of the Board, disclosing the employee's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a bid, response, or application of any type to contract with the County. Along with the disclosure form, the affected employee shall file with the Clerk of the Board a copy of his or her request for an Ethics Commission opinion and an opinion or waiver from the Board. Also, a copy of the request for a conflict of interest opinion from the Ethics Commission and any opinion or waiver must be submitted with the response to the solicitation to contract with the County.

3.6 TELEPHONE LOGS

Pursuant to Section 11A-43(4) of the Code, each Proposer must maintain telephone logs of all telephone calls to and from subcontractors/ subconsultants and suppliers. These logs shall contain the name of the subcontractor/subconsultant or supplier, the time and date of the call, the names of the persons contacted, a description of the work to be subcontracted or of the material to be furnished, and the dollar amount of the quotation. Telephone logs shall be made available to County personnel.

3.7 PROPRIETARY/ CONFIDENTIAL INFORMATION

Proposers are hereby notified that all information submitted as part of, or in support of their Proposal will be available for public inspection after opening of Proposals, in compliance with Chapter 119 of the Florida Statutes. The Proposer shall not submit in its Proposal any information in response to this Solicitation, which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, that has been clearly marked and identified as protected or confidential either inadvertently or intentionally, and the Proposer seeks to prevent such information from being publicly disclosed, the Proposer must contact the County, in writing, prior to the County receiving a public records request. In the event that a Proposer has not contacted the County prior to the County receiving a public records request, and the County subsequently discloses any such purportedly privileged confidential, or trade secret information pursuant to a public records request, Proposer expressly acknowledges and agrees that it shall have no claim of any kind against the County or its employees or agents arising out of such disclosure.

3.8 ORDINANCES, RESOLUTIONS AND/OR ADMINISTRATIVE ORDERS

To request a copy of any ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the Clerk of the Board at (305) 375-5126.

3.9 RULES, REGULATIONS AND LICENSING REQUIREMENTS

The Proposer shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, especially those applicable to conflicts of interest and collusion. The Proposer is presumed to be familiar with all federal, state and local laws, ordinances, codes, rules, regulations, operational directives and other Department procedures that may in any way affect the goods or services offered. The Proposer shall also comply with

Executive Order No. 11246 entitled "Equal Employment Opportunity" and as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60), the Americans with Disabilities Act of 1990 and implementing regulations, the Rehabilitation Act of 1973, as amended, Chapter 553 of Florida Statutes and any and all other local, state and federal directives, ordinances, rules, orders, and laws relating to people with disabilities.

3.10 NONEXCLUSIVITY

This RFP is nonexclusive in character and in no way prevents the County from entering into an Agreement with any other parties for the sale or offering of competitive services, products or items by others in other Locations at the Airport during the term of the Agreement.

3.11 NOT USED

3.12 COLLUSION

A firm recommended for award as a result of a competitive solicitation for any County purchase of supplies, materials and services (including professional services, other than professional architectural, engineering and other services subject to Sec. 2-10.4 and Sec. 287.055 Fla Stats.) purchase, lease, permit, concession or management agreement shall, in accordance with the Code of Miami-Dade County Sections 2-8.1.1 and 10-33.1 shall submit an affidavit under the penalty of perjury, on a form provided by the County: stating either that the firm is not related to any of the other parties proposing in the competitive solicitation or identifying all related parties, as defined in this Section, which proposed in the solicitation; and attesting that the firm's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the firm has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure to the proposer an advantage over any other proposer. In the event a recommended firm identifies related parties in the competitive solicitation its bid shall be presumed to be collusive and the recommended firm shall be ineligible for award unless that presumption is rebutted in accordance with the provisions of Sec. 2-8.1.1. Failure to provide a Collusion Affidavit within 5 business days after the recommendation to award has been filed with the Clerk of the Board shall be cause for the Proposer to forfeit their Proposal Guarantee Deposit and the Proposer shall be ineligible for contract award.

SECTION 4.0
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES

4.1 ACDBE REQUIREMENTS

It is the policy of the Miami Dade Aviation Department (MDAD) that ACDBE's shall have the maximum practical opportunity to participate in the performance of Concession agreements. As used in the Bid Documents, the term "Airport Concession Disadvantaged Business Enterprises (ACDBE)" means a small business concern, which (a) is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it as set forth in 49 CFR Part 23, Code of Federal Regulations.

The MDAD has established an ACDBE concession specific goal of twenty (20) percent of the prime concessionaire's portion of gross sales. The ACDBE goal can be achieved either through the Proposer being an ACDBE itself, Joint Venture or sub-contracting a percentage of Gross Revenues.

The Airport Concession Disadvantaged Business Enterprise (ACDBE) Plan must be submitted with the Proposal in accordance with **Appendix I, Section II** and its supporting documents: Draft Joint Venture Agreement, Draft Sub-concession Agreement, an Executed Utilization Form, Executed Schedule of Participation Form, Executed Letter of Intent Form and by providing proof of Certification by the Florida Unified Certification Program (FLUCP) or by the Miami-Dade County, Small Business Development Division (SBD). The Successful Proposer will be required to submit to the Department's Minority Affairs Division, Monthly Utilization Reports (MUR) reflecting ACDBE revenue and the Monthly Activity Report commencing (30) days after beneficial occupancy and monthly thereafter, on or before the 10th of every month.

4.2 COUNTING ACDBE PARTICIPATION TOWARD CONTRACT GOALS

1. When an ACDBE participates in a contract, only the value of the work actually performed by the ACDBE toward the ACDBE goal will be counted.

2. When an ACDBE performs as a participant in a joint venture a portion of the total dollar value of the contract during the complete contract term, equal to the clearly defined portion of the work of the contract that the ACDBE performs will be counted toward ACDBE goals as outlined in Appendix I. "Airport Concession Disadvantaged Business Enterprise Participation Plan/Provision" and ACDBE Joint Venture Guidance by the U. S. Department of Transportation, Federal Aviation Administration (USDOT-FAA) ACDBE Schedule 8.

3. Expenditures to an ACDBE concessionaire toward ACDBE goals, will be counted only if the ACDBE is performing a commercially useful function as defined below:

   (a) An ACDBE performs a commercially useful function when it is responsible for execution of specific quantifiable work of the contract and is carrying out its responsibilities by actually performing, or managing, or supervising the specific identified work.

   (b) MDAD will determine whether an ACDBE is performing a commercially useful function by evaluating the specific duties outlined in the Joint Venture Agreement; the sub-concession agreement or other agreements in accordance with industry practices.

   (c) An ACDBE does not perform a commercially useful function if its role is limited to that of an extra participant in a financial or other transaction, contract, or project through which funds are passed in order to obtain the appearance of ACDBE participation.

   (d) If an ACDBE does not perform or exercise responsibility for at least seventy (70%) percent of its participation or if the ACDBE subcontract's a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the ACDBE is not performing a commercially useful function.

   (e) When an ACDBE is presumed not to be performing a commercially useful function as provided in paragraph (c) of this section, the ACDBE may present evidence to rebut this presumption. MDAD will determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

4. MDAD's decision on commercially useful function matters are final.

4.3 ACDBE GOAL ACHIEVED THROUGH JOINT VENTURE ("JV") PARTNERING

The Successful Proposer may satisfy a part of the ACDBE goal by Joint Venturing with an ACDBE as detailed in the ACDBE Joint Venture

Guidance by the U.S.DOT-FAA; ACDBE Schedule 8.

The Joint Venture agreement must specify the following:

(1) Each ACDBE joint venture **("JV")** partner must be responsible for a clearly defined portion of the work to be performed. The work should be detailed separately from the work performed by the non-ACDBE JV partner as specified in the Joint Venture Guidance by U.S. DOT-FAA (Schedule 8).

The work should be submitted as part of this solicitation and annually thereafter to the Aviation Department's Minority Affairs Division. The work to be performed by the ACDBE joint venture partner should be store specific with regards to tasks and locations or as a distinct element of work be specified.

The ACDBE Joint Venture partner will be required to spend the minimum amount of aggregate time on-site, focused on the operation of the concession. Such "minimum amount of aggregate time" is defined as ten hours per week.

(2) Each joint venture partner must submit a notarized Monthly Utilization Report and a notarized Monthly Report of ACDBE Joint Venture Activity providing details of how the performance objectives were achieved and providing documentation of that achievement on the form. This information should include, but not limited to:

a. Details of training sessions, including class rosters and lesson plans.

b. Deliverables and work products.

c. Time sheets of partner employees used to fulfill objectives. Time sheets must accurately reflect hours worked and compensation earned.

d. Proof that employees of partner actually work for them (payroll, payroll tax returns and the like).

(3) Each ACBDE partner must share in the ownership, control, management, and administrative responsibilities, risks and profits of the JV in direct proportion to its stated level of JV participation.

(4) Each ACDBE JV partner must perform work that is commensurate with the Lease Agreement.

Without limiting the requirements of the Agreement, the County will have the right to review and approve all agreements utilized for the

achievement of these goals. Such agreements must be submitted with the Proposal.

4.4 CERTIFICATION-AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)

In order to participate as an Airport Concession Disadvantaged Business Enterprise (ACDBE) on this contract, firms must be certified by the Florida Unified Certification Program (FLUCP) for the State of Florida as an ACDBE. Only those firms certified as ACDBEs at the time of bid submittal will be counted towards an ACDBE goal. It is the prime Bidder's obligation to verify ACDBE status prior to bid submission. Certification as a SBE/CSBE/MWBE or by any other program SHALL NOT count toward achievement of the ACDBE Goal.

Application for certification as an ACDBE may be obtained by contacting the Florida DOT Equal Opportunity Office Located at FLUCP 605 Suwannee Street, MS 65 Tallahassee, Florida 32399-0450 Telephone number (850) 414-4747 Facsimile: (850) 414-4879, or their Website: **www.dot.state.fl.us/equalopportunityoffice.** The Miami-Dade County Internal Services Department/Small Business Development Division (SBD) is the certifying member of the Florida Unified Certification Program (FLUCP) and can also be contacted for ACDBE certification. SBD is located at 111 N.W. 1st Street, Stephen P. Clark Center, 19th Floor, Miami Florida 33128-1974 or by telephone at (305) 375-3111, website: **www.co.miamidade.gov/sba/home.asp.**

The Florida UCP updates the certification data every 24 hours and revises the database regularly. The database lists the firm's name, address, phone number, date of most recent certification, certifying agency and type of work the firm has been certified to perform.

4.5 AFFIRMATIVE ACTION AND AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS

The Successful Proposer acknowledges that the provisions of 14 CFR Part 152, Affirmative Action Employment Programs, Provisions of Title VI of the Civil Rights Act of 1964, and 49 CFR Part 23, Airport Concession Disadvantaged Business Enterprise Programs, are applicable to the activities of the Successful Proposer under the terms of the Agreement, unless exempted by said regulations, and hereby agrees to comply with all requirements of the Department, U.S. Department of Transportation and the Federal Aviation Administration.

These requirements may include, but not be limited to, the compliance with Airport Concession Disadvantaged Business Enterprise and/or

Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if directed by the MDAD, the contracting of specified percentages of goods and services contracts to Airport Concession Disadvantaged Business Enterprises. In the event it has been determined, in accordance with applicable regulations, that the Successful Proposer has defaulted in the requirement to comply with the provisions of this section and fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Concessionaire, to terminate this Agreement, pursuant to Default language referenced in the Agreement.

The Successful Proposer shall include the following nondiscrimination language in concession and management contracts with MDAD which is an assurance and clarification clause requested by the DOT and approved by the Miami Dade Aviation Director:

> *"This agreement is subject to the requirements of the US Department of Transportation's Regulations 49 CFR Part 23. The concessionaire or contractor 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, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23".*
>
> *"The concessionaire agrees to include the above statements in any subsequent concession agreement covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements".*

The provisions of this Section shall be considered to be in addition to and not in lieu of the provisions of Title VI of the Civil Rights Act of 1964 applies.

The Successful Proposer agrees to include the above statements in any subsequent lease and concession agreements.

4.6 ACDBE MENTORING, ASSISTANCE AND TRAINING PROGRAM:

Consistent with the goal of providing ACDBE's with hands-on participation and the responsibility for a clearly defined portion of the Airport Concession operations, subject to **Section 4.0 "Airport Concession Disadvantaged Business Enterprises Voluntary"** hereof, each ACDBE shall have the duty and responsibility to operate certain areas of the concession(s) following a mentoring period, if needed, which shall include

but not be limited to the following specific duties and responsibilities:

A. Store Operations

(1) Passenger profile analysis
(2) Cash handling/sales audit
(3) Enhancing sales
(4) Selling to the customer
(5) Staffing to meet customer levels
(6) Opening and closing procedures

B. Personnel

(1) Employment practices
(2) Compliance with wage and hour laws
(3) Compliance with County and Airport requirements
(4) Designing compensation and benefits plans
(5) Management and staff training to enhance product knowledge and customer service
(6) Warehousing packaging and sales reporting of merchandise

C. Shop Design and Display

(1) Retail layout
(2) Merchandising techniques
(3) Visual display techniques

D. Loss Prevention

(1) External and internal theft
(2) Shop security

E. Books, Records and Reports

(1) The books of account and supporting records of the joint venture(s) and the sub-concessionaire(s) shall be maintained at the principal office and shall be open for inspection by the MDAD or the ACDBE sub-concessionaire(s) or Joint Venture(s), upon reasonable prior written notice, during business hours.

The books of account, for both financial and tax reporting purposes shall be maintained on the accrual method of accounting. The Successful Proposer shall provide to the sub-concessionaire(s) or joint venture(s), within an agreed upon time after the end of each month during the term of this agreement, an unaudited operating (*i.e.,* income) statement for the preceding month and for the year-to-date.

(2) Reports of the ACDBE Mentoring Program shall be submitted to the Department's Minority Affairs and Business Management

Divisions, outlining the specific areas of training (i.e., components covered, total number of hours of training, training material covered, etc.).

4.7 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN

The Successful Proposer shall, as a condition of award, contract with those firm(s) as are listed on the Successful Proposer's ACDBE Participation Plan in the Proposal documents and approved by the Department, and shall thereafter neither (i) terminate such ACDBE firm(s), nor (ii) reduce the scope of the work to be performed, nor (iii) decrease the percentage of participation, nor (iv) decrease the dollar amount of participation by the ACDBE firm(s) without the prior written authorization of the Department.

The MDAD shall monitor the compliance of the Successful Proposer with the requirements of this provision during the term and/or extension of this agreement.

The MDAD shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records, records of expenditures, agreements between the Successful Proposer and the ACDBE Participant, and other records pertaining to ACDBE Participation Plan.

If at any time the MDAD has reason to believe that the Successful Proposer is in violation of this provision, the County may, in addition to pursuing any other available legal remedy, impose sanctions which may include, but are not limited to, the termination or cancellation of the agreement in whole or in part, unless the Successful Proposer demonstrates, within a reasonable time, its compliance with the terms of this provision. No such sanction shall be imposed by the MDAD upon the Successful Proposer except pursuant to a hearing conducted by the ACDBELO and/or Director.

SECTION 5.0
EVALUATION PROCESS

5.1 PROCESS OVERVIEW

Each Proposal will be evaluated by an Evaluation/ Selection Committee ("Committee") appointed by the Mayor (or designee).

5.2 REVIEW OF PROPOSALS FOR RESPONSIVENESS AND RESPONSIBLENESS

Each Proposal will be preliminarily reviewed by County staff for a determination as to whether the Proposal is potentially not responsive, pursuant to the terms of Implementing Order 2-13. All decisions regarding whether a Proposal shall be deemed not responsive shall be made by the Office of the County Attorney. A responsiveness analysis includes whether a proposal is of timely submission, has the appropriate signatures as required on each document, does not materially alter the terms and conditions of the RFP, includes a completed price form, includes a proposal guarantee, clearly indicates an intent to be bound by the Proposer on the terms and conditions of the RFP, and can otherwise form the basis of a binding agreement. Firms which are less qualified than is specified herein shall not be deemed non-responsive but may be deemed non-responsible. Except as noted previously in this Section, where this RFP states that documents "must" or "shall" be provided, or "must" or "shall" be provided in a specific form, the failure to supply such documentation shall not render a proposal not responsive, unless the absence of those documents is such that the proposal is no longer a clear assent to be bound by the terms of the RFP. Where a proposal deviates from the provisions of the RFP, the County reserves for itself the discretion to accept such non conforming proposal, if the deviation is not material.

Each Proposer's Proposal shall also be evaluated to determine if it is responsible. A responsible proposer is one who is capable of carrying out the work of the RFP in a competent and effective manner; all questions regarding capacity or ability to perform the work of the RFP shall be deemed to be questions of Proposer responsibility. In making this determination, the Committee shall have the right to investigate the management, operational experience, financial capability, reputation and business judgment, and any other issue regarding the qualifications of any Proposer, their affiliates and/or parent company(s), including the conducting of investigations of the officers, directors, principals and stockholders, and to review and investigate all contracts the Proposer has performed for the County or others. The Committee may make this determination either on the basis of the information provided in the Proposal or on the basis of the Proposal plus oral presentations by the Proposer. The failure of the Proposer to submit information required by the RFP related to its responsibility shall not be deemed to require the County or the Committee to find such Proposer non-responsible, and proposers who failed to submit such information may be found responsible by either the Committee or the County, as may be warranted by the specifics of any individual situation and Proposal. The Proposer agrees to provide, upon request, any additional information that may be required by the Committee or the County as it relates to a Proposer's responsibility. In addition, the Committee reserves the right to inspect the facilities at which the Proposer conducts its business and provides services. A Proposer that

does not meet the minimum requirements of this solicitation may be deemed responsible, if, in the discretion of the County, the Proposer otherwise demonstrates an ability to perform the work in a competent and effective manner. In the event that the Committee finds a firm non-responsible, the Committee shall still rank and evaluate the firm. All final determinations as to responsibility shall be within the discretion of the Board of County Commissioners.

5.3 EVALUATION PROCESS

Criteria have been established based upon the goals and objectives as provided in this RFP. Based on the Committee's evaluation of the written Technical Proposal and oral presentations, if required, the Committee shall rate and rank the responsive firms on their Proposal based on the Technical Criteria listed below. The Technical Criteria listed below are not of equal value or decision weight nor are they necessarily ranked in order of importance. The Technical Criteria are itemized with their respective weights for a maximum total of Seven Hundred (700) points per each voting Committee member, for all Technical Criteria. A Proposer may receive the maximum points or a portion of this score depending on the merit of its Proposal, as determined by the Committee member in accordance with the Technical Criteria listed below.

If there is only one (1) responsive, responsible Proposer, the Committee may, following evaluation of the Price Proposal, recommend to award or negotiate an Agreement or to reject the sole Proposal.

Technical Criteria	**Max. Points**
1) Experience and Qualifications	250
2) Financial Capability	200
3) Marketing Plan and Ability to Obtain Advertising Revenue	250
Total Technical Criteria Points	**700**

Price Criteria	**Max. Points**
Minimum Annual Guarantee (MAG)	300
Total Price Criteria Points	**300**
TOTAL CRITERIA POINTS	**1000**

5.4 PRICE PROPOSAL EVALUATION

The Price Proposals of the responsive Proposers will be considered after the evaluation of the Technical (Quality) Proposals has been completed by the Evaluation/Selection Committee.

The Price Proposal will be assigned a maximum of three hundred (300) points per each voting Evaluation/Selection Committee member. The Price Proposals will be evaluated in the following manner:

1. The responsive proposal with the highest proposed Minimum Annual Guarantee ("MAG") will be given the full weight of three hundred (300) points assigned to the Price criterion.
2. Every other responsive proposal will be given points proportionately in relation to the highest proposed Minimum Annual Guarantee. This point total will be calculated by dividing the Minimum Annual Guarantee of the proposal being evaluated by the highest proposed Minimum Annual Guarantee with the result being multiplied by the maximum weight for price **(300 points)** to arrive at a Price score of less than the full score for the MAG criterion.

   Example:

$$\frac{\text{Proposer proposed MAG}}{\text{Highest Proposed MAG}} \times \text{Total Points for MAG} \times \text{No. Voting Committee Members} = \text{Price Score}$$

   The application of the above formula will result in a uniform assignment of points relative to the Price criterion.

5.5 OVERALL RANKING

The Evaluation/Selection Committee will then determine the overall ranking by adding the Price Proposal score with the Technical (Quality) Proposal evaluation score to determine the overall ranking.

Following the evaluation and overall ranking of the proposals, the Evaluation/Selection Committee will determine whether any firms are non-responsible. After discarding the scores of any non-responsible firms, the Committee will recommend to the Mayor (or designee) that a contract be awarded to the highest ranked responsive and responsible Proposer or that a contract be negotiated with the highest ranked responsive and responsible Proposer (see also Section 5.7).

5.6 LOCAL PREFERENCE

Pursuant to Section 2-8.5 of the Code, a local preference is provided as follows:

1. Local business means the vendor has a valid business tax receipt (f/k/a occupational license) issued by Miami-Dade County at least one (1) year prior to bid or proposal submission, and a physical business address located within the limits of Miami-Dade County from which the vendor operates or performs business. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic

development and well-being of Miami-Dade County in a verifiable and measurable way. This may include, but not be limited to the retention and expansion of employment opportunities and the support and increase to the County's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. A vendor who misrepresents the status of its firm under this Section in a proposal or bid submitted to the County will lose the privilege to claim any preference under this Section for a period of up to one (1) year. The Mayor (or designee), in his discretion, may also recommend that the firm be referred for debarment in accordance with Section 2-8.4.1 of the Code.

2. Request for proposals, qualifications or other qualitative submittals and competitive negotiation and selection. If, following the completion of final rankings (technical and price combined, if applicable) by the selection committee, a non-local business is the highest ranked Proposer, and the ranking of a local Proposer is within 5% of the ranking obtained by the non-local Proposer, then the highest ranked local Proposer shall have the opportunity to proceed to negotiations or advance to the next step in the solicitation process with the County under the applicable sections of the Code.

3. If, following the application of the rules above, a tie occurs between two (2) or more local businesses, then contract award on the basis of best and final bids, or the opportunity to proceed to negotiations, or advance to the next step in the solicitation process, shall be made to such local business having the greatest number of its employees that are Miami-Dade County residents.

4. The application of local preference to a particular purchase or contract for which the Board of County Commissioners is the awarding authority may be waived upon approval of the Board of County Commissioners. The application of local preference to a particular purchase or contract for which the Mayor (or designee) is the awarding authority may be waived upon written recommendation of the Internal Services Department Director or successor and approval of the Mayor (or designee).

5. The preferences established herein in no way prohibit the right of the Board of County Commissioners to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the right of the County Commission from giving any other preference permitted by law instead of the preferences granted herein.

6. In the event Broward County, Palm Beach County or Monroe County extend preferences to local businesses, Miami-Dade County may enter into an interlocal agreement with such county wherein the preferences

of this section may be extended and made available to vendors that have a valid occupational license issued by Broward County, Palm Beach County or Monroe County to do business in that county that authorizes the vendor to provide the goods, services or construction to be purchased, and a physical business address located within the limits of that county. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Broward County, Palm Beach County or Monroe County, whichever is applicable, in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of employment opportunities and the support and increase to that county's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. In no event shall the amount of the preference accorded Broward County, Palm Beach County or Monroe County firms exceed the amount of preference that such county extends to Miami-Dade County firms competing for its contracts. **Note: An interlocal agreement has been entered into with Broward County.**

7. The Proposer should complete, sign and submit the attached form, **Appendix F**, "Local Business Preference" with the Proposal, in order to be considered for local preference.

8. A Joint Venture is not entitled to Local Preference unless the Joint Venture entity itself qualifies for Local Preference, irrespective of whether one or more of the entities constituting the Joint Venture qualifies for Local Preference.

5.7 NEGOTIATIONS

If negotiations are recommended by the Evaluation/Selection Committee, or are required as a result of the application of local preference (see RFP Section 5.6), upon appointment and authorization by the Mayor (or designee), the Negotiation Committee will proceed to negotiate with the recommended Proposer(s). The County may award the attached Agreement on the basis of initial offers received, without discussion or negotiation. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint.

If the County and the selected Proposer(s) cannot negotiate a successful agreement, the County may terminate said negotiations and begin negotiations with the next ranked responsive/responsible Proposer. This process may continue until an Agreement is executed, or the County may reject all Proposals and re-advertise. Alternately, in the event that the County was unable to negotiate an agreement with any of the Proposers, and where it is in the best interests of the County, the County may engage in additional rounds of negotiations with the Proposers; in this event, the

County will negotiate with the Proposers in the order previously evaluated and in a manner otherwise consistent with this Section. The Proposer shall not have any legal rights or otherwise against the County arising from such negotiations or termination thereof.

Be advised that the County cannot waive any material term of this RFP or the attached agreement in any negotiation.

5.8 CONTRACT AWARD

The Contract Award, if any, shall be made to the Proposer(s) whose Proposal shall be deemed by the Board to be in the best interest of the County. The Board's decision of whether to make the award and which Proposal is in the best interest of the County shall be final.

Pursuant to Resolution No. R-1462-95, any representation made to the Board of County Commissioners on a Proposer's behalf at the time the Board considers award of the contract, the award of the contract to such Proposer shall be deemed inclusive of all such representations.

Prior to the filing of the Mayor (or designee) award recommendation with the Clerk of the Board, the Proposer must execute the Agreement within seven (7) calendar days after such Agreement is presented to the Proposer. Upon notification of award recommendation, the Proposer must provide the required insurance within the time specified in the Agreement.

5.9 FAILURE TO COMPLETE CONTRACT AWARD REQUIREMENTS

Failure to furnish the required evidence of insurance or to execute the required documents, as referenced in Section 5.8 "Contract Award", may constitute a repudiation of the Proposer's submittal, and may result in the annulment of the award and result in forfeiture of any deposits and bonds provided pursuant to this RFP. The award may then be made to the next ranked responsive/responsible Proposer, or all remaining Proposers may be rejected and the RFP re-advertised.

5.10 RIGHTS OF PROTEST

A recommendation for contract award or rejection of award may be protested by a bidder or proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the Code, and as established in Miami-Dade County Implementing Order No. 3-21.

As a condition of initiating any protest, the protester shall present to the Clerk of the Board a non-refundable filing fee payable to the Clerk of the Board in accordance with the schedule provided below.

Award Amount	Filing Fee
$ 25,001- $250,000	$ 500
$250,001- $500,000	$1,000

$500,001- $5 million	$3,000
over $5 million	$5,000

Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained or described in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for protest unless it was brought by that bidder or proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person in the County department that issued the solicitation document, at least two (2) working days (not less than forty-eight (48) hours) prior to the hour of bid opening or proposals submission.

A protest hereunder may not challenge the relative weight of the evaluation criteria or the formula specified for assigning points therefore contained in bid, request for proposals or request for qualifications specifications.

Award Recommendations Over $250,000

Notice of award recommendations for contracts and purchases involving the expenditure of over $250,000 will be in writing, signed by the issuing department to each competing bidder or proposer announcing the proposed award, and a copy shall be deposited with the Clerk of the Board on the same day it is mailed. The bidder or proposer must file a written intent to protest with the Clerk of the Board and shall mail it to all participants in the competitive process and to the County Attorney's Office within three (3) working days of the filing of the Mayor's recommendation with the Clerk. Within three (3) working days after the filing of a written intent to protest, the protester shall then file with the Clerk of the Board all pertinent documents, stating with particularity the specific facts and grounds on which the protest is based and shall include supporting evidence, as well as the corresponding filing fee, and shall mail copies to all participants in the competitive process and to the Office of the County Attorney. Other facts, grounds, documentation or evidence not contained in the protester's submission to the Clerk of the Board at the time of filing the protest shall not be permitted in the consideration of the protest, except for such additional evidence as is allowed during the course of the protest proceedings. A hearing examiner shall be appointed to hear the protest and submit a written report and recommendation to the Mayor (or designee) within twenty (20) working days of the filing of the protest (maximum 25 working days if hearing examiner consents to an extension request). Failure to timely file the written protest shall constitute a waiver of the right to protest the award recommendation.

5.11 LOCAL CERTIFIED VETERAN'S BUSINESS ENTERPRISE PREFERENCE

This Solicitation includes a preference for Miami-Dade County Local

Certified Veteran Business Enterprises ("VBE") in accordance with Section 2-8.5.1 of the Code of Miami-Dade County. A VBE is a firm that is a) a local business pursuant to Section 2.8.5 of the Code of Miami-Dade County and b) prior to proposal submittal is certified by the State of Florida Department of Management Services as a veteran business enterprise pursuant to Section 295.187 of the Florida Statutes. A VBE is entitled to receive an additional five percent (5%) of the total technical evaluation points scored on the technical portion of such Proposer's proposal. At the time of proposal submission, the proposer must affirm in writing its compliance with the certification requirements of Section 295.187 of the Florida Statutes and submit this affirmation and a copy of the actual certification along with the proposal submission (refer to Appendix A). If a Miami-Dade County Certified Small Business Enterprise (SBE) measure is being applied to this Solicitation, a VBE which also qualifies for the SBE measure shall not receive the veteran's preference provided in this section and shall be limited to the applicable SBE preference.

DRAFT

DRAFT

FORM OF LICENSE AGREEMENT

BY AND BETWEEN

MIAMI-DADE COUNTY, FLORIDA

AND

OPERATOR

FOR Wi-Fi SYSTEM AND SERVICES

FOR

THE MIAMI-DADE AVIATION DEPARTMENT

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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 term "**ACDBELO**" shall mean Airport Concession Disadvantaged Business Enterprise Liaison Office, Associate Aviation Director, Minority Affairs Division, Miami-Dade Aviation Department.

The term "**Advertising Revenue**" shall mean revenue obtained by the Operator from title and/or presenting sponsors and any other related advertising revenues or agreements with other entities.

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

The terms "**Airport**" or "**MIA**" shall mean the Miami International Airport.

The terms **"Airport Concession Disadvantaged Business Enterprises" or ACDBE"** shall have the meaning described in Article 14 entitled "Airport Concession Disadvantaged Business Enterprises".

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

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

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

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

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

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

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

The term **"Effective Date"** shall mean the tenth (10th) business day after execution of the License Agreement by the Mayor and attestation by the Clerk of the Board.

The term **"Gross Revenues"**, as used in the License Agreement, shall mean all monies paid or payable to and consideration of determinable value received by the Operator in operation under the License regardless of when or where the order therefor is received, or services rendered, whether paid or unpaid, whether on a cash, credit or rebate basis or in consideration of any other thing of value; provided, however, that the term "Gross Revenues" shall not include: (i) any refund given to the customer because of a customer satisfaction issue which must be documented and auditable, or (ii) promotional discount and coupon offers issued to customers as a result of a Departmental approved marketing plan, or (iii) any sums collected for any federal, state, County and municipal taxes imposed by law upon the sale of merchandise or services.

The terms "**Minimum Annual Guarantee" or "MAG"** shall mean as ascribed in Article 3.01 entitled "Compensation to the County".

The term "**MITCS**" shall mean MIA IT Concession Systems.

The term "**MWDS**" shall mean MIA Wireless Data System.

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

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

The term **"Portal"** generally synonymous with *gateway*, is for a World Wide Web site that is or proposes to be a major starting site for users when they get connected to the Web or that users tend to visit as an anchor site.

The term "**Proposal**" shall mean a Proposer's written response to the Solicitation document.

The terms **"Request for Proposals" or "RFP"** shall mean the Solicitation document and all associated appendices, exhibits, forms, affidavits, addenda and attachments.

The term **"South Terminal"** shall refer to the area of the terminal building and concourses, within the south part of the MIA terminal area, landside or airside which is known as Concourses H and J and connecting concession and public space.

The term "**Splash Page**" is a graphical element that usually appears while a program is launching. The term is used to describe an introduction page on a website.

The term **"SSID"** Service Set Identifier is a case sensitive, 32 alphanumeric character unique identifier attached to the header of data packets sent over a wireless local-area network (WLAN) that acts as a password when a mobile device tries to connect to the basic service set (BSS) – a component of the IEEE 802.11 WLAN architecture.

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

The terms "**Subcontractor/Subconsultant**" shall mean any person, firm, entity or organization, other than the employees of the Operator, who contracts with the Operator to furnish labor, or labor and materials, in connection with the services that will be provided to the County, whether directly or indirectly, on behalf of the Operator.

The term **"Terminal"** shall mean the area of the MIA consisting of the terminal buildings and concourses, within the North, Central and South Terminals, landside or airside and connecting concession and public spaces.

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

The term "**WAN**" shall mean Wide Area Network.

The term **"Wi-Fi"** shall mean any local area wireless data system.

The terms **"Work"** or "**Services**" shall mean all matters and things required to be done by the Operator in accordance with provisions of the Agreement.

LICENSE AGREEMENT FOR NON-EXCLUSIVE Wi-Fi SYSTEM AND SERVICES FOR THE MIAMI-DADE AVIATION DEPARTMENT

THIS LICENSE AGREEMENT (Agreement) is made and entered into as of this _____ day of _____, 201__, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida and _____, ("Operator"), a _____Corporation 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 engage an Operator to manage its public Wi-Fi System and provide related services for the enjoyment of the airline passengers and Airport patrons of Miami International Airport; and

WHEREAS, the public Wi-Fi System will enhance the level of customer service and conveniences of airline passengers and Airport patrons, as further described herein; and,

WHEREAS, Request for Proposals, RFP No. MDAD-04-14 was issued by the County and in response to the Request for Proposals, the County received a Proposal from the Operator; and,

WHEREAS, the Operator agrees to provide the work as stated in Article 2, the Request for Proposals and the Proposal;

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

ARTICLE 1 – TERM, EXTENSION AND LOCATION(S)

1.01 TERM: The County hereby grants an Agreement to the Operator for a Term of eight (8) years which commences thirty (30) Days after the Effective Date, and expires at 11:59 P.M. on the last business day of the eighth (8th) year thereafter.

1.02 EXTENSION: At the sole discretion of the County, the initial eight (8) year Term may be extended for one (1) two (2) year term provided the extension is mutually agreed to by the County 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 eighty (180) Days prior to the expiration of the Term. The Operator may elect not to agree to the extension, and, if so, must notify the

Department thirty (30) 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 Agreement beyond applicable grace and cure periods, the County shall not exercise its rights to extend the Agreement.

1.03 NOT USED (LOCATION(S))

1.04 NOT USED (SUPPORT SPACE)

1.05 NOT USED (STORAGE SPACE)

1.06 NOT USED (COMMON WAREHOUSE SYSTEM)

1.07 NOT USED (ADDITION, DELETION AND MODIFICATION OF LOCATION(S))

1.08 NON-EXCLUSIVITY: This Agreement is non-exclusive 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 by other Operators and/or others in other locations at the Airport during the Term, and any Extension of this Agreement.

1.09 NOT USED (CONDITION OF THE LOCATION(S))

1.10 NOT USED (CAPITAL IMPROVEMENT PROGRAM)

1.11 REQUEST FOR PROPOSAL INCORPORATED: The Operator acknowledges that it has submitted to the County a Proposal, in response to a Request for Proposal (RFP), that was the basis for the award of this Agreement and upon which the County relied. The RFP and the proposal are incorporated into this Agreement. **IN THE EVENT THERE ARE ANY CONFLICTS BETWEEN THIS AGREEMENT AND THE RFP OR THE PROPOSAL, THE TERMS OF SAID AGREEMENT SHALL GOVERN.**

ARTICLE 2 – SCOPE OF SERVICES

2.01 SCOPE OF SERVICES: The Operator shall design, supply, install, operate, and maintain the public Wi-Fi System (System) portal for the Miami International Airport terminal facility and immediate adjacent areas such as the Airfield Operations Area (AOA) tarmac and parking garages, as well as provide related services. The System does not include Wi-Fi coverage or any other services to other areas except as may be approved in writing and by the mutual consent of both by parties.

2.02 MDAD will allocate appropriate bandwidth to the Operator for internet access. The Operator shall be responsible to administer the network speed allowed to the user for each level of service specified in the portal. The Operator shall monitor the level of service provided, inform MDAD if or in the event that inadequate capacity issues arise and work

with MDAD staff so the appropriate bandwidth can be allocated as necessary. The use of SSIDs for different types of public Wi-Fi traffic will not be allowed unless approved by MDAD.

2.03 USER INTERFACE PORTAL: The Operator will design, install and maintain a user interface portal for the existing gateway, which will include the following minimum user options:

- Splash Page at a minimum, in English and Spanish and other languages as may be appropriate.
- Optimize the Splash Page format for various devices.
- Branding as MIA's public Wi-Fi network
- Allowing for 25% of the Splash Page for promotion of MIA products and services (e.g. airline listings; flight information; concessions directory; lost and found; parking rates; airport web site link)
- Authentication / Internet access option(s) including:
  - As You Go (AYG) - Direct bill to credit/debit cards
  - Roaming partners offering Wi-Fi subscription plans.
  - Wholesale network access partners

2.04 BACK-OFFICE: Operator will install and manage all local and/or remote backend systems as required to support all billing functions associated with the System. Operator will be responsible for all costs, including transaction and credit card processing fees, and customer refund requests. The Department will not be involved in any phase of this billing process.

2.05 CUSTOMER SUPPORT: The Operator will provide a live support center on a 24-hour / 7 days a week / 365 days a year to assist customers requiring technical support and all billing inquiries. The Operator is responsible for all costs associated with the support function including:

1. Responding to customer/passenger complaints within twenty-four (24) hours.
2. Ensuring compliance with customer service programs and processes are in place.

The Operator will accept trouble tickets or similar reports from the Department's IT Service Desk, customer service department or information desk and provide closeout detail or projected closure.

2.06 SYSTEM MARKETING AND OBTAINING ADVERTISING REVENUE: The Operator will market the Wi-Fi network to maximize usage and revenues. A marketing plan shall be submitted to the Department at the commencement of the Agreement and thereafter ninety (90) Days prior to each fiscal year for the Department (October 1 – September 30). The Department shall have forty-five (45) Days after receipt of the plan to approve or disapprove the same in its discretion. If MDAD disapproves the plan, the Operator shall operate in substantial conformity with all such 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 and may assist the Operator in the marketing effort at its discretion.

2.07 INTERNET ACCESS SERVICE LEVELS PROVIDED:

- Complimentary with advertising or sponsorship

  Complimentary Wi-Fi service shall be provided for a 30 minute uninterrupted access for a 24 hour period. Users will be directed to a promotional advertisement for a period not to exceed one minute to obtain complimentary access for 30 minutes. The best effort maximum connection speed provided will be 2 Mb/sec. Additionally, if during the term of the Agreement, more than twenty (20) of the top United States passenger airports provide free 60 minute uninterrupted access to their passengers, the County shall have the right, with one year prior notice, to require the Proposer to provide 60 minute uninterrupted service to MDAD passengers, and such service will be deemed Complimentary service.

- Standard Pay-For-Use

  One hour of uninterrupted service with no advertisement. Session Fee to Passengers: $4.95. Multiple sessions will be available if desired. The best effort maximum connection speed provided will be 8 Mb/sec.

- Premium Pay-For-Use

  24 hours of uninterrupted service with no advertisement. Session Fee to Passengers: $7.95. The best effort maximum connection speed will be 20 Mb/sec. Subscription based plans may also be offered at a price agreed and approved by MDAD.

2.08 OPERATING: The Operator shall:

A. Provide quality control audits and reports to include downtime.

B. Develop annual revenue projections by month.

C. Generate and provide the Department quarterly revenue reports, and such other financial and management reports as are usual and customary.

D. Prepare other technical reports and analyses as may be requested, like: number of users that have connected to each tier, actual speed provided for each level of service, total load on the WAN circuit, and any other as required by MDAD.

E. Ensure compliance with the Department, Local, State, and other governmental agencies.

F. Implement any new policies, and procedures, and operational directives as issued from time to time by the Department.

G. Ensure payment is submitted to the Department with the Quarterly Report of Wi-Fi Commission Due MDAD.

H. Participate in any airport-wide customer service program implemented by the Department.

I. Provide system portal upkeep, maintenance and repair ensuring 99.9% uptime.

J. Use any method to allow access to the Network and the Internet to facilitate communication to the public. However, the Operator will be prohibited from providing private services to tenants and concessionaries of MIA to support their operation without prior approval by MDAD.

K. Operate an advertising platform fully capable of scheduling, serving and monetizing the Complimentary Wi-Fi.

2.09 PROHIBITED ACTIVITIES: Without limiting any other provision herein, Operator shall not, without the prior written consent of MDAD which may be withheld in its sole and absolute discretion: (a) use, or allow the system to be used, for any improper or unlawful purposes; (b) do or permit to be done anything in any way tending to injure the reputation of MDAD, the County, the Board of County Commissioners, or the appearance of the Airport; or (c) 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 License Agreement, Operator shall not gain access to the roof of the MIA terminal building without the consent of MDAD, which may be withheld in MDAD's sole and absolute discretion.

ARTICLE 3 –PAYMENTS AND REPORTS

3.01 COMPENSATION TO THE COUNTY: As part of the consideration for the privileges granted to the Operator to engage in business at the Airport, the Operator shall pay to the County a Minimum Annual Guarantee of _____. This Minimum Annual Guarantee is to be prorated and payable in four (4) quarterly payments in U.S. funds.

Every quarter the Operator shall pay the County, without billing or demand, 50% of the quarterly Gross Advertising Revenue the Operator receives from the sale of advertising and sponsorship, monthly subscription fees, agreements with other entities, roaming from other carriers, pay-for-use transactions, and internet access fees or the Minimum Annual Guarantee prorated Quarterly; whichever is greater. These Payments shall be due on the fifteenth (15th) calendar day following the end of each quarter.

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 3.01 "Compensation To The County"** are not subject to negotiation or adjustment for any reason, including, but 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 21.10 "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, and any Extension of this Agreement.

3.03 NOT USED (RECALCULATION OF THE MINIMUM ANNUAL GUARANTEE)

3.04 NOT USED (ADVERTISING PERCENTAGE FEE)

3.05 NOT USED (PRICE FOR SERVICES)

3.06 NOT USED (ANNUAL RENTAL)

3.07 NOT USED (ANNUAL RENTAL RATE ADJUSTMENT)

3.08 NOT USED (COMMON WAREHOUSE LOGISTICS FEE)

3.09 NOT USED (CONCESSION MARKETING FEE)

3.10 MAG PERFORMANCE BOND: Within thirty (30) Days of the Effective Date of this Agreement, the Operator shall provide the Department a Performance Bond to guarantee payment of the Revenues. Operator shall keep such Performance Bond in full force and effect during the Term and 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, refer to **Sub-Article 3.24 "Security Deposit".** 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 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 obligee and issued by a surety company or companies in such form as approved by the County Attorney. The amount of the Performance Bond shall initially be in an amount equal to seventy-five percent (75%) of the Revenue amount provided for in **Sub-Article 3.01 "Compensation to the County",** which is equal to _____ Dollars ($0.00). Thereafter, the amount shall be adjusted as necessary to reflect any increases in the Revenue.

The Department may draw upon such form of security instrument, if the Operator fails to pay any monies or perform any obligations required hereunder following applicable notice and cure periods specified herein. Upon notice of any such draw, Operator shall immediately replace the Performance Bond with a new Performance Bond in the full amount of the Performance Bond required hereunder. A failure to renew the Performance Bond, or increase the amount of the Performance Bond, or other forms of security instrument, if required due to such draw, shall (i) entitle the Department to draw down the full amount of such Performance Bond, and (ii) be a default of this Agreement entitling Department to all available remedies. Provided Operator is not in default and fully complies with all the payment requirements of this Agreement, the payment security instrument will be returned to Operator within one hundred eighty (180) Days after the end of the Term or any Extension of the Term.

A. All required bonds shall be written through surety insurers authorized to do business in the State of Florida as Surety, with the following qualifications

as to strength and financial size according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company, :

Bond (Total Contract) Amount	Best's Rating
$ 500,001 to $1,500,000	B V
1,500,001 to 2,500,000	A VI
2,500,001 to 5,000,000	A VII
5,000,000 to 10,000,000	A VIII
Over $10,000,000	A IX

B. Surety companies not otherwise qualifying with this paragraph may optionally qualify by:

1) Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and
2) Providing a copy of the currently valid Certificate of Authority issued by the United States Department of Treasury under ss. 31 U.S.C. 9304-9308.

Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

C. For bonds in excess of $500,000 the above provisions will be adhered to, plus the surety insurer must have been listed on the U.S. Treasury list for at least three consecutive years, or currently hold a valid Certificate of Authority of at least 1.5 million dollars and listed on the Treasury list.

D. The attorney-in-fact or other officer who signs the bond for a surety company must file with such bond a certified copy of his/her power of attorney authorizing him/her to do so.

The required bonds shall be written by or through and shall be countersigned by, a licensed Florida agent of the surety insurer, pursuant to Section 624.425 of the Florida Statutes.

The Bonds shall be delivered to the Department as indicated above.

In the event the Surety on the Bond given by the Operator becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in its State of domicile or the State of Florida suspended or revoked as provided by law the Operator must provide a good and sufficient replacement bond.

Cancellation of any bond, or non-payment by the Operator of any premium for any bond required by this Contract shall constitute a breach of this Contract. In addition to any other legal remedies, the Department at its sole option may terminate this Contract.

3.11 TAXES: The Operator shall be solely responsible for the payment of all applicable 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, Damages and charges levied thereon. The Operator hereby agrees to indemnify the County and 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 damages payable by the Department as a result thereof. The provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.

3.12 REPORTS OF GROSS REVENUES: On or before the fifteenth (15th) Day following the end of each quarter throughout the Term and any Extension of this Agreement, the Operator shall furnish to the Department, a statement of quarterly Gross Revenues, using Exhibit I "Quarterly Report of Wi-Fi Commission Due MDAD". 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 by location reported to the Operator during such month. Failure to provide the Quarterly Report of Wi-Fi Commission Due MDAD by the fifteenth (15th) Day shall result in a late fee Damage of fifty dollars ($50.00) per Day to a maximum of $750 a month, as provided in **Sub-Article 3.23 "Damages"**.

3.13 OTHER REPORTS: 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.

3.14 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 currently 1½% delinquency charge per month.

3.15 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 Damages imposed by law. 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.

3.16 ADDRESS FOR PAYMENTS: The Operator shall pay all monies payable and identify the License Agreement for which payment is made, 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.

By Credit Card: Miami-Dade Aviation Department
Finance Division- Cashier's Office
305-876-0652

3.17 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.

3.18 ANNUAL AUDIT: Within ninety (90) Days of each anniversary of the Effective Date of this Agreement and within ninety (90) 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 quarterly 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 Audit Report", shall include a schedule of quarterly 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. If such schedules indicate that the percentage fees for such period audited have been underpaid, the Operator shall submit payment therefore within forty-five (45) Days after the completion of the reports to the Department as stated in **Sub-Article 3.16 "Address for Payments"** together with interest on any underpaid payments at the rate set forth in **Sub-Article 3.14 "Late Payment"**.

3.19 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 location(s) located on the Airport, the Department shall give advance notice to the Operator.

If it is established that the payments have been underpaid to the Department, the Operator shall forthwith, pay the difference with interest thereon at the rate set forth in **Sub-Article 3.14 "Late Payment"** from the date such amount or amounts should have been paid.

Further, if such examination establishes that Operator has underpaid payments 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 principles or standards.

3.20 RECORDS AND REPORTS: The Operator shall, at all times during the Term of this Agreement, 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, in a form consistent with good accounting practice. In addition, Operator shall install or cause to be installed for use at all times such devices and forms, as are reasonably necessary to record properly, accurately and completely all sales. 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 showing all Gross Revenues and all exclusions from Gross Revenues by category, which report shall be subtotaled by day and totaled by month. The quarterly total shall correspond with the amounts reported to the Department on the Operator's quarterly "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, 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 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.

3.21 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 due and subject to an additional administrative fee of twenty-five percent (25%) of such payment, obligation, or expense.

3.22 NOT USED (UTILITIES)

3.23 DAMAGES: If Operator defaults under any of the covenants or terms and conditions, of this Agreement, Department shall impose the financial Damages described below, as a result of the violation(s), on a daily basis, in addition to any other

Damages permissible by law and/or pursuant to the provisions of this Agreement, until said violations are remedied:

Violation	Fee	
Violation of Permitted Use	$1000	per Day
Unapproved Service	$ 750	per Day
Unauthorized Advertising	$ 500	per Day
Violations of other terms and conditions of this Agreement as imposed by the Department	$ 100	per Day
Failure to Maintain Response Times	$ 50	per occurrence/ per Day
Failure to Submit Required Documents and Reports*	$ 50	per Day

*Up to $750 a month

The foregoing is due and payable from the Operator.

3.24 SECURITY DEPOSIT: 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 initial amount equal to twenty-five percent (25%) of the Revenue amount provided for in **Sub-Article 3.01 "Compensation to the County",** which is equal to _____ Dollars ($0.00). Thereafter the amount shall be adjusted as necessary to reflect any increases in the Revenue. This requirement shall be met no later than thirty (30) Days after the Effective Date of this Agreement. The payment security shall be kept in full force throughout the Term and any Extension of this Agreement thereof. The Department may draw upon such payment security instrument if the Operator fails to make the 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 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.

ARTICLE 4 –NOT USED (IMPROVEMENTS)

ARTICLE 5 – STANDARDS OF OPERATION

5.01 STANDARDS OF OPERATION: The Operator shall comply with the Department's "Tenant Handbook", Exhibit K, the "Wi-Fi Standards of Operations", Exhibit L, the "MIA Terminal Standards" available on **www.miami-airport.com,** 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, 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 prior written notice, not less than thirty (30) Days, prior to the implementation of any such amendment to the rules or regulations and 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 to Exhibit L "Wi-Fi Standards of Operation". 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 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 do 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 and character of the service rendered to the public, as may be amended from time to time.

5.02 NOT USED (MARKET BASKET/COMPETITIVE PRICING POLICY)

ARTICLE 6 – OBLIGATIONS OF THE DEPARTMENT

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.

B. No Other Obligation of Department: The Operator acknowledges that the Department has made no representations or warranties 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 or any improvements, furnishings, fixtures, trade fixtures, signage or equipment constructed or used.

1. 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 and 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.
2. 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.
3. All statements contained in this Agreement or otherwise made by the Department or anyone on its behalf concerning any measurement relating to 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.
4. 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, or the construction of the terminal building.

ARTICLE 7 – FURNITURE, FIXTURES AND EQUIPMENT

7.01 FURNITURE, FIXTURES, AND EQUIPMENT: Any equipment, furnishings, fixtures and signs installed by the Operator shall be in keeping with the decor of the terminal building and must be approved in advance by the Department. Any such equipment, furnishings, fixtures and signs so installed by the Operator shall, except as provided in **Sub-Article 7.03 "Disposal of Furniture, Fixtures, and Equipment"**, be removed within five (5) 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 location(s) 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' location(s). 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 location(s), as the Department in its sole discretion deems reasonably necessary.

7.03 DISPOSAL OF FURNITURE, FIXTURES, AND EQUIPMENT: At least thirty (30) 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 exercise, at its sole discretion, the following as to any equipment, furnishings, fixtures, signs, or carts installed by the Operator:

(A) Retain any portion of the equipment, furnishings, fixtures, signs, of the Operator in accordance with the provisions of this Agreement; provided however, the Department shall have no right to use or display any proprietary signs or logos (e.g., brand names owned by, or licensed or franchised to Operator).

ARTICLE 8 – MAINTENANCE

8.01 NOT USED (CLEANING)

8.02 NOT USED (REMOVAL OF TRASH)

8.03 NOT USED (MAINTENANCE & REPAIR)

8.04 NOT USED (FAILURE TO MAINTAIN)

8.05 NOT USED (ENVIRONMENTAL RECYCLING)

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 and any Extension of this Agreement or any insurance carrier providing insurance covering any portion.

ARTICLE 9 – ASSIGNMENT AND OWNERSHIP

9.01 NO ASSIGNMENT: The Operator shall not assign, transfer, pledge or otherwise encumber this Agreement 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 entering into of this Agreement, the Operator shall take no actions which shall serve to transfer or, sell majority ownership or control (deemed to mean more than fifty percent (50%) of the stock) 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 (deemed to mean more than fifty percent (50%) of the ownership interest), shall be deemed an assignment of this Agreement for purposes of this **Article 9 "Assignment and Ownership".**

9.04 NOT USED (HOLDOVER)

ARTICLE 10 – INDEMNIFICATION

10.01 INDEMNIFICATION REQUIRED OF OPERATOR: The Operator shall indemnify, defend, and hold harmless the County 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 County 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, principals 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 County, 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 County or its officers, employees, agents and instrumentalities as herein provided.

ARTICLE 11 – INSURANCE

11.01 INSURANCE REQUIRED OF OPERATOR: Within thirty (30) Days of the Effective Date of this Agreement, the Operator shall obtain all insurance required under this Article and submit it to the Department, c/o Risk Management, P.O. Box 025504, Miami, Florida 33102-5504 for approval. All insurance shall be maintained throughout the Term, and any Extensions of this Agreement.

The limits for each type of insurance may be revised upon review and approval of the Operator's operations. Additional types of insurance coverage or increased limits may be required if, upon review of the operations, the Department determines that such coverage is necessary or desirable.

Certificate(s) of insurance from the Operator must show coverage has been obtained that meets the requirements as outlined below during any construction and operation phase of this Agreement:

A. Workers' Compensation as required by Chapter 440, Florida Statutes.

B. 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 per occurrence for Bodily Injury and Property Damage combined. This policy shall include Miami-Dade County as an additional insured with respect to this coverage.

The Commercial General Liability Insurance coverage shall include those classifications, as listed in Standard Liability Insurance Manuals, which are applicable to the operations of the Operator in the performances of this Agreement.

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with this Agreement in an amount not less than $500,000* per occurrence for Bodily Injury and Property Damage combined.

*Under no circumstances is the Operator allowed on the Airside Operation Area (AOA) without increasing automobile coverage to $5,000,000 as approved by the Risk Management Office.

11.02 CERTIFICATE OF CONTINUITY: The Operator shall be responsible for assuring that the insurance certificates required in conjunction with **Article 11 "Insurance"** remain in force for the duration of this Agreement, including the Extension, if applicable. If insurance certificates are scheduled to expire during the lease period, the Operator shall be responsible for submitting new or renewed insurance certificates for its operations to the Department's Risk Management Unit at a minimum of thirty (30) Days before such expiration.

Certificates will show that no modification or change in insurance shall be made without thirty (30) Days written advance notice to the certificate holder.

11.03 INSURANCE COMPANY RATING REQUIREMENTS: All insurance policies required above from the Operator shall be issued by 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 financial strength, and no less than "Class VII" as to financial size, according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company, or its equivalent, subject to the approval of the Department's Risk Management Office.

11.04 OPERATOR LIABLE: Compliance with the requirements as to carrying insurance in **Article 11 "Insurance"** shall not relieve the Operator from liability under any other provision of this Agreement.

11.05 CANCELLATION OF INSURANCE OR BONDS: Cancellation of any insurance or bonds, or non-payment by the construction contractors of any premiums for any insurance policies or bonds required by this Agreement shall constitute a breach of this Agreement.

11.06 RIGHT TO EXAMINE: The Department reserves the right, upon reasonable notice to examine the original policies of insurance of the Operator (including but not limited to: binders, amendments, exclusions, endorsements, riders and applications) to determine the true extent of coverage. The Operator agrees to permit or cause to permit such inspection at the offices of the Operator. In addition, upon request (but no later than five (5) Days from the date of request, unless such longer period is agreed to by the Department) the Operator agree to provide copies to the Department, at the Operator's sole cost and expense.

11.07 PERSONAL PROPERTY: Any personal property of the Operator or of others, placed in support spaces shall be at the sole risk of the Operator or the owners thereof, and the County shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage.

11.08 SURVIVAL OF PROVISIONS: The provisions of **Article 11 "Insurance"** shall survive the expiration or earlier termination of this Agreement.

11.09 NOT USED (INDEMNIFICATION, CONSTRUCTION BONDS AND INSURANCE REQUIRED)

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 Operator's facilities;

(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 local, County, State or Airport or disregard of the safety of persons using the Airports, 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 equipment in a manner satisfactory to the Director;

(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 12.10 "Adequate Assurances"**;

(K) The Operator has failed to comply with **Article 14 "Airport Concession Disadvantaged Business Enterprise Participation Plan"**;

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

(M) 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 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 County may, at its option, terminate this Agreement after five (5) Days notice in writing to the Operator.

12.03 OTHER DEFAULTS: The Department shall have the right, upon thirty (30) Days written notice to the Operator to terminate this Agreement upon the occurrence of any act of default unless the same shall have been corrected within thirty (30) Days after written notice; provided, however, that the Department may, but is not required to, extend the time for cure as individual circumstances may warrant such extension not be construed as a waiver of any of the Department's rights hereunder. In the event of a specific provision of this Agreement provides for a shorter cure period in the event of a specific default, that shorter provision shall take precedence over this section.

The notice of default shall specify the Termination Date by when Operator shall discontinue the services.

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 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 (7th) 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 12.11 "Actions at Termination"** hereof.

12.05 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.

12.06 UNAMORTIZED INVESTMENT EXTINGUISHED: Termination of this Agreement based upon **Sub-Article 12.07 "Termination for Abandonment"**, **Sub-Article 12.02 "Payment Default"**, **Sub-Article 12.03 "Other Defaults"**, **Sub-Article 12.04 "Habitual Default"**, or **Sub-Article 12.08 "Termination for Cause"**, shall extinguish any unamortized investment amounts owed the Operator by the Department.

12.07 TERMINATION FOR ABANDONMENT: This Agreement may be terminated in its entirety upon the abandonment by the Operator of the location(s) or the discontinuance of Operator's services at the Airport for any period of time exceeding twenty-four (24) consecutive hours, and the failure to cure the same within three (3) Days after written notice unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Operator from providing services in this Agreement for the purposes authorized in **Article 2 "Scope of Services"**. Such termination shall constitute an event of default, and the County shall be entitled to all remedies for such default provided for in this Agreement.

12.08 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, or (iii) if the Operator is found to have submitted a false certification or to have been, or is subsequently during the term of this Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. 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 County 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 County through fraud,

misrepresentation or material misstatement may be disbarred from County contracting for up to ten (10) 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 (the "Code").

12.09 TERMINATION FOR CONVENIENCE: The Department, in addition to the rights and options to terminate for cause, or any other provisions set forth in this Agreement, retains the right to terminate this Agreement upon thirty (30) Days written notice at its sole option at any time for convenience, without cause, when in its sole discretion it deems such termination is in the best interest of the Department. In such circumstance, the County will solely be responsible for paying the amortized costs of any improvements constructed by Operator, but the County shall not be responsible for any other costs or damages, including but not limited to lost profits, loss of opportunity, borrowing costs, carrying costs, damage to reputation, loss of goodwill, or loss of income.

12.10 ADEQUATE ASSURANCES: When, in the opinion of the Department, reasonable grounds for uncertainty exist 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.

12.11 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 Department materials and property;

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

If terminated for cause, the Operator shall be liable to the County for all damages, direct and indirect, incurred by the County as a result of such termination, including but not limited to loss of future payments, loss of revenue, loss of passengers, loss of opportunity, or loss of goodwill. The existence of a bond or letter of credit supplied pursuant to **Article 3 "Payments and Reports"** of this Agreement shall not serve as a limitation on damages beyond the penal sum of the bond or letter of credit, and the County may avail itself of the

bond or letter of credit, or both, and also all remedies as may be available at law or equity against Operator.

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) 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 18.09 "Notices"**. The decision of the Director will be final and conclusive unless, within thirty (30) Days from the date of receipt of such copy, the Operator mails or otherwise furnishes to the Department a written appeal addressed to the Mayor. The decision of the Mayor, or his duly authorized representative for the determination of such appeals, will be final and conclusive unless within thirty (30) 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 Mayor 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) Days written notice to the County to terminate this Agreement, without liability to the County, 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) Days.

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

(C) 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) Days.

ARTICLE 14 – AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE

14.01 ACDBE REQUIREMENTS:

It is the policy of the Miami Dade Aviation Department (MDAD) that ACDBE's shall have the maximum practical opportunity to participate in the performance of License Agreement. As used in the Bid Documents, the term "Airport Concession Disadvantaged Business Enterprises (ACDBE)" means a small business concern, which (a) is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it as set forth in 49 CFR Part 23, Code of Federal Regulations.

The MDAD has established an ACDBE concession specific goal of **twenty percent (20%)** of gross revenues. The ACDBE goal can be achieved either through the Proposer being an ACDBE itself, Joint Venture or sub-contracting a percentage of Gross Revenues.

The Concessionaire will be required to submit:

(1) Executed Joint Venture or Sub-concession Agreement prior to submission for Board approval;
(2) Notarized Monthly Utilization Report (MUR) reflecting ACDBE revenue;
(3) Notarized Monthly Activity Report (MAR) of ACDBE JV Partner commencing thirty (30) days after beneficial occupancy and monthly thereafter, on or before the 10th of every month.

14.02 COUNTING ACDBE PARTICIPATION TOWARD CONTRACT GOALS:

1. When an ACDBE participates in a contract, only the value of the work actually performed by the ACDBE toward the ACDBE goal will be counted.

2. When an ACDBE performs as a participant in a joint venture a portion of the total dollar value of the contract **during the complete contract term,** equal to the clearly defined portion of the work of the contract that the ACDBE performs will be counted toward ACDBE goals as outlined in **Appendix I.** "Airport Concession Disadvantaged Business Enterprise Participation Plan/Provision" and ACDBE Joint Venture Guidance by the U. S. Department of Transportation, Federal Aviation Administration (USDOT-FAA) ACDBE Schedule 8.

3. Expenditures to an ACDBE concessionaire toward ACDBE goals, will be counted only if the ACDBE is performing a commercially useful function as defined below:

   (a) An ACDBE performs a commercially useful function when it is responsible for execution of specific quantifiable work of the contract and is carrying out its

responsibilities by actually performing, or managing, or supervising the specific identified work.

(b) MDAD will determine whether an ACDBE is performing a commercially useful function by evaluating the specific duties outlined in the Joint Venture Agreement; the sub-concession agreement or other agreements in accordance with industry practices.

(c) An ACDBE does not perform a commercially useful function if its role is limited to that of an extra participant in a financial or other transaction, contract, or project through which funds are passed in order to obtain the appearance of ACDBE participation.

(d) If an ACDBE does not perform or exercise responsibility for at least seventy (70%) percent of its participation or if the ACDBE subcontract's a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the ACDBE is not performing a commercially useful function.

(e) When an ACDBE is presumed not to be performing a commercially useful function as provided in paragraph (c) of this section, the ACDBE may present evidence to rebut this presumption. MDAD will determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

4. MDAD's decision on commercially useful function matters are final.

14.03 ACDBE GOAL ACHIEVED THROUGH JOINT VENTURE ("JV") PARTNERING:

Proposers may satisfy a part of the ACDBE goal by Joint Venturing with an ACDBE as detailed in the ACDBE Joint Venture Guidance by the U.S.DOT-FAA; ACDBE Schedule 8.

The Joint Venture agreement must specify the following:

(1) Each ACDBE joint venture **("JV")** partner must be responsible for a clearly defined portion of the work to be performed. The work should be detailed separately from the work performed by the non-ACDBE JV partner as specified in the Joint Venture Guidance by U.S. DOT-FAA (Schedule 8).

The work should be submitted as part of this solicitation and annually thereafter to the Aviation Department's Minority Affairs Division. The work to be performed by the ACDBE joint venture partner should be store specific with regards to tasks and locations or as a distinct element of work be specified.

The ACDBE Joint Venture partner will be required to spend the minimum amount of aggregate time on-site, focused on the operation of the concession. Such "minimum amount of aggregate time" is defined as ten hours per week.

(2) Each joint venture partner must submit a notarized Monthly Utilization Report and a notarized Monthly Report of ACDBE Joint Venture Activity providing details of how the performance objectives were achieved and providing documentation of that achievement on the form. This information should include, but not limited to:

a. Details of training sessions, including class rosters and lesson plans.

b. Deliverables and work products.

c. Time sheets of partner employees used to fulfill objectives. Time sheets must accurately reflect hours worked and compensation earned.

d. Proof that employees of partner actually work for them (payroll, payroll tax returns and the like).

(3) Each ACBDE partner must share in the ownership, control, management, and administrative responsibilities, risks and profits of the JV in direct proportion to its stated level of JV participation.

(4) Each ACDBE JV partner must perform work that is commensurate with the Lease Agreement.

Without limiting the requirements of the Agreement, the County will have the right to review and approve all agreements utilized for the achievement of these goals. Such agreements must be submitted with the Proposal.

14.04 CERTIFICATION-AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)

ACDBE firms must maintain their certification throughout the term of this Agreement.

14.05 AFFIRMATIVE ACTION AND AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS:

The Operator acknowledges that the provisions of 14 CFR Part 152, Affirmative Action Employment Programs, Provisions of Title VI of the Civil Rights Act of 1964, and 49 CFR Part 23, Airport Concession Disadvantaged Business Enterprise Programs, are applicable to the activities of the Operator under the terms of the Agreement, unless exempted by said regulations, and hereby agrees to comply with all requirements of the Department, U.S. Department of Transportation and the Federal Aviation Administration.

These requirements may include, but not be limited to, the compliance with Airport Concession Disadvantaged Business Enterprise and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if directed by the MDAD, the contracting of specified percentages of goods and services contracts to Airport Concession Disadvantaged Business Enterprises. In the event it has been determined, in accordance with applicable regulations, that the Operator has defaulted in the requirement to comply with the provisions of this section and fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Concessionaire, to terminate this License Agreement, pursuant to Default language referenced in the Agreement.

The Operator shall include the following nondiscrimination language in concession and management contracts with MDAD which is an assurance and clarification clause requested by the DOT and approved by the Miami Dade Aviation Director:

> *"This agreement is subject to the requirements of the US Department of Transportation's Regulations 49 CFR Part 23. The concessionaire or contractor 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, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23".*
>
> *"The concessionaire agrees to include the above statements in any subsequent concession agreement covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements".*

The provisions of this Section shall be considered to be in addition to and not in lieu of the provisions of Title VI of the Civil Rights Act of 1964 applies.

The Operator agrees to include the above statements in any subsequent agreements.

14.06 ACDBE MENTORING, ASSISTANCE AND TRAINING PROGRAM:

Consistent with the goal of providing ACDBE's with hands-on participation and the responsibility for a clearly defined portion of the Airport Concession operations, subject to **Article 14 "Airport Concession Disadvantaged Business Enterprises "** hereof, each ACDBE shall have the duty and responsibility to operate certain areas of the concession(s) following a mentoring period, if needed, which shall include but not be limited to the following specific duties and responsibilities:

A. Store Operations

(1) Passenger profile analysis
(2) Cash handling/sales audit
(3) Enhancing sales
(4) Selling to the customer
(5) Staffing to meet customer levels
(6) Opening and closing procedures

B. Personnel

(1) Employment practices
(2) Compliance with wage and hour laws
(3) Compliance with County and Airport requirements
(4) Designing compensation and benefits plans
(5) Management and staff training to enhance product knowledge and customer service
(6) Warehousing packaging and sales reporting of merchandise

C. Shop Design and Display

(1) Retail layout
(2) Merchandising techniques
(3) Visual display techniques

D. Loss Prevention

(1) External and internal theft
(2) Shop security

E. Books, Records and Reports

(1) The books of account and supporting records of the joint venture(s) and the sub-concessionaire(s) shall be maintained at the principal office and shall be open for inspection by the MDAD or the ACDBE sub-concessionaire(s) or Joint Venture(s), upon reasonable prior written notice, during business hours.

(2) The books of account, for both financial and tax reporting purposes shall be maintained on the accrual method of accounting. The Operator shall provide to the sub-concessionaire(s) or joint venture(s), within an agreed upon time after the end of each month during the term of this agreement, an unaudited operating (*i.e.,* income) statement for the preceding month and for the year-to-date.

(3) Reports of the ACDBE Mentoring Program shall be submitted to the Department's Minority Affairs and Business Management Divisions, outlining

the specific areas of training (i.e., components covered, total number of hours of training, training material covered, etc.).

14.07 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN:

The Operator shall contract with those firm(s) as are listed on the Operator's ACDBE Participation Plan in the Proposal documents and approved by the Department, and shall thereafter neither (i) terminate such ACDBE firm(s), nor (ii) reduce the scope of the work to be performed, nor (iii) decrease the percentage of participation, nor (iv) decrease the dollar amount of participation by the ACDBE firm(s) without the prior written authorization of the Department.

The MDAD shall monitor the compliance of the Operator with the requirements of this provision during the term and/or extension of this agreement.

The MDAD shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records, records of expenditures, agreements between the Operator and the ACDBE Participant, and other records pertaining to ACDBE Participation Plan.

If at any time the MDAD has reason to believe that the Operator is in violation of this provision, the County may, in addition to pursuing any other available legal remedy, impose sanctions which may include, but are not limited to, the termination or cancellation of the agreement in whole or in part, unless the Operator demonstrates, within a reasonable time, its compliance with the terms of this provision. No such sanction shall be imposed by the MDAD upon the Operator except pursuant to a hearing conducted by the ACDBELO and/or Director.

ARTICLE 15 - RULES, REGULATIONS AND PERMITS

15.01 RULES AND REGULATIONS: The Operator shall comply with the Ordinances of the County including Chapter 25, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives issued thereunder by the Department, 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, Implementing Orders and resolutions of the Board of County Commissioners 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 County, any Damage, assessment or fine issued against the County, or the Department to defend in the name of the County 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. The Operator further agrees that the substance of **Sub-Article 15.02 "Violations of Rules and Regulations"** and **Sub-Article 15.01 "Rules and Regulations"** shall be included in other agreements which the Operator may enter into related to its activities under this Agreement and that any such agreement shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subleasing.

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.

15.04 NOT USED (PROHIBITION ON USING PRODUCTS CONTAINING TRANS FATS)

15.05 NOT USED (LABOR PEACE REQUIREMENT)

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 NOTICE OF COMMENCEMENT OF CIVIL ACTION: In the event that the County or the Operator commence a civil action in the state or Federal courts for Miami-Dade County, where such action is based in whole or in part upon an alleged breach of this Agreement, the County and the Operator agree to waive the procedures for initial service of process mandated by Chapters 48 and 83 of the Florida Statues, by Rule 1.070 of the Florida Rules of Civil Procedure, and by Rule 4(c) of the Federal Rules of Civil Procedures. In such event, the County and the Operator agree to submit to the jurisdiction of the court in which the action has been filed when initial service has been made either by personal service or by certified mail, returned receipt requested upon the representatives of the parties indicated in **Sub-Article 18.09 "Notices"** of this Agreement, with a copy provided to the County Attorney and the attorney, if any, which the Operator has designated in writing. Notwithstanding the foregoing, and in addition thereto, the Operator, if a corporation, shall designate a registered agent and a registered office and file such designation with the Florida Department of State in accordance with Chapters 48 and 607 of the Florida Statutes.

16.03 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 JPMorgan 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 any Extension 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 location(s) used for similar purposes, are unjustly discriminatory, the County, 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 County 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 County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the County, 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 County to the Operator.

17.03 INSPECTIONS: The authorized employees and representatives of the County and of any applicable federal or state agency having jurisdiction hereof shall have the right of access to the location(s) and any spaces 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 County to inspect and shall impart no liability on the County should it not make such inspection(s).

17.04 INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW: Pursuant to Miami-Dade County Administrative Order 3-20 and in connection with any award issued as a result of the Proposal, the County has the right to retain the services of an Independent Private Sector Inspector General ("IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Operator shall make available, to the IPSIG retained by the County, all requested records and documentation pertaining to this Proposal or any subsequent award, for inspection and copying. The County will be responsible for the payment of these IPSIG services, and under no circumstance shall the Operator's cost/price for this proposal be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Operator, its officers, agents, employees and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities and performance of the Operator in connection with this Agreement. The terms of this provision are neither intended nor shall they be construed to impose any liability on the County by the Proposer or third party.

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 (0.25%) of the total contract amount.

Exception: The above application of one quarter of one percent (0.25%) 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 lease agreements; (e) concessions and other rental agreements; (f) insurance contracts; (g) revenue-generating contracts; (h) professional service agreements under $1,000; (i) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***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 (0.25%) 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 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 an 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 location(s) and or any support spaces, 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 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 System. The Operator fully understands and acknowledges that any security measures deemed necessary by the Operator for protection of the System 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 County 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 County, its employees, or agents.

18.07 OTHER DEPARTMENT RIGHTS: The Operator shall be liable for any physical damage caused by the Operator, its employees, agents, contractors, subcontractors, or its suppliers. The liability shall encompass: (i) the Operator's repair, or if it cannot be repaired, payment to the Department of the fair market value replacement cost; and (ii) any other such damages to the Department arising from the physical damage caused by the Operator and its employees, agents, contractors, subcontractors or suppliers, See **Sub-Article 3.23 Damages"**. The County may also initiate an action for specific performance and/or injunctive relief.

18.08 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.

18.09 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

Miami International Airport
Terminal Building
Director's Office
Concourse E-5th floor
Miami, FL 33122

To the Operator:
(Address Here)
with copies to:
(Address Here)

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.

18.10 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.

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

18.12 COUNTY LIEN: The County shall have a lien upon all personal property of the Operator to secure the payment to the Department of any unpaid monies accruing to the Department under the terms of this Agreement.

18.13 AUTHORIZED USES ONLY: The Operator shall not use or permit the use of 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.

18.14 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.

18.15 SECURED AREAS/AIRFIELD OPERATIONS AREA (AOA) STERILE AREAS SECURITY: The Operator acknowledges and accepts full responsibility for compliance with all applicable Federal, State, and Local laws, rules and regulations including those of the Homeland Security, Transportation Security Administration's (TSA) Code of Federal Regulations 49 CFR Part 1542 et all, Federal Aviation Administration FAA, Customs and Border Protection CBP, the MDAD Chapter 25, Airport Security Plan (ASP) and applicable Security Directives issued by TSA and the Aviation Department as set forth from time to time relating to Operator's activities at the Miami International Airport (MIA).

In order to maintain high levels of security at MIA, the Operator must obtain MDAD photo identification badges for all the Operator employees who are authorized access to the Secured/AOA/Security Identification Display Area (SIDA),Sterile Concourse Areas or any other restricted areas of the Airport as may be required and designated in the Airport's Security Plan. All Operator employees will be required to obtain photo identification badges and will be subject to fingerprint-based criminal history records checks and security threat assessments.

The Operator shall be responsible for requesting MDAD to issue identification badges to all employees who the Operator requests to be authorized access to the Secured/AOA/SIDA/Sterile Concourse Areas and any other restricted areas of the airport as may be required and designated in the Airport's Security Plan and shall be further responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of the ID badges of all personnel transferred from Airport assignment or terminated from the employer of the Operator or upon final acceptance of the work or termination of this Agreement. The Operator will be responsible for fees associated with lost and unaccounted badges as well as the fee(s) for fingerprinting and ID issuance.

All employees of the Operator who must work within MDAD Secured/AOA/SIDA/Sterile Concourse areas or any other restricted areas at MIA shall be supplied with MDAD identification badges as specified above, which must be worn at all times while within the referenced secured areas. Badges shall be worn/displayed on outer garments above the waist so as to be clearly visible in order to distinguish, on sight, employees assigned to a particular company area. Each employee must complete the Security Identification Display Area SIDA training program conducted by the MDAD Security Division Credentialing Office before any ID badge is issued to such employee and comply with all

other TSA, Homeland Security, FAA, CBP and MDAD requirements as specified by the MDAD at the time of application for the ID badge before an ID badge is issued.

Operator AOA Decals will be issued to the Operator's vehicles authorizing vehicle entrance to the Airfield Operations Area (AOA) through specified Miami-Dade Aviation Department vehicle access control gates for the term of any project. These AOA Decals will be issued only for those vehicles that must have access to the site during the performance of the work. These AOA Decals will be only issued to company owned vehicles or company leased vehicles (leased from a commercial leasing company to the authorized company permitted to perform work on the AOA). AOA decals, passes, or permits to operate within the AOA will not be issued to privately owned or privately leased vehicles. All vehicles operating within the AOA must have conspicuous company identification signs (minimum of three inch lettering) displayed on both sides of the vehicles.

All vehicles operating within the AOA must be provided with the Automobile Liability Insurance required elsewhere in this Agreement. Proof of such insurance for a minimum of five million dollars is provided to MDAD Airside Operations Division upon request.

Only Operator staff with proper access zone pictured MDAD SIDA ID badges shall be allowed to operate a motor vehicle on the AOA without a MDAD escort. The Operator shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course, Reoccurring AOA Driver and Movement Area Driver training programs conducted periodically by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation(s) of AOA driving rules or loss of Florida driver's license and such violations may result in the issuance of a Civil Violation Notice with monetary fines.

The Operator agrees that its personnel, vehicles, cargo, goods, and other personal property are subject to being searched when attempting to enter, leave or while on the AOA. It is further agreed that the MDAD has the right to prohibit an individual, agent, or employee of the Operator from entering the AOA, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage, or other unlawful activities, including repeated failure to comply with MDAD's or the TSA, Homeland Security, FAA, CBP, SIDA access control policies, rules and regulations. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a review hearing before the Director or his/her authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA should be advised, in writing, of the reason for such denial.

The Operator acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts cargo tampering, aircraft sabotage, and other unlawful activities at the Airport and to maximize compliance with TSA, Homeland Security, FAA/Federal Inspection Services agencies and MDAD

access control and security policies and procedures as may be required and designated in the Airport Security Plan and the Miami-Dade Aviation Department Rules, Operational Directives and Regulations Chapter 25. All persons performing work on the AOA are required to wear reflective vests or clothing.

The Operator understands and agrees that vehicle and equipment shall not be parked/stored on the AOA in areas not designated or authorized by MDAD nor in any manner contrary to any posted regulatory signs, traffic control devices, or pavement markings or Chapter 25.

The Operator understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Operator in areas under the jurisdiction or control of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies who enter such areas are subject to fines, which shall be borne entirely by the persons and/or the Operator.

Notwithstanding the specific provisions of this Article, the Owner shall have the right to add to, amend, or delete any portion hereof in order to meet reasonable security requirements of MDAD or of the TSA/Homeland Security/FAA/Federal Inspection Services agencies.

The Operator shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as MDAD or appropriate Federal agencies may from time to time require.

Operator agrees that it will include in all contracts and subcontracts with its MIA sub-consultants, service providers, and suppliers an obligation by such parties to comply with all security requirements applicable to their operations at the Airport. The Operator agrees that in addition to all remedies, Damages, and sanctions that may be imposed by TSA, Homeland Security, FAA, Federal Inspection Services Agencies or MDAD upon Operator sub-consultants, suppliers, and their individual employees for a violation of applicable security provisions. The Operator shall be responsible to the Owner for all such violations and shall indemnify and hold the Owner harmless for all costs, fines and Damages arising there from, such costs to include reasonable attorneys' fees.

18.16 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.

18.17 MODIFICATIONS: This Agreement may be modified and revised in writing and duly executed by the parties hereto. Such modification may be made unilateral by the Department only 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.

18.18 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."**

18.19 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.

18.20 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.

18.21 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.

18.22 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.

18.23 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.

18.24 OTHER LIENS: Operator shall not permit any mortgages, deeds of trust or similar liens to be imposed on the location(s), the leasehold, or the furniture, fixtures and equipment or any portion thereof. Operator shall not permit or suffer any liens, including mechanics', materialmen's and tax liens to be imposed upon the location(s), 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 location(s) or any personal property or trade fixtures in the location(s), including any furniture, 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 County against any and all liens and charges of any and every nature and kind which may at any time be established against said location(s) 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.

18.25 FIRST SOURCE HIRING REFERRAL PROGRAM ("FSHRP"): Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the Operator, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of three to five Days, the Operator is free to fill its vacancies from other sources. Operators will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of $1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at https://iapps.southfloridaworkforce.com/firstsource/ or by contacting the SFWIB at (305) 594-7615, Extension 407 (refer to Exhibit J).

18.26 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.

ARTICLE 19 – NOT USED (SUB-LEASES)

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 support spaces available to the Operator or by reason of any defects or deficiencies in the support spaces or in the terminal building including any defect or deficiency which substantially impedes the Operator's ability to operate 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 County and the State of Florida, or its 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, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity

or gender expression or status as victim of domestic violence, dating violence or stalking shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the location(s) 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, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking 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, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking. 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 location(s) 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 location(s) 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 County that no person shall be excluded on the grounds of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking as applicable 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 County that it will require its covered suborganizations to provide assurances to the same effect and provide copies thereof to the Department.

5. Operator further assures County 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, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking be excluded from participating in any activity conducted at or in connection with its operations at the location(s). Operator also assures County that it will require its contractors to provide assurances to the same effect and ensure that such assurances are included in contracts and Sub-Lease 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, Subpart F. Operator agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking as applicable in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.

   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. County 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 and/or Extension, 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 REGULATIONS OF DEPARTMENT: The rights and privileges granted to the Operator hereunder and the occupancy and use by the Operator 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 policies and procedures as the same may be amended from time to time.

21.08 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 **one and one half percent (1 1/2%)** per month (or, if less, the maximum rate of interest allowed by law) from the due date thereof until paid.

21.09 MISCELLANEOUS PROVISIONS: The Operator, 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 Extension 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 County hereunder, on the rights and privileges granted to the Operator herein, on the location(s) and on any and all equipment installed on the location(s) 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, 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 County's agent hereunder and shall have no authority, express or implied, to act for or bind the County hereunder and nothing contained in this Agreement shall be deemed or construed by the County 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 County the joint employer of any employee of the Operator.

4 The County shall have the right during the Operator's normal business hours (and at any time during an emergency) to inspect the location(s) 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 provided herein, if certain action may be taken only with the consent or approval of the County, or if a determination or judgment is to be made by 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 County 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. The Operator shall comply with these requirements.

21.10 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, 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 strikes, lockouts, boycotts, actions of labor unions, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of the Operator, 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.

21.11 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 County in their Proposal, and in all attachments thereto and enclosures therewith, submitted by Operator to County 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

_____
(Legal Name of Corporation)

ATTEST:

Secretary_____
(Signature and Seal)

By: _____
Operator - Signature

_____
(Type Name & Title)

Name: _____

_____
(Type Name & Title)

INDIVIDUAL, PARTNERSHIP, JOINT VENTURE, OR LIMITED LIABILITY COMPANY

_____
Legal Name

By: _____
Signature

_____
(Type Name & Title)

_____
Legal Name

By: _____
Signature

_____
(Type Name & Title)

Attest: _____

Name of Managing Partner:

_____

Witness: _____

By: _____
Signature of Authorized Representative of the Entity

Corporate Seal

(ATTACH ADDITIONAL SHEETS FOR EACH JOINT VENTURER, AS NEEDED)

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: _____