Memorandum

MIAMI-DADE COUNTY

Date: July 13, 2026

ASC
Agenda Item No. 3(J)

To: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

Subject: Recommendation to Award a Contract for a Lease and Concession Agreement for an American Sports Bar at Miami International Airport

---

Executive Summary

This item is for award of a contract for a revenue-generating lease and concession agreement for an American sports bar food and beverage concession at the Miami-International Airport (MIA) for the Miami-Dade Aviation Department (MDAD). The concession will provide a broad menu to appeal to the maximum number of passengers and feature a U.S. stadium-inspired concept, including items typically associated with sporting venues and sports bars across the United States. The contract is projected to generate approximately **$12,000,000 in revenues to MDAD** over the term of the agreement.

This item directly supports MIA's *Modernization in Action* initiative by advancing the airport's comprehensive effort to modernize terminal amenities, elevate the passenger experience, and strengthen non-aeronautical revenue streams as part of its long-term Future-Ready transformation. The introduction of a contemporary sports bar concept enhances the diversity, quality, and competitiveness of MIA's food and beverage offerings, reflecting evolving passenger expectations for elevated dining, comfort, and entertainment while traveling.

The availability of a sports bar can significantly enhance the airport experience for passengers seeking more than traditional fast-food options, offering a welcoming space to relax and unwind while awaiting flights – particularly during peak travel periods and major sporting events. Approval of this item supports MIA's role as a leading global gateway by aligning customer experience enhancements with strategic revenue generation, while reinforcing MDAD's commitment to delivering modern, dynamic, and passenger-focused concessions.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a revenue-generating competitive contract award, *Contract No. EVN0000341, American Sports Bar at MIA*, to SSP America MIA, LLC with projected revenue of $12,000,000 for a 10-year term for MDAD.

Background

A Request for Proposals was issued under full and open competition on June 23, 2024. On the closing date of September 13, 2024, the County received three proposals, including two from local firms. On September 23, 2024, the proposals were provided to the former Office of Small Business Development (SBD) for Airport Concession Disadvantaged Business Enterprise (ACDBE) goal compliance review. On October 1, 2024, SBD determined that only the proposal from SSP America MIA, LLC was compliant. Additionally, upon review of the proposals received, staff identified potential responsiveness issues and requested a legal opinion to ascertain whether they were responsive. Subsequently, on October 28, 2024, the County Attorney's Office (CAO) deemed two proposals non-responsive, as they both failed to submit pricing.

An evaluation meeting was held on December 12, 2024. Negotiations commenced on February 20, 2025, and concluded on April 4, 2025, as there were delays associated with scheduling conflicts. Edits were required to the negotiated contract, due to revised guidance from the Federal Aviation Administration (FAA) which required the integration of new or updated federal provisions into Miami-

Dade County agreements to maintain eligibility for federal funding. Additionally, new terms were added to the lease agreement recently approved by the Board for MIA concessions, to include, but not be limited to, mobile app participation, increased fees for damages/violations, revised payment security requirements, customer experience fee, common infrastructure and maintenance fee, revised amortization schedule requirements, market basket/pricing policy, and transfer fees on sale or assignment. Further delays were caused as the vendor took several months to provide a copy of their executed joint venture agreement and other pertinent information, in addition to requests for edits to the agreement that were not originally approved by the County. A copy of the Coordinator's Report is attached.

The contract provides for the finance, design, construction, management, operation, and maintenance of an American Sports Bar food and beverage concept. This concession will be located on the third floor of the Concourse E Satellite Building at MIA. The bar will provide a menu which includes a full range of breakfast, appetizers, hot meals, salads, desserts, and healthy options for the traveling public. Menu items will be priced to be considered as "reasonable" to Airport patrons and both domestic and international travelers. Menu items and pricing offered for sale are subject to MDAD's approval. The contract requires that the vendor pays the County the greater of either a percentage of gross revenues earned at its location (18% for alcohol sales and 14% for all other sales) or the prevailing Class VI Terminal rental rate for the lease of the location.

Scope
MIA is located within District 6, which is represented by Commissioner Natalie Milian Orbis; however, the impact of this item is countywide in nature.

Fiscal Impact/Funding Source
There will be a positive fiscal impact to the County for the 10-year term in the estimated amount of $12,000,000. The projected revenue is based on the vendor providing a percentage fee of gross revenues earned at 18% for alcohol sales and 14% for all other sales.

Department	Projected Revenue	Funding Source	Budgeted*	Contract Manager
MDAD	$12,000,000	Revenue Generating	FY 25-26 Proposed Budget, Volume 3, Page 199, Contractual Services	Sylvia Novela
Total	**$12,000,000**			

*The Adopted Budget Book was not finalized at the time this item was drafted. Therefore, the budget information above is based on the Proposed Budget Book.

Track Record/Monitor
Marie Williams of the Strategic Procurement Department (SPD) is the Procurement Contracting Manager.

Delegated Authority
If this item is approved, the County Mayor or County Mayor's designee will have the authority to execute the agreement and exercise all provisions of the contract, including any cancellation or extensions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award
Pursuant to Resolution No. R-477-18, the highest-ranked proposer is recommended in accordance with the method of award per the solicitation and is local.

Vendor	Principal Address	Local Address	Number of Employee Residents 1) Miami-Dade 2) Percentage*	Principal
SSP America MIA, LLC^	20408 Bashan Dr. Suite 300 Ashburn, VA	2100 NW 42 Ave Miami, FL	**1** **50%**	George Mboya

*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.
^*The joint venture partnership is comprised of majority partner SSP America, Inc. and Jeffy Van, LLC; Aviation Strategies and Trade Solutions, Inc.; Nakagawa, LLC; GramJax Food Group LLC; SJAC ATL Airport, LLC; and P and P Hospitality, LLC.*

Vendors Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
Iberico Tapas & Vinos, Inc.	Yes	Deemed non-compliant by SBD (memo attached) and non-responsive by the CAO (opinion attached)
TDL International	Yes	

Due Diligence

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues through various vendor responsibility lists and a keyword internet search. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Pursuant to Resolution No. R-252-25, efforts were made to identify any potential piggybacking opportunities prior to issuance of a competitive solicitation. No contracts were identified for accessing.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program does not apply.
- The Small Business Enterprise Selection Factor and Local Preference do not apply. A 15% ACDBE Goal applied to the original solicitation; however, in compliance with a U.S. Department of Transportation Interim Final Rule regarding DBE and ACDBE Program Implementation effective October 3, 2025, this goal has been zeroed out from the contract.
- The Living Wage Ordinance applies.

Attachment

Jimmy Morales
Chief Operating Officer

Memorandum

Date: January 2, 2025

To: Namita Uppal, C.P.M.
Director and Chief Procurement Officer
Strategic Procurement Department

Thru: Lydia Osborne, Ph.D., CPPO, CPPB, NIGP-CPP Lydia Osborne
Assistant Director

From: Heylicken Espinoza, CPPO Heylicken Espinoza
Selection Committee Coordinator

Subject: Report of Competitive Selection Committee for Request for Proposals (RFP) No. EVN0000341, American Sports Bar at MIA

The Strategic Procurement Department (SPD) issued a competitive Request for Proposals on June 23, 2024, on behalf of Miami-Dade Aviation Department, to obtain proposals from qualified firms for an American Sports Bar food and beverage concept at Miami International Airport (MIA). The proposed concept should provide a broad menu to appeal to the greatest number of passengers possible and have a U.S. stadium-inspired food menu which may include, but is not limited to, hamburgers, hot dogs, pizza, chicken wings, french fries, nachos, frozen treats, and other such items typically associated with sporting venues or sports bars across the United States. The County anticipates awarding a contract for ten years.

On September 13, 2024, three proposals were received in response to the solicitation. The Competitive Selection Committee (Committee) has completed the evaluation of the sole responsive proposal following the guidelines published in the solicitation.

Competitive Selection Committee meeting dates:
November 4, 2024, and November 6, 2024 (Kick-off)
December 12, 2024 (Evaluation, Scoring and Recommendation)

Verification of compliance with contract measures:
A 15% Airport Concession Disadvantaged Business Enterprise (ACDBE) goal was assigned to this solicitation. On September 23, 2024, proposals were provided to the Office of Small Business Development (SBD) for review. On October 2, 2024, SBD determined that the following proposer, SSP America MIA, LLC, was in compliance (see attached memo).

Verification of compliance with minimum qualification requirements and responsiveness:
The solicitation did not have any minimum qualification requirements.

On September 23, 2024, three proposals were forwarded to the County Attorney's Office (CAO) for review. The CAO responded on October 28, 2024, and deemed the proposals from Iberico Tapas & Vinos, Inc. and TDL International non-responsive. A copy of the CAO's opinion is attached.

Local Certified Veteran's Business Enterprise Preference:
Not applicable.

Office of the Inspector General (OIG) and/or Commission on Ethics and Public Trust (COE) Reports, Findings and/or Enforcement Documentation for Proposer and Subcontractor(s):
Staff submitted a request to OIG on September 17, 2024. A response was received on September 18, 2024, advising that no reports were found.

Staff submitted a request to COE on September 17, 2024. A response was received on September 19, 2024, advising that no reports were found.

Office of the Commission Auditor (OCA) Background Check:
On September 24, 2024, staff provided Committee members with the Neutrality Affidavits, along with the list of proposers and subcontractors, to complete. Staff submitted Committee member's completed Neutrality Affidavits and Resumes to OCA on October 4, 2024. A response from OCA was received on October 17, 2024. No conflicts of interest were identified.

Summary of scores:
The Committee conducted scoring in accordance with the criteria outlined in the solicitation. The Committee decided not to hold oral presentations. The final scores are as follows:

Proposer	***Technical Score*** *(max.4000)*	***Revenue Score*** *(max. 1000)*	***Total Combined Score*** *(max.5000)*	***Revenue Proposal Submitted***
SSP America MIA, LLC	3864	989	4853	14% of Gross Revenues Fee

Upon review of scores, there were no variances identified that exceeded 33% of the average score by all Committee members by criteria.

Local Preference:
Not applicable.

Administrative Leave Eligibility:
The Committee did not complete scoring of proposals within 30 calendar days of Selection Committee Coordinator's completion of required reviews. No member is eligible for paid administrative leave.

Deadlines for Completion of Tasks During Evaluation:
Implementing Order No. 3-34, Formation and Performance of Competitive Selection Committees and *Implementing Order No. 2-13, Guidelines and Procedures Regarding Legal Opinions,* establishes certain timeframes for the completion of reviews and receipt of information during the evaluation phase. Timeframes for completion of tasks are included in the table below:

Task	Date	Number of Days* per I.O.	Actual Number of Days*
Proposals received	9/13/2024		
Upon Proposal Submission: SPD Review within 10 Calendar Days			
SPD sent proposals to CAO for responsiveness	9/23/2024	10	10
SPD sent list of proposers/subcontractors to Committee members for Neutrality Affidavit/Resume	9/24/2024	10	11
SPD sent proposals to SBD for compliance with contract measures	9/23/2024	10	10
After SPD Review Above: Below Tasks Completed Concurrently within 30 Calendar Days Total			
Committee members returned completed Neutrality Affidavit/Resume to SPD (before date shown)	9/27/2024	3*	3
SPD sent received Neutrality Affidavit/Resume to OCA for background check	10/4/2024	NA	7
OCA returned background checks to SPD	10/17/2024	5*	9*
SBD provided compliance review	10/2/2024	10	9

Task	Date	Number of Days* per I.O.	Actual Number of Days*
CAO provided opinion to SPD	10/28/2024	30	35
After Above Tasks Completed, Conduct Scoring Meeting(s)**			
Scoring meeting	12/12/2024	30	45

* All numbers listed are calendar days except when marked with an asterisk are business days.
**Scoring to be scheduled within 30 days from all required background checks, responsiveness and compliance reviews

On September 24, 2024, SPD staff provided the Committee members with the Neutrality Affidavits, along with the list of proposers and subcontractors to complete. This was not provided within 10 calendar days from receipt of proposals. OCA did not return background checks to SPD within five business days from receipt due to a clerical error where an incorrect memo was initially sent by OCA. CAO did not provide a responsiveness opinion within 30 calendar days because additional time was needed to consider and research issues due to a lengthy proposal. Scoring was not conducted within 30 days of the Coordinator's completion of required reviews due to conflicting schedules of the Committee members and declared County holidays.

Negotiations:
The Committee recommends that the County enter into negotiations with the highest ranked proposer, SSP America MIA, LLC. The following individuals will participate in the negotiations:

Heylicken Espinoza, Procurement Contracting Officer 2, SPD
La'Veora McArthur, Aviation Senior Procurement Contracting Officer, MDAD
Andres Fernandez, Sr. Aviation Property Manager, MDAD

Technical and operational assistance and feedback will be requested from appropriate staff as needed during the negotiation process.

Consensus Statement:
The Committee recommends that the County enter into negotiations with SSP America MIA, LLC, based on their relevant experience, qualifications, and approach to providing the services as outlined in the solicitation. The Committee noted that SSP America MIA, LLC is a world-class global company, as demonstrated by their experience in many fields in airports around the globe, and is partnering with local entities to bring a legendary Miami brand to life at MIA. The overall proposal is very detailed in their articulation of management style, steps taken to create a high functioning point of service delivery, corporate culture, and service ethos, and demonstrates the firm's commitment to sustainability and knowledge and expertise needed to perform on this contract with experienced key personnel.

Copies of the score sheets are attached for each Committee member, as well as a composite score sheet. Your approval of the Committee's recommendation is requested.

Approved

Rita Silva
for Namita Uppal, C.P.M.
Director and Chief Procurement Officer

1/10/25
Date

RFP NO. EVN0000341
TITLE: American Sports Bar at MIA
EVALUATION OF PROPOSALS

COMPOSITE

EVALUATION CRITERIA / PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	SSP America MIA, LLC
Proposer's relevant experience, qualifications, and past performance.	250	**1250**	**1205**
Relevant experience and qualifications of key personnel, including key personnel of Subcontractors, that will be assigned to this project, and experience and qualifications of Subcontractors	150	**750**	**700**
Proposer's Approach to Providing the Services, including Management and Operations & Maintenance	200	**1000**	**990**
Proposer's Transition Plan and Implementation of Timeline	100	**500**	**485**
Proposer's Financial Capacity to Perform Services	100	**500**	**484**
Total Technical Points	**800**	**4000**	**3864**
Revenue Points	**200**	**1000**	**989**
TOTAL POINTS	**1000**	**5000**	**4853**
Ranking			

Chairperson:

Heylicken Espinoza — *Signature*

Heylicken Espinoza — *Print Name*

Reviewer:

Justin Espagnol — *Signature*

Jusitn Espagnol — *Print Name*

MDC007

RFP NO. EVN0000341
TITLE: American Sports Bar at MIA
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Mark Hatfield

EVALUATION CRITERIA / PROPOSERS	Maximum Points	SSP America MIA, LLC
Proposer's relevant experience, qualifications, and past performance.	250	**245**
Relevant experience and qualifications of key personnel, including key personnel of Subcontractors, that will be assigned to this project, and experience and qualifications of Subcontractors	150	**145**
Proposer's Approach to Providing the Services, including Management and Operations & Maintenance	200	**200**
Proposer's Transition Plan and Implementation of Timeline	100	**95**
Proposer's Financial Capacity to Perform Services	100	**99**
Total Technical Points	**800**	**784**
Revenue Points	**200**	**199**
TOTAL POINTS	**1000**	**983**

RFP NO. EVN0000341
TITLE: American Sports Bar at MIA
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Terry Floyd

EVALUATION CRITERIA / PROPOSERS	Maximum Points	SSP America MIA, LLC
Proposer's relevant experience, qualifications, and past performance.	250	**230**
Relevant experience and qualifications of key personnel, including key personnel of Subcontractors, that will be assigned to this project, and experience and qualifications of Subcontractors	150	**125**
Proposer's Approach to Providing the Services, including Management and Operations & Maintenance	200	**190**
Proposer's Transition Plan and Implementation of Timeline	100	**90**
Proposer's Financial Capacity to Perform Services	100	**95**
Total Technical Points	**800**	**730**
Revenue Points	**200**	**200**
TOTAL POINTS	**1000**	**930**

MDC009

RFP NO. EVN0000341
TITLE: American Sports Bar at MIA
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Cindy Ramos-Leal

EVALUATION CRITERIA / PROPOSERS	Maximum Points	SSP America MIA, LLC
Proposer's relevant experience, qualifications, and past performance.	250	**250**
Relevant experience and qualifications of key personnel, including key personnel of Subcontractors, that will be assigned to this project, and experience and qualifications of Subcontractors	150	**150**
Proposer's Approach to Providing the Services, including Management and Operations & Maintenance	200	**200**
Proposer's Transition Plan and Implementation of Timeline	100	**100**
Proposer's Financial Capacity to Perform Services	100	**100**
Total Technical Points	**800**	**800**
Revenue Points	**200**	**200**
TOTAL POINTS	**1000**	**1000**

MDC010

RFP NO. EVN0000341
TITLE: American Sports Bar at MIA
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Rolando Aedo

EVALUATION CRITERIA / PROPOSERS	Maximum Points	SSP America MIA, LLC
Proposer's relevant experience, qualifications, and past performance.	250	**230**
Relevant experience and qualifications of key personnel, including key personnel of Subcontractors, that will be assigned to this project, and experience and qualifications of Subcontractors	150	**130**
Proposer's Approach to Providing the Services, including Management and Operations & Maintenance	200	**200**
Proposer's Transition Plan and Implementation of Timeline	100	**100**
Proposer's Financial Capacity to Perform Services	100	**90**
Total Technical Points	**800**	**750**
Revenue Points	**200**	**190**
TOTAL POINTS	**1000**	**940**

MDC011

RFP NO. EVN0000341
TITLE: American Sports Bar at MIA
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Jason Rodriguez

EVALUATION CRITERIA / PROPOSERS	Maximum Points	SSP America MIA, LLC
Proposer's relevant experience, qualifications, and past performance.	250	**250**
Relevant experience and qualifications of key personnel, including key personnel of Subcontractors, that will be assigned to this project, and experience and qualifications of Subcontractors	150	**150**
Proposer's Approach to Providing the Services, including Management and Operations & Maintenance	200	**200**
Proposer's Transition Plan and Implementation of Timeline	100	**100**
Proposer's Financial Capacity to Perform Services	100	**100**
Total Technical Points	**800**	**800**
Revenue Points	**200**	**200**
TOTAL POINTS	**1000**	**1000**

MDC012

Memorandum

MIAMI-DADE COUNTY

DATE: October 1, 2024

TO: Namita Uppal, Director
Strategic Procurement Department

FROM: Gary Hartfield, Director
Office of Small Business Development

SUBJECT: Compliance Review
EVN0000341:American Sports Bar at MIA

The Office of Small Business Development (SBD) has completed its review of the subject project for compliance with the 15.00% Airport Concessions Disadvantaged Business Enterprise (ACDBE) Goal.

The Strategic Procurement Department provided a copy of the proposals submitted by each Proposer below. The following is the pre-award compliance status and summary:

FIRMS	STATUS
1. Ibericos Tapas & Vinos, Inc.	**Non-Compliant**
2. SSP America MIA, LLC	**Compliant**
3. TDL International	**Non-Compliant**

SUMMARY:

Ibericos Tapas & Vinos, Inc. (#1) a non-certified ACDBE firm submitted the following documents with its proposal: a RFP/A&E/DB Proposal Submittal form, a Subcontracting Form confirming no subcontractors or direct supplier will be utilized pursuant to this solicitation, and a copy of the INFORMS Bid Details form. Ibericos Tapas & Vinos, Inc. failed to submit a Schedule 1 - Utilization Form, Schedule 2 – Schedule of Participation by ACDBE form, Schedule 3 - Letter of Intent form and Schedule 4 – ACDBE Experience Sheet. Additionally, Ibericos Tapas & Vinos, Inc. also failed to submit any other documentation with its proposal to demonstrate its ability to meet the ACDBE goal requirement. As a result of Ibericos Tapas & Vinos, Inc.'s failure to submit the required evidence for compliance with the ACDBE Participation or good faith efforts as outlined in Appendix 1 Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation Plan/Provision, their proposal is **non-complaint**. Ibericos Tapas & Vinos, Inc. was notified of their **non-complaint** status on September 27, 2024. The firm contacted SBD via phone on same day – as a result, the firm provided no additional documents, its submittal remains as non-compliant.

SSP America MIA, LLC (#2.) a non-certified ACDBE firm, submitted the following documents with its proposal; a RFP/A&E/DB Proposal Submittal form, a Subcontracting Form confirming no subcontractors or direct supplier will be utilized pursuant to this solicitation, Attachment B - Revenue Proposal Schedule; An ACDBE Schedule 1 – Utilization Form; a ACDBE Schedule 2 - Schedule of Participation by ACDBE Firms form; Schedule 3 - Letter of Intent form; Schedule 4 – ACDBE Experience Sheet; a Agreement to Enter into Joint Venture signature form; a Memorandum of Agreement (Proposer and Union Local 355); a drafted "Joint Venture" Operating Agreement; ACDBE Certification Letter /proof of Certification forms; Day-To-Day Operations Information; Exhibit O – Common Carrier Attestation form; a Lobbyist Registration Affidavit form; Attachment E - a Contractor Due Diligence Affidavit, Attachment F – Entities of Foreign Countries affidavit; Attachment G - an Acceptance of Sensitive Security Non-Disclosure Affidavit; a Non-Disclosure Agreement.

SSP America MIA, LLC is in compliance with the 15.00% ACDBE goal established for this solicitation. and **is compliant** with Appendix 1 - Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation Plan/Provision.

TDL International (#3) a non-certified ACDBE firm submitted the following documents with its proposal: with its proposal the following documents: a RFP/A&E/DB Proposal Submittal form; a Subcontracting Form confirming no subcontractors or direct supplier will be utilized pursuant to this solicitation; and a copy of the INFORMS Bid Details form. TDL International failed to submit a Schedule 1 - Utilization Form, Schedule 2 – Schedule of Participation by ACDBE form, Schedule 3 - Letter of Intent form and Schedule 4 – ACDBE Experience Sheet. Additionally, TDL International also failed to submit any other documentation with its proposal to demonstrate its ability to meet the ACDBE goal requirement. As a result of TDL International's failure to submit the required evidence for compliance with the ACDBE Participation or good faith efforts as outlined in Appendix 1 Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation Plan/Provision, their proposal is **non-complaint**. TDL International was notified of their non-compliant status on September 27, 2024 however no response was received upon notice.

Please note that SBD's review is specific to the ACDBE Pre-award Compliance process applied to this project. The Strategic Procurement Department is responsible for any other issues that may exist. Should you have any questions or need any additional information, please do not hesitate to call Etheria Rolle-Collie, SBD Section Manager at (305) 375-3190.

c: Laurie Johnson, SBD
Marie Williams, SPD
Heylicken Espinoza, SPD
File

COUNTY ATTORNEY
MIAMI-DADE COUNTY, FLORIDA

David M. Murray
Assistant County Attorney
dmmurray@flymia.com

AVIATION DEPARTMENT
P.O. BOX 025504
MIAMI, FLORIDA 33102-5504
Phone: (305) 876-7040
Fax: (305) 876-7294

MEMORANDUM

TO: Heylicken Espinoza
Procurement Contracting Officer 2
Strategic Procurement Department

FROM: David M. Murray
Assistant County Attorney

DATE: October 7th, 2024

SUBJECT: Request for Responsiveness Determination RFP No. EVN0000341 – American Sports Bar at MIA

You have asked if various firms which submitted responses are responsive. IBERICOS TAPAS & VINOS, INC and TDL INTERNATIONAL are not responsive. SSP America's is responsive.

Both Ibericos and TDL failed to include a price proposal with their submittal. While this office has held that the failure to include documents in an RFP is not necessarily fatal, this holding does not extend to absent price forms. Price is a material component of the RFP, and the failure to include price forms renders the proposals non-responsive.

SSP America Miami LLC marked several pages of its proposal confidential. However, SSP also signed the waiver of confidentiality in the RFP documents, which controls over any markings to the contrary in their submittal. SSP is responsive.

MEMORANDUM

(Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: September 1, 2026

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No.

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**
_____	**Statement of social equity required**
_____	**Ordinance creating a new board requires detailed County Mayor's report for public hearing**
_____	**No committee review**
_____	**Requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, majority plus one ____, CDMP 7 votes (majority of membership) ____, CDMP 2/3 members present but not less than 7 votes (majority of membership) ____, CDMP 9 votes (2/3 membership) _____) to approve**
✓	**Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor Agenda Item No.
Veto _____
Override _____

RESOLUTION NO. _____

RESOLUTION APPROVING AWARD OF A COMPETITIVE REVENUE-GENERATING CONTRACT, CONTRACT NO. EVN0000341, AMERICAN SPORTS BAR AT MIA, TO SSP AMERICA MIA, LLC WITH PROJECTED REVENUE OF $12,000,000.00 FOR A 10-YEAR TERM FOR MIAMI-DADE AVIATION DEPARTMENT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSIONS, PURSUANT TO SECTION 2-8.1(B) OF THE CODE OF MIAMI- DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying County Mayor's 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:

Section 1. This Board approves the award of a competitive revenue-generating contract, Contract No. EVN0000341, to American Sports Bar at MIA, in substantially the form attached and made a part hereof, to SSP America MIA, LLC with projected revenue of $12,000,000.00 for a 10-year term for the Miami-Dade Aviation Department.

Section 2. This Board authorizes the County Mayor or County Mayor's designee to execute the agreement and to exercise all provisions of the contract, including any cancellation or extensions, pursuant to section 2-8.1 of the Code of Miami-Dade County, Florida and Implementing Order 3-38.

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

Anthony Rodriguez, Chairman
Kionne L. McGhee, Vice Chairman

Marleine Bastien	Juan Carlos Bermudez
Sen. René García	Oliver G. Gilbert, III
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Vicki L. Lopez
Natalie Milian Orbis	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of September, 2026. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By:_____
Deputy Clerk

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

David M. Murray

LEASE AND CONCESSION

AGREEMENT

BY AND BETWEEN

MIAMI-DADE COUNTY, FLORIDA

AND

SSP AMERICA MIA, LLC

CONCESSIONAIRE

FOR AMERICAN SPORTS BAR

AT

MIAMI INTERNATIONAL AIRPORT

TABLE OF CONTENTS

	Page
Definitions	1
Article 1 – Term, Extension and Location	**5**
1.01 Term	5
1.02 Not Used (Extension)	5
1.03 Location	5
1.04 Support/Storage Space	5
1.05 Not Used (Storage Space)	6
1.06 Common Warehouse System	6
1.07 Addition, Deletion and Modification of Location	6
1.08 Non-exclusivity	7
1.09 Condition of the Location	7
1.10 Capital Improvement Program	8
Article 2 – Use of Location	**8**
2.01 Location	8
2.02 Use of Location	8
2.03 Concessionaire Services and Sales Rights	8
2.04 Not Used (New Concepts)	8
2.05 Scope of Services	9
2.06 Not Used (Annual Marketing Plan Submission)	9
2.07 Prohibited Activities	9
Article 3 – Rentals, Payments and Reports	**9**
3.01 Not Used (Minimum Annual Guarantee)	9
3.02 No Negotiations or Administrative Modifications	9
3.03 Not Used (Recalculation of the Minimum Annual Guarantee)	9
3.04 Percentage Fee to the Department	10
3.05 Concession Category Percentage Fee	10
3.06 Annual Rent	10
3.07 Annual Rental Rate Adjustment	10
3.08 Common Warehouse Logistics Fee	11
3.09 Concession Marketing Fee	11
3.10 Not Used (MAG Performance Bond)	11
3.11 Taxes	11
3.12 Reports of Gross Revenues	12
3.13 Other Reports	12
3.14 Late Payment	12
3.15 Dishonored Check or Draft	12
3.16 Address for Payments	12
3.17 Revenue Control Procedures	13
3.18 Annual Audit	13

3.19 Right to Audit/Inspect 13
3.20 Records and Reports 14
3.21 Additional Fees Due 15
3.22 Utilities 15
3.23 Damages 16
3.24 Payment Security 17
3.25 Accounts Receivable Adjustments 19
3.26 Payment Card Industry Data Security Requirements 19
3.27 Payment Card Industry Data Security Compliance 20
3.28 Department's Technology Installation Rights 25
3.29 Customer Experience Fee 26
3.30 Common Infrastructure Repair and Maintenance Fee 26

Article 4 – Improvements to the Location 27
4.01 Improvements to Location 27
4.02 Design of Improvements 28
4.03 Refurbishment of Location 28
4.04 Certain Construction Contract Terms 28
4.05 Improvements Free and Clear 28
4.06 Other Requirements 29
4.07 Review of Construction 29
4.08 Cost Documentation 29
4.09 Amortization Schedule 30
4.10 Construction Permit Fee 31
4.11 Construction Services 31
4.12 Sustainable Buildings Program 33

Article 5 – Standards of Operation 33
5.01 Standards of Operation 33
5.02 Market Basket/Competitive Pricing Policy 34
5.03 Department Right to Monitor Performance 35

Article 6 – Obligations of the Department 36
6.01 Department Services 36

Article 7 – Furniture, Fixtures, and Equipment 38
7.01 Furniture, Fixtures, and Equipment 38
7.02 Americans with Disabilities Act Requirements 38
7.03 Disposal of Furniture, Fixtures, and Equipment 38

Article 8 – Maintenance 39
8.01 Cleaning 39
8.02 Removal of Trash 39
8.03 Maintenance and Repair 39
8.04 Failure to Maintain 40
8.05 Environmental Recycling 40

8.06 Fire Protection and Safety Equipment 41

Article 9 – Assignment and Ownership 41
9.01 No Assignment 41
9.02 Ownership of the Concessionaire 41
9.03 Change of Control 41
9.04 Holdover 41
9.05 Transfer Fee on Sale or Assignment 42

Article 10 – Indemnification 42
10.01 Indemnification Required of Concessionaire 42

Article 11 – Insurance 43
11.01 Insurance Required of Concessionaire 43
11.02 Certificate of Continuity 44
11.03 Insurance Company Rating Requirements 44
11.04 Concessionaire Liable 44
11.05 Cancellation of Insurance or Bonds 45
11.06 Right to Examine 45
11.07 Personal Property 45
11.08 Survival of Provisions 45
11.09 Indemnification, Construction Bonds and Insurance Required 45

Article 12 – Default and Termination by County 48
12.01 Events of Default 48
12.02 Payment Default 49
12.03 Other Defaults 49
12.04 Habitual Default 50
12.05 Notice of Default and Opportunity to Cure 50
12.06 Unamortized Investment Extinguished 50
12.07 Termination for Abandonment 50
12.08 Termination for Cause 51
12.09 Termination for Convenience 51
12.10 Adequate Assurances 51
12.11 Actions at Termination 52

Article 13 – Claims and Termination by Concessionaire 52
13.01 Administrative Claim Procedures 52
13.02 Termination 53

Article 14 – Airport Concession Disadvantaged Business (ACDBE) Enterprise 53
14.01 ACDBE Requirements 53
14.02 Counting ACDBE Participation toward Contract Goals 54
14.03 ACDBE Goal Achieved through Joint Venture ("JV") 55
14.04 Certification – Airport Concession Disadvantaged Business Enterprise (ACDBE) 55

14.05 Affirmative Action and Airport Concession Disadvantaged Business Enterprise Programs 56
14.06 ACDBE Monitoring, Assistance and Training Program 57
14.07 Airport Concession Disadvantaged Business Enterprise Participation Plan 58

Article 15 – Rules, Regulations and Permits 58
15.01 Rules and Regulations 58
15.02 Violations of Rules and Regulations 59
15.03 Permits and Licenses 59
15.04 Prohibition on Using Products Containing Trans-Fats Resolution No. R-456-07 59
15.05 Labor Peace Requirement–Resolution No. R-148-07 59
15.06 Living Wage 60
15.07 Miami Dade Aviation Department Operational Directives 60
15.08 Distribution of Single-Use Plastics and Polystyrene to Consumers on County Property 60

Article 16 – Governing Law 61
16.01 Governing Law; Venue 61
16.02 Notice of Commencement of Civil Action 61
16.03 Registered Office/Agent Jurisdiction 61

Article 17 – Trust Agreement 62
17.01 Incorporation of Trust Agreement by Reference 62
17.02 Adjustment of Terms and Conditions 62
17.03 Inspections 62
17.04 Independent Private Sector Inspector General Review 63
17.05 Miami-Dade County Inspector General Review 63

Article 18 – Other Provisions 64
18.01 Payment of Taxes 64
18.02 Alterations by Concessionaire 64
18.03 Rights to be Exercised by Department 64
18.04 Administrative Modifications 64
18.05 Security 65
18.06 Rights of Department at Airport 65
18.07 Other Department Rights 65
18.08 Federal Subordination 65
18.09 Notices 65
18.10 Severability 66
18.11 Rights Reserved to Department 66
18.12 County Lien 66
18.13 Authorized Uses Only 66
18.14 No Waiver 67
18.15 Secured Areas/Airfield Operations Area (AOA) Sterile Areas Security 67
18.16 Intent of Agreement 69

18.17 Modifications 69
18.18 Radon Disclosure 70
18.19 Trademarks and Licenses 70
18.20 Headings 70
18.21 Binding Effect 70
18.22 Governmental Department 70
18.23 Independent Contractor 70
18.24 Other Liens 71
18.25 First Source Hiring Referral Program 71
18.26 Right to Regulate 71

Article 19 – Not Used (Sub-Leases) 71

Article 20 – Waiver of Claims 72

Article 21 – Required, General and Miscellaneous Provisions 72
21.01 Agreements with State of Florida and Miami-Dade County 72
21.02 Right to Amend 72
21.03 Concessionaire Covenants and Assurances 72
21.04 Right to Modify 75
21.05 Tax Exempt Status of Department Revenue Bonds 75
21.06 Remedies 75
21.07 Regulations of Department 75
21.08 Interest 75
21.09 Miscellaneous Provisions 76
21.10 Force Majeure 77
21.11 Aspirational Policy Regarding Diversity and Employability 77
21.12 Public Records and Contracts for Services Performed on Behalf of Miami-Dade County 78
21.13 Entire Agreement 78
21.14 Federal Aviation Administration (FAA) Special Provisions 78
21.15 U.S. Soccer Federation 2026 World Cup 79
21.16 Supplier/Vendor Registration/Conflict Of Interest 79
21.17 County User Access Program (UAP) 80
21.18 Prohibition Against Governmental Entity Contracts With Common Carrier or Contracted Carrier 80
21.19 Cybersecurity and Information Technology Procurement and Protection Program 81
21.20 Verification of Employment Eligibility (E-Verify) 82
21.21 Pouring Rights 83
21.22 Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit 83
21.23 Order of Precedence 84
Signature Page 85

Attachments

Exhibit A: Location
Exhibit B: Scope of Services
Exhibit C: Surety Performance and Payment Bond
Exhibit D: Payment Security (Lease Guarantee Bond)
Exhibit E: Central Terminal Retail Concessions Design Guidelines (link provided)
Exhibit F: Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N)
Tenant Airport Construction Reimbursable Procedures (TAC-R) (links provided)
Exhibit G: Independent Audit Report
Exhibit H: Executed Affidavits and Condition of Award Certificates(from Concessionaire)
Exhibit I: Monthly Report of Gross Revenues
Exhibit J: TSA Prohibited Items (link provided)
Exhibit K: Tenant Handbook
Exhibit L: Signed Labor Peace Agreement (from Concessionaire)
Exhibit M: Implementing Order 3-58 – First Source Hiring Referral Program (link provided)
Exhibit N: Common Carrier or Contracted Carrier Attestation Form
Exhibit O - Information Technology Security Matrix
Exhibit P: FAA Provisions
Appendix I - Airport Concession Disadvantaged Business Enterprise Participation Plan/Provision and Schedules 1 through 8

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 **"Agreement"** shall mean this Lease and Concession Agreement including all exhibits and attachments thereto and a part thereof entered into by the County and the Concessionaire.

The term **"Airport"** shall mean Miami International Airport.

The terms "**Airport Concession Disadvantaged Business Enterprises" or "ACDBE"** shall mean a concession that is a for-profit small business concern (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and (2) 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 term **"AS IS"** shall mean that the Concessionaire will receive a Location that is not in a "prepared shell" (vanilla box) condition. Assumption of an AS IS space may include a demolition phase in the project.

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

The term **"Base Building Work"** shall mean the sub-flooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures, and fixtures which the County installs or causes to be installed in the terminal building. Base Building Work includes delivery of the Location in Shell Condition. Location E2144 is being offered in an "As-Is" condition.

The term **"Beneficial Occupancy"** shall mean the earliest of (i) the date on which substantial completion of the Work associated with any improvement on the premises has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy (COO) or a Temporary Certificate of Occupancy (TCO) that enables the Concessionaire to occupy or utilize the improvement in any manner for its intended use, (ii) the date on which the Concessionaire commences the use of any improvement for its intended use (with or without a TCO or COO), or (iii) the date on which substantial completion of the improvement would have occurred and on which the appropriate code enforcement agency would have issued a TCO or COO but for the occurrence of Lessee's delays, all as determined in the sole reasonable discretion of the County.

The term **"Board**" shall mean 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 terminal area, landside, or airside, which is known as Concourses E, F and G.

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

The term **"Common Logistics Fee"** shall mean an amount to be invoiced as a separate line item and collected from the Concessionaire for the purpose of reimbursing, without profit or administrative markup, a County imposed or approved logistics program which the Concessionaire may be reimbursed for actual out-of-pocket expenses incurred excluding any administrative overhead in order to lease off-Airport properties for storage or operate on the Airport and operating a common logistical support service as may be necessary for the efficient operation of the Retail Program. The Concessionaire will implement an equitable and reasonable formula to calculate and allocate this fee among relevant Sub-tenants (if applicable).

The term **"Common Logistics Program"** shall mean a program to offer logistics support either on or off Airport which may include leasing of Airport property for storage, delivery services or equipment necessary to the operation of a common logistics system.

The term **"Concessionaire"** shall mean the person, firm, or entity that enters into this Lease and Concession Agreement with the County.

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

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

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

The term **"Gross Revenues"** shall mean all monies paid or payable to or consideration of determinable value received by the Concessionaire in operation under the Agreement, regardless of when or where the order therefore is received, or the goods delivered, 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, or taxes imposed by law, which are separately stated to and actually paid by a customer and directly payable by the Concessionaire to a taxing authority and sales refunds.

The term **"Lease Commencement Date"** shall mean, the date of Beneficial Occupancy of the Location or 180 Days after the Turnover Date. The Turnover Date may be extended due to governmental caused delays or force majeure as defined in Sub-article 21.10, "Force Majeure" of the Agreement. The Concessionaire shall commence payment of rent pursuant Sub-article 3.06, "Annual Rent" upon the Lease Commencement Date.

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

The term **"Living Wage"** shall mean those wages paid to the Concessionaires employees pursuant to Section 2-8.9 of the Code of Miami-Dade County, and Administrative Order No. 3-30, as amended. The Concessionaire shall also ensure that its subcontractors comply with the order in respect to their employees.

The term **"Location"** shall mean the concession Location as depicted in Exhibit A, "Location" from which Concessionaire offers goods or services to sell to the traveling public.

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

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

The term **"Retail Concession Design Guidelines"** shall mean MIA's distinct design guidelines in the North, Central, and South Terminals.

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

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

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

The term "**Support Space**" shall mean those areas located outside the Location under lease by the Concessionaire at the Airport for office or administrative functions, storage of goods and materials, prep areas, or areas not generally accessible to customers.

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

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

LEASE AND CONCESSION AGREEMENT FOR A NON-EXCLUSIVE FOOD AND BEVERAGE CONCESSION AT MIAMI INTERNATIONAL AIRPORT

THIS LEASE AND CONCESSION AGREEMENT is made and entered into as of this _____ day of _____, 20 _____, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida and SSP America MIA, LLC ("Concessionaire"), a Florida Limited Liability Company authorized to do business in the State of Florida.

RECITALS:

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

WHEREAS the concessions program is designed to provide a locally, nationally, and internationally recognized themed tenant base; and

WHEREAS, the food & beverage concessions program will enhance the accommodations and conveniences of airline passengers and Airport patrons, and project a positive image of the Airport, Department, and the County to visitors, as further described herein; and

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

ARTICLE 1 – TERM, EXTENSION AND LOCATION

1.01 TERM: The Department hereby leases to the Concessionaire the Location, Exhibit A, commencing upon the Lease Effective Date of this Agreement; and shall expire at 11:59 o'clock P.M. on the last day of the **tenth (10th)** year. The Agreement is subject to subsequent long term lease approval by the Federal Aviation Administration (FAA); in the event that the FAA determines that this lease is (1) both a long-term exclusive lease and (2) such lease is not approved by the FAA, the term of this Lease shall be deemed to be five years from the Lease Effective Date. In no event shall this Agreement afford Concessionaire or any other party any right to use or occupy the Location (or any part thereof) after the expiration, or termination of this Agreement.

1.02 NOT USED (EXTENSION)

1.03 LOCATION: The Department hereby provides to the Concessionaire the Location as depicted in Exhibit A, Location.

1.04 SUPPORT / STORAGE SPACE: In addition to the Location provided to the Concessionaire in **Sub-Article 1.03 "Location"**, the Department may provide Support

Space to the Concessionaire. Provision of the Support Space is at the sole discretion of MDAD, and MDAD does not guarantee that Support Space is available, or if available, is suitable for the needs of the Concessionaire. Lack of Support Space shall not excuse the Concessionaire from its obligations under this Agreement. The Concessionaire shall pay monthly rental payments for the spaces as provided for in **Sub-Article 3.06 "Annual Rental"**.

1.05 NOT USED (STORAGE SPACE):

1.06 COMMON WAREHOUSE SYSTEM: Due to the fact that storage space is limited in this Agreement and such space is separate from the Location, should the Concessionaire determine, in its sole discretion, the need to use off-Airport properties for storage space, the Concessionaire shall be entitled through itself, or through an independent third-party contractor, to operate a common logistical support service. The Department may elect to initiate a Common Logistics Program to assist in storage and delivery equipment and supplies in which case a Common Logistics Fee may be assessed to Concessionaire.

In the event of a Department initiated Common Logistics Program, the actual costs incurred to rent any such off-Airport properties for storage and/or the actual costs incurred to rent any such off-Airport properties for storage and the actual costs incurred in the operation of the common logistical support service program (including the purchase or renting of equipment needed to operate such program), as may be determined by the Department from time to time, shall be included in the Common Logistics Fee. All funds received by Concessionaire as part Common Logistics Fee shall not be included in Concessionaire's Gross Revenues for any and all purposes of this Agreement. The Department reserves the right to review the basis of the actual costs and allocation thereof should the Concessionaire elect to implement a common logistics support service program. The Department also reserves the right to approve such program and require that the Concessionaire impose the Common Logistics Fee in a non-discriminatory manner.

1.07 ADDITION, DELETION AND MODIFICATION OF LOCATION: This Agreement shall be administratively revised to reflect any additions, deletions, or modifications to the Location pursuant to the provisions herein. Such revision will include revised exhibits and appropriate changes to the Location in **Sub-Articles 1.03 "Location", 1.04 "Support Space", and 1.05 "Storage Space"** and total payments due the Department in accordance with **Article 3, "Rentals, Payments and Reports"** and **Article 2 "Use of Location".**

A. ADDITION OF LOCATION: If at any time after the Lease Effective Date, the Department, at its sole discretion, identifies any additional Location for concession development comparable to the concept categories in this Agreement, the Department may, but is not required to, offer such additional Location to the Concessionaire upon written notification. The Concessionaire will have thirty (30) Days to submit a written response accepting or rejecting the additional Location. Acceptance of any additional Location will require the Department and the Concessionaire to mutually agree upon an applicable retail category as described in Exhibit A at the applicable category percentage fee, **Sub-Article 3.05 "Concessions Category Percentage Fee"**, prior to final approval.

B. NOT USED (ADDITION OF TEMPORARY LOCATION)

C. DELETION OR MODIFICATION OF LOCATION: The Department reserves the right, at its sole discretion, to delete or modify any of the Location, or any administrative support and storage spaces due to Airport development/construction, operational necessity, and security or safety considerations. In the event of such deletion or modification the Concessionaire shall be given no less than: (i) thirty (30) Days written notice, for such deletion or modification due to operational necessity, and security or safety considerations; and (ii) sixty (60) Days written notice, for such deletion or modification due to development/construction.

The Department shall not be held liable to the Concessionaire except for reimbursement of the unamortized costs, pursuant to **Sub-Article 4.09 "Amortization Schedule"** for any inconvenience or loss of business as a result of the deletion or modification of any Location or other space pursuant to this Sub-Article.

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 Concessionaires and/or others in other locations at the Airport during the Term, and any Extension of this Agreement.

1.09 CONDITION OF THE LOCATION: CONCESSIONAIRE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE DEPARTMENT IS LEASING ALL LOCATION TO THE CONCESSIONAIRE ON AN "AS IS" BASIS AND THAT THE CONCESSIONAIRE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE DEPARTMENT OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THOSE LOCATION including: (i) the quality, nature, adequacy and physical condition and aspects of the Location, including utility systems; (ii) the existence, quality, nature, adequacy and physical condition of utilities serving the Location; (iii) the development potential of the Location, the use of the Location, and the habitability, merchantability, or fitness, suitability, value or adequacy of the Location for any particular purpose; (iv) the zoning or other legal status of the Location or any other public or private restrictions on use of the Location; (v) the compliance of the Location or its operation with any applicable laws, regulations, statutes, ordinances, codes, covenants, conditions, and restrictions of any governmental or quasi-governmental entity or of any other person or entity; (vi) the presence of hazardous materials or industrial wastes on, under or about the Location; (vii) the quality of any labor and materials used in any improvements on the Location; (viii) the condition of title to the Location; (ix) the agreements affecting the Location; and (x) the Proposal submitted by Concessionaire to the Department, including any statements relating to the potential profitability of such Proposal. Concessionaire represents and warrants that it has made an independent investigation of all aspects of its Proposal contemplated by this Agreement. Except as specifically provided in this Agreement, the Concessionaire has satisfied itself as to such suitability and other pertinent matters by the Concessionaire's own inquiries and tests into all matters relevant in determining whether to enter into this Agreement. The

Concessionaire accepts the Location in their existing condition, and hereby expressly agrees that if any remediation or restoration is required in order to conform the Location to the requirements of applicable law, the Concessionaire assumes sole responsibility for any such work.

Without limiting the preceding, the Concessionaire is additionally advised that the passenger traffic, terminal utilization, and airline locations at Miami International Airport may change over the course of this Agreement. The County shall not be liable for any decrease in profitability or increase in costs to Concessionaire on account of same, nor shall such causes relieve Concessionaire of its obligations under this Agreement.

1.10 CAPITAL IMPROVEMENT PROGRAM: The Capital Improvement Program (CIP) involves the refurbishment of terminal interiors, airline relocations, changes in access to the terminal and concourses, construction of new concession Location, and other improvements that may affect concession operations in the terminal building and on the concourses and access at the curbside or on the airfield. The CIP may affect the operation of the Location, and **THE DEPARTMENT NEITHER MAKES NOR IMPLIES ANY WARRANTIES AS TO THE EFFECT OF SUCH CAPITAL IMPROVEMENT PROGRAM ON SAID OPERATIONS DURING THE TERM AND ANY EXTENSION OF THIS AGREEMENT.**

ARTICLE 2 – USE OF LOCATION

2.01 LOCATION: The Location as referenced in Exhibit A, shall be used solely for their assigned and approved concept category. Failure to maintain the concept category pursuant to **Article 2 "Use of Location"** may result in Damages as indicated in **Sub-Article 3.23 "Damages"**.

2.02 USE OF LOCATION: The Concessionaire shall have the right, privilege, and obligation to develop, lease, market and manage to operate and maintain the Location, depicted in Exhibit A, for the purpose of establishing high quality, state of the art food and beverage concessions as approved by the Department. If Concessionaire is in violation of any law, rule, or regulation, the County may require Concessionaire to comply with same, irrespective of the failure of an Authority Having Jurisdiction to issue a citation, notice to cure, or other advisory document.

2.03 CONCESSIONAIRE SERVICES AND SALES RIGHTS: The Concessionaire shall not allow any services or the sale of any item or product not specifically covered by the categories approved in this Agreement. Any such sales by the Concessionaire of services, products, or items not specifically approved herein, in writing by the Department, may constitute a violation. In the event of such violation, the Concessionaire shall discontinue to discontinue the sale or service of the unapproved product immediately, upon written notice from the Department. Failure by Concessionaire to discontinue such sales within twenty-four (24) hours shall subject the Concessionaire to Damages pursuant to **Sub-Article 3.23 "Damages"**.

2.04 NOT USED (NEW CONCEPTS):

2.05 SCOPE OF SERVICES: See Exhibit B

2.06 NOT USED (ANNUAL MARKETING PLAN SUBMISSION):

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

ARTICLE 3 – RENTALS, PAYMENTS, AND REPORTS

3.01 NOT USED (MINIMUM ANNUAL GUARANTEE):

3.02 NO NEGOTIATIONS OR ADMINISTRATIVE MODIFICATIONS:

(a) The Concessionaire understands and agrees, as a condition precedent to the County's award of this Agreement, that the terms and conditions of **Sub-Article 3.04 "Percentage Fee to the Department"** are not subject to negotiation or adjustment for any reason, including, but 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.

(b) If the Concessionaire's Location are so damaged as to significantly impact the Concessionaire's operations for a period in excess of seventy-two (72) hours, and if the Concessionaire is not responsible, in whole or part, for such damage, the Department shall provide a proportionate abatement of the Rent for that portion of the Location rendered unusable for that period of time that the County is unable to make repairs required by **Sub-Article 6.01 "Department Services"**.

3.03 NOT USED (RECALCULATION OF THE MINIMUM ANNUAL GUARANTEE)

3.04 PERCENTAGE FEE TO THE DEPARTMENT: As consideration for the privilege to engage in business at Miami International Airport, the Concessionaire shall pay the Department the greater of (a) the Percentage of Gross Revenues Concessionaire earns at its respective Location per the Agreement ("Percentage Fee"), per Article 3.05,or (b) the prevailing Class VI Terminal rental rates for the lease of the Location. The Monthly Percentage Fee shall be due on the tenth (10^{th}) day of the month following the month during which the monthly gross revenues were received or accrued. Percentage fees are non-taxable.

The Monthly Percentage Fee payments to the Department shall commence upon the Beneficial Occupancy for the Location.

Monthly Percentage Fee payments to the Department payable on any unreported Gross Revenues, determined by the annual audit required pursuant to **Sub-Article 3.18 "Annual Audit"**, are considered as having been due on the tenth (10^{th}) day of the month following the month during which the unreported Gross Revenues were received or accrued.

3.05 CONCESSIONS CATEGORY PERCENTAGE FEE

The Concessionaire shall pay the Department a Percentage Fee of 14% percent of Gross Revenues for all sales except the sale of alcoholic beverages. The Concessionaire shall pay the Department a Percentage Fee of 18% of Gross Revenues generated from the sale of alcoholic beverages.

3.06 ANNUAL RENT: Solely in the event that payments pursuant to Section 3.04 above are not sufficient to cover the rent for the Locations, the Concessionaire shall be required to pay the prevailing Class VI Terminal rental rates for the lease of the Location, prorated and payable in equal monthly installments in U.S. funds, on the first day of each and every month with any payment received pursuant to Section 3.04 being applied towards such rental payment. In the event that payments pursuant to Section 3.04 are in excess of rent for the Locations, such payment shall be deemed to include rent and no further rent payments shall be required.

The Concessionaire shall be required to pay the prevailing Class VI Terminal rental rates for Support Space which includes administrative and/or support space. Payments shall commence on the Beneficial Occupancy date.

3.07 ANNUAL RENTAL RATE ADJUSTMENT: On October 1st of each year of the Agreement, the cost based rental rates, pursuant to **Sub-Article 3.06, "Annual Rental",** applicable to the Location, support space and storage space rented hereunder, shall be subject to recalculation and adjustment in accordance with the policies and formulae approved by the Board of County Commissioners, as may be amended from time to time. When such adjusted rental rates are established, this Agreement shall be considered and deemed to have been administratively amended to incorporate such adjusted rental rates, effective as of such October 1st date. Such adjusted rental rates shall be reflected by letter amendment. Payments for any retroactive rental adjustments shall be due upon billing by the Department and payable within ten (10) Days of same.

3.08 COMMON WAREHOUSE LOGISTICS FEE: In the event the Department initiates a Common Logistics Program the actual costs incurred to rent any such off-Airport properties for storage and the actual costs incurred in the operation of the common logistical support service program (including the purchase or renting of any equipment needed to operate such program), as may be determined by the Department and/or Concessionaire from time to time, shall be included in the Common Logistics Fee. The Department reserves the right to approve and review the basis of the actual costs and allocation thereof should the Concessionaire elect to implement a common logistics support service program. The Department also reserves the right to either itself impose or require that the Concessionaire impose the Common Logistics Fee in a non-discriminatory manner within store categories. In the event the County elects to implement such fee, the Concessionaire shall be notified, in writing, no less than forty-five (45) Days prior to the implementation of such fee. The Concessionaire may elect not to agree to the fee by opting out of the Agreement in its entirety, and, if so, must notify the Department thirty (30) Days after receipt of written notification by the Department. In the event the Concessionaire does not give such notice, the fee will be implemented accordingly.

3.09 CONCESSION MARKETING FEE: A concession marketing fee of one half (l/2) of one percent (1%) of Gross Revenues will be assessed annually to be paid to the Department monthly, beginning the month following the first Location opening, on the tenth (10^{th}) day of each month to be used for marketing the concessions at the Airport.

Mobile App Participation: Food and Beverage Concessionaires shall be required to participate in the Departments food ordering mobile app program, as may be amended from time to time. Other non-food and beverage Concessionaires shall have the option to participate at their own discretion. Costs for hardware/software and implementation shall be paid by the Department through the Concession Marketing Fee; Concessionaire shall provide access to its systems and operations such that implementation can be achieved.

3.10 NOT USED (MAG PERFORMANCE BOND)

3.11 TAXES: The Concessionaire shall be solely responsible for the payment of all applicable taxes, levied upon the fees and other charges payable by the Concessionaire 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 Concessionaire 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 Concessionaire and remitted to the taxing authority by the Department, or the amounts, if any, paid directly by the Concessionaire 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 tenth (10th) Day following the end of each month throughout the Term and any Extension of this Agreement, the Concessionaire shall furnish to the Department, a Statement of Monthly Gross Revenues, using Exhibit I "Monthly Report of Gross Revenues". The report shall list each Location under this Agreement, together with any percentage fee due to the Department pursuant to **Sub-Article 3.04 "Percentage Fee to the Department"**. The Concessionaire 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 Concessionaire. The statement must be signed by an officer (if the Concessionaire is a corporation), partner (if a partnership), or owner (if a sole proprietorship) of the Concessionaire and identify all Gross Revenues by Location reported to the Concessionaire during such month. Failure to provide the Monthly Report of Gross Revenues by the tenth (10th) 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 Concessionaire 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 Concessionaire 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 Concessionaire delivers a dishonored check or draft to the Department in payment of any obligation arising under this Agreement, the Concessionaire 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 Concessionaire shall pay all monies payable and identify the Lease and Concession Agreement for which payment is made, as required by this Agreement, to the following:

By Mail: Miami-Dade Aviation Department
Finance Division
P.O. Box 592624
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 Online Payment: Via the MIA-Pay website (www.miami-airport.com) by setting up user and password with an accurate invoice number.

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

3.18 ANNUAL AUDIT: Within ninety (90) days of each anniversary of the Lease Effective Date of this Agreement and within ninety (90) days following expiration or earlier termination of this Agreement, the Concessionaire shall, at its sole cost and expense, provide to the Department on an annual basis, an audited report of monthly Gross Revenues and percentage fees 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 monthly Gross Revenues and percentage fees paid to the Department under this Agreement, prepared in accordance with Generally Accepted Auditing Standards. The report shall also be accompanied by a management letter containing the findings discovered during the course of the examination, recommendations to improve accounting procedures, revenue, and internal controls, as well as significant matters under this Agreement. In addition, the audit shall also include as a separate report, a comprehensive compliance review of procedures to determine whether the books of accounts, records and reports were kept in accordance with the terms of this Agreement for the period of examination. Each audit and examination shall cover the period of this Agreement. The last such report shall include the last day of operation. There shall be no changes in the scope of the reports and letters required hereunder without the specific prior written approval of the Department. If such schedules indicate that the percentage fees for such period audited have been underpaid, the Concessionaire 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 percentage fees 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 Concessionaire 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 Concessionaire 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 located on the Airport, the Department shall give advance notice to the Concessionaire.

If it is established that the percentage fees have been underpaid to the Department, the Concessionaire 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 Concessionaire has underpaid percentage fees for any period examined by three percent (3%) or more, then the entire expense of such examination shall be borne by Concessionaire.

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 Concessionaire 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 Concessionaire shall, at all times during the Term and any Extension hereof and in accordance with applicable law, maintain at the Concessionaire's principal corporate office located in the United States and make available to the Department in Miami-Dade County, Florida, complete and accurate books and records of all receipts and disbursements from its operations on the Location, in a form consistent with good accounting practice. In addition, Concessionaire shall install or cause to be installed, for use at all times in each Location such devices and forms as are reasonably necessary to record properly, accurately and completely all merchandise sales and services from each Location. 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 Concessionaire 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 Concessionaire, and which supports the amounts reported to the Department in the Concessionaire's monthly schedules. At a minimum, the Concessionaire's accounting for such receipts shall include the following:

1. Concessionaire's bank account statements;
2. A compiled report of transactions by Location showing all Gross Revenues and all exclusions from Gross Revenues by category, which report shall be subtotaled by day and totaled by month. The monthly total shall correspond with the amounts reported to the Department on the Concessionaire's monthly "Revenue Reports"; and
3. Such other records, if any, which would normally be examined by an independent certified public accountant in performing an examination of the Concessionaire'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 Concessionaire's Gross Revenues hereunder. Upon ten (10) business days written notice from the Department, all such books and records shall be made available, either at the Location, or at the Department's option, at the offices of the Department, for inspection by Department through its duly authorized representatives at any time for up to three (3) years subsequent to final termination of the period to be examined to which such books and records relate (and the Concessionaire shall not be obligated to retain such books and records subsequent to the termination of such three (3) year period); provided, however, that any such inspection on the Location 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 Concessionaire's business.

3.21 ADDITIONAL FEES DUE: If the Department has paid any sum or has incurred any obligation or expense for which the Concessionaire 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 Concessionaire 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 UTILITIES: The cost of all utilities used or consumed on the Location shall be borne by the Concessionaire; provided, however, except with respect to the Concessionaire's support and storage space as defined in **Sub-Articles 1.04 "Support/Storage Space"** at the Airport, The Department requires the Concessionaire where such capability exists, to provide and install to provide and install meters for utilities used at the Concessionaire's. If the Location are not provided with separate electric, gas, and/or water meters, the Concessionaire agrees to pay for such utilities in the Location as a monthly charge, plus any applicable taxes, upon billing by the Department, or utility companies. If billed by the Department, the Department at its sole discretion, will base this monthly charge on (i) a survey of consumption by the Department and current non-discriminatory rates charged others in the Terminal building or (ii) at the option and expense of the Concessionaire on actual usage measured by temporary meters, arranged and paid for by the Concessionaire. This monthly charge may also be adjusted on a non-discriminatory basis and billed retroactively from time to time based on changes in consumption and rates.

Concessionaire hereby agrees to pay the same within thirty (30) Days after it has received Department's invoice thereof. The Concessionaire shall pay for all other utilities used by it including telephone and telephone service hook-up, data lines and additional electrical and communications services required.

3.23 DAMAGES:

If Concessionaire 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:

Failure to Comply with Performance Standards

A. Violations. Concessionaire acknowledges the Department objective to provide the public and air travelers with the level and quality of service as described herein. Provision of substandard quality concessions impacts the Airport's commercial reputation and commercial goodwill. Accordingly, the Department may assess, in its sole discretion, as liquidated damages for various violations of the provisions of this Agreement, the Standards of Operation, the Tenant Handbook, and/or Department Rules and Regulations or Operating Directives. The Concessionaire and Department agree that the liquidate damages set forth herein are reasonable, and the Concessionaire further agrees to pay to the Department such damages in accordance with the rates or in the amounts specified herein upon each occurrence of the specified violation and upon written demand by the Department. The Department will, in its sole discretion, determine the classification of each per day or per occurrence. Concessionaire further acknowledges that the damages herein are not exclusive remedies, and the Department may pursue other remedies as allowed for in this Agreement and at law, in Department sole discretion. The Department's waiver of any liquidated damage provided for in this Section shall not be construed as a waiver of the violation or Concessionaire's obligation to remedy the violation.

B. Multiple Violations. Except for violations of requirements regarding health and safety and delivery and vendor access infraction, Liquidated Damages for which shall accrue immediately and without notice upon violation, all other Liquidated Damages shall be assessed as follows:

1. For the first and second violation of a requirement during any 12-month rolling year, the Authority will provide notice to Concessionaire to correct the violation within the time specified in the notice.
2. For the third and subsequent violations of the same requirement during any 12-month rolling year commencing upon the first notice of violation, the Liquidated Damages shall be immediately assessed with no grace period.

3. Further, after two (2) violations of the same requirement within any 12-month rolling year, Department reserves the right, in its sole discretion, to deem the repeated violations a breach of Contract and to seek any other remedies available to it under this Contract including, but not limited to, termination.

Violation	Fee
Security Infractions	$500 per Day/per Location
Health Code Violations	$500 per Day/per Location
Violation of Permitted Use of a Location	$100 per Day/per Location
Operational Deficiencies	$100 per Day/per Location
Pricing Policy Infraction	$100 per Day/per Location
Late Pricing Survey	$100 per Day/per Location
Failure to Maintain Required Hours of Operation	$100 per hour/per Location
Failure to Submit Required Documents and Reports	$100 per Day/per Report
Unauthorized Advertising/Product Sale item.	$100 per Day/per Location per
Failure to Maintain Location clean	$100 per Day/per Location
Installation of Unapproved Items in Location item.	$100 per Day/per Location per
Violations of other terms and conditions	$100 per Day/per Location

The foregoing is due and payable from the Concessionaire.

3.24 **PAYMENT SECURITY:** Within thirty (30) Days of the Lease Effective Date of this Agreement, the Concessionaire shall provide the Department a Security Deposit in the form of a Performance Bond, irrevocable standby letter of credit or cash security to guarantee payment of the Annual Rent for the Location, and if any, of rental for the lease of support spaces, and any taxes applicable. If a Performance Bond is chosen, it shall be a surety bond. Concessionaire shall keep such Security Deposit 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. Any such form of security instrument shall be endorsed as to be readily negotiable by the Department for the payments required hereunder. Any Performance Bond or other security instrument used 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 Security Deposit shall be equal to **15% (if providing cash or letter of credit) or 25% (if providing a bond**), of total rent and applicable taxes for the lease of Location(s) and support spaces paid in the immediate prior fiscal year. Thereafter, the amount of the Security Deposit shall be adjusted as necessary to reflect any increase or decrease in the Annual Rent and lease of support space(s).

The Department may draw upon the Security Deposit, if the Concessionaire fails to pay any monies or perform any obligations required hereunder following applicable notice and

cure periods specified herein. Upon notice that a security instrument has been drawn upon, Concessionaire shall immediately replace the security instrument with the new security instrument in the full amount of the security instrument required hereunder. In the event the Security Deposit is in the form of a Performance Bond, 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 Concessionaire is not in default and fully complies with all the payment requirements of this Agreement, the payment security instrument will be returned to Concessionaire 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 I Key Rating Guide, published by A.M. Best Company:

Bond (Total Contract) Amount	Best's Rating
$ 500,001 to $1,500,000	BV
1,500,001 to 2,500,000	AVI
2,500,001 to 5,000,000	AVII
5,000,000 to 10,000,000	AVIII
Over $10,000,000	AIX

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 Concessionaire 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 Concessionaire must provide a good and sufficient replacement bond.

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

If any Concessionaire has a cash deposit with the Airport, such cash deposit will be used to pay for any outstanding invoices, and then future billing.

3.25 ACCOUNTS RECEIVABLE ADJUSTMENTS: In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Concessionaire to the County, whether under this Agreement or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Concessionaire under this Agreement. Such retained amount shall be applied to the amount owed by the Concessionaire to the County. The Concessionaire shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Concessionaire for the applicable payment due herein.

3.26 PAYMENT CARD INDUSTRY DATA SECURITY REQUIREMENTS: The

The Contractor shall adhere to Payment Card Industry (PCI) Data Security requirements. Contractor is responsible for security of cardholder data in its possession. Such data can ONLY be used for the purpose of providing the services in this Agreement, providing fraud control services or for other uses specifically required by law.

The Contractor shall provide business continuity in the event of a major disruption, disaster or failure. Contractor will contact the County's Chief Security Officer immediately to advise of any breaches in security where card data has been compromised. In the event of a security intrusion, the Contractor shall provide, at no cost to the County, a PCI representative, or a PCI approved third party with full cooperation and access to conduct a thorough security review. The review will validate compliance with the PCI Data Security Standard for protecting cardholder data.

The Contractor shall properly dispose of sensitive cardholder data when no longer needed and shall treat all cardholder data as confidential, including after the expiration of this Agreement. Contractor shall provide the County's PCI Compliance Officer, Finance Department at (305) 375-5245, documentation showing PCI Data Security certification has been achieved. Contractor shall advise the County's PCI Compliance Officer of all failures to comply with the PCI Data Security Requirements. Failures include but are not limited

to system scans and self-assessment questionnaires and if requested provide a timeline for corrective action.

3.27 PAYMENT CARD INDUSTRY DATA SECURITY COMPLIANCE

The Concessionaire shall comply with the Payment Card Industry Data Security Standards in effect throughout the term of this agreement. If at any time any of the components, including but not limited to the Concessionaire's system, equipment, hardware, software, or policies, becomes non-PCI compliant, the Concessionaire is responsible for all costs related to upgrading the system so that PCI compliance is maintained throughout the term of the agreement.

a. The Concessionaire confirms its knowledge of and commitment to comply by providing the following proof that the Concessionaire's devices/applications/processes meet current, published, PCI compliance requirements:

   1. The Concessionaire's current annual PCI Compliance certification, if applicable. The County has right to audit Concessionaire compliance by requesting copies of the Concessionaire's PCI compliance certifications at any time.
   2. During an installation or a major system upgrade, the Concessionaire must provide implementation manuals and detailed diagram(s) that show all cardholder data flows across MDC/s systems and networks, the internet, and the processor network.

b. Provide Security Matrix for new systems (Exhibit O - Information Technology Security Matrix). The Concessionaire shall resubmit the aforementioned passing, updated, completed, and signed PCI compliance documents annually to the County. Furthermore, the Concessionaire shall update its solution, when required, to remain compliant with all changes to the PCI standards and requirements by the implementation dates mandated by the PCI Security Council and remediate any critical security vulnerabilities within thirty (30) days of identification.

c. Concessionaire with third-party payment solutions shall provide the following upon County Department request in accordance with PCI requirement 12.9.2:

   1. PCI DSS compliance status information for any service the third-party Concessionaire performs on behalf of the department (PCI Req# 12.8.4).
   2. Documentation indicating which PCI DSS requirements are the responsibility of the Concessionaire, and which are the responsibility of the County Department, including any shared responsibilities (PCI Req# 12.8.5).

d. Sensitive Authentication data and Primary Account number shall not be stored by the Concessionaire's application at any point, even if masked. Any other Card holder data should not be stored by the Concessionaire's application unless it is absolutely needed for County's operations.

e. POS (Point of Sale) must be routed directly to Miami-Dade County's merchant provider and must be Europay, Mastercard and Visa (EMV) compliant. All POS devices must be capable

of accepting NFC (near field communications) payment methods such as Google Wallet, Apple Pay, or Samsung Wallet.

f. For payment processing applications, proof of validation must be countersigned by the PCI Council. Documentation to be submitted is as follows:

    1. AOC for the application - Attestation of Compliance
    2. Most current AOV – Attestation of Validation (when applicable)

g. Cashiering Application systems that utilize MDC network for payment processing must be a validated PCI Point-to-Point Encryption (P2PE) solution and transactions routed through our approved County merchant processor. The County's approved P2PE solution is Elavon's PCI Safe T P2PE Link Protect services. Confirmation of validated P2PE solution shall be provided as found on the PCI Council's P2PE Solutions website.

    https://listings.pcisecuritystandards.org/assessors_and_solutions/point_to_point_encryption_solutions?agree=true

    Prior to production going live, the P2PE Instruction Manual shall be provided as found on PCI website.

    https://www.pcisecuritystandards.org/documents/P2PE_v3.0_PIM_Template.docx?agreement=true&time=1645920000555.

h. Internet transactions and all other applications must be routed through Miami-Dade County's Internal Payment Gateway (Payment Card).

i. Exceptions to any of these requirements shall require written justification by the Department Director **prior to** purchase of software/hardware, including a cost/benefit analysis, and require written approval by both the Miami Dade County Finance Director.

j. Transactions processed through the Miami-Dade County Internal Payment Gateway are prohibited from accepting / processing PIN numbers for security reasons. Miami-Dade County provides two basic services that allow the Concessionaire's application to interact with its Payment Gateways:

    1. Web-based Credit Card Transaction Service
    2. Recurring Payment Service (for monthly or yearly recurring payments). This service will allow merchants to develop recurring credit card payments on behalf of their payers. This is a SOAP Web Service, and Miami-Dade County will provide the service WSDL and the necessary documentation. The Recurring Payment Service is PCI-compliant, and all the sensitive credit card data is stored offsite in the County's clearinghouse.

There are three different ways that a merchant customer can handle the Credit Card transaction processing:

a. Option #1:

The Concessionaire's application interfaces directly with Miami-Dade County's Payment Gateway via a RESTful web-service. Miami-Dade County will provide the XML schemas to all basic services: web payment processing, void, refund, and recurring payments. Miami-Dade County will also provide all the necessary URLs for these services, as well as documentation detailing fields and response codes. All services will respond with the same XML receipt.

This solution will require the Concessionaire's application to fully interact with Miami-Dade County's Payment Gateway, reacting to processing and system errors. Even though this solution requires more development and integration from the Concessionaire, it will offer the greatest flexibility and customization level. This option also requires for the Concessionaire's application to be hosted on a server inside the County's managed network, since Miami-Dade County's Payment Gateway is not accessible from the Internet. If the application is outside of the County's Managed network, Miami-Dade County can develop a Payment Module Application (option #2) that will service the Concessionaire's application.

b. Option #2:

The Concessionaire's application will utilize a Payment Module Web Application developed and maintained by Miami-Dade County. This solution can be a standard web application, a mobile web application, or both. A link will be provided on the Concessionaire's application that sends payers to the Payment Module Application. For example, once the payer has selected the items to purchase (from the Concessionaire's application), there would be a "Pay Now" button that will redirect the payer to the Miami-Dade County Payment Module via HTTPs post, carrying all the necessary data to begin the payment process (User ID, Amount, etc.). This requires only minor development effort on the Concessionaire's side. The Concessionaire will agree on custom fields to be passed to the Miami-Dade County Payment Module via HTTP protocol over TLS 1.2 or higher (only secure connections are accepted; SSL protocol is not accepted). In turn, the Miami-Dade County Payment Module will collect the payment information and process the transaction via the Miami-Dade County Internal Payment Gateway. Results will be posted back (post back URL is provided by the client application) to the Concessionaire's application. This solution will not require the Concessionaire's application to be hosted in the County's managed network. The Miami-Dade County Payment Module handles all processing and system errors, simplifying the integration effort on the Concessionaire's side.

c. Option #3:

If the Concessionaire's solution cannot interface directly with Miami-Dade County's Payment Gateway, provided the solution is compliant with the current version of the PCI Data Security Standards (PCI DSS 4.0.1 or later), the Concessionaire must provide independent validation of its compliance, including but not limited to attestation of compliance, vulnerability assessments, and penetration testing results from a qualified security assessor (QSA) for review and approval. This evidence must demonstrate that the Concessionaire's solution meets all relevant PCI DSS requirements for secure cardholder

data environments (CDEs) and maintains appropriate security controls and monitoring mechanisms.

For approval, the Concessionaire must submit a detailed technical architecture, including data flow diagrams showing all interactions with Miami-Dade County systems and a comprehensive description of the security measures in place to protect cardholder data by the Concessionaire and any sub-contractors included in the process. This documentation will be reviewed by the Miami-Dade County PCI Committee, which must approve the solution before submitting for County Senior Management's final authorization along with a memorandum and cost benefit analysis from the County Department requesting this solution.

This option requires the Concessionaire to ensure the secure transmission and storage of cardholder data in accordance with PCI DSS requirements and is an alternative for solutions that must operate independently of the County's managed network. As part of the approval process, the Concessionaire (and sub-contractors) must agree to periodic compliance audits and to provide ongoing assurance of PCI DSS adherence.
The Concessionaire shall comply with the Payment Card Industry Data Security Standards in effect and at all times throughout the term of this agreement.

a) The Concessionaire confirms its knowledge of and commitment to comply by providing the following proof that Concessionaire's devices/applications/processes meet PCI compliance requirements:

   1. Concessionaire's current annual PCI Compliance certification. The County has the auditing right to request copies of the PCI compliance certifications at a later time.
   2. During an installation or a major system upgrade the Concessionaire must provide implementation manuals and detailed diagram(s) that show all cardholder data flows across the County's systems and networks.
   3. Vendor Form – Payment Application(s) – Only applicable to the vendor who is installing the product in County environment.

b) The Concessionaire shall resubmit the aforementioned passing, updated, completed and signed PCI compliance documents annually to the County. Furthermore, the Concessionaire shall update their solution, when required, to remain compliant with all changes to the PCI standards and requirements by the implementation dates mandated by the PCI Data Security Standards Council and remediate any critical security vulnerabilities within thirty (30) days of identification.

c) Sensitive Authentication data and Primary Account number shall not be stored by the vendor application at any point, even if masked. Any other Card holder data should not be stored by the vendor application unless it is absolutely needed for County's operations.

d) POS (Point of Sale) and Retail transactions must be routed directly to Miami-Dade County's merchant provider (ELAVON) and must be Europay, Mastercard and Visa (EMV) compliant. All POS and Retail transactions must be capable of accepting NFC (near field communications) payment methods such as Google Wallet, ApplePay, Samsung Wallet.

e) Internet transactions must be routed through Miami-Dade County's Internal Payment Gateway (Payment Card and eCheck). Exceptions to using Miami-Dade County's Internal Payment Gateway shall require written justification by Concessionaire, including a cost/benefit analysis, and require written approval by both the Finance Department Director and Chief Information Officer.

f) Proposed systems that fall outside of the requirements stated in this document shall be reviewed by the Enterprise Security Office and subjected to a risk assessment to ensure the system offers sufficient protection of cardholder data. Exceptions shall require written justification by the proposed system's provider, the ESO's risk analysis, and require written approval by both the Finance Department Director and Chief Information Officer.

Transactions processed through the Miami-Dade County Internal Payment Gateway are prohibited from accepting/processing PIN numbers for security reasons. Debit card transactions must be processed as credit card transactions. Miami-Dade County provides three (3) basic services that allow Concessionaire applications to interact with its Payment Gateways:

1. Web-based Credit Card Transaction Service

2. Web-based Automated Clearing House (ACH) (e-Check) Transaction Service.

3. Recurring Payment Service (for monthly or yearly recurring payments). This service will allow merchants to develop recurring credit card payments on behalf of their payers. This is a Simple Object Access Protocol (SOAP) Web Service, and Miami-Dade County will provide the service Web Service Definition Language (WSDL) and the necessary documentation. The Recurring Payment Service is PCI-compliant, and all the sensitive credit card data is stored offsite in the County's clearinghouse.

There are two different ways that a merchant customer can handle the Credit Card or ACH (e-Check) transaction processing:

Option #1:

Concessionaire's application interfaces directly with Miami-Dade County's Payment Gateway via a RESTful web-service. Miami-Dade County will provide the XML schemas to all basic services: web payment processing, void, refund and recurring payments. Miami-Dade County will also provide all the necessary URLs for these services, as well as documentation detailing fields and response codes. All services will respond with the same XML receipt.

This solution will require the client application to fully interact with Miami-Dade County's Payment Gateway, reacting to processing and system errors. Even though this solution requires more development and integration from a vendor, it will offer the greatest flexibility and customization. This option also requires for the vendor application to be hosted on a server inside Metronet, since Miami-Dade County's Payment Gateway is not accessible from the Internet. If the application is outside the Metronet, Miami-Dade County can develop a Payment Module Application (option #2) that will service the vendor's application.

Option #2:

Concessionaire's application will utilize a Payment Module Web Application developed and maintained by Miami-Dade County. This solution can be a standard web application, a mobile web application, or both. A link will be provided on the vendor application that sends payers to the Payment Module Application. For example, once the payer has selected the items to purchase (from the vendor's application), there would be a "Pay Now" button that will redirect the payer to the Miami-Dade County Payment Module via HTTPs post, carrying all the necessary data to begin the payment process (User ID, Amount, etc.). This requires only minor development effort on the vendor side. The vendor will agree on custom fields to be passed to the Miami-Dade County Payment Module via HTTP protocol over TLS 1.2 or higher (only secure connections are accepted; Secure Sockets Layer protocol is not accepted). In turn, the Miami-Dade County Payment Module will collect the payment information and process the transaction via the Miami-Dade County Internal Payment Gateway. Results will be posted back (post back URL is provided by the client application) to the vendor application. This solution will not require the client application to be hosted in Metronet. The Miami-Dade County Payment Module handles all processing and system errors, simplifying the integration effort on the vendor side.

3.28 DEPARTMENT'S TECHNOLOGY INSTALLATION RIGHTS

A. Point of Sale (POS) Technology

The Department shall have the right to install, maintain, and operate Point of Sale (POS) technology at the Concessionaire's Location for the primary purpose of collecting and monitoring sales data that is not confidential or in violation of a brand or other agreement or not compliant with PCI.

i.

ii. The Concessionaire shall:

a) Provide unrestricted access to the Department's designated personnel for installation, maintenance, and monitoring of POS systems
b) Ensure uninterrupted power and necessary connectivity for POS technology
c) Not tamper with, modify, or interfere with the installed POS equipment

B. Emerging Technologies and Operational Monitoring

i. The Department reserves the right to deploy emerging technologies to:

a) Monitor hours of operation
b) Assess operational compliance

c) Collect relevant operational and performance data
d) Ensure adherence to the terms of this Agreement

ii. The Concessionaire agrees to:
a) Cooperate fully with the installation and operation of such technologies
b) Provide necessary access and support for technology deployment
c) Maintain the confidentiality and integrity of any monitoring systems
d) Not obstruct or prevent the implementation of approved monitoring technologies

A. Technology Upgrades and Modifications

i. The Department may, at its discretion, upgrade, replace, or modify POS and monitoring technologies to improve functionality and data collection capabilities.

ii. The Concessionaire shall facilitate such upgrades and provide reasonable accommodation during implementation.

B. Compliance and Non-Interference

The County shall have the right to access and monitor the live data stream transmitted to the Point of Sale (POS) printers, including authorizing a third-party POS monitoring system to do so, provided it does not materially interfere with the Concessionaire's core business operations. The County is responsible for ensuring that any such authorized third party implements appropriate security measures to mask or redact personally identifiable information (PII) and payment card information (PCI) from the data stream provided to the POS monitoring system, protecting the confidentiality of sensitive data. The County shall discuss the method of accessing the live data stream, whether through a mirrored stream or other technical means, with the Concessionaire. The Concessionaire agrees to reasonably cooperate with MDAD in implementing the chosen access method. The County will not be permitted to any access that violates the confidentiality of Concessionaire's system or data or would be a violation of a brand or other agreement of Concessionaire or would not be PCI compliant.

3.29 Customer Experience Fee: A fee in the amount of one half of one percent of Gross Revenue shall be collected by the County and held solely for investment in improving the passenger experience; this may include but is not limited to, improved signage within the Terminals, improved holdroom seating, passenger interactive elements, improved hold room lighting, aesthetic improvements, children's play areas, or audio visual displays in the Terminals. The County and Concessionaire believe that increasing dwell time and passenger satisfaction in the Terminals is in the best interests of the Concessionaire and the County.

3.30 COMMON INFRASTRUCTURE REPAIR AND MAINTENANCE FEE (GREASE TRAPS / GREASE LINES): The Concessionaire shall pay annually one quarter (1/4) of one percent of the gross revenues from prepared food and beverage sales generated from locations that are connected to the Airport's grease traps/grease lines. The County shall be solely responsible at its sole cost and expense for maintaining the Airport's grease traps/grease lines. Locations that are not connected to the Airports grease traps (including Locations connected to existing independent grease traps permitted by DERM) shall be exempt from this fee, but Concessionaire

shall be solely responsible for maintaining such grease traps not connected to the Airport's system in good working condition and in compliance with all regulations, at its sole cost and expense.

ARTICLE 4 - IMPROVEMENTS TO THE LOCATION

4.01 IMPROVEMENTS TO LOCATION: The Concessionaire shall be required to invest a minimum of Five Hundred Dollars per square foot ($500.00 per SF), for approved improvements for the design, construction, furniture, fixtures and equipment excluding interior signage and inventory for each Location listed in Exhibit A and any additional location taken by the Concessionaire pursuant to **Sub-Article 1.07(A) "Addition of Location"**. Notwithstanding the actual amount of design and engineering costs incurred with respect to improvements for a Location, the maximum proportion of soft costs permitted to be included as approved improvements shall be no more than fifteen percent (15%) of the total design and engineering cost. All improvements shall be subject to review and approval by the Department. The Department will not provide any Construction Cost Reimbursement nor Rental Credit for any construction element. The Concessionaire is responsible for all build-out costs for bringing electrical, plumbing (greasy waste and water) and mechanical (venting) services to the Location.

It is the intent of the parties that approved improvements may include but are not limited to the décor, remodeling of the walls and floor coverings, ceiling, lighting, millwork, HVAC, fire detection and fire suppression or such other improvements as are approved by the Department. Such improvements shall be shown in the design detail in the Final Plans, as such term is defined in **Sub-Article 4.02 "Design of Improvements"**.

Improvements not constituting approved improvements shall include improvements that (i) are non-fixed, (ii) have not been reimbursed by the Department pursuant to **Sub-Article 4.08 "Cost Documentation"**, and (iii) can be removed without damage to the premises. The Concessionaire is liable and shall indemnify the Department for any damage to the Location(s) which results from the removal of said improvements. This provision shall survive the termination or expiration of this Agreement.

Off-Airport properties used as storage space will not be considered as Location(s), as stated in **Article 4 "Improvements to the Location"** or as an extension of this Agreement, and costs incurred by the Concessionaire to provide such storage space shall not constitute approved improvements.

Any and all improvements to Location(s) will be performed in accordance with the **"Tenant Airport Construction – Non-Reimbursable Procedures TAC-N and TAC-R" as amended, available through the following links:**

- Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N): TAC-N Forms 1.25.21.pdf (miami-airport.com)

- Tenant Airport Construction Reimbursable Procedures (TAC-R): DADE AVIATION CONSULTANTS (miami-airport.com)

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

4.03 REFURBISHMENT OF LOCATION: The Concessionaire shall refurbish the Location or cause its Sub-tenants to refurbish their respective Location to begin no earlier than the fifth (5th) Term year of the Agreement and be completed no later than the last day of the sixth (6th) Term year of this Agreement.

Approved improvements for the refurbishment of the Location shall not be less than five percent (5%) of the original buildout cost of the Location. There will be no reimbursement or amortization of these costs for refurbishment.

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

Prior to the commencement of any installation/construction work by the Concessionaire, the Concessionaire shall provide or cause to be provided to the County copies of a fixed price contract or contracts for all work to be performed at the Location(s). The work to be performed under such contract(s) shall be insured by the "Surety Performance and Payment Bond" provided by Concessionaire to the County in the form contained in Exhibit C "Surety Performance and Payment Bond" in this Lease and Concession Agreement. The Surety Performance and Payment bond shall be in full force throughout the term of the installation/construction contract.

4.05 IMPROVEMENTS FREE AND CLEAR: The improvements, upon completion, shall immediately become the property of the County, free and clear of any liens or

encumbrances whatsoever, other than the County's obligation to reimburse the Concessionaire for the unamortized value of the approved improvements as provided in this Agreement. The Concessionaire agrees that any contract for construction, alteration or repairing of the improvements or Location(s) or for the purchase of material to be used, or for work and labor to be performed, shall be in writing and shall contain provisions to protect the County from the claims of any laborers, subcontractors or material men against the Location(s) or improvements.

4.06 OTHER REQUIREMENTS: The Concessionaire shall apply for and obtain a building permit from the County for all appropriate inspections and a Certificate of Occupancy upon completion. Within sixty (60) Days following the completion of construction of the improvements, the Concessionaire shall furnish to the County one complete set each of legible prints (black line), of construction drawings in electronic file format and in full compliance with Autodesk's DWG file format and standard revised as to "as built". Based upon submission date, the AutoCad.dwg version must be within two (2) years of the latest release. MDAD will not accept the submission of any AutoCad drawing deliverable which contains references to external source drawing files. The closeout document package should include all pertinent shop and working drawings, copies of all releases of all claims and a copy of the Certificate of Occupancy provided the Concessionaire does not disseminate such information, refer to Transportation Security Regulations (TSR), 49 C.F.R. 1520, et al., Protection of Sensitive Security Information.

No Facility will be allowed to open without obtaining a Temporary Certificate of Occupancy or a Certificate of Occupancy.

4.07 REVIEW OF CONSTRUCTION: The County shall have the right, but not obligation, to periodically observe the construction to ensure conformity with the Final Plans and any changes thereof requested by the Concessionaire or the Sub-tenant and approved by the County.

4.08 COST DOCUMENTATION: Within one hundred eighty (180) Days from the date of Beneficial Occupancy, specifically including those improvements described in **Sub-Articles 4.01 "Improvements to Location(s)",** and **4.03 "Refurbishment of Location(s)"**, the Concessionaire shall submit to the County a certified audit of the monies actually expended in the design and construction of the approved improvements by Location in accordance with the Final Plans, prepared by an independent certified public accounting firm ("Auditor"), approved in advance by the County (the "Certified Audit"). The Concessionaire or the Sub-tenants, as the case may be, shall be responsible for documenting for the Auditor that the monies that were expended are true and correct. The costs of design and construction, in accordance with the Final Plans and any changes thereto requested by the Concessionaire or the Sub-tenants and approved by the County, including the costs of required bonds, construction insurance and the construction audit, shall not include the cost of any other consultant or accountant fees, financing or legal fees and personal property of the Concessionaire or the Sub-tenants, as the case may be. No non-receipted expenditures will be credited. Concessionaires not submitting certified audits within the allotted time may be billed a Damage of fifty dollars ($50.00) per Day. Upon reconciliation, any difference due the County shall also include an administrative fee

of ten percent (10%) of the monies due the County on the build-out of the Location(s). In the event of any disputes between the County and the Concessionaire as to whether certain costs are to be included in the audit, said dispute shall be submitted to the consulting engineer named pursuant to the Trust Agreement, as defined in **Sub-Article 17.01 "Incorporation of Trust Agreement by Reference"**. The decision of said consulting engineer**,** acting in good faith, shall be final and binding upon the parties hereto.

The Department shall notify the Concessionaire in writing that it has approved or disapproved the certified costs for each Location(s) and the common area improvements detailed in the Certified Audit within sixty (60) Days from the date of its receipt of the Certified Audit. If the Concessionaire fails to submit the Certified Audit within the time prescribed above for any Location(s), then a penalty will be assessed as noted in **Sub-Article 3.23 "Damages"**. The Approved Improvement cost for purposes of calculating the County's obligation to reimburse the Concessionaire for un-amortized improvement costs for such Location(s) pursuant to **Sub-Article 4.09 "Amortization Schedule"** shall equal the lesser of Five Hundred Dollars ($500.00) per square foot or the square footage rate of improvement costs for such Location certified by the Auditor.

If the approved total receipted amount is below the Concessionaire or its Sub-tenant's minimum investment and is depicted as such in the results of the Certified Audit, the Concessionaire shall be required to pay to the Department the difference between the expended amount and the minimum investment, within one hundred eighty (180) Days from the date of Beneficial Occupancy of the corresponding Location.

If the approved total receipted amount for Refurbishment of Location(s) is below the Concessionaire's or its Sub-tenant's investment, the Concessionaire shall be required to pay the Department the difference between the expended amount and the refurbishment amount within one hundred eighty (180) Days from the date of completion of refurbishment.

The Concessionaire shall be entitled to obtain reimbursement of such payments made to the Department from the applicable Sub-tenant(s) who fails to spend the minimum investment or the refurbishment amount for their specific Location(s).

4.09 AMORTIZATION SCHEDULE: The Concessionaire shall amortize its capital investment for a period not to exceed sixty (60) months using the straight-line depreciation method. If, at any time during the Term of the Agreement, excluding any extension, the Department requires the deletion and/or modification of any Location, the Department may designate new Location(s) at its sole discretion and reimburse the Concessionaire the unamortized balance of approved improvements for that Location.

Investment subject to such reimbursement shall include the following items only:

1. Directly contracted costs of construction.

2. Stores displays (that cost more than $3,000 per display), furniture, fixture, equipment and signage purchased and installed for direct use in the facility, if applicable.

3. Design and engineering costs not to exceed fifteen percent (15%) of the total approved construction, installation, store displays, furniture, fixture, equipment and signage cost.
4. Furniture, Fixtures, and Equipment, not to exceed thirty-five percent (35%) of the total approved construction.

There will be no other reimbursement.

A certified audit of monies for the above expenditures performed at the expense of the Concessionaire will be required to confirm the minimum investment within one hundred twenty (120) Days of Beneficial Occupancy for each Location(s). No non-receipted expenditure will be credited. If the approved total receipted amount is below the Five Hundred Dollars per square foot ($500.00 per sf), the Concessionaire will be required to pay the Department the difference between the minimum investment amount and the actual receipted expenditure within ninety (90) Days after billing by the Department.

Concessionaires not submitting a certified audit within the allotted time may be billed a Damage of Fifty Dollars ($50.00) per Day. Upon reconciliation, any difference due the Department shall also include an administrative fee of twenty-five percent (25%) of the monies due the Department on the build-out of the Location(s).

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

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

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

1) Concessionaire Improvements

Pursuant to the terms of this Agreement, the Concessionaire shall construct or cause to construct certain improvements. The Concessionaire shall provide the Department with a scope of proposed improvements and a preliminary estimate of hard and soft costs for such improvements within a reasonable timeframe. Once

the Department and the Concessionaire have mutually agreed on the scope of the improvements and the preliminary estimates, the Concessionaire shall proceed to design and construct or cause to be designed and constructed the improvements in accordance with the provisions of this Agreement.

2) Design and Construction Coordination

Concessionaire shall:

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

3) Construction

Concessionaire shall:

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

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

4.12 SUSTAINABLE BUILDINGS PROGRAM: The Concessionaire shall comply with all requirements of the County's Sustainable Buildings Program, as set forth in Sections 9-71 through 9-75 of the County Miami-Dade Code and in County Implementing Order 8-8

ARTICLE 5 – STANDARDS OF OPERATION

5.01 STANDARDS OF OPERATION: The Concessionaire shall comply with the Department's "Tenant Handbook", Exhibit K; the "Standards of Operations", the "MIA Terminal Standards" (MDAD will make available upon request)**,** 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 Location, which the Concessionaire 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 Concessionaire. The Department shall provide the Concessionaire 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 Concessionaire shall implement and comply with all amended requirements, within fifteen (15) Days of receipt of an amendment to "Standards of Operations". The Concessionaire shall immediately implement and comply with any rules and regulations promulgated for safety or security reasons.

The Concessionaire acknowledges the desire of the Department, as part of its obligation to ensure the highest level of public service, to provide the public and air traveler an adequate range and quality of service. The Department may monitor, test, or inspect the Location 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 of articles sold, the character of the service rendered to the public, the prices charged, and the appearance and condition of the Location, pursuant to "Standards of Operation**"**, as may be amended from time to time.

5.02 MARKET BASKET/COMPETITIVE PRICING POLICY: The Department has instituted a Market Basket pricing policy to ensure that Airport prices are comparable to similar retail locations in the Miami Dade County, Florida area to reinforce the objective of making the Airport a more "passenger friendly" airport, pursuant to "Standards of Operation."

For the purposes of this contract, to determine Market Basket, the Concessionaire shall survey a minimum of three (3) similar retail locations (excluding stadiums, arenas, amusement and entertainment venues, but may include and hotels) in the Greater Miami Area to determine the average price for a particular good or service. The Concessionaire's prices shall not exceed by more than fifteen (15%) of the Market Basket.

A. For any or all operations where a Concessionaire currently operates the same or similar retail location(s) in the Miami-Dade County area, the Concessionaire may not charge more than fifteen percent (15%) higher charges at the Airport for like or similar items, portions or servings. The Department has the right to survey prices at said retail location(s) and to use these prices for same or similar goods and services as the primary basis for pricing in the leased Location(s).

B. Concessionaire shall be permitted to change prices without prior approval of the Department, however within 15 days following the end of each calendar quarter, Concessionaire shall provide the Department with a list of price changes made during the prior quarter.

C. All goods and services shall be sold in accordance with the prices approved by the Department pursuant to this Article 5.02.

The Concessionaire who is not in compliance with the provisions of this Sub-Article shall be given seven (7) Days after written notice of such non-compliance pursuant to **Sub- Article 18.09 "Notices"** to bring all products into compliance.

Failure to do so shall constitute a default under this Agreement and shall subject the Concessionaire to Damages pursuant to **Sub-Article 3.26 "Liquidated Damages".**

5.03 DEPARTMENT RIGHT TO MONITOR PERFORMANCE:

A. Performance Audits. It is the intention of the Department that Concessionaire's business be conducted in a manner so as to meet the needs of Airport patrons and employees and in a manner that will be reflected positively upon the Concessionaire and Department. The Concessionaire shall equip, organize and efficiently manage the Concession to provide First Class service and products in a clean, attractive and pleasant atmosphere. Department in its sole discretion shall have the right to raise reasonable objections to the condition of the Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, and/or the appearance and performance of service personnel, and to require any such conditions or practices objectionable to Department to be promptly remedied by Concessionaire. If requested by Concessionaire, the Department shall submit its objections in writing and provide Concessionaire with an opportunity to reply to the objections. Such a reply will be given consideration by the Department.

The Department reserves the right to conduct periodic performance audits of the Location(s) to assure that all of the operational, safety and compliance standards of this Agreement are consistently performed by Concessionaire. Concessionaire acknowledges that performance audits will be conducted by the Department, or its representative, and hereby agrees to cooperate with all performance audits.

1. Performance audits may include minimum objective standards in any or all of the areas of (i) product quality; (ii) customer service; and (iii) cleanliness and maintenance. If Concessionaire fails to meet minimum standards in any of these areas, Department may, at its discretion, assess damages as set forth in Sub-article 3.24.

2. In order to assure consistent adherence to performance standards throughout the Term, the Department will use a rolling 12-month cycle in recording incidents of failure to meet standards. The Department reserves the right to assess damages for violations of performance standards as set forth in Sub-article 3.24.

3. Repeated violations and deficiencies in performance by Concessionaire may be cause, at Department sole discretion, to terminate this Agreement.

B. Annual Review. No later than 90 days after the end of each Contract Year thereafter, Concessionaire and Department will meet to review and evaluate the financial, customer service, and operational performance of each Concession Location. During the course of the review, Department may determine, in its sole discretion, that the performance of one or more of the Concession Locations is unsatisfactory if one or more of the following occurred during the prior Contract Year:

1. Sales per Enplaned Passenger were less than 80 percent (80%) of the Projected Sales per

Enplaned Passenger for the overall Terminal average Sales per Enplaned Passenger.

2. Sales per Enplaned Passenger were less than 85 percent (85%) of Sales per Enplaned Passenger for the same Concession Location during each of the two (2) preceding Contract Years.

3. Scores on any secret shopper survey(s) conducted by the Department or its representative were less than 80 percent (80%) of the maximum achievable scores for the survey(s); or

C. Remediation Plan. In the event that the Department determines, based on the performance criteria specified in this Section, that a Concession Location performed unsatisfactorily during the prior Contract Year, the Department will provide written notice to the Concessionaire. Within 30 days of receipt of such written notice, the Concessionaire shall prepare and submit to the Department, for its approval, a Remediation Plan, as described below, to improve the performance of the Concession Location.

The Remediation Plan shall include, but not be limited to, proposed remedial activities such as staff training, staffing changes, merchandise and service modifications, facility refurbishment and repair, and/or replacement of concept or brand. Upon approval by the Department, the Concessionaire agrees to diligently implement the approved Remediation Plan and further agrees to submit monthly reports on the progress of such implementation to the Department.

In the event the Department determines, after six (6) months of implementation of a Remediation Plan, the subject Concession Location is still performing in an unsatisfactory manner, Department reserves the right to require Concessionaire to replace the underperforming concept or brand, if not already replaced by the Remediation Plan. Within 90 days of receipt of written notice from the Department requiring a replacement, the Concessionaire shall submit to the Department a proposal for a brand or concept replacement plan. Such a replacement plan shall include, but not be limited to, a detailed description of the brand or concept, capital expense required to re-brand, sales projections, and the specific timetable to replace the brand or concept. The Department, in its sole discretion, reserves the right to approve or deny the replacement plan and require Concessionaire to submit another replacement plan.

ARTICLE 6 – OBLIGATIONS OF THE DEPARTMENT

6.01 DEPARTMENT SERVICES:

A. Department's Maintenance Obligation: The Department shall clean, maintain, and operate in good condition the terminal building, excluding the Location. This obligation includes, but is not limited to, all structural (including, but not limited to, the roof and base floor of the terminal building) and all base building work, maintenance of main electrical and mechanical systems, maintenance of walls and ceilings, and repair/maintenance of the roof. The Department shall maintain the public areas in the terminal building furnished and will provide adequate light, cold water and conditioned air. The Department agrees to make all necessary structural

repairs to the Location at its own expense; provided, however, that for purposes of this Agreement such structural repairs shall not include any repairs to any equipment installed by the Concessionaire), and further provided that the Concessionaire shall reimburse the Department, within ten (10) Days of receipt of written demand for such reimbursement, for the cost and expense of all structural repairs required as a result of the negligent or intentional acts of the Concessionaire, its officers, partners, employees, agents, contractors, subcontractors, licensees,. The Concessionaire shall give the Department written notice (or verbal notice in the event of any emergency conditions which may result in harm to the patrons of the Airport, which verbal notice shall be followed by written notice within twenty-four (24) hours) describing any repair, which is the responsibility of the Department. The Department shall commence the repair process promptly after its receipt of such written notice if the Department agrees that such repair is required and is the Department's responsibility hereunder.

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

C. All maintenance by the Department may be subject to interruption caused by repair, strikes, lockouts, labor controversies, inability to obtain fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, and other conditions beyond the control of the Department. If the Concessionaire's Location are of such a condition as to significantly impact the Concessionaire's operations for a period in excess of seventy two (72) hours and such damage is not insurable under an insurance policy of the type required to be maintained by the Concessionaire pursuant to this Agreement, the Department may provide a rent abatement for that portion of the Location rendered unusable for that period of time that the Department is unable to make repairs required by **Sub-Article 6.01 "Department Services"**.

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

1. The Concessionaire 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 for Concessionaire to operate from the Location hereunder, that it has done its own projections of the volume of business expected to be generated, that it is relying on its own business judgment concerning its prospects for providing the services required under this Agreement on a profitable basis, and that the Department has not made any representations or warranties with respect to any such matters.

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 Concessionaire 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 the Location or any other area of the Airport are approximate only, and any inaccuracy in such statements of measurements shall not give rise to any claim by the Concessionaire under or in connection with this Agreement.

4. The Department shall not be liable to the Concessionaire for any loss of business or damages sustained by the Concessionaire as a result of any change in the operation or configuration of, or any change in any procedure governing the use of, the construction improvements of the terminal building.

ARTICLE 7 – FURNITURE, FIXTURES AND EQUIPMENT

7.01 FURNITURE, FIXTURES, AND EQUIPMENT: Any equipment, furnishings, fixtures and signs installed in the Location by the Concessionaire 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 Concessionaire, as provided in **Sub-Article 4.01 "Improvements to the Location"**, shall, except as provided in **Sub-Article 7.03(B) "Disposal of Furniture, Fixtures, and Equipment"**, be removed from the Location within five (5) days following the expiration or earlier termination of this Agreement.

7.02 AMERICANS WITH DISABILITIES ACT REQUIREMENTS: The Concessionaire will be responsible, at its cost, for ensuring that the Location 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. 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 Concessionaire will be the same. However, the Department reserves the right to require the Concessionaire to modify its operations or its physical locations (if applicable) to comply with the Department's ADA obligations with respect to the Location, 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 Concessionaire"** hereof, the Department shall exercise, at its sole discretion, one (1) of the

following options as to any equipment, furnishings, fixtures, signs, or carts installed in the Location by the Concessionaire:

(A) Require the Concessionaire to remove such equipment, furnishings, fixtures, signs, or carts from the Location within five (5) Days following the expiration or earlier termination of this Agreement, subject to the provisions of **Sub-Article 4.01 "Improvements to Location"**; or

(B) Retain any portion of the equipment, furnishings, fixtures, signs, or carts of the Concessionaire (personal property as referred to in **Sub-Article 4.01 "Improvements to Location"**) (if applicable) 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 Concessionaire) (if applicable).

ARTICLE 8 – MAINTENANCE

8.01 CLEANING: The Concessionaire shall, at its cost and expense, keep the Location clean, neat, orderly, sanitary and presentable at all times. If the Location is not kept clean as provided in the Standards of Operation, the Concessionaire will be so advised and shall take immediate corrective action. Failure to take immediate corrective action may result in Damages being assessed pursuant to **Sub-Article 3.23 "Damages"**.

8.02 REMOVAL OF TRASH: The Concessionaire shall, at its cost and expense, remove or cause to be removed from the Location and properly disposed of in Department provided containers, all trash and refuse of any nature whatsoever which might accumulate and arise from the operations hereunder. If the Concessionaire enters into agreements for the janitorial and trash removal within the Location, such service providers must have permits issued by the Department to do business at the Airport. Trash shall not be stored in any area visible to the public nor cause a private or public hazard through its means of storage. All edible items must be contained so as to minimize exposure to pests. Any trash left or stored in any area visible to the public or edible items not properly contained may result in Damages being assessed pursuant to **Sub-Article 3.23 "Damages"**.

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

8.03 MAINTENANCE AND REPAIR: Except with respect to the Department's maintenance and repair obligations as set forth in **Sub-Article 6.01 "Department Services"**, the Concessionaire shall maintain and repair or cause to be maintained and repaired the interiors and exterior storefronts of the Location. Such maintenance and repairs shall include, but not be limited to, painting, ceiling, walls, floors, laminating doors, windows, equipment,

furnishings, fixtures, appurtenances, replacement of ceiling light bulbs, ballast and the replacement of all broken glass, which repairs shall be in quality and class equal to or better than the original work to preserve the same in good order and condition. Maintenance for all equipment furnished by the Concessionaire specifically as a result of their operation shall remain the obligation of the Concessionaire. The Concessionaire shall repair or cause to be repaired, at or before the end of the Term or Extension, if applicable, of this Agreement, all injury done by the installation or removal of furniture and personal property so as to restore the Location to the state they were at the commencement of this Agreement**,** reasonable wear and tear excluded. The Department may, at any time during normal business hours, enter upon the public areas of the Location, or with appropriate notice, enter upon the non-public areas of the Location, to determine if maintenance is being performed satisfactorily. The Department may enter upon any Location when a Location is not open for business if the Department provides the Concessionaire notice no less than two (2) hours in advance so that a representative of the Concessionaire may be present, except in the case of real or perceived emergencies where no such representatives shall be required to be present. If it is determined that said maintenance is not satisfactory, the Department shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire to the satisfaction of the Department within seven (7) Days after receipt of such written notice, Department shall have the right to enter upon the Location and perform such maintenance and charge Concessionaire for such services, as provided by **Sub-Article 8.04 "Failure to Maintain."**

Concessionaire shall be responsible for maintaining all utility connections originating from the Location to the County point of connection (main water, grease, electrical, and gas lines). Furthermore, Concessionaire shall be responsible for maintenance of common use space or space leased to other tenants, to the extent maintenance is required as the result of broken utility lines which are the Concessionaire's obligation to maintain, or arising out of malfunctioning Concessionaire equipment.

8.04 FAILURE TO MAINTAIN: Upon failure of the Concessionaire to maintain the Location as provided in this **Article 8 "Maintenance"**, the Department may enter upon the Location and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof plus twenty-five percent (25%) for administrative costs, shall constitute additional rental, and shall be billed to and paid by the Concessionaire, in addition to any Damages imposed by the Department pursuant to **Sub-Article 3.23 "Damages"**.

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

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

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

8.06 FIRE PROTECTION AND SAFETY EQUIPMENT: The Concessionaire 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 of the Location.

ARTICLE 9 – ASSIGNMENT AND OWNERSHIP

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

9.02 OWNERSHIP OF THE CONCESSIONAIRE: Since the ownership, control, and experience of the Concessionaire were material considerations to the County in the award of this concession and the entering into of this Agreement, the Concessionaire 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 Concessionaire without the prior written consent of the Department.

9.03 CHANGE OF CONTROL: If Concessionaire 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 Concessionaire to result in a change of control of Concessionaire shall be deemed an assignment of this Agreement for purposes of this **Article 9 "Assignment and Ownership".** If the Concessionaire is a partnership, transfer of any interest in the partnership, which results in a change in control of such Concessionaire (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 HOLDOVER:

A. With the Department's Permission:

If the Concessionaire (or anyone claiming through Concessionaire) shall remain in possession of the Locations or no less than seventy percent (70%) of the square footage of the Locations thereof after the termination of this Agreement, by written agreement executed by the Department the person or entity remaining in possession shall be deemed a tenant at sufferance otherwise subject to all of the provisions of this Agreement. The Concessionaire shall thereafter continue to pay the Monthly Percentage Fee, and monthly installment or rent for the Concessionaire's Office pursuant to **Sub-Article 3.06 "Annual Rental"** (if Concessionaire remains in such

Space), on account of the holdover use and occupancy of the Locations. This provision shall survive the expiration or the termination of this Agreement.

B. Without Department Permission:

If the Concessionaire (or anyone claiming through Concessionaire) shall remain in possession of the Location or any part thereof after the termination of this Agreement, without a written agreement executed by the Department, then without limiting the Department's other rights and remedies, the person or entity remaining in possession shall be deemed a tenant at sufferance otherwise subject to all of the provisions of this Agreement. The Concessionaire shall thereafter pay on account of its holdover use and occupancy of the Location a sum, at a rate equal to two times (2x) the amount payable Monthly Percentage Fee PLUS monthly installment of the support space annual lease rental pursuant to **Sub-Article 3.06 "Annual Rental"**, and with all additional rent also payable as provided in this Agreement (the "Holdover Charges"). Imposition of Holdover Charges, extinguishes any unamortized investment amounts owed the Concessionaire by the Department, for the slippage in Location turnover. The Holdover Charges shall be payable weekly in advance. Notwithstanding the above, the Concessionaire shall remain liable to the Department for all damages resulting from such breach, with the amount of any Holdover Charges accepted by the Department on account of the holdover considered as mitigation of such damages. The covenant in this Sub-Article shall survive the expiration or the termination of this Agreement.

9.05 Transfer Fee On Sale or Assignment

In the event that Concessionaire assigns or sells this lease to any party other than a Wholly Owned Affiliate, Concessionaire shall pay the County a Transfer or Assignment Fee in the amount of two percent (2%) of gross consideration received by Concessionaire for any such sale or assignment that occurs during the first three (3) years of the Term for all or any portion of the Locations. Upon the 3rd anniversary of the Lease Execution Date, the Transfer or Assignment Fee shall no longer be in effect and this Sub-Article 9.05 shall be of no force and effect with respect to sales or assignments entered into after such date.

ARTICLE 10 – INDEMNIFICATION

10.01 INDEMNIFICATION REQUIRED OF CONCESSIONAIRE: The Concessionaire 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 Concessionaire or its employees, agents, servants, partners, principals or any other persons. The Concessionaire 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 Concessionaire expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Concessionaire 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. Without limiting the preceding, Concessionaire expressly agrees that the provisions and obligations of this section apply to claims, including administrative claims, involving identify theft, data theft, data breaches, commercial fraud, and all other similar claims or causes of action.

ARTICLE 11 – INSURANCE

11.01 INSURANCE REQUIRED OF CONCESSIONAIRE: Within thirty (30) Days of the Lease Effective Date of this Agreement, the Concessionaire 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 Concessionaire'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 Concessionaire must show coverage has been obtained that meets the requirements as outlined below during the construction and operation phase of this Agreement:

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

B. Liquor Liability (if applicable) shall be maintained for any facility serving alcoholic beverages in the airport in an amount not less than $1,000,000 per occurrence.

C.

D. Commercial General Liability Insurance in an amount not less than $1,000,000.00 per occurrence, $2,000,000 aggregate **Miami-Dade County must be shown 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 Concessionaire in the performances of this Agreement.

E. Automobile Liability Insurance which shall apply to all owned, non-owned, leased and hired automobiles used in connection with the work,

in the amount of no less than $1,000,000 combined single limit per occurrence for bodily injury and property damage for each accident, and $5,000,000 if operating vehicles on the Airfield Operations Area (AOA), combined single limit for bodily injury and property damage liability.

Under no circumstances is the Concessionaire allowed on the AOA without increasing automobile coverage to $5,000,000 as approved by the Risk Management Office.

11.02 CERTIFICATE OF CONTINUITY: The Concessionaire 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 Concessionaire 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 Concessionaire 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.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

NOTE: CERTIFICATE HOLDER MUST READ:

Miami Dade Aviation Department
Attention: Risk Management Division
PO BOX 025504
Miami, FL 33102-5504

11.04 CONCESSIONAIRE LIABLE: Compliance with the requirements as to carrying insurance in **Article 11 "Insurance"** shall not relieve the Concessionaire 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 Concessionaire (including but not limited to binders, amendments, exclusions, endorsements, riders, and applications) to determine the true extent of coverage. The Concessionaire agrees to permit or cause to permit such inspection at the offices of the Concessionaire. 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 Concessionaire agree to provide copies to the Department, at the Concessionaire's sole cost and expense.

11.07 PERSONAL PROPERTY: Any personal property of the Concessionaire or of others, placed in the Location and support spaces shall be at the sole risk of the Concessionaire 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 INDEMNIFICATION, CONSTRUCTION BONDS AND INSURANCE REQUIRED:

A. Indemnification Bonds and Insurance Required from Construction Contractor: **The following language, including the indemnification clause, shall be included in all construction contracts between the Concessionaire and its general contractor(s) and Subcontractors:**

Indemnification: The Concessionaire shall defend, indemnify, and save harmless the County, the Consulting Engineers, the Architect/Engineer, the Field Representative, the Lessee of the Location(s), and their officers (elected or otherwise), employees, and agents (collectively "Indemnitees"), from any and all claims, demands, liability, losses, expenses and causes of actions, arising from personal injury (including death), property damage (including loss of use thereof), economic loss, or any other loss or damage, due in any manner to the negligence, act, or failure to act of the Concessionaire or its contractors, Subcontractors, materialmen or agents of any tier or their respective, employees arising out of or relating to the performance of the Service covered by the Contract Documents except as expressly limited herein. The Concessionaire shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits in the name of the County, when applicable, including appellate proceedings, and shall pay all costs and judgments which may issue thereon, provided however, that the Concessionaire's obligation to indemnify or hold harmless the Indemnitees for damages to persons or property caused in whole or in part by any act, omission, or default of any Indemnitee arising from the contract or its performance shall be limited to the greater of $1 million or the Contract Amount. Further, this indemnification requirement shall not be construed so as to require the Concessionaire to indemnify any of the above-listed Indemnities to the extent of such indemnities' own gross negligence, or willful, wanton, or intentional misconduct of

the Indemnitee or its officers, directors, agents, or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused in whole or in part by or result from the acts or omissions of the indemnitor or any of the indemnitor's contractors, Subcontractors, , materialmen, or agents of any tier or their respective employees. This indemnification provision is in addition to and cumulative with any other right of indemnification or contribution which any Indemnitee may have in law, equity, or otherwise.

B. **Surety Performance and Payment Bonds:** Pursuant to and in accordance with Section 255.05, Florida Statutes, the Concessionaire or each contractor performing any part of the Service for the Concessionaire shall obtain and thereafter at all times during the performance of the Service maintain a combined performance bond and labor and material payment bond for the work (referred to herein as the "Bond") in an amount equal to one hundred percent (100%) of the cost of the improvements, as it may be amended from time to time, and in the form attached hereto as Exhibit C "Surety Performance and Payment Bond". Prior to performing any portion of the Service, the Concessionaire shall deliver to County the Bonds required to be provided by Concessionaire or each contractor as set forth in this Agreement.

All bonds shall be written through surety insurers authorized to do business in the State of Florida as Surety, with the following qualifications as to financial strength and 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

For contracts of $500,000 or less, the bond provisions of Section 287.0935, Florida Statutes (1985) shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

a) Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the Request for Proposals is issued.

b) Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and

c) Providing a copy of the currently valid Certificate of Authority issued by the United States Department of Treasury under Section 31 U.S.C. 9304-9308.

d) 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.

e) For contracts in excess of $500,000 the provision of this Sub-Article must be adhered to, plus the surety insurer must have been listed on the United States Treasury list for at least three (3) consecutive years, or currently hold a valid Certificate of Authority of at least 1.5 million dollars and listed on the Treasury list.

f) Surety bonds guaranteed through U.S. Government Small Business Administration or Contractors Training and Development Inc. will also be acceptable.

g) The attorney-in-fact or other officer who signs an Exhibit C, "Surety Performance and Payment 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 Bond 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 Bond shall be delivered to the Department upon execution of the contract between the Concessionaire and its contractor.

C. **Insurance Required of Construction Contractor(s):** The limits for each type of insurance may be revised upon review and approval of the construction plans. Additional types of insurance coverage may be required if, upon review of the construction plans, the Department reasonably determines that such coverage is necessary or desirable.

The Concessionaire shall cause its contractor(s) to provide certificates of insurance and copies of original policies, if requested, which shall clearly indicate that the construction contractor has obtained insurance in the type, amount and classifications as required for strict compliance with this Sub-Article. Evidence of such coverage must be submitted prior to any construction:

(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. The County and the Concessionaire must be shown as an additional insured with respect to this coverage.

(c) Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with this Agreement in an amount not less than $300,000* per occurrence for Bodily Injury and Property Damage combined.

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

D. **Certificate Continuity:** The contractor(s) shall be responsible for assuring that the insurance certificates required in conjunction with this Sub-Article remain in force throughout the performance of the contract and until the Service has been accepted by the Concessionaire and approved by the Concessionaire and the Department. If insurance certificates are scheduled to expire during the contract period, the contractor(s) shall be responsible for submitting new or renewed insurance certificates to the Concessionaire at a minimum of thirty (30) Days before such expiration.

E. **Insurance Company Rating Requirements:** All insurance policies required above 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 MDAD Risk Management Office.

F. **Right to Examine:** The Department reserves the right, upon reasonable notice, to examine the original policies of insurance (including but not limited to binders, amendments, exclusions, endorsements, riders, and applications) to determine the true extent of coverage. The contractor shall be required by the Concessionaire to agree to permit such inspection at the offices of the Department. 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 Concessionaire agrees to provide copies to the Department, at the Concessionaire's sole cost and expense.

G. **Personal Property:** Any personal property of the contractor, or of others, placed in the Location(s) shall be at the sole risk of the contractor or the owners thereof, and the Department shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage.

ARTICLE 12– DEFAULT AND TERMINATION BY COUNTY

12.01 EVENTS OF DEFAULT: A default shall mean a breach of this Agreement by the Concessionaire (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 Concessionaire has violated the terms and conditions of this Agreement;

(B) The Concessionaire 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 Concessionaire's facilities;

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

(D) The occurrence of any act, which operates to deprive Concessionaire 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 Concessionaire of its business by any act(s) of Concessionaire;

(F) Any persistent violation on the part of Concessionaire, 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 Concessionaire to correct the same;

(G) Failure on the part of Concessionaire 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 Concessionaire 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 Concessionaire to maintain its equipment in a manner satisfactory to the Director;

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

(J) The Concessionaire or its Sub-tenants (if applicable) has failed to provide adequate assurances as required under **Sub-Article 12.10 "Adequate Assurances"**;

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

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

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

12.02 PAYMENT DEFAULT: Failure of the Concessionaire to make Annual Rental payments and Percentage Fee payments and other charges required to be paid herein when due and fails to cure the same within five (5) Days after written notice shall constitute a default, and the County may, at its option, terminate this Agreement after five (5) Days' notice in writing to the Concessionaire.

12.03 OTHER DEFAULTS: The Department shall have the right, upon thirty (30) Days written notice to the Concessionaire 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 Concessionaire shall discontinue the services.

12.04 HABITUAL DEFAULT: Notwithstanding the foregoing, in the event that the Concessionaire 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 Concessionaire, regardless of whether the Concessionaire 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 Concessionaire 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 Concessionaire a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Concessionaire 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 Concessionaire, 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 Concessionaire shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Concessionaire 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 Concessionaire by sending a notice of default, specifying the basis for such Event of Default, and advising the Concessionaire 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 Concessionaire by the Department, for the slippage in Location Turnover Dates.

12.07 TERMINATION FOR ABANDONMENT: This Agreement may be terminated in its entirety upon the abandonment by the Concessionaire of the Location or the discontinuance of Concessionaire'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)

calendar days after written notice unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Concessionaire from providing services on the Location for the purposes authorized in **Article 2 "Use of Location"**. 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 Concessionaire attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (ii) a principal of the Concessionaire is convicted of a felony during the Term or any Extensions thereof if applicable, or (iii) if the Concessionaire 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 five (5) years in accordance with the County's debarment procedures. The Concessionaire 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 ninety (90) 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 based on the then existing passenger, airline, or community needs, or impacts on same from such existing Concession. In such circumstance, the County will solely be responsible for paying the amortized costs of any improvements constructed by Concessionaire, 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 Concessionaire's ability to perform the work or any portion thereof, the Department may request that the Concessionaire, within the time frame set forth in the Department's request, provide adequate assurances to the Department, in writing, of the Concessionaire's ability to perform in accordance with terms of this Agreement. If the Concessionaire 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 Concessionaire 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 Location and other Department materials and property;

(C) Vacate, quit, and surrender, all Location and storage/support 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 Concessionaire 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 Annual Rental Payment, 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 "Rentals, 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 Concessionaire.

ARTICLE 13 – CLAIMS AND TERMINATION BY CONCESSIONAIRE

13.01 ADMINISTRATIVE CLAIM PROCEDURES: If the Concessionaire 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 claim will be accompanied by a certification, in the form provided for in the County's False Claims Ordinance. The Concessionaire shall additionally, at the direction of the Director, provide County staff, Audit and Management Services, and/or the Office of the Inspector General access to documents, records, and/or financial materials as may be necessary to substantiate such claim, without limitation, and within 30 days of the Director's request. Failure to present and process any claim in accordance with this Sub-Article shall be conclusively deemed a waiver, abandonment or relinquishment of any such claim, it being expressly understood and agreed that the timely presentation of claims, in sufficient detail to allow proper investigation and prompt resolution thereof, is essential to the administration of this Contract.

The dispute will be decided by the Director, who will mail or otherwise furnish a written copy of the decision to the Concessionaire 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 Concessionaire 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 Concessionaire's receipt of such decision, the Concessionaire files an action in a court of competent jurisdiction. In connection with any appeal proceeding under this provision, the Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire's provision of services for a period of one hundred eighty (180) Days.

ARTICLE 14
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS (ACDBE) ENTERPRISES

14.01 ACDBE Requirements

It is the policy of Miami-Dade County (County) that ACDBE's shall have the maximum practical opportunity to participate in the performance of County 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.

An ACDBE goal is not applicable to this contract.

The County has established an ACDBE program where 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. The County 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.
    b. 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.
    c. If an ACDBE does not perform or exercise responsibility for at least seventy (70%)

       percent of its participation or if the ACDBE subcontracts 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.
    d. 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.
4. The County's decision on commercially useful function matters is 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 County's Office of Small Business Development (SBD). The work to be performed by the ACDBE JV partner should be store-specific with regards to tasks and locations or as a distinct element of work be specified. The ACDBE JV 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 (10) hours per week.
2. Each JV 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 be 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)

In order to participate as an 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 ACDBE's 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 an SBE-Construction/SBE-Goods/SBE- Services/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 605 Suwannee Street, MS 65, Tallahassee, Florida 32399-0450 Tel: (850) 414-4747, Facsimile: (850) 414-4879, or their Website: https://www.fdot.gov/equalopportunity/. Miami-Dade County's Office of Small Business Development is a certifying member of the FLUCP and can be contacted for ACDBE certification. SBD is located at 111 N.W. 1st Street, Stephen P. Clark Center, 19th Floor, Miami Florida 33128-1974, by telephone at (305) 375-311, or on the websites at https://www.miamidade.gov/smallbusiness/ or https://mdcsbd.gob2g.com/.

The FLUCP updates the certification data every twenty-four (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.

14.05 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 County, and the contracting of specified percentages of goods and services contracts to ACDBE. 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 the County 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, 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.

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 Section 14.01 "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 County 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 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.

(3) Reports of the ACDBE Mentoring Program shall be submitted to the Department's SBD Division 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 Successful Proposer shall 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 County shall monitor the compliance of the Successful Proposer with the requirements of this provision during the term and/or extension of this agreement.

The County 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 of expenditures, agreements between the Successful Proposer and the ACDBE Participant, and other records pertaining to ACDBE Participation Plan.

If at any time the County 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 County upon the Successful Proposer except pursuant to a hearing conducted by the ACDBELO and/or his designee.

ARTICLE 15 - RULES, REGULATIONS AND PERMITS

15.01 RULES AND REGULATIONS: The Concessionaire shall comply and cause its Sub-tenants (if applicable) to 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 Concessionaire 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 Concessionaire, its agents, employees, Sub-tenants (if applicable) 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 Concessionaire 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 every Sub-Lease and other agreements which the Concessionaire may enter into related to its activities under this Agreement and that any such Sub-Lease and other 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 Concessionaire 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. The Concessionaire shall cause its Sub-tenants (if applicable) to do the same.

15.04 PROHIBITION ON USING PRODUCTS CONTAINING TRANS FATS – RESOLUTION NO. R-456-07: The Concessionaire shall not market or distribute at the designated Location under this Agreement any pre-packaged, prepared, or other foods, including catered foods, derived from or containing trans-fats. The Concessionaire shall, periodically review existing inventories and projected products, to assure that only trans-fat free products are being offered for public consumption.

15.05 LABOR PEACE REQUIREMENT – RESOLUTION NO. R-148-07: The Concessionaire provided a signed copy of the labor peace agreement for their employees as part of their Proposal to assure that no labor dispute or unrest will disrupt their operations at Miami International Airport (MIA) (See Exhibit L). Furthermore, the County has the right, in the event of a labor disruption, to suspend its obligations under the contract while the labor disruption is ongoing and to use alternative means to provide the service that is affected by the labor disruption. In the event a Concessionaire is unable to reach an agreement with a labor organization regarding the terms of a labor peace agreement, the dispute between the Concessionaire and the labor organization shall be resolved by expedited binding arbitration in which the decision shall be rendered within ten (10) days of the request for arbitration but no later than five (5) days prior to the date the proposal is due. The Concessionaire and the labor organization shall equally share the costs of arbitration.

15.06 LIVING WAGE: The Concessionaire and its Sub-tenants shall comply with section 2-8.9 of the Code of Miami-Dade County, and Administrative Order No. 3-30, as may be amended from time to time, requiring the payment to covered employees the applicable hourly living wage rate, with or without health benefits and that it shall comply with the administrative and records keeping required of the concessionaire set forth in the Administrative Order. The Concessionaire and its Sub-tenants shall also ensure that its subcontractors comply with the order in respect to their employees.

In the event that the County's Living Wage Ordinance is deemed inapplicable to this Agreement, the Concessionaire and/or its Sub-tenants may choose to pay, but will not be required to pay, its employees less than the Living Wage; however, in the event Concessionaire and/or its Sub-tenants pays such lesser wage the percentage fee on gross sales due to the Department shall be increased by two (2) percentage points for each month at any Location of the Concessionaire and/or its Sub-tenants in which the employees are not paid the Living Wage. The Concessionaire understands that the percentage fee set in this Agreement is based on certain County assumptions regarding the Concessionaire's cost of labor, and that in the event Concessionaire's labor costs decrease, the Concessionaire's or its Sub-tenant's savings in labor costs justifies the County claiming additional amounts in percentage fees. The Concessionaire will increase by two (2) percentage points the percentage rent of any Sub-tenant that so chooses not to pay the Living Wage (as adjusted) following any determination of inapplicability to compensate the Concessionaire for the increased percentage rent payable by the Concessionaire to the County for the Sub-tenant's Location(s) at which the Living Wage (as adjusted) is no longer paid.

For purposes of determining whether or not Concessionaire is paying less than Living Wage following any determination that Living Wage is not applicable, the point of comparison shall be to the last Living Wage as promulgated by the County, as escalated by the Consumer Price Index for All Urban Consumers (CPI-U) for Miami-Fort Lauderdale-West Palm Beach for each year following the determination of inapplicability.

15.07 MIAMI-DADE AVIATION DEPARTMENT OPERATIONAL DIRECTIVES The Concessionaire shall comply with the Miami-Dade Aviation Department (MDAD) Operational Directives. Please refer to MDAD Operational Directives available at http://www.miami-airport.com/od2.asp.

15.08 DISTRIBUTION OF SINGLE-USE PLASTICS AND POLYSTYRENE TO CONSUMERS ON COUNTY PROPERTY:

Single-Use Plastics: Pursuant to Resolution No. [R-1030-24], the Concessionaire and its Subtenants (if applicable) shall be precluded to the greatest extent possible from distributing single-use plastics items to consumers in such form of, included but not limited to wrappers, straws, containers, utensils, water and beverage bottles, coffee lids and stirrers, and bags.

Polystyrene (Styrofoam) Ban at MIA: Pursuant to MDAD Operational Directive No. 16-04, the Concessionaire and its Subtenants (if applicable) shall be precluded from distributing polystyrene products and petroleum-based materials.

In lieu of the above prohibited materials, Concessionaires and their subtenants (if applicable), shall provide containers, utensils, cups, and plates (as appropriate given the scope of each operation) made from high recycled content paper or bio-based, biodegradable plastic packaging as certified by the Biodegradable Products Institute (BPI).

Concessionaires, subtenants, certain business partners and management agreement operators shall, to the maximum extent feasible, use cleaning products and soaps which are listed on the United States General Services Administration "Environmental Products List" as referenced:
www.gsa.gov/climate-action-and-sustainability/buy-sustainable-products-services-and-vehicles

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 Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire has designated in writing. Notwithstanding the foregoing, and in addition thereto, the Concessionaire, 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 Concessionaire, 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 Concessionaire 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 Concessionaire 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 (link below), 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 Concessionaire at the offices of the Department during normal working hours. Copies of the Trust Agreement are available for inspection in the offices of the Department during normal working hours.

The Amended and Restated Trust Agreement link:

https://www.miami-airport.com/library/pdfdoc/Propertise/Amended%20and%20Restated%20Trust%20Agreement%202002.pdf

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 Concessionaire or by other Concessionaires under other agreements of the Department for the lease or use of Location 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 Concessionaire 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 Concessionaire.

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 and any storage/support 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 Concessionaire 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 Concessionaire'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 Concessionaire, 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 Concessionaire 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, 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. The cost of the audit for this Contact 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. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one (1) 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 Implementing 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 (1) 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. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is

empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to, original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 18 – OTHER PROVISIONS

18.01 PAYMENT OF TAXES: The Concessionaire shall pay all taxes lawfully assessed against its interests in the Location and any support/storage spaces and its services hereunder, provided however, that the Concessionaire 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 CONCESSIONAIRE: The Concessionaire shall not alter or modify the Location and or any support/storage spaces, except in accordance with **Article 4 "Improvements to the Location"** herein, without first obtaining written approval from the Department.

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

18.04 ADMINISTRATIVE MODIFICATIONS: It is understood and agreed to that the Department, upon written notice to the Concessionaire, shall have the right to modify administratively and to revise Articles and the Exhibits to this Agreement, including the provisions of **Sub-Article 1.07 "Addition, Deletion and Modification of Location"**, **Sub-Article 18.02 "Alterations by Concessionaire", Sub-Article, 21.02 "Right to Amend"**, and **Sub-Article 21.04 "Right to Modify"**.

18.05 SECURITY: The Concessionaire acknowledges and accepts full responsibility for the security and protection of the Location. The Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for protection of the Location shall be the sole responsibility of the Concessionaire 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 Concessionaire 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 Concessionaire shall be liable for any physical damage caused to the Location by the Concessionaire, its employees, agents, contractors, subcontractors, suppliers, or it's Sub-tenants (if applicable). The liability shall encompass: (i) the Concessionaire's repair of the Location, or if the Location cannot be repaired, payment to the Department of the fair market value replacement cost of the Location; and (ii) any other such damages to the Department arising from the physical damage caused by the Concessionaire or its Sub-tenants (if applicable) and its employees, agents, contractors, subcontractors, or suppliers. 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:

Attn: Director
Miami-Dade Aviation Department
Post Office Box 025504
Miami, Florida 33102-5504

or (physical address):

Miami International Airport

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

To the Concessionaire:
SSP America MIA, LLC
Attn: Patrick Murray
20408 Bashan Drive, Suite 300
Ashburn, VA 20147
Email: patrick.murray@foodtravelexperts.com

with a copy to:

SSP America, Inc.
Attn: Legal Department
20408 Bashan Drive, Suite 300
Ashburn, VA 20147
Email: jag.singh@foodtravelexperts.com

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 Concessionaire by this Agreement are reserved to the Department.

18.12 COUNTY LIEN: The County shall have a lien upon all personal property of the Concessionaire in the Location 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 Concessionaire shall not use or permit the use of the Location or the Airport for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the Department on or invalidate any insurance policies of the Department or any policies of insurance written on behalf of the Concessionaire 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 Concessionaire 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 Concessionaire.

18.15 SECURED AREAS/AIRFIELD OPERATIONS AREA (AOA) STERILE AREAS SECURITY: The Concessionaire 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 Airport Security Plan and applicable Security Directives issued by TSA and the Aviation Department as set forth from time to time relating to Concessionaire's activities at the Miami International Airport (MIA).

In order to maintain high levels of security at MIA, the Concessionaire must obtain MDAD photo identification badges for all the Concessionaire 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 Concessionaire employees will be required to obtain photo identification badges and will be subject to fingerprint-based criminal history records checks.

The Concessionaire shall be responsible for requesting MDAD to issue identification badges to all employees who the Concessionaire 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 Concessionaire or upon final acceptance of the work or termination of this Agreement. The Concessionaire will be responsible for fees associated with lost and unaccounted for badges as well as the fee(s) for fingerprinting and ID issuance.

All employees of the Concessionaire 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.

Concessionaire Ramp Permits will be issued to the Concessionaire 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 permits will be issued only for those vehicles that must have access to the site during the performance of the work. These permits will be only issued to company owned vehicles or company leased vehicles (leased from a commercial leasing company). 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 (3) 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 is provided to MDAD Airside Operations Division upon request.

Only Concessionaire 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 Concessionaire 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 of AOA driving rules or loss of Florida driver's license.

The Concessionaire 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 Concessionaire 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 Concessionaire 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 and Regulations Chapter 25.
The Concessionaire 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.

The Concessionaire 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 Concessionaire 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 Concessionaire.

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 Concessionaire 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.

Concessionaire 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 Concessionaire 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 Concessionaire sub-consultants, suppliers, and their individual employees for a violation of applicable security provisions. The Concessionaire 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 Concessionaire 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 Concessionaire and the Department, on behalf of the Department granting the Concessionaire 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 Concessionaire 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 Concessionaire in the performance of this Agreement shall be considered to be, at all times, the sole employees of the Concessionaire under its sole discretion, and not employees or agents of the Department**:** Except as provided in § 2-11.1(s) of the Code, the Concessionaire represents and warrants: (i) it has not employed or retained any company or person other than a bona fide employee working solely for the Concessionaire 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: Concessionaire shall not permit any mortgages, deeds of trust or similar liens to be imposed on the Location, the leasehold, or the furniture, fixtures and equipment or any portion thereof. Concessionaire or its Sub-tenants shall not permit or suffer any liens, including mechanics', materialmen's and tax liens to be imposed upon the Location, or any part thereof, without promptly discharging the same. Notwithstanding the foregoing, Concessionaire, or its Sub-tenants (if applicable) may in good faith contest any such lien if Concessionaire provides a bond in an amount and form acceptable to Department in order to clear the record of any such liens. Concessionaire further agrees that it shall not sell, convey, mortgage, grant, bargain, encumber, pledge, assign or otherwise transfer its leasehold interest in the Location or any personal property or trade fixtures in the Location, including any furniture, fixtures and equipment or any part thereof or permit any of the foregoing to occur. Concessionaire 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 and improvements, or any part thereof, as a consequence of any act or omission of Concessionaire or its Sub-tenants (if applicable) or as a consequence of the existence of Concessionaire'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 successful Bidder, 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 successful Bidder is free to fill its vacancies from other sources. Successful Bidders 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 M).

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 Concessionaire or its services.

ARTICLE 19 – NOT USED (SUB-LEASES)

ARTICLE 20 - WAIVER OF CLAIMS

The Concessionaire 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 Concessionaire 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 Location available to the Concessionaire or by reason of any defects or deficiencies in the Location or in the terminal building including any defect or deficiency in the Location or in the terminal building which substantially impedes the Concessionaire's ability to operate a concession at the Location (if applicable) 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 Concessionaire 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, Concessionaire hereby consents to any and all such modifications and changes as may be reasonably required.

21.03 CONCESSIONAIRE COVENANTS AND ASSURANCES:

A. Covenants Against Discrimination:

1. Concessionaire on behalf of itself, ;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 veteran status, , 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 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 of-r race, color national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression , or veteran status, , 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 Concessionaire 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, Concessionaire 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 veteran status, , or status as victim of domestic violence, dating violence or stalking. Should Concessionaire 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, Concessionaire 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. Concessionaire shall furnish the original or a true copy of such agreement to Department.

2. Concessionaire will provide to 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 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 Concessionaire is in the exclusive possession of another who fails or refuses to furnish this information, Concessionaire 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 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. Concessionaire 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 , or veteran status, 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. Concessionaire 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. Concessionaire 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 veteran status, 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. Concessionaire 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 Concessionaire'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. Concessionaire 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 veteran status, 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) Concessionaire 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 Concessionaire 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 Concessionaire from contesting said rulings or opinions, but the Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire hereunder and the occupancy and use by the Concessionaire of the Location 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 Concessionaire 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 Concessionaire, and its agents, contractors, sub-contractors and/or employees shall promptly observe and comply with applicable

provisions of all Federal, State, and local statutes, ordinances, regulations, and rules which govern or apply to the Concessionaire or to its services or operations hereunder.

1. The Concessionaire 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 Concessionaire 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 Concessionaire'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 Concessionaire herein, on the Location and on any and all equipment installed on the Location and the Concessionaire shall make and file all applications, reports, and returns required in connection therewith.

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

3. The Concessionaire 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 Concessionaire 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 Concessionaire.

4 The County shall have the right during the Concessionaire's normal business hours (and at any time during an emergency) to inspect the Location and the property of the Concessionaire 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 Concessionaire shall comply with these requirements.

21.10 FORCE MAJEURE:

Performance by each party shall be pursued with commercially reasonable efforts in all requirements under this Agreement; however, except as otherwise expressly provided herein, neither party shall be liable to the other for any loss or damage for delay due to causes that (i) were beyond the reasonable control and (ii) were not caused by the negligence or lack of commercially reasonable efforts of the affected party or its subcontractors or suppliers. The parties agree that, provided the conditions stated in (i) and (ii) above apply, the following are causes or events of force majeure: acts of civil or military authority (including courts and regulatory agencies), acts of God (excluding normal or seasonal weather conditions), riot or insurrection, inability to obtain required permits or licenses, blockades, embargoes, sabotage, epidemics and unusually severe floods, or acts or decisions of the Federal Aviation Administration, the Department of Transportation, the Transportation Security Administration, or the Environmental Protection Agency. The party affected shall provide written notice to the other party indicating the nature, cause, date of commencement thereof, the anticipated extent of such delay and whether it is anticipated that any completion or delivery dates will be affected thereby, and shall exercise due diligence to mitigate the effect of the delay. The parties agree that the commercial impacts of COVID-19 are currently known to the parties, and that commercial impacts related to COVID-19 shall not constitute force majeure events.

In the event of any delay resulting from such causes and provided the affected party has promptly notified the other and exercised commercially reasonable efforts as provided in subsection a) above the time for performance under this Agreement (including the payment of monies) shall be extended for a period of time reasonably necessary to overcome the effect of such delay.

21.11 ASPIRATIONAL POLICY REGARDING DIVERSITY AND EMPLOYABILITY 305: Pursuant to Resolution No. R-1106-15 Miami-Dade County suppliers/vendors are encouraged to utilize a diverse workforce that is reflective of the racial, gender and ethnic diversity of Miami-Dade County and employ locally-based small firms and employees from the communities where work is being performed in their performance of work for the County. Additionally, pursuant to Resolution R-230-22, County vendors are encouraged to employ individuals with disabilities, including those with Neurodivergent disorders. These policies shall not be a condition of contracting with the County, nor will they be a factor in the evaluation of solicitations.

21.12 PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY: The Concessionaire shall comply with the

Public Records Laws of the State of Florida, including but not limited to,: (1) keeping and maintaining all public records that ordinarily and necessarily would be required by Miami-Dade County (County) in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Concessionaire upon termination of the agreement and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of the agreement and shall be enforced in accordance with the terms of the agreement.

IF THE CONCESSIONAIRE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONCESSIONAIRE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE MIAMI DADE AVIATION RECORDS CUSTODIAN, JORGE MIHAIC (305) 876-0933; JMIHAIC@MIAMI-AIRPORT.COM; MIAMI-DADE AVIATION DEPARTMENT, RISK MANAGEMENT & SUPPORT SERVICES, P.O. BOX 025504, MIAMI, FLORIDA 33102-5504.

21.13 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 Concessionaire hereby affirms the completeness and accuracy of the information provided by Concessionaire to County in their Proposal, and in all attachments thereto and enclosures therewith, submitted by Concessionaire 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.

21.14 FAA SPECIAL PROVISIONS: Exhibit P, attached hereto and incorporated by reference, outlines the provisions currently required under applicable Federal Aviation Administration (FAA) guidelines. The Consultant shall comply with the terms of Exhibit P as amended from time to time. The Mayor or the Mayor's designee shall have the authority to administratively update Exhibit P to reflect revisions, additions, or removals of required FAA provisions as issued through official FAA guidance, without the need for formal

amendment to this agreement. Any such administrative updates shall be provided in writing to the Consultant through an updated version of Exhibit P. Such updated version of Exhibit P shall be identified as Exhibit P.A, with each updated Exhibit P thereafter being identified by successive alphabetical identification (i.e., Exhibit P.B, Exhibit P. C, and so on) with the latest alphabetical version of Exhibit P governing unless otherwise specified.

21.15 U.S. SOCCER FEDERATION 2026 WORLD CUP

The terms of this agreement are subordinate to the terms of the Airport Agreement submitted by Miami-Dade County to the United States Soccer Federation on February 21, 2018. In carrying out its obligations under this Contract, the Concessionaire shall not take or omit any action which is inconsistent with, or in derogation of, the County's obligations under the Airport Agreement. Where the Concessionaire's rights or obligations under this Agreement are in conflict with the County's obligations under the Airport Agreement, and upon notice by the County to the Concessionaire, the terms of this Agreement shall be deemed conformed to the County's obligations under the Airport Agreement. Where such conformance would cause a material change in this Agreement, Concessionaire shall have the right, upon written notice to the County within five (5) days of receipt of notice of such a conflict, to terminate this Agreement for convenience; in such termination, the Concessionaire shall have no cause of action for money damages of any kind, including but not limited to direct damages, unamortized costs or debt, stored or ordered materials, indirect damages, lost profits, loss of opportunity, loss of goodwill, or otherwise. In the event that the Concessionaire does not elect to terminate this Agreement within the time specified herein, this Agreement shall be deemed to have been amended via consent of the parties to conform its terms to the requirements of the Airport Agreement, but only to the extent needed to avoid conflict with same.

NOTE: The Agreement between Miami-Dade County and the U.S. Soccer Federation is available at:
http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2018/180129min.pdf

21.16 Supplier/Vendor Registration / Conflict of Interest

a) Supplier/Vendor Registration

The Concessionaire shall be a registered vendor with the County –Strategic Procurement Department, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the Concessionaire's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. This number becomes Concessionaire's "County Vendor Number." To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social- Security Number, be aware that the County requests the Social Security Number for the following purposes:

- **Identification of individual account records**

- **Payments to individual/Contractor for goods and services provided to Miami-Dade County**
- **Tax reporting purposes**
- **Provision of unique identifier in the vendor database used for searching and sorting departmental records**

The Supplier/Vendor confirms its commitment to comply with the vendor registration requirements and the associated affidavits available in INFORMS at https://supplier.miamidade.gov.

b) Conflict of Interest and Code of Ethics

Sections 2-11.1 (c) and (d) of the Code require that any County official, agency/board member or employee, or any member of his or her immediate family who, through a firm, corporation, partnership or business entity, has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first obtain and submit a written conflict of interest opinion from the County's Ethics Commission prior to the official, agency/board member or employee, or his or her immediate family member entering into any contract or transacting any business with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business transaction entered in violation of these subsections, as amended, shall be rendered voidable. All County officials, autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Conflict of Interest and Code of Ethics Ordinance.

21.17 COUNTY USER ACCESS PROGRAM (UAP)

Not applicable.

21.18 PROHIBITION AGAINST GOVERNMENTAL ENTITY CONTRACTS WITH COMMON CARRIER or CONTRACTED CARRIER

By entering into, amending, or renewing this Contract, including, without limitation a grant agreement or economic incentive program payment agreement (all referred to as "Contract"), as applicable, the common carrier or contracted carrier (collectively referred to as "Carrier" or "Contractor") is obligated to comply with the provisions of Section 908.111, Florida Statutes ("F.S."), "Prohibition against governmental entity contracts with common carriers," etc. as amended, which is deemed as being incorporated by reference in this Contract. All definitions and requirements from Section 908.111, F.S. apply to this Contract.

This compliance includes Contractor providing an attestation that it is not willfully providing, nor will it willfully provide, any service during the Contract term in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from the State of Florida or the United States. This attention by the Contractor shall be in the form attached to this Contract as **Exhibit N** - Common Carrier or Contracted Carrier Attestation Form and must be executed by Contractor

and provided County when entering, amending, or renewing this Contract. **This Contract shall not be effective unless and until Contractor executes and provides such attestation.**

Additionally, the Contractor acknowledges and agrees that this subsection and the corresponding compliance with the requirements of Section 908.111, F.S., are deemed added to Section 33 of the Contract (**FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS**). The Contractor further affirms that if it is found in violation of the required attestation, or of any requirement of the Contractor set forth in Section 908.111, F.S., such violation shall be just cause for immediate termination of the Contract by the County, without opportunity to cure, and exclusive of any procedures to cure set forth in elsewhere in the Contract for other events of default. Such termination shall be effective on the termination date stated in the written notice provided by the County and Contractor shall take all actions provided in Section 23(e) of this Contract. If County terminates this Agreement for cause under this subsection, County shall retain its rights under Section 23(c)-(d) of the Contract to (1) terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees, and (2) debar Contractor from County contracting in accordance with the County debarment procedures.

21.19 CYBERSECURITY AND INFORMATION TECHNOLOGY PROCUREMENT AND PROTECTION PROGRAM

All purchases of Cybersecurity Products shall abide by Sec. 2-8.2.6.2 of the Code of Miami-Dade County, *titled* Cybersecurity and Information Technology Procurement and Protection Program. The proposed software and/or hardware shall be produced in the United States, with the following exceptions:

(a) the required Cybersecurity Product is not produced in the United States, or if such required Cybersecurity Product is produced in the United States and it is not of a satisfactory quality to meet the needs of Miami-Dade County;

(b) upon a written recommendation of the County Mayor and approved by a majority vote of the Board of County Commission members present, compliance with the procurement and contracting requirements of Sec. 2-8.2.6.2 of the Code of Miami-Dade County, is not consistent with the best interests of the public; or,

(c) the Cybersecurity Product is purchased from a company or subsidiary that is not on the list of prohibited telecommunications companies in the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Public Law 115-232, as that list may be amended from time.

Contractor's employees who have access to County owned, licensed, or operated Cybersecurity Products shall be subject to Heightened Security Review prior to such employees being granted access to County Cybersecurity Products.

21.20 VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor and its Subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Contractor affirms that (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Contractor; (b) it has required all Subcontractors to this Contract to register and use the E-Verify system to verify the work authorization status of all new employees of the Subcontractor; (c) it has an affidavit from all Subcontractors to this Contract attesting that the Subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Contract. Registration information is available at: (http://www.uscis.gov/e-verify)

If County has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this contract in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Contractor agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that Contractor shall be liable for any additional costs incurred by the County because of such termination.

In addition, if County has a good faith belief that a Subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but Contractor has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the Subcontractor upon receipt of notice from the County of such violation by Subcontractor in accordance with Section 448.095(5)(c), Florida Statutes.

Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, Contractor, or Subcontractor no later than twenty (20) calendar days after the date of contract termination.

21.20 VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor and its Subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Contractor affirms that (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Contractor; (b) it has required all Subcontractors to this Contract to register and use the E-Verify system to verify the work authorization status of all new employees of the Subcontractor; (c) it has an affidavit from all Subcontractors to this Contract attesting that the Subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Contract. Registration information is available at: (http://www.uscis.gov/e-verify)

If County has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this contract in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Contractor agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date

of such termination and that Contractor shall be liable for any additional costs incurred by the County because of such termination.

In addition, if County has a good faith belief that a Subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but Contractor has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the Subcontractor upon receipt of notice from the County of such violation by Subcontractor in accordance with Section 448.095(5)(c), Florida Statutes.

Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, Contractor, or Subcontractor no later than twenty (20) calendar days after the date of contract termination.

21.21 POURING RIGHTS

The County reserves the right, at its sole and absolute discretion, to enter into future agreements with other Suppliers/Vendors to provide such Suppliers/Vendors the exclusive right to supply the County with Beverages or enter into agreements that provide that certain branded Beverages shall be the only Beverages that will be sold, dispensed, or served at County facilities. Such agreements may take the form of Pouring Rights agreements, sponsorship agreements, marketing partnership agreements or other exclusive rights agreements. The Contractor agrees and acknowledges that because of such future agreements the Contractor may be required to supply only Beverages of a certain brand to the County. Additionally, the Contractor agrees and acknowledges that such agreements may cause the County to terminate this agreement with the Contractor.

21.22 KIDNAPPING, CUSTODY OFFENSES, HUMAN TRAFFICKING AND RELATED OFFENSES AFFIDAVIT

By entering into, amending, or renewing this Contract, including, without limitation, a grant agreement or economic incentive program payment agreement (all referred to as the "Contract"), as applicable, the Contractor is obligated to comply with the provisions of Section 787.06, Florida Statutes ("F.S."), "Human Trafficking," as amended, which is deemed as being incorporated by reference in this Contract. All definitions and requirements from Section 787.06, F.S., apply to this Contract.

This compliance includes the Contractor providing an affidavit that it does not use coercion for labor or services. This attestation by the Contractor shall be in the form attached to this Contract as the Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit (the "Affidavit") and must be executed by the Contractor and provided to the County when entering, amending, or renewing this Contract.

This Contract shall be void if the Contractor submits a false Affidavit pursuant to Section 787.06, F.S., or the Contractor violates Section 787.06, F.S., during the term of this Contract, even if the Contractor was not in violation at the time it submitted its Affidavit.

21.23 ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 21.23, 2) Miami-Dade County's RFP No. EVN0000341 and any associated addenda and attachments thereof, and 3) the Concessionaire's Proposal.

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

CONCESSIONAIRE

(Legal Name of Corporation)

ATTEST:

(Signature)

By: SSP America MIA, LLC
Concessionaire - Signature

Dottie Kennedy, Executive Assistant
(Type Name & Title)

Name: George Mboya

(Authorized Signatory)

INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE

Aviation Strategies and Trade Solutions, Inc.
Legal Name

By: Ana Sotorrio
Signature

Ana Sotorrio President
(Type Name & Title)

Jeffy Van LLC
Legal Name

By: Jeff Mondesir
Signature

Jeff Mondesir Manager
(Type Name & Title)

Attest:

Name of Managing Joint Venture:

SSP America MIA, LLC

Witness: Dottie Kennedy, Executive Assistant

By:
Signature of Authorized Representative of the Joint Venture

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

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

CONCESSIONAIRE

(Legal Name of Corporation)

ATTEST:

Secretary _____ By: _____
(Signature) Concessionaire - Signature

_____ Name: _____
(Type Name & Title)

(President)

INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE

Nakagawa, LLC — Legal Name

By: _____
Signature

Jose Fuentes President
(Type Name & Title)

JSF airport concessions — Legal Name

By: _____
Signature

Shirlene Ingraham President
(Type Name & Title)

Attest: _____

Name of Managing Joint Venture:

SSP America MIA, LLC

Witness: Dottie Kennedy, Executive Assistant

By: _____
Signature of Authorized Representative of the Joint Venture

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

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

CONCESSIONAIRE

_____
(Legal Name of Corporation)

ATTEST:

Secretary_____ By: _____
(Signature) Concessionaire - Signature

_____ Name: _____
(Type Name & Title)

_____
(President)

INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE

P&P Hospitality LLC _____
Legal Name Legal Name

By: _____ By: _____
Signature Signature

LaDrean Perry President _____
(Type Name & Title) (Type Name & Title)

Attest: _____

Name of Managing Joint Venture:

SSP America MIA, LLC Witness: Dottie Kennedy, Executive Assistant

By: _____
Signature of Authorized Representative of the Joint Venture

(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

_____
Assistant County Attorney

Attest: Juan Fernandez-Barquin
Clerk of the Court and Comptroller

By: _____
(Deputy Clerk Signature)

Print Name_____

Resolution No.: _____

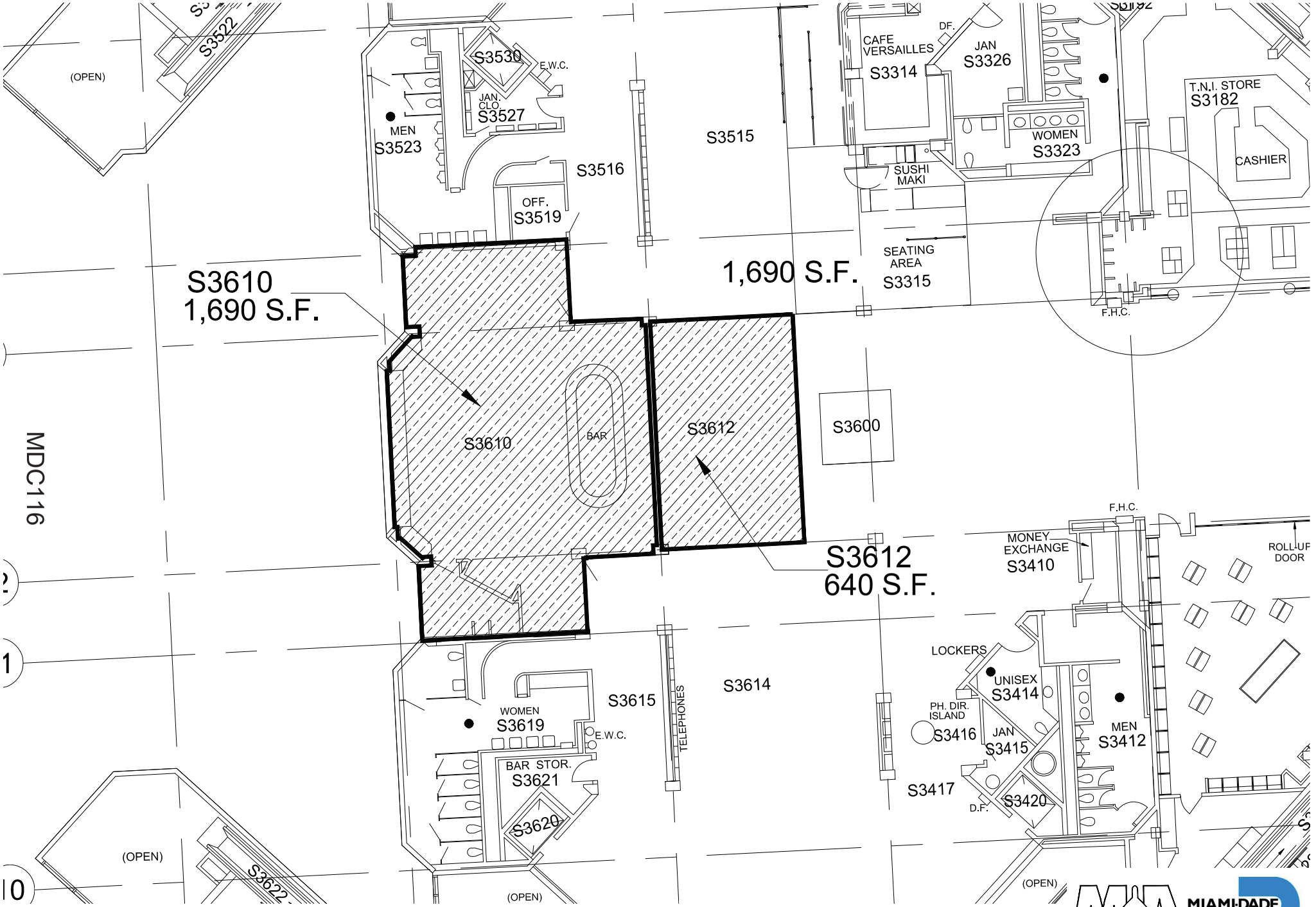
Date: _____

ATTACHMENTS

American Sports Bar at Miami International Airport

Exhibit A

Location



Note: Calculations for Sq. Ft. are taken from the center line of the walls.

DATE: 6-23-2022
FILE # : 16043

MIAMI INTERNATIONAL AIRPORT
BUILDING 3000-THIRD FLOOR-SATELLITE E

TECHNICAL SUPPORT SECTION

EXHIBIT B

Scope of Work

Exhibit B: Scope of Services

1 BACKGROUND

Miami International Airport (MIA) is the leading economic engine for Miami-Dade County and the State of Florida. Founded in 1928, MIA now offers more flights to Latin America and the Caribbean than any other U.S. airport. Today, MIA enjoys top rankings as the leading international freight airport in the United States and ranks as one of the nation's top three leading airports for international passenger traffic.

MIA's prominent presence in international passenger traffic and cargo activity has fueled a host of other industries, such as: tourism, cruise industry, international banking, and commerce. Approximately 80% of all exports and 83% of all imports between the United States and the Latin American/Caribbean region flow through MIA. It should also be noted that MIA is the port of entry for approximately 60% of all international traffic arriving by air to Florida. MIA is the world's largest Latin American/Caribbean gateway, offering over 1,300 weekly departures with non-stop service to 77 destinations in the region. With 44% of total passenger traffic being international, MIA is among the top airports in the U.S. with the highest international to domestic passenger ratios.

The core concessions programs at MIA (Food & Beverage, Retail and Duty-Free units) utilize nearly 271,000 square feet of space throughout the pre- and post-security areas of the North, Central and South Terminals. Commensurate with the cultural and geographic diversity of MIA's international passenger base, the concessions program includes a wide array of brands and concepts including some of the world's leading retailers and restaurants, international and regional brands specifically targeted to the unique makeup of the MIA traveler base and renowned local concepts curated to deliver an authentic expression of the cultural richness of the Miami area.

2 CONCESSION GOALS AND OBJECTIVES

The Miami-Dade Aviation Department (MDAD) has established concession goals and objectives to better meet or exceed the demands of today and tomorrow's traveling public. These goals and objective include:

A. Enhance the image of the Airport as a world-class airport.

B. Enhance customer service and satisfaction by improving product choice, price, and customer service.

C. Optimize sales and revenues.

D. Optimize design and location of retail units.

E. Present a local and regional identity concept that enhance the "sense of place" and convey the cultural richness and diversity of Miami to the traveling public.

F. Provide national and international branded concepts.

G. Increase the Concession Disadvantaged Business Enterprises (ACDBE) participation to the extent possible.

3 SCOPE OF WORK

The Concessionaire has provided a Proposal for an American Sports Bar (Bar) food and beverage concept located at Building 3000 Third Floor Satellite E (1) location at Miami International Airport (see Exhibit 1 - Location).

MDAD's envisions that this space will host a Bar that will provide a broad menu to appeal to the greatest number of passengers possible, and the menu should be priced to be considered as competitive to Airport patrons and both domestic and international travelers.

- The Bar should provide a U.S. stadium-inspired food menu which may include, but is not limited to, hamburgers, hot dogs, pizza, chicken wings, French fries, nachos, frozen treats, and other such items typically associated with sporting venues or sports bars across the United States. The bar must provide strong three-day part service (breakfast, lunch, and dinner). The Bar shall not sell croquettes, empanadas, Cuban sandwiches, Sushi, Sashimi, or offer ventanita coffee offerings.,
- The menu should include a full range of breakfast, appetizers, hot meals, salads, desserts, as well as healthy grab-n-go options for the travelling public.
- The Bar should offer an assortment of local, domestic, and imported beers, value priced quality wines, and a robust liquor offering including signature drinks ranging in price from value liquors to premium spirits.
- The Bar should provide a variety of televised sporting programs with multiple television/projector screens throughout and other gaming entertainment for the customers.

The Concessionaire will provide the agreed upon goods and services to the public three hundred sixty-five (365) days a year in accordance with Exhibit 2 - Tenant Handbook. Any costs to install, maintain, manage and operate the Location as well as all equipment and fixtures, and any other infrastructure on the Airport, necessary and appropriate for the operation of the sports bar, will be borne by the Concessionaire. The County does not warrant the availability of water, sewer, power, ventilation, grease retention or disposal, or other utility service sufficient for Concessionaires needs at the Location.

4 CONCESSIONAIRE'S RESONSIBILITIES

The Concessionaire shall finance, develop, manage, design and construct, operate and maintain the Location depicted in Exhibit 1 – Location (awarded in As-Is condition) for the purpose of establishing high quality, state of the art sports bar concessions as approved by the Department. The minimum expectations are depicted as follows:

A. Financing

1. Finance the design, construction and build out of the Location depicted in Exhibit 1 – Location.

B. Development:

1. Convey or reflect the character of the South Florida Region, Miami-Dade County, its residents, and/or Miami International Airport in its concept, including interior design and concept, and which fulfills the Food & Beverage concept category in such a manner consistent with food and beverage operating standards employed by a first-class airport .

C. Management:

1. Manage the Location in a way that maximizes the highest and best use and financial return to the Department.
2. Monitor and enforce compliance with the terms and conditions of the Agreement, including but not limited to the clauses, customer service, insurance, pricing, capital expenditures, quality of merchandise, hours of operation, detailed reporting of number and type of sales transactions, payment of fees to the Department, rent, and company brand signage.
3. Maintain permanent records for each leased Location.
4. Maintain computerized records on a commercially available property management software program acceptable to the Department. Programs and all data collected should be available to the Department on-line (digital and electronic).
5. Develop, maintain, and make available, if requested, all files, to include copies of licenses, permits, insurance certificates, and letters of credit.

6. Provide from time to time, as requested by the Department, annual financial statements demonstrating its financial capacity to perform its obligations under the terms of the Agreement.

D. Design and Construction:

Design and construct (build out) the Location in accordance with Article 4 of the Agreement. NOTE: This is an "As-Is" Location.

E. Operational:

1. Provide quality control audits and reports, including compliance with market basket pricing policy, cleanliness of the Location, timeliness of service or quality of the products.
2. Generate and provide the Department monthly revenue reports and such other financial and management reports as are usual and customary in sophisticated airport concession management programs. Prepare other reports and analysis as may be requested periodically by MDAD, including number of transactions per hour, and average sales per transaction.
3. Develop annual revenue projections by month for each Location, to be updated on a regular basis.
4. Provide on-site staff to perform daily functions as required by the Scope of Services and the Standards of Operations identified in Agreement per Article 5.01, subject to acceptance by the Department.
5. Ensure compliance with the Department and other governmental agency identification badging requirements.
6. Implement any new policies, and procedures, and operational directives as issued from time to time by the Department.
7. Ensure payment is submitted with the Monthly Report of Transactions to the Department.
8. Respond to customer complaints in a timely manner.
9. Maintain a sufficient inventory to minimize stock-outs and ensure the quality and freshness of products offered. Under no circumstances will the Concessionaire sell products after their expiration date.

F. Maintenance:

1. Maintain or cause to maintain the Location pursuant to Department standards, which may be promulgated from time to time.
2. Coordinate and maintain general oversight of deliveries of goods and products for the concession operations from any designated on or off-Airport storage area.
3. Shall take such corrective action as necessary to maintain the Location within acceptable conditions as required by the Department.
4. Keep the Bar in a clean and orderly condition and appearance at all times, including all equipment, fixtures and any personal property.

5 LICENSE/CERTIFICATIONS

The Concessionaire shall, at its sole cost, obtain all permits, licenses, certifications, and approvals required for operation and performance herein, and as may be required by any and all entities that have jurisdiction, including:

5.1 Alcoholic Beverages License:

In accordance with (link) Chapter 564, Title XXXIV of the Florida Statutes, a 4COP/SFS License (formerly known as an SRX license). in compliance with Florida Beverage Law is required for the sale of alcoholic beverages. The Concessionaire shall meet all requirements of the Florida Division of Alcoholic Beverages and Tobacco for the license which shall be attained by the Concessionaire, held at its sole liability, and maintained for the duration of the Agreement.

5.2 Food Service Certifications:

a) Food Manager Certification – In accordance with (link) Chapter 509.039, Title XXXIII of the Florida Statutes, a manager of a food service establishment shall have demonstrated a knowledge of basic food protection practices, and shall complete training and pass a certification exam within 30 days of hire by the Concessionaire.

b) Food Handler Certification – In accordance with (link) Chapter 509.049, Title XXXIII of the Florida Statutes, all food service employees shall be trained and certified on correct food handling, safety, and hygiene practices within 60 days of hire by the Concessionaire.

Any conflict or discrepancy in the requirements stated in this Agreement does not relieve the Concessionaire from their responsibility to fully meet the applicable Florida Division of Alcoholic Beverages and Tobacco licensing requirements.

6 CREDENTIALING / BADGING/ PARKING

Concessionaire shall be subject to all MDAD requirements, U.S. Transportation Security Administration (TSA), and U.S. Customs and Border Protection (CBP) mandates, pertaining to the issuance of airport identification badges, including: personnel completion of the Security Identification Display Area (SIDA) training conducted by MDAD, and respective background checks required by the TSA and CBP Unescorted Access Privilege Rule. Concessionaire shall be required to conduct background investigations and to furnish certain data on such personnel before issuance of such ID badges, which data may include fingerprinting applicants for such badges. All personnel working need to be badged before work commences. Badges must be displayed at all times. The fee for ID badges/background checks is approximately $58.00 per employee biannually. Parking for the Concessionaire, its staff and any Subcontractors shall be provided at the Concessionaire's expense. The current rates as of the date of this Solicitation per decal are as follows: Four (4) months – Fee of $120; Eight (8) months – Fee of $240; Twelve (12) months – Fee of $360. Rates are subject to change.

7 CUSTOMER SERVICE

In an effort to support MIA's commitment to world-class customer service, a program was created with the Greater Miami Convention & Visitors Bureau (GMCVB) to enhance the customer service skills of MIA employees and concessionaires. Concessionaire personnel who interact directly with the public (passengers, customers, etc.) shall be required to complete the **Miami Begins with Me Customer Service Champion Program**, provided by the GMCVB, through Miami Dade College School of Continuing Education & Professional Development (details can be made available by contacting 305-237-7494 or at npineda@mdc.edu). This service is provided at no cost to the Concessionaires.

The Concessionaire shall:

A. Coordinate and implement regular employee customer service training programs, to include employees from Concessionaire. The Concessionaire will submit its/their customer service-training program within thirty (30) Days of the Lease Effective Date of the Agreement for the Department's review and approval.

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

8 STAFFING REQUIREMENTS

The Concessionaire shall:

A. Employ at all times a sufficient number of personnel necessary to assure prompt, courteous and efficient service. Officers, staff, and personnel shall be properly trained and attired and must wear identification badges in accordance with MIA requirements.

B. Employ a full time, experienced and properly trained on-site manager, to represent and act on behalf of the Concessionaire in all matters pertaining to the business operation. The manager shall be available during normal operating hours and be delegated authority to ensure the competent performance and fulfillment of the responsibility of the Concessionaire. The manager shall be responsible for the premises as well as proper conduct and appearance of its officers, agents, employees, suppliers, and representatives.

C. Employ a management person(s) who shall be on call and available for emergencies or other matters related to the operations herein (i.e. theft, vandalism, maintenance issues), outside of normal operating hours.

9 MARKET BASKET/COMPETITIVE PRODUCT PRICING

The prices of all goods and services offered for sale shall be clearly provided and/or displayed. The Concessionaire shall be required to comply with the Market Basket/Competitive Pricing Policy as reflected in Article 5.02 of the draft Agreement.

For the purposes of this solicitation and resultant contract, to determine Market Basket, the Concessionaire shall survey a minimum of three (3) sports bars/restaurants (excluding stadiums, arenas, amusement, entertainment venues and hotels) in Greater Miami Area to determine the average price for a particular good or service. The Concessionaire's prices shall not exceed more than fifteen percent (15%) of the Market Basket.

A. For any or all operations where a Concessionaire currently operates the same or similar sports bar/restaurant in the Miami-Dade County area, the Concessionaire may not charge more than **fifteen percent (15%)** higher charges at the Airport for like or similar item, portion or serving. The Department has the right to survey prices at said sports bars/restaurants and to use these prices for same or similar goods and services as the primary basis for pricing in the leased Location..

B. Concessionaire shall request approval from the Department in advance of any proposed increase in the sales price of the goods and services offered for sale by the Concessionaire.

C. All goods and services shall be sold in accordance with the prices approved by the Department.

10 MONITORING AND INSPECTIONS

A. The County shall have the right, without limitation, to monitor and test (i.e. secret shopper) the quality of goods and services of the Concessionaire, including, but not limited to personnel and the effectiveness of its cash-handling procedures, through the use of a shopping service, closed circuit television, and other reasonable means.

B. The County shall have the authority to make periodic reasonable inspections of the Bar, equipment, and operations during normal operating hours to determine if such are being maintained as agreed to. The Concessionaire shall be required to make any improvements in cleaning or maintenance methods reasonably required by the County. If corrective action is not immediately taken, the County will cause the same to be cleaned, and the Concessionaire shall assume responsibility and liability for such cleaning. Periodic inspections may also be made at the County's discretion to determine whether the Concessionaire is operating in compliance with the terms and provisions of the Agreement.

11 CASH REGISTER/POINT-OF-SALE SYSTEM

The Concessionaire shall utilize its own cash register/point-of-sale system for sales transactions which shall produce daily sales totals for reporting gross revenues and be able to provide a monthly reconciliation of daily sales in a format approved by MDAD. In addition, provide multiple payment options to customers, including cash, credit card and debit card payments, as well as being capable of accepting NFC (near field communications) payment methods such as Google Wallet, ApplePay, Samsung Wallet. The Concessionaire shall remain in compliance with the Payment Card Industry (PCI) Security Standards published by the PCI Security Standards Council in effect and at all times. Refer to Articles 3.26 and 3.27 of the Draft Form of Agreement.

All reports generated by the system shall be in real time access and in a format that is searchable (i.e. excel file, word, etc.).

12 SIGNAGE AND ADVERTISEMENT

Any and all signage must have prior written approval from MDAD per Article 7 of the Agreement. Moving or flashing signs, advertisements, or notices on the outside of the Location are strictly prohibited. Refer to Articles 2.07 and 3.23 regarding unauthorized advertising.

13 SECURITY

The Concessionaire shall secure the Bar premises and provide necessary security measures to protect the customers and MDAD staff. Prior to beginning operations, the Concessionaire shall provide a detailed Security Plan that includes data protection, within ninety (90) Days of the Lease Effective Date of the Agreement for the Department's review and approval.

14 TRANSITION AND IMPLEMENTATION

The Concessionaire shall provide a Transition Plan, including a timeline schedule commencing post Contract award with specific tasks and an estimate of the steps and duration required for the implementation of the Services. The Transition Plan will be reviewed and finalized upon MDAD's approval.

Exhibit C

Surety Performance and Payment Bond

Exhibit C

SURETY PERFORMANCE AND PAYMENT BOND

By this Bond, We _____, as Principal, whose principal business address is _____, as Contractor under the Contract dated , 20 ___, between Principal and Miami-Dade County for the construction of

_____

Project No. _____ (hereinafter referred to as "Contract") the terms of which Contract are incorporated by reference in its entirety into this Bond and _____, a corporation, whose principal business address is _____ as Surety, are bound to Miami-Dade County (hereinafter referred to as "County") in the sum of **[Dollars] [$]**, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs all the Work under the Contract, including but not limited to guarantees, warranties and the curing of latent defects, said Contract being made a part of this bond by reference, and in the times and in the manner prescribed in the Contract, including any and all damages for delay; and

2. Promptly makes payments to all claimants, as defined in Section 255.05(l), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the Work provided for in the Contract; provided, however, that any action instituted by such claimant under this paragraph for payment must be in accordance with notice and time limitation provisions in Section 255.05(2), Florida Statutes; and

3. Pays County all losses, damages, including damages for delay, expenses, costs and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the Contract, including but not limited to a failure to honor all guarantees and warranties or to cure latent defects in its Work or materials within five (5) years after completion of the Work under the Contract; and

4. Performs the guarantee of all Work and materials furnished under the Contract for the time specified in the Contract, including all warranties and curing all latent defects within five (5) years after completion of the Work under the Contract;

then this bond is void; otherwise it remains in full force.

If no specific periods of warranty are stated in the Contract for any particular item or Work, material or equipment, the warranty shall be deemed to be a period of one (1) year from the date of final acceptance by the County. This Bond does not limit the County's ability to pursue suits directly with the Principal seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11(2)(b), Florida Statutes.

Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

SURETY PERFORMANCE AND PAYMENT BOND (Cont'd)

IN WITNESS WHEREOF, the above bounden parties have caused this Bond to be executed by their appropriate officials as of the _____ day of _____, 20 ___.

CONTRACTOR

_____

(Contractor Name)

BY:

_____

(President) (Managing Partner or Joint Venturer)

(SEAL)

COUNTERSIGNED BY RESIDENT
FLORIDA AGENT OF SURETY:

SURETY:

_____

_____

(Copy of Agent's current
Identification Card as issued by
State of Florida Insurance Commissioner must be attached)

By: _____

Attorney-in-Fact

(CORPORATE SEAL)

(Power of Attorney must be attached)

Exhibit D

Payment Security

(Lease Guarantee Bond)

Exhibit D

PAYMENT SECURITY (LEASE GUARANTEE BOND)

Bond No._____

KNOW ALL MEN BY THESE PRESENTS, that we, _____ as Principal, and _____ licensed to do business in the State of Florida as Surety, are held and firmly bound unto Miami-Dade County (Obligee), in the penal sum of as stipulated _____on, 20__ for the payment of which sum well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, and successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas by Concession Agreement awarded by the Board of County Commissioners, Obligee has granted unto said Principal the right to operate a Concession at Miami International Airport and more fully described in said Lease and Concession Agreement for a term as set forth in said Agreement or as amended, a copy of which is attached, which Agreement is made a part hereof and incorporated herein by reference.

NOW, THEREFORE, if Principal, its executors, administrators, successors, and assigns shall promptly and faithfully perform the Lease and Concession Agreement, according to the terms, stipulations of conditions thereof, then this obligation shall become, null and void; otherwise, to remain in full force and effect.

Provided, however, this bond shall be in full force and effect for the term of the Agreement But may be renewed annually thereafter by the principal with written consent of the Surety by issuing a Continuation Certificate, no later than thirty (30) days prior to the renewal date. Provided further, however, that regardless of the number of years this bond may be in force, the aggregate liability of the Surety shall not be cumulative and is limited to the stated penal sum.

Provided further, however, that in the event the bond is not renewed, the liability of the Surety shall be limited to the actual damages sustained by the Obligee due to lack of performance of the Principal during the effective term of the bond. The Surety shall not be held liable for any contract period beyond which it consents to in writing.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals, this ____ day of _____ the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

In The Presence Of:

_____ _____(Seal)

Witness By: _____

Witness: Surety:

_____ _____(Seal)

By: _____

(PAYMENT SECURITY)

Irrevocable Standby Letter of Credit

(On bank's letterhead)

Date: _____

L.O.C. No. _____

Miami Dade Aviation Department
Attn: Accounts Receivable Manager
4200 NW 36TH Street Bldg 5A Suite 300
Miami, FL 33122

Gentlemen:

By order of ___(Name of User)_____, we hereby issue our Irrevocable Standby Letter of Credit No. _____ in your favor in an amount not to exceed

$ _____ in US Funds, effective immediately, and expiring at the close of business on _____, 20__ at our counters at _____.

Funds under this Letter of Credit are available to you against your draft(s) drawn on us at sight, identifying your Letter of Credit number. Each such draft(s) must be accompanied by your written statement to be signed by an official of the Miami Dade Aviation Department reading as follows:

"that ___(Name of User)_____ has failed to comply with the terms of the Agreement entered into with the Miami-Dade Aviation Department", and "we are hereby presenting our draft for payment."

Partial drawings under this Letter of Credit are permitted.

This Letter of Credit shall be valid until _____, 20__ and shall thereafter be automatically renewed without amendment for successive one-year periods upon each anniversary or before the above expiration date unless we notify you in writing by overnight courier at your above address, at least sixty (60) days prior to the above stated expiration date, that we elect not to renew this Letter of Credit.

In the event that we elect not to extend this Letter of Credit and notify you as above then this Letter of Credit shall be available by your draft at sight on us, which need not be accompanied by the above mentioned statement.

We hereby engage with you that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored by us if presented at our counters with this original Letter of Credit while this Letter of Credit is in force and effect.

Except so for as otherwise expressly stated, This Standby Letter of Credit is subject to and governed by the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 600).

_____

Issuing Bank

By: _____

Signature

_____

(Print Name)

_____

(Print Title)

Bond No._____

EXHIBIT E

Central Terminal Retail Concessions Design Guidelines

https://www.miami-airport.com/library/pdfdoc/Concessions/Central%20Terminal%20Retail%20Concessions%20Design%20Guidelines.pdf

EXHIBIT F

- **Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N):**

https://www.miami-airport.com/library/pdfdoc/Resources/TAC-N%20Forms%201.25.21.pdf

- **Tenant Airport Construction Reimbursable Procedures (TAC-R:**

https://www.miami-airport.com/library/pdfdoc/Resources/MDAD%20Procedure%20for%20TAC-R%20Projects%20.pdf

Exhibit G

Independent Audit Report

Sample Management Letter

Independent Auditor's Report

Board of Directors
XYZ Corporation

In planning and performing our audit of the Schedule of Gross Revenues and Percentage Fees Paid to the County of XYZ Corporation for the year ended _____xx, 20xx, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion of the Schedule of Gross Revenues and Percentage Fees Paid to the County and not to provide assurance on the internal control structure. Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under the standards established by the American Institute of Certified Public Accountants.

A material weakness is a condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the Schedule of Gross Revenues and Percentage Fees Paid to the County being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. However, we noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defines above.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used for any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

Sample Audit Report

Independent Auditor's Report

Board of Directors
XYZ Corporation

We have audited the accompanying Schedule of Gross Revenues and Percentage Fees Paid to the County (as defined in the Lease and Concession Agreement between Miami-Dade County Florida and XYZ Corporation) of XYZ Corporation for the year ended _____ xx, 20xx. This schedule is the responsibility of XYZ Corporation's management. Our responsibility is to express an opinion on this schedule base on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Schedule of Gross Revenues and Percentage Fess Paid to the County is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides basis for our opinion.

In our opinion, the Schedule of Gross Revenues and Percentage Fees Paid to the County referred to above presents fairly, in all material respects, the gross revenues of XZ Corporation for the year ended _____ x, 20xx and the related fees paid, as defined in the Lease and Concession Agreement referred to in the first paragraph.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used or any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

Sample Compliance Letter

Independent Auditor's Report

Board of Directors
XYZ Corporation

We have audited, in accordance with generally accepted auditing standards, the Schedule of Gross Revenues and Percentage Fees Paid to the County of XYZ Corporation for the year ended _____ xx, 20xx and have issued our report thereon, dated _____ xx, 20xx. We have not performed any substantive audit procedures beyond the date of our report on the Schedule of Gross Revenues and Percentage Fees Paid to the County. Accordingly, this report is based on our knowledge as of that date and should be read with that understanding.

In connection with our audit, nothing came to our attention that caused us to believe that XYZ Corporation failed to comply with the term of the Lease and Concession Agreement with Miami-Dade County, Florida insofar as they relate to the Company's book of accounts, records and reports. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used for any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

XYZ
Corporation
Schedule of Gross Revenues and Percentage Fees Paid to the County For the Year Ended _____, 20xx

Month	Gross Revenues	Percentage Fee Due	Percentage Fee Paid	Balance Due
TOTAL				

Exhibit H

Executed Affidavits and Condition of Award Certificates (from Concessionaire)

Attachment F

CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED AFFIDAVIT

The Contracting with Entities of Foreign Countries of Concern Prohibited Affidavit Form ("Form") is required by Section 287.138, Florida Statutes ("F.S."), which is deemed as being expressly incorporated into this Form. The Affidavit must be completed by a person authorized to make this attestation on behalf of the Bidder/Proposer for the purpose of submitting a bid, proposal, quote, or other response, or otherwise entering into a contract with the County. The associated bid, proposal, quote, or other response will not be accepted unless and until this completed and executed Affidavit is submitted to the County.

SSP America MIA, LLC does not meet any of the criteria set forth in Paragraphs 2 (a) – (c)
Bidder's/Proposer's Legal Company Name
of Section 287.138, F.S.

Pursuant to Section 92.525, F.S., under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Print Name of Bidder's/Proposer's Authorized Representative: Patrick Murray

Title of Bidder's/Proposer's Authorized Representative: Deputy CEO

Signature of Bidder's/Proposer's Authorized Representative:

Date: 8/1/2024

Est. 12282023

Exhibit I

Monthly Report of Gross Revenues

Exhibit I
Monthly Report of Gross Revenues

COMPANY NAME

Monthly Gross Revenues

Report due on or before the Tenth (10th) calendar day following the end of the each month

Month of:_____ **Year: ____ / _____/ ____**

Send Original with payment to:
Miami Dade Aviation Department
Att: Finance Division
P.O. Box 526624
Miami, Florida 33152-6624

Permit Agreement No.

Lazier, Porchia B. (305) 876-8497
PLazier@miami-airport.com
LSUGG@MIAMI-AIRPORT.COM

		Gross Revenue by location
	location #1	**$0.00**
	Total number of locations reported: ____3	
	Total Gross Revenues:	**$0.00**

Effective Concessions Fees:

Total Percentage Fee		**15%**	**$ -**
Less: Monthly MAG		**12**	**$**
Less: Monthly Rent	Sq. Ft's*Rent Rate	**12**	**$**
% Fee due in Excess of Monthly Rent		**Net to MDAD**	**$**
		Total Due to MDAD	**$**

Payment included in Check No. _____ Amount Paid: _____ Date: _____

I hereby certified that the above statement is true and correct:

_____ **_____**
Signature **PRINT NAME**

_____
Title

_____
Date

EXHIBIT J

TSA Prohibited Items

https://www.tsa.gov/travel/security-screening

Exhibit K

Tenant Handbook



MIAMI-DADE AVIATION DEPARTMENT

MIAMI INTERNATIONAL AIRPORT

AIRPORT CONCESSION BUSINESS DEVELOPMENT

TENANT HANDBOOK

TABLE OF CONTENTS

WELCOME **4**

INTRODUCTION **5**

A. Vision 5
B. Airport Concession Business Development Program Goals 5
C. Airport Concession Business Development Program Objectives 5
D. Airport Concession Program Overview 5

GENERAL INFORMATION **6**

A. Useful Contacts 6
B. Useful Websites 6
C. Airlines 7
D. Airport Layout/Maps 7
E. Airport Information Services 7
F. Airport Paging 8
G. Accessibility for All Passengers 8
H. Lost and Found 9

GETTING STARTED **10**

A. Employee Parking 10
B. Badging (MDAD Credentialing Section) 11
C. Employee Orientation 11
D. Setting Up Utilities 11
E. Use of Wireless Technologies 11
F. Banking Procedures 11
G. Hours of Operation 12
H. Irregular Operations Plan 12
I. Emergency Preparedness 12
J. Glossary of Airport Acronyms 13

CUSTOMER SERVICE **15**

A. Standards and Expectations 15
B. Complaint Resolution 15
C. Return Policies 15
D. Training Requirements 16
E. Monitoring 16

STANDARD AIRPORT PROCEDURES **17**

A. Rules and Regulations 17
B. Improvements to Premises 17
C. Vendors Performing Services for Concessionaires 17
D. Storage 17

OPERATIONS **19**

A. Standard of Operations (SOPs) 19
B. Food & Beverage Concessions 22
C. Retail Concessions & Services 23
D. Marketing and Promotions 24
E. Terminal Maintenance 24
F. Waste Management 26
G. Sustainability 29
H. Delivery Procedures 29
I. Terminal Construction 31
J. Liquidated Damages 32

SAFETY & SECURITY 33

A. Airport Police 33
B. Concessions Security 33
C. Emergencies 34
D. Fire Inspections 34
E. Other Reporting Concerns 35
F. After Hours Activity 35
G. Access to Premises 35
H. Locked Out Procedure 36

APPENDIX A: FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

WELCOME

The Miami-Dade Aviation Department (MDAD) welcomes you to Miami International Airport (MIA).

MIA has more than 30,000 dedicated employees from Miami-Dade County, as well as airlines, various government agencies, vendors, consultants, and concessionaires. We work closely daily to provide and maintain safety and security, economic viability, customer service, and passenger service.

This Tenant Handbook communicates the responsibilities of being a part of the MIA family. Our goal is to provide our passengers and airport patrons with excellent customer service, and your attention to detail is critical to achieving this goal.

We look forward to a continuous business partnership and wish you well in your new business operations at MIA.

INTRODUCTION

This Tenant Handbook addresses the events that will usually transpire as your business embarks on a relationship with Miami International Airport.

The Lease between the Concessionaire and the County is the primary legal document that defines allowable activities and conditions within the leasehold premises. A review of the Lease is recommended to further define activities, concession and public boundaries, and other operating rights.

A. Vision

The MIA concessions program provides a world-class retailing experience for its diverse passenger mix, which includes the culturally diverse, cosmopolitan South Florida region and a multi-continent international gateway. It provides various international, national, and local brands that offer fair and varying price points and innovative store designs, all within a safe, vibrant shopping environment.

B. Airport Concession Business Development Program Goals

A commitment to balance competitively priced high-quality goods and services with needed passenger services and revenue to the Airport, recognizing the concessionaires' investment and achieving our ACDBE goals.

C. Airport Concession Business Development Program Objectives

To achieve the mission/vision and goals, Airport Concession Business Development's objectives are to:

- Enhance the image of MIA as a world-class airport which reflects the cosmopolitan and international nature of the community
- Enhance customer service and satisfaction by improving product choice, price points, and customer service
- Optimize sales/transactions and revenue for the airport.
- Integrate design and location of Airport Concession Business Development within the infrastructure of the Airport for passenger convenience
- Present a local and regional identity concept that enhances the "sense of place" and conveys the cultural richness and diversity of Miami to the traveling public
- Balance national, regional, and local Airport Concession Business Development and concessions with ACDBE representation throughout the terminal

D. Airport Concession Program Overview

MIA has approximately 240 existing retail, duty-free, and food and beverage locations. The Airport is divided into three terminals:

- **North Terminal**. This terminal generates approximately **57%** of the passenger traffic and has 147,302 square feet of existing concessions space. Shops range from duty-free stores to news and gift stores, specialty retail shops, and food and beverage locations, including casual dining options, quick service units, and coffee.
- **Central Terminal**. This area is located between the North and South Terminals. It is commonly referred to as Terminals/Concourses E, F, and G. Most of the concession space is located within the pre-security portion of the Terminal. Existing concessions include duty-free stores, news and gift stores, specialty retail shops, and food and beverage locations totaling 72,094 square feet.
- **South Terminal**. This terminal accommodates approximately **21%** of all MIA passenger traffic. The South Terminal and its related concourses (H and J) have retail, duty-free, news & gift, and food and beverage locations totaling 10,500 square feet. The terminal overall has approximately 42,000 square feet of concession space.

GENERAL INFORMATION

Concessionaires, employees, and Sub-tenants shall be aware of general airport information.

A. Useful Contacts

KEY CONTACTS	DEPARTMENT	Phone Number
LEASEHOLD PREMISES	**Property Manager**	**305-876-8537**
AIRPORT OPERATIONS CENTER (AOC)	AOCNotification@FlyMIA.com	305-876-0385
BADGES/CREDENTIALING	Ground Transportation Office	305-876-7188
CONFERENCE CENTER/MIA HOTEL	Reservations and Information	305-871-4100
AOA DELIVERIES	Airside/Superintendent/ Airfield Operations	305-876-7359
LANDSIDE DELIVERIES	Landside /Supervisor /Parking Control	305-876-7447
POLICE	**Communications Center (24 Hours)**	**305-876-7373**
FIRE/MEDICAL	**EMERGENCY**	**305-876-7070**
FIRE SAFETY	Fire Inspection Section	305-876-7070
INFORMATION SERVICES	Information and Paging	305-876-7000 x8
MAINTENANCE	Maintenance Dispatch (24 Hours)	305-876-7311
PARKING/DECALS	Manager, Parking Systems	305-876-7567
RENT, FEES, AND CHARGES	Aviation Finance Specialist	305-876-7711
SECURITY AND SAFETY	Compliance Office	305-876-7033
SIGNAGE	Supervisor	305-876-1455
TRASH/RECYCLING	Maintenance Coordinator	305-876-0268

B. Useful Websites

NAME	LINK
MDAD Terminal Standards Manual	**http://www.miami-airport.com/library/ODs/Standards_Manual.pdf**
MDAD Operational Directives	**http://www.miami-airport.com/od2.asp**
MIA Rules and Regulations	**https://www.miami-airport.com/rules_and_regulations.asp**
MIA Website	**https://www.miami-airport.com/home.asp**
MIA Traffic Reports	**https://www.miami-airport.com/airport_stats.asp**
MIA Newsroom	**https://news.miami-airport.com/**
MIA Business Information	**https://www.miami-airport.com/home-business.asp**

NAME	LINK
FAA Website	**https://www.faa.gov/**
City of Miami Website	**https://www.miami.gov/Home**
Miami-Dade County Website	**https://www.miamidade.gov/global/home.page**
TSA Website	**https://www.tsa.gov/**

C. Airlines

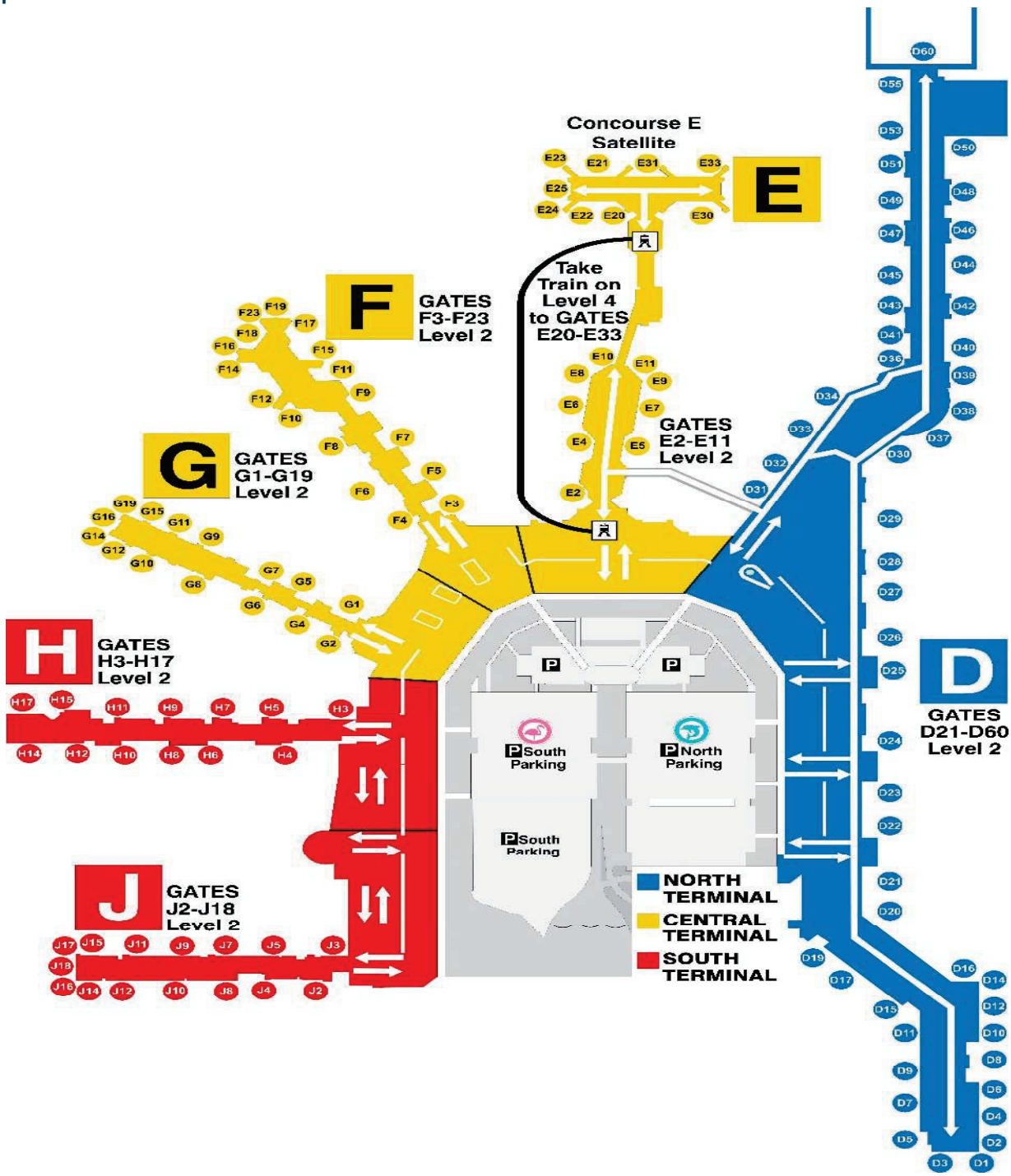
For the most updated list of Airlines, follow the link:

[Airline Directory - Miami International Airport (miami-airport.com)]

https://www.miami-airport.com/airline-information.asp

D. Airport Layout/Maps

E. Airport Information Services



Passenger service assistance is available at the information center in terminals D, E, H, and J, including the main counter at Central Terminal E, Level 2, near the airport hotel. The center is open daily from 6 a.m. to 10 p.m.

Services provided include:

- Multilingual airport and tourist information
- Multilingual interpreting and translation service
- Assistance with TDD phone at the Information Center
- Resolving customer complaints
- Accepting lost items when the Lost and Found office is closed
- For additional information, call 305-876-7000.

F. Airport Paging

Concessionaires can contact the Airport Paging Center to communicate information, such as to locate passengers who have left merchandise or belongings. Paging hours are available 24 hours a day, and the center can be contacted at 305-876-7000. Passengers can also request a page by visiting the Concourse E Information Center located on the second level (departures) of Central Terminal E.

In addition to paging, the Center also provides information, emergency messages, and assistance to the public through:

- Public number (305-876-7000)
- Direct 1-800-TALK-MIA lines

G. Accessibility for All Passengers

Our goal at Miami International Airport is for the joy of air travel to be easily and safely accessible for all our passengers. Employees are expected to be sensitive to passengers with special needs or those who require additional assistance. **myMIAaccess** is an airport initiative offering passengers with disabilities a dedicated platform for accessing services, amenities, and information when traveling through Miami International Airport. A complete listing of services offered to passengers needing additional assistance can be found at https://miami-airport.com/myMIAccess.asp; some are summarized below.

- **Hidden Disabilities—Sunflower Lanyard: MIA is a proud member of the Hidden Disabilities Sunflower Lanyard program, an awareness initiative aimed at discreetly communicating to airport staff that you may need more time or have additional questions while traveling.**
- Multi-sensory **rooms** are dedicated spaces where passengers with cognitive and developmental disabilities such as autism can enjoy a calm and stimulating environment while they travel through MIA. The room includes sensory aids that stimulate reaction, encourage communication, and reduce agitation and anxiety, sometimes caused by the hustle and bustle of airport travel. The Multi-Sensory rooms are open seven days a week from 6 a.m. to 10 p.m. at the two locations:
  - Concourse D, post-security, just beyond TSA Security Checkpoint #4
  - South Terminal, post-security, near Concourse J
- Service Animal Relief Areas: MIA offers animal relief areas. The relief stations are enclosed units that include synthetic grass, a fire hydrant, disposable bags, and sinks. They are located post-security in Concourse D, F, G, and J. In addition, outdoor areas are available at the arrival level in Concourse D, E, and J.
- Wheelchair Charging Stations: Wheelchair charging stations connect to the charging power on electric wheelchairs and mobility scooters, allowing passengers to recharge while waiting for their flight. The stations are located in Concourses D, E, F, G, H, and J, and Pre-Security in the D and H International Arrivals.
- MIAmamas - Nursing Suites: Nursing mothers are welcome to pump or nurse anywhere at MIA. For moms looking for a quiet, private option, the airport has MIAmamas pods and a room throughout each Concourse. The accessible nursing room is in Concourse J, next to Checkpoint J.

H. Lost and Found

MDAD handles all lost and found items from Airport common areas, restaurants, shops, gate areas, and restrooms. Items left in concession locations are delivered daily to the Lost & Found Department located in D North Terminal, 4th Level, which is open seven days a week between 8:00 a.m. and 6:00 p.m.

Items of high value, including purses, wallets, smartphones, tablets, and/or laptop computers, must be delivered to Lost and Found offices immediately. The Lost and Found Department can be contacted by calling (888) 355-0690. Items are stored securely in Lost and Found for 30 days.

GETTING STARTED

While working at Miami International Airport is exciting and fun, there are some differences from working in other retail environments. This section will address some of those differences and some of the actions necessary because of those differences. We will guide you through some of the processes needed to get your employees to start working with us at MIA.

Before beginning tenancy, there is some important information you should know, as follows:

A. Employee Parking

1. Availability

   The airport employee parking lot is available to employees of companies that lease space in the terminal building and have been authorized by the Aviation Department to utilize the employee parking facility. Employees may park only in the employee parking lot while on duty at the MIA terminal building.

2. Location and Transportation

   The employee parking lot is approximately 1½ miles southeast of the main terminal building. It can be accessed through LeJeune Road at N.W. 14th St. or Perimeter Road at 15th Street. Shuttle buses provide 24-hour transportation to and from designated locations on the departure level of the terminal building with approximate headways of 5 minutes during peak times and 15 minutes during non-peak times.

3. Parking Decal Information

   i. Employee parking decals are issued in 4, 8, or 12-month increments. Companies paying for employee parking decals can establish an account, which can be invoiced monthly by contacting the Finance Division. The prevailing costs are listed in Miami-Dade County Implementing Order "Summary of Rates, Fees and charges for Miami-Dade Aviation Department Miami International Airport" at IO-04-125.pdf (miamidade.gov)

   ii. Employees can pay for their parking at the Decal Section. The Decal Section is located on the ground floor of the Dolphin Garage and is open Monday through Friday, except holidays, from 8:00 a.m. to 5:00 p.m. Contact the Decal Section for current employee parking rates. To register your company and establish authorized requestors, please obtain sample letters from the Decal Section (tel. number: 305- 876-7567).

4. Access to Lots and Shuttles

   i. Access to the employee parking lot is restricted to vehicles with a valid employee parking decal and employees with valid MIA identification badges or airport-authorized company identification badges. Family members/friends traveling in the same vehicle will be denied entry to the lot if they do not have a valid MIA or company I.D.

   ii. Employees must have a valid MIA or airport-approved company identification badge to ride the employee shuttle bus between the employee parking lot and the terminal building. Family members/friends are not allowed to ride the employee shuttle bus.

5. Abuse of Parking Privileges

   i. Employee parking decals must be permanently affixed to the vehicle for which they were issued and can only be used by authorized employees.

   ii. Parking in the employee parking lot is a privilege and may be revoked for failure to comply with established procedures.

6. Parking Safety and Security

   Emergency telephones are located at each bus shelter in the employee parking lot. These phones may be used to report personal safety issues or non-emergency situations, such as the need for motorist assistance.

B. Badging (MDAD Credentialing Section)

The Concessionaire shall be subject to all Departmental requirements and Transportation Security Administration (TSA) mandates pertaining to the issuance of airport identification badges, including, but not limited to, employee completion of the Security Identification Display Area (SIDA) training conducted by the Department and Criminal History Records Check (CHRCs) and Security Threat Assessment (STA) approved vetting results, as required by the TSA Unescorted Access Privilege Rule. The Concessionaire shall pay, or cause to be paid, to the Department such nondiscriminatory charges, as may be established from time to time, for new/renew, lost or stolen ID badges and unaccounted ID badges not returned to the Aviation Department. The Concessionaire will be required to conduct background investigations and to furnish certain data on such employees before the issuance of such ID badges, which data may include the fingerprinting of employee applicants for such badges. See page 4 of our MDAD application as this is what we make the signatories certify.

All airport employees need to be badged before work commences. Our badging office is in Terminal D, 3rd floor, just off the Skyride across from the Dolphin parking garage.

Credentialing Section Hours of Operation:

Monday - Friday, 8:00 AM to 4:00 PM. Closed on County observed Holidays.

Contact Information:

General information: 305-876-7188

Fingerprint appointments: 305-876-8409

Badges must always be displayed. All airside employees must participate in additional training to gain access.

Current Badging Fees: Please see Implementing Order 4-125 at: IO-04-125.pdf (miamidade.gov)

C. Employee Orientation

All airport employees (including Concessionaires) will need to be scheduled for an employee orientation with the Airport to receive SITA and customer service training (included in the orientation time). Please allow ninety (90) minutes for this training, which must be accomplished before the employee beginning work at the Airport.

D. Setting Up Utilities

The Concessionaire shall bear the cost of all utilities used or consumed on the Premises. Unless the Premises are provided with separate electric, gas, and/or water meters, the Concessionaire agrees to pay for the utilities on the Premises as a monthly charge, plus any applicable taxes, upon billing by the Department or utility companies. The Department encourages the Concessionaire to provide and install meters for utilities used at the Concessionaire's expense. See your Agreement for further details on payment to MDAD for utility charges. Other utilities used by the Concessionaire, including telephones and telephone service hook-up, data lines, and additional electrical and communications services, are to be arranged for and paid for by the Concessionaire. The Airport provides these types of services through its Information Technology Shared Tenant Services.

E. Use of Wireless Technologies

Any approval by the Department and subsequent installation by any Concessionaire of a wireless network would be granted only with the explicit understanding that the Concessionaire agrees that the system be transitioned over to any future network once installed. Note that all costs, both one-time and recurring, to be incurred because of the required transition to any future network shall be the responsibility of the concessionaire.

F. Banking Procedures

It is critical that Concessionaires implement a policy and provide professional guidance for cash handling, ensuring that those staff tasked with making deposits do so in the safest manner possible. Concessionaires are responsible for arranging procedures to ensure that all stores have the appropriate amount of change.

G. Hours of Operation

The concessionaire and/or its Sub-tenants shall operate the Locations for business three hundred sixty-five (365) days a year, opening one hour and 30 minutes before the first flight on its Concourse and closing less than 30 minutes before the departure of the last flight. The above is to be considered the minimum hours of operation of the Locations.

All units have specific hours set for when the unit is to be open and serving the public. On-site personnel are responsible for knowing what their store operating hours stipulate. The hours of business shall be such that the passengers of all flights arriving or departing from any terminal where a Concession Location has been assigned will be accommodated.

In the event of extended flight delays, emergencies, or other unanticipated circumstances, the Airport expects the Concessionaire to remain open to provide service to passengers. This may require the store(s) in the impacted areas to stay open beyond the required hours. **Procedures must be in place to keep the store open and operating during such events.**

The store must have all products and services available the moment it opens. This means, for example, that the coffee must be prepared and ready to serve before the actual opening time. The store must also keep all products available until the store officially closes. It is unacceptable for store employees to begin removing and cleaning the store until the actual closing time.

Unstaffed concessions offering services are required to be open twenty-four (24) hours a day, seven (7) days a week, including holidays. Examples of such services include vending, ATM, and luggage cart services.

H. Irregular Operations Plan

Irregular Operations (IROPs) are unexpected circumstances that can disrupt an airport's normal operations and cause flight delays, cancellations, diversions, and other issues. The IROPS Plan is designed to help identify and address passenger needs during lengthy ground delays. Several conditions, including weather, geological events, aircraft issues, and labor issues can cause IROPS events.

MDAD will send a notification to all Concessionaires via the Everbridge Notification System.

I. Emergency Preparedness

All employees shall be prepared to call 911 in an emergency. MDAD Dispatchers and Emergency Medical Dispatchers will assist immediately.

Concessionaires must have a plan in place in the event of:

- Evacuation
- Severe Weather
- Power Outage

MDAD must review and approve plans, and all employees shall be trained and have access to the documented plan.

J. Glossary of Airport Acronyms

Listed below are common Acronyms used at the Airport.

AC - Aircraft

ADA – Americans with Disabilities Act

AFLD - Airfield

AIP – Airport Improvement Program

AOA – Aircraft Operation Area

AOC – Airport Operations Center

APM – Automated People Mover

APS – Automated Parking System

ARFF – Aircraft Rescue Fire Fighting

ATSAC - Aviation Transportation Security Act Compliance

BDDD – Business Diversity Development Department

BIDs – Baggage Information Displays

CBP – U.S. Customs and Border Protection

CCC – Consolidated Communications Center

CCTV – Closed Circuit Television

CDP – Capital Development Program

CEO – Chief Executive Officer

CIF – Capital Improvement Fund

CIP – Capital Improvement Program

CIS – U.S. Citizenship and Immigration Services

CNG – Compressed National Gas

CPCS – Computerized Parking Control System

CSP – Carrier Support Program

CTA – Central Terminal Area

CUTE – Common Use Terminal Equipment

CUSS – Common Use Self Service

DBEs – Disadvantaged Business Enterprises

DBO – Date of Beneficial Occupancy

DHS – Department of Homeland Security

DOT – Department of Transportation

DPS –Department of Public Safety

ETM – Energy & Transportation Management

GNP – Gross National Product

HR – Human Resources

HVAC – Heating Ventilation Air-Conditioning

ICE – U.S. Immigration and Customs Enforcement

INS – Immigration & Naturalization Service

IROPS - Irregular Operations

IRS – Internal Revenue Service

ITS – Information Technology Service

ILS - Instrument landing system

KPI's – Key Performance Indicators

LARS – Land Acquisition Reporting System

LOA – Letter of Agreement

MAG – Minimum Annual Guarantee

MBE – Minority Business Enterprise

MDAD – Miami-Dade Aviation Department

MEPS/RS – Mechanical, Electrical, Plumbing, Structural/Ramp Services

MIA – Miami International Airport

MII – Majority in Interest

MOU – Memorandum of Understanding

NTSB – National Transportation Safety Board

O&D – Origin and Destination

O&M – Operating & Maintenance

OALs – Other Airlines (as in American and OALs)

OPS – Operations

PSSF – Passenger Service Special Facilities

QTR – Quarter

RAC – Rent-A-Car

RAP – Respond Action Plan

RFC – Rates Fee & Charges

RIDs – Ramp Information Displays

RIMS – Risk Information Management System

RMS – Records Management System

EVIDs – Electronic Visual Information Displays

FAA – Federal Aviation Administration

FARs – Federal Aviation Regulations or Federal Acquisition Regulations

FEIS – Final Environmental Impact Statement

FIC – Facility Improvement Corporation

FIDs – Flight Information Display System

FIS – Federal Inspection Service

FLW - Flow

FOD - Foreign Object Debris

FSDO – Flight Standards District Office

FY – Fiscal Year

GA – General Aviation

GAAP – Generally Accepted Accounting Principles

GIDs – Gate Information Displays

GIS – Geographic Information System

GL – General Ledger

PAX – Passenger

PFCs – Passenger Facility Charges

ROI – Return on Investment

RS – Ramp Services

RWY - Runway

SIDA – Security Identification Display Area

SIDS – Source Isolation Deice System

SWAP – Interest Rate SWAP

TSA – Transportation Security Administration

TWY – Taxiway

WBE – Women Business Enterprise

WX – Weather

Customer Service

At MIA, we provide a great experience for all our passengers. Thus, we expect all concessionaires, employees, and Sub-tenants to maintain the highest level of customer service as described below.

A. Standards and Expectations

1. Ambassadors of the Airport

   All persons employed and working at Miami International Airport reflect the culture and the diversity of the Miami and South Florida region and are thus de facto ambassadors to the area. The Airport expects that all employees will treat visitors and guests with the utmost courtesy and respect. We are a customer-centric and friendly airport dedicated to providing an exceptional experience for all our guests. As Ambassadors, all employees are expected to have knowledge of basic airport information and provide service to passengers as follows:

   - While in uniform, employees are expected to respond to customers' needs and questions or refer them to someone better suited to provide the necessary assistance.
   - Employees must know where and how to obtain assistance if language or other communication barriers exist.

2. Appearance

   The staff's appearance is very important. It will make a first and lasting impression on the patron. All front-of-the-house employees shall be required to maintain the highest possible standards regarding personal appearance.

   Employees will always maintain a well-groomed, neat, professional, and clean appearance.

   - Hair shall be neatly always groomed and pulled away from the face.
   - Concession-specific uniforms must be worn appropriately, cleanly, neatly, and always pressed.
   - Name badges or security badges shall be appropriately always displayed.
   - Employees are expected to always be properly identified as Airport concessions employees.

3. Behavior

   - Employees will refrain from using foul or inappropriate language at any time in the workplace, in the Airport, or while traveling via public transportation while wearing company uniform.
   - Employees will refrain from eating, drinking, chewing gum, smoking, texting, or talking on the phone in any customer environment.
   - Employees will refrain from gathering in public to chat while on duty or use public areas for breaks.
   - Employees will refrain from sleeping or napping anywhere or at any time while on duty.
   - Personal radio/ recorders or earphone buds are prohibited at any time while employees are on duty.

B. Complaint Resolution

Concessionaires shall make reasonable, respectful efforts to remedy problems and issues raised by Airport patrons or referred to Concessionaires by MDAD. All complaints shall be addressed within 48 hours of receiving the complaint. A written copy of the Concessionaire's response and/or corrective actions to a complaint are to be submitted to the Airport Concession Business Development within a ten-day period.

C. Return Policies

Each unit shall have a written exchange/return policy that allows customers to return or exchange merchandise within reason and is fully implemented by the sales personnel without supervisory approval. The following policies shall be adhered to at a minimum.

- Exchange/ Return Policy: A clear policy concerning the circumstances under which products/menu items may be returned or exchanged is available in writing and in view of the customer.
- Customer-Friendly Policy: The policy is consistent with that of the Department's other restaurants and is easily understood by the customer. The conditions under which exchanges and returns are allowed are clearly described and allow customer flexibility.
- Policy Implementation: All sales staff members have the authority to approve exchanges and returns consistent with the policy.

D. Training Requirements

Concessionaires are responsible for following all customer service policies, procedures, guidelines, and training programs (including security) proposed by the awarded Concessionaire as specified in their proposal. Further, Concessionaires shall ensure all employees are aware and comply with all rules and regulations of MDAD as well as those specified in this Handbook.

Concessionaires must keep copies of all management and supervisory level employees' signed forms on file acknowledging their receipt and understanding of this Handbook. In addition, MDAD may establish its own customer service training program and require Concessionaires employees to participate.

E. Monitoring

MDAD shall have the right, without limitation, to monitor and test the quality of services of the Concessionaire and/or its Sub-tenants but is not required to do so. This monitoring shall include, but not be limited to, personnel, product quality, service, assistance, and store neatness and cleanliness using shopping services, closed-circuit T.V., and other reasonable means.

1. Operational Audits

   The concessionaire shall conduct quality control audits and reports, including maintaining the street pricing requirements covering compliance with contract requirements, cleanliness of the Location, timeliness of service, and quality of the product.

STANDARD AIRPORT PROCEDURES

A. Rules and Regulations

All concessionaires will be subject to the Aviation Department Rules and Regulations referenced in Lease Article 15, [Rules, Regulations and Permits], and may be found at the following link: https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOOR_CH25AVDERURE

B. Improvements to Premises

1. Conditions for Permits

   Airport businesses must comply with their contractual requirement to obtain MDAD's written consent to carry out any alterations to MDAD property. This includes what might be constructed as “minor” additions and deletions, like an electrical outlet.

   The permit process is designed to ensure that construction is compatible with present and future airport facilities, responsibilities are appropriately assigned, compliance with other jurisdictions' requirements is ensured, design meets MDAD standards, and Concessionaires are assisted with the timely and safe completion of their projects.

1. Permit Application Procedure

   The Concessionaire must first contact MDAD's Airport Concession Business Development Division with any plans for site improvements, alterations, or construction for preliminary plan approval.

   The design criteria manual for each terminal details the submittal requirements and permit process.

C. Vendors Performing Services for Concessionaires

Vendors performing services to Concessionaires are required to obtain a permit pursuant to Miami-Dade County Administrative Code 8-5 and the Miami-Dade Aviation Department (MDAD) Operational Directive 99-01. Please have your vendor contact the MDAD Airport Concession Business Development Division, Permits Section, at 305-869-4683 for additional information.

D. Storage

1. Designated Storage Areas

   Concession storage space may be leased through MDAD Airport Concession Business Development Division and is designated in the Agreement. These storage areas are provided for activities related to the Concessionaire's doing business at the airport, including storage, display, overstock, and office use. MDAD will make every effort to satisfy individual concession storage needs, dependent on the availability of suitable space.

2. Unapproved Storage

   Hazardous, combustible, or flammable materials and storage of merchandise outside or adjacent to the Concessionaire's retail premises or storage area are not permitted. Storage of materials, products, or trash that blocks access to fire safety equipment, doors, and other access points is also prohibited. Concessionaires that consistently abuse storage privileges will be noticed and required to clean premises or be billed for all associated costs required to clean up or remove the unapproved materials attributed to their space.

3. Fire Safety in Storage Areas

   Concessionaires using storage areas must be aware of these common storage problems and must correct them to ensure fire safety:

   - Storage is too close to sprinkler heads.

- Improper storage of trash, boxes, oily rags, etc. These items are better removed to disposal or recycling receptacles provided for Concessionaires.
- Improper storage of flammable and combustible liquids and aerosols.
- Blocking of exit-ways and fire equipment.

4. Damage to Storage Areas

   Storage rooms and access to those rooms are the property of MDAD. Concessionaires found to be consistently causing damage to MDAD property will be noticed and may be billed for repairs following review and discussion with MDAD as necessary.

OPERATIONS

A. Standard of Operations (SOPs)

This section provides reasonable and customary operating requirements as set forth by the Department. This objective approach focuses on concessions' performance in the unique operating environment at MIA. The Concessionaire and/or its Sub-tenants shall conduct their operations in a first-class, businesslike, efficient, courteous, and accommodating manner.

The Standards of Operations may occasionally change in response to the ever-changing Airport environment. In general:

1. Concession Facilities
    i. All concession facilities shall be maintained exceptionally, per the MDAD Standard of Operations.
    ii. The outside areas immediately adjoining the locations shall always be kept clear by Concessionaire the Concessionaire and/or its Sub-tenants.
    iii. No awning or other projection shall be attached to the outside walls of the locations or the terminal building without the Department's prior written consent.
    iv. The Concessionaire and/or its Sub-tenants shall not permit storage or restocking bins to be visible to the public except while restocking shelves and display fixtures.
    v. All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances designated for such purposes by the Department. If the program is implemented, the Concessionaire and/or its Subtenants may be required to utilize the services of a common logistical support service program selected by the Department.
    vi. No loudspeakers, televisions, radios, flashing lights or other devices shall be used in a manner to be heard or seen outside the locations without the prior written consent of the Department.
    vii. Concessionaire and/or its Sub-tenants shall not carry on any trade or occupation or operate any instrument, apparatus, or equipment that emits an odor or causes a noise discernible outside the locations and which may be deemed offensive in nature.
    viii. The Department requires all Concessionaire Point of Sale (POS) locations to be well-maintained and clutter-free. Concessionaires shall organize POS counters so that impulse items do not hinder travelers' ability to queue or purchase merchandise.
    ix. The Concession Facilities shall meet all the applicable standards for accessibility to disabled customers specified in the ADA Act.
    x. Concessionaire and/or its Sub-tenants, its employees, or its agents shall not solicit business in any of the common areas, nor shall Concessionaire, its employees, or its agents distribute handbills or any other advertising material in common areas of the Terminal.
2. Signage
    i. All store signage must conform to the Retail Concessions Design Guidelines standards prescribed by MDAD.
    ii. All Concessionaires and/or their Sub-tenants must install one sign indicating the store’s hours of operation that adheres to the Department’s criteria.
    iii. The Location signage (Storefront) is prominently displayed, clear, concise, and complete, helping the guest properly understand and use the concession. The unit signage is clean, well lit, and built pursuant to the Signage specifications of the Retail Concessions Design Guidelines.

iv. Concessionaire and/or its Sub-tenants shall not affix or maintain any signs, advertising placards, names, insignia, trademarks, descriptive material, or any other like items upon the glass panes or supports of the show windows, doors, exterior walls of the locations, or any place within the locations if intended to be seen from the exterior of the locations.

v. All freestanding advertising and promotional signage shall be contained within the Concessionaire lease line throughout all hours of operation. Chalkboard signs are allowed, but otherwise handwritten signage is prohibited. Freestanding signs beyond the lease line are soft retailing and are prohibited in all Retail, Food and Beverage, and Service locations.

vi. The Department reserves the right to request that the Concessionaire remove any inappropriate advertising or promotional signage. Alternatively, the airport shall remove the signage at the Concessionaire's expense.

vii. Unit identification and promotional signs use words and symbols that assist international visitors. Signs should reflect sensitivity to these travelers. This can be accomplished by having separate signs in the foreign language or using widely accepted international words and symbols such as those used to direct passengers through the Department.

3. Pricing

i. Employee Discounts: Concessionaires may offer a 10% discount on all food and non-alcoholic beverages purchased by Airport employees and employees of airlines operating at the Airport who have been issued (and show at the time the discount is requested) appropriate identification badges. The discount shall be based on the Concessionaire's normal non-sale or non-promotional prices. No discount on food and non-alcoholic beverages with the manufacturer's pre-printed price shall be given.

ii. Market Basket: The Concessionaire shall survey at least three (3) comparable retailers/restaurants (excluding stadiums, arenas, amusement, entertainment venues, and hotels) in the Greater Miami Area to determine the average price for a particular good or service. The Concessionaire's prices shall not exceed by more than fifteen (15%) of the street pricing.

iii. Street Pricing: The Concessionaire shall not charge more than the percentage stipulated in the Lease and concession Agreement or as directed by MDAD of Street Prices. The Concessionaire will be required to submit examples of pricing periodically, as indicated in the Lease Agreement. MDAD will monitor Concessionaire prices to ensure compliance.

a. Concessionaires must submit a detailed list of all services and items (and their corresponding prices) offered in their assigned premises.

b. Concessionaires are required to inform the airport and seek written approval from the Department before adding new items or increasing prices.

iv. Menu and Product Offerings: MDAD and the Concessionaire agree to offer a set of approved products and services prior to the location's opening.

a. Any sales by the Concessionaire of services, products, or items not specifically approved in its Agreement shall constitute a default. In the event of such default, the Concessionaire will discontinue the sale or service of the unapproved product immediately upon written notice from the Department. Failure to discontinue such sales shall be grounds for termination of the Agreement.

b. To request that an additional product be sold, the Concessionaire shall submit in writing for approval to the Airport Concession Business Development Division the request, including the product name and suggested price along with the required support for establishing the proposed price.

4. Routine Facility Maintenance

i. Cleanliness

a. At its cost and expense, the Concessionaire shall always keep the Location clean, neat, orderly, sanitary, and presentable.

b. Entrances shall be clean, free from debris, free from obstruction, and well-lit.

c. Floor surfaces shall be clean, free of excess stock, and in good repair.

d. Walls, ceilings, glass surfaces, and fixtures (vents, lights, etc.) shall be clean, free of debris and hazardous conditions, and not visibly worn. All wall, ceiling, and glass surfaces and wall hangings shall be clean and free of soil and debris.

e. All designated premises occupied by Concessionaires shall always be free from all rubbish, filth, and refuse.

f. All garbage and refuse shall be kept in the appropriate containers to minimize the spillage of such garbage and refuse.

g. Concessionaires shall develop a cleaning standard and schedule that encourages employees to clean during downtime.

h. If the Location(s) are not kept clean as provided herein, the Concessionaire will be advised and shall take immediate corrective action. Failure to take immediate corrective action may result in Damages being assessed pursuant to Liquidated Damages or Damages of the Lease.

ii. Pest Control

a. All walls, floors, ceilings, equipment, and fixtures shall be properly cleaned and maintained. Pest control services shall be used at least monthly, and the Department's pest control provider may require cooperation.

b. All walls, floors, ceilings, equipment, and fixtures shall be properly cleaned and maintained to eliminate the presence of rodents, flies, roaches, or other pests that cause health or safety hazards.

c. A professional pest control service shall be employed to ensure that the Assigned Premises are maintained to prevent the harborage or feeding of insects or rodents. Supportive documents from the professional pest control service shall be available for review.

iii. Maintenance and Repair

Except for the Department's maintenance and repair obligations as set forth below in **"Terminal Maintenance and Operational Issues"**, the Concessionaire shall maintain and repair or cause to be maintained and repaired the interiors and exterior storefronts of the Location. Such maintenance and repairs shall include, but not be limited to, painting ceiling, walls, floors, laminating doors, windows, equipment, furnishings, fixtures, appurtenances, replacement of ceiling light bulbs, ballast, and the replacement of all broken glass, which repairs shall be in quality and class equal to or better than the original work to preserve the same in good order and condition.

5. Management and Personnel

i. General Manager (GM) or Assistant General Manager (AGM) onsite. The Concessionaire shall employ, at no cost to the Department, a full-time, dedicated, on-site General Manager experienced in management and supervision with sufficient authority and responsibility to administer and manage the concession program under this Agreement. The General Manager (or his/her authorized representative) shall be immediately available whenever any of the locations are open, the base of operations of the General Manager shall be at the Airport, and the General Manager shall spend substantially all their working hours at the Airport. In those cases where the General Manager is scheduled to be absent from the post for more than forty-eight (48) consecutive hours, a substitute or Assistant General Manager shall be appointed from the existing staff, and the Department notified in writing.

ii. 24 Hour Contact. The Concessionaire shall provide contact information for personnel who may be reached during emergencies.

iii. Personnel. During the term of this Agreement, the Concessionaire shall maintain a full-time professional staff of sufficient size, expertise, and experience to manage the operations and serve as a liaison with the Department.

iv. Customer Service. Each staff member shall be familiar with the Concessionaire's and MDAD's customer service policies and able to access a written copy of the relevant policy for the customer. Staff shall be able to readily apply the policy to the situation before them. They shall have the comprehension and the authority to complete the transaction.

6. Point of Sale

i. Receipt. The register receipt given with the purchase includes individual prices for each item, sales tax, and a total sales price.

ii. Credit Cards. The unit accepts all major credit cards as a means of payment.

iii. Change. The Concessionaire and/or its Sub-tenants shall always be required to change any bill in denomination of twenty dollars ($20.00) U.S. or less when requested by any Airport user without charge and without the need to procure a sale.

7. Required Monthly Meetings

The Concessionaire shall meet with the department no less than monthly and regularly to discuss matters relating to its Agreement. In addition, at the Department's request, the Concessionaire shall attend other meetings with the County, airlines, and any other parties designated by the Department.

Concessionaires are also required to participate in such safety, security, and other training and instructional programs as the Department or appropriate Federal agencies may require from time to time.

8. Safety and Security

The Concessionaire acknowledges and accepts full responsibility for the security and protection of the locations, any improvements thereon, its equipment and property on the Airport, and control of access to the Air Operations Area ("AOA") through the locations by persons and vehicles. The Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for the protection of said locations, equipment and property and access to the AOA through the locations shall be the sole responsibility of the Concessionaire and shall involve no cost to the County.

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

A. Food & Beverage Concessions

This section provides an overview of the operating standards of Food & Beverage Concessions.

1. Premises
   i. The cash register counter, food preparation, service area counters, and all other counter and dining areas shall be clean, orderly, and well-lit.
   ii. If necessary, pre-approved Department stanchions shall be used to curtail queuing in common areas.
   iii. Customer lines shall be prevented from encroaching upon common areas using stanchions if necessary.

2. Menus

i. Menu boards shall be visible from all points in the unit.

ii. Menus shall be presented to the customer at the beginning of a queue or line to encourage selection prior to ordering and promote speed of service. In addition, the menu items shall be named and described in a manner that provides the customer with a clear idea of the choice being offered.

iii. Printed materials shall not be soiled or damaged in any way.

iv. All promotional and information signs within the unit shall provide reliable descriptions of the food and beverage selections.

v. In no case shall any of the information be misleading, either through omission of essential information or through implying certain product or price features. Unit signage provides an essential guide for customers, facilitating their dining and specific menu choices.

vi. All items promoted on signs within the unit shall be available. If certain food and/or beverage items are no longer available, they shall be removed.

3. Equipment

i. Equipment used in the food and beverage unit is clean, operable, and not visibly worn. All equipment, whether used for food preparation or food service, shall present a spotless image to the customer.

ii. All equipment operated by the unit shall be cleaned and maintained on a regular schedule to ensure that only top-quality and safe food products are served from the unit.

iii. Concessionaire must comply with all Federal/State and local Health codes relating to equipment cleanliness and maintenance.

iv. To prevent safety or health hazards, all unused, unnecessary, or abandoned equipment must be removed from the unit and the Department.

4. Product

i. Food Safety. Concessionaires must comply with all health and sanitary regulations adopted by the Miami-Dade Aviation Department, the City of Miami, Miami-Dade County, the State of Florida, and any other governmental authority with jurisdiction. The concessionaire will grant access for inspection purposes to any duly authorized representatives of all such governing bodies and will provide documentation to the Authority as outlined in Section VI. Compliance, Subsection B.

ii. Menus and Offerings. A current menu is available at the entrance of the unit; it is prominently displayed, well-lit, and easily readable. It is very important that patrons can check the menu selection and the prices prior to entering the restaurant. The menu shall include at least one children's plate, which will be offered at a lower price.

iii. Presentation. Menu items shall be visually appealing, adhere to the menu description, portion size and include all ingredients listed on the menu.

iv. Grab & Go. Express meals shall be available for passengers who do not have time for the meal to be prepared and packaged. For the customer's convenience, the facility shall offer an effective "To Go" packaging program to allow customers to carry their meals onto the airplanes, except for alcohol, which is prohibited. Grab-n-Go locations cannot sell glass bottled beverages/products to the public. Grab n Go may pour the contents into a plastic container for the customer.

v. Dietary Requirements. Menus shall provide options for travelers to meet dietary needs and restrictions, such as food allergies, intolerances, and preferences.

B. Retail Concessions & Services

This section provides an overview of the operating standards for Retail Concessions.

1. Premises/Fixtures

i. Any equipment, furnishings, fixtures, and signs installed in the Location by the Concessionaire shall be in keeping with the decor of the terminal building. The department shall approve them in advance.

ii. All store fixtures, displays, and merchandising furniture shall be kept in excellent condition and in good repair. This includes but is not limited to regular inspection for damage or wear and tear, prompt repair or replacement of damaged items, and maintaining cleanliness and organization of fixtures and displays

2. Digital Media

    i. The Concessionaire and/or its Subtenants are permitted to employ ambient music or video display audio within their Concession spaces, up to a maximum of 60dB.

    ii. All audio equipment shall be connected to an emergency voice paging system so Concessionaire audio systems may be overridden when necessary.

    iii. All Concessionaire-introduced audio sounds are subject to review by the Department for both volume and content. The Department reserves the right to require Concessionaires to remove audio components at the Concessionaires' sole expense.

    iv. Installation of video displays is subject to review by the Department. The Department reserves the right to require Concessionaires to relocate or redirect any video display at the Concessionaires' sole expense.

3. Merchandising Standards

    i. Concessionaires must develop and implement creative merchandising techniques to entice customers to purchase retail merchandise and other offerings.

    ii. Apparel and accessory merchandising shall be neatly folded or hung in appropriate locations.

    iii. Display and materials placement must comply with ADA standards and allow for ease of movement by customers with luggage.

4. Visible Pricing

    i. All products shall have a visible pricing label on the product or on a shelf or bracket price label holder.

    ii. Handwritten price labels are prohibited.

5. Prohibited Items/ Shipping Services

    The Transportation Security Administration (TSA) has instituted a security measure that prevents certain items from entering the Airport's sterile areas or post-security checkpoints. The Department will provide a list of those items, which may change from time to time, to the Concessionaire as depicted on Exhibit J, "Prohibited Items List," and the Concessionaire will cause its Sub-tenants to receive and acknowledge receipt of said Exhibit J "Prohibited Items List." As a result of this restriction, the Concessionaire shall provide consumers shipping services and will cause its Sub-tenants to provide shipping services for those items listed on Exhibit J, "Prohibited Items List"

D. Marketing and Promotions

The MIA Concession Marketing Program is funded by the MIA Concessionaires through the concession marketing fee assessed through their existing lease and concession agreements. Services performed through the Marketing Program include developing and implementing research-based marketing, advertising, and customer service training plan(s) to optimize concession sales, mystery shopper, continue development of the airport concessions brand and improve customer service by Concessionaires to customers. The strategy and plan(s) shall focus on concession brand messaging, creative concepts and applications targeted at varied customer groups, including local outbound and inbound visitors.

C. Terminal Maintenance

Maintenance Services

MDAD's Facilities Division's highest priority is the repair and upkeep of the airfield, passenger service, and common and public areas. While the concessionaire, as delineated in its lease, is responsible for maintaining its premises, MDAD can assist Concessionaires with other repairs and maintenance-related activities as much as manpower and work schedule allow. The Maintenance Department has established fees for these services, billed directly to the Concessionaire.

Maintenance Responsibilities

1. MDAD Responsibilities

   MDAD Maintenance Division is responsible for the maintenance, repair, and upkeep of the following items found within the Concessionaire's premises:

   - Exterior window cleaning on the airfield
   - Emergency spotlights
   - Grease line maintenance
   - Daily compliance with the Sanitation Plan as approved by MDAD
   - Broken lock or key in storefront rolling grill
   - The electrical system supplied to the store (Concessionaire responsibility begins at the outlet)
   - HVAC system

2. Concessionaire Responsibilities

   Concessionaires are expected to maintain their premises in good repair and keep them clean and orderly.

   - Concessionaires are responsible for any other upkeep and repair within their leasehold, including but not limited to windows, both inside and out; flooring; spotlights; display case and spot and window lighting; carpet; fixtures; and any equipment or custom-made features of the premise.
   - Concessionaires shall also arrange for their own janitorial service.
   - Concessionaires are also responsible for their own extermination, which must be coordinated with the Airport.

3. Contracting Maintenance Work

   Concessionaires who desire maintenance work can do so by:

   - Contracting with an outside vendor who can complete the desired maintenance and repair to the satisfaction of MDAD and the Concessionaire.
   - Contracting with MDAD Facilities Division for those items outside MDAD's regular maintenance responsibilities.
   - Construction work performed by the Tenant / Concessionaire must abide by the Tenant Airport Construction (TAC) process.

4. Contracting with Outside Vendor Services

   Concessionaires may hire service providers such as housekeeping, extermination, or telecommunications without MDAD approval.

   i. However, a permit must be issued prior to any work. Concessionaires must contact Airport Concession Business Development to obtain the proper permit forms and approval to hire any contractor who may impact airport operations, such as electricians, phone repair technicians, plumbers, etc. Work that may trigger fire alarms (e.g., welding, dust) will require the coordination of the shutdown process through the assigned MDAD Property Manager.

   ii. The Vendor must meet or exceed the original materials and workmanship and conform to any federal, state, or local regulations. All work shall be subject to inspection by MDAD.

   iii. Vendors performing services to Concessionaires are required to obtain a permit pursuant to Miami-Dade County Administrative Code 8-5 and the Miami-Dade Aviation Department (MDAD) Operational Directive 99-01. Please have your vendor contact the MDAD Airport Concession Business Development Division, Permits Section, at 305-869-4683 for additional information.

5. Contracting with Airport Facilities

   i. Contact the MDAD Facilities (305-876-7311) to request a work order. Requests made 24 hours in advance of need are appreciated. For non-emergency requests, allow a maximum turn-around time of two weeks. Concessions contracting with the Maintenance Department will be billed hourly for manpower, fringes, and the cost of materials/supplies.

   ii. When requesting maintenance services, Concessionaires shall identify the item in need of attention and the time frame for completion. Depending on the department's manpower level and workload, efforts will be made to meet the request in a timely manner. Concessionaires shall limit their requests to the Maintenance Division for maintenance and repair only, not for making improvements or involving new construction.

1. Emergency Maintenance

   The MDAD Maintenance Division will respond to emergencies as a priority. The Concessionaire shall make clear in its request to the dispatch that an emergency exists for immediate attention. Examples of emergency maintenance requests are broken water pipes or any other uncontrollable leakage, broken display window glass, and an inoperable entry gate.

D. Waste Management

1. Terminal Refuse Disposal

   All concessions are required to handle, recycle, or dispose of garbage, papers, refuse, or other material at the Airport in the receptacles provided for that specific type of recyclable or non-recyclable waste. MDAD is not responsible for concessions refused. MDAD is responsible for the refuse disposal contract for hauling solid waste and recyclables from the terminal building. Concessionaires' employees shall dump garbage inside garbage bins and compact the load accordingly. In the event the bins are full, please contact MDAD Concessions immediately. Under no circumstances shall bag or other garbage be tossed outside the bins

   Concessionaires shall cover trash containers in all areas. Concessionaires are not permitted to use a vehicle for hauling trash, dirt, or any other materials at the Airport unless the vehicle is constructed to prevent the contents from escaping.

   Within the Concessionaire's premises, the Concessionaire shall provide suitable waste receptacles for oily waste, rags, and other rubbish and trash. All waste is to be removed daily.

2. AOA (Ramp) Refuse Disposal

Domestic Waste is to be discarded into the **YELLOW** domestic compactors located at various sites on the AOA (**D-11, D-21, D 31, D-47, G-1**).



International Waste refers to the waste removed from aircrafts, including items that are forfeited or voluntarily surrendered by international travelers *outside of the U.S.* International waste falls under two jurisdictions: The U.S. Department of Agriculture (**USDA**) and U.S. Customs and Border Protection (**CBP**), which are responsible for preventing the spread of agricultural or animal disease into the U.S. **Concessionaires are not allowed to discard in these bins.**



Trash Compactor Procedures



3. Designated Disposal Site

   MDAD maintains a solid waste and disposal unit that provides trash compactors and recycling bins at designated sites in the Terminal building. Refuse from store operations, deliveries, and storage areas shall be contained in this area. No other areas shall be used. All such areas shall always be kept clean and sanitary.

   Temporary storage or disposal of refuse in places other than the designated solid waste and recycling bins is prohibited. Dumping boxes or other materials, particularly in or near storage rooms and access hallways, is considered a fire and safety infraction.

   In the event of trash, grease, or any material spilling onto the pavement that may be unsightly, detrimental, or a safety hazard, the Concessionaire is responsible for cleaning up.

4. Sanitation Plan (Food & Beverage Concessionaires)

   The Concessionaire will be required to provide MDAD concessions with a Sanitation Plan on an annual basis. Please refer to Operational Directive 021-01.

5. Grease Traps and Grease Line Maintenance

The concessionaire is responsible for regularly maintaining their grease traps and respective lines. The Department will assess penalties if conditions are not met, ultimately resulting in removing the containers from the Tarmac. Concessionaires are required to follow the guidelines below:

- Concessionaires must clean the grease traps and cooking oil bins every two (2) weeks. Cleanup shall be power-washed with an eco-friendly degreaser with slip-resistant features. Cleaning must be performed in a controlled manner to avoid runoff into the ramp area and further increase a hazardous condition for ramp employees.
- Cooking oil bins must be secured with a padlock, and the bin must be properly identified/labeled with the concessionaire's name and contact information. Concessionaires that have recycled oil bins on the ramp area must install a rubber or polyurethane oil retaining pad (retainer around the bin) under the bin to prevent leaks or spills from runoff into the ramp area. Cooking oil bins must be secured with a padlock, and the bin must be properly identified/labeled with the concessionaire's name and contact information.
- Lines shall be jetted periodically quarterly.
- Install spill blocker dike or containment berm around existing active grease traps and cooking oil bins
- Keep stock of oil-absorbing granules to mitigate large spills

E. Sustainability

1. **RECYCLABLE MATERIALS** at airports include but are not limited to aluminum and steel, glass bottles and containers, plastic bottles and containers, packaging, bags, paper products, and flattened cardboard boxes
2. Recyclable materials are to be thrown away into the GREEN recycling dumpsters with YELLOW lids located at all the compactor sites and other locations throughout MIA

   STEPS for disposing RECYCABLE MATERIALS on the AOA are as follows:

   - Once you have located the **GREEN** recycling dumpster, please make sure all cardboard boxes are **broken down and flattened**.



   - **Pallets – Concessionaires / Tenants are required to coordinate the removal of all pallets immediately from Airport grounds upon completion of deliveries.** Pallets/skids that are damaged or not maintained properly may be hazardous as pieces can break off and result in FOD (Foreign Object Debris). Empty pallets/skids should not be stood on their ends within airside as they can be blown around and result in damage to aircraft and/or injury to employees operating on the AOA (Ramp Area**). Failure to abide shall result in fines and/or liquidated damages.**
   - **Illegal Dumping** – Tenant employees that illegally dump refuse or debris outside the designated areas (this includes illegally leaving refuse outside the respective bins on the ramp) will be fined and/or have their ID badges confiscated.

F. Delivery Procedures

1. Delivery Hours

   Airport Concessionaires may receive products, supplies, etc., in accordance with the Elevator Schedule below. MDAD reserves the right to schedule deliveries or institute a common warehouse system with a common logistics fee to support it if necessary.

VENDOR ELEVATOR DELIVERY SCHEDULE			
LOCATION	**HOURS**	**DAYS**	**NOTES**
North Loading Dock	04:00 - 12:00	7 Days	
Elevator D-15	**05:00 - 13:00**	**Monday-Saturday**	**18 Wheel Semi-trailers Only***
Elevator D-37	07:00 - 18:00	7 Days	
Elevator D-46	04:00 - 12:00	7 Days	
Elevator E-05	05:00 - 12:00	7 Days	
Elevator E-21	**06:00 - 15:00**	7 Days	**If Out of Order/Service rerouted to E20 or E31**
Elevator F11	04:00 - 12:00	7 Days	
Elevator G-09	06:00 - 12:00	7 Days	
Elevator H-6	06:00 - 12:00	7 Days	
J South Loading Dock	04:30 - 20:00	7 Days	
*** CISCO; FESHPOT; US FOOD, PEPSI, COCA-COLA, GOLF COAST, AREAS USA, CHENY BROTHER, GORDAN FOOD; (Subject to change)**			

2. Deliveries Terminal Curbside

   - Delivery hours are to be coordinated in Exhibit B (attached)*
   - Landside staff will determine drop-off locations to minimize disruption to traffic.
   - All vehicles must be attended. This is a Transportation Security Administration (TSA) mandate.
   - Drivers must be able to provide proper identification and manifest of deliveries.
   - Vehicles are subject to search.
   - Location and delivery times may change due to security or operational requirements.

   Please refer to Exhibit B Security Notice 17-08 (Maps Curbside Deliveries & Commercial Vehicle Use)

   i. Vehicle Identification for Delivery Zones

      All vehicles utilizing the loading and delivery zones in front of the terminal, as described above, must be adequately marked with the company name and/or logo on both sides of the vehicle.

      Painted, exterior magnetic, or interior static cling plastic signs attached to the side windows are acceptable.

      Signs shall look professional with minimum dimensions of 8 1/2" by 11".

   ii. Delivery Zone Parking Restrictions (Time)

      Use of loading and delivery zones is restricted to thirty (30) minutes. If a vendor anticipates that they will be actively loading or unloading for more than 30 minutes, they must notify Landside Operations at 305-876-7441.

3. Delivery through Terminal Building

   Efforts shall be made to avoid using public areas of the terminal for large-quantity deliveries during peak hours. If supplies must be transferred through the public portions of the terminal, these pickups/deliveries shall be scheduled during non-peak aircraft arrival and departure times.

   Common carriers such as Federal Express, UPS or Airborne Express are authorized to bring shipments directly to the units or storage area.

   All Concessionaire delivery carts, utility carts, and trash collection dumpsters are asked to adhere to the following specifications to avoid damage to the Airport:

- Revolving rubber non-marking wheels and corner bumpers on platforms or the base of carts
- Full encircling rubber bumpers around the lower platform base
- Handles, bag holders, or other portion carts that can cause damage are to be protected with 3" revolving, rubber, non-marking bumpers.
- The base of all carts is to be made of tubular construction.
- 8" x 1.75" Semi-Pneumatic ball bearing wheels are to be used.

Concessionaires found using non-compliant delivery equipment may be barred from future deliveries until the equipment has been modified or replaced.

4. Airside Deliveries

   All Concessionaires are bound by MDAD's rules for operating motor vehicles on the airport's Airside Operation Areas (AOA). The requirements below summarize those rules that are typically applicable to the Concessionaire but are in no way representative of all airfield rules.

   Concessionaires requiring AOA deliveries must come in person to the Airside Operations office during normal business hours from 0800 to 1600, a minimum of one business day (24 hours) prior to the delivery date. You must provide the requesting company's name, MDAD ID number, contact phone number, name of the company making the delivery, AOA entry point, and delivery destination. Concessionaires must call the on-duty Senior Agent for deliveries after hours at 305-588-7094. Once the delivery company is escorted to the delivery site, the Concessionaire must continuously escort delivery personnel while in the Security Display Area (SIDA).

5. Deliveries by Construction Contractors

   Construction contractors must physically report to the Airside Operations Office, located at E-20 Ground Floor, a minimum of one business day before the delivery date and submit for approval the Construction Delivery Notification Form. Once the delivery is escorted to the construction site, the contractor is required to provide a continuous escort of delivery personnel while in the SIDA area.

   Delivery vehicles arriving at an MDAD Access Gate without MDAD-approved advance notification will be denied access.

6. Motor Vehicles

   No motor vehicle shall be operated at the Airport except on roadways or areas designated for such purposes.

   Motor vehicles and equipment operating in the Aircraft Operation Area (AOA) must have an official motor vehicle identification permit issued pursuant to the Aviation Department's operational directives. In addition, company identification must be conspicuously displayed on motor vehicles and equipment.

   Except as otherwise stated in this handbook or other rules and regulations provided to the Concessionaire, the laws of the State of Florida regarding the operation of motor vehicles, including traffic regulation, are also made applicable to the operation of motor vehicles at the Airport.

7. AOA - Driver Training

   Before any employee is permitted to operate a motor vehicle of any kind or type on the AOA, such employee must attend and successfully complete the AOA Driver Training Course conducted from time to time by the Aviation Department. The Department may withdraw a person's privilege to operate a motor vehicle on the AOA for violating AOA driving rules. The Concessionaire shall be responsible for ensuring that all such vehicle operators possess current, valid, appropriate Florida driver's licenses.

G. Terminal Construction

1. Right to Develop Airport

Construction and alteration of the terminal building, concourses, and roadways are ongoing to meet the demands of the traveling public. MDAD reserves the right to develop or improve the airport as it sees fit.

2. Inconveniences during Construction

   i. During airport construction, remodeling, expansion, relocation, maintenance, and repair, concessionaires may expect some inconveniences, including, but not limited to, noise, dust, vibration, and changes in access. MDAD will take the necessary actions to ensure concession staff and merchandise safety and protection as soon as possible.

   ii. Should Concessionaires experience extraordinary, unworkable conditions related to construction, they should contact Airport Concession Business Development immediately. Airport Concession Business Development will assist the Concessionaire in its attempt to remedy the situation or minimize the construction impact on the concession.

H. Liquidated Damages

The Department may impose liquidated damages or other penalties as specified in the lease and concession agreement.

Safety & Security

A. Airport Police

The Miami-Dade County Police Department, located on site, is responsible for the airport's overall safety and security and is recognized by the State of Florida as officers of the law with jurisdiction over airport activities.

1. Criminal or Suspicious Activity

   Concessionaires and their staff shall use the following resources if they see or suspect illegal activity.

   Concessionaires can call the Police Department at 305-876-7373 to report a crime in progress or other suspicious activity.

B. Concessions Security

1. Employee/Contractor Strike Activities

   In the event that a Concessionaire anticipates a labor strike by its employees or of companies that service the Concessionaire, the Director of Landside Operations must be contacted for specific guidelines for governing strike activities at MIA.

2. Store Security

   The Miami-Dade County Police Department, MDAD Security, and TSA routinely patrol the terminal building and individual concessions. When businesses are closed, all gates/doors providing access to the concession/store must locked and secured. Airport Concession Business Development staff meets with concession managers, store owners, and staff monthly to discuss current problems. This meeting shall be used to communicate ideas and methods of improving security. Store managers with questions or concerns may contact Airport Concession Business Development.

3. Security Plan

   The Concessionaire must submit a detailed security plan to MDAD Security for approval prior to commencing operations. The Plan must include emergency contact information for key operational employees, compliance with TSA-prohibited items (e.g., sharp objects, unsecured kitchen doors, etc.), and a process for securing gates and the location in general.

4. Tenant Emergency Contact Information

   The Concessionaire is responsible for providing and regularly updating their emergency contacts on file with MDAD Concessions Business Development.

5. Sharp Objects

   Sharp objects such as knives and other sharp tools must be kept in a locked, secure compartment, and a full inventory of these items must be logged and accounted for daily. If an item is missing, All Concessionaires must report immediately to MDAD Security at **305-876-0385** any missing items from their inventory. Furthermore, all Concessionaires must comply with all mandated TSA Prohibited Items. Failure to comply may result in a civil or criminal penalty assessed by the TSA. Please refer to Exhibit A and Exhibit C of this Tenant Handbook.

6. Backhouse Entry

   All doors leading into kitchens, commissaries, warehouses, and storage must remain secure.

7. Glass Containers

   The sale of glass bottles or other glass containers is not allowed. The product may be served to the customer in a plastic container before leaving the premises.

8. TSA Prohibited Items List

   The sale of prohibited items, as listed in the TSA Prohibited Items List or as amended, is strictly prohibited (What Can I Bring? A-Z List | Transportation Security Administration (tsa.gov). Failure to comply may result in a civil or criminal penalty assessed by the TSA.

9. Prosecution of Shoplifters

   To maintain a high level of security at the airport, Concessionaires are strongly encouraged to prosecute shoplifters and staff caught stealing by attending court sessions. If a Concessionaire catches a shoplifter or observes a theft, immediately call 305-876-7373. Attending court sessions is critical to curbing this activity.

10. Reporting Incidents

    Badged staff function as a second set of eyes and ears for Airport Security and the Miami-Dade County Police Department. If you witness a crime or suspicious activity, please call the Police Department at 305-876-7373.

11. Loitering

    If the Concessionaire notices a problem with airport staff or other people unknown to the Concessionaire, please call the Police Department at 305-876-7373.

C. Emergencies

The Operations Control Room (OCR) has emergency communication and dispatch functions for the airport's police, fire, airport operations, and maintenance departments. For protective and emergency services, call:

Police Emergency: 305-876-7373

Fire/Medical Emergency: 305-876-7070

Operations: 305-876-0125

1. Medical

   MDAD Fire Department's fully trained and equipped Emergency Medical Technicians (EMTS) are on duty twenty-four (24) hours daily to handle all medical emergencies, regardless of severity. For Fire and Medical emergencies, call 305-876-7070. Patients requiring hospitalization will be transported to the nearest hospital.

2. Fire

   In case of fire, Concessionaires are asked to familiarize themselves with and instruct new staff in the following procedure.

   i. Evacuate the area.

   ii. Call for Fire or Medical assistance at 305-876-7070.

   iii. Attempt to fight the fire with a portable fire extinguisher ONLY if:

      a. You have been trained in the use of a fire extinguisher.

      b. the Fire Department has already been notified, or

      c. You can do so without exposing yourself to injury or the possibility of becoming trapped by the fire.

D. Fire Inspections

The Fire Department conducts regular inspections of Concessionaire and concession premises, including storage areas, the main terminal, all concourses, and all MDAD-owned buildings, to prevent fires and ensure compliance with fire safety practices.

An inspection report containing information relating to non-compliance issues and/or recommendations by the inspector will be issued, with a re-inspection date to ensure that the required corrections have been completed.

1. Fire Safety Compliance

The Fire Department will work with Concessionaires to ensure compliance with fire safety practices and codes. Through lease provisions, more rigorous regulations may be set for specific Concessionaires. Fines for non-compliance with inspections could occur.

2. Suspected Fire Code Violations

   If the Concessionaire suspects a fire code problem or concerns fire safety, questions can be directed at the time of inspection or by calling the Fire Department.

E. Other Reporting Concerns

It is in the best interest of all airport staff to ensure that MIA is a safe workplace and place to visit. All staff are required, therefore, to assist the DOA with safety by being proactive in reporting any incidents that might threaten the safety of MIA's staff or visitors. This may include the following:

- Spills (including ramp area)
- Ceiling/roof leaks
- Roadway potholes
- Non-functioning elevators/escalators
- Buckled carpeting/flooring concerns
- Bare electrical wires
- Pests and birds in the terminal
- Unsafe construction activity

Call the Operations Control Room (OCR) at 305-876-0385 to report these problems.

F. After Hours Activity

Concessionaires shall notify Operations Control Room (OCR) at 305-876-0385, when Staff will be working in the store/office after normal operating hours. Some activities may need to be approved by MDAD, Security and/ or the airlines. Advance calls will prevent confusion.

G. Access to Premises

1. Keys and Locks Policy

   MDAD controls all keying and re-keying of MDAD facilities, excluding Concessionaire Leasehold areas. MDAD hires a licensed and bonded locksmith to do keying and lock repair through a work order request.

2. Grand Master Key Policy

   The Grand Master (a key that will open all airport locks) is kept by 1) police under "break" glass, 2) each shift commander of the fire department, and 3) the licensed and bonded MDAD locksmith.

   No access will be granted using the Grand Master key except under the following conditions:

   - Fire or fire emergency within the locked area (this does not include access for fire inspections, testing, or other regulatory activity).
   - Life-threatening policy emergency or active pursuit of a known suspect.
   - Maintenance, when actively working on an authorized lock request and
   - Other emergency conditions are as authorized by the Airport Director.

H. Locked Out Procedure

In the event a concession employee is "locked out," "locked in," "forgotten keys," or "lost keys," or is not involved in any of the emergency events listed above, the Grand Master key will not be used to gain access to the premises. A new key must be authorized to cover this situation. Only an authorized representative of the concession can request additional keys to access the premises.

NOTE: Requests shall not be forwarded to the Police to unlock Concessionaire space in the case of "forgotten keys" or "locked out" events.

APPENDIX A

FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

GENERAL CIVIL RIGHTS PROVISIONS: In all its activities within the scope of its airport program, the CONSULTANT agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, (including limited English proficiency), creed, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

The above provision binds the Consultant and subconsultant from the bid solicitation period through the completion of the contract.

TITLE VI - LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES: During the performance of this Contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

b) 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

c) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);

f) Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

g) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and CONSULTANTs, whether such programs or activities are Federally funded or not);

h) Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

i) The Federal Aviation Administration's Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

j) To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. at 74087 (2005)]);

k) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

NONDISCRIMINATION REQUIREMENTS/TITLE VI CLAUSES FOR COMPLIANCE:
During the performance of this Contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.

2. **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin (including limited English proficiency), creed, sex, age, or disability in the selection and retention of SUBCONSULTANTs, including procurements of materials and leases of equipment. The CONSULTANT will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the CONSULTANT for Work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential SUBCONSULTANT or supplier will be notified by the CONSULTANT of the CONSULTANT's obligations under this Contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The CONSULTANT will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by MDAD or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish the information, the CONSULTANT will so certify to MDAD or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a CONSULTANT's noncompliance with the non-discrimination provisions of this Contract, Miami-Dade County Aviation Department will impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

   a. Withholding payments to the CONSULTANT under the Contract until the CONSULTANT complies; and/or

   b. Cancelling, terminating, or suspending a Contract, in whole or in part.

6. **Incorporation of Provisions:** The CONSULTANT will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment unless, exempt by the Acts, the Regulations and directives issued pursuant thereto. The CONSULTANT will take action with respect to any subcontract or procurement as Miami-Dade County Aviation Department or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the CONSULTANT becomes involved in, or is threatened with litigation by a SUBCONSULTANT, or supplier because of such direction, the CONSULTANT may request Miami-Dade County Aviation Department to enter into any litigation to protect the interests of Miami-Dade County Aviation Department. In addition, the CONSULTANT may request the United States to enter into the litigation to protect the interests of the United States.

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS:

1. **Overtime Requirements.**
   No CONSULTANT or SUBCONSULTANT contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which they are employed on such Work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; Liability for Unpaid Wages; Liquidated Damages.**
   In the event of any violation of the clause set forth in paragraph (1) above, the CONSULTANT and any SUBCONSULTANT responsible therefore shall be liable for the unpaid wages. In addition, such CONSULTANT and SUBCONSULTANT shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. **Withholding for Unpaid Wages and Liquidated Damages.**
   The Federal Aviation Administration or Miami-Dade County Aviation Department shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of Work performed by the CONSULTANT or SUBCONSULTANT under any such Contract or any other Federal contract with the same prime CONSULTANT, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONSULTANT, such sums as may be determined to be necessary to satisfy any liabilities of such CONSULTANT or SUBCONSULTANT for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. **Subconsultants.**
   The CONSULTANT or SUBCONSULTANT shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the SUBCONSULTANT to include these clauses in any lower tier subcontracts. The prime CONSULTANT shall be responsible for compliance by any SUBCONSULTANT or lower tier SUBCONSULTANT with the clauses set forth in paragraphs 1 through 4 of this section.

CLEAN AIR AND WATER POLLUTION CONTROL: CONSULTANT and sub-CONSULTANT agree to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The CONSULTANT and sub-CONSULTANT agree to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. CONSULTANT and sub-CONSULTANT must include this requirement in all subcontracts that exceeds $150,000.

CONSULTANT and SUBCONSULTANT agree:

1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

3. That, as a condition for the award of this Contract, the CONSULTANT or SUBCONSULTANT will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
4. To include or cause to be included in any construction contract or subcontract which exceeds $150,000 the aforementioned criteria and requirements.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970: All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. CONSULTANT must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The CONSULTANT retains full responsibility to monitor its compliance and their SUBCONSULTANT's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). CONSULTANT must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

PROCUREMENT OF RECOVERED MATERIALS: CONSULTANT and SUBCONSULTANT agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this Contract and to the extent practicable, the CONSULTANT and SUBCONSULTANTS are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

The Contract requires procurement of $10,000 or more of a designated item during the fiscal year; or

The Contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the CONSULTANT can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the Contract performance schedule;
b) Fails to meet reasonable Contract performance requirements; or
c) Is only available at an unreasonable price.

ENERGY CONSERVATION REQUIREMENTS: CONSULTANT and SUBCONSULTANT agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201*et seq*).

SEISMIC SAFETY: In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

BREACH OF CONTRACT TERMS: Any violation or breach of terms of this contract on the part of the CONSULTANT or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.
Owner will provide CONSULTANT written notice that describes the nature of the breach and corrective actions the CONSULTANT must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the CONSULTANT must correct the breach. Owner may proceed with termination of the contract if the CONSULTANT fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

AIRPORT IMPROVEMENT PROGRAM:

1. The Concessionaire for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Concessionaire will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

2. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, MDAD will have the right to terminate the Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.*

Exhibit L

Signed Labor Peace Agreement

(from Concessionaire)

MEMORANDUM OF AGREEMENT

THIS AGREEMENT is made and entered into by and between SSP America, Inc. (hereinafter the "Employer"), and UNITE HERE Local 355 (the "Union").

1. This Agreement shall cover all employees covered in classifications listed in Exhibit A (referred to hereinafter as "Employees") in a unit of all food and beverage, retail, news and gifts, duty free and lounge operations ("Operations") at Miami International Airport (collectively "Airport"), which during the term of this Agreement are operated by or substantially under the control of the Employer. The term "Employer" shall be deemed to include any person, firm, partnership, corporation, joint venture or other legal entity substantially under the control of the Employer covered by this Agreement, or one or more principal(s) of the Employer covered by this Agreement, or a subsidiary of the Employer covered by this Agreement, or any person, firm, partnership, corporation, joint venture or other legal entity which substantially controls the Employer covered by this Agreement.

2. The parties hereby establish the following procedure for the purpose of ensuring an orderly environment for the exercise by the Employees of their rights under Section 7 of the National Labor Relations Act and to avoid picketing and/or other economic action directed at the Employer in the event the Union decides to conduct an organizing campaign among Employees.

3. The parties mutually recognize that national labor law guarantees employees the right to form or select any labor organization to act as their exclusive representative for the purpose of collective bargaining with their employer, or to refrain from such activity.

4. The Employer will take a neutral approach to unionization of Employees. The Employer will not do any action nor make any statement that will directly or indirectly state or imply any opposition by the Employer to the selection by such Employees of a collective bargaining agent, or preference for or opposition to any particular union as a bargaining agent.

5. The Union and its representatives will not coerce or threaten any Employee in an effort to obtain authorization cards.

6. The Employer shall follow Worker Retention procedures as provided in Exhibit B. Whenever the Employer finds it necessary to hire new Employees for vacancies in job classifications covered by this Agreement in the Operations, the Employer shall notify the Union to request applicants for such vacancies. When requesting applicants, the Employer shall state the qualifications applicants are expected to possess. The Union may furnish applicants for the job vacancies specified by the Employer. The Union's selection of applicants for referral shall be on a nondiscriminatory basis and shall not be based upon or in any way affected by membership in the Union or the Union's bylaws, rules, regulations, constitutional provisions, or any other aspects or obligation of Union membership policies or requirements, or upon personal characteristics of an applicant where discrimination based upon such characteristics is prohibited by law. The Employer agrees that any interest demonstrated by an applicant in joining the Union shall not constitute grounds for discriminatory or disparate treatment nor adversely impact the applicant's ability to be hired by the Employer. The Employer shall be the sole judge of an applicant's suitability, competence and qualifications to perform the work of any job to be filled.

7. If the Union provides written notice to the Employer of its intent to organize Employees covered by this Agreement, the Employer shall provide access to its premises and to such Employees by the Union. The Union may engage in organizing efforts in non-work areas during Employees' non-working times (before work, after work, and during meals and breaks) and/or during such other periods as the parties may mutually agree upon. "Organizing" includes communicating with Employees before and after recognition of the Union as provided in Paragraph 9. The Employer shall request the granting of security clearance from the appropriate Airport Authority and use its best efforts to obtain clearance for the organizers. The Union shall exercise due care so that its access to Employees does not disrupt the Employer's business or violate any security regulations.

8. Within ten (10) days following receipt of written notice of intent to organize Employees, the Employer will furnish the Union with a complete list of Employees, including both full and part-time Employees, showing their job classifications, departments, including terminals, addresses, phone numbers and email addresses if known to the Employer. Thereafter, the Employer will provide updated complete lists monthly.

9. The Union may request recognition as the exclusive collective bargaining agent for the Employees in a unit consisting of all the Operations. The Union may request recognition at any time a substantial and representative complement of Employees is actively at work in the Operations, even if some of the Operations have not yet opened at the time the Union makes its request. However, the union may not request recognition until the first units opened by Employer have been operating for at least six months. The Arbitrator identified in Paragraph 14, or another person mutually agreed to by Employer and Union, will conduct a review of Employees' authorization cards and membership information submitted by the Union in support of its claim to represent a majority of such Employees. The review shall involve a comparison of the authorization card signatures of the Employees to W-4 or I-9 forms for such Employees provided to the Arbitrator by the Employer. The identity of all card-signers shall be kept confidential from the Employer. Such review shall take place no more than ten (10) days after the Union's request absent mutual agreement to extend time. If that review establishes that a majority of such Employees has designated the Union as their exclusive collective bargaining representative or joined the Union, the Employer will recognize the Union as such representative of such Employees. The Employer will not file a petition with the National Labor Relations Board for any election in connection with any demands for recognition provided for in this Agreement, or file a notice of voluntary recognition with the NLRB, so that the decision of when and whether to provide such notice is within the sole discretion of the Union. If the Union notifies the NLRB of recognition pursuant to this Agreement, and the NLRB provides the Employer with an NLRB notice of recognition, the Employer shall post the notice of recognition in accordance with the instructions from the NLRB immediately upon receipt of the notice. The Union and the Employer agree that if any other person or entity petitions the National Labor Relations Board for any election as a result of or despite recognition of the Union pursuant to this Paragraph, (a) the Employer and the Union will each request that the NLRB dismiss the petition on grounds of recognition bar or, if they have agreed to a collective bargaining agreement covering Employees at the time the petition is filed, on grounds of contract bar, (b) if the petition is not dismissed, the Employer and the Union shall agree to a full consent election agreement under Section 102.62(c) of the NLRB's Rules and Regulations, and (c) the Employer and the Union shall at all times abide by the provisions of this Agreement except that the Union may file unfair labor practice charges. The Union and the Employer will not file any charges

MDC188

with the National Labor Relations Board in connection with any act or omission occurring within the context of this agreement; arbitration under Paragraph 14 of this Agreement shall be the exclusive remedy.

10. (a) If the Union is recognized as the exclusive collective bargaining representative as provided in paragraph 9, negotiations for a collective bargaining agreement shall be commenced immediately, unless the Employer has made an assignment to a multiemployer association as provided in Paragraph 10(b). To ensure labor peace throughout the collective bargaining process, if the parties are unable to reach agreement on a collective bargaining agreement within 180 days after the Union's request for collective bargaining, all unresolved issues shall be submitted for resolution to final and binding arbitration pursuant to Paragraph 14. The arbitrator identified in paragraph 14 below shall be the arbitrator, unless another arbitrator is mutually agreed to by the parties. The arbitrator shall be guided by, but not limited to, the following considerations: (a) Wages, hours and other terms and conditions of employment of the Employer's competitors; (b) The Employer's financial capacity (if the Employer places this in issue); (c) Cost of living as it affects the Employees; (d) Ability of Employees to earn a living wage for the support of themselves and their families; and (e) Regional and local market conditions.

(b) Wishing to provide for the least disruptive means of collective bargaining, the Employer agrees to form a bargaining association representing all Employees employed by Employer and any tenants, lessees, subtenants or sublessees at the Airport taking under Employer that have recognized the union as the exclusive collective bargaining representative of their employees. Upon two or more Employers recognizing the Union, the association will be the bargaining representative of the Employers. If the Union achieves majority status at other Employers, each such Employer will become represented by the association. The Employer shall assign all of its bargaining rights, duties and obligations to the association and the assignment shall be irrevocable for any reason until January 1, 2023 and may only be revoked as of that date or any subsequent anniversary thereof by giving at least 90 days advance notice to the Union and the association. The Employer hereby waives any and all rights it has or may acquire to withdraw from such association at any time except as specified in this Agreement.

11. During the life of this Agreement, the Union will not engage in picketing or other economic activity against Employer's Operations at the Airport, and the Employer will not engage in a lockout of the Employees. If the Employer recognizes any union besides Union as the exclusive collective bargaining representative of Employees, or any of them, this paragraph shall terminate immediately and without notice.

12. In the event that the Employer sells, transfers, or assigns all or any part of its right, title, or interest in the Operations or substantially all of the assets used in the Operations, or in the event there is a change in the form of ownership of the Employer, the Employer shall give the Union reasonable advance notice thereof in writing, and the Employer further agrees that as a condition to any such sale, assignment, or transfer, the Employer will obtain from its successor or successors in interest a written assumption of this Agreement and furnish a copy thereof to the Union, in which event the assignor shall be relieved of its obligations hereunder to the extent that the assignor has fully transferred its right, title, or interest.

13. The Employer shall incorporate the entirety of paragraphs 4, 6, 7, 8, 9, and 10 of this of Agreement in any contract, subcontract, lease, sublease, operating agreement, franchise

WW

agreement or any other agreement or instrument giving a right to any person to operate any enterprise in the Airport employing employees in classifications listed in Exhibit A, or in classifications called by different names when performing similar duties, and shall obligate any person taking such interest, and any and all successors and assigns of such person, to in turn incorporate said paragraphs in any further agreement or instrument giving a right as described above. The Employer shall enforce such provisions, or at its option, assign its rights to do so to the Union. The Employer shall give the Union written notice of the execution of such agreement or instrument and identify the other party(ies) to the transaction within 15 days after the agreement or instrument is signed. The terms "Employer" and "Operations" shall be modified in such agreement or instrument to conform to the terminology in such agreement or instrument but retain the same meaning as in this Agreement, and the terms "Employer" and "Employees" as used herein shall be modified to refer, respectively, to the person or persons receiving a right to operate an enterprise in the Airport and the employees of such person or persons. Employer's obligations under this paragraph shall be waived in the case of a bona fide agreement between an operator and the Union, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms.

14. The parties agree that any disputes over the interpretation or application of this Agreement shall be submitted to expedited and binding arbitration, with Marsha Murphy serving as the arbitrator. If she is unavailable to serve within thirty (30) calendar days of notification then James Odom, Jr. or another mutually acceptable person, shall be the arbitrator. The arbitrator shall have the authority to determine the arbitration procedures to be followed. The arbitrator shall also have the authority to order the noncompliant party to comply with this Agreement. The United States District Court for the Southern District of Florida shall have exclusive jurisdiction in any action concerning arbitration under this Agreement. The parties hereto agree to comply with any order of the arbitrator, which shall be final and binding, and furthermore consent to the entry of any order of the arbitrator as the order or judgment of the court, without entry of findings of fact and conclusions of law.

15. In the event that any provision of this Agreement should be rendered invalid by applicable legislation or be declared invalid by any court or regulatory agency of competent jurisdiction, such action shall not invalidate the entire Agreement, it being the express intention of the parties hereto that all other provisions not rendered invalid shall remain in full force and effect. Both parties agree that the subject matter of any provision found to be invalid shall be renegotiated for the purpose of replacing the invalidated provision with a valid substitute which most nearly achieves the same objective. In the event the parties are unable to agree on a substitute, the matter shall be submitted to arbitration as provided in Paragraph 14; the arbitrator shall choose or formulate a substitute provision which accomplishes the purposes of the preceding sentence.

16. The Operator shall work with the Hospitality Employees Advancement and Training Center ("HEAT") when recruiting for its initial complement of Employees to staff the operation upon opening and thereafter when filling vacancies in job classifications covered by this Agreement. HEAT shall, in conjunction with Operator, develop a curriculum to provide training tailored to the needs of Operator, and a recruitment program to identify and train applicants. When requesting applicants from HEAT, the Operator shall state the qualifications which these job applicants are expected to possess. The Operator shall interview all applicants referred by HEAT, and shall give first priority for hiring to all qualified applicants referred by

WW

MDC190

HEAT. The Operator shall be the sole judge of the hiring criteria to be used in its hiring process and shall comply with applicable laws when establishing its hiring criteria. HEAT's selection of applicants for referral shall be on a non-discriminatory basis and shall not be based upon or in any way affected by membership in the Union or the Union's bylaws, rules, regulations constitutional provisions or upon personal characteristics of an applicant where discrimination based upon such characteristics is prohibited by law. Operator shall agree that any interest demonstrated by an applicant in joining the Union shall not constitute grounds for discriminatory or disparate treatment, nor adversely impact the applicant's ability to be hired by the Operator.

17. The Operator shall remit to Hospitality Workers Training Fund an annual training fee equal to $10,000, first payable 60 days prior to the opening of the Operator's first unit at the Airport. Said training fees shall be for the purpose of defraying the cost of training new Employees covered by this Agreement. In June 2021, Operator and Union will assess the value of HEAT and renegotiate the fee structure.

18. This Agreement shall be in full force and effect from the date it is fully executed on behalf of the Employer and the Union until the expiration of the Employer's contract(s) with the Airport or the Airport's agent, or if sooner upon execution of a collective bargaining agreement, which explicitly supersedes this document.

19. No copies of the Agreement shall be disclosed to anyone unaffiliated with the Union, Employer or Employees except as required by law or as part of any arbitration proceeding under this MOA.

IN WITNESS WHEREOF, the parties hereto by their duly designated representatives have hereunto set their hands.

FOR THE EMPLOYER:	FOR THE UNION:
SSP America, Inc.	UNITE HERE Local 355
Pat Bambrick	Wendi A Walsh
Chief Operating Officer	Secretary-Treasurer
Date: Feb 19, 2019	Date: February 18, 2019

MDC191

EXHIBIT A

All regular full-time and regular part-time food and beverage, retail clerk, stocking and warehouse employees, including lead employees and working supervisors who are not authorized to hire, fire or effectively recommend discipline, and excluding supervisors, managers and guards as defined in the National Labor Relations Act.

MDC192

EXHIBIT B

Employee Retention Procedures

Employer shall comply with the Employee Retention program administered by the Union. The components of this program are as follows:

1. No later than six (6) weeks prior to each date it is anticipated that employees will be needed, the Employer will provide the Union with a list of all available jobs listed by job classification.

2. The Union will identify existing Employees, by classification, who are interested in the available jobs. Not later than two (2) weeks after receipt of the list of available jobs, the Union will provide the Employer with the list of Employees identified.

3. Employees shall bid by seniority within each job classification on the available jobs, and Employer will hire those Employees who bid into the jobs. Within ten (10) days of hiring, the Employer will provide the Union with the name and job title of the Employees hired.

4. Should the Employer operate interim facilities before opening permanent locations, steps (1) through (3) shall apply to the temporary jobs, with the understanding that Employees who transfer into the temporary jobs will have priority over other existing Employees to transfer into the permanent jobs.

5. Should the Employer offer jobs in stages throughout any phased opening of its concessions, steps (1) through (3) shall be repeated for each stage.

6. All existing Employees that decline positions under the process above will no longer remain on the retention list for future offering of positions with Employer.

WW

EXHIBIT X

Evidence of Signed Labor Peace Agreement

(to be produced after the execution of agreement; can be shared with any parties interested in seeing confirmation of Labor Peace guarantee)

Exhibit M

Implementing Order 3-58 – First Source Hiring Referral Program

https://documents.miamidade.gov/ao-io/IO/IO-03-58.pdf

Exhibit N

Common Carrier or Contracted Carrier Attestation Form

Exhibit O
COMMON CARRIER OR CONTRACTED CARRIER ATTESTATION FORM

The Common Carrier or Contracted Carrier Attestation Form (Form) is required by Section 908.111, Florida Statutes ("F.S."), which is deemed as being expressly incorporated into this Form. The Form must be completed by a person authorized to make this attestation on behalf of a Common Carrier or Contracted Carrier (both referenced as "Carrier") and submitted to the Governmental Entity with which a Contract is being executed, amended, or renewed. Capitalized terms used herein have the definitions ascribed in Section 908.111, F.S. The associated Contract shall not become effective unless and until this completed and executed Form is submitted to the County.

Name of Common Carrier or contracted carrier is not willfully providing and will not willfully provide any service during the Contract term in furtherance of transporting a person into this state knowing that the person is an Unauthorized Alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Print Name of Contractor's Authorized Representative: Patrick Murray

Title of Contractor's Authorized Representative: Deputy CEO

Signature of Contractor's Authorized Representative:

Date: 8/1/2024

Exhibit O

Information Technology Security Matrix

EXHIBIT O - INFORMATION TECHNOLOGY SECURITY MATRIX

VERSION 112024 REV. A

H.R. 5515

In accordance with US House of Representatives H.R. 5515 "National Defense Authorization Act for Fiscal Year 2021" House Bill, the Solution shall not utilize products or services from the manufacturers listed therein. DOD Releases List of People's Republic of China (PRC) Military Companies in Accordance With Section 1260H of the National Defense Authorization Act for Fiscal Year 2021 > U.S. Department of Defense > Releases

Use of Miami-Dade County Data and Systems:

1. **Access Control:** Miami-Dade County (MDC) employees, system users, contractors or those operating on their behalf are prohibited from incorporating or using AI-enabled services in such a way that Miami-Dade County data is uploaded or made available for data mining or usage. Uploading, copying, sharing, or transmitting any sensitive Miami-Dade created or managed data via methods or software not explicitly allowed are prohibited. This includes any PCI, PII, HIPAA, CJIS or other data that is created or managed by or on behalf of Miami-Dade County. Access controls are to be guided by the Miami-Dade County Enterprise Security Policy. The MDC Enterprise Security Policy is available to responsive bidders or upon request approved by the MDC Enterprise Security Office.

2. **Data Protection:** All data processed by Cloud-based or AI-enabled technologies must be protected from unauthorized access, theft, and misuse. Data must be encrypted in transit and at rest, and access controls should be in place to ensure that only authorized users can access the data. Data should be stored securely, and backups must be kept in a secure location. Usage of said data by the Cloud or AI provider must be communicated and agreed to, with consideration to transparency and with human oversight of use and potential abuse or misuse.

3. **Monitoring:** Any Cloud-based or AI-enabled technologies must be monitored for unusual activity or unauthorized access. Logs and alerts should be reviewed regularly, and security analytics should be used to identify potential threats or hallucinations.

4. **Vulnerability Management:** Any Cloud-based or AI-enabled technologies must be regularly assessed for vulnerabilities and weaknesses. Regular vulnerability scans and penetration testing must be conducted, and security assessments must be performed to identify areas of improvement.

5. **Incident Response:** Abuse or misuse to the extent that it endangers the security or privacy of Miami-Dade County citizens, users, data, personnel, or facilities must be reported according to the Miami-Dade County Enterprise Security Office Incident Response Plan.

6. **Training and Awareness:** All employees must receive training on the secure use of any Cloud-based or AI-enabled technologies. This should include best practices for data protection, access controls, and incident response.

7. **Compliance:** Any Cloud-based or AI-enabled technologies must be compliant with relevant laws and regulations, such as GDPR, HIPAA, and CCPA as well as compliant with Miami-Dade County Security Policy and the overall policies and procedures of Miami-Dade County. Regular audits should be conducted to ensure compliance.

8. **Risk Management:** A risk management program should be in place to identify and mitigate risks associated with the use of any Cloud-based or AI-enabled technologies. Risks should be regularly assessed, and appropriate controls should be put in place to mitigate those risks.

9. **Coordinated Vulnerability Disclosure:** Miami-Dade County follows a vulnerability disclosure model in which a vulnerability or an issue is disclosed to the public only after the responsible parties have been allowed sufficient time to patch or remedy the vulnerability or issue.

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Instructions

- **Purpose:** This security matrix is designed to assess the security controls implemented by external vendors and contractors.
- **Instructions:** This form should be completed by someone who is familiar with the proposed system and can answer technical security questions such as a Product Manager, CISO, CTO, CIO. Please save the completed file to include the name of the product and return the completed matrix in a **machine-readable format (e.g., Word or PDF).**
- For each functionality listed below, please select the code that best corresponds to your response and enter it in th**e 'Meet (Y/C/M/N)' column**. Provide detailed explanations or comments in the 'Detailed Explanation' column to clarify how the functionality is addressed. Provide diagrams and additional documentation when you return the completed security matrix.
- **Response Codes:**
  - **Y – Fully met without configuration or modification.**
  - **C – Met via configuration (without changing base source code).**
  - **M – Met via modification of the base source code.**
  - **N – Not met. If an alternative compensating control is being proposed, please provide a detailed explanation. A blank or "N/A" response will be interpreted as "N".**

Vendor Information

- **Vendor Name:**
- **Contact Person:**
- **Title:**
- **Email:**
- **Phone Number:**

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Security Matrix

A. Data Classification and Protection

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
1	Type of Data Processed: Indicate all types of data your solution processes. **Remove any that do not apply:** - PII (Personally Identifiable Information) - PCI (Payment Card Industry) - PHI (Protected Health Information) - Critical Infrastructure - SCADA / ICS / OT - HR (Human Resources) - CJIS (Criminal Justice Information Services) - HIPAA - Financial Records - Other (please specify)			NIST CSF ID.AM-5; ISO 27001 A.8
2	Compliance and Risk Assessments: Has a SOC 2 Type II or other risk assessment been performed within the last 12 months? Please provide the most recent report.			NIST CSF ID.GV-1; SOC 2, ISO 27001

B. Risk Assessments and Compliance

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
3	Compliance Certifications: Does the solution comply with any of the following standards? Please check all that apply and provide supporting documentation. - ISO/IEC 27001 - PCI DSS v4.0.1 - HIPAA - StateRAMP / FedRAMP - Other (please specify)			NIST CSF ID.GV-2; ISO 27001; StateRAMP; FedRAMP, PCI 4.0.1

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

C. Identity and Access Management

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
4	Unique User Identification: The solution uniquely identifies each user.			NIST CSF PR.AC-1; CIS Control 6.2
5	Integration with Directory Services: The solution integrates with Microsoft Active Directory or Azure Active Directory (EntraID) for user authentication of internal users using protocols such as SAML, OAuth 2.0, or OpenID Connect.			NIST CSF PR.AC-1; CIS Control 6.1
6	Principle of Least Privilege (Operating Systems): The solution can be installed and maintained in accordance with the principle of least privilege for operating systems.			NIST CSF PR.AC-6; CIS Control 4
7	Principle of Least Privilege (Database Systems): The solution can be installed and maintained in accordance with the principle of least privilege for database systems.			NIST CSF PR.AC-6; CIS Control 4
8	Unique Process Identification: The solution uniquely identifies each process (system, service, Managed Service Accounts).			NIST CSF PR.AC-4; CIS Control 4
9	Scheduled Password Rotation: The solution supports scheduled password rotation of process accounts.			NIST CSF PR.AC-5; CIS Control 6.1
10	Disable or Rename Default Accounts: Default system accounts can be			NIST CSF PR.AC-1;

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
	disabled or renamed (e.g., administrator/admin, guest).			CIS Control 5
11	Inactive Account Management: Accounts are automatically disabled after a configurable period of inactivity (e.g., 90 days).			NIST CSF PR.AC-4; CIS Control 16.11
12	Password Authentication: The solution utilizes account passwords for authentication and supports passphrase best practices.			NIST CSF PR.AC-1; CIS Control 6
13	Password Complexity Requirements: User password complexity is configurable to allow for a minimum of 14 characters comprised of upper and lower-case letters, numbers, and special characters. System Accounts require complex passwords with a minimum of 25 characters and must be changed every 180 days. Use of Group Managed Service Accounts (gMSA) is strongly recommended.			NIST CSF PR.AC-1; CIS Control 6.3
14	Password Suppression: Passwords are suppressed (not echoed back) when entered by users.			NIST CSF PR.AC-1; CIS Control 6.5
15	Multi-Factor Authentication (MFA): The solution supports MFA for user authentication. Phishing Resistant Authentication is strongly recommended.			NIST CSF PR.AC-7; CIS Control 6.8
16	Encryption of Credentials in Transit: User login credentials are encrypted			NIST CSF PR.DS-2;

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
	during transmission with a minimum of AES 256-bit encryption.			CIS Control 3.1
17	Password History and Reuse: The solution supports password history functionality to prevent reuse of a configurable number of prior passwords (minimum of 10).			NIST CSF PR.AC-1; CIS Control 6.4
18	Administrative Password Aging: The solution supports administrative password aging of 30 days.			NIST CSF PR.AC-1; CIS Control 6.3
19	Password Reset Capability: Administrative accounts have the capability of resetting passwords.			NIST CSF PR.AC-1; CIS Control 6
20	Self-Service Password Reset with Challenge Questions: The solution provides user self-service password reset functionality utilizing challenge-response authentication.			NIST CSF PR.AC-1; CIS Control 6.6
21	Challenge Question Security: Self-service challenge responses are comprised of at least 8 questions, with responses stored securely using AES 256-bit encryption.			NIST CSF PR.AC-1; CIS Control 6.6
22	Configurable Login Attempt Limits: The solution supports limiting unsuccessful login attempts to 5 before locking out or disabling the account.			NIST CSF PR.AC-7; CIS Control 16.7
23	Concurrent Session Control: The solution supports limiting concurrent user sessions to 1 by default;			NIST CSF PR.AC-7;

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
	administrators can configure the number.			CIS Control 16.9
24	Account Lockout/Disable Capability: Administrators can lock or disable accounts whenever necessary.			NIST CSF PR.AC-4; CIS Control 16.4
25	Pre-Login Banner: The solution can display a customizable pre-login warning banner stating that unauthorized access is prohibited.			NIST CSF PR.PT-2; CIS Control 16.1
26	Role-Based Access Control (RBAC): The solution supports managing users based on group membership and assigning/revoking specific privileges.			NIST CSF PR.AC-4; CIS Control 5
27	User Rights and Privileges Reporting: Tools and reports are available to enumerate user rights, group membership, access permissions, or user profiles.			NIST CSF PR.DS-6; CIS Control 4.4
28	Account Password Encryption in Storage: System Accounts, Passwords, Certificates, Keys, and other secrets are stored hashed and salted using strong cryptographic algorithms (e.g., SHA-256 with salt).			NIST CSF PR.DS-1; CIS Control 14.4

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

D. Audit Logging and Monitoring

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
29	Audit Logging Capability: The solution captures audit logs of successful and unsuccessful logins, records viewed, printed, added, deleted, or modified, and retains logs for at least 5 years plus current.			NIST CSF DE.AE-3; CIS Control 8
30	Audit Log Details: Logs capture date and time, user account, source IP address, event details, and success or failure of the event.			NIST CSF DE.AE-3; CIS Control 8
31	Audit Mechanism Protection: Administrators cannot disable the audit mechanism.			NIST CSF PR.PT-1; CIS Control 8.8
32	Audit Log Integrity: Audit logs are protected from unauthorized access and alteration (e.g., sent to a SIEM in addition to local storage).			NIST CSF PR.PT-1; CIS Control 8.5
33	Audit Log Tamper Prevention: Users and administrators are prevented from modifying, deleting, or adding log entries.			NIST CSF PR.PT-1; CIS Control 8.5
34	Intrusion Detection and Prevention: The solution is protected using Intrusion Detection and Prevention Systems (IDS/IPS).			NIST CSF DE.CM-1; CIS Control 9
35	Protection Against DDoS Attacks: The solution is protected against Distributed Denial of Service (DDoS) attacks.			NIST CSF PR.DS-5; CIS Control 9

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
36	Security Event Notifications: The solution generates outbound alerts and notifications. Explain the data contained in these messages (e.g., email alerts, automated reports, SNMP v.3 traps).			NIST CSF DE.DP-5; CIS Control 8.7

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

E. Software and Configuration Management

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
37	Microsoft Enterprise Access Model Compliance: The solution can be installed and maintained according to the Microsoft Enterprise Access Model.			NIST CSF PR.IP-1; CIS Control 4
38	Software Version Control: The solution prevents outdated software versions from accessing the Database Management System (DBMS).			NIST CSF PR.IP-1; CIS Control 2.3
39	Patch Management: The solution is regularly patched with appropriate security patches within specified timeframes: - Critical patches: within 14 days of release - High patches: within 30 days - Medium and Low patches: within 90 days			NIST CSF PR.IP-12; CIS Control 7
40	Vulnerability Management: Regular vulnerability scans are performed (e.g., monthly) using tools like Nessus or Qualys. Reports are shared upon request.			NIST CSF PR.IP-12; CIS Control 7
41	Application Security Testing: Regular application vulnerability scans are conducted using tools like WebInspect, Veracode, or AppScan. Dynamic and Static Application scans are preferred.			NIST CSF PR.IP-12; CIS Control 18

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
42	Change Control Processes: Application vulnerability scanning (e.g., PCI DSS, OWASP Top 10) is performed prior to production migration of changes. Medium, High, and Critical vulnerabilities are remediated before migration. Reports are shared upon request.			NIST CSF PR.IP-3; CIS Control 6.1

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

F. Data Encryption and Transmission

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
43	Data Encryption in Transit: Sensitive data is encrypted during transmission over the network using a minimum of TLS 1.2 with AES 256-bit encryption.			NIST CSF PR.DS-2; CIS Control 3.11
44	Data Encryption at Rest: Sensitive information is encrypted while in storage using a minimum of AES 256-bit encryption.			NIST CSF PR.DS-1; CIS Control 14
45	Encryption over External Networks: Sensitive information is encrypted for transmission over external networks using a minimum of AES 256-bit encryption.			NIST CSF PR.DS-2; CIS Control 3.11

G. Cloud Hosting and Infrastructure Security

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
46	Data Center Compliance: If cloud-hosted, the solution is hosted in an audited data center complying with ISO/IEC 27001, SOC 2 Type II, StateRAMP, or FedRAMP standards. Provide the latest audit report.			NIST CSF PR.AC-5; StateRAMP; FedRAMP
47	Employee Access Controls: Controls prohibit hosting employees or third-party personnel from accessing, viewing, or modifying customer confidential data. Describe controls used, including encryption and key storage mechanisms.			NIST CSF PR.AC-5; CIS Control 14

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
48	High Availability and Failover: The solution is highly available with active-active or active-passive failover between geographically diverse data centers.			NIST CSF PR.DS-4; CIS Control 12
49	Data Residency: System and data are physically located within the Continental United States.			NIST CSF PR.DS-5
50	Network Accessibility: System is accessible from the County's network and proxy infrastructure.			NIST CSF PR.AC-3
51	Session Encryption: All sessions are encrypted from initiation to termination using validated encryption ciphers (TLS 1.2 or higher).			NIST CSF PR.DS-2; CIS Control 3.11
52	Regular Vulnerability Scanning: Monthly vulnerability scans are performed using tools like Nessus, Tenable, or Qualys. Reports will be shared with the County if requested.			NIST CSF PR.IP-12; CIS Control 7
53	API Security: APIs use API key security (X-API-Key) or demonstrate alternate security controls.			NIST CSF PR.AC-1; CIS Control 14.8

H. Software Integrity and Secure Development

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
54	Prevent Changes to Records: Users, developers, DBAs, or administrators cannot alter posted,			NIST CSF PR.IP-4; CIS Control 5

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
	completed, or closed transaction records.			
55	Rollback Processes: Rollback processes are incorporated into the database for all critical transactions.			NIST CSF PR.IP-4; CIS Control 10.5
56	Outdated Software Access Prevention: The solution prevents outdated software versions from accessing the DBMS.			NIST CSF PR.IP-1; CIS Control 2.3

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

I. Artificial Intelligence (AI) and Machine Learning (ML) Controls

- **Note: This section addresses security controls specific to systems utilizing Artificial Intelligence (AI) and Machine Learning (ML). These controls ensure the trustworthy, secure, and ethical use of AI/ML technologies. Please refer to NIST.AI.600-1.pdf for detailed guidance.**

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
57	AI Governance and Oversight: The organization has established governance structures and policies for AI/ML system development and deployment, including defined roles and responsibilities.			NIST.AI.600-1.pdf; NIST AI RMF GOV
58	AI Risk Management Framework Application: The organization applies a risk management framework specific to AI/ML systems to identify, assess, and mitigate risks throughout the AI lifecycle.			NIST.AI.600-1.pdf; NIST AI RMF MAP
59	Data Quality and Integrity for AI/ML: Data used for training and testing AI/ML models is assessed for quality, relevance, and potential biases. Processes ensure data integrity and accuracy.			NIST.AI.600-1.pdf; NIST AI RMF MEASURE
60	Model Transparency and Explainability: AI/ML models are designed to be interpretable, with mechanisms to explain model decisions to stakeholders as appropriate.			NIST.AI.600-1.pdf; NIST AI RMF MANAGE
61	Security of AI/ML Systems: The AI/ML systems are protected against adversarial attacks (e.g., data poisoning, model inversion). Security controls safeguard AI assets and processes.			NIST.AI.600-1.pdf; NIST AI RMF SECURE

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
62	Privacy Protection in AI/ML: Measures protect personal and sensitive information used in AI/ML systems, including compliance with data protection regulations and techniques like differential privacy.			NIST.AI.600-1.pdf; NIST AI RMF PROTECT
63	Fairness and Bias Mitigation: The organization identifies and mitigates biases in AI/ML models to promote fairness and prevent discrimination against any group.			NIST.AI.600-1.pdf; NIST AI RMF MEASURE
64	Monitoring and Maintenance of AI/ML Systems: Continuous monitoring detects performance degradation, biases, or security incidents in AI/ML systems, with processes for model updates.			NIST.AI.600-1.pdf; NIST AI RMF MANAGE
65	Ethical Considerations and Compliance: The organization adheres to ethical guidelines and legal requirements related to AI/ML, including transparency and accountability.			NIST.AI.600-1.pdf; NIST AI RMF GOV
66	Third-Party AI Components Management: If using third-party AI/ML components or services, the organization ensures they meet the same security and ethical standards, including due diligence.			NIST.AI.600-1.pdf; NIST AI RMF GOV
67	Incident Response for AI/ML Systems: The organization has incident response plans that include scenarios specific to AI/ML systems, such as model failures or adversarial attacks.			NIST.AI.600-1.pdf; NIST AI RMF RESPOND

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
68	Documentation and Reporting of AI/ML Models: Comprehensive documentation of AI/ML models, including design decisions, training data, and testing results, is maintained and available for review.			NIST.AI.600-1.pdf; NIST AI RMF GOV

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

J. Software Bill of Materials (SBOM)

- **AGPL POLICY WARNING: Code licensed under the GNU Affero General Public License (AGPL) MUST NOT be used at Miami-Dade County.**

Functionality Number	Functionality	Meet (Y/C/M/N)	Detailed Explanation	References
69	SBOM Creation and Maintenance: An SBOM must be created and maintained for all software projects, listing all third-party libraries and their associated metadata.			NIST SP 800-161; CIS Control 2.3
70	SBOM Submission Formats: SBOMs must be submitted in CycloneDX or SPDX formats. If these formats are unavailable, a fillable form template must be used to capture the required information. At a minimum, the following details must be documented for each third-party library: Software Component or Library Name, Author, Version, Last Updated Date, Website, and License.			NIST SP 800-161; CIS Control 2.3
71	Regular SBOM Updates and Reviews: The SBOM must be updated and reviewed regularly to ensure accuracy and completeness.			NIST SP 800-161; CIS Control 2.3
72	Licensing Compliance Review: A licensing compliance review must be conducted, and the results must be signed by the developer's management before any third-party library is used in production.			NIST CSF ID.SC-3; ISO 27001 A.18.1.3

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

General Comments

- **Please provide any additional information or clarifications below:**

Notes:

- **Applicability of Sections:** Ensure you complete all sections relevant to your solution, including the new Software Bill of Materials (SBOM) section.
- **AGPL Policy Compliance: Under no circumstances** should code licensed under the **GNU Affero General Public License (AGPL**) be used in solutions provided to Miami-Dade County.
- **Compensating Controls:** For any "N" responses, please provide detailed explanations of compensating controls or alternative solutions in the 'Detailed Explanation' column.
- **Evidence and Documentation:** Please provide supporting documents where applicable, such as SBOM files, policy documents, certificates, audit reports, or AI/ML governance frameworks.
- **Priority Levels:** Some functionalities may be marked as High Priority. These are critical requirements that must be met for compliance.
- **Data Protection Regulations:** Ensure compliance with relevant data protection laws such as GDPR, CCPA, or other applicable regulations.
- **Ethical AI Practices:** Adherence to ethical guidelines in AI development and deployment is crucial for maintaining trust and compliance.
- **SBOM Importance:** Maintaining an accurate and up-to-date SBOM is essential for supply chain security and vulnerability management.

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Glossary of Terms and Acronyms

- **2FA:** Two-Factor Authentication
- **ADFS:** Active Directory Federation Services
- **AES:** Advanced Encryption Standard
- **AGPL:** GNU Affero General Public License
- **AI:** Artificial Intelligence
- **AI RMF:** Artificial Intelligence Risk Management Framework
- **API:** Application Programming Interface
- **CJIS:** Criminal Justice Information Services
- **CIS Controls:** Center for Internet Security Controls
- **CISO:** Chief Information Security Officer
- **CycloneDX:** A software bill of materials (SBOM) standard designed for use in application security contexts and supply chain component analysis
- **DDoS:** Distributed Denial of Service
- **DBA:** Database Administrator
- **DBMS:** Database Management System
- **EDR:** Endpoint Detection and Response
- **EOL:** End of Life
- **FedRAMP:** Federal Risk and Authorization Management Program
- **FIDO2:** Fast IDentity Online 2, an authentication standard that enables phishing-resistant authentication methods
- **FIM:** Federated Identity Management
- **gMSA:** Group Managed Service Accounts
- **Group Managed Service Accounts (gMSA):** A feature in Microsoft Windows Server that provides automatic password management and simplified Service Principal Name (SPN) management for service accounts running on multiple servers. gMSAs allow services to share a common identity across multiple servers or instances, enhancing security and ease of management.
- **HIPAA:** Health Insurance Portability and Accountability Act
- **HR:** Human Resources
- **IDS/IPS**: Intrusion Detection System/Intrusion Prevention System
- **ISO/IEC 27001:** International Organization for Standardization/International Electrotechnical Commission 27001
- **MFA:** Multi-Factor Authentication
- **ML:** Machine Learning
- **NIST:** National Institute of Standards and Technology
- **NIST CSF:** NIST Cybersecurity Framework
- **OWASP:** Open Web Application Security Project
- **PCI DSS:** Payment Card Industry Data Security Standard.
- **PHI:** Protected Health Information
- **PII:** Personally Identifiable Information
- **Phishing Resistant Authentication:** Authentication methods designed to prevent phishing attacks by eliminating reliance on shared secrets (like passwords) that can be stolen or intercepted. This typically

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

involves using cryptographic authentication techniques, such as hardware security keys compliant with FIDO2/WebAuthn standards, certificate-based authentication, or biometric factors.

- **RBAC:** Role-Based Access Control
- **RDBMS:** Relational Database Management System
- **SAML:** Security Assertion Markup Language
- **SBOM:** Software Bill of Materials
- **SIEM:** Security Information and Event Management
- **SHA:** Secure Hash Algorithm SHA-256 or better is required.
- **SNMP:** Simple Network Management Protocol. SNMP v.3 or better is required.
- **SOC 2:** System and Organization Controls 2
- **SOX:** Sarbanes-Oxley Act
- **SPDX:** Software Package Data Exchange, an open standard for communicating software bill of material information
- **SSAE 16:** Statement on Standards for Attestation Engagements No. 16
- **SSO:** Single Sign-On
- **StateRAMP:** State Risk and Authorization Management Program
- **TLS:** Transport Layer Security

References

- **NIST SP 800-161:** *Supply Chain Risk Management Practices for Federal Information Systems and Organizations*
    - Provides guidance on identifying, assessing, and mitigating risks throughout the supply chain at all levels of the organization.
    - **Link to NIST SP 800-161**
- **CIS Controls v8:** Center for Internet Security Critical Security Controls Version 8
    - Control 2.3: Addressing software inventory and control.
- **ISO/IEC 27001 A.18.1.3:** Protection of records
    - Ensures records are protected from loss, destruction, falsification, and unauthorized access or release.
- **NIST.AI.600-1.pdf:** NIST Artificial Intelligence Risk Management Framework (AI RMF 1.0)
    - Provides guidelines for managing risks associated with AI systems to promote trustworthy and responsible AI.
    - Link to NIST AI RMF 1.0

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Submission Guidelines

- **Deadline for Submission:** [Insert Deadline]
- **Preferred Format:** Please return the completed matrix in a **machine-readable format (e.g., Word or PDF).**
- **Contact for Queries:** [Insert Contact Name and Email]
- **Confidentiality Assurance:** Your responses will be treated confidentially and used solely for the purpose of assessing the security controls for the proposed system.

Vendor Declaration

- **I hereby attest that the information provided in this security matrix is accurate and complete to the best of my knowledge.**
- **Authorized Signature:**
- **Name:**
- **Title:**
- **Date:**

CYBERSECURITY INFORMATION - CONFIDENTIAL AND EXEMPT FROM PUBLIC RECORD DISCLOSURE PURSUANT TO FLORIDA STATUTES s. 282.318 and s. 119.0713

Exhibit P

FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

GENERAL CIVIL RIGHTS PROVISIONS: In all its activities within the scope of its airport program, the CONSULTANT agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, (including limited English proficiency), creed, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

The above provision binds the Consultant and subconsultant from the bid solicitation period through the completion of the contract.

TITLE VI - LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES: During the performance of this Contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

b) 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

c) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);

f) Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

g) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and CONSULTANTs, whether such programs or activities are Federally funded or not);

h) Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

i) The Federal Aviation Administration's Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

j) To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. at 74087 (2005)]);

k) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

NONDISCRIMINATION REQUIREMENTS/TITLE VI CLAUSES FOR COMPLIANCE: During the performance of this Contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.

2. **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin (including limited English proficiency), creed, sex, age, or disability in the selection and retention of SUBCONSULTANTs, including procurements of materials and leases of equipment. The CONSULTANT will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the CONSULTANT for Work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential SUBCONSULTANT or supplier will be notified by the CONSULTANT of the CONSULTANT's obligations under this Contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The CONSULTANT will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by MDAD or the Federal Aviation Administration to

be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish the information, the CONSULTANT will so certify to MDAD or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a CONSULTANT's noncompliance with the non-discrimination provisions of this Contract, Miami-Dade County Aviation Department will impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

   a. Withholding payments to the CONSULTANT under the Contract until the CONSULTANT complies; and/or

   b. Cancelling, terminating, or suspending a Contract, in whole or in part.

6. **Incorporation of Provisions:** The CONSULTANT will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment unless, exempt by the Acts, the Regulations and directives issued pursuant thereto. The CONSULTANT will take action with respect to any subcontract or procurement as Miami-Dade County Aviation Department or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the CONSULTANT becomes involved in, or is threatened with litigation by a SUBCONSULTANT, or supplier because of such direction, the CONSULTANT may request Miami-Dade County Aviation Department to enter into any litigation to protect the interests of Miami-Dade County Aviation Department. In addition, the CONSULTANT may request the United States to enter into the litigation to protect the interests of the United States.

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS:

1. **Overtime Requirements.**
   No CONSULTANT or SUBCONSULTANT contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which they are employed on such Work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; Liability for Unpaid Wages; Liquidated Damages.**
   In the event of any violation of the clause set forth in paragraph (1) above, the CONSULTANT and any SUBCONSULTANT responsible therefore shall be liable for the unpaid wages. In addition, such CONSULTANT and SUBCONSULTANT shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth

in paragraph 1 above, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. **Withholding for Unpaid Wages and Liquidated Damages.**
The Federal Aviation Administration or Miami-Dade County Aviation Department shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of Work performed by the CONSULTANT or SUBCONSULTANT under any such Contract or any other Federal contract with the same prime CONSULTANT, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONSULTANT, such sums as may be determined to be necessary to satisfy any liabilities of such CONSULTANT or SUBCONSULTANT for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. **Subconsultants.**
The CONSULTANT or SUBCONSULTANT shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the SUBCONSULTANT to include these clauses in any lower tier subcontracts. The prime CONSULTANT shall be responsible for compliance by any SUBCONSULTANT or lower tier SUBCONSULTANT with the clauses set forth in paragraphs 1 through 4 of this section.

CLEAN AIR AND WATER POLLUTION CONTROL: CONSULTANT and sub-CONSULTANT agree to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The CONSULTANT and sub-CONSULTANT agree to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. CONSULTANT and sub-CONSULTANT must include this requirement in all subcontracts that exceeds $150,000.

CONSULTANT and SUBCONSULTANT agree:

1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

3. That, as a condition for the award of this Contract, the CONSULTANT or

SUBCONSULTANT will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;

4. To include or cause to be included in any construction contract or subcontract which exceeds $150,000 the aforementioned criteria and requirements.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970: All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. CONSULTANT must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The CONSULTANT retains full responsibility to monitor its compliance and their SUBCONSULTANT's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). CONSULTANT must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

PROCUREMENT OF RECOVERED MATERIALS: CONSULTANT and SUBCONSULTANT agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this Contract and to the extent practicable, the CONSULTANT and SUBCONSULTANTS are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1) The Contract requires procurement of $10,000 or more of a designated item during the fiscal year; or
2) The Contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

   The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the CONSULTANT can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the Contract performance schedule;
b) Fails to meet reasonable Contract performance requirements; or
c) Is only available at an unreasonable price.

ENERGY CONSERVATION REQUIREMENTS: CONSULTANT and SUBCONSULTANT agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201*et seq*).

SEISMIC SAFETY: In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

BREACH OF CONTRACT TERMS: Any violation or breach of terms of this contract on the part of the CONSULTANT or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.
Owner will provide CONSULTANT written notice that describes the nature of the breach and corrective actions the CONSULTANT must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the CONSULTANT must correct the breach. Owner may proceed with termination of the contract if the CONSULTANT fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

AIRPORT IMPROVEMENT PROGRAM:

1. The Concessionaire for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Concessionaire will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

2. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, MDAD will have the right to terminate the Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.*

Appendix I
Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation Plan/Provision

APPENDIX I
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
PARTICIPATION PLAN/PROVISION

I. DEFINITIONS

Airport Concession Disadvantaged Business Enterprise (ACDBE) means a firm seeking to operate as a concession that is a for-profit small business concern –

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Small business concern means a for-profit business that does not exceed the size standards of §23.33.

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of a certain group and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control. Socially and economically disadvantaged individuals include:

(1) Any individual determined by Miami-Dade County to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- (c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, The U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong.
- (e) "Subcontinent Asian Americas," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (f) Women;
- (g) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-owned concern means any concern at least 51 percent owned by an Indian Tribe as defined in this section.

ACDBELO means the Airport Concession Disadvantaged Business Enterprise Liaison Officer, responsible for developing, implementing and monitoring the ACDBE program.

II. ACDBE PARTICIPATION PLAN

The ACDBE Participation Plan required to be submitted with the proposal by each Proposer must contain at least the following:

(1) A draft contractual obligation document with ACDBE firm(s) executed ACDBE Utilization Form (ACDBE Schedule 1); executed Schedule of Participation (ACDBE Schedule 2); executed Letter of Intent (ACDBE Schedule 3) by the Proposer of the percentage of participation by an ACDBE firm the Proposer intends to have in this agreement and how the Proposer intends to achieve such stated participation. The County may ask Proposer to clarify or correct information provided in the Schedule of Participation (SOP) or Letter of Intent (LOI) within 48 hours of submittal time.

(2) Below is the documentation which will be required as part of the Proposer's ACDBE Participation Plan, Sub-concession, or Joint Venture Agreements for any one or combination of the following:

(a) If Proposer intends to meet the ACDBE goal as an ACDBE itself, the Proposer shall submit:

i. Executed ACDBE Utilization Form **(ACDBE Schedule 1);**
ii. An executed Schedule of Participation **(ACDBE Schedule 2);**
iii. Executed Letter of Intent **(ACDBE Schedule 3);**
iv. ACDBE Certification Letter or proof of certification from the Florida Unified Certification Program (FLUCP) at (850) 414-4747 or from their website at https://www.fdot.gov/equalopportunity/; or from Miami-Dade County's Office of Small Business Development (SBD) at (305) 375-3111 or from their websites at https://www.miamidade.gov/smallbusiness/ or https://mdcsbd.gob2g.com/ ;
v. Explanation of participation by the ACDBE Firm in management and day-to-day operation; and,
vi. Financial participation by the ACDBE Firm Proposer in gross revenues from this agreement.

(b) If Proposer intends to meet the ACDBE goal as a Partnership or Joint Venture, the Proposer must submit:

i. Executed ACDBE Utilization Form **(ACDBE Schedule 1);**
ii. Executed Schedule of Participation **(ACDBE Schedule 2);**
iii. Executed Letter of Intent **(ACDBE Schedule 3);**
iv. Proposer is required to submit a draft Partnership/Joint Venture (JV) agreement at bid submission that meets Joint Venture Guidance by U.S. DOT – FAA **(ACDBE Schedule 8);**
v. Successful Proposer is required to submit an executed Partnership/Joint Venture Agreement prior to submission for Board Approval;
vi. An explanation of participation by the ACDBE participant in the management and day-to-day operations;
vii. Financial participation by the ACDBE Firm to meet the ACDBE participation in gross revenues;

viii. ACDBE Certification Letter or proof of certification from the Florida Unified Certification Program (FLUCP) at (850) 414-4747 or from their website at https://www.fdot.gov/equalopportunity/; or from Miami-Dade County's Office of Small Business Development (SBD) at (305) 375-3111 or from their websites at https://www.miamidade.gov/smallbusiness/ or https://mdcsbd.gob2g.com/; and

ix. Experience of ACDBE joint venturer or partner must be listed on the Experience Sheet. **(ACDBE Schedule 4)**

(c) If the Proposer intends to meet the ACDBE goal with sub-concessionaire(s), the Proposer must submit:

i. Executed ACDBE Utilization Form **(ACDBE Schedule 1);**

ii. Executed Schedule of Participation **(ACDBE Schedule 2);**

iii. Executed Letter of Intent **(ACDBE Schedule 3);**

iv. Proposer is required to submit a draft sub-concession agreement at bid submission;

v. Successful Proposer is required to submit an executed sub-concession agreement prior to submission for Board Approval;

vi. A listing of those activities which the Proposer intends to subcontract and the estimated percentage of gross revenues such subcontracted services will represent of the gross revenues from all activities under the agreement that will be subcontracted;

vii. ACDBE Certification Letter or proof of certification from the Florida Unified Certification Program (FLUCP) at (850) 414-4747 or from their website at https://www.fdot.gov/equalopportunity/; or from Miami-Dade County's Office of Small Business Development (SBD) at (305) 375-3111 or from their websites at https://www.miamidade.gov/smallbusiness/ or https://mdcsbd.gob2g.com/ ; and

viii. Experience of the ACDBE sub-concessionaire must be listed on the Experience Sheet. **(ACDBE Schedule 4)**

The County may request any other information as may be required to determine the listed ACDBE Firm's Qualifications. Agreements between a Proposer and an ACDBE Firm in which the ACDBE firm promises not to provide quotations to other Proposers is prohibited. The listing of an ACDBE Firm by a Proposer as part of its ACDBE Plan shall constitute a representation by the Proposer that such ACDBE Firm is qualified and available, and a commitment by Proposer that if it is awarded this agreement, it will utilize such ACDBE firms listed for the portion of the contract and at the percentage of gross revenues set forth in its submission, subject to the terms of these Provisions.

The Successful Proposer will be required to submit to the Department's Office of Small Business Development their Monthly Utilization Report commencing thirty (30) days after beneficial occupancy and monthly thereafter, on or before the 10th of every month.

III. GOOD FAITH EFFORTS

The Proposer shall make good faith efforts to achieve the established ACDBE participation goal. In the event

that the Proposer's ACDBE Participation Plan does not meet the established ACDBE participation goal, the Proposer must submit documentation with the proposal to demonstrate all good faith efforts extended by the Proposer in attempting to meet the stated ACDBE participation goal.

The good faith efforts documentation is required to be submitted with the proposal and shall include, but not be limited to:

(1) A detailed statement of the efforts made to contact and negotiate with ACDBE firms, including (i) the names, addresses and telephone numbers of ACDBE firms who were contacted, (ii) a description of the information provided to ACDBE firms regarding the proposal or portions of the work to be performed, and (iii) a detailed statement of the reasons why additional prospective agreements with ACDBE firms, if needed to meet the stated goal, were not reached.
(2) A detailed statement of the efforts made to select portions of the work proposed to be performed by ACDBE firms in order to increase the likelihood of achieving the stated goal.
(3) For each ACDBE firm contacted but which the Proposer considered to be not qualified, a detailed statement of the reasons for the Proposer's conclusions.
(4) Attendance at pre-proposal meetings, if any, scheduled by the Proposer to inform ACDBE's of participation opportunities under a given solicitation.
(5) Advertisement in general circulation media, trade association publications, and minority focus media for at least twenty (20) days before bidder/proposals are due. If the interval between Miami-Dade Aviation Department (MDAD) advertising and the proposal due date is so short that twenty (20) days are not available, then publication for a shorter reasonable time period is acceptable.
(6) Efforts made to assist the ACDBE Firms contacted that needed assistance in obtaining bonding or insurance required by the Proposer or SBD.
(7) Written notification to ACDBE's that their interest in the contract is solicited.

Failure of the Proposer to submit the evidence of ACDBE Participation and the good faith efforts, if necessary, as set forth above, may render the proposal non-responsive.

IV. INVESTIGATION AND RECOMMENDATION BY ACDBELO

In the event that the Proposer has not met the stated ACDBE participation goal established for this agreement, the Airport Concession Disadvantaged Business Enterprise Liaison Officer (ACDBELO), may require that the Proposer meet with the ACDBELO. The purpose of this meeting shall be for the ACDBELO to determine, if necessary, whether the effort of the Proposer to meet the stated goals is sufficient. At this meeting, the Proposer shall have an opportunity to present information pertinent to its compliance with the applicable requirements.

The ACDBELO may require the Proposer to produce such additional information as the ACDBELO deems appropriate.

No later than fifteen (15) days after the initial meeting with the Proposer, the ACDBELO shall make a written recommendation to the Director and/or his/her designee, which shall include a statement of the facts and reasons upon which the recommendation is based.

Administrative Reconsideration

(1) Within 5 days of being informed by the County that the Bid/Proposal is not in compliance and

not responsible because it has not documented sufficient good faith efforts, a Proposer may request administrative reconsideration.

The Proposer should make this request in writing to the Contracting Officer, ACDBELO, and/or his/her designee at Miami-Dade County, Stephen P. Clark Center, Office of Small Business Development, 111 NW 1st Street, 19th Floor, Miami, Florida 33128-1974, telephone number (305) 375-3111.

The reconsideration official will not have played any role in the original determination that the Proposer did not document sufficient good faith efforts.

(2) As part of this reconsideration, the Proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

The Proposer will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(3) The County will send the Proposer a written decision on reconsideration, explaining the basis for finding that the Proposer did not meet the goal or make adequate good faith efforts to do so.

The result of the reconsideration process is not administratively appealable to the Department of Transportation.

V. SUBSTITUTION OF ACDBE FIRMS FOR THOSE LISTED ON THE AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN/PROVISION PRIOR TO CONTRACT AWARD

A Proposer may not change information required by these provisions from those provided in its Airport Concession Disadvantaged Business Enterprise Participation Plan unless authorized to do so by the ACDBELO, and/or his/her designee in writing.

Such written authorization may be given upon a receipt of written request from the Proposer outlining the reason the request for change is being submitted, specific details of the requested change, and impact of the requested change on the ACDBE Participation as originally submitted. Failure on the part of the Proposer to comply with all of the requirements of these provisions shall be grounds for the recommendation of the Director to the Board of County Commissioners that the Contract not be awarded to the Proposer.

VI. REQUIREMENTS AND PROCEDURES SUBSEQUENT TO CONTRACT AWARD

(1) Airport Concession Disadvantaged Business Enterprise Participation Plan
The Proposer shall contract with those ACDBE Firms listed on the Proposer's Airport Concession Disadvantaged Business Enterprise Participation Plan, and shall thereafter neither terminate such ACDBE Firms nor reduce the scope of the work to be performed by, or decrease the percentage of participation by the ACDBE Firm without the prior written authorization of the ACDBELO and/or his/her designee.

(2) Substitution of ACDBE Firms

a. Excuse from entering into agreements with ACDBE Firms. If prior to execution of an agreement required by these provisions, the Proposer submits a written request to the ACDBELO or his designee and demonstrates to the satisfaction of the ACDBELO that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of award of the contract, an ACDBE Firm which is to enter into such agreement has become not qualified, or that the ACDBE Firm has unreasonably refused to execute the agreement, the successful Proposer shall be excused from executing such agreement.

b. Rightful Termination of agreements entered into with ACDBE Firms. If after execution of an agreement required by these provisions, the Proposer submits a written request to the ACDBELO and demonstrates to the satisfaction of the ACDBELO that, as a result of a change in circumstance beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of execution of such agreement, an ACDBE Firm which entered into such agreement has become not qualified or has committed and failed to remedy a material breach of the agreement, the Proposer shall be entitled to exercise such rights as may be available to it to terminate the agreement.

c. Determination of Excuse of Rightful Termination. If the Proposer at any time submits a written request under these provisions to the ACDBELO, as soon as practicable, the ACDBELO shall determine whether the Proposer has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the Proposer with an opportunity to present pertinent information and arguments.

d. Alternative ACDBE Firm Participation Agreements. If the Proposer is excused from entering or rightfully terminates an agreement with an ACDBE Firm listed as part of the Proposer's ACDBE Participation Plan, the Proposer shall make every reasonable effort to enter into an alternative agreement for at least ACDBE Participation percentage as originally submitted as part of their proposal for this contract with another certified ACDBE Firm. The Proposer shall be deemed to have satisfied the requirements of this section if:

   i. It shall enter each such alternative agreement(s) for at least the ACDBE participation as originally proposed.

   ii. It demonstrates to the satisfaction of the ACDBELO that it has made every reasonable effort to negotiate with an ACDBE Firm in an attempt to enter into an agreement, but that it was unable to enter into such agreement because the ACDBE Firms were (i) not qualified; (ii) unavailable; or (iii) although qualified and not unavailable, was unwilling or unable to reach an agreement.

   iii. If any situation covered by this section arises; the ACDBELO shall promptly meet with the Proposer and provide him an opportunity to demonstrate compliance with these Provisions.

VII. CONTINUED COMPLIANCE

The County shall monitor the compliance of the Proposer with the requirements of this plan during the term of the contract. The County shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with these.

Provisions including, but not limited to, manpower tables, records for expenditures, observations at the job site, and contracts between the Proposer and his sub-concessionaires, suppliers, etc., entered into during the life of the Contract.

VIII. SANCTIONS FOR VIOLATIONS

If at any time the County has reason to believe that the Proposer is in violation of its obligation under these provisions or has otherwise failed to comply with these provisions, the County may, in addition to pursuing any other available legal remedy, commence proceeding to impose sanctions which may include, but are not limited to, one or more of the following:

(1) The suspension of any payment or part thereof due to the ACDBE Subtenant, Joint Venture Partner or Sub-concessionaire from the Proposer until such time as the issues concerning the Proposer's compliance are resolved.
(2) The termination or cancellation of the contract in whole or in part, unless the Proposer demonstrates within a reasonable time its compliance with the terms of these provisions.
(3) The denial to the Proposer of the right to participate in any further contracts awarded by the County for a period of not longer than three (3) years. No such sanction shall be imposed by the County upon the Proposer except pursuant to a hearing conducted by the ACDBELO and/or his/her designee.

IX. ACDBE REPORTING REQUIREMENTS

The Proposer shall submit a notarized MDAD Concession Monthly Utilization Report **(ACDBE Schedule 6)** as required for contracts in which an ACDBE Goal has been set. In addition, each Joint Venture partner must submit an notarized Monthly Report of ACDBE Joint Venture Activity **(ACDBE Schedule 7)** providing documentation on the achievement of the ACDBE Joint Venture partner to the Office of Small Business Development.

ACDBE UTILIZATION FORM

[*The ACDBE Utilization Form, Schedule of Participation and Letter of Intent are required as part of the solicitation documents*.]

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space).

_X_ The bidder/offeror is committed to a minimum of _25%_ % ACDBE utilization in this Contract.

_____ The bidder/offeror (if unable to meet the ACDBE goal of _____%) is committed to a minimum of _____% ACDBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: SSP America MIA, LLC

State Registration No. L24000322137

By: Patrick Murray
(Print Name)

(Signature)

Date: 8/1/2024

Title: Deputy CEO

SCHEDULE OF PARTICIPATION BY ACDBE FIRMS

Listed below is the information pertaining to "certified" ACDBE firms who will be participating in this contract.

NAME OF ACDBE FIRMS	DESCRIPTION OF SERVICES	% OF BID/PROPOSAL
P&P Hospitality, LLC	Joint Venture Partner - Please reference Roles and Responsibilities Document for details.	25%

Form to be completed and signed by the Bidder/Proposer. I certify that the representations contained in this Schedule of Participation are, to the best of my knowledge, true and accurate.

Signature of Proposer		8/1/2024 **Date**
Patrick Murray	Deputy CEO	SSP America MIA, LLC
Print Name	**Title**	**Company Name**

MDC237
CONFIDENTIAL

LETTER OF INTENT
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

ACDBE Firm: P & P Hospitality, LLC

Project: American Sports Bar at MIA

Contract Number: Event No. EVN0000341 **Total % of Bidder/Proposal:** 25%

The undersigned holds ACDBD Certificate No. _____ **expiring on** May 2 **2025** .

Please provide ACDBE Certification letter or proof of certification from the Florida Unified Certification Program (FLUCP) or the Miami-Dade County Office of Small Business Development (SBD).

The undersigned intends to perform the following work in connection with the above Bid/ Proposal (Describe): Joint Venture Partner

Description of Services	% of Bid/Proposal
Please see attached Roles and Responsibilities Document	25%

Total % 25%

Print Name LaDrean Perry **Title** Pres

ACDBE Firm P & P Hospitality, LLC

Signature of ACDBE LaDrean Perry **Date** Aug 2, 2024

MDC238
CONFIDENTIAL

Agreement to Enter into Joint Venture

The undersigned parties agree to execute the attached form "Joint Venture" Operating Agreement in the event Proposer/Respondent is awarded the concessions pursuant to this RFP.

SSP America, Inc.

By: Pat Murray
Name: Pat Murray
Its: Deputy CEO

P&P Hospitality LLC

By: LaDrean Perry
Name: LaDrean Perry
Its: Managing Partner

Jeffy Van, LLC

By: Jeffy Mondesir
Name: Jeffy Mondesir
Its: Principal

Aviation Strategies and Trade Solutions Inc.

By: Ana M Sotorrio
Name: Ana Sotorrio
Its: President

SSP America MIA, LLC - Cover page to Form MIA JV Agreement_8.9.24

Interim Agreement Report 2024-08-21

Created:	2024-08-09
By:	Stacey Rush (Stacey.Rush@foodtravelexperts.com)
Status:	Out for Signature
Transaction ID:	CBJCHBCAABAAtAc4_HOUPUWXWqwW2VgpSKlFRxfGyS-D

Agreement History

Agreement history is the list of the events that have impacted the status of the agreement prior to the final signature. A final audit report will be generated when the agreement is complete.

"SSP America MIA, LLC - Cover page to Form MIA JV Agreement_8.9.24" History

Document created by Stacey Rush (Stacey.Rush@foodtravelexperts.com)
2024-08-09 - 7:34:10 PM GMT- IP address: 74.96.187.100

Document emailed to Ana Sotorrio (asotorrio@asts-inc.com) for signature
2024-08-09 - 7:39:57 PM GMT

Document emailed to pjp125@gmail.com for signature
2024-08-09 - 7:39:57 PM GMT

Document emailed to jeffy@jeffyvan.com for signature
2024-08-09 - 7:39:58 PM GMT

Document emailed to Pat Murray (pat.murray@foodtravelexperts.com) for signature
2024-08-09 - 7:39:58 PM GMT

Email viewed by Ana Sotorrio (asotorrio@asts-inc.com)
2024-08-09 - 8:29:52 PM GMT- IP address: 172.125.184.136

Document e-signed by Ana Sotorrio (asotorrio@asts-inc.com)
Signature Date: 2024-08-09 - 8:31:05 PM GMT - Time Source: server- IP address: 172.125.184.136

Email viewed by jeffy@jeffyvan.com
2024-08-09 - 9:29:49 PM GMT- IP address: 172.58.130.110

Adobe Acrobat Sign

Email viewed by Pat Murray (pat.murray@foodtravelexperts.com)
2024-08-11 - 5:08:51 PM GMT- IP address: 104.28.57.248

Email viewed by jeffy@jeffyvan.com
2024-08-12 - 2:24:59 PM GMT- IP address: 172.58.130.110

Signer jeffy@jeffyvan.com entered name at signing as Jeffy Mondesir
2024-08-12 - 2:28:42 PM GMT- IP address: 172.58.130.110

Document e-signed by Jeffy Mondesir (jeffy@jeffyvan.com)
Signature Date: 2024-08-12 - 2:28:44 PM GMT - Time Source: server- IP address: 172.58.130.110

Document e-signed by Pat Murray (pat.murray@foodtravelexperts.com)
Signature Date: 2024-08-13 - 1:02:33 AM GMT - Time Source: server- IP address: 98.118.249.229

Adobe Acrobat Sign

CONFIDENTIAL

"JOINT VENTURE" OPERATING AGREEMENT
(SSP AMERICA [__], LLC)

This "Joint Venture" Operating Agreement (this "**Agreement**") is effective as of [__], 202_ (the "**Effective Date**"), by and [between/among] SSP America, Inc., a California corporation ("**SSP**"), [__], a [__] ("**[Member 2]**"), and [__], a [__] ("**[Member 3]**"), with respect to SSP America [__], LLC, a [__] limited liability company (the "**Company**"). The foregoing entities other than the Company may be referred to herein collectively as the "**parties**" or the "**Members**" and individually as a "**party**" or a "**Member**"; [Member 2] and [Member 3] each may be referred to herein as an "**ACDBE Member**".

Therefore, it is mutually agreed as follows:

1. Organizational Matters.

1.1 Formation. The Company was formed by the filing with and acceptance by the [__] of its [__] effective as of [__], 202_.

1.2 The Act. The rights and obligations of the Members shall be determined pursuant to the [__] Limited Liability Company Act, as may be amended from time to time (the "**Act**"), and this Agreement. To the extent that the rights and obligations of the Members are different because of any provisions of this Agreement, than they would be in the absence of this Agreement, this Agreement shall control to the extent permitted by the Act.

1.3 Name of the Company. The name of the Company is "SSP America [__], LLC".

1.4 Scope and Purpose. The purpose of the Company is to own and operate (or, to the extent approved by the Airport, to sublease for the purposes of causing to be owned and operated) food, beverage and/or retail concessions including those listed on the attached Appendix A (as may be altered from time to time based on the needs of the business, the "**Concessions**") at the [__] Airport (the "**Airport**"), and to participate in such activities as may be necessary or advisable to further the business of the Concessions at the Airport. The Company shall not engage in any other business without the consent of the Management Committee (as defined herein).

1.5 Place of Business. The Company's principal place of business is (or shall be) located at the Airport, unless otherwise determined by the Management Committee.

1.6 Term of the Company. The Company shall continue until the earliest to occur of the events described in Section 7.1 (the "**Term**").

1.7 Treatment as a Partnership for Income Tax Purposes. The Members intend that the Company is, and will continue to be, an entity taxable as a partnership pursuant to the provisions of the Internal Revenue Code of 1986 (as may be amended from time to time, the "**Code**"). The Members will take all reasonable actions requisite to the maintenance of the Company as an entity taxable as a partnership for federal income tax purposes. The foregoing shall apply only for federal (and state and local to the extent applicable) income tax purposes, and shall not create or imply the existence of a general partnership, limited partnership or joint venture among the Members for other purposes.

MDG242
CONFIDENTIAL

1.8 Fiscal Year. For purposes of accounting and for income tax reporting, the Company's fiscal year shall begin on October 1 and shall end on September 30. Transactions shall be recorded through the last day of September and books and records shall be closed soon thereafter.

1.9 Registered Agent. The registered agent for the service of process in the State of [__] is (or shall be) [__] at [__], unless otherwise determined by the Management Committee.

1.10 Lease. For purposes of this Agreement, the term "**Lease**" means any lease agreement, sublease, sub-sublease, or other similar arrangement, each in relation to which [__] is the master lessor for the operation of the Concessions.

2. ACDBE Compliance and Member Ownership.

2.1 ACDBE Certification.

(a) Each ACDBE Member (i) represents and warrants that as of the Effective Date, it is (or has been) certified by the appropriate certifying agency acceptable to the Airport as an Airport Concession Disadvantaged Business Enterprise ("**ACDBE**") pursuant to the U.S. Department of Transportation regulations and rules (as amended and in effect from time to time, the "**DOT Rules**") and further that it holds the appropriate NAICS codes for its duties as set forth herein (the "**NAICS Codes**"), and (ii) covenants that it will remain certified as an ACDBE and hold such NAICS Codes throughout the Term of this Agreement.

(b) Without limiting any of the other provisions set forth herein, the failure by an ACDBE Member to maintain an ACDBE certification for any reason shall be subject generally to the provisions of Section 8.1 below; provided, however, that, subject to the DOT Rules, an ACDBE Member's loss of its ACDBE certification shall not be deemed a breach of this Agreement where (and only for so long as) (i) the circumstances of such decertification fit the criteria described in 49 CFR Part 23, Section 23.39(e) (as and if in effect as of the date of such decertification) and (ii) the Airport continues to count such ACDBE Member's participation in the Company toward the Airport's ACDBE participation goal(s) (a "**Permitted Status Change**"). Should an ACDBE Member be decertified for any reason or under any circumstance other than a Permitted Status Change, then such ACDBE Member shall have one hundred twenty (120) days following the date of a final certification eligibility determination in which to regain eligibility and recertification or otherwise cure the loss of such certification.

2.2 Ownership of Certain Members.

(a) Each Member (other than SSP) represents that the person(s) and/or entity(ies) specified in the attached Appendix C is/are the legal and beneficial owners of such Member.

(b) With respect to each ACDBE Member, such ACDBE Member acknowledges and agrees that any proposed change in ownership of such ACDBE Member that is different than the ownership represented to the Airport and/or the applicable ACDBE certifying agency or the ownership set forth on Appendix C hereof requires prior written notice to each of the Airport, such ACDBE certifying agency and the Executive Member (as defined herein).

MDG243
CONFIDENTIAL

Without limiting the obligations of any ACDBE Member with respect to the foregoing sentence, any such proposed change in ownership of an ACDBE Member that would result in a Change in Control with respect to such ACDBE Member shall require at least thirty (30) days' prior written notice to the Executive Member; provided, further, that if any such change in ownership of an ACDBE Member would result in a Change in Control or in a change in ownership to persons who are not socially and economically disadvantaged (as defined by the DOT Rules) or in the event of a breach hereof, the remaining members of the Management Committee, acting in accordance with Section 4.2(d) hereof, shall have the option, upon written demand and in furtherance of the Company's good faith efforts to comply with the Airport's ACDBE participation goal(s) set forth in the Lease(s), to cause such ACDBE Member to sell its entire membership interest in the Company to one or more ACDBE-qualified entity(ies) acceptable to the remaining members of the Management Committee. For the avoidance of doubt, the parties acknowledge and agree that nothing contained in this Section 2.2 is intended to otherwise restrict (or be deemed to otherwise restrict) (i) an ACDBE Member's right to sell or otherwise transfer equity in such ACDBE Member's firm or entity or (ii) the Executive Member's right or ability to terminate an ACDBE Member's rights with respect to the Company and to seek substitution of such ACDBE Member in accordance with 49 CFR Part 26.53 (as amended) or other applicable law.

(c) With respect to each non-ACDBE Member (other than the Executive Member), such Member acknowledges and agrees that any change in ownership of such non-ACDBE Member that is different than the ownership set forth on Appendix C may require notice to the Airport (subject to the terms of the Lease(s)), requires the prior written consent of the Executive Member and, in the event of a Change in Control of such non-ACDBE Member, shall be further subject to the provisions of Section 9 hereof.

3. Capital Contributions and Related Matters.

3.1 Capital Contributions; Membership Interests. Subject to each Member's compliance with the capital contribution requirements set forth in this Section 3 and as otherwise provided in this Agreement, Appendix B lists, among other information, each Member's (a) initial capital contribution obligations with respect to the Company and (b) initial Percentage Interests (as defined herein) in the Company. Each Member's Percentage Interests shall, from time to time, be based on (and subject to) (x) each Member's aggregate capital contributions made to the Company and (y) the aggregate sum of the capital contributions of all Members made to the Company. For purposes of this Agreement, the term "**Percentage Interests**" means, as of the applicable time such determination is made, each Member's economic interest in the Company, the right to vote and participate in the management of the Company, and the right to receive information concerning the business and affairs of the Company, in each case, as may be adjusted from time to time pursuant to the terms of this Agreement and the term "**Pro Rata Portion**" means the applicable portion as is determined on a pro-rata basis based on a Member's respective ownership interests in the Company.

3.2 Capital Accounts. The Company shall establish (or has established) a capital account ("**Capital Account**") for each Member for the purpose of recording such Member's contributions of capital and to record items of income, loss and expense allocable to each respective Member. Each Member shall be subject to risk of loss and profit in accordance with its

MDG244
CONFIDENTIAL

respective Percentage Interests in the Company. The Company maintains each Capital Account in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv).

3.3 Initial Capital Contributions.

(a) As more specifically provided herein, each Member has contributed and/or shall timely contribute to the Company (as applicable) its Pro Rata Portion of the total capital needed to complete or with respect to the design, construction, equipping, supplying, opening and initial operation (as applicable) of the Concessions (the "**Build-Out**").

(b) The initial capital contributions listed in Appendix B constitute each Member's Pro Rata Portion of the total estimated capital required to complete or with respect to the initial Build-Out. Each Member's initial capital contribution (to the extent not already paid) shall be contributed/paid to the Company within thirty (30) days of the Effective Date.

(c) On or about sixty (60) days after the opening to the public of the last Concession to open, the Executive Member will provide each Member with a written, final report of the aggregate, actual Build-Out reconciled against the aggregate initial capital actually contributed by the Members with respect to the Build-Out as contemplated by Section 3.3(b) hereof.

(i) If the actual Build-Out as reported to the Members is greater than the aggregate initial capital contributed by the Members pursuant to Section 3.3(b), then each Member shall, within fifteen (15) days after receipt of the reconciliation, make an additional capital contribution to the Company to cover its Pro Rata Portion of the shortfall.

(ii) If the actual Build-Out as reported to the Members is less than the aggregate capital contributed by the Members pursuant to Section 3.3(b), then each Member shall, subject to Section 3.3(d) hereof, be entitled to receive an amount equal to its Pro Rata Portion of the excess contributions (assuming each Member contributed its Pro Rata Portion of the aggregate Build-Out, as contemplated by Section 3.3(b) hereof).

(d) For the avoidance of doubt, if any Member fails to timely contribute all or any portion of its initial capital contribution to the Company (or fails to timely contribute all or any portion of any additional capital with respect to the Build-Out as required by Section 3.3(c)(i) hereof), then in addition to any other rights or remedies available to the Company and/or the other Members at law, equity, contract or otherwise, the provisions of Section 3.4(d) and 3.5 may apply with respect to the Build-Out contributions in the same manner as they apply to Additional Capital needs.

3.4 Additional Capital Contributions.

(a) If at any time the Company has additional capital needs (in each case, "**Additional Capital**"), including, without limitation, with respect to the design, construction, equipping, supplying, opening and/or refurbishment of any new Concession or existing Concession or with respect to opportunities to otherwise increase the Company's food, beverage

MDG345 CONFIDENTIAL

and/or retail operations at the Airport or otherwise (each, an "**Additional Capital Project**"), and the Management Committee determines (or has determined) to raise such Additional Capital, then the Executive Member shall provide written notice to the other Member(s) (the "**Call Notice**"), which Call Notice shall include the Executive Member's good faith estimate of the total Additional Capital for such Additional Capital Project (such estimate, the "**Estimated Additional Capital**"), together with each Member's Pro Rata Portion of such Estimated Additional Capital (each such Pro Rata Portion, an "**Estimated Additional Capital Contribution**").

(b) Each Member shall have the right, but not the obligation, to contribute to the Company an amount equal to such Member's Estimated Additional Capital Contribution, as set forth in the Call Notice, by providing written notice of such election to the Executive Member within sixty (60) days after the Call Notice.

(c) If any Member (other than the Executive Member) does not timely elect to make its respective Estimated Additional Capital Contribution within such sixty (60)-day period, then such Member shall be deemed to have elected not to make such Estimated Additional Capital Contribution. Members that timely elect to make such Estimated Additional Capital Contributions will have until ninety (90) days after the Call Notice to provide their respective Estimated Additional Capital Contributions to the Company (unless the Call Notice expressly provides for additional time or unless otherwise agreed with the Executive Member).

(d) If any Member elects not to make all or any part of its Estimated Additional Capital Contribution as set forth in this Section 3.4, then the Executive Member will have the right: (i) to make in its own name the Estimated Additional Capital Contribution (or portion thereof) not made by such Member; (ii) to admit as a Member of the Company an ACDBE or non-ACDBE certified party, which party shall make the Estimated Additional Capital Contribution (or portion thereof) not so made; (iii) to lend on an unsecured basis money to the Company in the principal amount of such Estimated Additional Capital Contribution (or portion thereof), with interest at the lesser of the maximum rate permitted by law or five percent (5%) above the "Prime Rate" in effect on the first business day of the month, as published in the Money Rate Section of the Wall Street Journal, and with all principal and interest due and payable before any distributions are made to the Members (provided, however, that any such loan will be subject to the JV Guidance); (iv) to permit an ACDBE Member to make such Estimated Additional Capital Contribution (or portion thereof); and/or (v) to resubmit the matter to the Management Committee for further consideration. If the Additional Capital is for purposes of building out one or more new Concession(s) at the Airport and any Member does not elect to contribute its respective Pro Rata Portion of the Additional Capital needed for purposes of such build-out, the Executive Member shall have the right to exclude such new Concession(s) from the Company, and/or to invest in, build out, own and operate such new Concession(s) entirely separate and apart from the Company.

(e) On or about sixty (60) days after the completion of the Additional Capital Project, as determined by the Executive Member in its sole discretion, the Executive Member will provide each of the other Member(s) with a written, final report of the aggregate actual Additional Capital required for the Additional Capital Project (the "**Final Additional Capital**") reconciled against the Estimated Additional Capital set forth in the Call Notice. If the Final Additional Capital as reported to the Members is greater than the Estimated Additional Capital (an "**Additional Capital Shortfall**"), then each contributing Member shall, within fifteen (15) days after receipt of

MDC346
CONFIDENTIAL

the reconciliation, have the right, but not the obligation, to contribute additional capital to the Company in an amount equal to such Member's pro rata portion, relative to the other contributing Members, of the Additional Capital Shortfall. If the Final Additional Capital is less than the Estimated Additional Capital (an "**Additional Capital Excess**"), then each contributing Member shall be entitled to receive from the Company the amount equal to such contributing Member's pro rata portion, relative to the other contributing Members, of the Additional Capital Excess.

3.5 Certain Adjustments.

(a) In the event that additional cash or non-cash capital contributions are made pursuant to this Section 3, the Capital Accounts and the Percentage Interests will be adjusted in an amount determined reasonably and in good faith by the Management Committee. Notwithstanding the foregoing or anything to the contrary herein, with respect to any initial capital contribution as set forth in Section 3.3 and/or if the Management Committee determines to raise any Additional Capital in accordance with Section 3.4, then the Executive Member may make any one or more contributions on behalf of the applicable Member(s) as of a date determined by the Executive Member, in its sole discretion. Additionally, in the event the Executive Member advances any capital contributions on behalf of any Member, such amount will be adjusted on the books of the Company and each affected Member's ownership percentage in the Company shall be increased or decreased (as the case may be) to reflect such advance as a capital contribution.

(b) Subject to ACDBE requirements but without limiting any rights or remedies available to the Company or the other Member(s) at law, equity, contract or otherwise, any Member that fails to contribute all or any portion of its Pro Rata Portion of the Build-Out as set forth in Section 3.3 and/or its respective portion of any Additional Capital as set forth in Section 3.4 (including with respect to any Additional Capital Shortfall) (a "**Diluted Member**") may be diluted based on the following formula: The total capital contributions made by such Diluted Member as of the applicable date, divided by the sum of the aggregate capital contributions of all Members as of such date plus any additional capital contributions made by the Executive Member and other contributing Members as of such date shall equal such Diluted Member's new ownership percentage.

3.6 No Interest on Capital Contributions. No interest will be paid by the Company to any Member on any contribution to the Company capital, whether or not such contribution is in excess of the amount of capital which such Member agreed to contribute to the Company.

3.7 Withdrawals. Except as expressly permitted by this Agreement, no Member is entitled to any return of its capital contributions from the Company.

3.8 Intangible Contributions. Each Member represents and warrants that it has: (a) the requisite knowledge of and/or experience with the food and beverage concession industry; (b) the requisite experience in business matters; (c) participated in ventures similar to that of the Company; (d) a substantial history of interfacing with local officials, airport officials, and/or community leaders; (e) the requisite knowledge of and/or experience with working in airports (e.g., safety, background checks, badging/TSA requirements, etc.); and (f) experience with community outreach efforts and business operations and development initiatives.

MDG247 CONFIDENTIAL

4. Management of the Company.

4.1 Member Management. Subject to the provisions of this Agreement, in accordance with the intentions of the parties, the Company shall be managed by the Members acting by and through the Management Committee (as defined herein). The provisions of this Section 4 are intended to allocate the management responsibilities of the Company among the Members in a manner consistent with the terms of this Agreement and in proportion to their respective Percentage Interests, and with respect to any ACDBE Member, in a manner consistent with the policies embodied in the Airport Concession Disadvantaged Business Enterprise Joint Venture Guidance and/or other applicable rules pertaining to the counting of an ACDBE Member's participation in the Company (the "**JV Guidance**") and the Airport's ACDBE participation goal(s) for the Lease(s).

4.2 Management Committee.

(a) The "**Management Committee**" shall be composed of one delegate appointed by each of the Members (the "**Delegates**"). Delegates on the Management Committee may be removed, vacancies filled, and substitutions made, only by the Member that originally appointed the Delegate; provided, however, that upon any Member's departure from the Company for any reason, such Member's Delegate shall automatically resign his or her position as such concurrently with the date of such departure. Each Member shall cause its Delegate to actively and regularly participate in the Management Committee subject to the provisions of this Section 4. Despite any other provision in this paragraph, the following shall be the Delegates for the Members: SSP: Pat Murray; [Member 2]: [Member 2 Delegate]; and [Member 3]: [Member 3 Delegate]. Notwithstanding anything to the contrary contained in this Agreement, no Delegate is authorized to act individually on behalf of the Company without the understanding and approval of the Management Committee as a whole or as otherwise expressly provided in this Agreement.

(b) The role of the Management Committee is to oversee the financial and business operations of the Concessions, with specific duties allocated to each of the Members as specified below. The Executive Member will prepare and present to the Management Committee the initial Company operating plan and budget for the first Management Committee meeting (the "**Plan**") and annual budgets thereafter. The Management Committee will discuss progress in meeting the objectives of the Company as specified in the Plan; review the performance of the Company; examine trends and operational reports; design strategies and policies to further enhance the business; consider business, landlord, and customer needs; review such other matters as may be relevant to the Company and its business purposes; and authorize the timing and amounts of distributions (subject to Section 6 below).

(c) The Management Committee will meet no less than quarterly to examine the performance of the Concessions and other issues bearing on the business of the Company (including ACDBE Member participation in the Company's business). Meetings may occur in person or by teleconference and will usually be scheduled to occur no later than sixty (60) days after the end of each quarter. Any Member may call a Management Committee meeting. Mail, email or telephone notice of the meeting must be provided to all Members at least five (5) days prior to the proposed date of the meeting, except shorter notice may be provided under exigent circumstances.

CONFIDENTIAL

(d) A quorum to transact business shall constitute a majority of the total Percentage Interests. The Management Committee will prepare formal meeting agendas, meeting minutes, and attendance rosters for each meeting. Delegates may attend Management Committee meetings with attorneys, CPAs and other advisors, provided that reasonable prior written notice of the intent to bring such advisor(s) is given to the other Delegates. Any matter that is to be voted on, consented to or approved by the Management Committee (or the Members) may be approved without a meeting, without prior notice and without a vote if consented to or executed in writing or by electronic transmission by the Delegate or Delegates (or their respective Members, as the case may be) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Delegate(s) entitled to vote thereon were present and voted. All voting rights must be exercised with reasonable care and in good faith and a record shall be maintained by the Executive Member of any action taken by written consent. Subject to the terms hereof, in the event of disagreements between or among the Delegates, the Delegates shall first attempt in good faith to reach agreement by consensus. Ultimately, however, actions of the Management Committee shall be determined by the affirmative vote of at least a simple majority of the then-outstanding Percentage Interests of the Members entitled to vote on the matter at hand. Each Delegate shall receive one vote for each one percent (1%) of the total Percentage Interests represented by the respective Delegate (e.g., five percent (5%) equals five (5) votes).

(e) The Management Committee will have the right from time to time to appoint and remove officers to act on behalf of and in the name of the Company with respect to the business, in the manner commensurate with his or her title and each officer shall hold office until a successor is designated by the Management Committee or until the officer's earlier death, resignation or removal. Any officer may resign at any time upon written notice to the Management Committee or the Executive Member. Each officer shall be an employee of a Member, and the officers will not be entitled to any compensation from the Company for the duties they perform on behalf of the Company in such capacities. The officers may include a President, one or more Vice Presidents, a Secretary, a Treasurer and/or such other officers as the Management Committee may determine. The initial officers of the Company are Michael Svagdis (SSP) as President, Patrick Murray (SSP) as Executive Vice President, and George Mboya (SSP) as Treasurer and Secretary. The roles of each officer shall be as follows: (x) President: Responsible for general supervision of the Company's business, subject to the direction of the Management Committee, and for performing such other duties as the Management Committee may assign; (y) Executive Vice President: Responsible for performing the duties of the President (in the President's absence) and for performing such other duties as the Management Committee may assign; and (z) Treasurer and Secretary: Responsible for being the custodian of the Company's corporate/financial records and funds and for managing the Company's accounts and disbursements from such accounts at the direction of the Management Committee and in accordance with the terms of this Agreement. In addition, each officer of the Company shall have such powers and duties with respect to the Company as may be prescribed to such officer by the Management Committee and, to the extent not so prescribed, as generally pertain to such officer's respective office(s), including, without limitation, the sole authority to execute documents on behalf of the Company. By their signatures hereto, the Members hereby ratify and confirm the execution of any documents on behalf of the Company on or before the date hereof by Patrick Murray in his capacity as an officer of SSP or by any of the foregoing initial officers in such officer's capacity as such.

CONFIDENTIAL

(f) Notwithstanding anything to the contrary contained herein, each person authorized to act on behalf of each Member, in their capacities as Members of the Company, shall execute and deliver to the Company an incumbency certificate, a form of which is attached hereto as Appendix D (each, an "**Incumbency Certificate**"). The parties understand and agree that distributions shall be made only to Members that have provided a fully executed Incumbency Certificate to the Company and that, according to the books and records of the Company (including the Incumbency Certificate), are the holders of record of the Percentage Interests in respect of which such distributions are made on the actual date of distribution. All communications with respect to distributions shall only be with those individuals listed on an Incumbency Certificate. Each Member may amend its Incumbency Certificate from time to time (each, an "**Amended Certificate**"), provided that such Member shall be required to submit the Amended Certificate to the Company before any newly named officers of such Member may act on behalf of such Member in such Member's capacity as a member of the Company. For the avoidance of doubt, the parties hereto further understand and agree that any new Member of the Company shall be required to execute and deliver to the Company an Incumbency Certificate in connection with such new Member's admission as a Member of the Company.

4.3 Responsibilities of the Executive Member. SSP shall be the "**Executive Member**" of the Company and, subject to the policies and directives of the Management Committee and except for those matters separately provided for herein for which the consent of a particular Member (or Members) is required, shall have control and authority over and responsibility for the day-to-day affairs of the Company. The Executive Member shall exercise such control and authority in accordance with prudent business practices and this Agreement. Unless otherwise agreed by the Management Committee, the Executive Member shall not be paid a management fee by the Company. Subject to Section 4.5 hereof, the Executive Member may, by way of example only and not as a limitation on its authority, do the following in each case in the name of and for the benefit of the Company:

(a) enter into (or cause to be entered into) and perform (or cause to be performed) contractual obligations of any kind necessary or desirable to the Company's business;

(b) subject to the provisions of Sections 4.5(b)(v) and 4.5(b)(vi), take such action and execute such documents (or cause the Company's officers to execute such documents) as may be required in connection with any mortgage, note, construction contract, bond, indemnity, security agreement, guaranty, escrow, or bank letter of credit related to debt incurred by the Company;

(c) in consultation with the Management Committee, establish, on a quarterly basis, reasonable Reserves (as defined herein) for the Company's business;

(d) do all acts which it deems necessary or appropriate for the protection and preservation of the Company's assets;

(e) carry in the name of the Company or in the name of the Executive Member for the benefit of, and at the expense of, the Company such insurance for public liability and other coverages necessary or appropriate to the business of the Company in such amounts as determined by the Executive Member from time to time;

CONFIDENTIAL

(f) make and revoke any election permitted to the Company by any governmental authority;

(g) subject to the provisions of Sections 4.5(a)(iv) and 4.5(b)(i), defend, prosecute, compromise, settle, or submit to arbitration, and institute, prosecute, compromise, settle or defend any and all judicial, administrative, or other actions or claims in favor of or against the Company or relating to the Company's business with the expenses of same to be treated as expenses of the Company; provided, however, that any settlement release for the benefit of the Executive Member must also include a full release of all Members;

(h) obtain all permits, licenses, franchises, and authorizations of whatever nature necessary for the operation of the Company's business and the ownership of its assets, the expenses of which will be treated as expenses of the Company;

(i) act on behalf of the Company to purchase equipment, supplies and inventory;

(j) enter into (or cause to be entered into) agreements with architects, engineers and contractors for the development or refurbishment of the Concessions, and employ a construction manager (who will be an employee or agent of the Executive Member or an Affiliate of the Executive Member) to oversee all phases of construction;

(k) appoint one Delegate who will participate in the Management Committee;

(l) other than expressly prohibited by this Agreement, amend, modify, supersede, restate, renew and terminate contracts to which the Company is party;

(m) subject to the provisions of Section 4.5(a)(ii), convert any Concession to a different trade name, brand and concept;

(n) subject to the provisions of Section 4.5(a)(iii) and the other applicable provisions of this Agreement, admit additional Members to the Company; and

(o) other than expressly prohibited in this Agreement or contrary to the decision of the Management Committee, otherwise use its reasonable and good faith business judgment to act on behalf of and in the name of the Company as permitted under this Agreement, the Act and/or applicable law (including with respect to the general roles and responsibilities of the Executive Member as further described in Appendix E attached to this Agreement).

4.4 Responsibilities of the Other Members.

(a) Each ACDBE Member shall have duties and responsibilities with respect to the Company and/or the operation of the Concessions commensurate with such ACDBE Member's skills, experience and training in the restaurant, food and beverage industries and its Percentage Interests in the Company and each ACDBE Member shall dedicate such time and resources as are necessary to ensure the performance of its duties and responsibilities under this Agreement all of which are intended to be (and shall be) subject to and in compliance with (i) all applicable federal, state and local laws, rules and regulations, including, but not limited to, the DOT Rules, (ii) the

MDG251
CONFIDENTIAL

Company's (and/or the Executive Member's) policies and procedures in connection with the operation of food, beverage and/or retail concessions and related matters, (iii) the JV Guidance and (iv) the Airport's ACDBE participation goal(s) for the Lease(s). With respect to this intention, each ACDBE Member acknowledges that, as a whole, the duties and responsibilities undertaken by it pursuant to this Agreement (and/or by its respective representatives) shall be performed in a manner that is countable by the Airport as participation in the business of the Company and/or of an ACDBE Concession (as defined herein), whether in whole or in part, in accordance with the Airport's ACDBE participation goal(s) for the Lease(s) and the parties reserve the right to amend the duties and responsibilities of any ACDBE Member to ensure the Company's good faith efforts to comply with such participation goal(s). In the event an ACDBE Member fails to actively participate in the business of the Company or if the Airport makes a final determination that such ACDBE Member's participation in the Company will not be counted towards the Airport's ACDBE participation goal for a particular Lease, then to ensure compliance with the Company's obligations to the Airport, the other members of the Management Committee shall have the authority in good faith to take such action as it may determine necessary pursuant to this Agreement.

(b) Each ACDBE Member will have the following general authority and assigned duties and responsibilities:

(i) Appoint its respective Delegate to the Management Committee and, through its Delegate, actively participate in the meetings and work of the Management Committee;

(ii) As requested by the Management Committee and/or as otherwise set forth in Appendix E to this Agreement, assist with procurement efforts, sourcing maintenance and repair companies, sourcing and hiring of local managers, contributing to design, and supervising construction;

(iii) Provide the Management Committee with a written report of its activities in support of the Company's business and with regard to responsibilities delegated to it by this Section 4.4 or otherwise, which report(s) shall be provided no less than quarterly and shall be reviewed by the Management Committee and retained as a Company record;

(iv) Through its respective representative(s), assume responsibility for and perform (or cause to be performed) in good faith (A) such ACDBE Member's obligations with respect to operations management and such ACDBE Member's other obligations with respect to the Concessions generally, including any ACDBE Concession (each, an "**ACDBE Concession**"), and (B) the specific roles and responsibilities of such ACDBE Member set forth in Appendix E to this Agreement; and

(v) Obtain appropriate TSA badging for its principals and key employees to the extent necessary to carry out its obligations under this Agreement.

(c) Each non-ACDBE Member shall perform in good faith the roles and responsibilities of such non-ACDBE Member set forth in Appendix E to this Agreement.

MDC252
CONFIDENTIAL

4.5 Decisions Requiring the Consent of Certain ACDBE Members. Notwithstanding anything to the contrary in this Agreement:

(a) In addition to the other requirements of this Agreement (including any Management Committee or other approvals), the following transactions shall not be permitted without the consent of an affected ACDBE Member (or affected ACDBE Member(s)), in each case, which may consent may be given by and through its or their respective Delegate(s):

(i) Confessing a judgment against the Company, if such confession will result in a material and detrimental impact on such ACDBE Member's Percentage Interests;

(ii) Converting an ACDBE Concession to a different trade name, brand and concept (unless such conversion is required by the Airport or with respect to a Lease);

(iii) Except as otherwise permitted by the terms of this Agreement (including, without limitation, pursuant to Section 3 hereof), admitting an additional Member to the Company, if such admission would dilute such ACDBE Member's Percentage Interests; and

(iv) Executing any settlement on behalf of the Company that will create any direct financial obligation on such ACDBE Member or cause a direct admission of wrongdoing by such ACDBE Member.

(b) In addition to the other requirements of this Agreement (including any Management Committee or other approvals), the following transactions shall not be permitted without the consent of all of the ACDBE Members, in each case, which may consent may be given by and through its or their respective Delegate(s):

(i) Commencing a voluntary bankruptcy action or deciding not to contest an involuntary bankruptcy action of the Company; making any assignment for the benefit of the Company's creditors; or consenting to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to the Company or with respect to any substantial part of the Company's property;

(ii) Effecting (A) a merger, consolidation or business combination of the Company with any other unrelated, third-party entity or (B) a sale of all or substantially all of the assets of the Company to an unrelated third party;

(iii) Causing the Company to enter into a new line of business outside of the airport concession space;

(iv) Effecting a Dissolution Event, as contemplated by Section 7.1(a) hereof;

(v) Causing the Company to incur indebtedness from a bank or other institutional lender in which the Executive Member or one of its Affiliates is not a direct or indirect lending participant, where the principal amount borrowed by the Company exceeds $1,000,000, unless such indebtedness is incurred for the purpose of funding Company capital expenditures approved by the Management Committee;

MDG253
CONFIDENTIAL

(vi) Causing the Company to refinance any indebtedness from a bank or other institutional lender of the type described in Section 4.5(b)(v); and

(vii) Amending this Agreement, as contemplated by Section 14.2(a) hereof.

4.6 Independent Ventures. It is understood and agreed that, unless otherwise separately agreed by the parties in writing, the Members are and will be engaged in other interests and occupations outside of the business of the Company. Any Member may now and/or hereafter engage in or have an interest in other business ventures ("**Independent Ventures**"), independently or with others, and whether or not similar or competing with the business of the Company. Neither the Company nor any Member will have any right by virtue of this Agreement to any other Member's Independent Ventures or the income or profits derived therefrom, whether or not the opportunity for the Independent Venture was acquired as a result of any connection with the Company.

4.7 Subcontracted Rights and Obligations. The Members hereby acknowledge and agree that to the extent the Executive Member or an Affiliate or related party is party to or the owner or the licensee of (as the case may be) any Lease, or any franchise, brand, trademark, recipe, design or other similar agreement or right (a) identified in the Executive Member's or the Company's response to any RFP for use in the Concessions, or (b) otherwise obtained by the Executive Member or such Affiliate or related party for use by or at the Concessions, such agreement(s) and/or right(s) shall be solely owned or licensed by the Executive Member or such Affiliate or related party. In such event, and subject to the terms hereof and the requirements of the Lease(s) and any RFP(s), the Executive Member or its Affiliate or related party will sublease or sublicense, retroactively (if applicable) effective as of the Effective Date, all such rights and interests to the Company as reasonably necessary to effectuate the operations of the Concessions as currently existing and as may be changed from time to time, and until such sublease or sublicense is effectuated, will provide to the Company the beneficial use of such rights and interests in order for the Company to operate the Concessions described herein (and each Member will be responsible for its share of liabilities with respect to such rights and interests). Nothing in this Agreement is intended to grant any license or otherwise transfer any ownership rights that an ACDBE Member may have with respect to its own brands, trademarks, recipes, designs or similar rights. The parties further agree that, subject to applicable law, the Executive Member may contract with the Company to enable the Executive Member to use its alcohol license(s) for the benefit of the Concessions that serve alcoholic beverages.

4.8 No Other Fees. Unless the express terms of this Agreement require otherwise or unless otherwise agreed, no fee or similar compensation shall be paid by the Company to any Member or to any Affiliate of any Member for the services of such Member or Affiliate rendered to the Company; provided however, that nothing contained herein shall be deemed to conflict with the provisions of Section 4.9 hereof. Further, the Company shall not enter into any transaction, nor shall any Member cause the Company to enter into any transaction, with a Member or an Affiliate of a Member except as expressly permitted by this Agreement or in the ordinary course of business upon terms no less favorable to the Company than would be obtained in a comparable arm's length transaction between unrelated parties.

CONFIDENTIAL

4.9 Certain Expenses.

(a) The Members understand and agree that the Executive Member or the Company may retain or otherwise engage (as applicable) employees of the Executive Member, of another Member, or of its or their respective Affiliates, to perform services for or on behalf of the Company. In such event, the Company will reimburse the applicable employer of such employee (the "**Employing Entity**") for all direct labor costs (including, but not limited to, wages, salaries, bonuses and the cost of benefits) in an amount equal to such costs as they relate to the employee who is utilized to operate, manage and support the operations of the Company (provided that the Employing Entity shall in good faith apportion (or cause to be apportioned) any such costs between or among the Company, on the one hand, and such Employing Entity, on the other hand, such that the Company shall only be responsible for the portion of such costs pertaining to the portion of the employee's overall time that is devoted to work performed for the Company). All such costs charged to the Company shall represent actual and demonstrable costs incurred by the Employing Entity in connection with such employee's service to the Company, and the Employing Entity will provide (or cause to be provided) written reports thereof to the Management Committee. The provisions of this Section 4.9(a) shall apply to any operations manager selected and employed by an ACDBE Member.

(b) Except as otherwise expressly provided in this Agreement (including this Section 4.9) or as otherwise determined by the Management Committee, (i) all services, products and related expenses for the benefit of the Company will be paid for by the Company, and (ii) each Member (and its respective Affiliates) shall be solely responsible for all of its and their own costs and expenses relating in any way to the Company (including, without limitation, any and all fees directly incurred by such Member with respect to the preparation and negotiation of this Agreement (including any subsequent amendments or modifications with respect thereto), any and all transaction costs incurred by such Member in connection with any buy-out or other similar right or transaction described herein, and such Member's pro-rata share of bid development, RFP and similar costs and expenses).

4.10 Fiduciary Duties. This Agreement is not intended to, and does not, create or impose any fiduciary duty on any Member or other Covered Person (as defined herein). Any standard of care and any duty imposed under any applicable law, rule, or regulation shall be eliminated, modified, waived, or limited as required and as permitted by applicable law to permit the Executive Member or the Management Committee (as the case may be) to act under this Agreement or any other agreement contemplated by this Agreement and to make any decision pursuant to the authority prescribed in this Agreement, subject to the terms hereof.

4.11 Loans to the Company.

(a) Except as provided in Section 3, this Section 4.11, as otherwise provided herein or with respect to a loan made by a bank or other institutional lender in which the Executive Member or one of its Affiliates is not a direct or indirect lending participant, each Member will have a right to participate in making any loans to the Company in proportion to such Member's Pro Rata Portion of the total Percentage Interests of the Company, provided that the making of any such loan must first be approved by the Management Committee.

MDG255 CONFIDENTIAL

(b) Despite the foregoing, the Members hereby grant the Executive Member the authority to make short-term unsecured loans to the Company to cover immediate obligations and/or working capital requirements of not greater than $1,000,000 of principal outstanding at any one time; provided, however, that any such loan will be subject to the JV Guidance. Interest shall accrue for any such loan at the rate specified in Section 3.4(d); provided, however, that interest will not begin accruing until the loan proceeds are used by the Company. If the proceeds of any loan to the Company as provided in this subparagraph are not utilized by the Company for a period of six (6) months, such funds will be promptly returned to the Executive Member.

5. Accounting Matters.

5.1 IFRS. The Members each acknowledge that SSP is a subsidiary of a large global public company headquartered in England, and as a result, the Company's accounting policy is in accordance with International Financial Reporting Standards (IFRS).

5.2 Accountant/Auditor. Accountants and/or auditors shall be identified for the Company as necessary.

5.3 Accounting Statements. The Executive Member shall provide to the Members as soon as practicable after the close of each fiscal quarter a profit and loss statement in the form which the Management Committee deems necessary and appropriate. Within a reasonable time of the close of each fiscal quarter and the end of the fiscal year of the Company, the Executive Member shall ensure the Members are provided with an income statement and a statement of changes in Members' capital. The Executive Member shall cause to be provided to the Members as soon as practical after the end of each fiscal year, the annual consolidated audited financial statement of SSP Group plc. If any Member desires additional financial reports that are reasonably available to the Executive Member and do not include information other than Company information, the Executive Member and the Member will work together in good faith to facilitate the identification and delivery of such additional reports to all of the Members. The obligation to deliver (or cause to be delivered) the financial and accounting statements contemplated by this Section 5.3 shall be in addition to the same obligation with respect to K-1s and any Company tax returns, as set forth in Section 10.1.

5.4 Books and Records. The original electronic and paper books of account, records, and all documents and other original writings of the Company are to be kept and maintained at the principal office of the Executive Member in Ashburn, Virginia, with copies to be kept and maintained at the office of the Company. All bookkeeping, accounting and other financial data will be entered promptly into computerized systems. Each Delegate, following reasonable notice to the Company, shall have the right to inspect and make abstracts of such financial books, records, and documents during reasonable business hours. Each Member shall have the right, at its sole expense, to a formal accounting and/or audit as to the Company's books and affairs. However, if the accounting reveals a material discrepancy in the books and records of the Company, the Member causing such discrepancy shall pay to the Company all costs and fees relating to such accounting.

5.5 Bank Accounts. The Company will have and maintain its own bank accounts. The Executive Member shall have the authority and obligation to open and close bank accounts in the

CONFIDENTIAL

name of and on behalf of the Company and for its benefit, and to appoint, remove and replace persons with the authority to make deposits and withdrawals, and to sign checks, drafts and other documents. The parties acknowledge that as part of the Executive Member's global cash management system, the Executive Member may from time to time enter into cash pooling and sweeping arrangements with its Affiliates and that such arrangements will not impact any Member's right to receive distributions in accordance with the terms and conditions of this Agreement.

6. Allocations and Distributions.

6.1 Allocations Disproportionate to Capital Contributions. If the Company allocates any of its financial items to a Member in a manner that is disproportionate to such Member's share of capital contributions, the Company shall make this allocation in compliance with the requirements of Section 704(b) of the Code and the Regulations thereunder.

6.2 Allocations of Profit and Loss. Except as described herein, for book and tax purposes, all profits and losses of the Company shall be allocated between or among the Members in accordance with their respective Pro Rata Portion of the total Percentage Interests of the Company. Notwithstanding the foregoing, prior to said proportional allocation of losses or gains for book and tax purposes, there shall be a special allocation to each Member of the following expenses: (a) as yet unreimbursed expenses of the Company paid by such Member (or funds advanced to the Company by such Member for purposes of paying the Company expenses) in accordance with the terms of this Agreement; and (b) all interest expenses accrued by virtue of any loan by any Member to the Company in accordance with the terms of this Agreement to the extent they are accrued but unpaid (in the aggregate, the "**Special Allocation Expenses**"). Thereafter prior to proportional allocation of losses or gains, there shall be a special allocation of income to each Member equal to the sum of payments actually received in satisfaction of Special Allocation Expenses.

6.3 Qualified Income Offset. If any Member unexpectedly receives an adjustment, allocation or distribution that results in a deficit balance in that Member's Capital Account as adjusted in a manner consistent with Treasury Regulations Section 1.704-l(b)(2), there shall be allocated to that Member items of the Company income and gain in an amount and manner sufficient to eliminate such deficit balance as quickly as possible. This Section is intended to comply with the "qualified income offset" provisions of Treasury Regulations Section 1.704-l(b)(2)(ii)(d) and shall be interpreted consistent therewith.

6.4 Special Allocations. Notwithstanding Section 6:

(a) Minimum Gain Chargeback. If there is a net decrease in the Company Minimum Gain during any fiscal year, then each Member shall be specially allocated items of the Company income and gain for such fiscal year (and, if necessary, in subsequent fiscal years) in an amount equal to the portion of such Member's share of the net decrease in the Company Minimum Gain that is allocable to the disposition of the Company property subject to a Nonrecourse Liability, which share of such net decrease shall be determined in accordance with Treasury Regulations Section 1.704-2(g)(2). Allocations pursuant to this Section 6.4(a) shall be made in proportion to the amounts required to be allocated to each Member under this. Section 6.4(a). The

MDC357 CONFIDENTIAL

items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(f). This Section 6.4(a) is intended to comply with the minimum gain chargeback requirement contained in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt. If there is a net decrease in the Company Minimum Gain attributable to a Member Nonrecourse Debt, during any fiscal year, each Member that has a share of the Company Minimum Gain attributable to such Member Nonrecourse Debt (which share shall be determined in accordance with Treasury Regulations Section 1.704-2(i)(5)) shall be specially allocated items of the Company income and gain for such fiscal year (and, if necessary, in subsequent fiscal years) in an amount equal to that portion of such Member's share of the net decrease in the Company Minimum Gain attributable to such Member Nonrecourse Debt that is allocable to the disposition of the Company property subject to such Member Nonrecourse Debt (which share of such net decrease shall be determined in accordance with Treasury Regulations Section 1.704-2(i)(5)). Allocations pursuant to this Section 6.4(b) shall be made in proportion to the amounts required to be allocated to each Member under this Section 6.4(b). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(i)(4). This Section 6.4(b) is intended to comply with the minimum gain chargeback requirement contained in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Nonrecourse Deductions. Any nonrecourse deductions (as defined in Treasury Regulations Section 1.704-2(b)(l)) for any fiscal year or other period shall be specially allocated to the Members in proportion to their respective Percentage Interests.

(d) Member Nonrecourse Deductions. Those items of the Company loss, deduction, or Code Section 705(a)(2)(B) expenditures which are attributable to Member Nonrecourse Debt for any fiscal year or other period shall be specially allocated to the Member that bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such items are attributable in accordance with Treasury Regulations Section 1.704-2(i).

(e) Curative Allocations. The allocations set forth in Section 6.3 and Section 6.4(a)–(d) (collectively, the "**Regulatory Allocations**") are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 6.4(e). Therefore, notwithstanding any other provision of this Agreement (other than the Regulatory Allocations), the Management Committee shall make such offsetting special allocations of Company income, gain, loss, or deduction so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all partnership items were allocated pursuant to Section 6.2; provided, however, that in making such offsetting allocations, the Management Committee shall take into account future Regulatory Allocations under Sections 6.4(a) and 6.4(b) that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 6.4(c) and 6.4(d).

MDC258
CONFIDENTIAL

(f) Definitions. When used in this Agreement, the following terms shall have the meanings set forth below:

"**Minimum Gain**" shall have the meaning ascribed to the term "**Partnership Minimum Gain**" in the Treasury Regulations Section 1.704-2(d).

"**Member Nonrecourse Debt**" shall have the meaning ascribed to the term "**Partner Nonrecourse Debt**" in Treasury Regulations Section 1.704-2(b)(4).

"**Member Nonrecourse Deductions"** shall mean items of the Company loss, deduction, or Code Section 705(a)(2)(B) expenditures that are attributable to Member Nonrecourse Debt.

"**Nonrecourse Liability"** shall have the meaning set forth in Treasury Regulations Section 1.752-l(a)(2).

"**Treasury Regulations**" shall mean the final or temporary regulations that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

6.5 Distributions.

(a) Except to the extent the assets of the Company shall be distributed upon the upon the dissolution and termination of the Company pursuant to Section 7 or as otherwise provided herein, subject to applicable law and consideration of the Company's debts, liabilities and obligations then due, Reserves and other reasonable considerations, the Management Committee may elect to make quarterly distributions of Available Cash to the Members in proportion to their respective Percentage Interests (subject to the terms hereof); provided, however that, except in the unusual event that Available Cash is insufficient, the Company shall use best efforts to distribute to the Members, on a quarterly basis and no later than when estimated payments are due, sufficient cash in such amounts for the purpose of enabling each Member to pay all federal, state and city taxes, if any, attributable to allocations to such Member for any fiscal year of tax items from the Company as reported on Internal Revenue Service ("**IRS**") Form 1065 and applicable state and city tax returns ("**Tax Distributions**"). Any such Tax Distributions shall be distributed between or among the Members pro rata in proportion to their respective Percentage Interests.

(b) Notwithstanding anything to the contrary set forth herein, reconciliations, adjustments and (additional) distributions of up to one hundred percent (100%) of Available Cash for each fiscal year will be made by the Management Committee within ninety (90) days after the end of each fiscal year; provided, however, that the Management Committee may, in its discretion, distribute less than one hundred percent (100%) of Available Cash solely in the unusual event of insufficient Available Cash; provided, further, that such distributions (equaling one hundred percent (100%) of Available Cash for such fiscal year, or less, if applicable) shall be made at the earliest date on which such Available Cash becomes reasonably available. Distributions shall not be made until all the due and payable loans, debts and obligations of the Company to the Members have first been paid, pro rata, on account thereof.

CONFIDENTIAL

(c) For purposes of this Agreement, (i) the term "**Available Cash**" means the amount of cash received by the Company in connection with its operations, less any costs and expenses attributable to such operations and less amounts set aside for reasonable Reserves, contingencies and anticipated obligations and (ii) the term "**Reserves**" means, with respect to any fiscal period, amounts allocated to reserves during such period as are deemed sufficient to account for (A) costs or expenses incident to the ownership or operation of the Company's business, including, without limitation, working capital, equipment replacement, maintenance, and refurbishments, payment or prepayment of insurance, insurance and/or taxes (provided, however, that such amounts shall not exceed twenty percent (20%) of Available Cash, based on industry standards); (B) payment obligations pursuant to the Lease(s), and (C) any amounts added to Reserves for purposes of Tax Distributions or as otherwise required by any contractual arrangements or to satisfy contingencies reasonably anticipated with respect to the Company or its business.

6.6 Form of Distribution. A Member, regardless of the nature of the Member's capital contribution, has no right to demand and receive any distribution from the Company in any form other than money. Except as may be otherwise provided in this Agreement or as otherwise agreed by the Members, no Member may be compelled to accept from the Company a distribution of any asset in kind in lieu of a proportionate distribution of money being made to other Member(s) and no Member may be compelled to accept a distribution of any asset in kind.

6.7 Restriction on Distributions.

(a) No distribution shall be made in violation of applicable law, including without limitation if, after giving effect to the distribution (i) the Company would not be able to pay its debts as they become due in the usual course of business; or (ii) the Company's total assets would be less than the sum of its total liabilities plus, unless this Agreement provides otherwise, the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other Member(s), if any, upon dissolution that are superior to the rights of the Member receiving the distribution.

(b) The Management Committee may base a determination that a distribution is not prohibited on any of the following: (i) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; (ii) a fair valuation; or (iii) any other method that is reasonable in the circumstances. The effect of a distribution is measured as of the date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization, or the date payment is made if it occurs more than one hundred twenty (120) days of the date of authorization.

6.8 Return of Distributions. Members and assignees that receive distributions made in violation of this Agreement shall return such distributions to the Company; provided, however, that no such returns "will be required unless the written notice for return is received by the Member within the one (1)-year period immediately following the date of the subject distribution. The amount of any distribution returned to the Company or to a creditor of the Company shall be added to the account or accounts from which it was subtracted when it was distributed to the Member or assignee.

MDG360 CONFIDENTIAL

6.9 Obligations of Members to Report Allocations. The Members are aware of the income tax consequences of the allocations made by this Section and hereby agree to be bound by the provisions of this Section in reporting their respective Percentage Interests of the Company income and loss for income tax purposes.

6.10 Tax Withholding. To the maximum extent permitted by applicable federal and state law, the Company shall not be obligated to withhold any taxes when making distributions to Members. The Members shall each be responsible to pay its own federal, state and local taxes, and shall hold harmless, indemnify and defend the Company and the other Member from and against such personal tax liabilities, costs, interest, penalties, fees and related claims.

6.11 Property Contributions. In accordance with Code Section 704(c) and applicable Treasury Regulations, income, gain, loss and deduction with respect to any property contributed to the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and the value ascribed to it under this Agreement. In addition, in the event the value of any Company asset is adjusted pursuant to the provisions of Code Section 704(b) and the Treasury Regulations thereunder, subsequent allocations of income, gain, loss and deduction for tax purposes with respect to such asset shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its adjusted value, in the same manner as under Code Section 704(c) and the applicable Treasury Regulations. Any such allocation shall be made in accordance with one of the allocation methods described in Treasury Regulations Section 1.704.3, as determined by the Tax Matters Partner. Allocations pursuant to this paragraph are solely for purposes of federal, state and local taxes, as appropriate, and shall not affect, or in any way be taken into account in computing any Member capital account or share of profits, losses, other items or distributions pursuant to any provision of this Agreement.

7. Termination and Dissolution of the Company.

7.1 Termination of the Company. The Company shall be dissolved and its affairs wound up upon the happening of any of the following events (each, a "**Dissolution Event**"), whichever first occurs:

(a) The vote or written consent to dissolve by the unanimous consent of the Percentage Interests (subject to Airport approval, if required); provided that, before voting whether to dissolve, the Members shall take into account all of the assets (including fair market value, if any) and the liabilities of the Company;

(b) Unless otherwise determined by the Management Committee, the expiration or other termination of the Lease (or, if at any time there is more than one, the expiration or other termination of all such Leases); and

(c) As may otherwise be expressly provided in this Agreement or the Act.

7.2 Right to Wind Up. Upon any Dissolution Event, the Company is to be dissolved and its affairs wound up as soon as practical thereafter and the Members hereby expressly authorize the Executive Member to effect any such dissolution and winding up for and on behalf of the other Member(s) and subject to the terms hereof. In winding up the affairs of the Company, the

CONFIDENTIAL

Executive Member shall take into account the fair market value of the assets, if any, and liquidate the assets of the Company in such manner as it reasonably determines (including the sale of such assets). Upon the termination and dissolution of the Company and liquidation of its assets, the proceeds are to be applied for the benefit of the Company and distributed in the manner and order provided below. Any sale of any asset to a Member or to an Affiliate of a Member shall not be made for less than fair market value unless otherwise agreed in writing by the other Member(s).

7.3 Distributions Upon Dissolution. Upon dissolution and termination of the Company, any assets which become the property of the master lessor (or sublessor) as a result of the provisions in the applicable Lease(s), if any, will be excluded from the final assets of the Company. The remaining assets of the Company (or the proceeds of sales or other dispositions in liquidation of the assets of the Company) are to be distributed by the Executive Member in the following priority:

(a) First, to discharge or to make adequate provision for (to the extent required by any lender or creditor that is not an affiliate of any Member) debts and obligations of the Company (other than debts and obligations of the Company to the Members), and the payment of the expenses of liquidation;

(b) Second, to fund reserves which the Executive Member deems reasonably necessary for any contingent or unforeseen debt of the Company;

(c) Third, to discharge or make adequate provision for debts and obligations of the Company to the Members incurred in accordance with this Agreement;

(d) Fourth, to all Members in accordance with their positive Capital Account balances as provided in Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(2); and

(e) Fifth, to all Members to the extent of and in proportion to their Percentage Interests.

8. Options.

8.1 Call Option.

(a) In the event any Member other than the Executive Member (the "**Call Member**") is the subject of a Call Triggering Event (as defined below), the Executive Member may, at any time for a period of one hundred eighty (180) days after the Call Triggering Event (as defined below), provide the Call Member with written notice of default and shall, if the default is curable, provide the Call Member opportunity to cure, subject to the applicable Cure Period (as defined herein), if any. If the Call Member fails to cure the default within the Cure Period or the default is otherwise uncurable, the Executive Member shall have the option (the "**Option**"), which it may exercise solely at its discretion and not as its exclusive remedy, to purchase all of the Call Member's Percentage Interests anytime thereafter, subject to the terms of this Section 8.1.

(b) For purposes of this Section 8.1, the term "**Cure Period**" means (i) with respect to any decertification of an ACBDE Member other than a decertification resulting from a Permitted Status Change, a period of one hundred twenty (120) days following the date of a final

CONFIDENTIAL

certification eligibility determination and (ii) with respect to any other curable default, a period of sixty (60) days after the date of the written notice of default contemplated by Section 8.1(a) hereof.

(c) "**Call Triggering Events**" include the following:

(i) (A) The bankruptcy, insolvency, liquidation or dissolution of the Call Member, (B) such Call Member's making an assignment for the benefit of creditors, filing a petition in bankruptcy, or filing a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation or (C) the occurrence of any other event of bankruptcy or insolvency with respect to such Call Member under the Act or other applicable law;

(ii) In the case of a Call Member that is an ACDBE Member, (A) the failure of the Call Member to maintain the required ACDBE certification, subject to any applicable Cure Period and the provisions hereof with respect to Permitted Status Changes, or (B) in the case of a Permitted Status Change, the expiration or termination of the term of the applicable Lease in effect at the time of a Permitted Status Change, regardless of whether there is any pending, optional or executed renewal or extension of such Lease or a new lease beyond the term of such Lease in effect at the time of the decertification;

(iii) The Call Member's violation, or the Call Member causing the Company to be in violation of, the anti-bribery and anti-corruption provisions in Section 12 of this Agreement, as determined reasonably and in good faith by the Executive Member, or any other breach by such Call Member of this Agreement; or

(iv) The Call Member's conviction of, or plea of guilty or no contest to, a felony, a crime involving moral turpitude, or any other crime that would impair the Company's ability to obtain or retain any licenses or permits required for its business operations (or the occurrence of the same with respect to or any of its directors, managers, executive officers, or owners).

(d) To the extent the Executive Member desires to exercise the Option, it shall provide written notice of exercise (a "**Notice of Exercise**") to the Call Member within ninety (90) days after the end of any applicable Cure Period (or sooner in the event of an uncurable default).

(e) Within ninety (90) days after the Notice of Exercise, the Executive Member shall purchase (or cause to be purchased) and the Call Member shall sell all of its Percentage Interests (the "**Closing**"). The purchase price will be an amount equal to the sum of (i) any capital contributions actually paid by the Call Member to the Company, plus (ii) the amount of income allocations previously made to the Call Member which have not been distributed, less (iii) prior allocations of losses and nondeductible expenses, and less (iv) the sum of all distributions paid to the Call Member by the Company, but in no event will the purchase price be less than a total of $100.00 (the "**Purchase Price**"). The Purchase Price shall be paid in two (2) equal installments, except (i) in the case of the bankruptcy, liquidation or dissolution of the Call Member, (ii) where

MDG263
CONFIDENTIAL

the Call Member is an ACDBE Member, the failure of the Call Member to maintain its ACDBE certification, or (iii) where the Purchase Price is less than $50,000, in which case the entire Purchase Price will be paid in cash at the Closing. The entire assignment of the Percentage Interests to be transferred and the first installment payment shall be exchanged at the Closing. The second installment, plus accrued interest at the rate of seven percent (7%) per annum, shall be evidenced by a promissory note to be executed by the relevant purchaser and delivered at the Closing, which shall provide that all of the unpaid principal balance of the Purchase Price and accrued interest will be due and payable on the one (1)-year anniversary date of the Closing. If the Executive Member or its applicable Affiliate is the purchaser, the Executive Member (or such Affiliate) shall have the right to prepay all or any portion of the remaining Purchase Price and any interest accrued thereon at any time without penalty. The Purchase Price shall be subject to offset for any debts, obligations or damages owed by the Call Member, but without court order shall not be offset by more than an amount equal to five percent (5%) of the aggregate capital contributions made by the Call Member prior to delivery of the Notice of Exercise.

(f) Without limiting the binding and conclusive nature of the options described in Section 8.1, any disagreement or dispute as to the amount of the Purchase Price, the extent of deductions therefrom, or any other issues, shall in no way affect the transfer of Percentage Interests of the Call Member, so long as said Purchase Price is tendered in the manner set forth herein. The tender of the first installment of the Purchase Price shall automatically constitute a transfer of the Percentage Interests of the Call Member. The sole remedy of the Call Member in the event of any claimed default shall be the right to pursue, through dispute resolution (as provided in Section 14.14), the balance of the Purchase Price then alleged to be due to the Call Member.

9. New Members and Transfers.

9.1 New Members. Subject to the other terms of this Agreement, a person or entity may be admitted as a new Member of the Company (in contrast to a Member admitted by Transfer of any existing Percentage Interests (or portion thereof)) only with (a) the prior written consent of the Executive Member (which consent may be given or withheld, conditioned or delayed, as the Executive Member may determine in its sole discretion), and (b) the proposed new Member's signed agreement to be a party to (and subject to) the provisions of this Agreement.

9.2 Transfer. A "**Transfer**" shall be defined to include any of the following:

(a) If any Member other than the Executive Member (the "**Transferring Member**") voluntarily or involuntarily assigns, sells, pledges, exchanges, hypothecates, mortgages, encumbers, charges, forecloses, or otherwise disposes or transfers all or any part of its Percentage Interests; or

(b) A Change in Control of the Transferring Member (other than a Change in Control with respect to an ACDBE Member, in which event the provisions of Section 2.2 hereof shall apply).

9.3 Restrictions on Transfer. The Transferring Member shall not effect (or attempt to effect) any Transfer without (a) the prior written consent of the Executive Member, which consent may be given or withheld, conditioned or delayed in the Executive Member's sole discretion and

MDG364
CONFIDENTIAL

(b) complying with the other provisions of this Section 9. After the consummation of any Transfer in accordance with this Section 9, any Percentage Interests subject to such Transfer shall continue to be subject to the provisions of this Agreement, and any further Transfers shall be required to comply with all the provisions of this Agreement (including, without limitation, this Section 9). Any Transfer that fails to comply with the provisions of this Section 9, fails to comply with applicable securities laws or otherwise causes the Company to be in violation of the terms of any Lease or other similar agreement shall be void ab initio and without force or effect.

9.4 Substitute Members. Subject to the provisions hereof (including, without limitation, this Section 9), no Transfer (or proposed Transfer) shall be effective unless and until, as applicable, (a) the Executive Member has provided its prior written consent to such Transfer, as required by Section 9.3 hereof, (b) the proposed assignee executes an instrument satisfactory to the Executive Member accepting and adopting the terms and provisions of this Agreement, (c) the proposed assignee executes and delivers to the Company an Incumbency Certificate and/or such other documents or information as the Executive Member may reasonably require in connection with such Transfer, and (d) the proposed assignee pays (or provides reimbursement for) any reasonable expenses and legal fees incurred by the Company in connection with its admission as a Member (provided, however, that for the avoidance of doubt, the provisions of this clause (d) shall not be construed to limit a Member's responsibility for its own transaction expenses consistent with the provisions of Section 4.9(b) hereof). The admission of an assignee as a substitute Member shall not result in the release of the Member that assigned the Percentage Interests from any liability that such Member may have to the Company or to any Member.

9.5 Right of First Refusal. Subject to the other requirements of this Section 9, if any Transferring Member proposes to Transfer (or cause a Transfer of) its Percentage Interests or any part thereof, or receives notice that it may be required to Transfer (or cause a Transfer of) its Percentage Interests or any part thereof, the Transferring Member shall first offer such Percentage Interests to the Executive Member in accordance with the following provisions:

(a) The Transferring Member shall deliver a written notice ("**Option Notice**") to the Executive Member stating (i) the Transferring Member's bona fide intention or requirement to Transfer such Percentage Interests, (ii) the Percentage Interests to be Transferred, (iii) the purchase price and terms of payment for which the Transfer is proposed, (iv) the name and address of the proposed assignee, and (v) a signed copy of the signed Transfer agreement or offer, as applicable.

(b) Within thirty (30) days after receipt of the Option Notice, the Executive Member shall have the right, but not the obligation, to elect to purchase all of said Percentage Interests upon the price and terms of payment designated in the Option Notice. If the Option Notice provides for the payment of non-cash consideration, the Executive Member may elect to pay the consideration in cash equal to the good faith estimate of the present fair market value of the non-cash consideration offered as determined by the Executive Member. If the right to purchase is exercised within such thirty (30) day period, the Executive Member shall give written notice of that fact to the Transferring Member.

(c) If the Executive Member elects to purchase all of the Percentage Interests designated in the Option Notice, then the Transferring Member shall sell such Percentage Interests

MDG365 CONFIDENTIAL

and the closing of such purchase shall occur within thirty (30) days after receipt of such notice. The Transferring Member, the Company and/or the Executive Member shall execute such documents and instruments and make such deliveries as may be reasonably required to consummate such purchase.

(d) If the Executive Member elects not to purchase all of the Percentage Interests designated in the Option Notice, then the Transferring Member may Transfer the Percentage Interests described in the Option Notice, providing such Transfer (i) is completed within thirty (30) days after the expiration of the Executive Member's right to purchase such Percentage Interests, (ii) is made to the proposed assignee on terms no less favorable to the Transferring Member than as designated in the Option Notice, and (iii) complies with and remains subject to Sections 9.5(b) and (c).

(e) Compliance with Section 9.4 does not modify any of the Transfer restrictions in this Section 9 or otherwise entitle the proposed new Member to Transfer its Percentage Interests other than in the manner prescribed by this Section 9. If such Percentage Interests are not so transferred, the Transferring Member must give notice in accordance with this Section prior to any other or subsequent Transfer of such Percentage Interests.

9.6 No Release Following Transfer. The sale, assignment, foreclosure, exchange or other transfer of any Percentage Interests of any Member, whether voluntary or involuntary, and whether or not a substitute is admitted as a new Member, will not release the Transferring Member from any liability that such Member may have to the Company or to any other Member for any claims, obligations and other liabilities of the transferring Member attributable to the period prior to the transfer.

9.7 Right of Co-Sale.

(a) The provisions of this Section 9.7 shall not apply to:

(i) any sale of the Executive Member's Percentage Interests included as part of a larger sale or transfer of equity interests involving food, beverage and/or retail concessions in more than one airport; or

(ii) any sale or disposition of the Executive Member's Percentage Interests pursuant to (A) any security agreement granted by the Executive Member, or (B) the exercise by the security agent of its rights and remedies under any security agreement granted by the Executive Member.

(b) If the Executive Member proposes to sell, in a single transaction or series of related transactions, fifty percent (50%) or more of its Percentage Interests in the Company to a prospective purchaser (the "**Prospective Transferee**") that is not an Affiliate or related party of the Executive Member (a "**Proposed Transfer**"), the Executive Member shall provide written notice to the other Member(s) setting forth the terms and conditions of the Proposed Transfer (the "**Proposed Transfer Notice**"). The other Member(s) will each have the right, but not an obligation, to participate in the Proposed Transfer on a pro rata basis, on the terms and conditions specified in the Proposed Transfer Notice (the "**Right of Co-Sale**"). Each Member that desires to exercise its Right of Co-Sale must provide the Executive Member with written notice to that effect

MDG366
CONFIDENTIAL

within ten (10) days after delivery of the Proposed Transfer Notice. Upon timely giving such notice, the respective Member shall be deemed to have effectively exercised its Right of Co-Sale.

(c) To the extent one or more of the Members timely exercises its Right of Co-Sale as provided in this Section 9.7, and to the extent the Prospective Transferee does not purchase 100% of the Percentage Interests of the Company, the Percentage Interests that the Executive Member may sell to the Prospective Transferee shall be correspondingly reduced.

(d) The terms and conditions of any sale pursuant to this Section 9.7 will be memorialized in, and governed by, a written purchase and sale agreement with customary terms and provisions for such a transaction, and the Members participating in the Proposed Transfer agree to enter into such an agreement as a condition precedent to any sale or other transfer pursuant to this Section 9.7.

9.8 Cooperation. Without limiting any of the provisions of this Agreement or the other obligations of the Members set forth herein, the Members agree to cooperate and take such actions as may be reasonably requested or otherwise required with respect to the transactions contemplated by this Section 9. Further, the Members hereby acknowledge and agree that certain of the transactions contemplated by this Section 9 may require submission to the Airport, subject to the terms of the Lease(s).

10. Taxes.

10.1 Tax Returns and Tax Treatment. The Executive Member shall cause to be prepared for the Company for each fiscal year, or other applicable tax period(s) within a fiscal year, a United States Partnership Return of Income, and appropriate state tax returns, which returns will be consistent. The Executive Member shall file such returns within the time prescribed by law for such filing, or in its sole discretion, obtain an extension of the time to file and file timely under any extension. The Executive Member will send a copy of tax form K-1 or any successor or replacement form thereof, together with copies of any Company tax returns, to each Member within one hundred twenty (120) days after each fiscal year, or as soon thereafter as is practicable. The determination by the Executive Member with respect to the treatment of any item or its allocation for federal, state or local tax purposes, including any election made under applicable law, is binding upon all of the Members so long as such determination is not inconsistent with any express term hereof.

10.2 Tax Matters. The Executive Member is the designated tax matters partner of the Company, which will perform all duties required by applicable law, including the duty to keep each Member informed of all administrative and judicial proceedings involving any proposed adjustment. Any settlement with respect to IRS matters made by the tax matters partner is binding upon all Members; provided, however, that the Executive Member shall not agree to any settlement that would disproportionately affect a Member without first obtaining such Member's written consent, which shall not be unreasonably withheld or delayed. The tax matters partner is not liable, responsible or accountable to the Company or to the Members for any loss in connection with any actions taken by the tax matters partner within the scope of the authority conferred upon it by this Agreement and the Company (but not the Members) will indemnify and hold harmless the tax

MDG367 CONFIDENTIAL

matters partner from any loss, damage or liability due to, or arising out of, any such act performed by the tax matters partner.

10.3 Payment of Taxes. Each Member shall be responsible to pay its own income taxes and other taxes arising from its allocable share of Company income, and shall indemnify, defend and hold the Company and the other Member(s) harmless from and against all such taxes and all related penalties, interests, assessments, claims and liability, and any attorney's fees and other costs arising from the Company's or any other Member's enforcement of its rights under this paragraph.

10.4 Special Elections. Where a distribution of an asset is made in the manner described in Code Section 734(a), or where a sale or exchange of any Percentage Interests permitted by this Agreement is made in the manner described in Code Section 743(a), the Executive Member may, in its sole discretion, file on behalf of the Company an election under Code Section 754 in accordance with the procedures set forth in the applicable Treasury Regulations. In the event an election is so filed, the Company will keep appropriate records to reflect the application of such elections.

11. Other Duties and Rights.

11.1 Company Property. Except as otherwise provided in this Agreement or agreed by the Management Committee, all property contributed to or acquired by the Company is the Company property. However, the Company will have the authorization to lease equipment and other property from the Executive Member or its Affiliates (or from any other Member), provided the terms of the equipment lease are commercially reasonable.

11.2 Rights of the Members to the Company's Assets. Each Member shall have an equal right with all Members to possess specific Company property for Company purposes as needed to execute its respective duties as provided in Section 4, but no Member shall have the right to possess, transfer, assign or encumber any such property for any other purpose.

11.3 Confidential Information. Each Member hereby acknowledges that circumstances have arisen (and will continue to arise) whereby such Member will be made privy to confidential information concerning the Company and/or the other Member(s), such as the contents of the Lease(s), brand agreements, franchise agreements and this Agreement; Company and Concession financial information (including capital contribution information); employee information; and other information not generally provided to or known by the public (collectively, "**Confidential Information**"). Each Member shall strictly maintain (or cause to be maintained) the confidentiality of any information received and shall not disclose (or permit to be disclosed) any Confidential Information except to officers, directors, employees, and agents of such Member who need to know the information and who are contractually bound by nondisclosure restrictions at least as restrictive as the provisions of this Section 11.3. Each Member shall ensure that any Confidential Information is used solely for carrying out the purposes of the Company and not otherwise for the Member's own use or benefit, or the use or benefit of any third party. Confidential Information will not include information (a) in the public domain through no fault of the receiving party; (b) in possession of the receiving party at the time of receipt, or (c) subsequently received without obligation of secrecy, from a third party who is free to disclose the information as of the date of

MDG268
CONFIDENTIAL

such third party's disclosure. Without limiting the foregoing and subject to the other provisions hereof, (x) each Member covenants and agrees that it shall use best efforts not to (and to cause its respective Delegate, affiliates, owners and other representatives not to) take any action or fail to take any action that would be injurious to the Company or its business and (y) the Members understand and agree that in the event the Company is, from time to time, required to disclose (or cause to be disclosed) certain Confidential Information pursuant to applicable law, regulation, court order or other requirements of a governmental authority, then such disclosure shall not be deemed a breach of this Section 11.3 and in such event, the Executive Member, at the Company's expense and on behalf of the Company and its Members, may take (or cause the Company to take) such commercially reasonable measures as it determines to protect such Confidential Information.

11.4 Limitation of Liability. No Member shall be bound by, or be personally liable for, the expenses, liabilities or obligations of the Company, and the liability of each Member shall be limited solely to the amount of its required contribution to the capital of the Company as provided in this Agreement. It is the intent of the Members that, to the fullest extent permitted by applicable law, no distribution (or any part of any distribution) made to any Member pursuant to this Agreement shall be deemed to be a return or withdrawal of capital and that no Member shall be obligated to pay any such amount to or for the account of any creditor of the Company.

11.5 Indemnification. To the fullest extent permitted by applicable law in effect on the date hereof, and to such greater extent as applicable law may hereafter from time to time permit, the Company shall indemnify and hold harmless any Member, Delegate and/or officer of the Company, and may, at the discretion of the Management Committee, indemnify any other affiliated person or entity, who or which was or is a party, or is threatened to be made a party (each, a "**Covered Person**"), to any threatened, pending or completed action, suit or proceeding by reason of the fact that he, she or it is or was a Covered Person. Without limiting the foregoing, the Company shall indemnify, defend and hold harmless the Executive Member from and against any claims, obligations, debts, costs (including attorneys' fees) and other liabilities (together, "**Claims**") arising from or relating in any way to the design, construction, development, equipping, supplying, operation, ownership and/or possession any of the Concessions to the extent any such Claims are attributable to any period of time after any such design, construction, development, equipping, supplying, operation, ownership and/or possession began. Notwithstanding anything to the contrary contained in this Agreement, the Company shall not be obligated to indemnify any Member or other Covered Person in the event that any Claims relate to such Member's or other Covered Person's gross negligence (other than acts performed in the exercise of good faith business judgment), willful misconduct, or fraud.

12. Anti-Bribery and Tax Evasion.

12.1 The Members agree that the SSP Anti-Bribery and Anti-Corruption Policy and SSP Tax Evasion Policy (each, as amended from time to time and as provided to the Company and/or the Members in writing, and individually or collectively, the "**SSP Policy**") shall apply to the Company and its subsidiaries (if any). The Members agree that the Company shall at all times maintain the SSP Policy or such other suitable anti-bribery and anti-corruption and tax evasion policies as shall be approved in writing by the Executive Member (such applicable policies, collectively, the "**Policy**").

MDG269
CONFIDENTIAL

12.2 In connection with the Policy, the Company shall:

(a) appoint a senior manager (who may or may not be a Director appointed by SSP but whose appointment shall be approved by SSP) to take responsibility for compliance with the Policy by the Company; and

(b) comply with any requests from SSP or SSP Group plc in connection with any risk assessment and review of the operations of the Company and any subsidiaries and shall implement any recommendations proposed by SSP or SSP Group plc to ensure compliance by the Company and its subsidiaries (if any) with the Policy.

12.3 In connection with the Policy, the Members and SSP Group plc shall be provided with details of the following:

(a) details of training on the requirements of the Policy undertaken for (i) existing or new officers and employees of the Company and its subsidiaries (if any), and (ii) any agents, subsidiaries, sub-contractors, consultants or any other person providing services on behalf of the Company ("**Associates**") (if any) and who are contractually bound to comply with the Policy;

(b) confirmation that all new employees of the Company and its subsidiaries (if any) have been vetted for compliance with tax evasion, anti-bribery and corruption legislation and that the Company's and its subsidiaries (if any) employment contracts contain relevant contractual obligations upon the employee not to engage in tax evasion, bribery or corruption;

(c) confirmation that the Company has complied with the Policy with respect to the requirement to carry out due diligence on agents, intermediaries, contractors, third party service providers, joint venture partners and other Associates;

(d) details of any concerns raised as a result of such due diligence enquiries and action taken to minimize the risk of a breach by any Associate of any Anti-Bribery Laws (as defined herein) or any other legislation in any other jurisdiction for which the Company and its subsidiaries (if any) may be held liable, or which would otherwise result in damage to the Company's reputation or business or that of any Member or any holding company of any Member; and

(e) confirmation that the Company and its subsidiaries (if any) have wherever possible imposed contractual obligations on such Associates not to engage in tax evasion, bribery and corruption, or if not, why not.

12.4 Each Member and the Company shall procure that its or their respective officers, employees or agents, subsidiaries, sub-contractors, consultants and any other person providing services on its behalf in connection with this Agreement (collectively, "**Member Associates**") shall, at all times comply with the Policy, and all applicable tax evasion, anti-bribery and corruption laws and regulations (including, without limitation, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act 2010, and the U.K. Criminal Finances Act 2017) (collectively the "**Anti-Bribery Laws**").

CONFIDENTIAL

12.5 Each Member and the Company shall provide SSP and SSP Group plc with all reasonable assistance to enable SSP and SSP Group plc to comply with the Anti-Bribery Laws and the Policy including, without limitation, monitoring compliance by its respective Associates/Member Associates with the Policy, and informing SSP of any breach or potential breach of the Policy or any Anti-Bribery Law and of any request by a third party for payment of a bribe in connection with any of the Concessions or otherwise relating to the Company.

12.6 Without excluding any other remedy under this Agreement or applicable law, any failure by any Member to perform its obligations under, or procure compliance with, this Section 12 shall be deemed to be a breach of this Agreement by the Member, such breach being incapable of remedy and giving SSP the right to terminate this Agreement with respect to such Member or in its entirety by written notice with immediate effect.

12.7 Without prejudice to any other provisions of this Section 12 or the other provisions of this Agreement, and SSP's and SSP Group plc's other measures each of which are designed to prevent tax evasion, bribery and corruption by persons associated with SSP and any other member of the SSP Group (as defined below) for the purposes of the Anti-Bribery Laws, each Member shall indemnify SSP and each member of its group (i.e., its subsidiary undertakings, parent undertakings and the subsidiary undertakings of such parent undertakings) (the "**SSP Group**") and its or their respective directors, officers, employees, successors and assigns from any and all losses, liabilities, costs and expenses (including legal fees, other professional fees and disbursements and costs of investigation) suffered or incurred by any member of the SSP Group arising out of or in connection with any actual or alleged bribery or breach of this Section 12 by a Member or any of its officers or employees or any other person engaged by it in the performance of the services for or on behalf of SSP.

13. Beneficial Ownership Information.

13.1 Definitions. For purposes of this Section 13, the terms "FinCEN Identifier", "Ownership Interests", "Beneficial Owners", and "Substantial Control" have the meanings set forth in the Corporate Transparency Act (31 U.S.C. § 5336), enacted as part of the National Defense Authorization Act for Fiscal Year 2021, as amended, and the rules and regulations promulgated thereunder (the "**CTA**").

13.2 Beneficial Ownership Information. Each Member (for purposes of this Section 13.2 and Section 13.3 hereof, the "**Reporting Member**") hereby represents and warrants that, unless the Company has been determined exempt from the CTA by the Executive Member, prior to the execution of this Agreement by such Reporting Member, such Reporting Member provided (or caused to be provided) to the Executive Member or the Executive Member's designee (a) such Reporting Member's FinCEN Identifier (if applicable) or (b) comprehensive and accurate information and documentation about (i) such Reporting Member's direct and indirect Ownership Interests in the Company, whether or not such Ownership Interests are documented in writing, and (ii) with respect to any Reporting Member that is not an individual, such Reporting Member's own ownership and management structure, in each case, together with any such other information as may be reasonably requested with respect to CTA compliance and to enable the Company, the Executive Member and/or their respective authorized agents (x) to identify each individual who is a Beneficial Owner of the Company and (y) to timely and accurately comply (or to cause the

MDG271
CONFIDENTIAL

Company to so comply) with the Company's beneficial ownership information reporting obligations, if any, under the CTA (collectively, "**Reporting Information**"). Each Reporting Member hereby covenants and agrees to promptly (but, in any event, within ten (10) days after any applicable change to, or discovery of any inaccuracy in, any Reporting Information provided by or on behalf of such Reporting Member) provide written notice to the Executive Member of any such change or inaccuracy, along with such updated Reporting Information (and/or, if applicable, to make (or cause to be made) such reports and amendments any information previously provided by such Reporting Member to the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) unit ("**FinCEN**")). If the Company is initially determined to be exempt from the CTA but is later determined by the Executive Member to be non-exempt, then the Reporting Members covenant and agree to provide to the Executive Member or its designee, within fifteen (15) days of the Executive Member's request, all Reporting Information. Without limiting the foregoing, each Member shall provide the Executive Member, the Company, and their respective authorized agents with all reasonable assistance to enable compliance with the CTA.

13.3 Reporting Obligations. The Members acknowledge and agree that the Company or its applicable authorized agent(s) shall use the Reporting Information to prepare and file required reports (if any) regarding the Company's Beneficial Owners, including those individuals exercising Substantial Control over the Company, with FinCEN. Each Reporting Member (a) acknowledges and consents (on behalf of itself and any Beneficial Owner) to the disclosure to FinCEN by or on behalf of the Company of any Reporting Information (including any FinCEN Identifier(s)) provided by or on behalf of such Reporting Member to the extent that the Executive Member determines in its sole discretion that such disclosure is necessary in connection with the CTA and (b) covenants, represents and warrants that any such Reporting Information provided on by or on behalf of such Reporting Member is (or shall be) accurate, truthful and consistent with CTA requirements.

13.4 Remedies. In addition to such other remedies as may be provided herein or otherwise available, any Member that fails to comply (or fails to cause its Beneficial Owner(s) to comply) with this Section 13 shall indemnify the Company and its affiliates, any other Member(s) and its or their respective directors, officers, employees, successors and assigns from any and all losses, liabilities, costs and expenses (including legal fees, other professional fees and disbursements and costs of investigation) that results to the Company, any such other Member or such named individual(s) due to such failure.

14. General Provisions.

14.1 Accounting Terms. All accounting terms not specifically defined herein and not otherwise in conflict with the provisions of this Agreement, are to be construed in accordance with IFRS, as in effect from time to time.

14.2 Amendment and Modification.

(a) Except as provided herein, this Agreement may not be amended, modified or supplemented (each, an "**Amendment**") without the signed, written consent of all the Members (which written consent shall be deemed given by the signature of each Member to any such

MDC272 CONFIDENTIAL

Amendment). No Amendment, termination, consent or waiver of any provision of this Agreement, nor any consent to any departure therefrom, will in any event be effective unless the same is in writing and is signed by the party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

(b) Notwithstanding the foregoing, (i) Appendices A, B and C may be updated (or deemed updated) from time to time as necessary to accurately reflect the information therein and any such update made in accordance with this Agreement shall not require a formal Amendment in accordance with the terms of Section 14.2(a) and any reference in this Agreement to Appendix A, Appendix B, or Appendix C shall be deemed to be a reference to the corresponding Appendix as amended (or deemed amended) and in effect from time to time, (ii) any Amendment to this Agreement required by the Airport in order to ensure continuing compliance with the requirements of the Lease(s) or other compliance obligations required by the Airport shall only require the consent of the Member(s) owning a majority of the Percentage Interests in the Company and (iii) Amendments may be made to this Agreement from time to time to cure any ambiguity or to correct or supplement any provision herein which may be inconsistent with any other provision herein, provided that a copy of any such Amendment shall be maintained in the books and records of the Company.

14.3 Counterparts. This Agreement and the Incumbency Certificate(s) may be executed in duplicate identical counterparts, each of which shall be deemed an original, but all such separate counterparts collectively shall constitute one and the same instrument. Electronic or facsimile signatures are acceptable.

14.4 Captions/Construction. Captions contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof. Unless the context clearly indicates to the contrary, the plural includes the singular and the singular includes the plural.

14.5 Compliance with Law. None of the terms or provisions of this Agreement require any of the parties to take any action prohibited by, or contrary to, applicable law. Further, except as otherwise specifically provided in this Agreement, each Member shall, at its own cost and expense, obey and comply with all applicable laws as they may pertain to such Member's performance of its obligations hereunder.

14.6 Entire Agreement. Except as otherwise agreed in writing by the parties (including, without limitation, as may be provided in any brand agreement or other agreement between the Company or the Executive Member, on the one hand, and any other Member(s), on the other hand), (a) this Agreement, including all Appendices referenced herein, constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior agreements, letters of intent, understandings, negotiations and discussions between the parties, whether oral, written or electronic and (b) in the event of any inconsistency, conflict or ambiguity as to the rights and obligations of the parties under this Agreement and any Appendix, the terms of this Agreement shall control and supersede any such inconsistency, conflict or ambiguity.

MDG273
CONFIDENTIAL

14.7 Affiliates Defined. For purposes of this Agreement, "**Affiliate**" means a corporation, partnership, company or other entity that directly or indirectly through one or more intermediaries' controls, is controlled by or is under common control with another entity. For the purposes of this definition, "**control**" means beneficial ownership by the entity or control of voting of more than fifty percent (50%) of the securities entitled to vote in the election of directors (or if the entity is not a corporation, of the election of corresponding management).

14.8 Failure or Delay. No failure on the part of any party to exercise, and no delay in exercising, any right, power or privilege hereunder operates as a waiver thereof; nor does any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No notice to or demand on any party in any case entitles such party to any other or further notice or demand in similar or other circumstances.

14.9 Further Assurances. The parties shall each execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent and purpose of this Agreement.

14.10 Governing Law. This Agreement and the rights and obligations of the parties hereunder are to be governed by and construed and interpreted in accordance with the laws of the State of [__] applicable to contracts among residents.

14.11 Notices. All notices, requests, consents, claims, demands, waivers and other communications (collectively, "**Notices**") hereunder shall be made in writing, and are deemed to have been duly given: (a) when delivered in person, (b) on the date sent, when delivered via e-mail or other electronic delivery, (c) three (3) days after deposit in the United States Certified Mail, return receipt requested, or (d) three (3) days after deposit with Federal Express or another regularly scheduled commercial carrier, upon receipt, in each case addressed to the Member(s) as provided in Appendix B, or to such other address as any party may designate by Notice to the other parties in accordance with the terms of this Section. Notices to the Company shall be delivered to the address of the Executive Member.

14.12 Remedies Cumulative. Unless otherwise expressly provided in this Agreement, each and every right granted hereunder and each remedy provided for under this Agreement is cumulative and is not exclusive of any remedies or rights that may be available to any party at law, in equity, or otherwise.

14.13 Severability. If any provision of this Agreement is adjudicated to be void, illegal, unenforceable or invalid in whole or in part for any reason, such provision or part thereof shall be stricken from this Agreement and shall not affect the remaining provisions of this Agreement, which shall remain valid and enforceable to the fullest extent permitted by applicable law.

14.14 Dispute Resolution. In the event of any dispute arising from or in connection with this Agreement (a "**Dispute**"), the parties will attempt to settle the Dispute by friendly discussions between officers of each of the parties who have the specific authority to settle the Dispute. The parties will attempt in good faith to resolve the Dispute within thirty (30) days after one party

MDC274
CONFIDENTIAL

notifies the other(s) in writing of the existence of the Dispute. If no settlement is reached within such period, the parties will be free to pursue another course of action, including litigation.

14.15 Successors and Assigns. All provisions of this Agreement are binding upon, inure to the benefit of, and are enforceable by or against, the parties and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

14.16 Third-Party Beneficiary. This Agreement is solely for the benefit of the parties and their respective successors and permitted assigns, and no other person or entity has any right, benefit, priority or interest under, or because of the existence of this Agreement. Notwithstanding the foregoing, SSP Group plc shall have the right to enforce any of the provisions set forth in Section 12.

14.17 Construction. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the Agreement.

14.18 Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized and that this Agreement is a valid and legal contract binding on such party and enforceable in accordance with its terms.

14.19 Change in Control. A "**Change in Control**" means, with respect to an entity, any change in ownership or series of changes in ownership, which may include the acquisition of such entity through any transaction or series of related transactions (including any equity acquisition, reorganization, merger or consolidation) or the recapitalization, redemption, sale, transfer or issuance of equity interests in (or with respect to) such entity, a sale of such entity's assets or such other similar transaction (or series of transactions) with respect to such entity, in each case, where the Management Committee determines that such entity is or would no longer be a desirable fit or responsible partner for the Company and/or its other Members or where such transaction causes or would cause the equity holders of such entity in the aggregate before the change to hold less than a majority of all distribution rights, or less than a majority of the voting rights, as the case may be, following such change. For clarity, a Change in Control does not include a consummation of the first firm commitment or underwritten public offering of voting securities.

14.20 Survival. Any provisions that by their nature continue to apply following any expiration or termination of this Agreement shall survive any such expiration or termination.

14.21 Additional Requirements. The Lease(s) may require that certain provisions are hereby incorporated into this Agreement (including such that each Member will contribute its share of any liabilities reflected therein for the tenant, subtenant or sub-subtenant (as the case may be) under any such Lease). The parties agree to comply with all such provisions.

14.22 Investor Representations. As of the Effective Date, each Member (for purposes of this Section 14.22, the "**Investor**") hereby represents and warrants to the Company and the Executive Member as follows:

MDG275
CONFIDENTIAL

(a) The Investor is a sophisticated entity familiar with transactions similar to those contemplated by this Agreement· and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of such transactions;

(b) The Investor has evaluated the merits and risks of investing in the Company on the terms set forth in this Agreement and is able to bear the economic risk associated with the investment;

(c) The Investor (i) has negotiated this Agreement on an arms'-length basis and has had an opportunity to consult with its legal and financial advisors concerning this Agreement and its subject matter and (ii) has had access to such information regarding the business and finances of the Company and such other matters with respect to the Company as a reasonable person would consider in evaluating the transactions contemplated thereby;

(d) The Investor represents that it has not relied on the Executive Member for any information regarding the Company or the value of the investment;

(e) The Investor acknowledges that none of the Executive Member or its Affiliates, officers, employees, attorneys, accountants or agents is acting as a fiduciary or financial or investment adviser to the Investor, and further that none of the Executive Member or its Affiliates, officers, employees, attorneys, accountants or agents has given the Investor any investment advice, opinion or other information on whether an investment in the Company is prudent;

(f) The Investor acknowledges that (i) the Executive Member currently may have, and later may come into possession of, information with respect to the Company that is not known to the Investor and that may be material to a decision to invest in the Company, (ii) the Investor has determined to invest in the Company notwithstanding its lack of knowledge of such information and (iii) the Executive Member shall have no liability to the Investor, and the Investor waives and releases any claims that it might have against the Executive Member whether under applicable securities laws or otherwise, with respect to the nondisclosure of such information in connection with an investment in the Company;

(g) The Investor acknowledges the value of its investment in the Company may significantly appreciate or depreciate over time; and

(h) The Investor understands that the Company and the Executive Member will rely on the accuracy and truth of the foregoing representations, and the Investor hereby consents to such reliance.

14.23 Conflicts of Interest.

(a) The Management Committee shall select outside legal counsel with respect to general business representation and certain other limited liability company matters for the Company as requested from time to time. Because such counsel will represent the Company, the Members are encouraged to retain independent counsel where appropriate to represent their individual membership interests. All Members may decide to waive any conflicts of interest if the same counsel is to be used by any Member, on the one hand, and the Company, on the other hand.

CONFIDENTIAL

(b) The parties further understand and agree that the Executive Member may charge the Company (i) a two percent (2%) project administration fee to reimburse any and all actual and demonstrable costs relating to the Build-Out or any Additional Capital Project, including, without limitation, those costs that are unique to the management of construction projects in the unique airport environment; and (ii) a two percent (2%) royalty fee on the net revenue from sales relating to concessions that are internal SSP brand concepts (if any) based on demonstrable costs. Such fees and costs (and supporting documentation) will be submitted to the Airport as appropriate (and at least annually if and when any such fee is charged). All parties consent to and waive any conflicts of interest that may arise and relate to the foregoing and agree that such fees are fair and reasonable.

(c) The parties acknowledge and agree that when the Company sources products through the Executive Member's third-party suppliers, (i) the Company benefits from the procurement services provided by the Executive Member and (ii) any transfer of funds from any supplier to the Executive Member relating to the provision of products are (A) deemed to be volume incentives or discounts which reduce the cost of goods to the Company to arrive at a net cost of products, (B) not attributable to any one airport location but relate to the Executive Member's entire supply program with its suppliers, (C) unique and specific to the Executive Member due to the Executive Member's national and global procurement leverage, (D) directly related to services provided by the Executive Member, including but not limited to, freight management, quality assurance, management of competitive conditions, and other costs (such as purchasing and finance overhead) associated with managing a procurement program in the unique airport environment, (E) meant to offset some of these costs incurred by the Executive Member, and (F) estimated not to exceed two percent (2%) of the Executive Member's sales. Neither any ACDBE Member nor the Company will be subject to any mark-up relating to product purchases by the Company through the Executive Member's supply chain.

Signatures appear on next page.

CONFIDENTIAL

The parties are signing this "Joint Venture" Operating Agreement (SSP AMERICA [__], LLC) as of the date of last signature set forth below, but to be effective as of the Effective Date.

SSP America, Inc.

By: _____
Name: _____
Its: _____
Date: _____

[MEMBER 2]

By: _____
Name: _____
Its: _____
Date: _____

[MEMBER 3]

By: _____
Name: _____
Its: _____
Date: _____

Appendix A Identification of Concessions
Appendix B Initial Capital Summary
Appendix C Ownership of Certain Members
Appendix D Form of Incumbency Certificate
Appendix E Member Roles and Responsibilities

CONFIDENTIAL

MDG278
CONFIDENTIAL

APPENDIX A
(SSP AMERICA [__], LLC)

IDENTIFICATION OF CONCESSIONS

[To be provided.]

CONFIDENTIAL

MDG379
CONFIDENTIAL

APPENDIX B
(SSP AMERICA [__], LLC)

INITIAL CAPITAL SUMMARY

Member	Notice Address	Payment Method	Initial Capital Contribution	Percentage Interests
SSP	SSP America, Inc. 20408 Bashan Drive, Suite 300 Ashburn, VA 20147 Attn: Legal Department Email: Jag.Singh@foodtravelexperts.com	Cash		[__]%
[Member 2]	[__] [__] Attn: [__] Email: [__]	Cash		[__]%
[Member 3]	[__] [__] Attn: [__] Email: [__]	Cash		[__]%
TOTAL	--	--	$[__]	100%

The above are subject to increase or decrease as provided in Section 3 of the Agreement.

SSP America, Inc.

By: _____
Name: _____
Its: _____

[MEMBER 2]

By: _____
Name: _____
Its: _____

[MEMBER 3]

By: _____
Name: _____
Its: _____

CONFIDENTIAL

MDG280
CONFIDENTIAL

APPENDIX C
(SSP AMERICA [__], LLC)

OWNERSHIP OF CERTAIN MEMBERS

The following [individual(s)/entity(ies)] own(s) the [__] interests in [Member 2]:

Name	Percentage Ownership
[__]	[__]%

The following [individual(s)/entity(ies)] own(s) the [__] interests in [Member 3]:

Name	Percentage Ownership
[__]	[__]%
[__]	[__]%

CONFIDENTIAL

MDC281
CONFIDENTIAL

******THIS IS A FORM ONLY******
DO NOT FILL OUT
A SEPARATE INCUMBENCY CERTIFICATE WILL BE PROVIDED

APPENDIX D
(SSP AMERICA [__], LLC)

FORM OF INCUMBENCY CERTIFICATE

INCUMBENCY CERTIFICATE

Effective [__]

The undersigned, being a duly elected, qualified and acting officer or other authorized person of [•], a [•] (the "**Member**"), does hereby certify that each individual listed below is a duly elected, qualified and acting officer or other authorized person of such Member as set forth in the right column opposite such individual's respective name and the signature appearing in the far right column opposite the name of each such individual is a true specimen of the genuine signature of such individual, and each such individual has the authority, pursuant to the applicable provisions of such Member's organizational and governing documents and the applicable provisions of all "Joint Venture" Operating Agreements (as each may be amended, modified, supplemented, restated or amended and restated from time to time, an "**Agreement**", and the entity governed by such Agreement, a "**Company**") to which such Member (and any other members party thereto), and SSP America, Inc., a California corporation (or its applicable affiliate), are parties as of the date set forth above, to execute agreements and otherwise act on behalf of such Member in its capacity as a member of any such Company, in each case subject to the provisions of the applicable Agreement.

Officers and Authorized Persons

Name, phone number, and email address	**Title(s)**	**Signature**
[●] (___) ___-____ Email:	[●]	_____
[●] (___) ___-____ Email:	[●]	_____
[●] (___) ___-____ Email:	[●]	_____

CONFIDENTIAL

Effective as of the date that the Member executes this Incumbency Certificate, the Member shall indemnify, defend and hold harmless the applicable Company, the other member(s) of such Company, and their respective parents, subsidiaries, Affiliates, and their respective directors, officers, agents and employees (the "**Indemnitees**"), for, from and against any and all third-party claims or liabilities to the extent relating to such Company and arising from any acts or omissions of the foregoing officer(s) and/or authorized person(s). The Member also hereby releases each Indemnitee from any claims such Member may have against such Indemnitee to the extent relating to such Company and arising from any acts or omissions of the foregoing officer(s) and/or authorized person(s).

Bank Account Information

Distributions to be disbursed to the Member shall be sent electronically to such Member as provided below:

Bank Name: _____
Bank Address: _____
ABA No.: _____
Account Name: _____
Account No.: _____

This Incumbency Certificate may be executed in duplicate identical counterparts, each of which shall be deemed an original, but all such separate counterparts collectively shall constitute one and the same instrument. Electronic or facsimile signatures are acceptable.

Signature appears on next page.

CONFIDENTIAL

MDC283
CONFIDENTIAL

IN WITNESS WHEREOF, the undersigned has executed this Incumbency Certificate as of the date set forth below, but effective as of the date set forth above.

[MEMBER]

By: _____

Name: _____

Title: _____

Date: _____

CONFIDENTIAL

MDG284
CONFIDENTIAL

APPENDIX E
(SSP AMERICA [__], LLC)

MEMBER ROLES AND RESPONSIBILITIES

[To be provided.]

CONFIDENTIAL

MDG285
CONFIDENTIAL

APPENDIX E
(SSP America MIA, LLC)

MEMBER ROLES AND RESPONSIBILITIES

Roles and responsibilities for the ownership and management of **SSP America MIA, LLC**, a Florida limited liability company (the "**Company**"):

- SSP America, Inc. (60%) (Non-ACDBE Member)
- Jeffy Van, LLC (10%) (Non-ACDBE Member)
- Aviation Strategies and Trade Solutions, Inc (5%) (Non-ACDBE Member)
- P and P Hospitality, LLC (25%) (ACDBE Member)

Member Management and Oversight Participation	
Areas of Responsibility	**Description of Tasks**
Governance	Directly participate in the overall governance, administration, and management of the JV's airport concessions through direct management of JV operations and as a full participant in the Management Committee.
Capital	Contribute proportionate share of capital investment.
Management Committee	Contribute to and vote on all major decisions of the JV.
	Participate in the Management Committee in accordance with the Joint Venture Agreement.
	Raise issues, deliberate, vote, set strategy, goals and maintain active involvement in budget planning.
	Attend quarterly meetings with detailed notes and fluid communication, including voting. Notes and reports shall be provided quarterly and reviewed by the Management Committee and retained as a Company record. Voting with the approval of at least one ACDBE committee members, and with respect to approval by the Partners, the unanimous approval by all Partners.
Business Management	Participate in the management of the business.
	Responsible for the management and delivery of services of the Concession(s) for administrative functions including operating standards, procedures, cost controls and quality standards as set forth by the Management Committee. Preform a clearly defined portion of work necessary to the operation of the business.
	Evaluate and report financial performance and results for the Concession(s) to the Management Committee, devise and implement plans for improvement of the Concession(s) as may be indicated through evaluation of quarterly performance, through profit and loss statements and other available financial information.

	Recommend improvements to overall profitability.
	Evaluate the work performance of the Company's management employees or other staff working at the Concession(s) (including any such personnel directly employed by the ACDBE Member).
	Assist in the following functions: attend airport concessions meetings and communicate results the JV management, identify potential food and beverage airport related expansion opportunities and address customer service issues.

Specific Member Business Responsibilities	
➢ **SSP America, Inc. (Non-ACDBE)**	**Manage the build-out, operation, and oversight of the Concessions Program.** In collaboration with the other Members, uphold certain provisions of the Agreement, including with respect to: • Responsible for JV Working Capital • Delivery of Food & Beverage Operations • Design & Construction • Purchasing Goods, Supplies and Equipment • Legal • Payroll • Accounting • Tax and Corporate Financial Reporting • Marketing and Promotions • Human Resources • Information Technology and Systems
➢ **Jeffy Van, LLC (Non-ACDBE)**	Member of the joint venture partnership with 10% Non-ACDBE ownership in the Joint Venture Agreement. • Assist in the design and construction of all Joint Venture restaurants. • Participate in the Company as a Member and share in oversight of the Company's operations. • Establish business performance goals and implement processes and procedures to address performance issues and/or any other concerns specific to the performance of the unit.

MDG287
CONFIDENTIAL

➢ **Aviation Strategies and Trade Solutions, Inc (Non-ACDBE)**	Member of the joint venture partnership with 5% Non-ACDBE ownership in the Joint Venture Agreement. • Assist in the design and construction of all Joint Venture restaurants. • Participate in the Company as a Member and share in oversight of the Company's operations. • Establish business performance goals and implement processes and procedures to address performance issues and/or any other concerns specific to the performance of the unit.
➢ **P and P Hospitality, LLC (ACDBE)**	Responsible for Tobacco Road front of house activities and more than $7,191,006 in annual gross sales/receipts that is commiserate with 25% ACDBE ownership in the Joint Venture Agreement. • Participate in the Joint Venture as an active member. • Responsible for hiring manager/s and staff with direct reporting and all authority. • Assist in the design and construction of all Joint Venture restaurants. • Responsible for management training, upholding restaurant standards and addressing customer service issues. • Establish business performance goals and implement processes and procedures to address performance issues and/or any other concerns specific to the performance of the unit. • Manage ordering, product selection, vendors, and compliance with airport operating guidelines and procedures (including health requirements). • Responsible for purchasing and inventory management. All inventory management of products for proposed restaurants. Responsibilities include executing in-store action plans for product promotions, develop product assortment of items, manage pricing, secure/purchase specific items, manage and monitor levels through operating systems, forecast sales and match the stock levels against sales to ensure products are replenished in a timely manner for the units, also preform regular inventory counts for products.

MDC288
CONFIDENTIAL

Florida UCP DBE Directory

Number of Vendors Returned: 1
Selection Criteria:
Vendor : P & P HOSPITALITY, LLC

Vendor Name: P & P HOSPITALITY, LLC
DBE Certification: CERTIFIED **MBE Certification:** **ACDBE Status:** Y **Statewide Availability:** Y
DBA: **Former Name:**
Business Description: FOOD SERVICE CONCESSIONS OPERATOR

Mailing Address: 2129 PIEDMONT STREET
ORLANDO FL Orlan

Contact Name: BELVIN PERRY **Phone:** (407) 292-0075 **Fax:**
Email: PJP125@EARTHLINK.NET **Web Site:**

Certified NAICS

722511	Full-Service Restaurants
722513	Limited-Service Restaurants
722515	Snack and Nonalcoholic Beverage Bars

MDC289 CONFIDENTIAL

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
EXPERIENCE SHEET

ACDBE NAME P and P Hospitality, LLC

ADDRESS 2129 Piedmont Street
Orlando, FL 32805

	NAME OF CLIENT COMPANY AND ADDRESS	DESCRIPTION OF SERVICES PROVIDED TO CLIENT	GROSS REVENUES	CALENDAR YEAR
(A)	Orlando Sanford International Airport 1200 Red Cleveland Blvd Sanford, FL 32773	P and P Hospitality, LLC is a JV partner in SSP America SFB, LLC with oversight of approximately 11 restaurants	$122,865.00	2024 (Qtr 1 and Qtr 2)
(B)	Orlando Sanford International Airport 1200 Red Cleveland Blvd Sanford, FL 32773	P and P Hospitality, LLC is a JV partner in SSP America SFB, LLC with oversight of approximately 11 restaurants	$261,063.00	2023
(C)	Orlando Sanford International Airport 1200 Red Cleveland Blvd Sanford, FL 32773	P and P Hospitality, LLC is a JV partner in SSP America SFB, LLC with oversight of approximately 11 restaurants	$218,434.00	2022

NOTES:
USE A SEPARATE SHEET FOR EACH ACDBE JOINT VENTURER OR PARTNER.
ADDITIONAL PAGES MAY BE ATTACHED AS NECESSARY.

CERTIFICATE OF UNAVAILABILITY

I, _____, _____
Title

of_____ certify that on _____
Date

I contacted the_____to obtain a Bid/Proposal.
Airport Concession Disadvantaged Business Enterprise

Description of Services:

_____

_____

_____

_____

_____
Signature

_____
Print Name

_____
Title

I, _____, was offered the above opportunity to Bid/propose.
ACDBE Firm

I was unavailable to provide the services at the above specified time due to:

_____

_____

_____

_____ _____
Print Name **ACDBE Certificate No.**

_____ _____
Signature **Expires**

_____
Title

CONCESSION MONTHLY UTILIZATION REPORT

Reporting Period: Name of Prime Concessionaire: _____ YTD ACDBE Goal:
Required_____
From: _____ To:_____ Lease Number: _____ Actual _____

Name and Address	Date of Award	Terms of Agreement	Agreement Amount	Modification Amount
		Starting: _____ Expiration: _____ Options: _____		

Amount of Revenues this Period $ _____ ACDBE Revenues for this Period $ _____

Operational Expenses this Period $ _____ ACDBE Operational Expenses this Period $ _____

Total Revenues to Date $ _____ Total ACDBE Revenues to Date $ _____

Total Operational Expenses to Date $_____ Total ACDBE Operational Expenses to Date $ _____

MDC292

AIRPOR T CONCESSION DISADVANTAGED BUSINESS ENTERPRISES (ACDBE) OPPORTUNITIES

Name of ACDBE Firm	ACDBE Goal	Revenue This Period	Revenues to Date	Operational Expenses This Period	Operational Expenses to Date	Concession Opening Date	Actual Opening Date

I attest that the above information is accurate and complete.

_____ _____ _____ _____ (____)_____
Authorized Signature Print Name Title Date Telephone

Sworn before me: This_____ day of _____ 20___

Notary Public: _____

Additional page (s) may be used if needed.

Airport Concessions Disadvantaged Business Enterprise (ACDBE) Program at Miami International Airport
Per U.S. DOT/FAA Joint Venture Guidance

JV Monthly Activity Report: _____ JV Lease No. _____

Reporting Period:

Description of Functions **Lease No. with the County:** **Airport Store Description: Retail** **Joint Venture Participation % (Per Contract Document)** **Minimum Required On-site Hours/ Month:**	**40**	**40**	**Monthly Total Hours As Verified By Prime**
Commercially Useful Function is defined in terms of the following:			
Performing:			
Managing:			
Supervising:			
Decision Making Support			
Management Committee Meetings			
Other			
Name of ACDBE Store Manager and contact Tel: **e-mail:**			
Total Hours			

MDC293

Authorized Signature for JV Prime Concessionaire: _____ Date: _____

Print Name of JV Prime Concessionaire: _____ Title: _____

Authorized Signature for ACDBE JV Partner: _____ Date: _____

Print Name of ACDBE JV Partner: _____ Title: _____

Sworn before me:
This _____ day of _____ 20_____

Notary Public: _____

ACDBE Schedule 7
Page 14

2025 Airport Concession Disadvantaged Business Enterprise Joint Venture Guidance

November 25, 2024

ACDBE SCHEDULE 8

TABLE OF CONTENTS

PURPOSE 1

WHY IS JOINT VENTURE GUIDANCE NECESSARY? 1

TO WHOM DOES THIS GUIDANCE APPLY? 2

SECTION 1 DEFINITIONS 2

1.1 What is a joint venture? 2

1.2 What does an "association" of an ACDBE and one or more other firms mean? 2

1.3 What does "carry out a single, for-profit business enterprise" mean? 3

1.4 What does "the parties combine their property, capital, efforts, skills and knowledge" mean? 3

1.5 What does "distinct, clearly defined portion of the work" mean? 3

1.6 What does "shares in the capital contribution, control, management, risks, and profits" mean? 4

SECTION 2 REVIEW OF JOINT VENTURE AGREEMENT 4

2.1 When should the airport review the joint venture agreement? 4

2.2 What is the overall review process for the joint venture agreement? 4

2.3 What specific information should the joint venture agreement include? 5

2.4 Should the airport review the joint venture agreement to determine the ACDBE's participation in specific areas? 6

2.5 May a joint venture have more than one contract at an airport? 7

SECTION 3 ACDBE CERTIFICATION REQUIREMENTS 7

3.1 Can a joint venture be certified as an ACDBE? 7

3.2 Should the ACDBE participant be certified in the specific type of work? 7

3.3 Should the ACDBE be automatically terminated if the ACDBE is decertified? 8

3.4 Can the ACDBE participation continue to count after the ACDBE is decertified? 8

SECTION 4 REVIEW OF SPECIFIC ELEMENTS OF THE JOINT VENTURE AGREEMENT 9

4.1 Should the airport review "control"? 9

4.2 Should the airport review the management of the joint venture? 9

4.3 Should the airport review risks of the joint venture? 10

4.4 Should the airport review the profit and losses of the joint venture? 10

4.5 Should the airport review capital contributions? 10

4.6 Can the non-ACDBE partner provide technical assistance to the ACDBE joint venture partner in securing financing? 10

4.7 Can a non-ACDBE joint venture participant loan capital to the ACDBE joint venture participant? 11
4.8 Can a non-ACDBE joint venture participant loan capital to the joint venture? 12
4.9 How should profits and losses be calculated and divided? 12
4.10 Are service, management, and/or fees of a similar nature acceptable? 12
4.11 Can the ACDBE or joint venture purchase inventory, supplies, goods and services, etc., from the non-ACDBE joint venture participant? 13
4.12 Should the assets of a joint venture be liquidated, and any proceeds distributed upon dissolution? 13
4.13 Can a joint venture withhold reserves from cash available for distribution? 14
SECTION 5 DEFINE COUNTABLE ACDBE PARTICIPATION 14
5.1 How is ACDBE participation in a joint venture counted towards ACDBE goals? 14
5.2 How can the value of the ACDBE role be determined? 15
5.3 What does the ACDBE "performs with its own forces" mean? 15
5.4 How does the airport determine if the ACDBE "performs with its own forces" when employees are hired by the joint venture? 16
5.5 What if the level of work performed by the ACDBE changes the participation? 16
SECTION 6 ACDBE MONITORING REQUIREMENTS 17
6.1 Should the airport monitor ACDBE joint venture? 17
6.2 Are annual updates required for joint venture agreements? 18
6.3 Is the airport required to monitor compliance requirements of joint ventures? 18
6.4 What enforcement mechanisms apply in the event of noncompliance or misconduct? 18
ATTACHMENT 1 - Joint Venture Review Process (Flowchart) 19

PURPOSE

This guidance provides Airport Concession Disadvantaged Business Enterprise (ACDBE) program staff, ACDBEs, concessionaires, and various stakeholders with information and tools regarding the structure, review, implementation, monitoring, and counting of joint venture arrangements in the ACDBE Program. The Federal Aviation Administration (FAA) is responsible for overseeing airport compliance with the ACDBE program found in Title 49 Code of Federal Regulations (CFR) Part 23. We offer training, technical support, and provide guidance to airports, ACDBEs, concessionaires, and various stakeholders to effectively participate in or administer the ACDBE program.

We sought public input on the challenges of interpreting the recommendations of the 2008 FAA ACDBE Joint Venture Guidance from airports, concessionaires, trade associations, ACDBEs, and consultants. Whenever possible, FAA considered the representations made by stakeholders regarding industry practices on joint venture arrangements. However, it should be noted that accommodation for certain practices was not possible where the practice conflicted with requirements of the regulation and/or objectives of the program. Some business, accounting, and tax practices that may be completely legitimate in the business world between two or more firms may not be appropriate under the Department of Transportation's (Department) ACDBE regulation, 49 CFR Part 23

This guidance does not create new legal mandates independent of the Department's statutory and regulatory authorities but is intended to inform interested parties and the public of the way in which the Department understands and will implement those authorities. Regulated parties may consult FAA with respect to alternative means of compliance with ACDBE joint venture requirements. This guidance supersedes the 2008 "Airport Concessions Disadvantaged Business Enterprise Joint Venture Guidance".

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR Part 23.

WHY IS JOINT VENTURE GUIDANCE NECESSARY?

Airports are required to review joint venture agreements (49 CFR 23.29) and count ACDBE participation in the venture equal to the distinct, clearly defined portion of the work of the concession that the ACDBE performs with its own forces. This guidance is designed to assist in the effective structuring, monitoring, and counting of ACDBE joint ventures and joint venture participation by ACDBEs in the concessions activities of airports receiving Federal financial assistance from the Airport Improvement Program of the FAA.

TO WHOM DOES THIS GUIDANCE APPLY?

The Department's ACDBE program is mandated by 49 U.S.C. 47107(e) and implemented by airports that receive funds subject to 49 CFR Part 26. The ACDBE rule, 49 CFR Part 23, requires primary airports who must implement an ACDBE program to establish aspirational goals for the participation of ACDBEs. These airports are required to establish triennial ACDBE goals and review concession opportunities to establish concession-specific ACDBE goals. Airports should review this guidance to determine how to credit the participation of ACDBE joint venture participants toward an ACDBE goal.

SECTION 1: DEFINITIONS

1.1 What is a joint venture?

For purposes of the ACDBE program, a joint venture is defined as an "association of an ACDBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the ACDBE is responsible for a distinct, clearly defined portion of the work of the contract and whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest." (§ 23.3)

In accordance with the objectives of ACDBE regulations, joint ventures are intended to have a business structure set forth in a signed written agreement that clearly and specifically defines the contribution of property, capital, efforts, skills and knowledge by each party and their participation in the overall operation of the concession. Any business structure that meets the part 23 definition of "joint venture" will be considered a joint venture for purposes of counting ACDBE participation, regardless of the name attributed to the business structure in the written agreement.

1.2 What does an "association" of an ACDBE and one or more other firms mean?

An association is an organization of an ACDBE firm and one or more other firms with a legal structure that meets federal and state legal requirements used to form a joint venture provided that, for purposes of counting ACDBE participation, the requirements of 49 CFR Part 23 are met. Note that the association may consist entirely of ACDBEs or of an ACDBE and a former ACDBE (e.g., those which have exceeded the personal net worth (PNW) and/or size standards).

1.3 What does "carry out a single, for-profit business enterprise" mean?

A joint venture carries out a single for-profit business when the single business entity is created to operate at a specific airport. It may not operate at multiple airports under the same joint venture entity created for the operations at that specific airport. The participants in the joint venture should be required to disclose any other business relationships currently in existence between or among the parties (e.g., joint ventures at other airports).

1.4 What does "the parties combine their property, capital, efforts, skills and knowledge" mean?

Each party in a joint venture should bring real and substantial value to the joint venture enterprise. Each party is also expected to contribute both tangible and intangible assets commensurate with their ownership interest. If property is contributed, the joint venture agreement should itemize the equipment and resources to be furnished by each party, its value, and how the property was valued. If this is not yet known, the agreement should describe generally the anticipated major equipment and other resources and their value to be furnished by each party to the joint venture. The skill set (a combination of knowledge, experience, core competencies, unique talent, etc.) provided by each party should add value to the joint venture relationship that is objectively apparent. In addition, each joint venture should be an active participant and contribute to the success of the joint venture. Each of these elements of property, capital, efforts, skills, and knowledge should be specifically addressed in the joint venture agreement and verified by the airport during the initial review and periodically thereafter.

1.5 What does "distinct, clearly defined portion of the work" mean?

For the purpose of this guidance, "distinct" means separate and distinguishable from the work, (e.g., source of labor, responsibilities, and performance) of the other participants. "Clearly defined" means that there is no guesswork involved in determining the nature of the work assigned to each ACDBE firm. To be considered a distinct, clearly defined portion of the work, it is necessary to fully understand exactly what the work will entail, including an estimate of the time and resource requirements for each major task. For example, if the ACDBE's portion of the work is only described as "advise about" or "participate in" a portion of the work, the work would likely not be considered distinct or clearly defined because it is not clear what work the ACDBE firm will accomplish. Much more detail is necessary to determine the portion of the work to be attributed to the ACDBE firm. Undoubtedly, the work of the contract also includes the role of the ACDBE in the overall management of the business (e.g., as a participant on a management committee or some other governing board) as well as participation in the day-to-day management of the business.

1.6 What does "shares in the capital contribution, control, management, risks, and profits" mean?

The ACDBE's participation in capital contribution, control, management, risks, and profits must be proportionate to the claimed ownership and role in the overall operation of the concession work performed. See section 3 of this guidance for further discussion on each area.

SECTION 2: REVIEW OF JOINT VENTURE AGREEMENT

2.1 When should the airport review the joint venture agreement?

As a recommended practice, a draft of the joint venture agreement should be submitted to and reviewed by the airport for approval prior to its execution and prior to contract award. The airport should review all joint venture agreements, including those where joint venture participants consist of only ACDBEs, and supporting documents submitted by a joint venture entity to determine whether, in fact, the agreement meets all the requirements of the regulation (49 CFR Parts 23 and 26) and what portion(s), is eligible to be counted towards ACDBE participation.

Based on the review, the airport will assign a value to the ACDBE participation which may be counted towards the ACDBE goal provided that the joint venture operates in accordance with the submitted agreement. (See Attachment 1 – Joint Venture Review Process (Flowchart) describing the recommended process for the review.) The airport should provide a written letter to the joint venture applicant outlining any areas of concern no later than fifteen (15) days from concessions contract offer/selection and allow a minimum of fifteen (15) days for a response and to make reasonable adjustments where applicable. In accordance with 49 CFR § 23.29, airports must implement appropriate mechanisms to ensure compliance with the requirements of this part by all participants in the program.

Pursuant to 49 CFR § 26.109, which is applicable to part 23 through 49 CFR § 23.11, all participants in the ACDBE program, including, but not limited to, ACDBE firms and applicants for ACDBE certification, are required to cooperate fully and promptly with airport's requests for information.

2.2 What is the overall review process for the joint venture agreement?

The review of joint venture agreements with ACDBE participation is comprised of: (1) confirming that the ACDBE participant is a certified ACDBE in the applicable NAICS code trade; (2) making a determination that the agreement meets the definition of a joint venture under the regulation; and (3) determining the appropriate credit based on the "distinct, clearly defined portion of the work performed by the ACDBE." Once the airport has reviewed the joint venture agreement to ensure that it meets the

regulatory definition of a joint venture (i.e., in terms of the various areas being commensurate with ownership interest) the airport should proceed to a review of the distinct, clearly defined portion of the work assigned to the ACDBE in order to determine how to count ACDBE participation towards the ACDBE goal. (See Attachment 1)

2.3 What specific information should the joint venture agreement include?

The agreement should include information specific to the structure and operation of the joint venture. Some of the important components to include in the written agreement are:

- **Identification of the participants in the joint venture.** The joint venture participants must be firms, including sole proprietorships, not individuals.
- **Identification of the single, for-profit business enterprise to be undertaken by the joint venture.** The agreement should identify the business enterprise and specific contract(s) under which the joint venture will operate and the locations that will be operated.
- **Term of the joint venture agreement and factors effecting the term.** The agreement should identify the term of the joint venture including concession contract extensions or termination, sale of interest, etc.
- **Capital to be contributed by each party.** The agreement should include information about the initial contributions and methods to contribute capital to meet future needs. The airport should review the loan agreement and related financial documents to ensure that the arrangement does not limit the ACDBE's participation in the venture (e.g., by limiting risk, control, etc.). The agreement should specify the amount of capital to be contributed by each non-ACDBE joint venture participant and the method and timing of any such capital contribution. Capital contributions may include, for example, capital investment in facilities, inventory, security deposit, assets, working capital, and first month's rent.
- **Accounting methods.** The accounting methods should be identified in the agreement.
- **Profits and Losses.** Each of the participants must share in the profits and losses in proportion to their ownership interest and identified in the agreement.
- **Risks.** Each participant in the joint venture must share in the risks of the business in proportion to their ownership interest. The agreement should include provisions for proportional share of business risks.
- **Access to financial information.** The agreement should include language that obligates

the joint venture firm to provide reasonable access to ACDBE participants to all financial information of the joint venture, including, but not limited to, financing documents, contract receipts and expenditures, databases, payroll records, human resources projections, hiring plans, payables, tax returns (including K-1s), financial performance documents, profit & loss statements, balance sheets, and other information deemed appropriate by the airport relevant to the review of the joint venture agreement and/or operations.

- **Management of the joint venture's business.** The agreement should address how the ACDBE will participate in the overall management (e.g., participation on a management committee or management board) and day-to-day management responsibilities through the distinct clearly defined portion of the work.
- **Administrative matters.** The agreement should include joint venture office locations, recordkeeping requirements, identification of an auditor, fiscal year, addresses for notices, transfer of interests, etc.
- **Replacements or substitutions of ACDBEs.** The joint venture agreement should include process for replacement and substitutions of ACDBEs, which should be subject to the requirements of 49 CFR § 26.53. These requirements are applicable to 49 CFR § 23.25 regarding concession-specific goals.
- **Breach and sanctions**. The joint venture agreement should provide for breach and sanctions for any party failing to operate in accordance with the agreement. The sanctions should be similar to those imposed for other defaults under the concessions contract.
- **Dissolution/Termination.** The joint venture agreement should include events/conditions upon which the joint venture may be dissolved and terminated, and how assets will be distributed, including any reserves.

2.4 Should the airport review the joint venture agreement to determine the ACDBE's participation in specific areas?

Yes. The parties involved in the joint venture seeking to count ACDBE participation towards the ACDBE goal for the contract must demonstrate to the airport that the ACDBE capital contribution, control, management, risks, and profits are commensurate with its ownership interest. The airport is responsible for reviewing joint venture agreements to ensure that capital contribution, control, management, risks, profits, ownership, and work to be performed by the ACDBE are clearly addressed. The airport may

follow up with questions and request written explanations and require the joint venture to submit information, including a summary of the agreement and supporting documentation, for review.

2.5 May a joint venture have more than one contract at an airport?

Yes. While a joint venture must be a single, for-profit business enterprise, it may have more than one contract with a given airport or more than one business location at the airport but may not operate at multiple airports. It is the joint venture as an entity, and not the individual participants in the joint venture, that have the contractual relationship(s) with the airport or as sub-concession with the Prime Concessionaire.

However, joint venture operations that frequently or always use the same ACDBE should be closely monitored as such arrangements have been previously identified as a Selected "Red Flag" Indicator of DBE Fraud by the Department of Transportation Office of Inspector General (OIG).

SECTION 3: ACDBE CERTIFICATION REQUIREMENTS

3.1 Can a joint venture be certified as an ACDBE?

No. By definition, a joint venture is an association of an ACDBE and another firm to carry out a single business enterprise (§ 23.3). Even if a joint venture is more than 51%owned by an ACDBE firm, it cannot be certified as an ACDBE because it is owned by other firms and not directly owned by disadvantaged individuals. In order to count towards ACDBE participation, one or more of the joint venture participants must be a certified ACDBE.

3.2 Must the ACDBE participant be certified in the specific type of work?

Yes. ACDBE firms must be certified (capable of performing) in the type of work to be undertaken by the joint venture (e.g., an ACDBE participant in a retail joint venture must be a certified as an ACDBE retail operator) and in the state where the joint venture will operate. Since an ACDBE firm is required to share in the management and control of the operation, the ACDBE must possess the requisite experience and expertise. In addition, the ACDBE should be involved in the broader areas of the operation which would enable them to gain operating experience for the purpose of competing independently for operations in the future. The implementation of joint ventures which promote participation in the provision of services not related to the overall management of the operation does not support the objectives of the ACDBE program. (See 49 CFR § 23.1(a), 49 CFR § 23.31(a), and 49 CFR § 26.73).

An overarching objective of the DBE and ACDBE programs is to ensure that only firms that fully meet the eligibility standards are permitted to participate in the program (see 49 CFR § 23.1 and 49 CFR §

26.1). Airports should be diligent when reviewing joint venture agreements to ensure that the ACDBE's participation in the joint venture does not result in the sacrifice of independence or loss of control of the ACDBE. If the ACDBE loses its independence or control over its business because of the joint venture arrangement, the ACDBE's certification eligibility is compromised. Any suspected loss of control or independence should be referred to the Uniform Certification Program (UCP) certifying agency immediately, which shall institute decertification proceedings, if appropriate, consistent with § 26.87.

3.3 Should the ACDBE be automatically terminated if the ACDBE is decertified?

No. The joint venture agreement should not include provisions that terminate or replace an ACDBE participant for losing its certification eligibility, provided that their participation still counts towards ACDBE goals. An ACDBE decertified solely because one or more of its disadvantaged owners exceed the personal net worth (PNW) cap or the firm exceeds the business size standards may continue to be counted toward ACDBE goals for the remainder of the term of the concession's agreement, excluding term extensions, renewals, or options, and should not be automatically terminated or replaced. (See 49 CFR § 23.55(j)) However, if the ACDBE is decertified for reasons such as change in control, sale of the majority interest in the company or fraud, and its participation is ineligible for continued counting, it is reasonable to allow a provision for transfer of interest or the buyout of the ACDBE participant. It is also reasonable to allow a provision for the transfer of interest or buyout of a decertified firm whose participation is eligible for continued ACDBE credit but later becomes ineligible for continued ACDBE credit due to changes in control or ownership. Any joint venture provision regarding termination or substitution, whether the ACDBE is certified or decertified, must not conflict with the good faith efforts procedures set forth in § 26.53(f).

3.4 Can the ACDBE participation continue to count after the ACDBE is decertified?

Consistent with 49 CFR § 23.55, when an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards during the performance of an agreement, the participation of the ACDBE may continue to be counted toward ACDBE goals for the remainder of the term of the concession agreement. The airport must not count the participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised). However, if the ACDBE is decertified for any other reason, the participation of the firm cannot be counted towards the ACDBE goal after the firm is decertified.

SECTION 4: REVIEW OF SPECIFIC ELEMENTS OF THE JOINT VENTURE AGREEMENT

4.1 Should the airport review "control"?

Yes. The ACDBE participant(s) in the joint venture should have control in proportion to their ownership interest and proportionate control of the governance of the joint venture. Each joint venture participant should assume full responsibility for executing each element of the work assigned to it. Usually, a joint venture will have a management committee (referred to by various names, including "Executive Committee" or "Board") that controls the overall business. The ACDBE participant(s) is usually a minority participant, owning less than 50% of the business. In this case, the ACDBE(s) can be out-voted on most of the business decisions made by the committee. Therefore, for the most part, the joint venture is controlled by the party owning 51% or more of the business, usually not the ACDBE. However, the agreement should provide for control by the ACDBE of the activities for which it is responsible. This can be accomplished through direct control of their assigned role or establishment of a separate management committee or subcommittee in which the ACDBE has majority vote for issues involving facilities or responsibilities which it controls. In addition, there should be some major decisions requiring a unanimous vote to substantiate some level of control attributable to the ACDBE (e.g., items related to expansion, borrowing, lending money, etc.).

4.2 Should the airport review the management of the joint venture?

Yes. The ACDBE participant must share in the management of the joint venture. The joint venture agreement should address the issue of the overall management, or governance, of the business of the joint venture and the day-to-day management of the joint venture's operation. The ACDBE participant should participate in the overall management, decision making, and day-to-day operations, including decisions on the hiring and firing of management personnel (and if appropriate non- management personnel) for the joint venture to be eligible for ACDBE credit. This can be accomplished through a "Management Committee," as described under "control," in section 4.1, though this is not the only acceptable mechanism. Under a management committee structure, the committee is responsible for managing and directing the business of the joint venture. Each participant is represented on the management committee and votes according to its ownership interest in the venture. Each participant on the management committee not only has a right, but an obligation to receive and consider the views of the ACDBE participant. The joint venture agreement should not contain quorum provisions that block the ACDBE participant from calling a management committee meeting to vote and from conducting business for the activities which they are responsible. The agreement should specify the frequency of the management

committee meetings, and formal agendas and meeting minutes should be prepared. In addition, the agreement should provide for the day-to-day management of the joint venture and specify the roles and responsibilities of each participant.

4.3 Should the airport review risks of the joint venture?

Yes. Each of the participants in the joint venture must share in the risks of the business in proportion to their ownership interest. These risks include financial, legal, operational, etc. The agreement should include provisions for proportional sharing of business risks. Airports should review the joint venture agreement and any accompanying documents to ensure that the ACDBE participant's risk of loss is unconditional and proportional to its share of ownership in the joint venture.

4.4 Should the airport review the profit and losses of the joint venture?

Yes. Each of the participants must also share in the profits and losses in proportion to the ownership interest and work performed. Accounting methods and the timing of distributions should be included in the agreement and reviewed for reasonableness by the airport. A monthly distribution of actual profits or monthly payment of a management fee, as defined in the agreement and consistent with industry standards, is permissible. However, there should be no provisions in the agreement which have the effect of creating separate profit centers to siphon off profits before each participant's share is calculated. For example, requirements to purchase goods and/or services from one of the participants that results in controlling profits remaining for distribution to the joint venture participants are not acceptable. Purchasing goods from one of the participants may be acceptable if the terms are clearly identified and the cost of the goods reflects the actual cost of the product plus any processing/handling costs and reasonable overhead expenses.

4.5 Should the airport review capital contributions?

Yes. The capital to be contributed by each party should be clearly specified in the joint venture agreement. The agreement should specify the initial capital contributions to be made by each party and how future capital contributions will be allocated. The ACDBE's portion of the initial and future capital contributions should be equal to its ownership percentage.

4.6 Can the non-ACDBE participant provide technical assistance to the ACDBE joint venture participant in securing financing?

Yes. To assist the ACDBE with independent third-party sourcing for capital, the non-ACDBE joint venture participant may provide and is encouraged to provide support to the ACDBE participant with

technical assistance in preparing financial reports and presentations to independent financial institutions for the purpose of obtaining financing.

4.7 Can a non-ACDBE joint venture participant loan capital to the ACDBE joint venture participant?

Yes. The non-ACDBE joint venture participant may provide financing to the ACDBE participant upon the following conditions:

- The terms and conditions of such a loan should be comparable to prevailing market conditions offered by commercial lenders for similar type projects (e.g., in terms of such factors as duration, rate, fees, etc.).
- The loan should be evidenced by a promissory note or loan agreement clearly stating the terms and conditions of the loan, including due date and payment method, interest rate, prepayment, defaults, and collateral.
- The loan should not have the effect of reducing or eliminating the business risk to the ACDBE participant. In general, loans should be consistent with debt-financed requirements in 26.70.
- The loan should be a full recourse loan. The loan should be secured with collateral outside of the ownership interest or be personally guaranteed by the ACDBE.
- The loan should not be for 100% of the capital requirement as further explained under subsection 3.8. The ACDBE should invest capital from its own resources or through a third-party arms-length loan at current market conditions. At least 15% of the capital required (including all capital contributions made to the joint venture, e.g., start-up capital, pre-opening expenses, facility construction, operating capital, reinvestment, etc.) should be provided by the ACDBE from its own resources or through a third-party as previously referenced. This is consistent with the percentage of debt-financed investment required in 26.70.
- The terms of the loan should not be longer than the term of the contract under which the joint venture operates (excluding options or extensions).
- There must not be provisions in the loan agreement which have the effect of limiting the ACDBE's ability to control its business or independently perform its designated role in the joint venture's business. This does not preclude a lender from including provisions in a loan agreement designed to preserve property that may have been pledged as collateral.

4.8 Can a non-ACDBE joint venture participant loan capital to the joint venture?

Yes. The non-ACDBE joint venture participant can loan capital to the joint venture. The loan(s) should be reviewed under the same requirements of section 4.7 and the ACDBE must be responsible for guaranteeing repayment of its portion of the loan.

4.9 How should profits and losses be calculated and divided?

The profit or loss of the joint venture should be distributed between the participants in proportion to their work performed in the joint venture. Any funds or other forms of payment (including draws) that are taken from the joint venture assets, profits, distributions, etc., should be documented and accounted for by the airport to determine the amount of benefit each participant has received from the joint venture entity during the year. The joint venture agreement should also specify the timing of distributions. Since distribution provisions directly impact the value and economics of a joint venture participant's interest, any distributions should be made no less frequent than quarterly, or in a manner consistent with industry practices.

The Department does not view as consistent with the regulatory definition of joint venture—which provides for commensurate sharing of risks and profits—any provision in an agreement that calls for a party: (1) to be entitled to a distribution of money regardless of the profitability of the joint venture, or (2) to have a debt that is a portion of a joint venture participant's risk in the joint venture forgiven by another party.

4.10 Are service, management, and/or fees of a similar nature acceptable?

Yes, subject to some restrictions. The joint venture agreement should identify, if applicable, "management fees," "royalty fees," or "service/administrative fees," or fees of similar nature, to be paid to the various participants, dependent upon a participant's contribution to the "indirect" management of the operation (i.e., corporate overhead or corporate support services) of that joint venture. The fees charged should be reasonable and not used as a method of draining profits of the joint venture to the benefit of a particular participant. Any fees that are used in place of a "draw" arrangement are not allowed. In addition, these fees should represent a recovery of costs and not profit to the provider of the service and should be cost specific to that joint venture operation. For example, royalty fees or fees other than franchise fees charged by a participant to the joint venture or other participant(s) in exchange for use of their intellectual property is presumed to be a draw arrangement or not represent a recovery of cost. The agreement should specifically address how the costs for such services are derived, the ability of the ACDBE to participate in the selection of the service provider, and a vehicle for monitoring and/or auditing such costs.

4.11 Can the ACDBE or joint venture purchase inventory, supplies, goods and services, etc., from the non-ACDBE joint venture participant?

Yes. However, the agreement should not mandate that the ACDBE participant or joint venture purchase inventory, supplies, or services from the non-ACDBE joint venture participant. Such a mandate limits the ACDBE participant's ultimate decision-making authority and otherwise, restricts their control over the distinct, clearly defined portion of the work for which they are responsible.

The ACDBE should always have the option of obtaining goods and services on an arms-length, market price basis from any source. The joint venture agreement may allow such purchases from a non-ACDBE participant. This may be advantageous when, for example, the non-ACDBE joint venture participant can obtain the goods or services at a lower rate/price than the ACDBE participant. In such case, the goods and services may not be marked up above the direct landed cost. The ACDBE participant or joint venture should have the option to purchase products and services from an unrelated third party on a market price/arms-length basis. In the case of a franchise, the joint venture or ACDBE participant should have the same option providing it does not conflict with the franchise agreement requirements.

4.12 Should the assets of a joint venture be liquidated, and any proceeds distributed, upon dissolution?

Yes. A joint venture, by definition, is a single for-profit enterprise so when the single purpose of the business is concluded, such serves as a triggering event causing the wind up of the joint venture. Assets contributed or accumulated by the joint venture become the property of the joint venture. When a joint venture winds up, the joint venture agreement or a separate agreement should provide for the disposition or liquidation of its assets and fair and equitable final distributions. The joint venture's assets are generally first used to pay off debts/obligations to third parties and then to pay debts/obligations to the joint venture participants. Regarding any remaining assets, the agreement should provide for distribution commensurate with the ownership of the joint venturer participants. The distribution should be finalized and completed within a reasonable period following the triggering event that caused the wind up of the business—generally, within six months, or consistent with industry practice. A reserve may be kept if any specific outstanding potential obligations are identified.

Upon agreement by all parties, joint venture assets may be distributed in kind, including inventory and furniture, fixtures, and equipment, provided the parties can agree on the value. Failure to agree on the value of assets or if distributions in kind are objectionable to any party should result in liquidation of the asset and distribution of proceeds.

4.13 Can a joint venture withhold reserves from cash available for distribution?

Yes. A joint venture may establish reserves necessary for working capital needs and to cover contingent or unforeseen liabilities or obligations of the joint venture arising out of or in connection with the joint venture operation or its liquidation. However, the need to hold reserves during the term of the contract of the joint venture must not be arbitrary and the dollar amount of reserves held should be based on an established formula consistent with industry practice (e.g., two to three months of working capital) and on specific identified requirements, not at the sole discretion of the controlling party. Additional reserves withheld for a specific purpose over and above working capital needs should be tracked and accounted for separately.

SECTION 5: DEFINING COUNTABLE ACDBE PARTICIPATION

5.1 How is ACDBE participation in a joint venture counted towards ACDBE goals?

Airports should only count participation that is a result of a commercially useful function as defined by 26.55(c). This provision is made applicable to the ACDBE program by reference in 23.55(a). Therefore, a commercially useful function is performed when the assigned role of the ACDBE is distinct and clearly defined and the ACDBE is carrying out its role by actually operating and managing its assigned concession operations. If the role of the ACDBE firm is limited to minor functions or vague, the ACDBE may be deemed not to be performing a commercially useful function.

The description of the work should be clear and distinguishable from the work of the non-ACDBE and sufficiently stated to easily assign a value for the purpose of counting and monitoring. Joint ventures should be structured so that the ACDBE has specific roles in the operation of the business. If an operating role is assigned, credit can be counted at the level of gross receipts earned by the operations managed by the ACDBE. In the event the role assigned involves activities that occur on an ongoing basis and relates to a core function, crediting participation is straightforward. For example, if an operating role is assigned, credit can be counted at the level of gross receipts earned by the operations managed by the ACDBE. This is not to say that managerial or “back office” functions cannot be credited. However, if the role of the ACDBE occurs on an “as-needed” basis and is a minor function, it is very difficult to anticipate the level of the ACDBE participation, and therefore may be difficult to count and monitor. In order to make a determination of the value of work, the airport should understand the tasks involved in managing and operating the business as well as the level of difficulty and relative importance of each task. If the role of the ACDBE participant can’t be quantified or qualified, it can’t be counted.

Count only ACDBE certified firms in the NAICS code applicable to the type of concession agreement performed by the joint venture. Before the airport considers the ACDBE credit to be given, the airport will have a good idea of the credit that is desired, since it should be commensurate with ownership percentage. For example, if the ACDBE ownership in a joint venture is stated as 25%, it is likely that the joint venture participants are seeking to count the ACDBE participation at 25%. The airport should look at the roles and responsibilities of the ACDBE and determine if the claimed ownership appears reasonably proportionate to the "distinct, clearly defined portion of the work performed by the ACDBE (see 49 CFR § 23.55(d)). Some slight variations may occur because the quantitative measurement of roles may be somewhat subjective. The key factor is the reasonableness of the claimed participation after reviewing all elements of the joint venture.

5.2 How can the value of the ACDBE role be determined?

The airport may examine the typical business practice of each of the firms participating in the joint venture to determine if their assigned roles match the joint venture agreement. One approach is to examine the skills and experience that each firm brings to the joint venture. Since each business operation is unique and often complex, the value of specific tasks may vary from operation to operation. The role of each participant should be evaluated in the light of the specific business opportunity being performed. Ultimately, it is the joint venture participants who should provide information demonstrating that the roles of each party justify the claimed ACDBE participation credit.

5.3 What does the ACDBE "performs with its own forces" mean?

For purposes of counting ACDBE joint venture participation, the Department views work performed by employees of the joint venture entity or a non-ACDBE participant in the joint venture as performed by the ACDBE's "own forces" only if the ACDBE has the power to control those employees with respect to the performance of the ACDBE's role. If persons employed directly by the ACDBE perform the tasks associated with its participation in the joint venture, then the ACDBE is clearly performing that work with its own forces. Ideally, the "distinct clearly defined" portion of the work performed by the ACDBE participant in a joint venture would be performed by the ACDBE's own employees. This provides a clearer view of the management and control over the element of work attributed to the ACDBE. However, in some circumstances it may be advantageous for the joint venture or the non-ACDBE to employ the staff to provide comparable compensation and benefits to all employees.

5.4 How does the airport determine if the ACDBE "performs with its own forces" when employees are hired by the joint venture?

When employees are employees of the joint venture or the non-ACDBE, the ACDBE portion of the work can be considered as being performed "with its own forces" if the ACDBE has the power to control staff regarding the performance of the work for which the ACDBE is responsible, analogous to the utilization of contract employees.

There should be a higher burden of proof that the ACDBE controls the employees performing its designated portion of the work in instances when the employees are employees of the joint venture and an even higher burden of proof when the employees are employees of the non-ACDBE. Conversely, simply having the employees on the payroll of the ACDBE firm does not remove the burden of proving that the ACDBE controls those employees. There should exist a reporting relationship between the staff responsible for the ACDBE portion of the work and the ACDBE. The ACDBE should have the power to hire and terminate staff responsible for performing its share of the work without the approval of the non-ACDBE participant.

One factor to be considered in evaluating the amount of participation to be counted is the evaluation of resources necessary to perform the ACDBE's assigned role. For example, if the joint venture employs five managers, two administrative/support staff members, and 100 hourly employees, and the ACDBE has no employees reporting to it in the performance of its assigned role, then it would be very difficult to show that the role is a substantial one. Therefore, little, if any, credit might be counted towards ACDBE participation.

5.5 What if the level of work performed by the ACDBE changes the participation?

If it is determined that the ACDBE has performed less work than its role as defined in the approved joint venture agreement each year, participation may be counted less than originally approved for that year. If the reduced level of participation is planned to continue, the airport should request that the joint venture participants amend their agreement to reflect the new level of participation.

If it is determined that the ACDBE participated more than expected, participation may only be counted at the originally approved level, not higher since participation must be counted commensurate with ownership interest. If the increased level of participation is planned to continue, the airport should request that the joint venture participants amend their agreement to reflect the new, ongoing level of participation,

although the counting of participation continues to be limited to the ownership percentage as expressed in the joint venture agreement until the agreement is amended.

SECTION 6: ACDBE MONITORING REQUIREMENTS

6.1 Should the airport monitor ACDBE joint venture?

Yes. Pursuant to 49 CFR § 23.29, airports must monitor the work performed by ACDBEs and must review the records of contracts, leases, joint venture agreements, and other concession-related agreements to ensure that the ACDBE participant is performing a commercially useful function. In the event that the ACDBE is found to have relinquished an element of control in its business as a result of the joint venture, the airport should immediately refer the matter to the UCP certifying agency for review in accordance with § 26.87.

The airport should develop a formal monitoring program that includes, at a minimum, the following elements:

- Periodic (not less than annual) verification of the status of the ACDBE's certification
- Periodic review of the managing entity's meeting minutes and reports
- Review of ACDBE participation on management committee and certain business decisions requiring unanimous consent
- Periodic on-site visits to the concession location(s)
- Periodic interviews with the joint venture participants, managers, and employees
- Review of any relevant documentation, including financial reports and agreements, necessary to ensure compliance with the joint venture agreement (e.g., profit and loss statements, distribution statements, balance sheets, tax returns, capital accounts, etc.)
- Review of share of profits/distributions to ensure that they are proportionate to ownership interest
- Review share of risk and capital accounts, including source of funds, to ensure that they are proportionate to ownership interest
- Review of management fees paid to ACDBEs and non-ACDBE participants, as compared to the cost of providing the service
- Review operations and any changes to assigned roles and responsibilities
- Written certification that the airport reviewed all related joint venture contract records and monitored the concession location(s)

The joint venture should operate in accordance with a written agreement approved by the airport, and monitoring is crucial to preventing ACDBE fraud (e.g., silent ACDBE participants) and ensuring the

integrity of the ACDBE program. Any evidence related to fraud in the ACDBE program should be referred to the Department of Transportation OIG. See https://www.oig.dot.gov/hotline.

6.2 Are annual updates required for joint venture agreements?

No. Annual updates are not required for joint venture agreements. However, any changes to the approved joint venture agreement should be submitted to the airport for review prior to implementation. In such cases, the airport should review and respond to the proposed changes within 30 days.

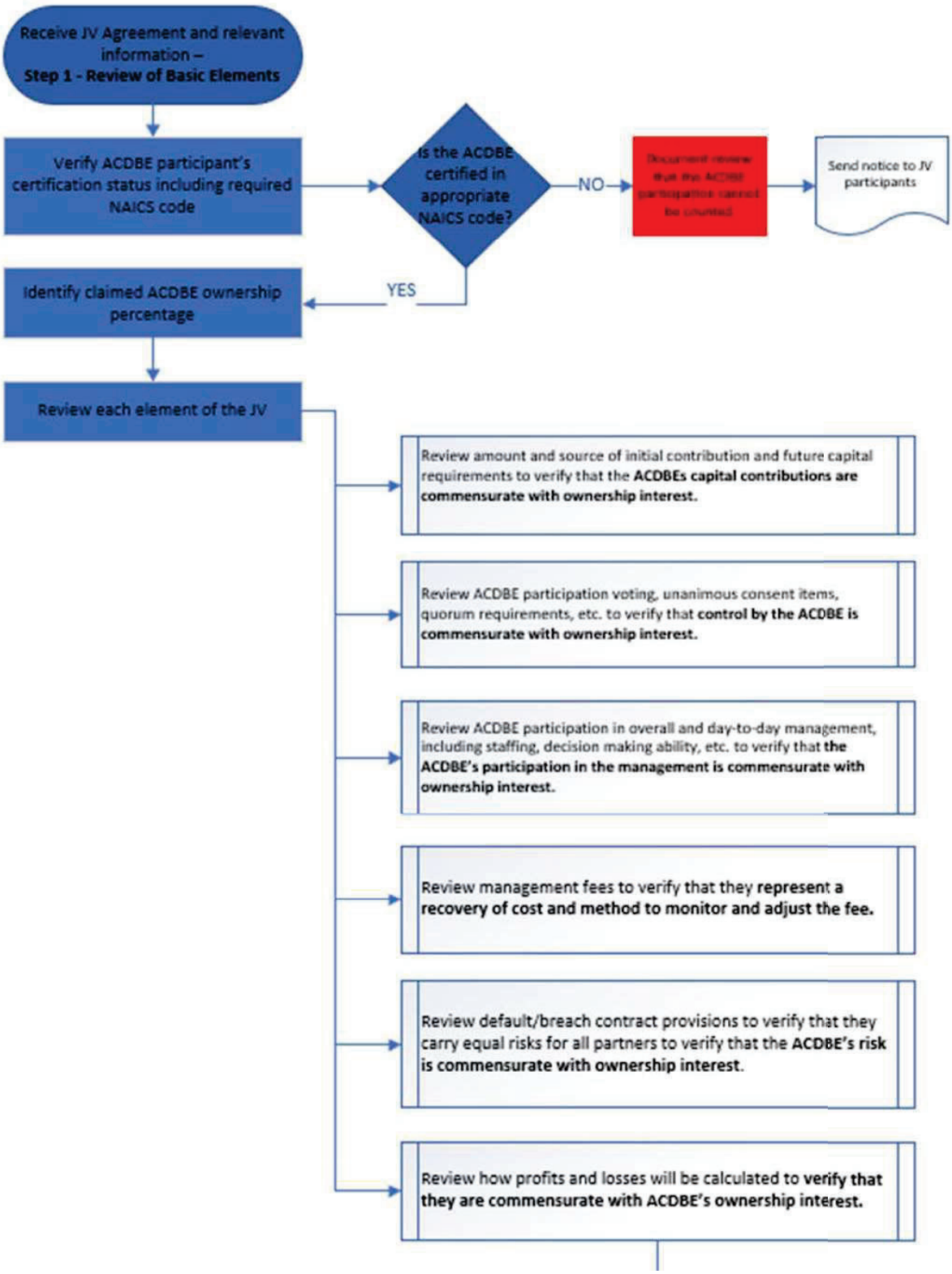
6.3 Is the airport required to monitor compliance requirements of joint ventures?

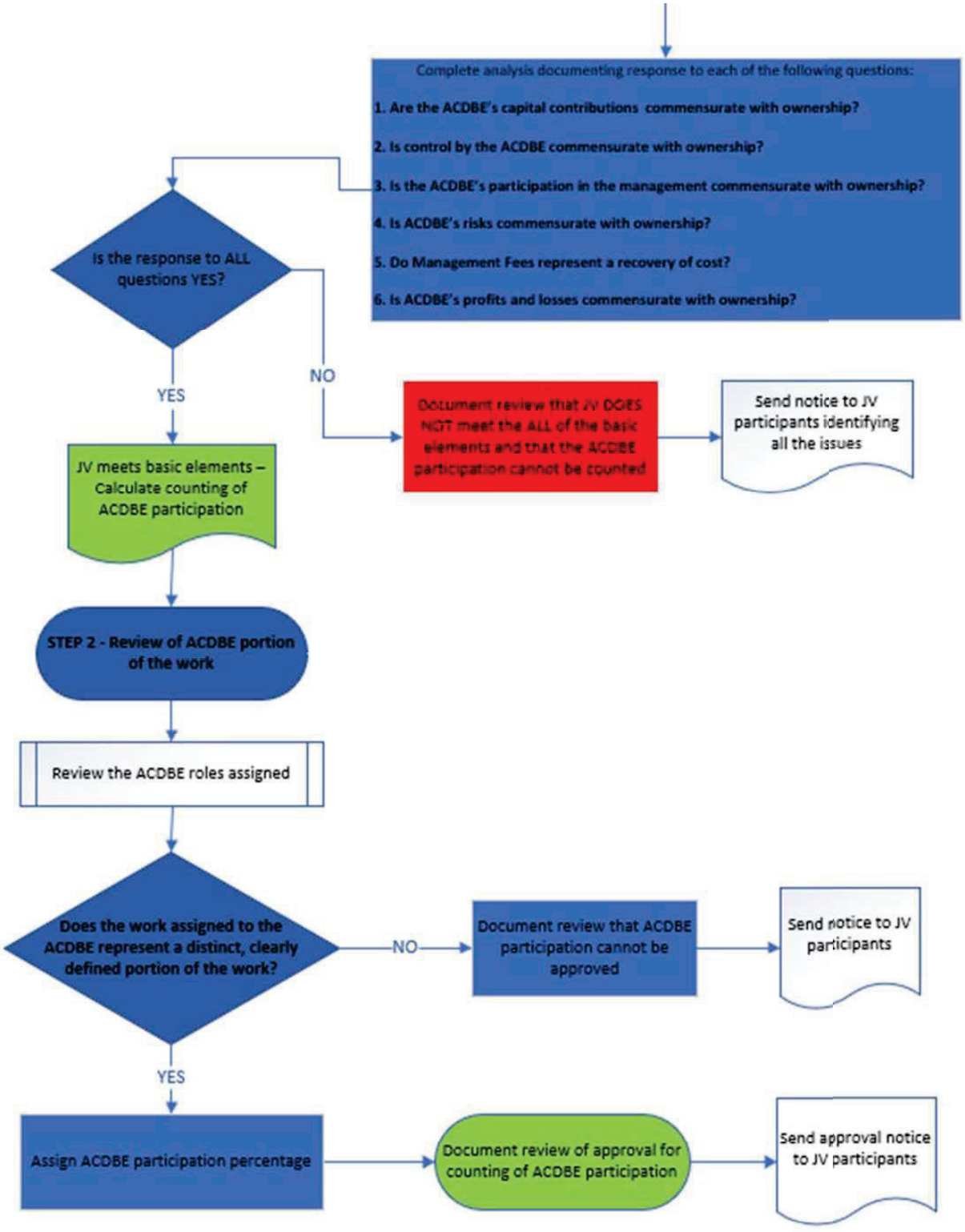
Yes. Airports must implement appropriate mechanisms to ensure compliance with the requirements of 49 CFR Part 23, including the monitoring of joint venture concessions (49 CFR § 23.29). Consistent with 49 CFR § 23.13, FAA written interpretations and guidance on the monitoring of joint ventures are valid as they express the official positions and view of the Department.

6.4 What enforcement mechanisms apply in the event of noncompliance or misconduct?

The same compliance and enforcement and compliance mechanisms apply under Part 23 as under Part 26 (49 CFR § 23.11). Under 49 CFR § 26.105, airports are subject to sanctions under FAA statutes and regulations if they fail to comply with DBE regulations. Under 49 CFR § 26.107, businesses working in the DBE or ACDBE program who engage in misconduct may be subject to suspension or debarment, enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, or criminal prosecution. The Department of Transportation OIG makes investigating and prosecuting DBE fraud a priority. The OIG, working with U.S. Attorneys' Offices, has helped to create successful criminal prosecutions for fraudulent conduct in the DBE and ACDBE programs. Anyone who becomes aware of fraud, waste, or abuse in these programs should inform OIG as well as FAA officials immediately, see https://www.oig.dot.gov/hotline.

ATTACHMENT 1 - Joint Venture Review Process (Flowchart)





NOTE: In the case where notice was sent to participants for not meeting specific requirements, the review process should revert to the appropriate stage of process if the participant provides clarification demonstrating issues have been resolved.

EVN0000341 Agreement 2-27-26

Final Audit Report 2026-03-04

Created:	2026-03-03
By:	Dottie Kennedy (dottie.kennedy@foodtravelexperts.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgMNRB8MZb2dzxehSKtdjEAmp-7CFipIa

"EVN0000341 Agreement 2-27-26" History

Document created by Dottie Kennedy (dottie.kennedy@foodtravelexperts.com)
2026-03-03 - 9:28:59 PM GMT- IP address: 152.193.120.14

Document emailed to anasotorrio@hotmail.com for signature
2026-03-03 - 9:37:10 PM GMT

Document emailed to Jeff Mondesir (jeffy@jeffyvan.com) for signature
2026-03-03 - 9:37:11 PM GMT

Document emailed to jfuentes@beckerlawyers.com for signature
2026-03-03 - 9:37:11 PM GMT

Document emailed to jacksonsoulfoodcatering@gmail.com for signature
2026-03-03 - 9:37:11 PM GMT

Document emailed to lperry@pmphospitality.com for signature
2026-03-03 - 9:37:11 PM GMT

Email viewed by jacksonsoulfoodcatering@gmail.com
2026-03-03 - 9:39:46 PM GMT- IP address: 66.102.7.164

Signer jacksonsoulfoodcatering@gmail.com entered name at signing as Shirlene Ingraham
2026-03-03 - 9:41:23 PM GMT- IP address: 162.202.193.153

Document e-signed by Shirlene Ingraham (jacksonsoulfoodcatering@gmail.com)
Signature Date: 2026-03-03 - 9:41:25 PM GMT - Time Source: server- IP address: 162.202.193.153

Email viewed by anasotorrio@hotmail.com
2026-03-03 - 9:59:46 PM GMT- IP address: 76.217.89.2

Signer anasotorrio@hotmail.com entered name at signing as Ana Sotorrio
2026-03-03 - 10:04:28 PM GMT- IP address: 76.217.89.2

Document e-signed by Ana Sotorrio (anasotorrio@hotmail.com)
Signature Date: 2026-03-03 - 10:04:30 PM GMT - Time Source: server- IP address: 76.217.89.2

Email viewed by jfuentes@beckerlawyers.com
2026-03-03 - 11:15:24 PM GMT- IP address: 96.65.151.86

Signer jfuentes@beckerlawyers.com entered name at signing as Jose Fuentes
2026-03-03 - 11:18:13 PM GMT- IP address: 96.65.151.86

Document e-signed by Jose Fuentes (jfuentes@beckerlawyers.com)
Signature Date: 2026-03-03 - 11:18:15 PM GMT - Time Source: server- IP address: 96.65.151.86

Email viewed by Jeff Mondesir (jeffy@jeffyvan.com)
2026-03-03 - 11:23:24 PM GMT- IP address: 172.58.129.32

Document e-signed by Jeff Mondesir (jeffy@jeffyvan.com)
Signature Date: 2026-03-03 - 11:25:07 PM GMT - Time Source: server- IP address: 172.58.129.32

Email viewed by lperry@pmphospitality.com
2026-03-04 - 0:06:42 AM GMT- IP address: 68.202.49.249

Signer lperry@pmphospitality.com entered name at signing as LaDrean Perry
2026-03-04 - 0:58:06 AM GMT- IP address: 68.202.49.249

Document e-signed by LaDrean Perry (lperry@pmphospitality.com)
Signature Date: 2026-03-04 - 0:58:08 AM GMT - Time Source: server- IP address: 68.202.49.249

Agreement completed.
2026-03-04 - 0:58:08 AM GMT