MEMORANDUM

Agenda Item No. 8(P)(1)

TO:	Honorable Chairman Anthony Rodriguez and Members, Board of County Commissioners	**DATE:**	July 21, 2026
FROM:	Geri Bonzon-Keenan County Attorney	**SUBJECT:**	Resolution approving award of a competitive revenue-generating contract, Contract No. EVN0002968, Passenger Lounge at MIA, to Ad Partnership, LLC with projected revenue of $93,800,000.00 for a 15-year term for Miami-Dade Aviation Department; and authorizing the County Mayor to execute the agreement and exercise all provisions of the contract, including any cancellation or extensions, pursuant to section 2-8.1 of the Code and Implementing Order 3-38

The accompanying resolution was prepared by the Strategic Procurement Department and placed on the agenda at the request of Prime Sponsor Commissioner Oliver G. Gilbert, III.

for
Geri Bonzon-Keenan
County Attorney

GBK/ks

Memorandum

Date: July 21, 2026

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

From: Daniella Levine Cava
Mayor

Subject: Recommendation to Award a Contract for Passenger Lounge at Miami International Airport

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Executive Summary

This item is for the award of a revenue-generating lease and concession agreement for the development, operation, and management of a premium passenger lounge concession at Miami International Airport (MIA) for the Miami-Dade Aviation Department (MDAD). The proposed lounge will provide travelers with a modern, high-quality pre-flight experience featuring comfortable furnishings, premium food and beverage offerings, complimentary and made-to-order menu items, a full-service bar, Wi-Fi, and business center amenities, including spa and salon services. Lounge access will be available through memberships and day passes and will not be exclusive to any single airline, thereby expanding premium hospitality options for a broad range of domestic and international passengers. The contract is projected to generate approximately **$93,800,000 in revenues to MDAD** over the 15-year 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 addition of a contemporary passenger lounge in Concourse E strengthens MIA's competitive position among major international airports and responds to increasing traveler demand for premium comfort, convenience, and hospitality services.

Approval of this item will enhance MIA's role as a leading global gateway by converting current underutilized airport space on the third floor of Concourse E, above Gate E7, into a high-value passenger amenity, improving customer satisfaction during layovers and delays, and generating long-term revenue for reinvestment into airport operations and infrastructure. This recommendation reflects MDAD's commitment to delivering world-class, passenger-focused facilities while maximizing the financial performance of airport assets.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. EVN0002968, Passenger Lounge at MIA*, to AD Partnership, LLC with projected revenue of $93,800,000 for a 15-year term for MDAD.

Background

A Request for Proposals was issued under full and open competition on July 14, 2025. On the closing date of October 7, 2025, the County received seven proposals, including four from local firms. Upon review of the proposals received, staff identified potential responsiveness issues and requested a legal opinion to ascertain whether they were responsive. Subsequently, on November 12, 2025, the County Attorney's Office (CAO) deemed four proposals non-responsive. An evaluation meeting was held on November 13, 2025. Negotiations commenced on December 10, 2025, and concluded on April 17, 2026. A copy of the Coordinator's Report is attached.

The contract provides for the financing, design, construction, development, management, operation, and maintenance of a premium passenger lounge concession to be located on the third floor of Concourse E at MIA. The proposed concept is the Chase Sapphire Lounge by The Club, a common-use and

membership-based lounge intended to serve domestic and international travelers. The facility will offer premium seating areas, complimentary food and beverage service, made-to-order menu options, a full-service bar, Wi-Fi, business amenities, televisions, quiet areas, and other hospitality services designed to enhance the passenger experience.

The recommended vendor is responsible for all capital investment and build-out costs including installation of a new passenger elevator and related access improvements necessary for operation of the lounge. The recommended vendor will also be responsible for staffing, maintenance, customer service, security, and ongoing operational compliance throughout the term of the agreement. The contract requires that the recommended vendor will compensate the County through a combination of annual rent based on the prevailing Class II Terminal rental rate, a guaranteed annual privilege fee, and percentage rent derived from gross revenues generated at the location. Based on the submitted proposal, the proposer offered 40 percent of gross revenues across applicable revenue categories and an annual privilege fee of approximately $3.46 million.

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 positive fiscal impact to the County for the 15-year term in the estimated amount of $93,800,000. The projected revenue is based on the vendor providing a percentage fee of gross revenues earned at 40% of advertising and promotions, day pass sales, alcohol sales, and other sales. Additionally, the vendor will be paying an average of $3.46 million annually in privilege fees.

Department	Allocation	Funding Source	Budgeted
MDAD	$93,800,000	Revenue Generating	FY 2025-26 Adopted Budget, Volume 3, Page 203, Contractual Services
Total	**$93,800,000**		

Track Record/Monitor
Natalya Vasilyeva of the Strategic Procurement Department (SPD) is the Division Director.

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 non-local. No local firm was identified as having the experience, qualifications, and expertise commensurate with service requirements for the scope of work and to match the revenue proposal offered to the County.

Vendor	Principal Address	Local Address	Number of Employee Residents 1) Miami-Dade 2) Percentage*	Principal
AD Partnership, LLC	7950 Legacy Drive Suite 700 Plano, TX, 75204	None	0 0%	Nancy Knipp

*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.

Vendors Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
PPL Holdings USA, LLC	No	Evaluation Scores/Ranking
TAV America Operation Services, Inc.	No	
AISPACES, LLC	Yes	Deemed non-responsive by the CAO (opinion attached)
BRIO, LLC	Yes	
Studio Office Solutions	Yes	
O'Style, LLC	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.
- The Living Wage Ordinance does not apply.

Attachment

Jimmy Morales
Chief Operating Officer

Memorandum

Date: November 24, 2025

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

From: Natalya Vasilyeva *Natalya Vasilyeva*
Selection Committee Coordinator

Subject: Report of Competitive Selection Committee for Request for Proposals (RFP) No. EVN0002968, Passenger Lounge at MIA

The Strategic Procurement Department (SPD) issued a competitive Request for Proposals on July 14, 2025, on behalf of the Miami-Dade Aviation Department (MDAD), to obtain proposals from qualified firms for passenger lounge at the Miami-International Airport (MIA). The County anticipates awarding a contract for fifteen years.

On October 7, 2025, seven proposals were received in response to the solicitation. The Competitive Selection Committee (Committee) has completed the evaluation of three responsive proposals following the guidelines published in the solicitation.

Competitive Selection Committee meeting dates:
October 15 and 28, 2025, and November 12, 2025 (Kick-off Meetings)
November 13, 2025 (Evaluation, Scoring and Recommendation)

Verification of compliance with contract measures:
No contract measures were assigned to this solicitation due to the funding source.

Verification of compliance with minimum qualification requirements and responsiveness:
The solicitation had minimum qualification requirements which were reviewed by the Selection Committee Coordinator and Caroline Burgos of the client department. The three responsive proposers met the requirements.

Five proposals were forwarded to the County Attorney's Office (CAO) for review. The CAO deemed the proposals from AISPACES, LLC; O'Style, LLC; Studio Office Solutions and BRIO, LLC 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 and COE on October 9, 2025. OIG response was received on October 10, 2025, advising that no reports were found. COE response was received on October 16, 2025, advising that no reports were found.

Office of the Commission Auditor (OCA) Background Check:
Staff provided Committee members with the Neutrality Affidavits to complete, along with the list of proposers and subcontractors. Staff submitted Committee members' completed Neutrality Affidavits and Resumes to OCA. OCA submitted the results of the background checks to the COE for further review of findings. A response was received from COE advising that there were no conflicts of interest.

Summary of scores:
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***
1. AD Partnership, LLC	3918	875.00	4793.00	40% of gross revenue & $3,460,000 annually
2. PPL Holdings USA, LLC	3812	677.75	4489.75	13-25% of gross revenue & $120,000 annually
3. TAV America Operation Services, Inc.	3680	545.25	4225.25	13-26% of gross revenue & $100,000 annually

Upon review of the scores, there were several variances identified that exceeded 33% of the average score award by all Committee members by criteria. After discussion of the variances among Committee members, variances for TAV America Operation Services, Inc. and PPL Holdings USA, LLC remained. It is important to note that despite these variances, individual rankings of all Committee members were same. The Committee members with variances stated that their scores were based on their independent evaluations and the discussions held.

Local Preference:
Not applicable.

Administrative Leave Eligibility:
The following County employees served as scoring members of the Committee and timely completed all committee-related duties, including submittal of the Neutrality Affidavit within three business days from Selection Committee Coordinator's notification; initial scoring within 30 calendar days of Selection Committee Coordinator's completion of required reviews, and are hereby entitled to one (1) day of paid administrative leave pursuant to Implementing Order No. 3-34.

Employee's Name	**Employee's Department**
Sarah Abate	MDAD
Felix Pereira	MDAD
Kristina Guillen	MDAD
David Martinez-Delgado	Miami-Dade Department of Cultural Affairs

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	10/07/2025	NA	NA
Upon Proposal Submission: SPD Review within 10 Calendar Days			
SPD sent proposals to CAO for responsiveness	10/13/2025	10	**6**
SPD sent list of proposers/subcontractors to Committee members for Neutrality Affidavit/Resume	10/09/2025	10	2
After SPD Review Above: Below Tasks Completed Concurrently within 30 Calendar Days Total			
Committee members returned completed Neutrality Affidavit/Resume to SPD	10/14/2025 10/20/2025	3*	3* 7*

Task	Date	Number of Days* per I.O.	Actual Number of Days*
SPD sent received Neutrality Affidavit/Resume to OCA for background check	10/22/2025	NA	NA
OCA returned background checks to SPD	10/23/2025	5*	***1**
COE responded to OCA findings (if OCA refers findings)	10/31/2025	14	**8**
CAO provided opinion to SPD	11/12/2025	30	**30**
After Above Tasks Completed, Conduct Scoring Meeting(s)**			
Scoring meeting	11/13/2025	30	1

* 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

Negotiations:
The Committee recommends that the County enter into negotiations with the highest ranked proposer, AD Partnership, LLC.

The CSC Coordinator, Sarah Abate, Lazaro Herrera, and Caroline Burgos from the client department will participate in the negotiations. Technical and operational assistance and feedback may be requested from appropriate staff as needed during the negotiation process.

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

_____ _____
Namita Uppal, C.P.M. Date
Director and Chief Procurement Officer

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: Natalya Vasilyeva
Procurement Division Director
Strategic Procurement Department

FROM: David M. Murray
Assistant County Attorney

DATE: November 12, 2025

SUBJECT: Request for Responsiveness Determination
RFP NO EVN0002968 Passenger Lounge At Miami International Airport.

You have asked whether various firms are responsive.

AISPACES, LLC, O'Style, LLC, and Studio Office Solutions each failed to provide the Revenue Proposal Schedule. This document essentially sets out the financial terms of the proposal; absent this document, the proposer has not proffered any financial terms. The financial terms are a material component of this solicitation and the failure to include the Revenue Proposal Schedule renders these firms non-responsive.

TAV America Operation Services, Inc. marked certain portions of the proposals proprietary, confidential, subject to trade secret. However, the Proposer executed Waiver of the Confidentiality form included in the RFP. That waiver controls over any markings to the contrary, and this office has consistently opined that, if a proposer has executed the waiver,

subsequent markings indicating proprietary or trade secret materials do not render the proposer non-responsive.

Lastly, you indicate that BRIO, LLC submitted a proposal under its own name, but has indicated it intends to operate "through the BRIO - FAMOC Joint Venture (the "JV")." *See* Brio LLC proposal at 10. Purportedly, "upon award, the JV will form a Florida special-purpose entity to execute the concession agreement for the 15-year term." *Id.* The proposal contains a Letter of Intent between BRIO, LLC and FAMOC, but that letter states that it is non-binding and "a definitive join venture agreement will be executed upon award".

BRIO LLC is non-responsive. For a proposal to be responsive, it must function as an acceptance of the County's offer such that the County could simply award the contract the proposing firm without alteration. *See generally* Section 1.3 of the Solicitation; Implementing Order 2-13. Here, though, BRIO is affirmatively stating it will not perform on the awarded contract; that a second, currently non-existent firm will perform. BRIO—the only proposing entity—has not submitted a binding offer on behalf of itself. The entity that purports to enter into the contract is not even existent, currently.

Moreover, while a JV need not be a separate legal entity under Florida law, FAMOC—the other half of the future JV which would contract with the County—did not sign the proposal. There is no current binding JV agreement attached. Nor is there a binding LOI; the LOI attached facially indicates that it is not binding. In sum, nothing on the face of the proposal indicates that FAMOC is at all bound to the supposed JV, and nothing binds BRIO LLC to the County given its express diclaimer that it will not enter into the contract itself.[1] An entity cannot act as a pass-through—absent solicitation language not included here, or circumstances not present here---for another entity. BRIO LLC's proposal is non-responsive.

[1] In its subcontractor form, BRIO LLC also indicates that FAMOC will act as a subcontractor. While this creates some ambiguity as to the nature of the bidding team, it does not undo the multiple affirmative statements by BRIO LLC that it does not intend to enter into the contract itself and instead will contract through a non-existent JV that is not a signatory to the proposal.

RFP No. EVN0002968
TITLE: Passenger Lounge at Miami-International Airport (MIA)
EVALUATION OF PROPOSALS

COMPOSITE

EVALUATION CRITERIA / PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	AD Partnership, LLC	TAV America Operation Services, Inc.	PPL Holdings USA, LLC
Proposer's relevant experience, qualifications, and past performance	100	500	495.00	450.00	490.00
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	100	500	493.00	470.00	490.00
Proposer's Approach to Providing the Services	100	500	480.00	475.00	490.00
Proposer's Concept and Design	300	1500	1,485.00	1,305.00	1,365.00
Proposer's Customer Service	100	500	500.00	480.00	485.00
Proposer's plan to eliminate the distribution of single-use plastics and polystyrene items to consumers on County property	50	250	215.00	250.00	242.00
Proposer's Financial Capacity to Perform Services	50	250	250.00	250.00	250.00
Total Technical Points	800	4000	3,918.00	3,680.00	3,812.00
Proposed Percentage of Gross Revenue	150	750	750.00	506.25	506.75
Privilege Fee	25	125	125.00	39.00	51.00
Proposed Sponsorship Fee	25	125	0.00	0.00	120.00
Total Revenue Points	200	1000	875.00	545.25	677.75
TOTAL POINTS	1000	5000	4,793.00	4,225.25	4,489.75
Ranking					

Signature: 11/13/2025
Chairperson

Print Name: Natalya Vasilyeva

Signature: 11/13/2025
Reviewer

Print Name: Sally Contreras

MDC010

RFP No. EVN0002968
TITLE: Passenger Lounge at Miami-International Airport (MIA)
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Sarah Abate

EVALUATION CRITERIA / PROPOSERS	Maximum Points	AD Partnership, LLC	TAV America Operation Services, Inc.	PPL Holdings USA, LLC
Proposer's relevant experience, qualifications, and past performance	100	**100**	**100**	**100**
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	100	**100**	**95**	**100**
Proposer's Approach to Providing the Services	100	**90**	**100**	**100**
Proposer's Concept and Design	300	**300**	**290**	**300**
Proposer's Customer Service	100	**100**	**100**	**100**
Proposer's plan to eliminate the distribution of single-use plastics and polystyrene items to consumers on County property	50	**40**	**50**	**50**
Proposer's Financial Capacity to Perform Services	50	**50**	**50**	**50**
Total Technical Points	**800**	**780**	**785**	**800**
Proposed Percentage of Gross Revenue	150	**150**	**71.25**	**66.75**
Privilege Fee	25	**25**	**1**	**1**
Proposed Sponsorship Fee	25	**0**	**0**	**25**
Total Revenue Points	**200**	**175**	**72**	**93**
TOTAL POINTS	**1000**	**955**	**857**	**893**

MDC011

RFP No. EVN0002968
TITLE: Passenger Lounge at Miami-International Airport (MIA)
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Jeanette Perez

EVALUATION CRITERIA / PROPOSERS	Maximum Points	AD Partnership, LLC	TAV America Operation Services, Inc.	PPL Holdings USA, LLC
Proposer's relevant experience, qualifications, and past performance	100	**100**	**90**	**100**
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	100	**100**	**95**	**95**
Proposer's Approach to Providing the Services	100	**95**	**100**	**100**
Proposer's Concept and Design	300	**300**	**275**	**275**
Proposer's Customer Service	100	**100**	**100**	**100**
Proposer's plan to eliminate the distribution of single-use plastics and polystyrene items to consumers on County property	50	**45**	**50**	**50**
Proposer's Financial Capacity to Perform Services	50	**50**	**50**	**50**
Total Technical Points	**800**	**790**	**760**	**770**
Proposed Percentage of Gross Revenue	150	**150**	**125**	**125**
Privilege Fee	25	**25**	**15**	**20**
Proposed Sponsorship Fee	25	**0**	**0**	**25**
Total Revenue Points	**200**	**175**	**140**	**170**
TOTAL POINTS	**1000**	**965**	**900**	**940**

MDC012

RFP No. EVN0002968
TITLE: Passenger Lounge at Miami-International Airport (MIA)
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Kristina Guillen

EVALUATION CRITERIA / PROPOSERS	Maximum Points	AD Partnership, LLC	TAV America Operation Services, Inc.	PPL Holdings USA, LLC
Proposer's relevant experience, qualifications, and past performance	100	**95**	**70**	**95**
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	100	**93**	**85**	**95**
Proposer's Approach to Providing the Services	100	**95**	**80**	**90**
Proposer's Concept and Design	300	**300**	**200**	**240**
Proposer's Customer Service	100	**100**	**85**	**90**
Proposer's plan to eliminate the distribution of single-use plastics and polystyrene items to consumers on County property	50	**40**	**50**	**42**
Proposer's Financial Capacity to Perform Services	50	**50**	**50**	**50**
Total Technical Points	**800**	**773**	**620**	**702**
Proposed Percentage of Gross Revenue	150	**150**	**100**	**95**
Privilege Fee	25	**25**	**8**	**10**
Proposed Sponsorship Fee	25	**0**	**0**	**25**
Total Revenue Points	**200**	**175**	**108**	**130**
TOTAL POINTS	**1000**	**948**	**728**	**832**

MDC013

RFP No. EVN0002968
TITLE: Passenger Lounge at Miami-International Airport (MIA)
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: David Martinez-Delgado

EVALUATION CRITERIA / PROPOSERS	Maximum Points	AD Partnership, LLC	TAV America Operation Services, Inc.	PPL Holdings USA, LLC
Proposer's relevant experience, qualifications, and past performance	100	**100**	**100**	**100**
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	100	**100**	**100**	**100**
Proposer's Approach to Providing the Services	100	**100**	**100**	**100**
Proposer's Concept and Design	300	**290**	**250**	**250**
Proposer's Customer Service	100	**100**	**100**	**100**
Proposer's plan to eliminate the distribution of single-use plastics and polystyrene items to consumers on County property	50	**45**	**50**	**50**
Proposer's Financial Capacity to Perform Services	50	**50**	**50**	**50**
Total Technical Points	**800**	**785**	**750**	**750**
Proposed Percentage of Gross Revenue	150	**150**	**100**	**100**
Privilege Fee	25	**25**	**5**	**5**
Proposed Sponsorship Fee	25	**0**	**0**	**25**
Total Revenue Points	**200**	**175**	**105**	**130**
TOTAL POINTS	**1000**	**960**	**855**	**880**

MDC014

RFP No. EVN0002968
TITLE: Passenger Lounge at Miami-International Airport (MIA)
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: Felix Pereira

EVALUATION CRITERIA / PROPOSERS	Maximum Points	AD Partnership, LLC	TAV America Operation Services, Inc.	PPL Holdings USA, LLC
Proposer's relevant experience, qualifications, and past performance	100	**100**	**90**	**95**
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	100	**100**	**95**	**100**
Proposer's Approach to Providing the Services	100	**100**	**95**	**100**
Proposer's Concept and Design	300	**295**	**290**	**300**
Proposer's Customer Service	100	**100**	**95**	**95**
Proposer's plan to eliminate the distribution of single-use plastics and polystyrene items to consumers on County property	50	**45**	**50**	**50**
Proposer's Financial Capacity to Perform Services	50	**50**	**50**	**50**
Total Technical Points	**800**	**790**	**765**	**790**
Proposed Percentage of Gross Revenue	150	**150**	**110**	**120**
Privilege Fee	25	**25**	**10**	**15**
Proposed Sponsorship Fee	25	**0**	**0**	**20**
Total Revenue Points	**200**	**175**	**120**	**155**
TOTAL POINTS	**1000**	**965**	**885**	**945**

MDC015

MEMORANDUM

(Revised)

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

DATE: July 21, 2026

FROM: Geri Bonzon-Keenan
County Attorney

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

Please note any items checked.

_____	**"3-Day Rule" for committees applicable if raised**
_____	**6 weeks required between first reading and public hearing**
_____	**4 weeks notification to municipal officials required prior to public hearing**
_____	**Decreases revenues or increases expenditures without balancing budget**
_____	**Budget required**
_____	**Statement of fiscal impact required**
_____	**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
Veto _____
Override _____

Agenda Item No. 8(P)(1)
7-21-26

RESOLUTION NO. _____

RESOLUTION APPROVING AWARD OF A COMPETITIVE REVENUE-GENERATING CONTRACT, CONTRACT NO. EVN0002968, PASSENGER LOUNGE AT MIA, TO AD PARTNERSHIP, LLC WITH PROJECTED REVENUE OF $93,800,000.00 FOR A 15-YEAR TERM FOR MIAMI-DADE AVIATION DEPARTMENT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND 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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board authorizes award of a competitive revenue-generating contract, Contract No. EVN0002968, Passenger Lounge at MIA, in substantially the form attached and made a part hereof, to AD Partnership, LLC with projected revenue of $93,800,000.00 for a 15-year term for Miami-Dade Aviation Department.

Section 2. This Board authorizes the County Mayor or County Mayor's designee to execute the agreement and 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 21st day of July, 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

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(This is the form of agreement the County anticipates awarding to the selected Proposer.)

LEASE AND OPERATING

AGREEMENT

BY AND BETWEEN

MIAMI-DADE COUNTY, FLORIDA

AND

AD PARTNERSHIP, LLC

FOR PASSENGER LOUNGES

(COMMON USE OF MEMBERSHIP USE)

AT

MIAMI INTERNATIONAL AIRPORT

Docusign Envelope ID: 606B7C62-1E6B-4CFC-A536-43F6D4B1791E

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Exhibit 1A: Location
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Exhibit 3: MDAD Operation Directive No. 16-04
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) and Tenant Airport Construction Reimbursable Procedures (TAC-R) (links provided)
Exhibit G: Independent Audit Report
Exhibit H: Executed Affidavits and Condition of Award Certificates
Exhibit I: Monthly Report of Gross Revenues
Exhibit J: TSA Prohibited Items (link provided)
Exhibit K: Standards of Operations Food & Beverage Service (L-2)
Exhibit L: Signed Labor Peace Agreement (from Operator)
Exhibit M: Implementing Order 3-58 – First Source Hiring Referral Program (link provided)

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DEFINITIONS

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

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

The term **"Agreement"** shall mean this Lease and Operating Agreement including all exhibits and attachments thereto and a part thereof entered into by the County and the Operator.

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 Operator 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. The location is being offered in an "As-Is" condition.

The term **"Beneficial Occupancy"** shall mean the date the Location ready to open for business, or when a Temporary Certificate of Occupancy or Certificate of Occupancy has been issued.

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 Operator for the purpose of reimbursing, without profit or administrative markup, a County imposed or approved logistics program which the Operator 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.

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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 **"Operator"** shall mean the person, firm, or entity that enters into this Lease and Operating 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 Operator 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 Operator to a taxing authority and sales refunds.

The term **"Lease Effective Date"** shall mean the date identified at the top of page 10 of this Agreement.

The term **"Lease Commencement Date"** shall mean, for each Location, the date of Beneficial Occupancy or 180 Days after the Turnover Date

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

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

The term **"Percentage Fee(s)"** shall mean the fee as defined in Sub-Articles 3.04 and 3.05.

The term **"Permitted Use"** shall mean the operation of a high quality, private lounge as approved by the Department. Operator's responsibilities include but are not limited to the following: Operator shall have broad

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discretion to use the Lounge to promote products and services and to offer benefits and amenities to customers, invited guests and prospective customers, in its discretion. Department acknowledges and consents that the operation of the Lounge by Operator will promote products, services and benefits of Operator and offer certain discretionary services and/or amenities to certain customers and/or prospective customers and their guests, as shall be determined by Operator in its discretion. The benefits and amenities offered may include, but are not limited to: (i) a full range of traveler services, including refreshments, rest areas, entertainment facilities, charging locations, temporary storage, washrooms and shower locations; (ii) marketing and servicing initiatives; (iii) marketing and sale of Operator products and services, including acceptance of applications therefor; (iv) as a Location for events for Operator customers, prospective customers, guests, invitees, partners, and/or prospective partners, which may include live or prerecorded music and serving food and beverages; and (v) any other use incidental to or reasonably necessary to facilitate the uses set forth above or consistent with the overall conduct of activities to promote Operator products and services and to provide customer benefits.

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 Operator 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 Operator to commence construction of a Location.

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LEASE AND OPERATING AGREEMENT FOR PASSENGER LOUNGE AT MIAMI INTERNATIONAL AIRPORT

THIS LEASE AND OPERATING AGREEMENT is made and entered into as of this _____ day of _____, 2026, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida and AD PARTNERSHIP, LLC ("Operator"), a 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 Operator 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 fifteenth anniversary of such date. In no event shall this Agreement afford Operator 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. EXTENSION. This Agreement may be extended for up to an additional one hundred-eighty (180) calendar days beyond the current contract period.

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

1.04. SUPPORT / STORAGE SPACE: In addition to the Location provided to the Operator in Sub-Article 1.03 "Location", the Department may provide Support Space to the Operator. 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 Operator. Lack of Support Space shall not excuse the Operator from its obligations under this Agreement. The Operator 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 Premise, should the Operator determine, in its sole discretion, the need to use off-Airport properties for storage space, the Operator shall be entitled through itself, or through an independent third-party contractor, to operate a common logistical support service. The Department may

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elect to initiate a Common Logistics Program to assist in storage, delivery equipment and supplies in which case a Common Logistics Fee may be assessed to Operator.

In the event of a the 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 purchasing 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 Operator as part Common Logistics Fee shall not be included in Operator'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 Lessee elect to implement a common logistics support service program. The Department also reserves the right to approve such program and requires that the Operator impose the Common Logistics Fee in a non-discriminatory manner.

1.07. ADDITION, DELETION or MODIFICATION OF LOCATION: This Agreement may be administratively revised to reflect any additions, deletions, or modifications to the Premise(s) pursuant to the provisions herein. Such revisions, if any, will include revised exhibits and appropriate changes to the Premise.

(A) **Not Used Addition of Temporary Premise**:

(B) **Addition of Premise**: If at any time after the Lease Effective Date, the Department, at its sole discretion, identifies any additional premises for Operator development, the Department may, but is not required to, offer such additional premise to the Operator upon written notification. The Operator will have thirty (30) days to submit a written response accepting or rejecting the additional premise as a Premise under this Agreement.

(C) **Deletion or Modification of Premise**: The Department reserves the right, at its sole discretion, to delete or modify any of the Premises, 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 Operator 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 Operator 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 Premise 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 Operators and/or others in other locations at the Airport during the Term, and any Extension of this Agreement.

1.09. CONDITION OF THE LOCATION: OPERATOR SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE DEPARTMENT IS LEASING ALL LOCATION TO THE OPERATOR ON AN "AS IS" BASIS

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AND THAT THE OPERATOR IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE DEPARTMENT OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THOSE 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 Operator to the Department, including any statements relating to the potential profitability of such Proposal. Operator represents and warrants that it has made an independent investigation of all aspects of its Proposal contemplated by this Agreement. Except as specifically provided in this Agreement, the Operator has satisfied itself as to such suitability and other pertinent matters by the Operator's own inquiries and tests into all matters relevant in determining whether to enter into this Agreement. The Operator accepts the 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 Operator assumes sole responsibility for any such work.

Without limiting the preceding, the Operator 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 Operator on account of same, nor shall such causes relieve Operator of its obligations under this Agreement.

1.10. FACILITIES CONCEPT: The Locations as referenced in Exhibit A, "Locations" shall be used solely for their assigned and approved concept as described in Article 2 "Use of Locations". Failure to maintain the concept category may result in damages as indicated in Sub-Article 3.23 "Damages".

1.11. 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. USE OF LOCATION: The Operator shall manage, operate and maintain the Lounge Locations in a first class manner for the Permitted Use 365 days a year, except during periods of alterations or renovations to the Premises approved by County in accordance with the provisions of this Lease governing Tenant improvements, construction and alterations, or other temporary closures to accommodate Tenant's legitimate business needs (such as conducting inventory), of which the County shall receive at least ten days prior notice.

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If Operator is in violation of any law, rule, or regulation, the County may require the Operator to comply with same, irrespective of the failure of an Authority Having Jurisdiction to issue a citation, notice to cure, or other advisory document. All concession activities are reserved for the County. The County may approve the sale of certain amenities within the Locations upon written request by the Operator and payment of Percentage Fees as required in Article 3. Permitted amenities shall include (1) food & beverage sales, under the conditions specified in this Agreement, (2) Liquor sales, and Gift Specialty merchandise.

The Operator shall be entitled to display advertising within the Locations pertaining to marketing programs arising out of written agreements between the Operator and affiliated marketing partners under system-wide agreements, upon the submission to the Department of a copy of the agreement or relevant portions thereof advertising that will be visible from outside of the location shall be subject to the prior approval if the Department, which shall not be unreasonably withheld, conditioned or delayed.

2.02. INSTALLATION OF EQUIPMENT: The Operator, upon written request, approved in writing by the Department, shall have the right to install, maintain, repair, replace and operate, at its sole cost and expense, on and off the Locations, and between the Locations and other premises leased or used by the Operator, along such rights-of-way as may be approved by the Department, such computer equipment, communications and locations, together with required conduits, tubes and power lines, as may be necessary and convenient in the opinion of the Operator to operate its location.

2.03. COUNTY'S RESERVATION OF RIGHTS: County specifically reserves the right to develop, install and generate revenues from telecommunications equipment, systems and capabilities within all Airport locations. Notwithstanding the Operator's exclusive use of the Facilities leased to the Operator hereunder from time to time, County shall be entitled to make use of the Locations for the installation and use of telecommunications equipment, provided such installation and use does not unreasonably interfere with the Operator's use of the Locations for the purposes set forth in this Article 2. County reserves the general right to make use of the Airport and its locations and to generate revenues therefrom, except to the extent specifically granted to the Operator hereunder.

If the Operator is in violation of any law, rule, or regulation, the County may require the Operator to comply with same, irrespective of the failure of an Authority Having Jurisdiction to issue a citation, notice to cure, or other advisory document. The express reservation of rights in this Section shall not be construed as a limitation on County rights as may expressly or by implication exist elsewhere in this Lease, nor shall it be a limitation on the County's right to regulate or exercise of its police powers, and Operator's rights hereunder are expressly subordinate to such regulatory or police powers.

2.04. OPERATOR SERVICES AND SALES RIGHTS: The Operator 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 Operator 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 Operator shall discontinue the sale or service of the unapproved product immediately, upon written notice from the Department. Failure by Operator to discontinue such sales within twenty-four (24) hours shall subject the Operator to Damages pursuant to **Sub-Article 3.23 "Damages"**.

2.05. SCOPE OF SERVICES: For the finalized Scope of Services see Exhibit B.

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2.06. NOT USED (ANNUAL MARKETING PLAN SUBMISSION):

2.07. PROHIBITED ACTIVITIES: Without limiting any other provision herein, Operator shall not, without the prior written consent of the Department which may be withheld in its sole and absolute discretion: (a) advertise or hold any distress, fire, or bankruptcy sales, (b) cause or permit anything to be done, in or about the 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 Operator to perform its maintenance and repair obligations under this Agreement, Operator shall not gain access to the roof of the MIA terminal building without the consent of the Department, which may be withheld in the Department's sole and absolute discretion.

ARTICLE 3 – RENTALS, PAYMENTS, AND REPORTS

3.01 NOT USED (MINIMUM ANNUAL GUARANTEE):

3.02 NO NEGOTIATIONS OR ADMINISTRATIVE MODIFICATIONS:

(a) The Operator 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 Operator's Location are so damaged as to significantly impact the Operator's operations for a period in excess of seventy-two (72) hours, and if the Operator 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. PAYMENT TO THE COUNTY: As consideration for the privilege to engage in business at Miami International Airport, the Operator shall pay the Department Lounge Rent, a Security deposit, and Sponsorship fee, as applicable as describe in Section 2.7 of the solicitation. The monthly percentage fee shall be due on the first (1st) day of the month following the month during which the monthly gross revenues were received or accrued. Percentage fees are non-taxable.

The monthly 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

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considered as having been due on the tenth (10th) day of the month following the month during which the unreported Gross Revenues were received or accrued.

3.04.1 Lounge rent - Collectively, Annual Rent Fee, Privilege Fee, and Percentage of Gross Revenues will be defined as Lounge Rent:

a. Annual Rental Fee. The Operator shall pay the prevailing Class II Terminal rental rates for the lease of the Location(s), prorated and payable in equal monthly installments in U.S. funds, on the first (1) day of each and every month. Payments for annual rental shall commence on the beneficial occupancy date.

b. Privilege Fee, total amount over the term of the contract $52,000,000.00 (average $3,460,000.00 per year)**.** This fee will be prorated and payable in equal monthly installments in U.S. funds, on the first (1) day of each and every month. Payments for Privilege Fee shall commence on the beneficial occupancy date.

c. Percentage of Gross Revenues. The Operator shall pay the County the percentage fee of applicable Gross Revenues for the corresponding category. The monthly percentage fee shall be due on the first (1st) day of the month following the month during which the monthly gross revenues were received or accrued.

3.04.2 Additional Payment: Support Space

The Operator shall pay the prevailing Class VI Terminal rental rates for support space, which includes administrative and/or storage space. Payments for support space rent shall commence on the beneficial occupancy date. Rental rates are subject to recalculation and adjustment in accordance with the policies and formulae approved by the Board.

Concept Category	Applicable Percentage
Guest Fee/ Day Passes	40%
Food and Beverages	40%
Alcoholic Beverages (Beer, Liquor & Wine)	40%
Advertising Promotion	40%
Merchandise	40%

3.05 Upon execution of this Agreement, and no later than 30 days thereafter, the Operator shall remit to MDAD a one-time payment of $100,000 (the "Relocation Payment"). The Relocation Payment represents a negotiated, fixed contribution toward the costs associated with the relocation of the incumbent tenant. MDAD shall provide a pro forma identifying the categories of costs supporting and substantiating the $100,000 amount. For the avoidance of doubt, except for the Relocation Payment, the Operator shall have no further liability or obligation of any kind, whether direct or indirect, contingent or otherwise, to MDAD, the incumbent tenant, or any other party in connection with or arising out of the relocation of the incumbent tenant, including but not limited to any costs, expenses, claims, damages, or liabilities related thereto.

3.06 NOT USED.

3.07 ANNUAL RENTAL RATE ADJUSTMENT: On October 1st of each year of the Agreement, the cost based rental rates, pursuant to **Sub-Article 3.04.1.a , "Annual Rental Fee",** 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

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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 Operator 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 Operator elect to implement a common logistics support service program. The Department also reserves the right to either itself impose or require that the Operator impose the Common Logistics Fee in a non-discriminatory manner within store categories. In the event the County elects to implement such fee, the Operator shall be notified, in writing, no less than forty-five (45) Days prior to the implementation of such fee. The Operator 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 Operator does not give such notice, the fee will be implemented accordingly.

3.09 COMMON INFRASTRUCTURE REPAIR AND MAINTENANCE FEE (GREASE TRAPS / GREASE LINES): The Operator 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 Operator 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.

3.10 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.

3.11 NOT USED (MAG PERFORMANCE BOND).

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

3.13 REPORTS OF GROSS REVENUES: On or before the tenth (10^{th}) Day following the end of each month throughout the Term and any Extension of this Agreement, the Operator shall furnish to the Department, a Statement of Monthly Gross Revenues, using Exhibit I "Monthly Report of Gross

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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 Operator shall certify as to the accuracy of such Gross Revenues in such form as shall be prescribed by the Department. The Department may modify from time to time, the form of reporting upon not less than thirty (30) days written notice to the Operator. The statement must be signed by an officer (if the Operator is a corporation), partner (if a partnership), or owner (if a sole proprietorship) of the Operator and identify all Gross Revenues by Location reported to the Operator during such month. Failure to provide the 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"**.

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

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

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

3.17 ADDRESS FOR PAYMENTS: The Operator 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.

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By Online Payment: Via the MIA-Pay website (www.miami-airport.com) by setting up user and password with an accurate invoice number.

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

3.19 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 Operator shall, at its sole cost and expense, provide to the Department on an annual basis, an audited report of monthly Gross Revenues and percentage fees 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 Operator shall submit payment therefore within forty-five (45) days after the completion of the reports to the Department as stated in **Sub-Article 3.16 "Address for Payments"** together with interest on any underpaid percentage fees at the rate set forth in **Sub-Article 3.14 "Late Payment"**.

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

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

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

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

3.21 RECORDS AND REPORTS: The Operator shall, at all times during the Term and any Extension hereof and in accordance with applicable law, maintain at the Operator's principal corporate office located in the United States and make available to the Department in Miami-Dade County, Florida, complete and accurate books and records of all receipts and disbursements from its operations on the Location, in a form consistent with good accounting practice. In addition, Operator 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 Operator shall account for all revenues of any nature related to transactions in connection with this Agreement in a manner which segregates in detail those transactions from other transactions of the Operator, and which supports the amounts reported to the Department in the Operator's monthly schedules. At a minimum, the Operator's accounting for such receipts shall include the following:

1. Operator's bank account statements;
2. A compiled report of transactions by Location showing all Gross Revenues and all exclusions from Gross Revenues by category, which report shall be subtotaled by day and totaled by month. The monthly total shall correspond with the amounts reported to the Department on the Operator's monthly "Revenue Reports"; and
3. Such other records, if any, which would normally be examined by an independent certified public accountant in performing an examination of the Operator's Gross Revenues in accordance with generally accepted auditing standards and the provisions of this Agreement.

   Such records may be in the form of (a) electronic media compatible with the computers available to the Department, or (b) a computer-run hard copy. The Department may require other records necessary in its determination to enable the accurate audit of Operator's Gross Revenues hereunder. Upon ten (10) business days written notice from the Department, all such books and records 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 Operator shall not be obligated to retain such books and records subsequent to the termination of such three (3) year period); provided, however, that any such inspection on the 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 Operator's business.

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

3.23 UTILITIES: The cost of all utilities used or consumed on the Location shall be borne by the Operator; provided, however, except with respect to the Operator's support and storage space as defined in **Sub-Articles 1.04 "Support/Storage Space"** at the Airport. The Department requires the Operator where such capability exists, to provide and install to provide and install meters for utilities used at the Operator's. If the Location are not provided with separate electric, gas, and/or water meters, the Operator 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 Operator on actual usage measured by temporary meters, arranged and paid for by the Operator. This monthly charge may also be adjusted on a non-discriminatory basis and billed retroactively from time to time based on changes in consumption and rates. Operator hereby agrees to pay the same within thirty (30) Days after it has received Department's invoice thereof. The Operator shall pay for all other utilities used by it including telephones and telephone service hook-up, data lines and additional electrical and communications services required.

3.24 DAMAGES: If Operator defaults under any of the covenants or terms and conditions, of this Agreement, Department shall impose the financial Damages described below, as a result of the violation(s), on a daily basis, in addition to any other Damages permissible by law and/or pursuant to the provisions of this Agreement, until said violations are remedied:

3.25 FAILURE TO COMPLY WITH PERFORMANCE STANDARDS: If Operator defaults under any of the covenants or terms and conditions, of this Agreement, the 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:

A. Violations. Operator 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 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 Operator and Department agree that the liquidate damages set forth herein are reasonable, and the Operator 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. Operator 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 Operator'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 Operator 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
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	$100 per Day/per Location per item
Failure to Maintain Location clean	$100 per Day/per Location
Installation of Unapproved Items in Location	$100 per Day/per Location per item
Violations of other terms and conditions	$100 per Day/per Location
Failure to Submit Certified Audit Report	$50 per Day/per Report

The foregoing is due and payable from the Operator.

3.26 PAYMENT SECURITY: On or before the Lease Effective Date of this Agreement, the Operator shall provide the Department with an irrevocable standby letter of credit in the format approved by the Department or cash for the payments required by this Sub-Article in an initial amount equal to twenty-five percent (25%) of the Contractor's annual compensation for the service, plus any state sales taxes as may be applicable and required by law. The amount of the payment security shall be adjusted as necessary to reflect any increases annual compensation for the service, and lease of storage spaces, if applicable. The payment security shall be kept in full force throughout the Term and any Extension(s) of this Agreement thereof. The Department may draw upon such payment security instrument if the Operator fails to make the payments secured by this Sub-Article. Upon notice of any such draw, the Operator shall immediately replace the payment security with a new payment security in the full amount of the payment security required hereunder. A failure to renew the payment security, or increase the amount of the payment security, if required pursuant hereto, shall (i) entitle the Department to draw down the full amount of such payment security, and (ii) shall constitute a default of this Agreement as set forth in **Sub-Article 12.02 "Payment Default",** entitling Department to all available remedies.

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The Department may draw upon the Security Deposit, if the Operator 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, Operator 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 Operator is not in default and fully complies with all the payment requirements of this Agreement, the payment security instrument will be returned to Operator within one hundred eighty (180) Days after the end of the Term or any Extension of the Term.

A. All required bonds shall be written through surety insurers authorized to do business in the State of Florida as Surety, with the following qualifications as to strength and financial size according to the latest edition of Best's 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.

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

Cancellation of any bond or non-payment by the Operator of any premium for any bond required by this 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 Operator has a cash deposit with the Airport, such cash deposit will be used to pay for any outstanding invoices, and then future billing.

3.27 ACCOUNTS RECEIVABLE ADJUSTMENTS: In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Operator 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 Operator under this Agreement. Such retained amount shall be applied to the amount owed by the Operator to the County. The Operator 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 Operator for the applicable payment due herein.

3.28 PAYMENT CARD INDUSTRY DATA SECURITY REQUIREMENTS: The Operator shall adhere to Payment Card Industry (PCI) Data Security requirements. The Operator 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 Operator shall provide business continuity in the event of a major disruption, disaster or failure. Operator 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 Operator 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 Operator 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.

3.29 PAYMENT CARD INDUSTRY DATA SECURITY COMPLIANCE: The Operator 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 Operator's system, equipment, hardware, software, or policies, becomes non-PCI compliant, the Operator is responsible for all costs related to upgrading the system so that PCI compliance is maintained throughout the term of the agreement.

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

1. The Operator's current annual PCI Compliance certification, if applicable. The County has right to audit Operator compliance by requesting copies of the Operator's PCI compliance certifications at any time.
2. During an installation or a major system upgrade, the Operator 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 (Attachment XX- Information Technology Security Matrix). The Operator shall resubmit the aforementioned passing, updated, completed, and signed PCI compliance documents annually to the County. Furthermore, the Operator 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. Operator 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 Operator performs on behalf of the department (PCI Req# 12.8.4).
   2. Documentation indicating which PCI DSS requirements are the responsibility of the Operator, 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 Operator's application at any point, even if masked. Any other Card holder data should not be stored by the Operator'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 Operator'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 Operator'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 Operator'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 Operator, it will offer the greatest flexibility and customization level. This option also requires for the Operator'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 Operator's application.

b. Option #2:

The Operator'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 Operator's application that sends payers to the Payment Module Application. For example, once the payer has selected the items to purchase (from the Operator'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 Operator's side. The Operator 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 Operator's application. This solution will not require the Operator'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 Operator's side.

c. Option #3:

If the Operator'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 Operator must provide independent validation of its compliance, including but

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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 Operator'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 Operator 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 Operator 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 Operator 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 Operator (and sub-contractors) must agree to periodic compliance audits and to provide ongoing assurance of PCI DSS adherence.

3.30 DEPARTMENT'S TECHNOLOGY INSTALLATION RIGHTS:

A. Point of Sale (POS) Technology

i. The Department shall have the right to install, maintain, and operate Point of Sale (POS) technology at the Operator's location(s) for the primary purpose of collecting and monitoring sales data.

ii. The Operator 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 Operator agrees to:

a) Cooperate fully with the installation and operation of such technologies

b) Provide necessary access and support for technology deploymentF

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 Operator shall facilitate such upgrades and provide reasonable accommodation during implementation.

B. Compliance and Non-Interference

Failure by the Operator to comply with the provisions of this section may constitute a material breach of the Agreement, potentially resulting in penalties or termination of the concession rights.

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3.31 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 Operator believe that increasing dwell time and passenger satisfaction in the Terminals is in the best interests of the Operator and the County.

ARTICLE 4 - IMPROVEMENTS TO THE LOCATION

4.01 IMPROVEMENTS TO LOCATION: The Operator shall be required to invest a minimum of Eight Hundred Fifty Dollars per square foot ($850 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 Operator 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 Operator 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 Operator is liable and shall indemnify the Department for any damage to the Location 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, as stated in **Article 4 "Improvements to the Location"** or as an extension of this Agreement, and costs incurred by the Operator to provide such storage space shall not constitute approved improvements.

Any and all improvements to Location 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):
  link: TAC-N Forms 1.25.21.pdf (miami-airport.com)

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

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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 or common area improvements are completed, the Operator shall submit to the Department for review, approval or modification detailed final plans ("Final Plans") and specifications (including materials, colors, textures and fixtures), construction cost estimates and schedules for the construction of the improvements. The Final Plans shall be prepared by an architectural interior design and/or engineering firm registered in the State of Florida and in accordance with the Florida Building Code and all applicable State and local laws, ordinances, and regulations.

4.03 REFURBISHMENT OF LOCATION: The Operator shall refurbish the 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 two hundred fifty dollars per square foot ($250). There will be no reimbursement or amortization of these costs for refurbishment.

4.04 CERTAIN CONSTRUCTION CONTRACT TERMS: All contracts entered into by the Operator for the construction of the improvements shall require completion of the improvements within the schedules submitted pursuant to **Sub-Article 4.02 "Design of Improvements"** and shall contain reasonable and lawful provisions for the payment of actual or Damages to the County in the event the contractor fails to complete the construction on time. The Operator 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 Operator, the Operator 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. The work to be performed under such contract(s) shall be insured by the "Surety Performance and Payment Bond" provided by Operator to the County in the form contained in Exhibit B "Surety Performance and Payment Bond" in this Lease and Operating 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 Operator for the unamortized value of the approved improvements as provided in this Agreement. The Operator agrees that any contract for construction, alteration or repairing of the improvements or Location 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 or improvements.

4.06 OTHER REQUIREMENTS: The Operator shall apply for and obtain a building permit from the County for all appropriate inspections and a Certificate of Occupancy upon completion. Within ninety (90) following the completion of construction of the improvements, the Operator shall furnish to the County

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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 Operator 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 Operator 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",** and **4.03 "Refurbishment of Location"**, the Operator 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 Operator 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 Operator 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 Operator. No non-receipted expenditures will be credited. Operators 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. In the event of any disputes between the County and the Operator 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 Operator in writing that it has approved or disapproved the certified costs for each Location 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 Operator fails to submit the Certified Audit within the time prescribed above for any Location, 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 Operator for un-amortized improvement costs for such Location pursuant to **Sub-Article 4.09 "Amortization Schedule"** shall equal the square footage rate of improvement costs for such Location certified by the Auditor.

If the approved total receipted amount is below the Operator minimum investment and is depicted as such in the results of the Certified Audit, the Operator shall be required to pay to the Department the

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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 is below the Operator's investment, the Operator 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.

4.09 AMORTIZATION SCHEDULE: The Operator shall amortize its capital investment for a period not to exceed one hundred eighty (180) 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 at its sole discretion and reimburse the Operator 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 more than $1500 per display, furniture, fixture, equipment and signage purchased and installed for direct use in the facility.
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.

There will be no other reimbursement.

A certified audit of monies for the above expenditures performed at the expense of the Operator will be required to confirm the minimum investment within one hundred eighty (180) Days of Beneficial Occupancy for each Location. No non-receipted expenditures will be credited. If the approved total receipted amount is below the Two Hundred Fifty Dollars per square foot ($250.00 psf), the Operator 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.

Operators 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 ten percent (10%) of the monies due the Department on the build-out of the Location.

Prior to the commencement of any installation/ construction or other work by the Operator, the Operator shall provide or cause to be provided to the Department copies of a fixed price contract or contracts for all work to be performed at the Location. The work to be performed under such contract(s) shall be insured by a Performance and Payment Bond provided by Operator to the Department in the form contained in Exhibit B "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 Operator shall pay a permit fee to the Department for improvements which would customarily be paid to the County's Building Department as a condition of the issuance of a permit. The permit fee payable by the Operator 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 Operator's plans/specifications. Such fee shall be non-refundable.

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

1) Operator Improvements

Pursuant to the terms of this Agreement, the Operator shall construct or cause to construct certain improvements. The Operator 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 Operator have mutually agreed on the scope of the improvements and the preliminary estimates, the Operator 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

Operator shall:

1. Be responsible for construction management and coordination of all improvements to the Location and authorized administrative support space..
2. Coordinate meetings with 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 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 Operator development requirement, whereby such elements are the designated responsibility of the Operator, if so implemented.

3) Construction

Operator shall:

1. Attend pre-construction meetings, construction meetings, , monitor schedule, and coordinate Location development with the Department as required, pursuant to the TAC-N procedures.
2. 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.
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.

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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.
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 ninety (90) 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 Operator 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 Operator shall comply with the Department's "Tenant Handbook", Exhibit K (link: https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:4b73cfbf-ee3b-4bae-9ddf-e5e945d4722b); the "Standards of Operations", Exhibit L, 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 Operator agrees to observe and obey. The Department may amend such rules or regulations and operating performance standards from time to time and shall provide copies thereof to the Operator. The Department shall provide the Operator with reasonable prior written notice, not less than thirty (30) Days, prior to the implementation of any such amendment to the rules or regulations and operating performance standards. Those rules include, but are not limited to, any rules and regulations imposed upon the Department by any governmental agency.

The Operator shall implement and comply with all amended requirements, within fifteen (15) Days of receipt of an amendment to Exhibit L "Standards of Operation". The Operator shall immediately implement and comply with any rules and regulations promulgated for safety or security reasons.

The Operator acknowledges the desire of the Department, as part of its obligation to ensure the highest level of public service, to provide the public and air traveler an adequate range and quality of service. The Department may monitor, test, or inspect 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,

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the prices charged, and the appearance and condition of the Location, pursuant to Exhibit L "Standards of Operation", as may be amended from time to time.

5.02 MARKET BASKET/COMPETITIVE PRICING POLICY: The price of all goods and services offered for sale shall be clearly marked and/or displayed. The Operator shall be required to comply with the Market Basket/Competitive Pricing Policy per below.
For the purposes of this contract, to determine Market Basket, the Operator shall survey a minimum of 3 passenger lounges (excluding stadiums, arenas, amusement, entertainment venues and hotels) in the US with similar volumes of demographics and/or enplanements to determine the average price for a particular good or service. The Operator's prices shall not exceed by more than fifteen (15%) of the Market Basket.

A. Same Store: For any or all operations where an Operator currently operates the same or similar passenger lounge in the US with similar volumes of demographics and/or enplanements, the Operator 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 locations and to use these prices for same or similar merchandise as the primary basis for pricing in leased Locations in all Locations.

B. Operator 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 Operator.

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

5.03 DEPARTMENT RIGHT TO MONITOR PERFORMANCE:

A. Performance Audits. It is the intention of the Department that Operator'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 Operator and Department. The Operator 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 Operator. If requested by Operator, the Department shall submit its objections in writing and provide Operator 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 Operator. Operator 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 Operator 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 Operator 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, Operator and Department will meet to review and evaluate the financial, customer service, and operational performance of each Concession Location.

C. Remediation Plan. In the event that the Department determines that a Concession Location performed unsatisfactorily during the prior Contract Year, the Department will provide written notice to the Operator. Within 30 days of receipt of such written notice, the Operator 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 Operator 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 Operator 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 Operator 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 Operator 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 Operator), and further provided that the Operator shall reimburse the Department, within ten (10) Days of receipt of written demand for such reimbursement, for the cost and expense of all structural repairs required as a result of the negligent or intentional acts of the Operator, its officers, partners, employees, agents, contractors, subcontractors, licensees,. The Operator shall give the Department written notice (or verbal notice in the event of any emergency conditions which may result in harm to the patrons of the Airport, which verbal notice shall be followed by written notice within twenty-four (24) hours) describing any repair, which is the responsibility of the Department. The Department shall commence the repair process promptly after its receipt of such written

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notice if the Department agrees that such repair is required and is the Department's responsibility hereunder.

B. **The Operator must ascertain the extent of the existing utility capacities**, before designing any new loads to be connected to existing systems and piping. The Department agrees to cooperate in providing access to the 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 Operator's Location are of such a condition as to significantly impact the Operator'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 Operator 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 Operator acknowledges that the Department has made no representations or warranties concerning the suitability of the Location for the Operator'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 Operator.

1. The Operator hereby confirms that it has made its own investigation of all the costs of doing business under this Agreement, including the costs of furnishings, fixtures, trade fixtures, inventory, signs and equipment needed for Operator 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 Operator by the Department or anyone on its behalf and the Department shall not be responsible for any inaccuracies in such statistics or their interpretation.
3. All statements contained in this Agreement or otherwise made by the Department or anyone on its behalf concerning any measurement relating to 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 Operator under or in connection with this Agreement.
4. The Department shall not be liable to the Operator for any loss of business or damages sustained by the Operator as a result of any change in the operation or configuration of, or any change in any procedure governing the use of, the construction improvements of the terminal building.

6.02 SIGNAGE OBLIGATIONS:

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A. The Department shall include Chase Sapphire Lounge by The Club on all terminal directories and general wayfinding, as deemed appropriate. All signage shall meet all wayfinding and signage guidelines previously established by MDAD.

B. Operator shall have use of the public circulation floor for advertising space, located outside of the Lounge Space, throughout the term of the Lease. With the prior written approval of the department, which shall not be unreasonably withheld, conditioned or delayed, Operator shall be permitted to install signage and branding relating to the Lounge within and on the concourse level elevator shaft that provides public access to the Location.

C. In the event that Operator sells or leases this space to third parties, the gross revenues generate by the sale or lease of such space will be included in calculating the percentage fee due to the County pursuant to this Agreement. Operator shall not sell or lease advertising space to third parties without the prior consent of the County as to such particular sale or lease, and shall not allow third parties to display political advertising, material that is immoral, lascivious, or obscene as defined in Section 847.001, Florida Statutes, advertisements which implies or declares an endorsement by MIA of any service and product or point of view without prior written authorization from the Department, or Material promoting competing airports or air carriers that do not currently fly into Miami International Airport.

ARTICLE 7 – FURNITURE, FIXTURES AND EQUIPMENT

7.01 FURNITURE, FIXTURES, AND EQUIPMENT: Any equipment, furnishings, fixtures and signs installed in the Location by the Operator shall be in keeping with the decor of the terminal building and must be approved in advance by the Department. Any such equipment, furnishings, fixtures and signs so installed by the Operator, 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 Operator 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 Operator will be the same. However, the Department reserves the right to require the Operator 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 Operator"** 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 Operator and not removed as required by this Agreement:

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(A) Require the Operator 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 Operator (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 Operator) (if applicable).

ARTICLE 8 – MAINTENANCE

8.01 CLEANING: The Operator 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, Exhibit L, the Operator 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 Operator 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 Operator 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 Operator 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 Operator 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 Operator specifically as a result of their operation shall remain the obligation of the Operator. The Operator 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

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provides the Operator notice no less than two (2) hours in advance so that a representative of the Operator 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 Operator in writing. If said maintenance is not performed by Operator 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 Operator for such services, as provided by **Sub-Article 8.04 "Failure to Maintain".**

8.04 FAILURE TO MAINTAIN: Upon failure of the Operator 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 Operator, 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 Operators. Participation in this program, once established, will be mandatory. The Operator shall agree to bear any reasonable and actual costs associated with the implementation and continued operation of this recycling program or propose for approval by the Department an alternative environmental recycling plan which such approval shall not be unreasonably withheld.

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

8.06 FIRE PROTECTION AND SAFETY EQUIPMENT: The Operator must provide and maintain all fire protection and safety equipment and all other equipment of every kind and nature required by any applicable law, rule, ordinance, resolution or regulation, for the Term 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 Operator shall not assign, transfer, pledge or otherwise encumber this Agreement nor shall the Operator allow others to use the Location, without the prior written consent of the Department, which consent shall not be unreasonably withheld, conditioned, or delayed.

9.02 OWNERSHIP OF THE OPERATOR: Since the ownership, control, and experience of the Operator were material considerations to the County in the award of this concession and the entering into of this Agreement, the Operator shall take no actions which shall serve to transfer or, sell majority ownership or control (deemed to mean more than fifty percent (50% %) of the stock) of the Operator without the prior written consent of the Department.

9.03 CHANGE OF CONTROL : If Operator is a corporation the issuance or sale, transfer or other disposition of a sufficient number of shares of stock (deemed to mean more than fifty percent (50%) of the stock)

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in the Operator to result in a change of control of Operator shall be deemed an assignment of this Agreement for purposes of this **Article 9 "Assignment and Ownership".** If the Operator is a partnership, transfer of any interest in the partnership, which results in a change in control of such Operator (deemed to mean more than fifty percent (50%) of the ownership interest), shall be deemed an assignment of this Agreement for purposes of this **Article 9 "Assignment and Ownership"**.

9.04 HOLDOVER:

A. With the Department's Permission:

If the Operator (or anyone claiming through Operator) shall remain in possession of the Location or no less than seventy percent (70%) of the square footage of the Location 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 Operator shall thereafter continue to pay the Monthly Percentage Fee, and monthly installment or rent for the Operator's Office pursuant to **Sub-Article 3.06 "Annual Rental"** (if Operator remains in such Space), on account of the holdover use and occupancy of the Location. This provision shall survive the expiration or the termination of this Agreement.

B. Without Department Permission:

If the Operator (or anyone claiming through Operator) 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 Operator 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 Operator by the Department, for the slippage in Location turnover. The Holdover Charges shall be payable weekly in advance. Notwithstanding the above, the Operator 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 **JPMC ASSIGNMENT:** Notwithstanding anything contained in this Lease to the contrary, Operator may upon thirty (30) days prior written notice to the Department, assign this Lease to JPMorgan Chase Bank, N.A. ("JPMC") (or any entity controlled by JPMC) without the requirement of obtaining the Department's prior written consent. Prior to the effective date of the assignment to JPMC, Operator shall provide to the Department a copy of the assignment between Operator and JPMC. JPMC shall have the right, throughout the Term as a third-party beneficiary, to enforce the obligations of the Department under this Lease directly against the Department, if such enforcement is necessary in JPMC's reasonable discretion. In addition, Operator may assign this Lease to any party designated by JPMC (a "Successor Operator") at any time without the Department's consent, provided that any Successor Operator must have experience running comparable airport lounge operations. Any Successor Operator must assume Operator's obligations under this Lease in writing. If JPMC (or any entity controlled by JPMC) assumes this Lease, JPMC (or any entity controlled by JPMC) shall remain

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liable as Operator only until such entity assigns this Lease to a Successor Operator and upon such assignment JPMC (or any entity controlled by JPMC) shall be automatically released from any further liability under this Lease. So long as JPMC (or any entity controlled by JPMC) is the Operator, no transfer of ownership or control of Operator shall constitute an assignment of this Lease. JPMC shall have the right (but not the obligation) to cure defaults or to take an assignment of this Lease. The Department agrees to accept cure from JPMC with the same effect as if cure had been made directly by Operator. The Department agrees that Operator may close the Location for business for a reasonable amount of time, during any transitional period while JPMC obtains security clearances or other permissions for its employees and staff to work at the Location and such closure will not be a default under this Lease; provided at no time will a transition based closure last longer than fifteen (15) business days. Operator must continue to pay rent during such transitional period.

9.06 **STEP-IN RIGHTS:** Notwithstanding anything to the contrary set forth in this Lease, JPMC shall have the right but not the obligation, upon not less than ten (10) days advance notice to the Department, to assume the construction, operation and maintenance of the Location and exercise all powers and rights of the Operator with respect thereto (the "Step-In Right") for a period of time which shall conclude upon notice thereof from JPMC to Operator and the Department (with such period being no longer than six (6) months) (the "Step-In Period"). JPMC's exercise of its Step-In Right shall not relieve Operator of its obligations to the County under this Lease. During the Step-In Period, JPMC may replace service providers selected by Operator with alternative service providers selected by JPMC, provided that JPMC complies with any applicable requirements in this Lease. Notwithstanding anything to the contrary set forth in this Lease, during the Step-In Period: (a) JPMC's exercise of its Step-In Right shall not operate as, or be deemed to be, an assignment or transfer of this Lease and none of the limitations set forth in this Lease with regard to assignment shall apply to JPMC or the JPMC Affiliates (defined below); (b) JPMC's exercise of its Step-In Right shall not constitute an Event of Default under this Lease; and (c) Operator and JPMC shall continue to receive notices under this Lease from the County in accordance with this Lease. Upon the termination or expiration of the Step-In Period, JPMC shall relinquish all rights and obligations it had pursuant to the Step-In Right and Operator shall resume its construction, operation and maintenance of the Location (as applicable) pursuant to the terms of this Lease; provided, that Operator may assign this Lease to JPMC pursuant to this subsection. "JPMC Affiliates" is defined as with respect to another person, a person owned by, Controlling, Controlled by or under common Control with, directly or indirectly, such other person. For purposes of this definition of JPMC Affiliates, one person "Controls" another person if it has the power to direct the management and policies of the other person (for example, through the ownership of voting securities or other equity interest, representation on its board of directors or other governing body, or by contract).

ARTICLE 10 – INDEMNIFICATION

10.01 INDEMNIFICATION REQUIRED OF OPERATOR: The Operator shall indemnify, defend, and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and cost of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Operator or its employees, agents, servants, partners, principals or any other persons, except to the extent that such liability, losses, or damages (i) arise from (a) any environmental conditions, violations, or liabilities existing on, under, or about the Location as of the Date of Execution, or (b) any environmental conditions, violations, or liabilities not caused or exacerbated by Operator, or (ii) result from the gross negligence or willful misconduct of the County, Department, or their respective officers, employees, agents, or instrumentalities provided, however, nothing contained in this sentence

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shall preclude Operator's buildout obligations as set forth in this Agreement. The Operator shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

The Operator expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Operator shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided. Without limiting the preceding, Operator 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, except to the extent such claims arise from the gross negligence or willful misconduct of the County, Department, or their respective officers, employees, agents, or instrumentalities.

ARTICLE 11 – INSURANCE

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

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

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

A. Workers' Compensation 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. Commercial General Liability Insurance on a comprehensive basis including Contractual Liability, Broad Form Property Damage and Products and Completed Operations in an amount not less than $1,000,000 per occurrence for Bodily Injury and Property Damage combined. This policy shall include Miami-Dade County as an additional insured with respect to this coverage.

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

D. 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.

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

11.02 CERTIFICATE CONTINUITY:

The Operator shall be responsible for assuring that the insurance certificates required in conjunction with Article 11 "Insurance" remain in force for the duration of this Agreement, including the First Extended Term and Second Extended Term, if applicable. If insurance certificates are scheduled to expire during the lease period, the Operator shall be responsible for submitting new or renewed insurance certificates for its operations to the Department's Risk Management Unit at a minimum of thirty (30) calendar days before such expiration. Certificates will show that no modification or change in insurance shall be made without thirty (30) calendar days written advance notice to the certificate holder.

11.03 INSURANCE COMPANY RATING REQUIREMENTS:

All insurance policies required above from the Operator shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the Department's Risk Management Office.

11.04 OPERATOR LIABLE:

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

11.05 CANCELLATION OF INSURANCE OR BONDS:

Cancellation of any insurance or bonds, or non-payment by the construction contractors of any premiums for any insurance policies or bonds required by this Agreement shall constitute a breach of this Agreement.

11.06 RIGHT TO EXAMINE:

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

11.07 PERSONAL PROPERTY:

Any personal property of the Operator or shall be at sole risk of the Operator 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.

11.08 SURVIVAL OF PROVISIONS:

The provisions of Article 11 "Insurance" shall survive the expiration or earlier termination of this Agreement.

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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 Operator and its general contractor(s) and subcontractors.

Indemnification: The Contractor shall defend, indemnify, and save harmless the County, the 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 Contractor or its contractors, subcontractors, sub-subcontractors, materialmen or agents of any tier or their respective, employees arising out of or relating to the performance of the work covered by the Contract Documents except as expressly limited herein. The Contractor 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 Contractor'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 Contractor 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, sub-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 Operator or each contractor performing any part of the work for the Operator shall obtain and thereafter at all times during the performance of the work 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 "B", Surety Performance and Payment Bond". Within ten (10) days of issuance, Operator shall record all bonds required by this Agreement in the Department of Public Records of Miami-Dade County. Prior to performing any portion of the Work, the Operator shall deliver to County the Bonds required to be provided by Operator 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 management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

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

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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 B, "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 Operator.

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 Operator 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 Operator 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 $1,000,000* per occurrence for Bodily Injury and Property Damage combined.

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*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 Unit.

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 work has been accepted by the Operator and approved by the Operator 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 Operator at a minimum of thirty (30) calendar days before such expiration.

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 management, and no less than "Class VII" as to financial strength, according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the Operator.

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 Operator to agree to permit such inspection at the offices of the Department.

Personal Property: Any personal property of the contractor, or of others, placed in the Location 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 Operator (an "Event of Default"). In addition to those defaults defined **in Sub-Article 12.02 "Payment Default", Sub-Article 12.03 "Other Defaults"**, and **Sub-Article 12.04 "Habitual Default"**, an Event of Default, may also include one (1) or more of the following occurrences:

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

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

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

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

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

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

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

(H) Failure by Operator to maintain its equipment in a manner satisfactory to the Director;

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

(J) The Operator has failed to provide adequate assurances as required under **Sub-Article 12.10 "Adequate Assurances"**;

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

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

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

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

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

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

12.03 HABITUAL DEFAULT: Notwithstanding the foregoing, in the event that the Operator has frequently, regularly or repetitively defaulted in the performance of or has breached any of the terms, covenants and conditions required herein, to be kept and performed by the Operator, regardless of whether the Operator has cured each individual condition of breach or default as provided for in **Sub-Article 12.02 "Payment Default"** and **Sub-Article 12.03 "Other Defaults"** above, the Operator may be determined by the Director to be an "habitual violator". At the time that such determination is made, the Director shall issue to the Operator a written notice, advising of such determination and citing the circumstances

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thereof. Such notice shall also advise the Operator that there shall be no further notice or grace periods to correct any subsequent breach(s) or default (s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the Department may terminate this Agreement upon the giving of written notice of termination to the Operator, such termination to be effective upon the seventh (7th) Day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Operator shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Operator shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with **Sub-Article 12.11 "Actions at Termination"** hereof.

12.04 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE: If an Event of Default occurs, the Department shall notify the Operator by sending a notice of default, specifying the basis for such Event of Default, and advising the Operator that such default must be cured immediately, or this Agreement with the Department may be terminated.

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

12.06 TERMINATION FOR ABANDONMENT: This Agreement may be terminated in its entirety upon the abandonment by the Operator of the Location or the discontinuance of Operator's services at the Airport for any period of time exceeding twenty-four (24) consecutive hours, and the failure to cure the same within three (3) 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 Operator 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.

12.07 TERMINATION FOR CAUSE: The Department may terminate this Agreement, effective immediately if: (i) the Operator attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (ii) a principal of the Operator is convicted of a felony during the Term or any Extensions thereof if applicable, or (iii) if the Operator is found to have submitted a false certification or to have been, or is subsequently during the term of this Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.. The Department may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or joint venture or other entity has with the County and that such individual, corporation or joint venture or other entity shall be responsible for all direct and indirect costs associated with such termination, including attorney's fees.

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

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12.08 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 Operator, but the County shall not be responsible for any other costs or damages, including but not limited to lost profits, loss of opportunity, borrowing costs, carrying costs, damage to reputation, loss of goodwill, or loss of income.

Notwithstanding anything contained herein to the contrary, (1) the Department shall not terminate this Lease pursuant to this Article in order to lease the Location to another lounge operator, and (2) prior to a termination election by the Department, the Department shall use commercially reasonable efforts to relocate Operator to a location acceptable to Operator and upon approval of such location by Operator, the Department shall reimburse Concessionaire for the unamortized capital investment (as defined in Sections 4.08 and 4.09) plus reasonable relocation costs.

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

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

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

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

(B) Take such action as may be necessary for the protection and preservation of the 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 Operator shall be liable to the County for all damages, direct and indirect, incurred by the County as a result of such termination, including but not limited to loss of future 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 Operator.

ARTICLE 13 – CLAIMS AND TERMINATION BY OPERATOR

13.01 ADMINISTRATIVE CLAIM PROCEDURES: If the Operator has any claim against the County arising

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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 Operator 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 Operator at the address furnished in **Sub-Article 18.09 "Notices"**. The decision of the Director will be final and conclusive unless, within thirty (30) Days from the date of receipt of such copy, the Operator mails or otherwise furnishes to the Department a written appeal addressed to the Mayor. The decision of the Mayor, or his duly authorized representative for the determination of such appeals, will be final and conclusive unless within thirty (30) Days of the Operator's receipt of such decision, the Operator files an action in a court of competent jurisdiction. In connection with any appeal proceeding under this provision, the Operator shall be afforded an opportunity to be heard and to offer other evidence in support of the appeal. Pending final decision of a dispute hereunder, the Operator shall proceed diligently with the performance of this Agreement and in accordance with the County's decision. Failure to perform in accordance with the decision of the Director or the Mayor shall be cause for termination of this Agreement in accordance with **Sub-Article 12.03 "Other Defaults"**. The failure of the Operator to comply with this administrative claim procedure shall be cause for a waiver of claim and an abandonment of any claim arising out of the event.

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

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

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

(C) The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control or use of the airport locations or any substantial part, or parts thereof, in such a manner as substantially to restrict the Operator's provision of services for a period of one hundred eighty (180) Days.

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ARTICLE 14 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES (ACDBE) - Voluntary

ACDBE participation is Voluntary and is not required for this contract. ACDBE participation can be achieved either through the Operator being an ACDBE itself, a Partnership or Joint Venture, or subcontracting a percentage of Gross Revenues.

14.01 ACDBE REQUIREMENTS: The Operator is ACDBE certified; it shall keep its ACDBE certification current and immediately notify the MDAD Minority Affairs Division if it becomes ineligible for certification.

14.02 AFFIRMATIVE ACTION AND AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS: The Operator acknowledges that the Provisions of 14 CFR Part 152, Affirmative Action Employment Programs, Provisions of Title VI of the Civil Rights Act of 1964, and 49 CFR Part 23, Airport Concession Disadvantaged Business Enterprise Programs, are applicable to the activities of the Operator under the terms of the Agreement, unless exempted by said regulations, and herby 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 objectives, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if directed by the MDAD. In the event it has been determined, in accordance with applicable regulations, that the Operator has defaulted in the requirement to comply with the provisions of this section and fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Operator, to terminate this Agreement, pursuant to Default language referenced in the Agreement.

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

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"This agreement is subject to the requirements of the US Department of Transportation's Regulations 49 CFR Part 23. The Operator or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23".

"The Operator agrees to include the above statements in any subsequent concession agreement covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements".

The Provisions of this Section shall be considered to be in addition to and not in lieu of the provisions of Title VI of the Civil Rights Act of 1964 applies.
The Operator agrees to include the above statements in any subsequent lease and concession agreements.

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ARTICLE 15 - RULES, REGULATIONS AND PERMITS

15.01 RULES AND REGULATIONS: The Operator shall comply with the Ordinances of the County including Chapter 25, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives issued thereunder by the Department, all additional laws, statutes, ordinances, regulations and rules of the Federal, State and County governments, and any and all plans and programs developed in compliance therewith, and any County Administrative Orders, Implementing Orders and resolutions of the Board of County Commissioners which may be applicable to its operations or activities under this Agreement.

15.02 VIOLATIONS OF RULES AND REGULATIONS: The Operator agrees to pay, on behalf of the County, any Damage, assessment or fine issued against the County, or the Department to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, State or County governments based in whole or substantial part upon a claim or allegation that the Operator, its agents, employees, or invitees, have violated any law, ordinance, regulation or rule described in **Sub-Article 15.01 "Rules and Regulations"** or any plan or program developed in compliance therewith. The Operator further agrees that the substance of **Sub-Article 15.02 "Violations of Rules and Regulations"** and **Sub-Article 15.01 "Rules and Regulations"** shall be included in every Sub-Lease and other agreements which the Operator 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 Operator shall obtain, pay for, and maintain on a current basis and make available to the Department upon request, all permits, and licenses as required for the performance of its services.

15.04 PROHIBITION ON USING PRODUCTS CONTAINING TRANS FATS – RESOLUTION NO. R-456-07: The Operator 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 Operator shall, periodically review existing inventories and projected products, to assure that only trans-fat free products are being offered for public consumption.

Except for the modifications and in all other respects, the Agreement shall remain in full force and effect in accordance with the terms and conditions specified therein.

15.05 LABOR PEACE REQUIREMENT – RESOLUTION NO. R-148-07: The Operator 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 M). 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 an Operator is unable to reach an agreement with a labor organization regarding the terms of a labor peace agreement, the dispute between the Operator 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

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five (5) days prior to the date the proposal is due. The Operator and the labor organization shall equally share the costs of arbitration.

15.06 LIVING WAGE: (not applicable)

15.07 MIAMI-DADE AVIATION DEPARTMENT OPERATIONAL DIRECTIVES The Operator 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 Operator 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 Operator shall be precluded from distributing polystyrene products and petroleum-based materials.

In lieu of the above prohibited materials, Operators 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).

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

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Florida Statutes.

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

ARTICLE 17 – TRUST AGREEMENT

17.01 INCORPORATION OF TRUST AGREEMENT BY REFERENCE: Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Amended and Restated Trust Agreement dated as of the 15th day of December, 2002 as amended from time to time, by and between the County and the JP Morgan Chase Bank as Trustee and Wachovia Bank, National Association as Co-trustee ("the Trust Agreement"), which Trust Agreement is incorporated herein by reference, shall prevail and govern in the event of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. 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.miamiairport.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, of this Agreement, 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 County by the Lessee or by other Lessees under other Agreements of the County for the lease or use of facilities 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 the rentals, fees and charges payable by the Lessee and others shall not thereafter be unjustly discriminatory to any user of like facilities 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 including the adjustment of rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

17.03 INSPECTIONS: The authorized employees and representatives of the County and of any applicable

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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 Operator shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Proposal or any subsequent award, for inspection and copying. The County will be responsible for the payment of these IPSIG services, and under no circumstance shall the Operator's cost/price for this Proposal be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Operator, its officers, agents, employees, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities, and performance of the Operator in connection with this Agreement. The terms of this provision are neither intended nor shall they be construed to impose any liability on the County by the Proposer or third party.

17.05 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW: According to Section 2-1076 of the Code of Miami-Dade County, 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 Inspector General Fee, as described in Section 2-1076 shall not apply to this contract.

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

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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 Operator 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 Operator shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay same after the ultimate adverse conclusion of such contest shall constitute an Event of Default, pursuant to **Sub-Article 12.03 "Other Defaults**" hereof.

18.02 ALTERATIONS BY OPERATOR: The Operator shall not alter or modify the Location 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 Operator, shall have the right to modify administratively and to revise Articles and the Exhibits to this Agreement, including the provisions of **Sub-Article 1.07 "Addition, Deletion and Modification of Location"**, **Sub-Article 18.02 "Alterations by Operator", Sub-Article, 21.02 "Right to Amend"**, and **Sub-Article 21.04 "Right to Modify"**.

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

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

18.07 OTHER DEPARTMENT RIGHTS: The Operator shall be liable for any physical damage caused to the Location by the Operator, its employees, agents, contractors, subcontractors, and suppliers. The liability shall encompass: (i) the Operator'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 Operator 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

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

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

To the County:
(Mailing Address)

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

or (physical address):

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

To the Operator:

5217 Tennyson Parkway
Suite #100
Plano, TX 75024
Attn: Chris Gwilliam

with copies to:

JPMorgan Chase Bank, N.A.
201 North Walnut Street
Wilmington, DE 19801
Attn: General Manager, Airport Lounge Benefit Program
With a copy to: "General Counsel" at the same address

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.

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

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

18.12 COUNTY LIEN: The County shall have a lien upon all personal property of the Operator 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 Operator 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 Operator under this Agreement.

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

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

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

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

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

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

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

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

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procedures as may be required and designated in the Airport Security Plan and the Miami-Dade Aviation Department Rules and Regulations Chapter 25.

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

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

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

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

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

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

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

18.18 RADON DISCLOSURE: In accordance with Section 404.056, Florida Statutes, the following disclosure is hereby made: **"Radon Gas: Radon is a naturally occurring radioactive gas. When accumulated in a building in sufficient quantities, it may present health risks to persons who are exposed to**

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it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."

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

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

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

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

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

18.24 OTHER LIENS: Operator shall not permit any mortgages, deeds of trust or similar liens to be imposed on the Location, the leasehold, or the furniture, fixtures and equipment or any portion thereof. Operator shall not permit or suffer any liens, including mechanics', materialmen's and tax liens to be imposed upon the Location, or any part thereof, without promptly discharging the same. Notwithstanding the foregoing, Operator may in good faith contest any such lien if Operator provides a bond in an amount and form acceptable to Department in order to clear the record of any such liens. Operator further agrees that it shall not sell, convey, mortgage, grant, bargain, encumber, pledge, assign or otherwise transfer its leasehold interest in the Location 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

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occur. Operator shall assume the defense of and indemnify and hold harmless County against any and all liens and charges of any and every nature and kind which may at any time be established against said Location and improvements, or any part thereof, as a consequence of any act or omission of Operator or as a consequence of the existence of Operator's interest under this Lease.

18.25 FIRST SOURCE HIRING REFERRAL PROGRAM ("FSHRP"): Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the 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 N).

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

ARTICLE 19 SUB-LEASES

Operator shall not sub-lease this Agreement or any of the rights and privileges hereunder, or contract for the performance of any of the services to be provided by the Operator hereunder without the Department's prior written approval, which approval may be granted or withheld by Department in the exercise of its sole discretion. Operator may utilize Third Party Contractor(s) to accomplish the obligations of this Agreement.

ARTICLE 20 - WAIVER OF CLAIMS

The Operator hereby waives any and all claims it now has or may hereafter have against the County and the Department, and against any member, including, without limitation, all members of the Board of County Commissioners, officers, agents or employees of each, for any loss of anticipated profits caused by any suit or proceeding attacking directly or indirectly the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement or any part thereof, or by judgment or award in any suit or proceeding declaring this Agreement null and void or voidable, or delaying the same or any part thereof from being carried out. The Operator hereby further waives any and all claims for compensation for any and all loss or damage sustained by reason of any delay in making the Location available to the Operator 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 Operator'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

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systems, and Operator hereby expressly releases the County and Department from any and all demands, claims, actions, and causes of action arising from any of such causes.

ARTICLE 21 - REQUIRED, GENERAL AND MISCELLANEOUS PROVISIONS

21.01 AGREEMENTS WITH STATE OF FLORIDA AND MIAMI-DADE COUNTY:

This Agreement shall be subject to all restrictions of record affecting the Airport and the use thereof, all Federal, State, County laws, and regulations affecting the same, and shall be subject and subordinate to the previsions of any and all existing agreements between the County and the State of Florida, or its boards, agencies or commissions, and to any future agreement between or among the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the expenditure of Federal, State, County funds for the development of the Airport, or any part thereof. All provisions hereof shall be subordinate to the right of the United States to occupy or use the Airport, or any part thereof, during time of war or national emergency.

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

21.03 OPERATOR COVENANTS AND ASSURANCES:

A. Covenants Against Discrimination:

1. Operator on behalf of itself, ;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 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 Operator shall operate at the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. Likewise, Operator shall comply with laws of the State of Florida, prohibiting discrimination because of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or veteran status, or status as victim of domestic violence, dating violence or stalking. Should Operator authorize another person or entity, with Department's prior written consent, to provide services or benefits in or in connection with its rights or obligations under this Agreement, Operator shall obtain from such person or entity a written agreement pursuant to which such person or entity shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations

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contained in this paragraph. Operator shall furnish the original or a true copy of such agreement to Department.

2. Operator 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 Operator is in the exclusive possession of another who fails or refuses to furnish this information, Operator shall so certify to Department or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

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

4. Operator assures County that no person shall be excluded on the grounds of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or 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. Operator also assures County that it will require its covered suborganizations to provide assurances to the same effect and provide copies thereof to the Department.

5. Operator further assures County that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall on the grounds of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or 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. Operator also assures County that it will require its contractors to provide assurances to the same effect and ensure that such assurances are included in contracts and Sub-Lease agreements at all tiers which are entered into in connection with Operator's services hereunder.

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~~ Operator agrees that it will adopt such requirements as part of this Agreement.

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

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

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

21.07 REGULATIONS OF DEPARTMENT: The rights and privileges granted to the Operator hereunder and the occupancy and use by the Operator 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 Operator under any provisions of this Agreement, which may be amended from time to time, which are not paid when due shall bear interest at the rate of **one and one half percent (1 1/2%)** per month (or, if less, the maximum rate of interest allowed by law) from the due date thereof until paid.

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

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

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

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

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

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

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

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

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

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

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

21.10 FORCE MAJEURE: 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

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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 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 PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY: The Operator 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 Operator 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 OPERATOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OPERATOR'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.

21.12 ENTIRE AGREEMENT: This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements, representations or statements with respect to such subject matter, are merged herein; provided, however, that Operator hereby affirms the completeness and accuracy of the information provided by Operator to County in their Proposal, and in all attachments thereto and enclosures therewith, submitted by Operator to County in connection with the award of this Agreement. None of the provisions, terms or conditions contained in the Agreement may be modified or otherwise altered except as may be specifically authorized by Sub-Article 18.04 "Administrative Modifications" or the Sub-Articles stated therein, or by written instrument executed by the parties hereto.

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21.13 FAA SPECIAL PROVISIONS:

A. General Civil Rights Provisions

In all its activities within the scope of its airport program, the Operator 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 (including sexual orientation and gender identity), 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 by Title VI of the Civil Rights Act of 1964. The above provision binds the Operator and subcontractors from the bid solicitation period through the completion of the contract.

B. Compliance with Nondiscrimination Requirements

During the performance of this Contract, the Operator, for itself, its assignees, and successors in interest (hereinafter referred to as the "Operator") agrees as follows:

- Compliance with Regulations: The Operator (hereinafter includes consultants) 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.
- Nondiscrimination: The Operator, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor 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.
- Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- Information and Reports: The Operator 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 the Sponsor 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 contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- Sanctions for Noncompliance: In the event of an Operator's noncompliance with the non-discrimination provisions of this contract, the Sponsor 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 Operator under the contract until the Contractor complies; and/or
    b. Cancelling, terminating, or suspending a contract, in whole or in part.
- Incorporation of Provisions: The Operator 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 Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation

Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this Contract, the Operator, for itself, its assignees, and successors in interest (hereinafter referred to as the "Operator") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

a. Title VI of the Civil Rights Act of 1964 (42 USC § 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 USC § 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 USC § 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 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
f. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
g. The Civil Rights Restoration Act of 1987 (PL 100-259) (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 contractors, 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 Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with

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Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

l. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

D. All Contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.
The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

E. 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. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their Subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor 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.

F. Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

21.14 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 Contractor 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 Contractor's rights or obligations under this Contract are in conflict with the County's obligations under the Airport Agreement, and upon notice by the County to Contractor, the terms of this Contract shall be deemed conformed to the County's obligations under the Airport Agreement. Where such conformance would cause a material change in this Contract, Contractor 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 Contract for convenience; in such termination, the Contractor 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 Contractor does not elect to terminate this Contract within the time specified herein, this contract 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

21.15 Supplier/Vendor Registration / Conflict of Interest

a) Supplier/Vendor Registration

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The Operator 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 Operator'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 Operator'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.

21.16 COUNTY USER ACCESS PROGRAM (UAP) - Not applicable.

21.17 PROHIBITION AGAINST GOVERNMENTAL ENTITY CONTRACTS WITH COMMON CARRIER or CONTRACTED CARRIER (Not used)

21.18 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;

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(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.

21.19 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 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

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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.

21.21 ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions 2) Miami-Dade County's RFP No. EVN0002968 and any associated addenda and attachments thereof, and 3) the selected Proposer's Proposal.

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

OPERATOR

AD PARTNERSHIP, LLC

ATTEST:

Secretary DocuSigned by: Chris Gwilliam 0C76FC6F89334AF... _____
(Signature and Seal)

Chris Gwilliam Secretary
_____
(Type Name & Title)

By: DocuSigned by: Nancy knipp 04C56A41D13F473... _____
Operator - Signature

Name: Nancy knipp _____

_____
(President)

INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE

_____
Legal Name

By: _____
Signature

_____
(Type Name & Title)

_____
Legal Name

By: _____
Signature

_____
(Type Name & Title)

Attest: _____

Name of Managing Joint Venture:

_____

Witness: _____

By: _____
Signature of Authorized Representative of the Joint Venture

Corporate Seal

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

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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: _____

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