

## **MEMORANDUM**

Agenda Item No. 8(P)(3)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** September 17, 2024

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Resolution waiving competitive bidding procedures and authorizing a non-competitive contract pursuant to section 5.03(D) of the Home Rule Charter and section 2-8.1(b)(1) of the Code, by a two-thirds vote of the Board members present, for Contract No. BW-10469 with Inter Miami Ventures, LLC for a Lease and Concession Agreement for an Inter Miami CF Store with estimated revenue of \$1,500,000.00 for a five-year term for the Miami-Dade Aviation Department; authorizing the County Mayor to exercise all provisions of the contract, including any cancellation or extensions, pursuant to section 2-8.1(b) of the Code and Implementing Order 3-38

Resolution No. R-817-24

The accompanying resolution was prepared by the Strategic Procurement Department and placed on the agenda at the request of Prime Sponsor Vice Chairman Anthony Rodríguez and Co-Sponsor Chairman Oliver G. Gilbert, III.

  
\_\_\_\_\_  
Geri Bonzon-Keenan  
County Attorney

GBK/jp

MDC001

# Memorandum



**Date:** September 17, 2024

**To:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava   
Mayor

**Subject:** Recommendation to Waive Competitive Bidding Procedures and Award a Non-Competitive Contract for a Lease and Concession Agreement for an Inter Miami CF Store

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## **Summary**

This item is for a lease and concession agreement with Inter Miami Ventures, LLC (Inter Miami Ventures) for one location in Miami International Airport (MIA), North Terminal Marketplace, to establish a retail shop to sell licensed Club Internacional de Fútbol Miami (Inter Miami CF) merchandise. Inter Miami Ventures and its direct subsidiaries are the only entities able to establish official and exclusive Inter Miami CF branded retail stores in the South Florida region. The store will focus on offering exclusive professional sports merchandise, featuring highly sought-after Inter Miami CF licensed brand-name items and accessories, to the traveling public. Approval of this item will result in a source of revenue to the Miami-Dade Aviation Department (MDAD), while meeting the demands of travelers and other airport patrons. The projected revenue is anticipated to be \$1,500,000 to the County over a five-year period.

## **Recommendation**

It is recommended that the Board of County Commissioners (Board) waive competitive bidding procedures pursuant to Section 5.03(D) of the Home Rule Charter and Section 2-8.1(b)(1) of the Miami-Dade County Code (Code), by a two-thirds vote of the Board members present, and approve award of a non-competitive contract, *Contract No. BW-10469, Lease and Concession Agreement for an Inter Miami CF Store*, to Inter Miami Ventures, LLC for an estimated revenue amount of \$1,500,000 for a five-year term for MDAD. There is no existing nor any prior contract for the provision of these services.

## **Background**

MDAD has long been aware of the need to create a sense of destination for its passengers. Airports receiving a high satisfaction ranking from their passengers are those that have given them a sense of destination. The airport core concession program must assimilate with the cultural and geographical diversity of MIA's passenger base. Concessions such as the Miami Heat store or the proposed Miami CF store are guaranteed to draw large sport fan volume and generate substantial revenue numbers by selling team-licensed gear, jerseys, and novelty items. The vendor's responsibilities will include developing, financing, building out, management, and operation of such specialty retail store consisting solely of Inter Miami CF licensed brand merchandise at MIA.

Approval of a bid waiver in lieu of a competitive process is requested to ensure MIA will continue to support the concept of local presence and sense of destination through means of offering Inter Miami CF brand merchandise to the travelling public. Market research conducted revealed that while there are other retailers that may sell sports gear and memorabilia, Inter Miami Ventures and its direct subsidiaries, by virtue of Major League Soccer commercial rules, are the only entities able to establish official and exclusive Inter Miami CF branded retail stores in the South Florida region. Any alternate sources would risk the sale of unauthorized merchandise. The Inter Miami CF store will focus on offering an exciting range of highly sought-after licensed merchandise and accessories to the traveling public. Even though the MIA retail program offers basic seasonal sports items, the concept of having a unique professional sports franchise 365 days a year, offering a complete assortment of Inter Miami CF licensed brand-name items is appealing. The addition of the Inter Miami CF brand will add a local sports branded outlet to an already excellent product mix.

This will be the first Inter Miami CF store established at MIA. The availability and feasibility for competition will be continually monitored to ensure the need for future bid waivers is reduced or eliminated as soon as practicable.

Accordingly, it is in the County's best interest to award this bid waiver contract pursuant to Section 5.03(D) of the Home Rule Charter and Section 2-8.1(b)(1) of the Code to approve the award of a Lease and Concession Agreement with Inter Miami Ventures, LLC.

### **Scope**

Miami International Airport is located within District 6, which is represented by Commissioner Kevin Marino Cabrera; however, the impact of this item is countywide in nature.

### **Fiscal Impact/Funding Source**

There is a positive fiscal impact to the County resulting from this item as the contract is expected to generate projected revenue of \$1,500,000 for the five-year term. Revenue estimates are based on the revenue estimates from the former Marlin's team concession.

| Department   | Allocation         | Funding Source     | Contract Manager |
|--------------|--------------------|--------------------|------------------|
| MDAD         | \$1,500,000        | Revenue Generating | Sylvia Novela    |
| <b>Total</b> | <b>\$1,500,000</b> |                    |                  |

### **Track Record/Monitor**

Natalya Vasilyeva of the Strategic Procurement Department (SPD) is the Procurement Contracting Manager.

### **Delegated Authority**

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

### **Vendor Recommended for Award**

| Vendor                    | Principal Address                                   | Local Address | Number of Employee Residents    | Principal      |
|---------------------------|-----------------------------------------------------|---------------|---------------------------------|----------------|
|                           |                                                     |               | 1) Miami-Dade<br>2) Percentage* |                |
| Inter Miami Ventures, LLC | 800 S Douglas Road<br>Suite 770<br>Coral Gables, FL | Same          | 0                               | Brandon Briggs |
|                           |                                                     |               | 0%                              |                |

\*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.

### **Due Diligence**

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD's Procurement Guidelines to determine contractor responsibility, including verifying corporate status and that there are no performance or 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 contractor responsibility.

Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners  
Page 3

**Applicability of Ordinances and Contract Measures**

- The two percent User Access Program does not apply.
- The Small Business Enterprise measures and Local Preference do not apply.
- The Living Wage Ordinance applies.

  
\_\_\_\_\_  
Jimmy Morales  
Chief Operating Officer



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** September 17, 2024

**FROM:**   
Glen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 8(P)(3)

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
- ☒ Applicable legislation requires more than a majority vote (i.e., 2/3's present ☒, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, majority plus one \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3) (h) or (4)(c) \_\_\_\_, CDMP 9 vote requirement per 2-116.1(4)(c) (2) \_\_\_\_ ) 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)(3)  
9-17-24

RESOLUTION NO. R-817-24

RESOLUTION WAIVING COMPETITIVE BIDDING PROCEDURES AND AUTHORIZING A NON-COMPETITIVE CONTRACT PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1(B)(1) OF THE CODE OF MIAMI-DADE COUNTY, BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT, FOR CONTRACT NO. BW-10469 WITH INTER MIAMI VENTURES, LLC FOR A LEASE AND CONCESSION AGREEMENT FOR AN INTER MIAMI CF STORE WITH ESTIMATED REVENUE OF \$1,500,000.00 FOR A FIVE-YEAR TERM FOR THE MIAMI-DADE AVIATION DEPARTMENT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSIONS, PURSUANT TO SECTION 2-8.1(B) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying 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 finds that it is in the best interest of Miami-Dade County to waive competitive bidding procedures and authorize a non-competitive contract pursuant to section 5.03(D) of the Home Rule Charter and section 2-8.1(b)(1) of the County Code by a two-thirds vote of the Board members present for Contract No. BW-10469 for a Lease and Concession Agreement for an Inter Miami CF Store to Inter Miami Ventures, LLC, in substantially the form attached and made a part hereof, with estimated revenue of \$1,500,000.00 for a five-year term for the Miami-Dade Aviation Department.

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

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

|                                  |            |                      |            |
|----------------------------------|------------|----------------------|------------|
| Oliver G. Gilbert, III, Chairman | <b>aye</b> |                      |            |
| Anthony Rodríguez, Vice Chairman | <b>aye</b> |                      |            |
| Marleine Bastien                 | <b>aye</b> | Juan Carlos Bermudez | <b>aye</b> |
| Kevin Marino Cabrera             | <b>aye</b> | Sen. René García     | <b>aye</b> |
| Roberto J. Gonzalez              | <b>aye</b> | Keon Hardemon        | <b>aye</b> |
| Danielle Cohen Higgins           | <b>aye</b> | Eileen Higgins       | <b>aye</b> |
| Kionne L. McGhee                 | <b>aye</b> | Raquel A. Regalado   | <b>aye</b> |
| Micky Steinberg                  | <b>aye</b> |                      |            |

The Chairperson thereupon declared this resolution duly passed and adopted this 17<sup>th</sup> day of September, 2024. 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: **Basia Pruna**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

*DMM*

David M. Murray

**LEASE AND CONCESSION  
AGREEMENT  
BY AND BETWEEN  
MIAMI-DADE COUNTY, FLORIDA  
AND  
INTER MIAMI VENTURES, LLC  
CONCESSIONAIRE  
AT  
MIAMI INTERNATIONAL AIRPORT**

**TABLE OF CONTENTS****DEFINITIONS**

|                                                           |               |
|-----------------------------------------------------------|---------------|
| <b>Article 1 – Term, Extension and Location</b>           | <b>9</b>      |
| 1.01 Term                                                 | 9             |
| 1.02 Not Used (Extension)                                 | 9             |
| 1.03 Not Used (See 2.01 Location)                         | 9             |
| 1.04 Support / Storage Space                              | 9             |
| 1.05 Not Used (Storage Space)                             | 10            |
| 1.06 Common Warehouse System                              | 10            |
| 1.07 Addition, Deletion and Modification of Location      | 10            |
| 1.08 Non-exclusivity                                      | 11            |
| 1.09 Condition of the Location                            | 11            |
| 1.10 Capital Improvement Program                          | 12            |
| <br><b>Article 2 – Use of Location</b>                    | <br><b>12</b> |
| 2.01 Location                                             | 12            |
| 2.02 Use of Location                                      | 12            |
| 2.03 Concessionaire Services and Sales Rights             | 12            |
| 2.04 Not Used (New Concepts)                              | 12            |
| 2.05 Scope of Services                                    | 12            |
| 2.06 Not Used (Annual Marketing Plan Submission)          | 14            |
| 2.07 Prohibited Activities                                | 14            |
| <br><b>Article 3 – Rentals, Payments, and Reports</b>     | <br><b>15</b> |
| 3.01 Not Used (Minimum Annual Guarantee)                  | 15            |
| 3.02 No Negotiations or Administrative Modifications      | 15            |
| 3.03 Not Used (Recalculation of Minimum Annual Guarantee) | 15            |
| 3.04 Percentage Fee to the Department                     | 15            |
| 3.05 Concession Category Percentage Fee                   | 16            |
| 3.06 Annual Rent                                          | 16            |
| 3.07 Annual Rental Rate Adjustment                        | 16            |
| 3.08 Not Used (See 1.06 Common Warehouse Logistics Fee)   | 16            |
| 3.09 Concession Marketing Fee                             | 16            |
| 3.10 Not Used (MAG Performance Bond)                      | 16            |
| 3.11 Taxes                                                | 16            |
| 3.12 Reports of Gross Revenues                            | 17            |
| 3.13 Other Reports                                        | 17            |
| 3.14 Late Payment                                         | 17            |
| 3.15 Dishonored Check or Draft                            | 17            |
| 3.16 Address for Payments                                 | 18            |
| 3.17 Revenue Control Procedures                           | 18            |
| 3.18 Annual Audit                                         | 18            |
| 3.19 Right to Audit/Inspect                               | 19            |
| 3.20 Records and Reports                                  | 19            |
| 3.21 Additional Fees Due                                  | 20            |

|                                                       |           |
|-------------------------------------------------------|-----------|
| 3.22 Utilities                                        | 20        |
| 3.23 Damages                                          | 21        |
| 3.24 Security Deposit                                 | 21        |
| 3.25 Accounts Receivable Adjustments                  | 22        |
| 3.26 Payment Card Industry Data Security Standard     | 23        |
| 3.27 Payment Card Industry Data Security Compliance   | 24        |
| <b>Article 4 – Improvements to the Location</b>       | <b>26</b> |
| 4.01 Improvements to Location                         | 26        |
| 4.02 Design of Improvements                           | 26        |
| 4.03 Refurbishment of Location                        | 26        |
| 4.04 Certain Construction Contract Terms              | 26        |
| 4.05 Improvements Free and Clear                      | 27        |
| 4.06 Other Requirements                               | 27        |
| 4.07 Review of Construction                           | 27        |
| 4.08 Cost Documentation                               | 27        |
| 4.09 Not Used (Amortization Schedule)                 | 28        |
| 4.10 Construction Permit Fee                          | 28        |
| 4.11 Construction Services                            | 28        |
| 4.12 Sustainable Buildings Program                    | 30        |
| <b>Article 5 – Standards of Operation</b>             | <b>30</b> |
| 5.01 Standards of Operation                           | 30        |
| 5.02 Market Basket/Competitive Pricing Policy         | 31        |
| <b>Article 6 – Obligations of the Department</b>      | <b>31</b> |
| 6.01 Department Services                              | 31        |
| <b>Article 7 – Furniture, Fixtures, and Equipment</b> | <b>33</b> |
| 7.01 Furniture, Fixtures, and Equipment               | 33        |
| 7.02 Americans with Disabilities Act Requirements     | 33        |
| 7.03 Disposal of Furniture, Fixtures, and Equipment   | 33        |
| <b>Article 8 – Maintenance</b>                        | <b>34</b> |
| 8.01 Cleaning                                         | 34        |
| 8.02 Removal of Trash                                 | 34        |
| 8.03 Maintenance and Repair                           | 34        |
| 8.04 Failure to Maintain                              | 35        |
| 8.05 Environmental Recycling                          | 35        |
| 8.06 Fire Protection and Safety Equipment             | 35        |
| <b>Article 9 – Assignment and Ownership</b>           | <b>35</b> |
| 9.01 No Assignment                                    | 35        |
| 9.02 Ownership of the Concessionaire                  | 35        |
| 9.03 Change of Control                                | 36        |
| 9.04 Holdover                                         | 36        |

|                                                                                     |           |
|-------------------------------------------------------------------------------------|-----------|
| <b>Article 10 – Indemnification</b>                                                 | <b>36</b> |
| 10.01 Indemnification Required of Concessionaire                                    | 37        |
| <b>Article 11 – Insurance</b>                                                       | <b>37</b> |
| 11.01 Insurance Required of Concessionaire                                          | 37        |
| 11.02 Certificate of Continuity                                                     | 38        |
| 11.03 Insurance Company Rating Requirements                                         | 38        |
| 11.04 Concessionaire Liable                                                         | 38        |
| 11.05 Cancellation of Insurance or Bonds                                            | 38        |
| 11.06 Right to Examine                                                              | 39        |
| 11.07 Personal Property                                                             | 39        |
| 11.08 Survival of Provisions                                                        | 39        |
| 11.09 Indemnification, Construction Bonds and Insurance Required                    | 39        |
| <b>Article 12 – Default and Termination by County</b>                               | <b>42</b> |
| 12.01 Events of Default                                                             | 42        |
| 12.02 Payment Default                                                               | 43        |
| 12.03 Other Defaults                                                                | 43        |
| 12.04 Habitual Default                                                              | 44        |
| 12.05 Notice of Default and Opportunity to Cure                                     | 44        |
| 12.06 Unamortized Investment Extinguished                                           | 44        |
| 12.07 Termination for Abandonment                                                   | 44        |
| 12.08 Termination for Cause                                                         | 45        |
| 12.09 Termination for Convenience                                                   | 45        |
| 12.10 Adequate Assurances                                                           | 45        |
| 12.11 Actions at Termination                                                        | 6         |
| <b>Article 13 – Claims and Termination by Concessionaire</b>                        | <b>46</b> |
| 13.01 Administrative Claim Procedures                                               | 46        |
| 13.02 Termination                                                                   | 47        |
| <b>Article 14 – Not Used (Airport Concession Disadvantaged Business Enterprise)</b> | <b>47</b> |
| <b>Article 15 – Rules, Regulations and Permits</b>                                  | <b>47</b> |
| 15.01 Rules and Regulations                                                         | 47        |
| 15.02 Violations of Rules and Regulations                                           | 47        |
| 15.03 Permits and Licenses                                                          | 48        |
| 15.04 Prohibition on Using Products Containing Trans-Fats                           | 48        |
| Resolution No. R-456-07                                                             | 48        |
| 15.05 Labor Peace Requirement–Resolution No. R-148-07                               | 48        |
| 15.06 Living Wage                                                                   | 48        |
| 15.07 Miami Dade Aviation Department Operational Directives                         | 48        |
| <b>Article 16 – Governing Law</b>                                                   | <b>49</b> |
| 16.01 Governing Law; Venue                                                          | 49        |
| 16.02 Notice of Commencement of Civil Action                                        | 49        |
| 16.03 Registered Office/Agent Jurisdiction                                          | 49        |

|                                                                            |               |
|----------------------------------------------------------------------------|---------------|
| <b>Article 17 – Trust Agreement</b>                                        | <b>49</b>     |
| 17.01 Incorporation of Trust Agreement by Reference                        | 49            |
| 17.02 Adjustment of Terms and Conditions                                   | 50            |
| 17.03 Inspections                                                          | 50            |
| 17.04 Independent Private Sector Inspector General Review                  | 50            |
| 17.05 Miami-Dade County Inspector General Review                           | 51            |
| <br><b>Article 18 – Other Provisions</b>                                   | <br><b>52</b> |
| 18.01 Payment of Taxes                                                     | 52            |
| 18.02 Alterations by Concessionaire                                        | 52            |
| 18.03 Rights to be Exercised by Department                                 | 52            |
| 18.04 Administrative Modifications                                         | 52            |
| 18.05 Security                                                             | 52            |
| 18.06 Rights of Department at Airport                                      | 52            |
| 18.07 Other Department Rights                                              | 52            |
| 18.08 Federal Subordination                                                | 53            |
| 18.09 Notices                                                              | 53            |
| 18.10 Severability                                                         | 54            |
| 18.11 Rights Reserved to Department                                        | 54            |
| 18.12 County Lien                                                          | 54            |
| 18.13 Authorized Uses Only                                                 | 54            |
| 18.14 No Waiver                                                            | 54            |
| 18.15 Secured Areas/Airfield Operations Area (AOA) Sterile Areas Security  | 54            |
| 18.16 Intent of Agreement                                                  | 57            |
| 18.17 Modifications                                                        | 57            |
| 18.18 Radon Disclosure                                                     | 57            |
| 18.19 Trademarks and Licenses                                              | 57            |
| 18.20 Headings                                                             | 57            |
| 18.21 Binding Effect                                                       | 58            |
| 18.22 Governmental Department                                              | 58            |
| 18.23 Independent Contractor                                               | 58            |
| 18.24 Other Liens                                                          | 58            |
| 18.25 First Source Hiring Referral Program                                 | 58            |
| 18.26 Right to Regulate                                                    | 59            |
| 18.27 Contracting with Entities of Foreign Countries of Concern Prohibited | 59            |
| 18.28 Contractor Due Diligence Affidavit                                   | 59            |
| <br><b>Article 19 – Not Used (Sub-Leases)</b>                              | <br><b>59</b> |
| <br><b>Article 20 – Waiver of Claims</b>                                   | <br><b>59</b> |
| <br><b>Article 21 – Required, General and Miscellaneous Provisions</b>     | <br><b>60</b> |
| 21.01 Agreements with State of Florida and Miami-Dade County               | 60            |
| 21.02 Right to Amend                                                       | 60            |
| 21.03 Concessionaire Covenants and Assurances                              | 60            |
| 21.04 Right to Modify                                                      | 62            |
| 21.05 Tax Exempt Status of Department Revenue Bonds                        | 63            |
| 21.06 Remedies                                                             | 63            |

|                                                                                                                 |    |
|-----------------------------------------------------------------------------------------------------------------|----|
| 21.07 Regulations of Department                                                                                 | 63 |
| 21.08 Interest                                                                                                  | 63 |
| 21.09 Miscellaneous Provisions                                                                                  | 63 |
| 21.10 Force Majeure                                                                                             | 64 |
| 21.11 Aspirational Policy Regarding Diversity                                                                   | 65 |
| 21.12 Public Records and Contracts for Services Performed on Behalf<br>of Miami-Dade County                     | 65 |
| 21.13 Entire Agreement                                                                                          | 66 |
| 21.14 FAA Special Provisions                                                                                    | 66 |
| 21.15 U.S. Soccer Federation 2026 World Cup                                                                     | 69 |
| 21.16 Supplier/Vendor Registration/Conflict of Interest                                                         | 70 |
| 21.17 Not Used County User Access Program (UAP)                                                                 | 71 |
| 21.18 Not Used (Prohibition Against Governmental Entity Contracts with Common<br>Carrier or Contracted Carrier) | 71 |
| 21.19 Not Used Cybersecurity and Information Technology Procurement<br>and Protection Program                   | 71 |
| 21.20 Verification of Employment Eligibility (E-Verify)                                                         | 71 |
| Signature Page                                                                                                  | 72 |

**Attachments**

Exhibit A: Location  
Exhibit B: Scope of Services  
Exhibit C: Surety Performance and Payment Bond  
Exhibit D: Payment Security (Lease Guarantee Bond)  
Exhibit E: North Terminal Retail Concessions Design Guidelines (link provided)  
Exhibit F: Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N)  
Tenant Airport Construction Reimbursable Procedures (TAC-R) (links provided)  
Exhibit G: Independent Audit Report  
Exhibit H: Executed Affidavits and Condition of Award Certificates (from Concessionaire)  
Exhibit I: Monthly Report of Gross Revenues  
Exhibit J: TSA Prohibited Items (link provided)  
Exhibit K: Tenant Handbook  
Exhibit L: Standards of Operations L-1  
Exhibit M: Signed Labor Peace Agreement (from Concessionaire)  
Exhibit N: Implementing Order 3-58 – First Source Hiring Referral Program (link provided)

\* The executed copies of the Affidavits and Condition of Award Certificates will be attached as Exhibit H.

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

The term “**Airport**” shall mean Miami International Airport.

The term “**AS IS**” shall mean that the Concessionaire will receive a Location that is not in a “prepared shell” (vanilla box) condition. Assumption of an AS IS space may include a demolition phase in the project.

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

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

The term “**Beneficial Occupancy**” shall mean the 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 “**Code**” shall mean the Code of Miami-Dade County, Florida.

The term “**Common Logistics Fee**” shall mean an amount to be invoiced as a separate line item and collected from the Concessionaire for the purpose of reimbursing, without profit or administrative markup, a County imposed or approved logistics program which the Concessionaire may be reimbursed for actual out-of-pocket expenses incurred excluding any administrative overhead in order to lease off-Airport properties for storage or operate on the Airport and operating a common logistical support service as may be necessary for the efficient operation of the Retail Program.

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

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

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

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

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

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

The term **“Gross Revenues”** shall mean all monies paid or payable to or consideration of determinable value received by the Concessionaire in operation under the Agreement, regardless of when or where the order therefore is received, or the goods delivered, or services rendered, whether paid or unpaid, whether on a cash, credit or rebate basis or in consideration of any other thing of value; provided, however, that the term “Gross Revenues” shall not include: (i) any refund given to the customer because of a customer satisfaction issue which must be documented and auditable, or (ii) promotional discount and coupon offers issued to customers as a result of a Departmental approved marketing plan, or (iii) any sums collected for any Federal, State, County and municipal taxes imposed by law upon the sale of merchandise or services, or taxes imposed by law, which are separately stated to and actually paid by a customer and directly payable by the Concessionaire to a taxing authority and sales refunds.

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

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

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

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

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

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

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

The term “**State**” shall mean the State of Florida.

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

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

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

**LEASE AND CONCESSION AGREEMENT  
FOR A NON-EXCLUSIVE RETAIL CONCESSION  
AT  
MIAMI INTERNATIONAL AIRPORT**

THIS LEASE AND CONCESSION AGREEMENT is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida and INTER MIAMI VENTURES, LLC (“Concessionaire”), a Florida Corporation authorized to do business in the State of Florida.

**RECITALS:**

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

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

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

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

**ARTICLE 1 – TERM, EXTENSION AND LOCATION**

**1.01 TERM:** The Department hereby leases to the Concessionaire the Location, Exhibit A, commencing upon the Lease Effective Date of this Agreement; and shall expire at 11:59 o’clock P.M. on the **fifth (5<sup>th</sup>)** year. The Agreement is subject to subsequent long term lease approval by the Federal Aviation Administration (FAA); in the event that the FAA determines that this lease is (1) both a long-term exclusive lease and (2) such lease is not approved by the FAA, the term of this Lease shall be deemed to be five years from the Lease Effective Date. In no event shall this Agreement afford Concessionaire or any other party any right to use or occupy the Location (or any part thereof) after the expiration, or termination of this Agreement.

**1.02 NOT USED (EXTENSION)**

**1.03 NOT USED (SEE 2.01 LOCATION)**

**1.04 SUPPORT / STORAGE SPACE:** In addition to the Location provided to the Concessionaire in **Sub-Article 2.01 “Location”**, the Department may provide Support

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

#### **1.05 NOT USED (STORAGE SPACE)**

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

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

#### **1.07 ADDITION, DELETION AND MODIFICATION OF LOCATION:** This Agreement shall be administratively revised to reflect any additions, deletions, or modifications to the Location pursuant to the provisions herein. Such revision will include revised exhibits and appropriate changes to the Location in **Sub-Articles 2.01 “Location”, 1.04 “Support/Storage Space”,** and total payments due the Department in accordance with **Article 3, “Rentals, Payments and Reports”** and **Article 2 “Use of Location”**.

**A. ADDITION OF LOCATION:** If at any time after the Lease Effective Date, the Department, at its sole discretion, identifies any additional Location for concession development comparable to the concept categories in this Agreement, the Department may, but is not required to, offer such additional Location to the Concessionaire upon written notification. The Concessionaire will have thirty (30) Days to submit a written response accepting or rejecting the additional Location.

#### **B. NOT USED (ADDITION OF TEMPORARY LOCATION)**

- C. DELETION OR MODIFICATION OF LOCATION:** The Department reserves the right, at its sole discretion, to delete or modify any of the Location, or any administrative support and storage spaces due to Airport development/construction, operational necessity, and security or safety considerations. In the event of such deletion or modification the Concessionaire shall be given no less than: (i) thirty (30) Days written notice, for such deletion or modification due to operational necessity, and security or safety considerations; and (ii) sixty (60) Days written notice, for such deletion or modification due to development/construction.
- 1.08 NON-EXCLUSIVITY:** This Agreement is non-exclusive in character and in no way prevents the Department from entering into an agreement with any other parties for the sale or offering of competitive services, products, or items by other Concessionaires and/or others in other locations at the Airport during the Term, and any Extension of this Agreement.
- 1.09 CONDITION OF THE LOCATION: CONCESSIONAIRE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE DEPARTMENT IS LEASING ALL LOCATION TO THE CONCESSIONAIRE ON AN “AS IS” BASIS AND THAT THE CONCESSIONAIRE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE DEPARTMENT OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THOSE LOCATION** including: (i) the quality, nature, adequacy and physical condition and aspects of the Location, including utility systems; (ii) the existence, quality, nature, adequacy and physical condition of utilities serving the Location; (iii) the development potential of the Location, the use of the Location, and the habitability, merchantability, or fitness, suitability, value or adequacy of the Location for any particular purpose; (iv) the zoning or other legal status of the Location or any other public or private restrictions on use of the Location; (v) the compliance of the Location or its operation with any applicable laws, regulations, statutes, ordinances, codes, covenants, conditions, and restrictions of any governmental or quasi-governmental entity or of any other person or entity; (vi) the presence of hazardous materials or industrial wastes on, under or about the Location; (vii) the quality of any labor and materials used in any improvements on the Location; (viii) the condition of title to the Location; (ix) the agreements affecting the Location; and (x) the Proposal submitted by Concessionaire to the Department, including any statements relating to the potential profitability of such Proposal. Concessionaire represents and warrants that it has made an independent investigation of all aspects of its Proposal contemplated by this Agreement. Except as specifically provided in this Agreement, the Concessionaire has satisfied itself as to such suitability and other pertinent matters by the Concessionaire's own inquiries and tests into all matters relevant in determining whether to enter into this Agreement. The Concessionaire accepts the Location in their existing condition, and hereby expressly agrees that if any remediation or restoration is required in order to conform the Location to the requirements of applicable law, the Concessionaire assumes sole responsibility for any such work.

Without limiting the preceding, the Concessionaire is additionally advised that the passenger traffic, terminal utilization, and airline locations at Miami International Airport may change over the course of this Agreement. The County shall not be liable for any

decrease in profitability or increase in costs to Concessionaire on account of same, nor shall such causes relieve Concessionaire of its obligations under this Agreement.

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

## ARTICLE 2 – USE OF LOCATION

- 2.01 LOCATION:** The Location as referenced in Exhibit A, shall be used solely for their assigned and approved concept category. Failure to maintain the concept category pursuant to **Article 2 “Use of Location”** may result in Damages as indicated in **Sub-Article 3.23 “Damages”**.
- 2.02 USE OF LOCATION:** The Concessionaire shall have the right, privilege, and obligation to develop, lease, market and manage to operate and maintain the Location, depicted in Exhibit A, for the purpose of establishing high quality, state of the art retail concessions as approved by the Department. If a Concessionaire is in violation of any law, rule, or regulation, the County may require Concessionaire to comply with same, irrespective of the failure of an Authority Having Jurisdiction to issue a citation, notice to cure, or other advisory document.
- 2.03 CONCESSIONAIRE SERVICES AND SALES RIGHTS:** The Concessionaire shall not allow any services or the sale of any item or product not specifically covered by the categories approved in this Agreement. Any such sales by the Concessionaire of services, products, or items not specifically approved herein, in writing by the Department, may constitute a violation. In the event of such violation, the Concessionaire shall discontinue the sale or service of the unapproved product immediately, upon written notice from the Department. Failure by Concessionaire to discontinue such sales within twenty-four (24) hours shall subject the Concessionaire to Damages pursuant to **Sub-Article 3.23 “Damages”**.
- 2.04 NOT USED (NEW CONCEPTS)**
- 2.05 SCOPE OF SERVICES:** The Concessionaire hereby agrees that it will finance, design and construct, lease, manage, operate, and maintain the Location depicted in Exhibit A, “Location”, for the purpose of establishing high quality, state of the art retail concession as approved by the Department. Its responsibilities are further defined but not limited to the following:
- A. Financing:**
- Be capable of financing the design, construction and build out of the Location depicted on Exhibit A, “Location”.

Develop a financial plan indicating the source of funding for capital investment and continued maintenance and operation of the Location.

**B. Developing:**

The Concessionaire shall design a concession program to fulfill the concept categories and submit initially and thereafter annually a merchandising and layout plan identifying the product categories for the Location. The Concessionaire will be responsible for updating the store layout plan and merchandising plan no less than annually or as necessary throughout the Term, and any Extension of this Agreement, providing suggestions as needed for each concept for consideration by the Department.

**C. Design and Construction Coordination:**

Design and Construction Coordination requirements are detailed in Sub-Article 4 Improvements to the Location.

**D. Managing**

The Concessionaire shall:

1. Design a concession program fulfilling the concept category and submit a merchandising plan initially and for annual review until expiration of the Agreement identifying the product categories for each Location. The Concessionaire will review the store layout plan no less than annually and update the store layout as necessary throughout the Agreement.
2. Manage the Location in a way that maximizes the highest and best use and financial return to the Department.
3. Monitor and enforce compliance with the terms and conditions of the Lease and Concession Agreement and any Sub-Lease agreements, including but not limited to use clauses, customer service, insurance, pricing, capital expenditures, quality of merchandise, hours of operation, detailed reporting of sales, payment of fees, rent, and signage.
4. Function as operations liaison between the Department, governmental agencies, and others.
5. Maintain permanent records for each Location leased.
6. Maintain computerized records on a commercially available property management software program acceptable to the Department. Programs and all data collected should be available to the Department on-line (digital and electronic).
7. Develop, maintain, and make available, if requested, all files, to include copies of licenses, permits, insurance certificates, and letters of credit.
8. Provide from time to time, as requested by the Department, annual financial statements demonstrating its financial capacity to perform its obligations under the terms of the Agreement.

**E. Operating**

The Concessionaire shall:

1. Provide quality control audits and reports, including maintenance of the street pricing requirements covering compliance with contract requirements, cleanliness of the Location, timeliness of service, quality of the product.
2. Generate monthly reports to the Department, including sales by unit, concept, and Location.
3. Develop annual revenue projections by month, by Location, concession category, and product category to be updated on a regular basis.
4. Generate and provide the Department monthly airport revenue reports, and such other financial and management reports as are usual and customary in sophisticated airport concession management programs. Prepare other reports and analyses as may be requested periodically by the Department, including number of transactions per hour, average sales per transaction, and sales per product category.
5. Provide on-site staff to perform daily functions as required by the Scope of Services and the Standards of Operations identified in this Lease and Concession Agreement, subject to acceptance by the Department.
6. Ensure compliance with the Department and other governmental agency ID Badging requirements.
7. Implement any new policies, and procedures, and operational directives as issued from time to time by the Department.
8. Ensure payment is submitted with the Monthly Report of Gross Revenues to the Department.
9. Respond to customer/passenger complaints on a timely basis. Ensure customer service program compliance. The Concessionaire will submit its/their customer service-training program within thirty (30) Days of the Lease Effective Date of the Agreement, for the Department's review and approval.
10. Coordinate and implement regular employee customer service training programs, to include employees from the Concessionaire, if applicable.
11. Participate in an airport-wide customer service program implemented by the Department.

#### **F. Maintaining**

The Concessionaire shall:

12. Maintain or cause to maintain the Location pursuant to Department standards, which may be promulgated from time to time.
13. Coordinate and maintain general oversight of deliveries of goods and products for the concession operations from any designated on or off-Airport storage area.
14. Shall take such corrective action as necessitated to maintain Location in an acceptable condition as required by the Department.

#### **2.06 NOT USED (ANNUAL MARKETING PLAN SUBMISSION)**

- 2.07 PROHIBITED ACTIVITIES:** Without limiting any other provision herein, Concessionaire shall not, without the prior written consent of the Department which may be withheld in its sole and absolute discretion: (a) advertise or hold any distress, fire, or

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

### ARTICLE 3 – RENTALS, PAYMENTS, AND REPORTS

#### 3.01 NOT USED (MINIMUM ANNUAL GUARANTEE)

#### 3.02 NO NEGOTIATIONS OR ADMINISTRATIVE MODIFICATIONS:

(a) The Concessionaire understands and agrees, as a condition precedent to the County's award of this Agreement, that the terms and conditions of **Sub-Article 3.04 "Percentage Fee to the Department"** are not subject to negotiation or adjustment for any reason, including, but not necessarily limited to, airport construction, airline relocation, airline bankruptcies, change in airline service, and the like, except in the event of an act of God or an event of force majeure as such term is defined in **Sub-Article 21.10 "Force Majeure"**. Nor shall the County be liable for any reduction in sales or disruptions or delays caused in whole or in part by any of the foregoing at any time during the Term, and any Extension of this Agreement.

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

#### 3.03 NOT USED (RECALCULATION OF THE MINIMUM ANNUAL GUARANTEE)

#### 3.04 PERCENTAGE FEE TO THE DEPARTMENT: As consideration for the privilege to engage in business at Miami International Airport, the Concessionaire shall pay the Department the greater of (a) the percentage of Gross Revenues Concessionaire earns at its respective Location per the Agreement ("percentage fee") or (b) the prevailing Class VI Terminal rental rates for the lease of the Location(s). The monthly percentage fee shall be due on the first (1<sup>st</sup>) day of the month following the month during which the monthly gross revenues were received or accrued. Percentage fees are non-taxable.

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

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

**3.05 CONCESSIONS CATEGORY PERCENTAGE FEE:** The Concessionaire shall pay the Department a Percentage Fee of **ten percent (10%) of Gross Revenues**.

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

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

**3.07 ANNUAL RENTAL RATE ADJUSTMENT:** On October 1st of each year of the Agreement, the cost based rental rates, pursuant to **Sub-Article 3.06, “Annual Rent”**, 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 in the letter amendment. Payments for any retroactive rental adjustments shall be due upon billing by the Department and payable within ten (10) Days of same.

**3.08 NOT USED (SEE 1.06 COMMON WAREHOUSE LOGISTICS FEE)**

**3.09 CONCESSION MARKETING FEE:** A concession marketing fee of one half (1/2) 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<sup>th</sup>) day of each month to be used for marketing the concessions at the Airport.

**3.10 NOT USED (MAG PERFORMANCE BOND)**

**3.11 TAXES:** The Concessionaire shall be solely responsible for the payment of all applicable taxes, levied upon the fees and other charges payable by the Concessionaire to the Department hereunder, whether or not the same shall have been billed or collected by the Department, together with any and all interest, Damages and charges levied thereon.

The Concessionaire hereby agrees to indemnify the County and Department and hold it harmless from and against all claims by any taxing authority that the amounts, if any, collected from the Concessionaire and remitted to the taxing authority by the Department, or the amounts, if any, paid directly by the Concessionaire to such taxing authority, were less than the total amount of taxes due, and for any sums including interests and Damages payable by the Department as a result thereof. The provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.

- 3.12 REPORTS OF GROSS REVENUES:** On or before the tenth (10<sup>th</sup>) Day following the end of each month throughout the Term and any Extension of this Agreement, the Concessionaire shall furnish to the Department, a Statement of Monthly Gross Revenues, using Exhibit I "Monthly Report of Gross Revenues". The report shall list each Location under this Agreement, together with any percentage fee due to the Department pursuant to **Sub-Article 3.04 "Percentage Fee to the Department"**. The Concessionaire shall certify as to the accuracy of such Gross Revenues in such form as shall be prescribed by the Department. The Department may modify from time to time the form of reporting upon not less than thirty (30) days written notice to the Concessionaire. The statement must be signed by an officer (if the Concessionaire is a corporation), partner (if a partnership), or owner (if a sole proprietorship) of the Concessionaire and identify all Gross Revenues by Location reported to the Concessionaire during such month. Failure to provide the Monthly Report of Gross Revenues by the tenth (10<sup>th</sup>) day shall result in a late fee damage of Fifty Dollars (\$50.00) per Day to a maximum of \$750 a month, as provided in **Sub-Article 3.23 "Damages"**.
- 3.13 OTHER REPORTS:** The Concessionaire shall provide the Department with financial data and operating statistics in a format and frequency specified by the Department, and the Department shall provide no less than thirty (30) days written notice of the format and frequency required for said financial data and operating statistics.
- 3.14 LATE PAYMENT:** In the event the Concessionaire fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) business days of the due date, delinquency charges established by the Board will be imposed. Such rate is currently 1½% delinquency charge per month.
- 3.15 DISHONORED CHECK OR DRAFT:** In the event the Concessionaire delivers a dishonored check or draft to the Department in payment of any obligation arising under this Agreement, the Concessionaire shall incur and pay a service fee of TWENTY-FIVE DOLLARS (\$25.00), if the face value of the dishonored check or draft is fifty dollars (\$50.00) or less, THIRTY DOLLARS (\$30.00) if the face value of the dishonored check or draft is more than fifty dollars (\$50.00) and less than three hundred dollars (\$300.00), or FORTY DOLLARS (\$40.00), if the face value of the dishonored check is three hundred dollars (\$300.00) or more, or five percent (5%) of the face value of such dishonored check or draft, whichever is greater, plus Damages imposed by law. Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's checks or other means acceptable to the Department.

- 3.16 ADDRESS FOR PAYMENTS:** The Concessionaire shall pay all monies payable and identify the Lease and Concession Agreement for which payment is made, as required by this Agreement, to the following:

**By Mail:** Miami-Dade Aviation Department  
Finance Division  
P.O. Box 592624  
Miami, Florida 33152-6624

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

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

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

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

- 3.18 ANNUAL AUDIT:** Within ninety (90) days of each anniversary of the Lease Effective Date of this Agreement and within ninety (90) days following expiration or earlier termination of this Agreement, the Concessionaire shall, at its sole cost and expense, provide to the Department on an annual basis, an audited report of monthly Gross Revenues and percentage fees containing an opinion, prepared and attested to by an independent certified public accounting firm, licensed in the State of Florida. The audited report, as detailed in **Exhibit G "Independent Audit Report"**, shall include a schedule of monthly Gross Revenues and percentage fees paid to the Department under this Agreement, prepared in accordance with Generally Accepted Auditing Standards. The report shall also be accompanied by a management letter containing the findings discovered during the course of examination, recommendations to improve accounting procedures, revenue, and internal controls, as well as significant matters under this Agreement. In addition, the audit shall also include as a separate report, a comprehensive compliance review of procedures to determine whether the books of accounts, records and reports were kept in accordance with the terms of this Agreement for the period of examination. Each audit and examination shall cover the period of this Agreement. The last such report shall include the last day of operation. There shall be no changes in the scope of the reports and letters required hereunder without the specific prior written approval of the Department. If such schedules indicate that the percentage fees for such period audited have been underpaid, the Concessionaire shall submit payment therefore within forty-five (45) days after the completion of the reports to the Department as stated

in **Sub-Article 3.16 “Address for Payments”** together with interest on any underpaid percentage fees at the rate set forth in **Sub-Article 3.14 “Late Payment”**.

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

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

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

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

- 3.20 RECORDS AND REPORTS:** The Concessionaire shall, at all times during the Term and any Extension hereof and in accordance with applicable law, maintain at the Concessionaire’s principal corporate office located in the United States and make available to the Department in Miami-Dade County, Florida, complete and accurate books and records of all receipts and disbursements from its operations on the Location, in a form consistent with good accounting practice. In addition, Concessionaire shall install or cause to be installed, for use at all times in each Location such devices and forms as are reasonably necessary to record properly, accurately, and completely all merchandise sales and services from each Location. The form of all such books of account records and reports shall be subject to the approval of the Department and/or the auditors of the County (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by the Department, or the Audit and Management Services Department of the County) prior to commencement of operations hereunder.

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

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

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

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

**3.22 UTILITIES:** The cost of all utilities used or consumed on the Location shall be borne by the Concessionaire; provided, however, except with respect to the Concessionaire's support and storage space as defined in **Sub-Articles 1.04 "Support/Storage Space"** at the Airport, The Department requires the Concessionaire where such capability exists, to provide and install to provide and install meters for utilities used at the Concessionaire's. If the Location is not provided with separate electric, gas, and/or water meters, the Concessionaire agrees to pay for such utilities in the Location as a monthly charge, plus any applicable taxes, upon billing by the Department, or utility companies. If billed by

the Department, the Department at its sole discretion, will base this monthly charge on (i) a survey of consumption by the Department and current non-discriminatory rates charged others in the Terminal building or (ii) at the option and expense of the Concessionaire on actual usage measured by temporary meters, arranged and paid for by the Concessionaire. This monthly charge may also be adjusted on a non-discriminatory basis and billed retroactively from time to time based on changes in consumption and rates. Concessionaire hereby agrees to pay the same within thirty (30) Days after it has received Department's invoice thereof. The Concessionaire shall pay for all other utilities used by it including telephones and telephone service hook-up, data lines and additional electrical and communications services required.

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

| <b>Violation</b>                                                                 | <b>Fee</b>                  |
|----------------------------------------------------------------------------------|-----------------------------|
| Violation of Permitted Use of a Location                                         | \$ 100 per Day/per Location |
| Failure to Maintain Required Hours of Operation                                  | \$ 25 per hour/per Location |
| Failure to Submit Required Documents and Reports*                                | \$ 50 per Day/per Report*   |
| Unauthorized Advertising/Product Sale                                            | \$ 50 per Day/per Location  |
| Failure to Maintain Location clean                                               | \$ 50 per Day/per Location  |
| Failure to Maintain Competitive Pricing<br>or to conduct the surveys as required | \$ 50 per Day/per Location  |
| Installation of Unapproved Items in Location                                     | \$ 50 per Day/per Location  |
| Violations of other terms and conditions                                         | \$ 75 per Day/per Location  |
| *Up to \$750 a month                                                             |                             |

The foregoing is due and payable from the Concessionaire.

- 3.24 PAYMENT SECURITY:** Within thirty (30) Days of the Lease Effective Date of this Agreement, the Concessionaire shall provide the Department a Security Deposit in the form of a Performance Bond, irrevocable standby letter of credit or cash security to guarantee payment of the Annual Rent for the Location, and if any, of rental for the lease of support spaces, and any taxes applicable. If a Performance Bond is chosen, it shall be a surety bond. Concessionaire shall keep such Security Deposit in full force and effect during the Term and any Extension of this Agreement, as applicable, and thereafter until all financial obligations, reports or other requirements of this Agreement are satisfied. Any such form of security instrument shall be endorsed as to be readily negotiable by the Department for the payments required hereunder. Any Performance Bond or other security instrument used shall be effective for the current year of operation with automatic renewal for each of the remaining years under this Agreement, including any extensions naming the County as obligee and issued by a surety company or companies in such form as approved by the County Attorney. The amount of the Security Deposit shall be equal to **fifteen percent (15%)** of annual Class VI Terminal rental rates and applicable taxes for the lease of Location(s) and support spaces paid in the immediate prior fiscal year. Thereafter, the amount of the Security Deposit shall be adjusted as

necessary to reflect any increase or decrease in the annual Class VI Terminal rental rates and lease of support space(s).

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

- A. All required bonds shall be written through surety insurers authorized to do business in the State of Florida as Surety, with the following qualifications as to strength and financial size according to the latest edition of Best's I Key Rating Guide, published by A.M. Best Company:

| <u>Bond (Total Contract) Amount</u> | <u>Best's Rating</u> |
|-------------------------------------|----------------------|
| \$ 500,001 to \$1,500,000           | BV                   |
| 1,500,001 to 2,500,000              | AVI                  |
| 2,500,001 to 5,000,000              | AVII                 |
| 5,000,000 to 10,000,000             | AVIII                |
| Over \$10,000,000                   | AIX                  |

- B. Surety companies not otherwise qualifying with this paragraph may optionally qualify by:
- 1) Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and
  - 2) Providing a copy of the currently valid Certificate of Authority issued by the United States Department of Treasury under ss. 31 U.S.C. 9304-9308.

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

- C. For bonds in excess of \$500,000 the above provisions will be adhered to, plus the surety insurer must have been listed on the U.S. Treasury list for at least three consecutive years, or currently hold a valid Certificate of Authority of at least 1.5 million dollars and listed on the Treasury list.
- D. The attorney-in-fact or other officer who signs the bond for a surety company must file with such bond a certified copy of his/her power of attorney authorizing him/her to do so.

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

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

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

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

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

**3.26 PAYMENT CARD INDUSTRY DATA SECURITY REQUIREMENTS:** The Concessionaire shall adhere to Payment Card Industry (PCI) Data Security requirements. The Concessionaire is responsible for the 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 Concessionaire shall provide business continuity in the event of a major disruption, disaster, or failure. The Concessionaire 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 Concessionaire 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. Any public communications regarding such security intrusion (e.g. media, consumer notice) shall require the Concessionaires prior written approval. The review will validate compliance with the PCI Data Security Standard for protecting cardholder data.

The Concessionaire 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. Concessionaire shall provide MDAD documentation showing PCI Data Security certification has been achieved. The Concessionaire shall advise MDAD of all failures to comply with the PCI Data Security Requirements. Failures include but are not limited to system scans and self-assessment questionnaires and if requested provide a timeline for corrective action.

**3.27 PAYMENT CARD INDUSTRY DATA SECURITY COMPLIANCE:** The Concessionaire shall comply with the Payment Card Industry Data Security Standards in effect and at all times throughout the term of this agreement.

- a) The Concessionaire confirms its knowledge of and commitment to comply by providing the following proof that Concessionaire's devices/applications/processes meet PCI compliance requirements:
  1. Concessionaires current annual PCI Compliance certification. The County has the auditing right to request copies of the PCI compliance certifications at a later time.
  2. During an installation or a major system upgrade the Concessionaire must provide implementation manuals and detailed diagram(s) that show all cardholder data flows across the County's systems and networks.
  3. Vendor Form – Payment Application(s) – Only applicable to the vendor who is installing the product in County environment.
- b) The Concessionaire shall resubmit the aforementioned passing, updated, completed, and signed PCI compliance documents annually to the County. Furthermore, the Concessionaire shall update their solution, when required, to remain compliant with all changes to the PCI standards and requirements by the implementation dates mandated by the PCI Data Security Standards Council and remediate any critical security vulnerabilities within thirty (30) days of identification. Any remediation identified not compliant with the PCI compliance standards to be communicated to the Concessionaire.
- c) Sensitive Authentication data and Primary Account number shall not be stored by the vendor application at any point, even if masked. Any other Card holder data should not be stored by the vendor application unless it is absolutely needed for County's operations.
- d) POS (Point of Sale) and Retail transactions must be routed directly to Miami-Dade County's merchant provider (ELAVON) and must be Europay, Mastercard and Visa (EMV) compliant. All POS and Retail transactions must be capable of accepting NFC (near field communications) payment methods such as Google Wallet, Apple Pay, Samsung Wallet. POS may include the Concessionaire's membership program (i.e. consumer discounts).
- e) Internet transactions must be routed through Miami-Dade County's Internal Payment Gateway (Payment Card and eCheck). Exceptions to using Miami-Dade County's Internal Payment Gateway shall require written justification by Concessionaire, including a cost/benefit analysis, and require written approval by both the Finance Department Director and Chief Information Officer.
- f) Proposed systems that fall outside of the requirements stated in this document shall be reviewed by the Enterprise Security Office and subjected to a risk assessment to ensure the system offers sufficient protection of cardholder data. Exceptions shall require written justification by the proposed system's provider, the ESO's risk analysis, and require written approval by both the Finance Department Director and Chief Information Officer.

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

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

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

**Option #1:**

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

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

**Option #2:**

Concessionaire's application will utilize a Payment Module Web Application developed and maintained by Miami-Dade County. This solution can be a standard web application, a mobile web application, or both. A link will be provided on the vendor application that sends payers to the Payment Module Application. For example, once the payer has selected the items to purchase (from the vendor's application), there would be a "Pay Now" button that will redirect the payer to the Miami-Dade County Payment Module via HTTPs post, carrying all the necessary data to begin the payment process (User ID, Amount, etc.). This requires only minor development effort on the vendor side. The vendor will agree on custom fields to be passed to the Miami-Dade County Payment Module via HTTP protocol over TLS 1.2 or higher (only secure connections are

accepted; Secure Sockets Layer protocol is not accepted). In turn, the Miami-Dade County Payment Module will collect the payment information and process the transaction via the Miami-Dade County Internal Payment Gateway. Results will be posted back (post back URL is provided by the client application) to the vendor application. This solution will not require the client application to be hosted on Metronet. The Miami-Dade County Payment Module handles all processing and system errors, simplifying the integration effort on the vendor side.

#### ARTICLE 4 - IMPROVEMENTS TO THE LOCATION

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

- Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N):  
[TAC-N Forms 1.25.21.pdf \(miami-airport.com\)](#)
- Tenant Airport Construction Reimbursable Procedures (TAC-R):  
[DADE AVIATION CONSULTANTS \(miami-airport.com\)](#)

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

**4.03 REFURBISHMENT OF LOCATION(S):** The Concessionaire shall refurbish the Location(s) 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(s) shall not be less than SEVENTY-FIVE DOLLARS (\$75) dollars per square foot. There will be no reimbursement or amortization of these costs for refurbishment.

**4.04 CERTAIN CONSTRUCTION CONTRACT TERMS:** All contracts entered by the Concessionaire for the construction of the improvements shall require completion of the improvements within the schedules submitted pursuant to **Sub-Article 4.02 “Design of Improvements”** and shall contain reasonable and lawful provisions for the payment of

actual or Damages to the County in the event the contractor fails to complete the construction on time. The Concessionaire agrees that it will use its best efforts to take all necessary action available under such construction contracts to enforce the timely completion of the work covered thereby.

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

- 4.05 IMPROVEMENTS FREE AND CLEAR:** The improvements, upon completion, shall immediately become the property of the County, free and clear of any liens or encumbrances whatsoever, other than the County's obligation to reimburse the Concessionaire for the unamortized value of the approved improvements as provided in this Agreement. The Concessionaire agrees that any contract for construction, alteration or repairing of the improvements or Location(s) or for the purchase of material to be used, or for work and labor to be performed, shall be in writing and shall contain provisions to protect the County from the claims of any laborers, subcontractors or material men against the Location(s) or improvements.
- 4.06 OTHER REQUIREMENTS:** The Concessionaire shall apply for and obtain a building permit from the County for all appropriate inspections and a Certificate of Occupancy upon completion. Within sixty (60) Days following the completion of construction of the improvements, the Concessionaire shall furnish to the County one complete set each of legible prints (black line), of construction drawings in electronic file format and in full compliance with Autodesk's DWG file format and standard revised as to "as built". Based upon submission date, the AutoCAD.dwg version must be within two (2) years of the latest release. MDAD will not accept the submission of any AutoCAD drawing deliverable which contains references to external source drawing files. The closeout document package should include all pertinent shop and working drawings, copies of all releases of all claims and a copy of the Certificate of Occupancy provided the Concessionaire does not disseminate such information, refer to Transportation Security Regulations (TSR), 49 C.F.R. 1520, et al., Protection of Sensitive Security Information.
- No Facility will be allowed to open without obtaining a Temporary Certificate of Occupancy or a Certificate of Occupancy.
- 4.07 REVIEW OF CONSTRUCTION:** The County shall have the right, but not obligation, to periodically observe the construction to ensure conformity with the Final Plans and any changes thereof requested by the Concessionaire and approved by the County.
- 4.08 COST DOCUMENTATION:** Within one hundred eighty (180) Days from the date of Beneficial Occupancy, specifically including those improvements described in **Sub-Articles 4.01 "Improvements to Location(s)",** and **4.03 "Refurbishment of**

**Location(s)**”, the Concessionaire shall submit to the County a certified audit of the monies actually expended in the design and construction of the approved improvements by Location in accordance with the Final Plans, prepared by an independent certified public accounting firm (“Auditor”), approved in advance by the County (the “Certified Audit”). The Concessionaire, as the case may be, shall be responsible for documenting for the Auditor that the monies that were expended are true and correct. The costs of design and construction, in accordance with the Final Plans and any changes thereto requested by the Concessionaire and approved by the County, including the costs of required bonds, construction insurance and the construction audit, shall not include the cost of any other consultant or accountant fees, financing or legal fees and personal property of the Concessionaire, as the case may be. No non-receipted expenditures will be credited. Concessionaires not submitting certified audits within the allotted time may be billed a Damage of fifty dollars (\$50.00) per Day. Upon reconciliation, any difference due the County shall also include an administrative fee of ten percent (10%) of the monies due the County on the build-out of the Location(s). In the event of any disputes between the County and the Concessionaire as to whether certain costs are to be included in the audit, said dispute shall be submitted to the consulting engineer named pursuant to the Trust Agreement, as defined in **Sub-Article 17.01 “Incorporation of Trust Agreement by Reference”**. The decision of said consulting engineer, acting in good faith, shall be final and binding upon the parties hereto.

The Department shall notify the Concessionaire in writing that it has approved or disapproved the certified costs for each Location(s) and the common area improvements detailed in the Certified Audit within sixty (60) Days from the date of its receipt of the Certified Audit. If the Concessionaire fails to submit the Certified Audit within the time prescribed above for any Location(s), then a penalty will be assessed as noted in **Sub-Article 3.23 “Damages”**.

#### **4.09 NOT USED (AMORTIZATION SCHEDULE)**

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

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

##### **1) Concessionaire Improvements**

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

design and construct or cause to be designed and constructed the improvements in accordance with the provisions of this Agreement.

## **2) Design and Construction Coordination**

Concessionaire shall:

1. Be responsible for construction management and coordination of all improvements to the Location(s) and authorized administrative support space.
2. Coordinate meetings 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 and coordinate access to Location as necessary.
5. Purchase materials and services and coordinate the fabrication and installation of the Concessionaire development requirement, whereby such elements are the designated responsibility of the Concessionaire, if so implemented.

## **3) Construction**

Concessionaire shall:

1. Attend pre-construction meetings, construction meetings, monitor schedule, and coordinate Location(s) 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(s).
5. Monitor and report to the Department on on-site activities and progress for improvement work. The Architect/Engineer of record is responsible for day-to-day field observation of all construction activities including, but not limited to inspections, delivery, coordination, and reporting.
6. Monitor construction progress with regard to the schedule and procedures established and make recommendations to the Department for maintaining and improving construction progress as necessary.
7. Establish a uniform system for the timely processing and control of drawings.
8. Review status of drawings with contractor(s) and architect(s) at progress meetings.
9. Review and advise the Department on all changes to the work with regard to cost and impact on the project pro-forma and construction schedule.

10. Monitor punch list completion and review testing and inspection reports for all Location(s).
11. Organize and have available upon request completed project files.
12. Coordinate access to the Location to allow staff training and equipment testing.
13. Obtain Certificate of Occupancy for each Location.
14. Submit Record Drawings (as-built drawings) as per the TAC-N or TAC-R requirements within sixty (60) Days from the issuance date of the Certificate of Occupancy and deliver them to the Department pursuant to the TAC-N or TAC-R procedures.

**4.12 SUSTAINABLE BUILDINGS PROGRAM:** The Concessionaire shall meet required LEED Green Building Rating System, as established by the U.S. Green Building Council (USGBC) and inform the Department of any other/additional opportunities in the project elements to meet LEED certification requirements and/or create other opportunities associated with green building practices.

## ARTICLE 5 – STANDARDS OF OPERATION

**5.01 STANDARDS OF OPERATION:** The Concessionaire shall comply with the Department's "Tenant Handbook" (<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 Concessionaire agrees to observe and obey. The Department may amend such rules or regulations and operating performance standards from time to time and shall provide copies thereof to the Concessionaire. The Department shall provide the Concessionaire with reasonable prior written notice, not less than thirty (30) Days, prior to the implementation of any such amendment to the rules or regulations and operating performance standards. Those rules include, but are not limited to, any rules and regulations imposed upon the Department by any governmental agency.

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

The Concessionaire acknowledges the desire of the Department, as part of its obligation to ensure the highest level of public service, to provide the public and air traveler an adequate range and quality of service. The Department may monitor, test, or inspect the Location at any time using its own personnel, and/or the use of a shopping service, and/or by any other reasonable means that do not unduly interfere with the operation of the

business. The results of such service audits may be employed by the Department to enforce the obligations in this Agreement.

The Department shall retain the right, in accordance with the provisions of this Agreement, to make reasonable objections to the quality of articles sold, the character of the service rendered to the public, the prices charged, and the appearance and condition of the Location, pursuant to Exhibit L "Standards of Operation", as may be amended from time to time.

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

Market Basket shall mean that MIA concession retail store prices shall not exceed by more than fifteen percent (15%) higher charges at the Airport for like or similar item(s) sold by the Concessionaire at its other locations in Miami-Dade County. The Department has the right to survey prices at said store and to use these prices for same or similar merchandise as the primary basis for pricing in leased Locations in all Locations.

The Concessionaire who is not in compliance with the provisions of this Sub-Article shall be given seven (7) Days after notice of such non-compliance pursuant to **Sub-Article 18.09 "Notices"** to bring all products into compliance. Failure to do so shall constitute a default under this Agreement and shall subject the Concessionaire to Damages pursuant to **Sub-Article 3.23 "Damages"**.

## **ARTICLE 6 – OBLIGATIONS OF THE DEPARTMENT**

### **6.01 DEPARTMENT SERVICES:**

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

Airport, which verbal notice shall be followed by written notice within twenty-four (24) hours) describing any repair, which is the responsibility of the Department. The Department shall commence the repair process promptly after its receipt of such written notice if the Department agrees that such repair is required and is the Department's responsibility hereunder.

- B. The Concessionaire must ascertain the extent of the existing utility capacities before designing any new loads to be connected to existing systems and piping. The Department agrees to cooperate in providing access to the Location.
- C. All maintenance by the Department may be subject to interruption caused by repair, strikes, lockouts, labor controversies, inability to obtain fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, and other conditions beyond the control of the Department. If the Concessionaire's Location are of such a condition as to significantly impact the Concessionaire's operations for a period in excess of seventy two (72) hours and such damage is not insurable under an insurance policy of the type required to be maintained by the Concessionaire pursuant to this Agreement, the Department may provide a rent abatement for that portion of the Location rendered unusable for that period of time that the Department is unable to make repairs required by **Sub-Article 6.01 "Department Services"**.
- D. No Other Obligation of Department: The Concessionaire acknowledges that the Department has made no representations or warranties concerning the suitability of the Location for the Concessionaire's for any other use, and that except as expressly provided in this Agreement, the Department shall have no obligations whatsoever to repair, maintain, renovate or otherwise incur any cost or expense with respect to the Location or any improvements, furnishings, fixtures, trade fixtures, signage or equipment constructed or used on or in the Location by the Concessionaire.
  - 1. The Concessionaire hereby confirms that it has made its own investigation of all the costs of doing business under this Agreement, including the costs of furnishings, fixtures, trade fixtures, inventory, signs and equipment needed for Concessionaire to operate from the Location hereunder, that it has done its own projections of the volume of business expected to be generated, that it is relying on its own business judgment concerning its prospects for providing the services required under this Agreement on a profitable basis, and that the Department has not made any representations or warranties with respect to any such matters.
  - 2. The Department does not warrant the accuracy of any statistics or projections relating to the Airport and its operations, which have been provided to the Concessionaire by the Department or anyone on its behalf and the Department shall not be responsible for any inaccuracies in such statistics or their interpretation.
  - 3. All statements contained in this Agreement or otherwise made by the Department or anyone on its behalf concerning any measurement relating to the Location or any other area of the Airport are approximate only, and any

inaccuracy in such statements of measurements shall not give rise to any claim by the Concessionaire under or in connection with this Agreement.

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

## ARTICLE 7 – FURNITURE, FIXTURES AND EQUIPMENT

**7.01 FURNITURE, FIXTURES, AND EQUIPMENT:** Any equipment, furnishings, fixtures, and signs installed in the Location by the Concessionaire shall be in keeping with the decor of the terminal building and must be approved in advance by the Department. Any such equipment, furnishings, fixtures, and signs so installed by the Concessionaire, as provided in **Sub-Article 4.01 “Improvements to the Location”**, shall, except as provided in **Sub-Article 7.03(B) “Disposal of Furniture, Fixtures, and Equipment”**, be removed from the Location within five (5) days following the expiration or earlier termination of this Agreement.

**7.02 AMERICANS WITH DISABILITIES ACT REQUIREMENTS:** The Concessionaire will be responsible, at its cost, for ensuring that the Location and all equipment therein, and all functions it performs therein as part of the concession, conform in all respects to the requirements of the Americans with Disabilities Act (the “ADA”), including without limitation, the accessibility guidelines promulgated pursuant thereto. The ADA imposes obligation on both public entities, like the Department and those private entities that offer services for the convenience of users of the public entities’ Location. In some circumstances, the public entity must ensure that the operations of the private entity comply with the public entity’s ADA obligations. In most cases the ADA obligations of the Department and the Concessionaire will be the same. However, the Department reserves the right to require the Concessionaire to modify its operations or its physical locations (if applicable) to comply with the Department’s ADA obligations with respect to the Location, as the Department in its sole discretion deems reasonably necessary.

**7.03 DISPOSAL OF FURNITURE, FIXTURES, AND EQUIPMENT:** At least thirty (30) Days prior to the expiration of this Agreement, or upon termination pursuant to **Article 12 “Default and Termination by County”** or **Article 13 “Claims and Termination by Concessionaire”** hereof, the Department shall exercise, at its sole discretion, one (1) of the following options as to any equipment, furnishings, fixtures, signs, or carts installed in the Location by the Concessionaire:

- (A) Require the Concessionaire to remove such equipment, furnishings, fixtures, signs, or carts from the Location within five (5) Days following the expiration or earlier termination of this Agreement, subject to the provisions of **Sub-Article 4.01 “Improvements to Location”**; or
- (B) Retain any portion of the equipment, furnishings, fixtures, signs, or carts of the Concessionaire (personal property as referred to in **Sub-Article 4.01 “Improvements to Location”**) (if applicable) in accordance with the provisions of this Agreement; provided however, the Department shall have no right to use or

display any proprietary signs or logos (e.g., brand names owned by, or licensed or franchised to Concessionaire) (if applicable).

## ARTICLE 8 – MAINTENANCE

- 8.01 CLEANING:** The Concessionaire shall, at its cost and expense, keep the Location clean, neat, orderly, sanitary, and presentable at all times. If the Location are not kept clean as provided in the Standards of Operation, Exhibit L, the Concessionaire will be so advised and shall take immediate corrective action. Failure to take immediate corrective action may result in Damages being assessed pursuant to **Sub-Article 3.23 “Damages”**.
- 8.02 REMOVAL OF TRASH:** The Concessionaire shall, at its cost and expense, remove or cause to be removed from the Location and properly disposed of in Department provided containers, all trash and refuse of any nature whatsoever which might accumulate and arise from the operations hereunder. If the Concessionaire enters into agreements for the janitorial and trash removal within the Location, such service providers must have permits issued by the Department to do business at the Airport. Trash shall not be stored in any area visible to the public nor cause a private or public hazard through its means of storage. All edible items must be contained so as to minimize exposure to pests. Any trash left or stored in any area visible to the public or edible items not properly contained may result in Damages being assessed pursuant to **Sub-Article 3.23 “Damages”**.

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

- 8.03 MAINTENANCE AND REPAIR:** Except with respect to the Department’s maintenance and repair obligations as set forth in **Sub-Article 6.01 “Department Services”**, the Concessionaire shall maintain and repair or cause to be maintained and repaired the interiors and exterior storefronts of the Location. Such maintenance and repairs shall include, but not be limited to, painting, ceiling, walls, floors, laminating doors, windows, equipment, furnishings, fixtures, appurtenances, replacement of ceiling light bulbs, ballast and the replacement of all broken glass, which repairs shall be in quality and class equal to or better than the original work to preserve the same in good order and condition. Maintenance of all equipment furnished by the Concessionaire specifically as a result of their operation shall remain the obligation of the Concessionaire. The Concessionaire shall repair or cause to be repaired, at or before the end of the Term or Extension, if applicable, of this Agreement, all injury done by the installation or removal of furniture and personal property so as to restore the Location to the state they were at the commencement of this Agreement, reasonable wear and tear excluded. The Department may, at any time during normal business hours, enter upon the public areas of the Location, or with appropriate notice, enter upon the non-public areas of the Location, to determine if maintenance is being performed satisfactorily. The Department may enter upon any Location when a Location is not open for business if the Department provides the Concessionaire notice no less than two (2) hours in advance so

that a representative of the Concessionaire may be present, except in the case of real or perceived emergencies where no such representatives shall be required to be present. If it is determined that said maintenance is not satisfactory, the Department shall notify the Concessionaire in writing. If said maintenance is not performed by Concessionaire to the satisfaction of the Department within thirty (30) Days after receipt of such written notice, Department shall have the right to enter upon the Location and perform such maintenance and charge Concessionaire for such services, as provided by **Sub-Article 8.04 “Failure to Maintain”**.

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

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

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

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

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

## ARTICLE 9 – ASSIGNMENT AND OWNERSHIP

- 9.01 NO ASSIGNMENT:** The Concessionaire shall not assign, transfer, pledge or otherwise encumber this Agreement nor shall the Concessionaire allow others to use the Location, without the prior written consent of the Department.
- 9.02 OWNERSHIP OF THE CONCESSIONAIRE:** Since the ownership, control, and experience of the Concessionaire were material considerations to the County in the award of this concession and the entering into of this Agreement, the Concessionaire shall take

no actions which shall serve to transfer or, sell majority ownership or control (deemed to mean more than fifty percent (50% of the stock) of the Concessionaire without the prior written consent of the Department.

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

**9.04 HOLDOVER:**

**A. With the Department’s Permission:**

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

**B. Without Department Permission:**

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

## ARTICLE 10 – INDEMNIFICATION

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

The Concessionaire expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Concessionaire shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided. Without limiting the preceding, Concessionaire expressly agrees that the provisions and obligations of this section apply to claims, including administrative claims, involving identify theft, data theft, data breaches, commercial fraud, and all other similar claims or causes of action.

## ARTICLE 11 – INSURANCE

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

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

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

- A. Workers' Compensation as required by Chapter 440, Florida Statutes.
- B. Commercial General Liability Insurance on a comprehensive basis including Contractual Liability, Broad Form Property Damage and Products and Completed Operations in an amount not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage combined. This policy shall include Miami-Dade County as an additional insured with respect to this coverage.

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

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

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

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

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

**11.03 INSURANCE COMPANY RATING REQUIREMENTS:** All insurance policies required above from the Concessionaire shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than “A-” as to financial strength, and no less than “Class VII” as to financial size, according to the latest edition of Best’s Key Rating Guide, published by A.M. Best Company, or its equivalent, subject to the approval of the Department’s Risk Management Office.

or

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

**NOTE: CERTIFICATE HOLDER MUST READ:**

**Miami-Dade County Aviation Department,  
Risk Management,  
P.O. Box 025504,  
Miami, Florida 33102-5504**

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

- 11.05 CANCELLATION OF INSURANCE OR BONDS:** Cancellation of any insurance or bonds, or non-payment by the construction contractors of any premiums for any insurance policies or bonds required by this Agreement shall constitute a breach of this Agreement.
- 11.06 RIGHT TO EXAMINE:** The Department reserves the right, upon reasonable notice to examine the original policies of insurance of the Concessionaire (including but not limited to binders, amendments, exclusions, endorsements, riders, and applications) to determine the true extent of coverage. The Concessionaire agrees to permit or cause to permit such inspection at the offices of the Concessionaire. In addition, upon request (but no later than five (5) Days from the date of request, unless such longer period is agreed to by the Department) the Concessionaire agree to provide copies to the Department, at the Concessionaire's sole cost and expense.
- 11.07 PERSONAL PROPERTY:** Any personal property of the Concessionaire or of others, placed in the Location and support spaces shall be at the sole risk of the Concessionaire or the owners thereof, and the County shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage.
- 11.08 SURVIVAL OF PROVISIONS:** The provisions of Article 11 "Insurance" shall survive the expiration or earlier termination of this Agreement.
- 11.09 INDEMNIFICATION, CONSTRUCTION BONDS AND INSURANCE REQUIRED:**

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

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

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

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

All bonds shall be written through surety insurers authorized to do business in the State of Florida as Surety, with the following qualifications as to financial strength and size according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company:

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

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

- a) Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the Request for Proposals is issued.
- b) Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and
- c) Providing a copy of the currently valid Certificate of Authority issued by the United States Department of Treasury under Section 31 U.S.C. 9304-9308.
- d) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.
- e) For contracts in excess of \$500,000 the provision of this Sub-Article must be adhered to, plus the surety insurer must have been listed on the United States

Treasury list for at least three (3) consecutive years, or currently hold a valid Certificate of Authority of at least 1.5 million dollars and listed on the Treasury list.

- f) Surety bonds guaranteed through U.S. Government Small Business Administration or Contractors Training and Development Inc. will also be acceptable.
- g) The attorney-in-fact or other officer who signs an Exhibit C, "Surety Performance and Payment Bond" for a surety company must file with such bond a certified copy of his/her power of attorney authorizing him/her to do so.

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

The Bond shall be delivered to the Department upon execution of the contract between the Concessionaire and its contractor.

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

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

- a) Workers' Compensation as required by Chapter 440, Florida Statutes.
- b) Commercial General Liability Insurance on a comprehensive basis including Contractual Liability, Broad Form Property Damage and Products and Completed Operations in an amount not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage combined. 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 Concessionaire in the performances of this Agreement.

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

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

- D. **Certificate Continuity:** The contractor(s) shall be responsible for assuring that the insurance certificates required in conjunction with this Sub-Article remain in force throughout the performance of the contract and until the Service has been accepted by the Concessionaire and approved by the Concessionaire and the Department. If insurance certificates are scheduled to expire during the contract period, the contractor(s) shall be responsible for submitting new or renewed insurance certificates to the Concessionaire at a minimum of thirty (30) Days before such expiration.
- E. **Insurance Company Rating Requirements:** All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:
- The company must be rated no less than “A-” as to financial strength, and no less than “Class VII” as to financial size, according to the latest edition of Best’s Key Rating Guide, published by A.M. Best Company, or its equivalent, subject to the approval of the MDAD Risk Management Office.
- F. **Right to Examine:** The Department reserves the right, upon reasonable notice, to examine the original policies of insurance (including but not limited to binders, amendments, exclusions, endorsements, riders, and applications) to determine the true extent of coverage. The contractor shall be required by the Concessionaire to agree to permit such an inspection at the offices of the Department. In addition, upon request (but no later than five (5) Days from the date of request, unless such a longer period is agreed to by the Department) the Concessionaire agrees to provide copies to the Department, at the Concessionaire’s sole cost and expense.
- G. **Personal Property:** Any personal property of the contractor, or of others, placed in the Location(s) shall be at the sole risk of the contractor or the owners thereof, and the Department shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage.

## ARTICLE 12– DEFAULT AND TERMINATION BY COUNTY

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

- (A) The Concessionaire has violated the terms and conditions of this Agreement;
- (B) The Concessionaire has failed to make prompt payment to subcontractors or suppliers for any service or work provided for the design, installation, operation, or maintenance of the Concessionaire’s facilities;

- (C) The Concessionaire has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Concessionaire's creditors, or the Concessionaire has taken advantage of any insolvency statute or debtor/creditor law, or the Concessionaire's affairs have been put in the hands of a receiver;
- (D) The occurrence of any act which operates to deprive Concessionaire of the rights, power, licenses, permits or authorities necessary for the proper conduct and operation of the activities authorized herein;
- (E) Abandonment or discontinuance of operations by Concessionaire of its business by any act(s) of Concessionaire;
- (F) Any persistent violation on the part of Concessionaire, its agents or employees of the traffic rules and regulations of local, County, State or Airport or disregard of the safety of persons using the Airports, upon failure by Concessionaire to correct the same;
- (G) Failure on the part of Concessionaire to maintain the quality of service required by the terms of this Agreement, including, but not limited to, any cessation or diminution of service by reason of Concessionaire being unable for any reason to maintain in its employ the personnel necessary to keep its business in operation and available for public use, unless such use is due to strike, lockout, or bona fide labor dispute;
- (H) Failure by Concessionaire to maintain its equipment in a manner satisfactory to the Director;
- (I) The Concessionaire has failed to obtain the approval of the Department where required by this Agreement;
- (J) The Concessionaire has failed to provide adequate assurances as required under **Sub-Article 12.10 "Adequate Assurances"**;
- (K) The Concessionaire has failed in a representation or warranty stated herein; or
- (L) The Concessionaire has received three (3) notices of default of any kind, within a twenty-four (24) month period.

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

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

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

- 12.04 HABITUAL DEFAULT:** Notwithstanding the foregoing, in the event that the Concessionaire has frequently, regularly or repetitively defaulted in the performance of or has breached any of the terms, covenants and conditions required herein, to be kept and performed by the Concessionaire, regardless of whether the Concessionaire has cured each individual condition of breach or default as provided for in **Sub-Article 12.02 “Payment Default”** and **Sub-Article 12.03 “Other Defaults”** above, the Concessionaire may be determined by the Director to be an “habitual violator”. At the time that such determination is made, the Director shall issue to the Concessionaire a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Concessionaire that there shall be no further notice or grace periods to correct any subsequent breach(s) or default (s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the Department may terminate this Agreement upon the giving of written notice of termination to the Concessionaire, such termination to be effective upon the seventh (7th) Day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Concessionaire shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Concessionaire shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with **Sub-Article 12.11 “Actions at Termination”** hereof.
- 12.05 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE:** If an Event of Default occurs, the Department shall notify the Concessionaire by sending a notice of default, specifying the basis for such Event of Default, and advising the Concessionaire that such default must be cured immediately, or this Agreement with the Department may be terminated.
- 12.06 UNAMORTIZED INVESTMENT EXTINGUISHED:** Termination of this Agreement based upon **Sub-Article 12.07 “Termination for Abandonment”**, **Sub-Article 12.02 “Payment Default”**, **Sub-Article 12.03 “Other Defaults”**, **Sub-Article 12.04 “Habitual Default”**, or **Sub-Article 12.08 “Termination for Cause”**, shall extinguish any unamortized investment amounts owed the Concessionaire by the Department, for the slippage in Location Turnover Dates.
- 12.07 TERMINATION FOR ABANDONMENT:** This Agreement may be terminated in its entirety upon the abandonment by the Concessionaire of the Location or the discontinuance of Concessionaire’s services at the Airport for any period of time exceeding twenty-four (24) consecutive hours, and the failure to cure the same within three (3) calendar days after written notice unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Concessionaire from providing services on the Location for the purposes authorized in **Article 2 “Use of Location”**. Such termination shall constitute an event of default, and

the County shall be entitled to all remedies for such default provided for in this Agreement.

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

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

**12.09 TERMINATION FOR CONVENIENCE:** The Department, in addition to the rights and options to terminate for cause, or any other provisions set forth in this Agreement, retains the right to terminate this Agreement upon ninety (90) days written notice at its sole option at any time for convenience, without cause when in its sole discretion it deems such termination is in the best interest of the Department based on the then existing passenger, airline, or community needs, or impacts on same from such existing Concession. In such circumstance, the County will solely be responsible for paying the amortized costs of any improvements constructed by Concessionaire, but the County shall not be responsible for any other costs or damages, including but not limited to lost profits, loss of opportunity, borrowing costs, carrying costs, damage to reputation, loss of goodwill, or loss of income.

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

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

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

- (A) Stop all work as specified in the notice to terminate.
- (B) Take such action as may be necessary for the protection and preservation of the Location and other Department materials and property.
- (C) Vacate, quit, and surrender, all Location and storage/support spaces and account for all furnishings, fixtures, equipment, software, vehicles, records, funds, inventories, commodities, supplies and other property of the County on or before the date of termination.

If terminated for cause, the Concessionaire shall be liable to the County for all damages, direct and indirect, incurred by the County as a result of such termination, including but not limited to loss of future Annual Rental Payment, loss of revenue, loss of passengers, loss of opportunity, or loss of goodwill. The existence of a bond or letter of credit supplied pursuant to **Article 3 “Rentals, Payments and Reports”** of this Agreement shall not serve as a limitation on damages beyond the penal sum of the bond or letter of credit, and the County may avail itself of the bond or letter of credit, or both, and also all remedies as may be available at law or equity against Concessionaire.

## **ARTICLE 13 – CLAIMS AND TERMINATION BY CONCESSIONAIRE**

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

The dispute will be decided by the Director, who will mail or otherwise furnish a written copy of the decision to the Concessionaire at the address furnished in **Sub-Article 18.09 “Notices”**. The decision of the Director will be final and conclusive unless, within thirty (30) Days from the date of receipt of such copy, the Concessionaire mails or otherwise furnishes to the Department a written appeal addressed to the Mayor. The decision of the Mayor, or his duly authorized representative for the determination of such appeals, will be final and conclusive unless within thirty (30) Days of the Concessionaire's receipt of

such decision, the Concessionaire files an action in a court of competent jurisdiction. In connection with any appeal proceeding under this provision, the Concessionaire shall be afforded an opportunity to be heard and to offer other evidence in support of the appeal. Pending final decision of a dispute hereunder, the Concessionaire shall proceed diligently with the performance of this Agreement and in accordance with the County's decision. Failure to perform in accordance with the decision of the Director or the Mayor shall be cause for termination of this Agreement in accordance with **Sub-Article 12.03 "Other Defaults"**. The failure of the Concessionaire to comply with this administrative claim procedure shall be cause for a waiver of claim and an abandonment of any claim arising out of the event.

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

- (A) Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes, and the injunction remaining in force for a period of more than one hundred eighty (180) Days.
- (B) A breach by the County of any of the material terms, covenants or conditions contained in this Agreement required to be kept by the County and failure of the Department to remedy such breach for a period of one hundred eighty (180) Days after receipt of written notice from the Concessionaire of the existence of such breach.
- (C) The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control or use of the airport locations or any substantial part, or parts thereof, in such a manner as substantially to restrict the Concessionaire's provision of services for a period of one hundred eighty (180) Days.

## ARTICLE 14 (NOT USED)

## ARTICLE 15 - RULES, REGULATIONS AND PERMITS

**15.01 RULES AND REGULATIONS:** The Concessionaire 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 Concessionaire agrees to pay, on behalf of the County, any Damage, assessment or fine issued against the County,

or the Department to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, State or County governments based in whole or substantial part upon a claim or allegation that the Concessionaire, its agents, employees, have violated any law, ordinance, regulation or rule described in **Sub-Article 15.01 “Rules and Regulations”** or any plan or program developed in compliance therewith. The Concessionaire further agrees that the substance of **Sub-Article 15.02 “Violations of Rules and Regulations”** and **Sub-Article 15.01 “Rules and Regulations”** shall be included in every Sub-Lease and other agreements which the Concessionaire may enter into related to its activities under this Agreement and that any such Sub-Lease and other agreement shall specifically provide that “Miami-Dade County, Florida is a third party beneficiary of this and related provisions.” This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting, or subleasing.

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

**15.04 NOT USED (PROHIBITION ON USING PRODUCTS CONTAINING TRANS FATS – RESOLUTION NO. R-456-07)**

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

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

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

## ARTICLE 16 – GOVERNING LAW

- 16.01 GOVERNING LAW; VENUE:** This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this Agreement shall be laid in Miami-Dade County, Florida, and any action to determine the rights or obligations of the parties hereto shall be brought in the courts of the State of Florida.
- 16.02 NOTICE OF COMMENCEMENT OF CIVIL ACTION:** In the event that the County or the Concessionaire commence a civil action in the state or Federal courts for Miami-Dade County, where such action is based in whole or in part upon an alleged breach of this Agreement, the County and the Concessionaire agree to waive the procedures for initial service of process mandated by Chapters 48 and 83 of the Florida Statutes, by Rule 1.070 of the Florida Rules of Civil Procedure, and by Rule 4(c) of the Federal Rules of Civil Procedures. In such event, the County and the Concessionaire agree to submit to the jurisdiction of the court in which the action has been filed when initial service has been made either by personal service or by certified mail, returned receipt requested upon the representatives of the parties indicated in **Sub-Article 18.09 “Notices”** of this Agreement, with a copy provided to the County Attorney and the attorney, if any, which the Concessionaire has designated in writing. Notwithstanding the foregoing, and in addition thereto, the Concessionaire, if a corporation, shall designate a registered agent and a registered office and file such designation with the Florida Department of State in accordance with Chapters 48 and 607 of the Florida Statutes.
- 16.03 REGISTERED OFFICE/AGENT JURISDICTION:** The Concessionaire, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, and such designations to be filed with the Florida Department of State in accordance with Section 607.034, Florida Statutes. If the Concessionaire is a natural person, he and his personal representative hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement. If Concessionaire is a joint venture and not a corporation, the parties to the joint venture hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement.

## ARTICLE 17 – TRUST AGREEMENT

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

of the Trust Agreement are available for inspection in the offices of the Department during normal working hours.

The Amended and Restated Trust Agreement link:

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

- 17.02 ADJUSTMENT OF TERMS AND CONDITIONS:** If at any time during the Term or any Extension thereto, as applicable, a court of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the rentals, fees and charges required to be paid hereunder to the Department by the Concessionaire or by other Concessionaires under other agreements of the Department for the lease or use of Location used for similar purposes, are unjustly discriminatory, the County, shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals fees and charges required to be paid under this Agreement in such a manner as the County shall determine is necessary and reasonable so that terms and conditions and the rentals fees and charges payable by the Concessionaire and others shall not thereafter be unjustly discriminatory to any user of like locations and shall not result in any violation of the Trust Agreement or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement. In the event the County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the County, pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions upon the issuance of written notice from the County to the Concessionaire.
- 17.03 INSPECTIONS:** The authorized employees and representatives of the County and of any applicable federal or state agency having jurisdiction hereof shall have the right of access to the Location and any storage/support spaces at all reasonable times for the purposes of inspection to determine compliance with the provisions of this Agreement or applicable law. The right of inspection shall impose no duty on the County to inspect and shall impart no liability on the County should it not make such inspection(s).
- 17.04 INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW:** Pursuant to Miami-Dade County Administrative Order 3-20 and in connection with any award issued as a result of the Proposal, the County has the right to retain the services of an Independent Private Sector Inspector General ("IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Concessionaire shall make available to the IPSIG retained by the County all requested records and documentation pertaining to this Proposal or any subsequent award, for inspection and copying. The County will be responsible for the payment of these IPSIG services, and under no circumstance shall the Concessionaire's cost/price for this Proposal be inclusive of any charges relating to these IPSIG services. The terms of this provision herein apply to the Concessionaire, its officers, agents, employees, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities, and performance of the Concessionaire in connection with this Agreement. The terms of this provision are neither intended nor

shall they be construed to impose any liability on the County by the Proposer or third party.

**17.05 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW:** According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost shall also be included in all change orders and all contract renewals and extensions.

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

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Public Health Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance, and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to, original estimate files, change order estimate files, worksheets, proposals and

agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

## ARTICLE 18 – OTHER PROVISIONS

- 18.01 PAYMENT OF TAXES:** The Concessionaire shall pay all taxes lawfully assessed against its interests in the Location and any support/storage spaces and its services hereunder, provided however, that the Concessionaire shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay same after the ultimate adverse conclusion of such contest shall constitute an Event of Default, pursuant to **Sub-Article 12.03 “Other Defaults”** hereof.
- 18.02 ALTERATIONS BY CONCESSIONAIRE:** The Concessionaire shall not alter or modify the Location and or any support/storage spaces, except in accordance with **Article 4 “Improvements to the Location”** herein, without first obtaining written approval from the Department.
- 18.03 RIGHTS TO BE EXERCISED BY DEPARTMENT:** Wherever in this Agreement rights are reserved to the County such rights may be exercised by the Department.
- 18.04 ADMINISTRATIVE MODIFICATIONS:** It is understood and agreed to that the Department, upon written notice to the Concessionaire, shall have the right to modify administratively and to revise Articles and the Exhibits to this Agreement, including the provisions of **Sub-Article 1.07 “Addition, Deletion and Modification of Location”**, **Sub-Article 18.02 “Alterations by Concessionaire”**, **Sub-Article, 21.02 “Right to Amend”**, and **Sub-Article 21.04 “Right to Modify”**.
- 18.05 SECURITY:** The Concessionaire acknowledges and accepts full responsibility for the security and protection of the Location. The Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for protection of the Location shall be the sole responsibility of the Concessionaire and shall involve no cost to the Department.
- 18.06 RIGHTS OF DEPARTMENT AT AIRPORT:** The Department shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and locations at the Airport. The County shall, in the exercise of such right, be free from any, and all liability to the Concessionaire for business damages occasioned during the making of such repairs, alterations and additions except those occasioned by the sole acts of negligence or intentional acts of the County, its employees, or agents.
- 18.07 OTHER DEPARTMENT RIGHTS:** The Concessionaire shall be liable for any physical damage caused to the Location by the Concessionaire, its employees, agents,

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

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

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

To the County:

(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-5<sup>th</sup> floor.

Miami, FL 33122

To the Concessionaire:

Inter Miami Ventures, LLC

800 S Douglas Rd, Suite 770

Attention: Legal Department

Email: [legalnotices@intermiamicf.com](mailto:legalnotices@intermiamicf.com)

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

delivery date indicated on the Return Receipt from the United States Postal Service or on the express mail service receipt.

- 18.10 SEVERABILITY:** If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end, the provisions of this Agreement shall be severable.
- 18.11 RIGHTS RESERVED TO DEPARTMENT:** All rights not specifically granted the Concessionaire by this Agreement are reserved to the Department.
- 18.12 COUNTY LIEN:** The County shall have a lien upon all personal property of the Concessionaire in the Location to secure the payment to the Department of any unpaid monies accruing to the Department under the terms of this Agreement.
- 18.13 AUTHORIZED USES ONLY:** The Concessionaire shall not use or permit the use of the Location or the Airport for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the Department on or invalidate any insurance policies of the Department or any policies of insurance written on behalf of the Concessionaire under this Agreement.
- 18.14 NO WAIVER:** There shall be no waiver of the right of the Department to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default, or non-performance hereof by the Concessionaire unless such waiver is explicitly made in writing by the Department. Any previous waiver or course of dealing shall not affect the right of the Department to demand strict performance of the provisions, terms, and covenants of this Agreement with performance hereof by the Concessionaire.
- 18.15 SECURED AREAS/AIRFIELD OPERATIONS AREA (AOA) STERILE AREAS SECURITY:** The Concessionaire acknowledges and accepts full responsibility for compliance with all applicable Federal, State, and Local laws, rules and regulations including those of the Homeland Security, Transportation Security Administration's (TSA) Code of Federal Regulations 49 CFR Part 1542 et al, Federal Aviation Administration FAA, Customs and Border Protection CBP, the MDAD Airport Security Plan and applicable Security Directives issued by TSA and the Aviation Department as set forth from time to time relating to Concessionaire's activities at the Miami International Airport (MIA).

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

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

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

Concessionaire Ramp Permits will be issued to the Concessionaire authorizing vehicle entrance to the Airfield Operations Area (AOA) through specified Miami-Dade Aviation Department vehicle access control gates for the term of any Project. These permits will be issued only for those vehicles that must have access to the site during the performance of the work. These permits will be only issued to company owned vehicles or company leased vehicles (leased from a commercial leasing company). AOA decals, passes, or permits to operate within the AOA will not be issued to privately owned or privately leased vehicles. All vehicles operating within the AOA must have conspicuous company identification signs (minimum of three (3) inch lettering) displayed on both sides of the vehicles.

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

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

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

The Concessionaire acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts cargo tampering, aircraft sabotage, and other unlawful activities at the Airport and to maximize compliance with TSA, Homeland Security, FAA/Federal Inspection Services agencies and MDAD access control and security policies and procedures as may be required and designated in the Airport Security Plan and the Miami-Dade Aviation Department Rules and Regulations Chapter 25.

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

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

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

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

Concessionaire agrees that it will include in all contracts and subcontracts with its MIA sub-consultants, service providers, and suppliers an obligation by such parties to comply with all security requirements applicable to their operations at the Airport. The Concessionaire agrees that in addition to all remedies, Damages, and sanctions that may be imposed by TSA, Homeland Security, FAA, Federal Inspection Services Agencies or

MDAD upon Concessionaire sub-consultants, suppliers, and their individual employees for a violation of applicable security provisions. The Concessionaire shall be responsible to the Owner for all such violations and shall indemnify and hold the Owner harmless for all costs, fines and Damages arising there from, such costs to include reasonable attorneys' fees.

- 18.16 INTENT OF AGREEMENT:** This Agreement is for the benefit of the parties only and does not: (a) grant rights to third party beneficiaries or to any other person; or (b) authorize non-parties to the Agreement to maintain an action for personal injuries, professional liability, or property damage pursuant to the terms or provisions of the Agreement.
- 18.17 MODIFICATIONS:** This Agreement may be modified and revised in writing and duly executed by the parties hereto. Such modification may be made unilateral by the Department only as permitted pursuant to **Sub-Article 18.04 "Administrative Modifications"**, **Sub-Article 21.02 "Right to Amend"**, and **Sub-Article 21.04 "Right to Modify"**. Any oral representation or modification concerning this Agreement shall be of no force or effect. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with this Agreement.
- 18.18 RADON DISCLOSURE:** In accordance with Section 404.056, Florida Statutes, the following disclosure is hereby made: **"Radon Gas: Radon is a naturally occurring radioactive gas. When accumulated in a building in sufficient quantities, it may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."**
- 18.19 TRADEMARKS AND LICENSES:** The Department may, from time to time, require the Concessionaire as part of its advertising and marketing program to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the Department in the performance of this Agreement which patents, copyrights, trademarks, trade names, logos, computer software and intellectual property may have been created pursuant to the terms of this Agreement. Such permission, when granted, shall be evidenced by a nonexclusive license executed by the Concessionaire and the Department, on behalf of the Department granting the Concessionaire the right, license, and privilege to use a specific patent, copyright, trademark, trade name, logo, computer software or other intellectual property without requiring payment of fees, therefore. Failure of the parties to execute a formal license agreement shall not vest title or interest in such patent, copyright, trademark, trade name, logo computer software or intellectual property in the using party.
- 18.20 HEADINGS:** The headings of the various Articles and Sub-Articles of this Agreement, and its Table of Contents are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

- 18.21 BINDING EFFECT:** The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.
- 18.22 GOVERNMENTAL DEPARTMENT:** Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County as a political subdivision of the State of Florida.
- 18.23 INDEPENDENT CONTRACTOR:** The Concessionaire shall perform all services described herein as an independent contractor and not as an officer, agent, servant, or employee of the Department. All personnel provided by the Concessionaire in the performance of this Agreement shall be considered to be, at all times, the sole employees of the Concessionaire under its sole discretion, and not employees or agents of the Department: Except as provided in § 2-11.1(s) of the Code, the Concessionaire represents and warrants: (i) it has not employed or retained any company or person other than a bona fide employee working solely for the Concessionaire to solicit or secure this Agreement; and (ii) it has not paid, or agreed to pay any company or other person any fee, commission, gift, or other consideration contingent upon the execution of this Agreement. A breach of this warranty makes this Agreement voidable by the Department without any liability to the Contractor for any reason.
- 18.24 OTHER LIENS:** Concessionaire shall not permit any mortgages, deeds of trust or similar liens to be imposed on the Location, the leasehold, or the furniture, fixtures and equipment or any portion thereof. The Concessionaire shall not permit or suffer any liens, including mechanics', materialmen's, and tax liens to be imposed upon the Location, or any part thereof, without promptly discharging the same. Notwithstanding the foregoing, Concessionaire may in good faith contest any such lien if Concessionaire provides a bond in an amount and form acceptable to Department in order to clear the record of any such liens. Concessionaire further agrees that it shall not sell, convey, mortgage, grant, bargain, encumber, pledge, assign or otherwise transfer its leasehold interest in the Location or any personal property or trade fixtures in the Location, including any furniture, fixtures and equipment or any part thereof or permit any of the foregoing to occur. Concessionaire shall assume the defense of and indemnify and hold harmless County against any and all liens and charges of any and every nature and kind which may at any time be established against said Location and improvements, or any part thereof, as a consequence of any act or omission of Concessionaire or as a consequence of the existence of Concessionaire's interest under this Lease.
- 18.25 FIRST SOURCE HIRING REFERRAL PROGRAM ("FSHRP"):** Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the successful Bidder, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of

three to five days, the successful Bidder is free to fill its vacancies from other sources. Successful Bidders will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at <https://iapps.southfloridaworkforce.com/firstsource/> or by contacting the SFWIB at (305) 594-7615, Extension 407 (Refer to Exhibit 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 Concessionaire or its services.

**18.27 CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED:** By entering into a contract, the Contractor affirms that it is not in violation of Section 287.138, Florida Statutes (F.S.) titled Contracting with Entities of Foreign Countries of Concern Prohibited. Contractor further affirms that it is not giving a government of a foreign country of concern, as listed in Section 287.138, F.S., access to an individual's personal identifying information if: a) the Contractor is owned by a government of a foreign country of concern; b) the government of a foreign country of concern has a controlling interest in the Contractor; or c) the Contractor is organized under the laws of or has its principal place of business in a foreign country of concern as is set forth in Paragraphs 2(a)–(c) of Section 287.138, F.S.

**18.28 CONTRACTOR DUE DILIGENCE AFFIDAVIT:** In accordance with Miami-Dade County Resolution No. 63-14, proposed vendors and contractors shall disclose the following as a condition of award for any contract that exceeds one million dollar (\$1,000,000) or that otherwise must be presented to the Board of County Commissioners for approval:

Provide a list of all lawsuits in the five (5) years prior to bid or proposal submittal that have been filed against the firm, its directors, partners, principals and/or board members based on a breach of contract by the firm; include the case name, number and disposition;

Provide a list of any instances in the five (5) years prior to bid or proposal submittal where the firm has defaulted; include a brief description of the circumstances; and,

Provide a list of any instances in the five (5) years prior to bid or proposal submittal where the firm has been debarred or received a formal notice of non-compliance or non-performance, such as a notice to cure or a suspension from participating or bidding for contracts, whether related to Miami-Dade County or not.

## **ARTICLE 19 – NOT USED (SUB-LEASES)**

## **ARTICLE 20 - WAIVER OF CLAIMS**

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

## **ARTICLE 21 - REQUIRED, GENERAL AND MISCELLANEOUS PROVISIONS**

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

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

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

### **21.03 CONCESSIONAIRE COVENANTS AND ASSURANCES:**

#### **A. Covenants Against Discrimination:**

1. Concessionaire on behalf of itself, ;successors in interest and its assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, or veteran status, or status as victim of domestic violence, dating violence or stalking shall be excluded from

participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Location or the Airport; (2) that in the installation of any equipment at the Airport and the furnishing of 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 Concessionaire shall operate at the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. Likewise, Concessionaire shall comply with laws of the State of Florida, prohibiting discrimination because of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or veteran status, or status as victim of domestic violence, dating violence or stalking. Should Concessionaire authorize another person or entity, with Department's prior written consent, to provide services or benefits in or in connection with its rights or obligations under this Agreement, Concessionaire shall obtain from such person or entity a written agreement pursuant to which such person or entity shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this paragraph. The Concessionaire shall furnish the original or a true copy of such agreement to the Department.

2. Concessionaire will provide to provide all information and reports required by said Code of Federal Regulations, or by directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its Location as may be determined by Department or the Federal Aviation Administration to be pertinent to ascertain whether there has been compliance with said Regulations and directives. Where any information required of Concessionaire is in the exclusive possession of another who fails or refuses to furnish this information, Concessionaire shall so certify to Department or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
3. In the event of a breach of any of the above nondiscrimination covenants, the Department shall have the right to impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate. Such rights shall include the right to terminate this Agreement and to reenter and repossess the Location and the improvements thereto and hold the same as if this Agreement had never been made. The rights granted to Department by the foregoing sentence shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

4. Concessionaire assures County that no person shall be excluded on the grounds of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or veteran status, or status as victim of domestic violence, dating violence or stalking, as applicable, from participating in or receiving the services or benefits of any program or activity covered by Title 14, Code of Federal Regulations, Part 152, Subpart E, Federal Aviation Administration, Nondiscrimination in Airport Aid Program, and that it will be bound by and comply with all other applicable provisions of such Subpart E, as it may be amended from time to time. Concessionaire also assures the County that it will require its covered suborganizations to provide assurances to the same effect and provide copies thereof to the Department.
5. Concessionaire further assures County that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall on the grounds of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or veteran status, or status as victim of domestic violence, dating violence or stalking be excluded from participating in any activity conducted at or in connection with its operations at the Location. Concessionaire also assures County that it will require its contractors to provide assurances to the same effect and ensure that such assurances are included in contracts and Sub-Lease agreements at all tiers which are entered into in connection with Concessionaire's services hereunder.
6.
  - a) This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, Subpart F. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or veteran status, or status as victim of domestic violence, dating violence or stalking, as applicable, in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.
  - b) Concessionaire agrees to include the above statements in any subsequent concession agreements that it enters into and cause those businesses to similarly include the statements in further agreements.
7. County may from time to time be required by the United States Government or one or more of its agencies, to adopt additional or amended provisions including nondiscrimination provisions concerning the use and operation of the Airport, and Concessionaire agrees that it will adopt such requirements as part of this Agreement.

**21.04 RIGHT TO MODIFY:** The parties hereto covenant and agree that, during the Term and/or Extension, if applicable, this Agreement may be unilaterally modified by the Department, upon advice of its legal counsel, in order to conform to judicial or Federal

Trade Commission or FAA rulings or opinions. This Sub-Article shall not preclude Concessionaire from contesting said rulings or opinions, but the Concessionaire shall abide by the unilateral change while such a challenge is pending. Except as otherwise specifically provided in this Agreement, this Agreement may not be modified except by a written instrument signed by both parties.

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

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

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

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

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

1. The Concessionaire shall, at its own cost and expense, procure and keep in force during the Term and any Extension thereto if applicable, all necessary licenses, registrations, certificates, bonds, permits, and other authorizations as are required by law in order for the Concessionaire to provide its services hereunder and shall pay all taxes, (including sales and use taxes), assessments including, without limitation, storm water utility fees and impact fees which may be assessed, levied, exacted or imposed by all governmental authorities having jurisdiction on Concessionaire's

property, on its services, on its Gross Revenues, on its income, on this Agreement and the fees payable to the County hereunder, on the rights and privileges granted to the Concessionaire herein, on the Location and on any and all equipment installed on the Location and the Concessionaire shall make and file all applications, reports, and returns required in connection therewith.

2. The Concessionaire agrees to repair promptly, at its sole cost and expense and in a manner acceptable to the Department, any damage caused by the Concessionaire, officers, agents, employees, contractors, subcontractors, licensees or invitees to the Airport, or any equipment or property located thereon.
3. The Concessionaire is not authorized to act as the County's agent hereunder and shall have no authority, express or implied, to act for or bind the County hereunder and nothing contained in this Agreement shall be deemed or construed by the County or the Concessionaire or by any third party to create the relationship of partnership or of joint venture. No provision of this Agreement shall be deemed to make the County the joint employer of any employee of the Concessionaire.
4. The County shall have the right during the Concessionaire's normal business hours (and at any time during an emergency) to inspect the Location and the property of the Concessionaire located thereon, in order to enforce this Agreement, to enforce applicable laws and regulations, and to protect persons and property.
5. The Article and paragraph headings herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of any provision of this Agreement.
6. Time is expressed to be the essence of this Agreement.
7. This Agreement will inure to the benefit of and shall be binding upon the parties hereto and their authorized successors and assigns.
8. If any covenant, condition, or provision of this Agreement is held to be invalid by any court of competent jurisdiction, such holding shall not affect the validity of any other covenant, condition or provision contained herein.
9. Except as otherwise provided herein, if certain action may be taken only with the consent or approval of the County, or if a determination or judgment is to be made by the County, such consent or approval may be granted or withheld, or such determination or judgment shall be made, in the sole discretion of the County or the County.
10. The County's Ethics Commission has also adopted rules delineating the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics Ordinance. The Concessionaire shall comply with these requirements.

#### **21.10 FORCE MAJEURE:**

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

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

#### **21.11 ASPIRATIONAL POLICY REGARDING DIVERSITY AND EMPLOYABILITY**

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

#### **21.12 PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY:**

The Concessionaire shall comply with the Public Records Laws of the State of Florida, including but not limited to: (1) keeping and maintaining all public records that ordinarily and necessarily would be required by Miami-Dade County (County) in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Concessionaire upon termination of the agreement and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure

requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of the agreement and shall be enforced in accordance with the terms of the agreement.

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

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

**21.14 FAA SPECIAL PROVISIONS:**

**A) Compliance with Nondiscrimination Requirements**

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

1. **Compliance with Regulations:** The Concessionaire (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.
2. **Non-discrimination:** The Concessionaire, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Subcontractors, including procurements of materials and leases of equipment. The Concessionaire will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Concessionaire 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 Concessionaire of the Concessionaire's obligations under this Contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. Information and Reports: The Concessionaire 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 Concessionaire is in the exclusive possession of another who fails or refuses to furnish the information, the Concessionaire 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.
5. Sanctions for Noncompliance: In the event of a Concessionaire's noncompliance with the Nondiscrimination 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 Concessionaire under the Contract until the Concessionaire complies; and/or
  - b. Cancelling, terminating, or suspending a Contract, in whole or in part.
6. Incorporation of Provisions: The Concessionaire will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, Required Contract Provisions Issued on January 29, 2016, Page 19 AIP Grants and Obligated Sponsors Airports (ARP) unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Concessionaire 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 Concessionaire becomes involved in, or is threatened with litigation by a Subcontractor, or supplier because of such direction, the Concessionaire may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Concessionaire may request the United States to enter into the litigation to protect the interests of the United States.
7. During the performance of this Contract, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the "Concessionaire") 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 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin).

- b. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964).
- c. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- d. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27.
- e. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age).
- f. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- g. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Concessionaires, whether such programs or activities are Federally funded or not);
- h. Titles II and III of the Americans with Disabilities Act of 1990, which 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 (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38.
- i. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123 (prohibits discrimination on the basis of race, color, national origin, and sex).
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination 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 Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).

1. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- B) 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 Concessionaire has full responsibility to monitor compliance to the referenced statute or regulation. The Concessionaire consultant] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division
- C) 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. Concessionaire must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Concessionaire 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). Concessionaire 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.

## **21.15 U.S. SOCCER FEDERATION 2026 WORLD CUP**

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

NOTE: The Agreement between Miami-Dade County and the U.S. Soccer Federation is available at:

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2018/180129min.pdf>

## **21.16 Supplier/Vendor Registration / Conflict of Interest**

### **a) Supplier/Vendor Registration**

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

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

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

b) Conflict of Interest and Code of Ethics

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

**21.17 NOT USED COUNTY USER ACCESS PROGRAM (UAP)**

**21.18 NOT USED PROHIBITION AGAINST GOVERNMENTAL ENTITY CONTRACTS WITH COMMON CARRIER or CONTRACTED CARRIER**

**21.19 NOT USED CYBERSECURITY AND INFORMATION TECHNOLOGY PROCUREMENT AND PROTECTION PROGRAM**

**21.20 VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)**

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

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

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

***Inter Miami CF, LLC Lease and Concession Agreement***

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.

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

**CONCESSIONAIRE**

**INTER MIAMI VENTURES, LLC**

(Legal Name of Corporation)

**ATTEST:**

Secretary \_\_\_\_\_  
(Signature and Seal)

\_\_\_\_\_  
(Type Name & Title)

By: *Chris Ross*  
Concessionaire - Signature

Name: CHRISTOPHER ROSS  
VP, FINANCE & ACCOUNTING  
(President)



Karen De Leon 7.22  
Notary Public  
State of Florida  
Comm# HH112441  
Expires 3/31/2025

**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)

**BOARD OF COUNTY COMMISSIONERS  
MIAMI-DADE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Mayor

Approved for Form  
and Legal Sufficiency

Attest:

\_\_\_\_\_  
Assistant County Attorney

By: \_\_\_\_\_  
Juan Fernandez-Barquin  
Clerk of the Court and Comptroller

Resolution No.: \_\_\_\_\_

Date: \_\_\_\_\_

# **Exhibit A - Location**

D-28

66.99'

62.01'

U-21

MECHANICAL  
CHASE  
DC2798  
PROCESS  
ROOM

DC2795

PROCESS  
ROOM  
DC2794

DC26125

PROCESS  
ROOM  
DC26120

STERILE CORRIDOR  
DC25178

MECHANICAL  
CHASE  
DC25185  
PROCESS  
ROOM  
DC25184

DC25180

DC25175

DC26118

DC2790

DC2788

196 S.F.

DC26115

DC25170

MDC083

DC25167

DC25168

DC26104

DC26108

DC26109

DC26110

DC2784

DC2786

DC2787

DC2788

DC2778

DC2775

DC25160

DC25154

DC26101

DC26105

DC2781

DC2788

DC2786

INTER MIAMI FC- PROPOSAL

FILE #:  
DATE:

MIAMI INTERNATIONAL AIRPORT  
Building 3000 - Concourse D - Second Floor



**Exhibit B - Scope of Services**  
**(Refer to Agreement Sub-article 2.05)**

# **Exhibit C - Surety Performance and Payment Bond**

## SURETY PERFORMANCE AND PAYMENT BOND

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

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

THE CONDITION OF THIS BOND is that if Principal:

1. Performs all the Work under the Contract, including but not limited to guarantees, warranties and the curing of latent defects, said Contract being made a part of this bond by reference, and in the times and in the manner prescribed in the Contract, including any and all damages for delay; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the Work provided for in the Contract; provided, however, that any action instituted by such claimant under this paragraph for payment must be in accordance with notice and time limitation provisions in Section 255.05(2), Florida Statutes; and
3. Pays County all losses, damages, including damages for delay, expenses, costs and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the Contract, including but not limited to a failure to honor all guarantees and warranties or to cure latent defects in its Work or materials within five (5) years after completion of the Work under the Contract; and
4. Performs the guarantee of all Work and materials furnished under the Contract for the time specified in the Contract, including all warranties and curing all latent defects within five (5) years after completion of the Work under the Contract;

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

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

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

**SURETY PERFORMANCE AND PAYMENT BOND (Cont'd)**

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

CONTRACTOR

\_\_\_\_\_  
(Contractor Name)

BY:

\_\_\_\_\_  
(President) (Managing Partner or Joint Venturer)

(SEAL)

COUNTERSIGNED BY RESIDENT  
FLORIDA AGENT OF SURETY:

SURETY:

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

\_\_\_\_\_  
Attorney-in-Fact

(CORPORATE SEAL)

(Power of Attorney must be attached)

# **Exhibit D - Payment Security (Lease Guarantee Bond)**

**Exhibit D**  
**PAYMENT SECURITY (LEASE GUARANTEE BOND)**

Bond No. \_\_\_\_\_

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

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

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

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

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

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

In The Presence Of:

\_\_\_\_\_ (Seal)

Witness

By: \_\_\_\_\_

Witness:

Surety:  
\_\_\_\_\_ (Seal)

By: \_\_\_\_\_

**(PAYMENT SECURITY)**

---

**Irrevocable Standby Letter of Credit**

(On bank's letterhead)

Date: \_\_\_\_\_

L.O.C. No. \_\_\_\_\_

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

Gentlemen:

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

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

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

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

Partial drawings under this Letter of Credit are permitted.

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

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

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

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

\_\_\_\_\_  
Issuing Bank

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Title)

Bond No. \_\_\_\_\_

# **Exhibit E – North Terminal Retail Concessions Design Guidelines**

[https://www.miami-airport.com/concessions\\_program.asp](https://www.miami-airport.com/concessions_program.asp)

# **Exhibit F - Tenant Airport Construction- Non-Reimbursable Procedures (TAC-N)**

[TAC-N Forms 1.25.21.pdf \(miami-airport.com\)](#)

## **Tenant Airport Construction Reimbursable Procedures (TAC-R)**

[DADE AVIATION CONSULTANTS \(miami-airport.com\)](#)

# **Exhibit G - Independent Audit Report**

## Exhibit G

### Sample Management Letter

#### Independent Auditor's Report

Board of Directors  
XYZ Corporation

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

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

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

**ABC & DEF, CPA's**  
\_\_\_\_\_xx, 20xx

## Sample Audit Report

### Independent Auditor's Report

Board of Directors  
XYZ Corporation

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

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

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

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

**ABC & DEF, CPA's**  
\_\_\_\_\_, xx, 20xx

## Sample Compliance Letter

### Independent Auditor's Report

Board of Directors  
XYZ Corporation

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

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

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

**ABC & DEF, CPA's**  
\_\_\_\_\_, xx, 20xx

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

| <u>Month</u> | <u>Gross<br/>Revenues</u> | <u>Percentage<br/>Fee Due</u> | <u>Percentage<br/>Fee Paid</u> | <u>Balance<br/>Due</u> |
|--------------|---------------------------|-------------------------------|--------------------------------|------------------------|
|--------------|---------------------------|-------------------------------|--------------------------------|------------------------|

|              |       |       |       |       |
|--------------|-------|-------|-------|-------|
| _____        | _____ | _____ | _____ | -     |
| <b>TOTAL</b> | _____ | _____ | _____ | _____ |

# **Exhibit H - Executed Affidavits and Condition of Award Certificates (from Concessionaire)**



## Contractor Due Diligence Affidavit

In accordance with Miami-Dade County (County) Resolution No. [63-14](#), proposed vendors and contractors shall disclose the following as a condition of award for any contract that exceeds one million dollars (\$1,000,000) or that otherwise must be presented to the Board of County Commissioners for approval:

- (1) Provide a list of all lawsuits in the five (5) years prior to bid or proposal submittal that have been filed against the firm, its directors, partners, principals and/or board members based on a breach of contract by the firm; include the case name, number and disposition;
- (2) Provide a list of any instances in the five (5) years prior to bid or proposal submittal where the firm has defaulted; include a brief description of the circumstances; and,
- (3) Provide a list of any instances in the five (5) years prior to bid or proposal submittal where the firm has been debarred or received a formal notice of non-compliance or non-performance, such as a notice to cure or a suspension from participating or bidding for contracts, whether related to Miami-Dade County or not.

All the above information shall be attached to the executed Contractor Diligence Affidavit (*this Affidavit*) and submitted to the procurement professional overseeing the acquisition process. The vendor/contractor attests to providing all the above information, as applicable, to the County.

**Written Declaration:** Pursuant to §92.525, Florida Statutes, under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it and the information provided (*hereto*) are true, accurate, and complete.

Signature of Authorized Representative (Principal):

A handwritten signature in black ink, appearing to read "Brandon Briggs", is written over a white rectangular box.

Printed Name of Authorized Representative (Principal):

Brandon Briggs

Title: Authorized Representative

Date: 6-21-24

INTER MIAMI VENTURES, LLC

June 21, 2024

Strategic Procurement Department  
Miami-Dade County  
111 NW 1 Street  
13th Floor  
Miami, FL 33128  
(305) 375-3040

**Re: Contractor Due Diligence Affidavit**

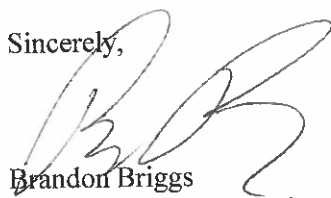
Reference is hereby made to the Contractor Due Diligence Affidavit as required by Miami-Dade County Resolution No. 63-14.

This letter is to confirm the following:

- (1) Inter Miami Ventures, LLC ("Inter Miami Ventures") has not had any lawsuits in the five (5) years prior to bid or proposal submittal that have been filed against the firm, its directors, partners, principals and/or board members based on a breach of contract by the firm.
- (2) Inter Miami Ventures has not encountered any instances in the five (5) years prior to bid or proposal submittal where the firm has defaulted.
- (3) Inter Miami Ventures has not encountered any instances in the five (5) years prior to bid or proposal submittal where the firm has been debarred or received a formal notice of non-compliance or non-performance, such as a notice to cure or a suspension from participating or bidding for contracts, whether related to Miami-Dade County or not.

Thank you and feel free to reach out with any questions you may have.

Sincerely,



Brandon Briggs  
Authorized Representative  
Inter Miami Ventures, LLC



**CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED  
AFFIDAVIT**

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

Inter Miami Ventures, LLC does not meet any of the criteria set forth in Paragraphs 2 (a) – (c)

Bidder's/Proposer's Legal Company Name

of [Section 287.138, F.S.](#)

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

Print Name of Bidder's/Proposer's Authorized Representative: Brandon Briggs

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

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

Date: 6/21/24

# **Exhibit I - Monthly Report of Gross Revenues**

## **Exhibit J - TSA Prohibited Items**

**[tsa.gov/travel/security-screening](https://www.tsa.gov/travel/security-screening)**

## **Exhibit K**

### **Tenant Handbook**

**MIAMI-DADE AVIATION DEPARTMENT  
MIAMI INTERNATIONAL AIRPORT  
AIRPORT CONCESSION BUSINESS DEVELOPMENT**



**AIRPORT CONCESSION BUSINESS DEVELOPMENT  
TENANT HANDBOOK MANUAL**

Revised September 1, 2023

## TABLE OF CONTENTS

|                                                                    | Page |
|--------------------------------------------------------------------|------|
| I. WELCOME                                                         | 4    |
| II. INTRODUCTION                                                   | 5    |
| A. Vision .....                                                    | 5    |
| B. Airport Concession Business Development Program Goals.....      | 5    |
| C. Airport Concession Business Development Program Objectives..... | 5    |
| D. Terminal Overview .....                                         | 5    |
| III. GETTING STARTED AT MIA                                        | 6    |
| Before Beginning Employment.....                                   | 6    |
| 1. Employee Parking                                                | 6    |
| 2. Badging.....                                                    | 7    |
| B. Other.....                                                      | 8    |
| 1. Setting up Utilities .....                                      | 8    |
| 2. Use of Wireless Technologies.....                               | 8    |
| 3. Banking Procedures .....                                        | 8    |
| 4. Hours of Operation .....                                        | 8    |
| IV. STANDARD AIRPORT PROCEDURES                                    | 9    |
| A. Improvements to Premises .....                                  | 9    |
| 1. Conditions for Permits .....                                    | 9    |
| 2. Permit Application Procedure.....                               | 9    |
| B. Storage.....                                                    | 9    |
| 1. Designated Storage Areas .....                                  | 9    |
| 2. Unapproved Storage.....                                         | 9    |
| 3. Fire Safety in Storage Areas.....                               | 10   |
| 4. Damage to Storage Areas.....                                    | 10   |
| C. Changes in Price and Product Offerings .....                    | 10   |
| 1. Street Pricing .....                                            | 10   |
| 2. Menu and Product Offerings.....                                 | 10   |
| D. Terminal Maintenance and Operational Issues.....                | 11   |
| 1. Maintenance Services.....                                       | 11   |
| 2. Maintenance Responsibilities.....                               | 11   |
| 3. Contracting Maintenance Work .....                              | 11   |
| 4. Emergency Maintenance .....                                     | 12   |
| E. Delivery Procedures .....                                       | 13   |
| 1. Delivery Hours .....                                            | 13   |
| 2. Terminal Side Delivery .....                                    | 13   |
| 3. Promotional Events .....                                        | 16   |
| 4. Public Relations Opportunities .....                            | 16   |
| H. Airport Police .....                                            | 16   |
| 1. Criminal or Suspicious Activity .....                           | 17   |
| I. Concessions Security .....                                      | 17   |
| 1. Employee/Contractor Strike Activities .....                     | 17   |
| 2. Store Security MDAD to Confirm .....                            | 17   |
| 3. Prosecution of Shoplifters .....                                | 18   |

|                                             |    |
|---------------------------------------------|----|
| 4. Reporting Incidents .....                | 18 |
| 5. Loitering .....                          | 18 |
| J. Emergencies .....                        | 18 |
| 1. Medical .....                            | 18 |
| 2. Fire.....                                | 18 |
| 3. Other Reporting Concerns .....           | 19 |
| 4. After Hours Activity.....                | 19 |
| 5. Access to Premises .....                 | 19 |
| K. Trash Removal .....                      | 20 |
| 1. Refuse Disposal .....                    | 20 |
| 2. Designated Disposal Site .....           | 21 |
| 3. Sanitation Plan.....                     | 21 |
| L. Airport Information Services .....       | 21 |
| M. Airport Paging.....                      | 21 |
| N. Terminal Construction .....              | 21 |
| 1. Right to Develop Airport.....            | 21 |
| 2. Inconveniences during Construction ..... | 21 |
| O.Required Monthly Meetings .....           | 21 |
| V. Key Contacts .....                       | 22 |

Exhibits:       Exhibit A - Security Notice #16-06 (Standardizing Knives in the Sterile Area)  
                   Exhibit B - Security Notice #17-08 (Curbside Deliveries and Commercial Vehicle Use)  
                   Exhibit C - Knife Log

## **I. WELCOME**

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

MIA is home to more than 30,000 dedicated employees from Miami-Dade County, airlines, and various government agencies, vendors, consultants, and concessionaires. We work closely together every day to provide and maintain safety and security, economic viability, customer service, and passenger service.

This standard of operations manual has been created to communicate the responsibilities associated with being a part of the MIA family. Our goal is to provide our passengers and airport patrons with excellent customer service, and your attention to detail is critical to us achieving this goal.

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

## **II. INTRODUCTION**

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

The Lease that exists between the Concessionaire and the County is the primary legal document that defines allowable activities and conditions within the leasehold premises. Review of the Lease is recommended for further definition of activities, concession and public boundaries, and other operating rights.

### **A. Vision**

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

### **B. Airport Concession Business Development Program Goals**

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

### **C. Airport Concession Business Development Program Objectives**

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

- Enhance the image of MIA as a world class airport which reflects the cosmopolitan and international nature of the community.
- Enhance customer service and satisfaction by improving product choice, price points, and customer service.
- Optimize sales/transactions and revenue to the Airport.
- Integrate design and location of Airport Concession Business Development within the infrastructure of the Airport for passenger convenience.
- Balance national, regional, and local Airport Concession Business Development and concessions with DBE representation throughout the terminal

### **D. Terminal Overview**

Miami International Airport terminal is configured in a horseshoe with Concourses from D to J. Security checkpoints are arranged at the entryway to each of the concourses.

### III. GETTING STARTED AT MIA

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

#### **Before Beginning Employment**

#### **1. Employee Parking**

##### **A. Availability**

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

##### **B. Location and Transportation**

The employee parking lot is located approximately 1 ½ miles southeast of the main terminal building. It can be accessed through LeJeune Road at N.W. 14<sup>th</sup> St. or through Perimeter Road at 15<sup>th</sup> Street. Shuttle buses provide 24-hour transportation to and from designated locations on the departure level of the terminal building with approximate headways of 5 minutes during peak times and 15 minutes during non-peak times.

##### **C. Parking Decal Information**

Employee parking decals are issued in 4, 8, or 12-month increments. Companies that will be paying for employee parking decals can establish an account and be invoiced monthly by contacting the Finance Division. Employees can pay for their parking at the Decal Section. The Decal Section is located on the ground floor of the Dolphin Garage and is open Monday-Friday except holidays from 8:00 a.m. to 5:00 p.m. Contact the Decal Section for current employee parking rates. To register your company and establish authorized requestors for your company, please obtain sample letters from the Decal Section (tel. number: 305- 876-7567).

##### **D. Parking Lot Safety and Security**

- Access to the employee parking lot is restricted to vehicles with a valid employee parking decal and employees with valid MIA identification badges or airport authorized company identification badges. Family members/friends traveling in the same vehicle will be denied entry to the lot if they do not have a valid MIA or company I.D.
- Employees must have a valid MIA or airport approved company identification badge to ride the employee shuttle bus between the employee parking lot and the terminal building. Family members/friends are not allowed to ride the employee shuttle bus.

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

#### **E. Abuse of Parking Privileges**

- Employee parking decals must be permanently affixed to the vehicle for which it was issued and can only be used by authorized employees.
- Parking in the employee parking lot is a privilege and may be revoked at any time for failure to comply with established procedures.

### **2. Badging (MDAD Credentialing Section)**

The Concessionaire shall be subject to all Departmental requirements and FAA mandates pertaining to the issuance of airport identification badges, including, but not limited to employee completion of SIDA training conducted by the Department and background checks, as required by the FAA Unescorted Access Privilege Rule. The Concessionaire shall pay, or cause to be paid, to the Department such nondiscriminatory charges, as may be established from time to time, for lost or stolen ID badges and those not returned to the Aviation Department. The Concessionaire will be required to conduct background investigations and to furnish certain data on such employees before the issuance of such ID badges, which data may include the fingerprinting of employee applicants for such badges.

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

#### **Credentialing Section Hours of Operation:**

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

#### **Contact Information:**

General information: 305-876-7188

Fingerprint appointments: 305-876-8409

Badges must always be displayed. All airside employees must participate in additional training for this access.

### **3. Employee Orientation**

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

## **B. Other**

### **1. Setting up Utilities**

The cost of all utilities used or consumed on the Premises shall be borne by the Concessionaire. Unless the Premises are provided with separate electric, gas, and/or water meters, the Concessionaire agrees to pay for the utilities on the Premises as a monthly charge, plus any applicable taxes, upon billing by the Department, or utility companies. The Department encourages the Concessionaire to provide and install meters for utilities used at the Concessionaire's expense. See your Agreement for further detail on payment to MDAD for utility charges.

Other utilities used by the Concessionaire including telephones and telephone service hook-up, data lines and additional electrical and communications services are to be arranged for and paid for by the Concessionaire. The Airport provides these types of services through its Information Technology Shared Tenant Services.

### **2. Use of Wireless Technologies**

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

### **3. Banking Procedures**

It is critical that Concessionaires implement a policy and provide professional guidance for cash handling, ensuring that those staff tasked with making deposits do so in the safest manner possible.

Concessionaires are responsible for arranging procedures to ensure that all stores have the appropriate amount of change on hand.

### **4. Hours of Operation**

All units have specific hours set that the unit is to be open and serving the public. On-site personnel are responsible for knowing what their store operating hours stipulate. In some cases, depending on airline schedules caused by weather or other delays, the store may be required to stay open beyond required hours. Procedures need to be in place to keep the store open and operating during such events.

The store must have all products and services available the moment it opens. This means, for example, that the coffee must be prepared and ready to serve prior to the actual opening time and the store must also keep all products available up until the time the store officially closes. It is not acceptable for store employees to begin to remove and clean the store until the actual closing time of the store.

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

## **IV. STANDARD AIRPORT PROCEDURES**

### **A. Improvements to Premises**

#### **1. Conditions for Permits**

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

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

#### **2. Permit Application Procedure**

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

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

#### **3. Vendors Performing Services for Concessionaires**

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

### **B. Storage**

#### **1. Designated Storage Areas**

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

#### **2. Unapproved Storage**

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

### **3. Fire Safety in Storage Areas**

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

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

### **4. Damage to Storage Areas**

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

## **C. Changes in Price and Product Offerings**

### **1. Street Pricing**

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

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

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

### **2. Menu and Product Offerings**

MDAD and the Concessionaire agree to offer a set of products and services approved prior to the opening of the location.

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

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

## **D. Terminal Maintenance and Operational Issues**

### **1. Maintenance Services**

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

### **2. Maintenance Responsibilities**

#### **A. MDAD Responsibilities**

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

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

#### **B. Concessionaire Responsibilities**

Concessionaires are expected to maintain their premises in good repair and keep them in a clean condition and orderly appearance. Concessionaires are responsible for any other upkeep and repair within their leasehold, including but not limited to windows, both inside and out, flooring, spotlights; display case and spot and window lighting; carpet; fixtures, and any equipment or custom-made features of the premise. Concessionaires must also arrange for their own janitorial service.

Concessionaires also are responsible for their own extermination, which must be coordinated with the Airport.

### **3. Contracting Maintenance Work**

Concessionaires who desire maintenance work can do so by:

- Contracting with an outside vendor who can complete the desired maintenance and repair to the satisfaction of MDAD and to the Concessionaire; or

- Contracting with MDAD Facilities Division for those items outside MDAD's regular maintenance responsibilities.
- Construction work performed by the Tenant / Concessionaire must abide by the Tenant Airport Construction (TAC) process.

#### **A. Contracting with Outside Vendor Services**

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

However, prior to any work, a permit must be issued. Concessionaires must contact Airport Concession Business Development to obtain the proper permit forms and approval to hire any contractor who may impact airport operations such as electricians, phone repair, plumbers, etc. Work that may trigger fire alarms (e.g., welding, dust)

will require the coordination of shutdown process through the assigned MDAD Property Manager.

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

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

#### **B. Contracting with Airport Facilities**

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

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

#### **4. Emergency Maintenance**

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

## E. Delivery Procedures

### 1. Delivery Hours

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

#### VENDOR DELIVERY ELEVATOR AND LOADING DOCK SCHEDULE

|                    |                     |        |           |
|--------------------|---------------------|--------|-----------|
| D-15E03            | 0400-1300           | 7 DAYS | 7 hrs.    |
| D-25E05 B2         | <b>0500-1400</b>    | 7 DAYS | 8 hrs.    |
| D-37E01            | 0700-1800           | 7 DAYS | 11 hrs.   |
| D-46E02            | 0400-1200           | 7 DAYS | 8 hrs.    |
| E-05E02            | <b>0500-1000</b>    | 7 DAYS | 5 hrs.    |
| E-21E01            | 0600-1000 1400-1800 | 7 DAYS | 8 hrs.    |
| F-11E04            | <b>0400-1200</b>    | 7 DAYS | 8 hrs.    |
| G-09E01            | 0600-1000           | 7 DAYS | 4 hrs.    |
| H-12E01            | 0600-1200           | 7 DAYS | 6 hrs.    |
| South Loading Dock | <b>0430-2000</b>    | 7 DAYS | 15.5 hrs. |

### 2. Terminal (Landside) Side Delivery (Refer to Exhibit B)

#### 2.A Deliveries Terminal Curbside

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

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

#### **b. Vehicle Identification for Delivery Zones**

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

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

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

### **c. Delivery Zone Parking Restrictions (Time)**

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

### **d. Delivery through Terminal Building**

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

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

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

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

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

### **e. Airfield Deliveries**

#### **1. General**

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

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

## 2. Construction

Construction contractors must physically report to the Airside Operations Office located at E-20 Ground Floor, a minimum of one business day prior to the delivery date and submit for approval the Construction Delivery Notification Form. Once the delivery is escorted to the construction site, the contractor is required to provide continuous escort of delivery personnel while in the SIDA area.

Delivery vehicles arriving at an MDAD Access Gate without MDAD approved advance notification will be denied access.

No motor vehicle shall be operated on the Airport except on roadways or areas designated for such purposes.

Motor vehicles and equipment operating on the AOA must have an official motor vehicle identification permit issued pursuant to Operational Directives of the Aviation Department. In addition, company identification must be conspicuously displayed on such motor vehicles and equipment.

Except as otherwise stated in this handbook or other rules and regulations provided to the Concessionaire, the laws of the State of Florida regarding the operation of motor vehicles, including traffic regulation, are made applicable also to the operation of motor vehicles on the Airport.

## 3. Cooking Oil recycling program

The concessionaire is responsible for the maintenance and cleanliness (pressure wash area every two (2) weeks) of the container used and its surroundings. Cooking oil bins must be secured with a padlock and the bin properly identified / labeled with concessionaire's name and contact information. Concessionaire is required to following cooking oil bin maintenance guidelines:

- Install spill blocker dike or containment berm around existing active grease traps and cooking oil bins.
- Clean the grease traps and cooking oil bins every two (2) weeks. Cleanup must be power washed with an ecofriendly degreaser with slip resistant features.
- Keep stock of oil absorbing granules to mitigate large spills.

Penalties will be assessed by the Department if conditions are not met, resulting in the removal of the containers from the Tarmac.

## 4. Grease Traps and grease line maintenance

The concessionaire is responsible for the scheduled maintenance of their grease traps and respective lines. Penalties will be assessed by the Department if conditions are not met, resulting in the removal of the containers from the Tarmac. Concessionaire is required to following grease trap maintenance guidelines:

- Lines must be jetted periodically quarterly.
- Install spill blocker dike or containment berm around existing active grease traps and cooking oil bins.
- Clean the grease traps and cooking oil bins every two (2) weeks. Cleanup must be power washed with an ecofriendly degreaser with slip resistant features.
- Keep stock of oil absorbing granules to mitigate large spills.

## **f. AOA - Driver Training**

Before any employee is permitted to operate a motor vehicle of any kind or type on the AOA, such an employee must attend and successfully complete the AOA Driver Training Course conducted from time to time by the Aviation Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Aviation Department for any violation of AOA driving rules. The Concessionaire shall be responsible for ensuring that all such vehicle operators possess current, valid, appropriate Florida driver's licenses.

## **F. Promotional Events and Public Relations Opportunities**

### **1. Promotional Events**

Concessionaires are encouraged to conduct promotional events. Concessionaires are limited to conducting promotional events within the limits of the lease premises unless otherwise approved in writing. Promotional events should be coordinated and approved by the Airport Concession Business Development Division.

Clean up activities associated with any promotion, unless otherwise specified, are the responsibility of the concessionaire organizing the promotion.

Application to conduct promotional activities in the Terminal must be made in writing to Airport Concession Business Development.

### **2. Public Relations Opportunities**

MDAD recognizes the desire of concessionaires to disseminate press releases for marketing and public relations purposes. Prior to sending press releases out regarding MDAD unit events, promotions or news, the releases must be approved by MDAD.

MDAD will not copy or edit the release but may make recommendations. This procedure is intended as a means of keeping the appropriate departments aware of airport business activities and a coordination to ensure the varied business activities public relations' efforts are appropriately coordinated.

## **G. Customer Complaint/Comment Procedures**

Concessionaires must make reasonable, respectful efforts to remedy problems and issues raised by Airport patrons. The concessionaire must answer in writing all written customer complaints within two (2) business days after receipt thereof and furnish a copy of the complaint and said answer to the Airport Concession Business Development within the ten-day period.

## **H. Airport Police**

The Miami-Dade County Police Department, located on site, is responsible for the overall safety and security of the airport and is recognized by the State of Florida as officers of the law with jurisdiction over airport activities.

## 1. Criminal or Suspicious Activity

Concessionaires and their staff should use the following resources should they see or suspect illegal activity.

Concessionaires can call the Police Department at 305-876-7373 to report a crime in progress or other suspicious activity.

### I. Concessions Security

#### 1. Employee/Contractor Strike Activities

If a Concessionaire anticipates a labor strike by its employees or of companies that service the Concessionaire, the Director of Landside Operations must be contacted for specific guidelines for governing strike activities at MIA.

#### 2. Store Security MDAD to Confirm

The Miami-Dade County Police Department, MDAD Security and TSA routinely patrol the terminal building and individual concessions. When businesses are closed, all gates/doors providing access to the concession/store must be locked and secured. Airport Concession Business Development staff meets with concession managers, store owners and staff monthly to discuss current problems. This meeting should be used to communicate ideas and methods of improving security. Store managers with questions or concerns may contact Airport Concession Business Development.

**Security Plan** - Concessionaire must provide a detailed security plan to MDAD Security for approval prior to commencing operations. The Security Plan must include emergency contact information of key operational employees, compliance with TSA prohibited items (e.g., sharp objects, unsecured kitchen doors, etc.) and process for securing gates and location in general.

**Tenant Emergency Contact Information** – it is the responsibility of the Tenant/Concessionaire to provide and regularly update their emergency contacts on file with MDAD Concessions Business Development.

**Sharp Objects** – sharp objects such as knives and other sharp tools must be kept in a locked in a secure compartment, and a full inventory of these items must be logged and accounted daily. If an item is missing, the Tenant / Concessionaire must report immediately any missing items from their inventory to MDAD Security. Furthermore, all Tenant/Concessionaires must comply with all mandated TSA Prohibited Items. Failure to comply may result in a civil or criminal penalty assessed by the TSA. Please refer to **Exhibit A** and **Exhibit C** of this Tenant Handbook.

**Backhouse Entry** - all doors leading into kitchens, commissaries, warehouses, and storage must always remain secure.

**Glass Containers** – the sale of glass bottles or other glass containers are not allowed. Product may be served to the customer in a plastic container prior to leaving the premises.

**TSA Prohibited Items List** – the sale of prohibited items as listed in the TSA Prohibited Items List or as amended are strictly prohibited ([What Can I Bring? A-Z List | Transportation Security Administration \(tsa.gov\)](#)) Failure to comply may result in a civil or criminal penalty assessed by the TSA.

### **3. Prosecution of Shoplifters**

To maintain a high level of security at the airport, Concessionaires are strongly encouraged to prosecute shoplifters and staff caught stealing by attending court sessions. If a Concessionaire catches a shoplifter or observes a theft, immediately call 305-876-7373. To curb this activity, attending court sessions is critical.

### **4. Reporting Incidents**

Badged staff function as a second set of eyes and ears for Airport Security and the Miami-Dade County Police Department. If a crime or suspicious activity is witnessed, please call the Police Department at 305-876-7373.

### **5. Loitering**

If the Concessionaire notices a problem with airport staff or other people unknown to the Concessionaire, please call the Police Department at 305-876-7373.

### **J. Emergencies**

The Operations Control Room (OCR) emergency communication and dispatch functions for the airport's police, fire, airport operations and maintenance departments. For protective and emergency services call:

Police Emergency: 305-876-7373

Fire/Medical Emergency: 305-876-7070

Operations: 305-876-0125

#### **1. Medical**

MDAD Fire Department's fully trained and equipped Emergency Medical Technicians (EMTS) are on duty twenty-four (24) hours per day to handle all medical emergencies, regardless of severity. For Fire and Medical emergencies, call 305-876-7070. Patients requiring hospitalization will be transported to the nearest hospital.

#### **2. Fire**

In case of fire, Concessionaires are asked to be familiar with, and to instruct new staff in, the following procedure.

- 1) Evacuate the area.
- 2) Call for Fire or Medical assistance at 305-876-7070.
- 3) Attempt to fight the fire with a portable fire extinguisher ONLY if:
  - a. You have been trained in the use of a fire extinguisher.
  - b. the Fire Department has already been notified; or
  - c. You can do so without exposing yourself to injury or the possibility of becoming trapped by the fire.

The Fire Department conducts regular inspections of Concessionaire and concession premises including storage areas, the main terminal, all concourses and all MDAD owned buildings for the purpose of fire prevention and to ensure compliance with fire safety practices.

An inspection report will be issued containing information relating to issues of non-compliance and/or recommendations by the inspector, with a date of re-inspection to ensure that the required corrections have been completed.

#### **a. Fire Safety Compliance**

The Fire Department will work with Concessionaires to ensure compliance with fire safety practices and codes. More rigorous regulations may be set for specific Concessionaires through provisions in the Lease. Fines for non-compliance of inspections could occur.

#### **b. Suspected Fire Code Violations**

If Concessionaire suspects a fire code problem or if there is a concern about fire safety, questions can be directed at the time of inspection, or by calling the Fire Department.

### **3. Other Reporting Concerns**

It is in the best interests of all airport staff to ensure that MIA is a safe workplace and place to visit. All staff are required, therefore, to assist the DOA with safety by being proactive in reporting any incidents that might threaten the safety of MIA's staff or visitors. This may include the following:

- Spills
- Ceiling / roof leaks
- Roadway potholes
- Non-functioning elevators / escalators
- Buckled carpeting / flooring concerns.
- Bare electrical wires
- Pests and birds in the terminal
- Unsafe construction activity

Call Operations Control Room (OCR) at 305-876-0385 to report these problems.

### **4. After Hours Activity**

Concessionaires should notify the Operations Control Room (OCR) at 305-876-0385, when Staff will be working in the store / office after normal operating hours. Some activities may need to be approved by MDAD, Security and/ or the airlines. Advance calls will prevent confusion.

### **5. Access to Premises**

#### **a. Keys and Locks Policy**

MDAD controls all keying and re-keying of MDAD facilities excluding Concessionaire Leasehold areas. A licensed and bonded locksmith hired by MDAD does keying and lock repair through a work order request.

#### **b. Grand Master Key Policy**

The Grand Master (a key that will open all airport locks) is kept by 1) police under "break" glass, 2) each shift commander of the fire department, and 3) the licensed and bonded MDAD locksmith.

No access will be granted using the Grand Master key except under the following conditions:

- a. Fire or fire emergency within the locked area (this does not include access for fire inspections, testing, or other regulatory activity).
- b. Life threatening policy emergency or active pursuit of known suspect.
- c. Maintenance, when actively working on an authorized lock request; and
- d. Other emergency conditions as authorized by the Airport Manager.

#### **4. Locked Out Procedure**

In the event a concession employee is "locked out", "locked in", "forgotten keys", "lost keys" or is not involved in any of the emergency events listed above, the Grand Master key will not be used to gain access to the premises. A new key must be authorized to cover this situation. Only an authorized representative of the concession can request additional keys to access the premises.

NOTE: Requests should not be forwarded to the Police for the purpose of unlocking Concessionaire space in the case of "forgotten keys" or "locked out" events.

### **K. Trash Removal**

#### **1. Refuse Disposal**

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

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

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

## **2. Designated Disposal Site**

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

Temporary storage or disposal of refuse in places other than the designated solid waste and recycling bins is not permitted. Dumping boxes or other materials, particularly in or near storage rooms and access hallways, is considered a fire and safety infraction.

In the event of spillage of trash, grease or any material which may be unsightly or detrimental to the pavement, or which might cause a safety hazard, the Concessionaire is responsible for clean-up.

## **3. Sanitation Plan (Food & Beverage Concessionaires)**

Concessionaires will be required to provide a Sanitation Plan to MDAD Concessions on an annual basis. Please refer to Operational Directive 021-01.

## **L. Airport Information Services**

Information centers are in the center of both the departure/ticketing and baggage claim levels of the terminal. Staffed hours Monday through Sunday.

## **M. Airport Paging**

The Airport Paging Center pages individuals for the purpose of delivering messages or giving directions. Concessionaires can use the paging system to locate passengers who have left merchandise or belongings. Paging hours are available 24 hours daily and the center can be contacted at 305-876-7000.

## **N. Terminal Construction**

### **1. Right to Develop Airport**

Construction and alteration of the terminal building, concourses and roadways are ongoing to meet the demands of the traveling public. MDAD reserves the right to develop or improve the airport as it sees fit.

### **2. Inconveniences During Construction**

During construction, remodeling, expansion, relocation, maintenance, and repair of the airport Concessionaires should expect some inconveniences during the process including, but not limited to, noise, dust, vibration, and changes in access. MDAD will take the necessary actions to ensure the safety and protection of concession staff and merchandise as it is able.

Should Concessionaires experience extraordinary, unworkable conditions related to construction, Concessionaire should contact Airport Concession Business Development immediately. Airport Concession Business Development will assist Concessionaire in its attempt to remedy the situation or minimize construction impact on the concession.

## **O. Required Monthly Meetings**

The Concessionaire shall meet no less than monthly and regularly with the Department to discuss matters relating to its Agreement. In addition, at the Department's request, the

The concessionaire shall attend other meetings with the County, airlines and any other parties designated by the Department.

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

## **V. KEY CONTACTS**

|                         |                                                                            |                            |
|-------------------------|----------------------------------------------------------------------------|----------------------------|
| AOC                     | <a href="mailto:AOCNotification@FlyMIA.com">AOCNotification@FlyMIA.com</a> | <u>305-876-0385</u>        |
| BADGES                  | Ground Transportation Office                                               | <u>305-876-7080</u>        |
| CONFERENCE CENTER       | Reservations and Information                                               | <u>305-871-4100</u>        |
| AOA DELIVERIES          | Airside/Superintendent<br>Airfield Operations                              | <u>305-876-0152</u>        |
| LANDSIDE DELIVERIES     | Landside /Supervisor<br>Parking Control                                    | <u>305-876-7024</u>        |
| <b>POLICE</b>           | <b>Communications Center<br/>(24 Hours)</b>                                | <b><u>305-876-7373</u></b> |
| <b>FIRE/MEDICAL</b>     | <b>EMERGENCY</b>                                                           | <b><u>305-876-7070</u></b> |
| FIRE SAFETY             | Fire Inspection Section                                                    | <u>(305-876-7070)</u>      |
| INFORMATION SERVICES    | Information and Paging                                                     | <u>305-876-7000 ext. 8</u> |
| LEASEHOLD PREMISES      | Property Manager                                                           | <u>305-876-7720</u>        |
| MAINTENANCE             | Maintenance Dispatch (24 Hours)                                            | <u>305-876-7311</u>        |
| PARKING                 | Manager, Parking Systems                                                   | <u>305-876-7024</u>        |
| RENT, FEES, AND CHARGES | Aviation Finance Specialist                                                | <u>305-876-8493</u>        |
| SECURITY AND SAFETY     | Chief                                                                      | <u>305-869-4247</u>        |
| SIGNAGE                 | Chief                                                                      | <u>305-876-0299</u>        |
| STORAGE                 | Property Manager                                                           | <u>305-876-7753</u>        |
| TRASH/RECYCLING         | Maintenance Coordinator                                                    | <u>305-876-0483</u>        |

# **Exhibit L - Standards of Operation**

**EXHIBIT L-1**

**STANDARDS OF OPERATIONS**

**RETAIL**

**EXHIBIT L -1  
STANDARDS OF OPERATION**

**I. OPERATING REQUIREMENTS:**

The Concessionaire shall comply with the Department's, **"Tenant Handbook" Exhibit K, "Terminal Standards Manual"** (<http://www.miami-airport.com/library/ODs/Standards Manual.pdf>), and the **MDAD Operational Directives** (<http://www.miami-airport.com/od2.asp>) which may be amended from time to time, and the Concessionaire further agrees that its operation under the Agreement is a service to airline passengers and the users of the Airport and that the Concessionaire and/or its Sub-tenants shall conduct its operation in a first-class, businesslike, efficient, courteous, and accommodating manner. The Department shall have the right, in accordance with the provisions of the Lease and Concession Agreement, to make reasonable objections to the quality of articles sold, the character of the service rendered to the public, the prices charged, and the appearance and conditions of the locations. The Concessionaire and/or its Sub-tenants agree to promptly discontinue or remedy any objectionable practice.

All products must be top quality and new and a sufficient quantity of merchandise must be carried on the locations to ensure that the locations will always be fully stocked. The Concessionaire's and/or its Sub-tenants shall maintain adequate sales force on the locations and use the utmost skill and diligence in the conduct of the business. All employees, both the Concessionaires and its Sub-tenants shall be courteous and helpful to the public. Employees, interacting with the public, must be able to speak English.

In addition, the Concessionaire understands and agrees that its operation at the Airport necessitates, at a minimum, the rendering of the following services:

**A. Conduct of Operations Within Locations:**

- 1) Concessionaire and/or its Sub-tenants shall not affix or maintain upon the glass panes or supports of the show windows, doors and the exterior walls of the locations, or any place within the locations if intended to be seen from the exterior of the locations, any signs, advertising placards, names, insignia, trademarks, descriptive material or any other such like item or items. The Department shall have the right, without giving prior notice to Concessionaire and/or its Sub-tenants and without any liability for damages to the locations reasonably caused thereby, to remove any of same from the locations, except such as shall have first received written approval of the Department as to size, type, color, location, copy, nature and display qualities.
- 2) No awning or other projection shall be attached to the outside walls of the locations or the terminal building without the prior written consent of the Department.
- 3) All loading and unloading of goods shall be done only at such times, in the areas and through the entrances designated for such purposes by the Department. The Concessionaire and/or its Sub-tenants may be required to utilize the services of a delivery /distribution company selected by the Department, if the program is so implemented.

## **Retail Concession Program**

- 4) All garbage and refuse shall be kept in the appropriate containers to minimize the spillage of such garbage and refuse.
- 5) No radio or television antenna shall be erected on the roof or exterior walls of the locations without the prior written consent of the Department. Any such aerial shall be subject to removal without notice at any time, and any damage to the walls or roof caused by such removal shall be the responsibility of the Concessionaire
- 6) No loudspeakers, televisions, radios, flashing lights or other devices shall be used in a manner to be heard or seen outside the locations without the prior written consent of the Department.
- 7) The outside areas immediately adjoining the locations shall always be kept clear by Concessionaire and/or its Sub-tenants, and Concessionaire and/or its Sub-tenants shall not place any obstructions, garbage, refuse, merchandise or displays in such areas.
- 8) Concessionaire and/or its Sub-tenants shall not permit storage or restocking bins to be visible to the public, except while in the actual process of restocking shelves and display fixtures.
- 9) Concessionaire and/or its Sub-tenants, its employees, or its agents, shall not solicit business in any of the common areas, nor shall Concessionaire, its employees or its agents, distribute any handbills or any other advertising matter in common areas of the Terminal nor in any of the related parking facilities.
- 10) Concessionaire and/or its Sub-tenants shall not carry on any trade or occupation or operate any instrument or apparatus or equipment which emits an odor or causes a noise discernible outside the locations and which may be deemed offensive in nature.
- 11) Concessionaire and/or its Sub-tenants shall cause the locations to operate a minimum of seventeen (17) hours per day, seven days per week, with sufficient personnel to render a high quality of service. The Department may increase or decrease the required operating hours, if, in the discretion of the Department, such a change is desirable in providing the most efficient service.
- 12) Concessionaire and/or its Sub-tenants shall be required at all times to change any bill in denomination of twenty dollars (\$20.00) U.S. or less when requested by any Airport user without charge and without the need to procure a sale. Concessionaire and/or its Sub-tenants shall accept all major credit cards and travelers' checks.
- 13) Concessionaire agrees that it shall obtain prior written approval from the Department in all the following matters:
  - i. Methods and hours of operation.
  - ii. Uniforms to be used by employees.

## **Retail Concession Program**

- iii. The decor of the locations and all signs installed, erected or displayed therein.
- iv. Digital Media

Audio - Concessionaire and/or its Sub-tenants are permitted to employ ambient music or video display audio within their Concession spaces not to exceed 60dB. All audio equipment shall be connected to emergency voice paging system so that Concessionaire audio systems may be overridden when necessary.

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

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

- 14) The Concessionaire and/or its Sub-tenants shall properly control the actions of its employees at all times while said employees are working on the Airport, ensuring that they present a neat appearance and discharge their duties in a courteous and efficient manner and that they maintain a high standard of service to the public.
- 15) Additional Signage – All Concessionaires and/or its Sub-tenants are required to install one sign indicating the store's hours of operation that adheres to the Department's criteria.
- 16) All Freestanding advertising and promotional Signage must be contained within the Concessionaire lease line throughout all hours of operation. Freestanding signs beyond the lease line are soft retailing and are prohibited in all Retail, Food and Beverage, and Service locations.
- 17) The Department reserves the right to request the Concessionaire remove any advertising or promotional signage it deems inappropriate. Alternatively, the signage shall be removed by the Airport at the Concessionaire's expense.
- 18) Point of Sale - The Department requires that all Concessionaire Point of Sale (POS) locations be well maintained and free from unnecessary clutter. Concessionaire shall organize POS counters such that impulse items do not hinder traveler's ability to queue or purchase merchandise.
- 19) Social Distancing / Sanitation Requirements – Please refer to Miami-Dade County, State of Florida Department of Health and CDC guidelines.

## **Retail Concession Program**

### **B. Property Management:**

The Concessionaire will perform the following duties, subject to the terms, conditions, limitations and all other provisions of this Agreement:

- 1) Manage the Locations in a way that maximizes the highest and best use and financial return to the Department.
- 2) Monitor and enforce compliance with the terms and conditions of the lease and concession agreement and, if applicable, the sub-lease concession agreement, including but not limited to use clauses, insurance, pricing, capital expenditures, quality of merchandise, hours of operation, detailed reporting of sales, payment of fees and rent, and signage.
- 3) Function as operations liaison between the Department, governmental agencies, sub-tenants and/or others.
- 4) Maintain, or cause to maintain, the facilities in a first-class manner pursuant to Department standards, which may be promulgated from time to time.
- 5) Ensure Customer Service Program compliance. High quality customer service is the cornerstone to an effective sales program. The Concessionaire is required to submit a customer service program or cause it's Sub-tenants to submit a customer service program within thirty (30) days of the Effective Date of the Agreement or within thirty (30) days of the Effective Date of the Sub-lease Agreement, for MDAD review and approval.
- 6) The Concessionaire and/or its Sub-tenants shall cause (i) cooperation in the testing of pressure, water flow and other appropriate tests of the fire extinguishing systems and apparatus located within the locations from time to time and as often as reasonably required by the Department, and if requested by the Department, furnish the County with copies of written reports of such tests; (ii) keep in proposer functioning order all fire-fighting equipment in each locations and at all times maintain in each locations adequate stocks of fresh, suitable chemicals for use in such system and apparatus; (iii) notify the Department prior to conducting such tests; (iv) monitor and enforce compliance by the sub-tenants with all firefighting and other health and safety equipment and systems, and any related licenses, certificates and inspections.
- 7) Direct, coordinate and monitor procedures and practices for deliveries of goods, products, materials and equipment, to and from the locations, as well as the collection and disposal of all waste and refuse related to the locations.
- 8) Remove signage and install temporary barricades in the event a sub-tenant's location(s) is vacated or closes for any reason.
- 9) Perform the necessary repairs and/or replacement of floor fixtures, gondolas, as a result of normal wear and tear and or damage from luggage carts.

## **Retail Concession Program**

- 10) Ensure Safety Training compliance, i.e. ADA and OSHA wheelchair requirements.

### **C. Leasing (If applicable under the Lease & Concession Agreement):**

The Concessionaire will perform, but is not be limited to, the following:

- 1) Develop, subject to review and approval by MDAD, a standard sub-tenant Lease Agreement, in accordance with Article 19 "Sub-Leases".
- 2) Recruit, secure and retain, throughout the term of the Agreement, the proper tenant mix to meet the Departments proposed newsstand and/or specialty retail concepts.
- 3) Negotiate leases with potential sub-tenants to include, but not limited to, the following:
  - Negotiate the financial terms with potential sub-tenants in accordance with MDAD approved key business terms and baseline pro-forma.
  - Perform background checks and due diligence on all prospective sub-tenants, including partners, joint ventures, and other key participants.  
Prepare and make available, if requested, background check summaries.
  - Prepare an abstract of the potential sub-tenant's entire deal, outlining all business terms for MDAD approval. The outline, unless otherwise instructed, will include, (i) concept summaries, to include, approved merchandise lists and any available photos or renderings, (ii) terminal plans depicting spaces of proposed spaces, (iii) financial and term sheets that will include the economics of the deal, (iv) anticipated sales per enplanement, (v) financial return to MDAD, (vi) sub-tenants projected investment summaries, (vii) amortization schedules, (viii) comparative airport data, and (ix) other pertinent aspects of the deal including local and/or ACDBE participation.
  - If applicable, enter into sub-leases for all retail and newsstand operations. The Concessionaire will coordinate its leasing process with the Department, obtaining approval of each rental arrangement, based upon a standard form of sub-lease approved in advance by the Department.
  - Prepare the appropriate Sub-tenant lease agreement.
  - Prepare exhibits to the sub-tenant lease agreement.
- 4) Establish and maintain for the Department a potential sub-tenant database, including the preparation of correspondence with potential sub-tenants.

## **Retail Concession Program**

### **D. Construction Management:**

- 1) Tenant Coordination: The Concessionaire will be responsible for the management, administration and coordination of all design and construction associated with the maintenance, repair and/or leasing of the locations including, without limitation, all sub-tenant fixed improvements and/or refurbishments to be constructed in the locations, whether initial construction and alterations associated with any expansion, redevelopment or refurbishment of the locations or future construction and alterations. The Concessionaire shall be responsible for the supervision and coordination, subject to the prior written approval of the County, of the design of any sub-tenants locations to the extent contemplated in such sub-tenants sub-contract, including without limitation, the design of such sub-tenants storefront and the specifications of such sub-tenants equipment.
- 2) The Department encourages Concessionaires to express their brands and identities creatively within the parameters of the regulations outlined in the Design or Terminal Guidelines. Concessionaires are expected to become familiar with the guidelines in order to expedite the Design Review Process. This shall apply to all phases of Design, from new Construction, to Refurbishments, to Sign Upgrades, etc.
- 3) The Concessionaire shall be responsible for verifying any information contained within the Building drawings and specifications. All site conditions and dimensions must be verified by the Concessionaire and confirmed against the Concession Agreement drawings prior to receiving approval for Final Drawings.
- 4) Any and all improvements to Location(s) will be performed in accordance with the, **“Tenant Airport Construction – Non-Reimbursable Procedures TAC-N and TAC-R” as amended.**

### **E. Merchandise Category Management:**

The Department has the right for final concept and product mix approval.

### **F. Special Services**

- 1) Monitoring Services: The Department shall have the right, without limitation, to monitor and test the quality of services of the Concessionaire and/or its Sub-Tenants but shall not be required to do so. This monitoring shall include, but not be limited to, personnel, product quality, service, assistance and store neatness, through the use of shopping services, closed circuit T.V., and other reasonable means.
- 2) Prohibited Items/Shipping Services: The Transportation Security Administration (TSA) has instituted a security measure that prevents certain items from entering the Airport’s sterile areas or post-security checkpoints.

## **Retail Concession Program**

The Department will provide a list of those items, which may change from time to time, to the Concessionaire as depicted on Exhibit J “Prohibited Items List” and the Concessionaire will cause its Sub-tenants to receive and acknowledge receipt of said Exhibit J “Prohibited Items List”.

As a result of this restriction, the Concessionaire shall provide consumers shipping services and will cause its Sub-tenants to provide shipping services for those items listed on Exhibit J “Prohibited Items List”.

### **G. Security:**

- 1) Security: The Concessionaire acknowledges and accepts full responsibility for the security and protection of the locations, any improvements thereon, its equipment and property on the Airport, and control of access to the Air Operations Area (“AOA”) through the locations by persons and vehicles. The Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for the protection of said locations, equipment and property and access to the AOA through the locations shall be the sole responsibility of the Concessionaire and shall involve no cost to the County.
- 2) Security Identification Display Areas Access - Identification Badges:
- 3) AOA – Driver Training: Before the Concessionaire shall permit any employee to operate a motor vehicle of any kind or type on the AOA, the Concessionaire shall require such employee to attend and successfully completed the AOA Driver Training Course conducted from time to time by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department for any violation of AOA driving rules. Notwithstanding the above, the Concessionaire shall be responsible ensuring that all such vehicle operators possess current, valid, appropriate Florida driver’s licenses.
- 4) Alcohol and Drug Testing: The Concessionaire acknowledges that the County, as a public agency, sponsors under the provisions of the Airport and Airway Improvement Act of 1982, as amended (the “Act”), has the obligation to establish a drug free workplace and to establish policies and programs to ensure airport safety and security. The Concessionaire acknowledges that Department, on behalf of the County, has the right to require users of the Airport (Concessionaires, Permittees, Licensees, etc.) To establish reasonable programs to further the achievement of the objectives described herein. Accordingly, the Concessionaire shall establish programs for pre-employment alcohol and drug screening for all candidates for employment at the Airport who will as a part of their duties (a) be present on the AOA; (b) operate a motor vehicle of any type on the AOA; or (c) operate any equipment, motorized or not, on the AOA and for the same or similar screening based upon a reasonable suspicion that an employee, while on duty on the AOA, may be under the influence of alcohol or drugs. Notwithstanding

## Retail Concession Program

the above, the Concessionaire specifically acknowledges that the County, acting through the Department, has the right and obligation to deny access to the AOA and to withdraw AOA driving privileges from any person who it has a reasonable suspicion to believe is under the influence of alcohol or drugs.

- 5) Special Programs: The Concessionaire shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as the Department or appropriate Federal agencies may time to time require.
- 6) Vehicle Permit and Company Identification: Motor vehicles and equipment of the Concessionaire operating on the AOA must have an official motor vehicle identification permit issued pursuant to Operational Directives of the Department. In addition, company identification must be conspicuously displayed on such motor vehicles and equipment.
- 7) Federal Agencies Right to Consent: The Concessionaire understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services shall not be employed by the Concessionaire in areas under the jurisdiction or control of such federal inspection agencies.
- 8) AOA - Right to Search: The Concessionaire agrees that its vehicles, cargo, goods and other personal property are subject to being searched when attempting to enter or leave and while on the AOA. The Concessionaire further agrees that it shall not authorize any employee or agent to enter the AOA unless and until such employee or agent has executed a written consent-to-search form acceptable to the Department. Persons not executing such consent-to-search form shall not be employed by the Concessionaire at the Airport, in any job requiring access to the AOA.

It is further agreed that the Department has the right to prohibit an individual, agent or employee of the Concessionaire from entering the AOA based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage or other unlawful activities. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a hearing before the Director of the Department or his authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial.

The Concessionaire acknowledges and understands that these provisions are for the protection of all users of the AOA and is

## Retail Concession Program

intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other activities at the Airport.

### **II. MARKET BASKET PRICING POLICY**

The Department has instituted a market basket pricing policy to ensure that Airport prices are comparable to retail outlets and dining facilities in the Miami Dade County, Florida area.

The Concessionaire and/or its Sub-tenants shall be required to charge no more than the market basket prices as determined in accordance with the following methodology:

1. **Same or Similar Product Line:** To determine reasonable prices, Concessionaires annually will select three (3) Miami-Dade County sites where visitors may purchase similar product categories excluding stadiums, arenas, amusement and entertainment venues and hotels. Concessionaire and/or its Sub-tenants' prices on any specific item may not exceed the average by more than per cent specified in the Lease & Concession Agreement, or as amended, (of those remaining after eliminating the lowest priced-Location. If fewer than three (3) Locations carry a specific item, the maximum permissible price shall not exceed the average by more than the per cent specified in the Lease & Concession Agreement, or as amended, of the three (3) highest Locations. If fewer than three (3) Locations carry the item, the maximum permissible price shall not exceed the average price of all Locations carrying the specific item by more than the per cent specified in the Lease & Concession Agreement, or as amended. If no other Location carries the item, the Concessionaire shall therefore charge a reasonable price; in which case, the Department reserves the right to determine whether the price is reasonable.
2. **Same Store:** For any or all operations where a Concessionaire currently operates the same or similar store in the Miami-Dade County area, the Concessionaire may not charge more than the percent specified in the Lease & Concession Agreement, or as amended, higher charges at the Airport for like or similar merchandise. The Department has the right to survey prices at said store and to use these prices for same or similar merchandise as the primary basis for pricing in leased Locations in all Locations. If no other Location carries the item, the Concessionaire shall therefore charge a reasonable price; in which case, the Department reserves the right to determine whether the price is reasonable.
3. **Price Increases:** The Concessionaire must receive written approval from the Department to increase the price of any item sold or offered by the Concessionaire or its Sub-tenants, and any such request must be accompanied by a price survey. The Department reserves the right to visit said price survey and verify price prior to approval.

## **Retail Concession Program**

**Price Check Policy:** Prices may be checked periodically to assure compliance with this policy. A selection of items, picked at random from any Location, is compared to similar items in the price survey. The Department may appoint professional shoppers to survey and shop Locations.

### **B. Marketing:**

The Concessionaire may be responsible for developing and implementing an internal marketing and promotions program for its Locations. However, the Department will implement a Terminal Wide Marketing Program for the Airport concession program which will be funded by the Concessionaires through the payment of a marketing services fee of one-half of one percent of gross sales.

The Concessionaire shall prepare a marketing plan. The marketing plan shall be submitted to the Department on or before ninety (90) calendar days prior to the commencement of each lease year and shall represent the upcoming fiscal year for the Department (October 1 – September 30). The Department shall have forty-five (45) calendar days after receipt of the foregoing plan to approve or disapprove the same in its reasonable discretion and if MDAD disapproves the Concessionaire shall operate in substantial conformity with all such plans, approved by the Department, as may be modified from time to time.

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

## **III. MANAGEMENT AND PERSONNEL:**

### **A. Management:**

- 1) Personnel: The Concessionaire shall maintain a full-time professional staff during the term of this Agreement of sufficient size, expertise and experience to manage the operations and to serve as a liaison with the Department.
- 2) General Manager: The Concessionaire shall employ, at no cost to the Department, a full time, dedicated, on-site General Manager experienced in management and supervision who has sufficient authority and responsibility to administer and manage the retail program under this Agreement. The General Manager (or his/her authorized representative) shall be immediately available whenever any of the locations are open, the base of operations of the General Manager shall be at the Airport, and the General Manager shall spend substantially all of his working hours at the Airport. In those cases where the General Manager is scheduled to be absent from the post for a period greater than forty-eight (48) consecutive hours, a substitute General Manager must be appointed from the existing staff, and the Department notified in writing.

The Department reserves the right to require Concessionaire to remove and replace any General Manager or Assistant who, in the opinion of the

## **Retail Concession Program**

Department, does not perform up to the standards consistent with the fulfillment of Concessionaire's obligations under this Agreement.

Management Responsibilities: In its capacity as the Concessionaire under this Agreement, and not as an agent of the Department, Concessionaire shall manage the locations in accordance with this Agreement, in furtherance of which Concessionaire shall, among other things, (i) visit each Sub-tenants locations daily to monitor compliance with this Agreement; (ii) use reasonable efforts to remedy problems and issues raised by Airport patrons with respect to the operation of the locations, (iii) answer in writing all written customer complaints within ten (10) calendar days after receipt thereof and furnish a copy of the complaint and said answer to the Department within said ten (10) calendar day period; and (iv) promptly furnish the Department with copies of all written notices received by Concessionaire from any governmental authority or any Sub-tenant with respect to the locations or any Subcontract.

- 4) Concessionaire shall cause each sub-lease to include provisions requiring the sub-tenants to maintain an adequate sales and work force at all times, including without limitations, sales, cashiers, management and supervisory personnel on-site to fully meet customer needs at all times and use skill and diligence in the conduct of the business. Concessionaire and the sub-tenants shall always cause their respective employees to be courteous and helpful to the public.

### **B. Administrative Functions:**

- 1) The Concessionaire shall provide or cause its Sub-tenants to provide quality control audits and reports covering compliance with contract requirements, cleanliness of the facility, timeliness of service and quality of the product. (MDAD will establish its own rules and regulations that are subject to its unilateral revision and implementation)
- 2) The Concessionaire shall generate monthly reports to MDAD, including sales by unit, concept and space. Developing annual revenue projections by month, by sub-tenant, concession type, concept, and by space to be updated on a regular basis.
- 3) Generate monthly airport revenue reports, ACDBE Monthly Utilization Reports and such other financial and management reports as are usual and customary in sophisticated airport newsstand and specialty retail concession management programs. Prepare other reports and analyses as may be requested periodically by MDAD including number of transactions per period, average transaction value and sales per product category.
- 4) Maintain total permanent leasable area records on an actual and leased basis and record changes for either total as they occur.
- 5) Maintain computerized records on a commercially available property management software program acceptable to MDAD. Programs and all data collected should be available to the Department on-line (digital and electronic).

## **Retail Concession Program**

- 6) Respond to customer/passenger complaints on behalf of MDAD.
- 7) Implement any new policies and procedures as directed by MDAD.
- 8) Ensure payment of rent to MDAD to include all required rental reports. The Concessionaire is prohibited from waiving any right to receive rents, fees, charges, or other revenues that may be paid or payable by any Sub-tenant, user, or occupant under its sub-lease, without the prior written consent of MDAD, and will similarly be prohibited from granting any rent abatements, extensions, or other modifications without such prior written consent.
- 9) Coordinate and maintain general oversight of deliveries of goods and products from designated on or off-airport storage areas for the locations depicted in Section 1.03 "Locations" and Section 1.04 "Administrative Support Space".
- 10) Develop, maintain and make available if requested, sub-tenant files to include copies of licenses, permits, insurance certificates, letters of credit, annual ACDBE certification and correspondence.
- 11) Develop, manage, and monitor a program to identify and include Local/Small/ACDBE businesses in the concession programs.
- 12) Develop an ACDBE community outreach program for concession opportunities, subject to MDAD approval, and coordinate its implementation with MDAD.

### **C. Training:**

The Concessionaire shall submit a copy of its employee Customer Service Training Program within thirty (30) calendar days of the Effective Date of this Agreement or cause its Sub-tenants to submit their employee Customer Service Training Program within thirty (30) calendar days of the Effective Date of the Sub-lease Agreement. In addition, the Concessionaire shall annually hereafter establish a training program for its employees and the employees of its Sub-tenants and shall submit a summary report of the training areas covered and the number of participants in the following areas:

- I. Retailing in an airport environment
  - a. Fluctuations in customer activity
  - b. Shipping/handling issues
  - c. Early morning/late evening activity
  - d. Storage/inventory issues
- II. Customer service
  - a. Greeting/approaching customers
  - b. Answering questions
  - c. Shipping/handling
  - d. Complaints resolution

## **Retail Concession Program**

- e. Establishing priorities
- f. Handling emergencies

### III. Product knowledge

- a. Prices
- b. Selection
- c. Warranties/guarantees
- d. Sizes/types/colors available
- e. Shipping/handling

### IV. Store operations

- a. Hours of operation
- b. Inventory
- c. Conducting and reporting transactions
- d. Management structure
- e. Hierarchy of decision-making
- f. Attire/appearance standards

## **D. Staffing:**

The Concessionaire and/or its Sub-tenants shall ensure that passengers are provided the highest level of customer service. Adequate staffing levels must always be maintained. Peak passenger activity, the nature of the retail operation, and customers' needs shall be considered in determining these staffing levels. The level of staffing shall encompass sales employees, as well as store managers and stock or support staff, as appropriate to the operation.

Employee uniforms or dress code policy, and nametags will be required in MIA retail operations. All employees are required to wear a uniform during business, the uniform's design, color and overall appearance should be tasteful and in keeping with the theme of the operation.

## **E. Meetings:**

The Concessionaire shall meet regularly with the Department to discuss matters relating to this Agreement. In addition, at the Department's request, the Concessionaire shall attend other meetings with the County, airlines and any other parties designated by the Department.

## **F. Liquidated Damages:**

The Department may impose liquidated as specified in the lease and concession agreement.

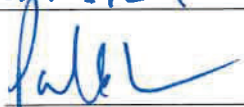
# **Exhibit M - Signed Labor Peace Agreement (from Concessionaire)**

## EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

Inter Miami Ventures, LLC has complied with Miami-Dade County's Labor Peace Policy for operations at Miami International Airport by entering into a labor peace agreement with UNITE HERE Local 355 which prohibits UNITE HERE Local 355 from engaging in picketing or other economic interference with the business at those operations covered by the Agreement.

FOR THE EMPLOYER:

Miami Ventures, LLC

Signature: 

Name: Pablo Alvarez, V.P.

Date: 6/13/24

FOR THE UNION:

UNITE HERE Local 355

Signature: 

Name: Wendi A. Walsh

Date: June 11, 2024

# **Exhibit N - Implementing Order 3-58 – First Source Hiring Referral Program (link provided)**

<https://iapps.southfloridaworkforce.com/firstsource/>