



# City of Chicago



O2017-695

Office of the City Clerk

## Document Tracking Sheet

<b>Meeting Date:</b>	1/25/2017
<b>Sponsor(s):</b>	Emanuel (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Lease Agreement with Midway Partnership, LLC for redevelopment, sublease and management of concessions program at Chicago Midway Airport
<b>Committee(s) Assignment:</b>	Committee on Aviation

## **ORDINANCE**

WHEREAS, the City of Chicago ("City"), a home rule unit of local government under the 1970 Constitution of the State of Illinois, owns and operates an airport known as Chicago Midway International Airport ("Midway") and possesses the power and authority to lease premises and facilities and to grant other rights and privileges with respect thereto; and

WHEREAS, certain portions of Midway are used for food and beverage, retail, duty free and service facilities (collectively, "concessions") to serve the needs of airport patrons and employees; and

WHEREAS, the Chicago Department of Aviation ("CDA") issued a request for proposals for a master tenant that included redevelopment, management, and operation of all current concessions and concessions common areas at Midway, as well as the development and construction of new concession and amenity spaces ("RFP"); and

WHEREAS, pursuant to the RFP, CDA recommends that Midway Partnership, LLC ("Midway Partnership") be granted a lease by the City Council to redevelop, sublease and manage the concessions program at Midway; and

WHEREAS, the City desires to enter into a master lease with Midway Partnership that is substantially in the form of the master lease attached hereto as Exhibit A; now therefore

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

SECTION 1. *The above recitals are incorporated by reference as if fully set forth here.*

SECTION 2. The Mayor or his proxy is hereby authorized to execute, upon the recommendation of the Commissioner of CDA ("Commissioner"), a master lease with Midway Partnership that is substantially in the form of the master lease attached hereto as Exhibit A.

SECTION 3. The Commissioner and such other City officials and employees as may be required are authorized to take such actions and execute such other documents as may be necessary or desirable to implement the objectives of this ordinance.

SECTION 4. This ordinance will be in full force and effect from and after its passage and approval.

# CHICAGO MIDWAY INTERNATIONAL AIRPORT

## Concession Redevelopment and Management Lease Agreement

between

City of Chicago

and

**Midway Partnership, LLC**

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# CHICAGO MIDWAY INTERNATIONAL AIRPORT

## CONCESSION REDEVELOPMENT and MANAGEMENT LEASE AGREEMENT BY AND BETWEEN CITY OF CHICAGO AND MIDWAY PARTNERSHIP, LLC

THIS CONCESSION REDEVELOPMENT AND MANAGEMENT LEASE AGREEMENT (the “Lease”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 2017 (“Effective Date”), by and between the CITY OF CHICAGO, a municipal corporation and home rule unit of local government under the Constitution of the State of Illinois, acting through its Chicago Department of Aviation (hereinafter the “City”) having a usual place of business at, Chicago, Illinois and MIDWAY PARTNERSHIP, LLC, an Illinois limited liability company (the “Tenant”), authorized to conduct business in the State of Illinois, with a principal place of business at [\_\_\_\_\_]. The City and Tenant may hereinafter be referred to individually as a “Party” and collectively as the “Parties.”

The City and Tenant hereby agree as follows:

### ARTICLE 1

#### DEFINITIONS AND ATTACHMENTS

##### 1.1 Lease Summary Information.

<b>Airport:</b>	Chicago Midway International Airport, Chicago, IL
<b>City:</b>	City of Chicago, acting through the Chicago Department of Aviation.
<b>City’s Address for Rent Payments:</b>	Office of the City Comptroller 121 N. LaSalle; Room 700 Chicago, Illinois 60602
<b>City’s Representative:</b>	The Commissioner of the Chicago Department of Aviation.
<b>Commencement Date:</b>	The date upon which the City delivers the Concession Premises to the Tenant.
<b>Commissioner:</b>	The Commissioner of the Department and any City officer or employee authorized to act on his/her behalf.

**Department:** Chicago Department of Aviation or CDA.

**Department's Notice Address:** 10510 West Zemke Road  
Chicago, Illinois 60666

**Effective Date:** The date this agreement is counter-signed by the Mayor of the City of Chicago.

**Expiration Date:** The date which is the 15<sup>th</sup> anniversary from the Commencement Date, unless sooner terminated as provided herein.

**Tenant:** Midway Partnership, LLC, an Illinois limited liability company

**Tenant's Representative(s):** [To be inserted]

**Tenant's Notice Address:** [To be inserted]

**Term:** That period commencing on the Commencement Date and ending at 11:59 p.m. on the Expiration Date, unless sooner terminated as provided herein.

1.2 Defined Terms. As used herein, the following terms shall have the meanings specified below:

**"Additional Rent"** shall mean all other payments due under this Lease of any kind or nature other than Concession Premises Rent.

**"Affiliate"** shall mean, except where otherwise defined, any individual, corporation, partnership, trustee, administrator, executor or other legal entity that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with Tenant.

**"Airport Concession Disadvantaged Business Enterprise, or (ACDBE)"** shall mean an entity meeting the definition of a disadvantaged business enterprise as defined in U.S. Department of Transportation Regulations Title 49 Code of Federal Regulations, Parts 23 and 26, as amended from time to time ("**Regulations**") and certified by the Illinois Unified Certification Program ("UCP") in accordance with those Regulations and as further set forth in **Section 16.2** hereof.

**"Airport Concession Program Handbook"** shall mean **Exhibit J**, as it may be amended from time to time by the Department. Any amendment of the Airport Concession Program Handbook by the Department during the Term of this Lease will be binding on Tenant without need for amendment of this Lease. In the event of any conflict or inconsistency between the provisions of this Lease and the Airport Concession Program Handbook and this Lease, this Lease shall be

controlling.

**“Annual Certified Statement”** shall mean a statement in the form of the Annual Certified Statement attached hereto as **Exhibit K** setting forth the in the aggregate all of the Subtenants’ **“Gross Receipts”** as hereinafter defined generated at, on or from the Concession Premises and the amount of Concession Premises Rent payable to the City, all in accordance with **Section 5.1**, for each Lease Year of the Term. The Annual Certified Statement shall be accompanied by the certification of an independent certified public accounting firm reasonably acceptable to the City. The City may change the form of the Annual Certified Statement upon thirty (30) days prior written notice to Tenant.

**“Base Building Improvements”** shall mean those Improvements to be constructed by Tenant’s Contractors as part of the Redevelopment.

**“Capital Investment”** shall mean an amount equal to at least ten million (\$10,000,000) dollars in base building, common area and experiential element improvements as proposed by the Tenant and approved by the City, and as further set forth on **Exhibit F-1** attached hereto.

**“Chief Procurement Officer”** shall mean the head of the Department of Procurement Services of the City and any City officer or employee authorized to act on her behalf.

**“Common Areas”** shall mean those areas of the Terminal that are not leased, licensed, or otherwise designated or made available by the Department for exclusive or preferential use by specific party or parties.

**“Concession Location(s)”** shall mean the locations, individually or collectively, within the Concession Premises which are intended for the sale of concession goods and services.

**“Concession Premises” or “Premises”** shall mean the existing, a) Current Concession Premises, b) Undeveloped Concession Premises, (until developed, then referred to as New Concession Space), c) Expansion Space, d) Other Airport Areas; and, if applicable, any Additional Concession Premises. The Concession Premises are more specifically described in **Exhibit A**.

**“Concession Plan”** shall mean the comprehensive plan for the development and implementation of the Concession Program as further described in **Section 7.1** to be submitted to the City for approval in accordance with said **Section 7.1**. Such Concession Plan shall be consistent in all material respects with the applicable sections of Tenant’s proposal, and shall include, without limitation, at least one (1) pre-security food and beverage concession location operating on a twenty-four (24) hour per day basis.

**“Concession Premises Rent”** shall mean an annual amount which is the greater of: (a) the MAG (as defined below); or (b) the sum of Percentage Rent plus the Contingent Fee.

**“Concession Program”** shall mean the first class food and beverage service operations and retail service operations within the Concession Premises in accordance with the Concession Plan.

**“Concessionaire Design Guidelines, or (CDG)”** shall mean those certain design standards and policies prepared by the Department for tenants at the Airport, as amended by the Department from time to time.

**“Construction Bond”** shall mean a payment and performance bond guaranteeing completion of Tenant’s construction Work for the Redevelopment in an amount of Tenant’s construction Contracts delivered by Tenant to the Department prior to the commencement of Tenant’s construction of the Redevelopment.

**“Contingent Fee”** shall mean an amount equal to three percent (3%) of the Gross Receipts.

**“Contractor”** means all entities providing Work, services and/or materials to Tenant or its Subtenants necessary for Concession operations or for the design, construction, repair, and maintenance of the Concession Premises and Improvements. The term Contractor also includes subcontractors of any tier, suppliers and materialmen, whether or not in privity with Tenant or its Subtenants.

**“Contracts”** shall mean all written agreements with Contractors.

**“Construction Documents”** shall mean the drawings and specifications for the construction of Improvements, approved by the Commissioner pursuant to **Article 8**.

**“Current Concession Space”** shall mean the space consisting of all of the current food and beverage, news/convenience, and specialty retail concessions in the Airport consisting of 44,033 square feet allocated across 50 inline and kiosk units identified on the Terminal Floor Plans.

**“Date of Beneficial Occupancy, or (DBO)”** shall mean the date on which Tenant shall assume the Premises in accordance with the terms and conditions of this Lease. The Date of Beneficial Occupancy shall also be rental commencement date, upon which the Tenant is obligated to begin paying rent to the City pursuant to this Lease.

**“Days”** shall mean calendar days unless otherwise specified herein.

**“Default Rate”** shall mean an amount equal to sixteen percent (16%) per annum of gross receipts, but in no event higher than the highest rate permitted by law, that shall be imposed upon the Tenant by the City in the event of Default by the Tenant. Such Default rate is in addition to any amounts owed to the City by the Tenant.

**“Employee Discount”** shall mean a reduction of 10% in the full menu price of food and non-alcoholic beverages offered to all badged airport employees, active duty military personnel and senior citizens aged 65 and older.

**“Employee Retention Plan”** shall mean the plan implemented by the Tenant and/or Subtenants for the purposes of conducting interviews and the potential employment of the employees of incumbent Tenants.



**“Enplaned Passengers”** shall mean passengers who board an airplane departing from the Terminal as reported to the City by the airlines using Gates in the Terminal. The City shall provide Tenant with Enplaned Passengers data promptly after such data becomes available to the City.

**“Environmental Laws”** shall mean collectively, all applicable federal, state and local environmental, safety or health laws and ordinances and rules or applicable common law, including the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. §651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.), the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. §5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Clean Water Act (33 U.S.C. §1251 et seq.), the Safe Drinking Water Act (42 U.S.C. §300(f) et seq.) as any of the foregoing may later be amended from time to time; any rule or regulation pursuant to them, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision of it, or any agency, court or body of the federal government, or any state or other political subdivision of it, exercising executive, legislative, judicial, regulatory or administrative functions.

**“Existing Contamination”** shall mean any and all pollution or contamination caused by any Hazardous Material that previously existed in or exists in, or was released onto, the soil or groundwater at or beneath the Concession Premises, the Terminal, or the Airport or located within the Concession Premises, the Terminal or the Airport as of the date the City first delivered the Concession Premises to Tenant for Tenant’s occupancy under this Lease.

**“Events of Default”** shall mean those events described in **Article 17**.

**“Financial Management System”** or **“FMS”** shall mean a fully integrated system that electronically captures and reports all sales data for the Premises.

**“Force Majeure”** shall mean any event beyond the control of the party claiming it, including but not limited to, acts of God, acts of a public enemy (such as war (declared or undeclared), invasion, insurrection, terrorism, riots or rebellion), fires floods, earthquakes, hurricanes, explosions, and strikes which wholly or materially prevents or impairs either party from performing its obligations in strict accordance herewith, provided, however, that any lack of funds shall not be deemed a cause beyond the control of a party.

**“Gates”** shall mean those portions of the Terminal used for passengers to board and disembark from aircraft.

**“Gross Receipts”** shall mean the total amount in dollars at the actual sales price of all receipts, whether for cash or on credit, paid or payable to Tenant, Subtenants, and any other person doing business in or from the Concession Premises for sales made, services rendered, and customer

orders fulfilled at or from the Concession Premises, regardless of when or where the customer order is placed (including outside the Concession Premises), and all deposits not refunded to purchasers and all orders taken in and from the Concession Premises whether or not the orders are filled elsewhere, and receipts from promotions, advertising, and income derived from retail display allowances or any other use of the Concession Premises by the Tenant or Subtenants. Gross Receipts do not, however, include the following:

- (i) any sums separately stated to and paid by a customer and paid out by Tenant or a Subtenants for any sales, retail excise, use, privilege, or retailers occupation or any other type of taxes now or later imposed by any duly constituted governmental authority;
- (ii) the portion of the sales price for all merchandise returned by customers and accepted by a Subtenants for credit to the extent of the credit or refund actually given to the customer as well as rebates, exchanges or allowances made to customers;
- (iii) bona fide transfers of merchandise to or from the Concession Premises to any other stores or warehouses of any Subtenants;
- (iv) sales of a Subtenants' furniture, fixtures, equipment and other items of personal property not in the ordinary course of a Subtenants' business;
- (v) refunds from or the value of merchandise, services, supplies or equipment returned to vendors, suppliers or manufacturers (but excluding display allowances, placement allowances, or other promotional incentives);
- (vi) proceeds from the sale of gift certificates or like vouchers until such time as the gift certificates or like vouchers have been treated as a sale in or from the Concession Premises pursuant to a Subtenants' record keeping system;
- (vii) the sale or transfer in bulk of the inventory of a Subtenant to a purchaser of all or substantially all of the assets of such Subtenants in a transaction not in the ordinary course of such Subtenants' business;
- (viii) insurance proceeds received from the settlement of claims for loss of or damages to Improvements, merchandise, fixtures, trade fixtures and any other Subtenants personal property other than the proceeds of business interruption insurance;
- (ix) amounts for coupons and other forms of discounts (including, but not limited to, customary discounts given by Tenant or a Subtenants on sales of merchandise or services to its employees, if separately stated, and the discounted portion of any discounts given by Tenant or a Subtenants on sales of merchandise or services to other Airport lessees' employees, the Department or City employees and other employees employed at the Terminal or the Airport, if separately stated) such that only the amounts actually received are ultimately included in Gross Receipts;
- (x) gratuities for services performed by employees of Tenant and Subtenants paid by

their customers except to the extent Tenant or Subtenants may be entitled to receive a portion of the gratuities; and

(xi) shipping, delivery, alteration and gift wrapping charges if there is no profit to a Subtenants and such charges are merely an accommodation to customers (to the extent there is any profit to a Subtenants, such profit shall be included in Gross Receipts).

A sale is deemed to have been consummated for purposes of this Lease, and the entire amount of the sales price must be included in Gross Receipts, at the time that: (A) the transaction is initially reflected in the books or records of Tenant or its Subtenants; or (B) Tenant or its Subtenants receives all or any portion of the sales price; or (C) the applicable goods or services are delivered to the customer, whichever occurs first.

**“Hazardous Materials”** shall mean, but shall not be limited to, any oil, petroleum product and any hazardous or toxic waste or substance or any substance which because of its quantitative concentration, chemical, radioactive, flammable, explosive, infectious or other characteristics, constitutes or may reasonably be expected to constitute or contribute to a danger or hazard to public health, safety or welfare or to the environment, including, without limitation, any asbestos (whether or not friable) and any asbestos-containing materials, lead paint, waste oils, solvents and chlorinated oils, polychlorinated biphenyls (PCBs), toxic metals, explosives, reactive metals and compounds, pesticides, herbicides, radon gas, urea formaldehyde foam insulation and chemical, biological and radioactive waste or any other similar materials which are included under or regulated by any Environmental Law.

**“Improvements”** shall mean any permanent addition, alteration, annexation or improvement which shall become affixed to the Concession Premises or a portion thereof which cannot be removed, modified or changed without damage to, or destruction of, either itself or the Premises or a portion thereof. Improvements shall include Tenant’s Base Building Improvements and Subtenants Fixed Improvements as described in **Article 8**.

**“Improvement Costs”** shall mean individually and collectively, Tenant’s Certified Construction Costs for Tenant’s Base Building Improvements and Tenant’s and each Subtenants’ Certified Construction Costs for Fixed Improvements, as the case may be, as described in **Article 8**.

**“Lease Year”** shall mean, for the first (1<sup>st</sup>) year of the Term, the period beginning on the Commencement Date and terminating on the next following December 31, and thereafter each subsequent twelve (12) month period commencing on January 1 and ending on December 31 of each calendar year including any portion of a calendar year during the final year of the Term.

**“Minimum Annual Guarantee” or “MAG”** shall mean the minimum annual guarantee fee for each Lease Year equal to the MAG Rates shown in Section 5.1(a), multiplied by the number of enplanements during the prior Lease Year.

**“Monthly Certified Statement”** shall mean the statement in the form of the “Monthly Certified Statement” attached hereto as **Exhibit L**, which sets forth Tenant’s calculation of Concession Premises Rent as defined herein and pursuant to **Section 5.7(a)**, for each prior calendar month or

portion thereof during the Term. The Monthly Certified Statement shall be signed by a person authorized to sign for Tenant and shall be certified by a financial officer of Tenant or other authorized representative of Tenant reasonably acceptable to the City. The City may change the form of Monthly Certified Statement from time to time upon thirty (30) days prior written notice to Tenant.

**“Monthly General Manager’s Report”** shall mean the report to be submitted by Tenant which shall include a summary of Subtenants sales performance, marketing and promotions initiatives and events, ACDBE participant updates and other operational matters and issues. The Monthly General Manager’s Report shall be signed by the General Manager. The Monthly General Manager’s Reports will be reviewed with the General Manager at the Annual Performance Review, and at any other time the Commissioner deems necessary.

**“Operating Costs”** shall mean those costs paid or incurred by Tenant in maintaining and repairing the Premises and utility and mechanical systems serving the Premises (excluding capital expenditures, as determined in accordance with generally accepted accounting principles); taxes paid by Tenant for the Premises (but not including income or franchise taxes); and costs of utility services (such as natural gas, water, sewerage and electricity) consumed in the Premises to the extent not metered and billed separately to a Subtenants Premises by a utility provider.

**“Operating Equipment”** shall mean any trade furniture, trade furnishings, trade equipment, signs, trade appliances and trade fixtures that are fabricated, furnished, installed and used by Tenant or its Subtenants in the Premises. Operating Equipment shall not include Tenant’s Base Building Improvements or Subtenants Fixed Improvements as described in **Section 8.4**.

**“Percentage Rent”** shall mean the sum of the products of the Percentage Fee Rates multiplied by the Gross Receipts attributable to concession categories as shown below:

Food & Beverage Service	15%
News/Convenience	17%
Specialty Retail and Services	13%
Duty Free	18%
Automated Vending	10%

**“Permitted Uses”** shall mean any concession use of the Concession Premises (including, but not limited to, food & beverage, news/convenience, specialty retail, duty free, and personal and business services), common-use lounges, extended stay services, children’s play areas, or other amenities as proposed by the Tenant and approved by the City.

**“Person”** shall mean a corporation, association, partnership, limited partnership, limited liability company, joint venture, trust organization, business, individual or government or any governmental agency or political subdivision thereof.

**“Plans and Specifications”** shall mean those plans and specifications of Tenant or its

Subtenants as described in the Construction Documents and prepared with regard to any Improvements during the Term of this Lease.

**“Ramp Area”** shall mean that portion of the apron adjacent to the Gates and associated airfield ramp areas, but not including any taxiways and runways, in which aircraft maneuver on the ground, park or are serviced between flights.

**“Redevelopment”** shall mean the redevelopment of the Concession Premises as described in Section 2.1(c).

**“Relocation Space”** means space to which Tenant must relocate a Concession Premises or Storage Premises at the request of the Commissioner after the Date of Beneficial Occupancy.

**“Rent”** shall mean, collectively, Concession Premises Rent, Contingent Fee, and any other charge or amount due from Tenant under this Lease as more particularly described and set forth in Article 5.

**“Security Deposit”** shall mean an amount equal to four (4) months of the MAG in the form of an irrevocable letter of credit, acceptable to the City of Chicago. The Security Deposit shall be adjusted annually to reflect the increase in the MAG; however the Security Deposit shall never fall below the amount of the first lease year Security Deposit amount.

**“Scope of Work”** shall mean the Work as described in the Construction Documents related to the Improvements.

**“Shell and Core”** shall mean the Premises as delivered by the City on the Effective Date and those improvements to the Concession Premises to be completed by the City as may be required in this Lease, and with respect to Additional Concession Premises or Relocation Space, as may be agreed in writing by the Commissioner.

**“Storage Space”** shall mean 16,224 square feet of space located throughout the lower level of the Terminal building identified on the Terminal Floor Plans.

**“Subtenants”** shall mean a Subtenants of Tenant as approved by the Department in accordance with Article 3 hereof.

**“Subtenants Fixed Improvements”** shall mean those Improvements constructed by the individual Subtenants in their respective Subtenants Concession Premises and does not include any Subtenant’s Operating Equipment.

**“Subtenant Premises”** shall mean the total Concession Premises and Storage Premises leased to a Subtenant pursuant to a Sublease, which may be amended from time to time as additional space may be added or the Subtenants Premises may be deleted from or relocated during the term of the Sublease in accordance with the provisions of this Lease. Subtenants Premises shall be used for operation of the Concession Program and the storage of merchandise, and equipment needed for a Subtenants’ business operation and for no other purpose unless otherwise approved in

writing by the Commissioner.

**“Terminal”** shall mean the Terminal Building of the Airport, currently consisting of approximately 1,000,000 square feet (92,000 square meters) and currently including the Airport’s 43 gates along three concourses - Concourse A, Concourse B, and Concourse C (hereinafter to collectively as the “Concourses”).

**“Terminal Floor Plans”** shall mean the plans that depict the overall layout of the Terminal, including Undeveloped Concession Space attached hereto as **Exhibit A**.

**“Undeveloped Concession Space”** shall mean approximately 25,324 square feet of future space in Concourse A, Concourse B and adjacent to the Triangle, as shown in the Terminal Floor Plans.

**“Value Pricing”** shall mean a price for a product or service at the Airport offered for no more than 10% higher than the price charged for the same product or service at Benchmark Stores in the City of Chicago.

**“Work”** shall mean everything necessary for the design, engineering, construction and installation of the Improvements; when referring to restoration of Improvements after Major Damage, it means everything necessary for the replacement, repair, rebuilding, or restoration of the Improvements.

1.3 **Attachments.** The following documents attached hereto as Exhibits and are hereby made a part hereof:

<b>Exhibit A</b>	Concession Premises and Storage Premises
<b>Exhibit B</b>	CDA-Approved Tenant Concept/Development Plan
<b>Exhibit C</b>	Special Conditions Regarding ACDBE Participation and ACDBE Compliance Plan
<b>Exhibit D</b>	Special Conditions Regarding MBE/WBE Participation and MBE/WBE Compliance Plan
<b>Exhibit E</b>	Concessionaire Design Guidelines, (CDG)
<b>Exhibit F</b>	Redevelopment, Construction Phasing and Opening Schedule
<b>Exhibit F-1</b>	Capital Investment
<b>Exhibit G</b>	Form of Letter of Credit/Payment and Performance Bond
<b>Exhibit H</b>	Economic Disclosure Statements and Affidavits
<b>Exhibit I</b>	Airport Concessions Handbook
<b>Exhibit J</b>	Form of Annual Certified Statement
<b>Exhibit K</b>	Form of Monthly Certified Statement
<b>Exhibit L</b>	Service and Performance Operating Standards
<b>Exhibit M</b>	Utilities Matrix
<b>Exhibit N</b>	Sustainable Airport Manual
<b>Exhibit O</b>	Form Sublease Agreement
<b>Exhibit P</b>	Insurance Requirements

## ARTICLE 2

### **CONCESSION PREMISES AND STORAGE PREMISES; RIGHTS OF TENANT AND SUBTENANTS**

#### **2.1 Concession Premises, (Premises).**

(a) Grant of Concession Premises. Subject to the terms and conditions contained herein, the City hereby leases to Tenant and Tenant hereby accepts from the City, the Concession Premises for the Term and at the Rent herein described and hereby grants to Tenant the right to act as the exclusive developer and manager of the Airport's Concession Program solely in the Concession Premises pursuant to the terms and provisions of this Lease and for the Permitted Uses as described below.

(i) The Premises shall include the area from above the floor slab on which the space is located, to beneath the slab of the floor (or roof) above the space, and shall include the inner surfaces of the perimeter walls of the space, perimeter doors and windows but shall not include the land under or adjacent to the Terminal, the roof or any utility or telecommunications lines, antennas, mains, shafts pipes, conduits, ducts, wires or other building systems running through and not exclusively serving the Premises.

(ii) Subject to those rules and regulations promulgated by the Commissioner, Tenant and the Subtenants shall have such rights of ingress and egress to and from the Concession Premises over the Airport's Common Areas and other public areas of the Airport as may be reasonably necessary for Tenant, the Subtenants and their respective employees, agents, and Contractors and for each of their equipment and vehicles. Tenant and its Subtenants shall control all of their respective vehicular traffic on the Airport, take all precautions as may be reasonably necessary to promote the safety of passengers, customers, business visitors and other persons, and employ such means as may be reasonably necessary to direct movements of any such vehicular traffic.

(iii) Tenant agrees that the City retains the right to place in, through or over the Concession Premises, utility lines, mains, telecommunication lines, antennas, shafts, pipes, ducts, conduits, wires, and the like for the use and benefit of the City and other tenants and occupants of the Airport and to replace and maintain, repair and relocate such lines, antennas, mains, shafts, pipes, ducts, conduits, wires and the like, in, over and upon the Concession Premises. When exercising its rights under this Section, the City agrees to use reasonable efforts not to materially interfere with Tenant's or its Subtenants' use of the Concession Premises. Any such lines, antennas, mains, pipes, shafts, ducts, conduits, wires and the like in, through, or over the Premises shall not be deemed to be a part of the Premises.

(b) City's Delivery of the Concession Premises/Shell and Core. The City is responsible for providing the Premises in its current AS-IS WHERE-IS condition. The City makes no warranty, either express or implied, as to the design or condition of the Concession Premises, including the Shell and Core, or the suitability of the Concession

Premises, for the Tenant's purposes or needs. The City is not responsible for any patent or latent defect, and Tenant must not, under any circumstances, withhold any amounts payable to the City under this Lease on account of any defect in the Concession Premises, including the Shell and Core. If feasible, the City will assign to Tenant any warranties obtained from the City's contractor for the Shell and Core and/or the right to enforce City's rights under its contract for the Shell and Core.

(c) Tenant's Redevelopment Obligations. Pursuant to **Article 8** hereof and as further described in **Exhibit F**, Tenant shall be responsible for the redevelopment of the Concession Program which shall consist of the following:

(i) Current Concession Space consisting of the current concession food and beverage service, news/convenience, and specialty retail concessions consisting of 44,033 square feet allocated across 50 inline and kiosk units;

(ii) Undeveloped Concession space consists of approximately 25,324 square feet of future space in Concourse A, Concourse B, and adjacent to the Triangle as shown on the Terminal Floor Plans. Undeveloped Concession Space is comprised of three (3) areas:

- 1) Concourse A Infill consists of 5,867 square feet of base building including shell and core elements (i.e. mechanical, electrical, plumbing and fire protection) and ready for tenant configuration. This space is available immediately. Re-purposing of 1,457 square feet of existing airport space that has been identified for concessions. This space is available immediately.
- 2) Re-purposing of 1,457 square feet of existing airport space that has been identified for possible concessions.
- 3) Passenger Security Checkpoint Expansion is an Airport-funded expansion project (the "Checkpoint Project") approved in 2015 to widen the passenger bridge over Cicero Avenue, to the north and south to accommodate current and future passenger traffic flow. The project will increase the passenger queuing area by approximately 80,000 square feet, as well as additional security checkpoint lanes. The existing security checkpoint will be relocated onto the new structure and, thereby, create an additional 18,000 square feet of concession space. New concession space will be delivered in shell and core condition with utilities stubbed to the spaces. The City expects that Tenant will participate in creating the final design for the Checkpoint Project. The Checkpoint Project is scheduled to be completed for turnover to Tenant during the second quarter of 2019. The City reserves the right to modify the delivery schedule of Undeveloped Concession Space without notice and without liability to the City or its contractors. Concept plans of the Passenger Security Checkpoint Expansion are available upon request to the City..



- (iii) Expansion Space as proposed by Tenant and as approved by the City in its sole and absolute discretion; and
- (iv) Other Airport Areas, which may include the baggage claim area, ticketing lobby area and the Consolidated Rental Car Facility.

Tenant shall be solely responsible for any and all costs and expenses associated with any utility use and consumption increases required by the Redevelopment, including extending any required utility lines within the Terminal from the existing base building connection points to the Premises. Except as expressly set forth in this Lease, in no event shall Tenant be reimbursed for its costs and expenses in connection with the Redevelopment.

Tenant shall be responsible for the identification of any Hazardous Materials that may be encountered during the construction for the Redevelopment and shall report any such Hazardous Materials so encountered to the Department and the City. The City, at the City's sole cost and expense, shall be responsible for the remediation and/or removal of any such Hazardous Materials and shall also be responsible for obtaining the approval of any inspections or certifications related to any such Hazardous Materials which may be required by applicable laws in order for Tenant to perform the construction of the Base Building Improvements for the Redevelopment and for the Subtenants to perform the construction of the Subtenants Fixed Improvements for the New Concession Premises.

2.2 Additional Concession Premises. During the Term, the Commissioner shall have the right, but not the obligation, in his/her absolute and sole discretion, to add square feet of space to the Concession Program for additional concession operations. In event that the Commissioner determines to make additional premises available to Tenant, the Commissioner will send written notice to Tenant to advise Tenant of the following:

- a. size and location, including a lease outline drawing of the Additional Premises;
- b. whether the Additional Premises are being offered as food and beverage, duty free, news, specialty retail or service concessions; and
- c. the City's shell and core obligations and Tenant's (or its Subtenants) Improvement obligations for the Additional Premises.

Within ninety (90) days after receiving the written notice from the Commissioner, the Additional Premises will be added to the Concession Premises as of the Date of Beneficial Occupancy for such Additional Premises, as applicable, under this Lease and **Exhibit A** shall be modified accordingly. Nothing set forth above requires the Commissioner to offer any Additional Premises to Tenant.

Notwithstanding anything to contrary contained herein, in the event Additional Premises are added to this Lease as provided in this section, Tenant shall first cause the Concession Premises

to be completely occupied and subleased to Subtenants, if applicable and the current Percentage Rent rates, plus any Contingent Rent will be applicable for each new location within the Concession Premises leased.

2.3 Relocation Space. The Commissioner may at any time during the Term require Tenant to vacate or to cause its Subtenants to vacate any portion of the Premises and relocate a Subtenant's operations in those affected portions of the Premises to another location within the Terminal ("**Relocation Space**") when, in the sole discretion of the Commissioner, the portion of the Premises to be relocated is necessary for other Airport or airline operational purposes or with respect to Airport security requirements. In such an event:

(i) The Commissioner will notify Tenant in writing within a reasonable period of time prior to the date that the affected portion of the Premises need to be vacated and the affected Subtenants' operations moved to the Relocation Space. Such notice will be not less than (90) days in advance of the proposed relocation. To the extent practicable, the City will endeavor not to require Tenant or its applicable Subtenants to move from the affected Concession Premises being vacated before the City completes the construction and Improvements to the Relocation Space and the Relocation Space is ready to be open for business to the public, but the portion of the Premises being vacated may be needed for other Airport operational purposes prior to the completion of Improvements in the Relocation Space.

(ii) The Department shall use its best efforts to provide Relocation Space which is a comparable location in terms of size, exposure to Enplaned Passengers, and the ability to generate the same level of Subtenants Gross Receipts as existed in the portion of the Concession Premises to be vacated. If the affected Premises are Concession Premises and the Relocation Space is not acceptable in Tenant's (or its applicable Subtenant's) reasonable good faith business judgment, Tenant may reject the Relocation Space by notifying the Commissioner in writing no later than thirty (30) days after Tenant receives the Commissioner's notice. If Tenant (or any of its affected Subtenants) rejects the Relocation Space, then Tenant shall terminate the Sublease for the affected portion of the Premises on the date for the relocation set forth in the Commissioner's notice. If Tenant (or its applicable Subtenants) rejects the Relocation Space, Tenant shall be issued a credit, equal to the unamortized portion of Tenant's Certified Construction Costs, and if applicable, its Subtenant's, Certified Construction Costs, as determined under **Article 8**, and as approved by the Commissioner, for the portion of the Premises being vacated, against Rent due and owing to the City from Tenant until the full amount of the credit has been applied against Rent. Such Certified Construction Costs shall not include costs for Tenant's or its Subtenant's Operating Equipment or other personal property or any portion of the of the Improvements not specifically designed due to unique characteristics for the vacated Premises that can reasonably be moved and used by Tenant or its Subtenants in the Relocation Space or in other locations as determined in Tenant's

or its Subtenant's sole but reasonable discretion.

(iii) Except when Tenant (or its applicable Subtenants) rejects Relocation Space and is reimbursed by the City for the unamortized portion of Tenant's Certified Construction Costs and if applicable, its Subtenant's Certified Construction Costs pursuant to (ii) above, the City is responsible, at its sole cost and expense, for all costs incurred in the relocation or replication of the Improvements in the portion of the Premises being vacated, including the cost of moving Tenant's or its Subtenants' Operating Equipment, other items of personal property and merchandise, inventory and the cost of constructing replacement Improvements in the Relocation Space comparable to the Improvements in the portion of the Premises being vacated as of the date of relocation, to the extent comparable Improvements do not already exist in the Relocation Space. In the case of a relocation, Tenant or its Subtenants must promptly vacate the portion of the Premises required to be vacated and as to which this Lease is being terminated on the date specified in the Commissioner's notice and return that portion of the Premises in as good condition as existed as of the date that the City gave Tenant possession of the Premises being vacated normal wear and tear and damage by casualty excepted, unless the Commissioner otherwise agrees in writing. Because the City is replacing Improvements in kind, Tenant is not entitled to any credit for unamortized Improvement Costs for the portion of the Premises being vacated, and the unamortized Improvement Costs for the portion of the Premises being vacated will be deemed to be the unamortized Improvement Costs for the Relocation Space and continue to be amortized on the same schedule as the portion of Premises being vacated.

(iv) In the event the Relocation Space is rejected by Tenant or its applicable Subtenants and the Lease is terminated as to the affected portion of the Concession Premises pursuant to (ii) above, then the MAG as of such date will be automatically and equitably adjusted retroactive to the date in which the Concession Premises was required to be vacated in accordance with the following formula: the then current MAG shall be multiplied by a fraction, the numerator of which is the total Gross Receipts generated from the remaining portion of the Concession Premises during the twelve (12) month period immediately following the surrender of the affected portion of Concession Premises and the denominator of which is the total Gross Receipts generated from the Concession Premises during the twelve (12) month period immediately prior to the surrender of the affected portion of the Concession Premises. Any overpayments of the MAG made by Tenant until such determination of the equitable adjustment shall be made shall be credited against Rent due and owing to the City from Tenant until the full amount of the credit has been applied against Rent

2.4 Permitted Uses. Subject to prohibitions that follow, the Leased Space may be used for any concession (including, but not limited to, food & beverage, news/convenience, specialty retail, duty free, and personal and business services), common-use lounges, extended stay

services, children's play areas, or other amenities as proposed and approved by the City.

2.5 Prohibited Uses. Tenant shall not use the Premises for any use not specifically granted herein without the prior written approval of the Commissioner, which approval may be granted or withheld by the Commissioner, in his/her sole and absolute discretion. Prohibited uses expressly agreed to include the following: (a) foreign currency exchange services; (b) banking and other financial services; (c) automated teller machines; (d) display of revenue generating advertising by Tenant or its Subtenants in a manner inconsistent with the City's advertising program then in effect; (e) luggage cart services; (f) parking; (g) hotel, and (h) ground transportation services (collectively, the "**Prohibited Uses**"). With respect to advertising, the foregoing shall not prohibit Tenant from marketing and promoting the Concession Program within the Terminal (including, but not limited to concession directories, maps and brochures) as well as the Subtenants advertising within the Subtenants Premises.

2.6 Appurtenant Rights. Tenant, its Subtenants and their respective employees, agents and contractors shall have the right as appurtenant to the Premises, subject, however, to Tenant's compliance with the terms and conditions of this Lease, including, without limitation, Tenant's maintenance and repair obligations set forth in **Section 8.2**, Tenant's insurance and indemnification obligations set forth in **Article 11**, the limitations on Tenant's use set forth in **Article 6**, and Tenant's compliance with all applicable nondiscriminatory rules and regulations established from time to time by the City including those set forth herein, to the non-exclusive use, in common with others, of the Common Areas (those which are not a part of the Premises), subject to the exclusive control and management thereof at all times by the City, for the purposes of moving to and from the Premises to engage in the uses of the Premises permitted in this Lease, provided that the City reserves the right to make any changes which it deems appropriate to said Common Areas, including without limitation, relocation or elimination of all or any part of said Common Areas in the City's sole discretion, to assure public safety and convenience or to assure efficient operation of the Terminal and/or the Airport. The City shall use reasonable efforts so as to not prevent access and/or substantially impair access to the Premises in connection with any such changes to the Common Areas.

2.7 Rights Regarding Personal Property in the Premises. Tenant and its Subtenants shall retain title and ownership to all of Tenant's and its Subtenants' personal property in the Premises except in the event of deemed abandonment. The City owns all other property at the Premises, including the Shell and Core and Improvements and all base building utility facilities and associated infrastructure but Tenant and its Subtenants shall have a leasehold interest in all Improvements so constructed by Tenant and its Subtenants during the Term of this Lease.

## **ARTICLE 3**

### **SUBLEASING TO SUBTENANTS**

3.1. Nature of Subtenants. It is the intention of the parties hereto that Tenant shall enter into Subleases with approved Subtenants in accordance with the terms of this Lease. Subtenants shall be capable of running a first-class operation and servicing international customers, and shall include a mix of nationally and regionally recognized and local entities. All concession offerings and brands must be consistent with the CDA-Approved Tenant Concept/Development Plan, as described in Exhibit B.

3.2 Selection of Initial Operators. The Tenant will identify, select, and enter into subleases and operating agreements with Subtenants to develop and operate the Concessions locations consistent with Exhibit B. Subject to the Limitation of Ownership described below, the Tenant may self-operate one or more concessions locations. All concession offerings and brands must be consistent with the Tenant's Development Plan, and are subject to the City's approval.

3.3 Limitation of Ownership and Operation. To ensure the Concession Program includes competition to foster an environment of quality offerings, enhanced customer service, and improved performance, no single entity, whether the Tenant or Subtenants, may operate more than 60% of the concessions program in each major category (food & beverage, news/convenience, or specialty retail Concession Locations) or have an aggregated ownership interest of more than 60% of the various concession operators within each major category. In determining whether an entity operates more than 60% of a major category, any entity with a right to control the actual entity operating the concession will be considered as operating the same percentage of the Concessions Program as the entity actually operating a concession. Subject to this limitation of ownership and operation, a single entity may own and/or operate multiple concession locations in each major category. The foregoing notwithstanding, if Tenant will not be able to adhere with this Section 3.3. during the time prior to the completion of Tenant's Redevelopment Obligations, Tenant may make a written request for a temporary waiver from the Commissioner, to be granted or withheld in the sole and absolute discretion of the Commissioner.

3.4 Selection of Other Subtenants. With the exception of the Initial Operators and existing operators, all Subtenants shall be selected by Tenant from a list of qualified Subtenants developed by Tenant from time to time and approved by City. Selection of such qualified Subtenants shall be based on a fair and competitive evaluation process managed by Tenant (such process shall not be required to be a public request for proposal process) or pursuant to terms otherwise approved in the Commissioner's sole but reasonable discretion. It is understood and agreed that names of prospective Subtenants may be added to or deleted from said list from time to time and that the inclusion of any given party on said list shall not provide any assurance that said party will in fact be selected as a Subtenants. The Commissioner's consent to any given Subtenants shall not exempt said Subtenants from the foregoing process with respect to any

additional space. The selection process, the proposed type of business and all Subtenants are subject to prior written approval by the Commissioner, which approval shall not be unreasonably withheld, conditioned or delayed taking into consideration both the goals of the City and the goals of Tenant, and the purpose of this Lease. Tenant shall obtain and provide copies of any required Economic Disclosure Statements from prospective Subtenants as part of the Commissioner's approval process.

### 3.5 Standard Sublease Agreement.

(a) Tenant has prepared a standard sublease agreement in accordance with the terms and conditions of this Lease, which standard form of Sublease is attached hereto as **Exhibit O** (the "**Sublease**"). The Sublease shall not prejudice or conflict with any of the City's rights under this Lease, or applicable laws, rules or regulations. To the extent that Tenant is required under this Lease to cause any Concession Program operations to be operated in a certain manner or wherever, in order to give effect to Tenant's obligations hereunder, it shall be necessary or desirable to impose corresponding obligations directly upon the Subtenants, said obligations shall be incorporated in the Sublease as may be determined from time to time in the sole discretion of Tenant.

(b) The Sublease shall provide that each Sublease is and shall be subject and subordinate to this Lease and in the event of any conflicts between the terms and provisions of any Sublease and this Lease, this Lease shall be controlling. In the event any approved Sublease shall extend (either by virtue of its term or by virtue of holding over with City consent) beyond the expiration or earlier termination of this Lease, Tenant shall assign all of its rights, title and interest in and to all of the Subleases to the City or such third party designated by the Commissioner as of the effective date of any such expiration or termination of this Lease and the City or such third party designated by the Commissioner may assume such rights, title and interest in and to all of such Subleases as of the date thereof pursuant to a mutually satisfactory assignment and assumption agreement between the Parties. Further, if this Lease is terminated due to a default by Tenant under this Lease, prior to expiration of the term of the Subleases (the date of such termination is referred to herein as the "**Termination Date**"), then Tenant shall be required to assign all of the Subleases to the City or any other third party selected by the City, to assume the rights and obligations of Tenant under such Subleases. In such event, the rights and obligations of Tenant under each such Sublease shall be deemed to have been assigned and transferred to the City or such other third party designated by the Commissioner as of such Termination Date and said Subtenants shall be deemed to have made full and complete attornment to the City or such other third party for the balance of the term of such Sublease without any action or confirmation from Subtenants and, further, in such event, upon request from the Commissioner, said Subtenants shall enter into a new Sublease with the City or such other third party on the same terms and conditions as the Sublease that has been transferred.

(c) The Sublease shall also provide that, if the City assumes the rights and obligations of Tenant under any Sublease, the City shall have the right at any time, by providing written notice thereof to the Subtenants, to assign its rights, title and interest under such

Sublease to a third party selected by the City, and from and after the effective date of such assignment, the City shall no longer have any obligation or liability under the Sublease.

(d) The Sublease shall further provide that, in no event shall the City or such other third party designated by the Commissioner to assume Tenant's rights and obligations under the Sublease Agreement be liable for (i) any prior acts or defaults of Tenant under the Sublease, (ii) completion of any Improvements relating to said Subtenant's Premises, or (iii) return of any security deposits of said Subtenants except to the extent said sums (specified as such with specific reference to the Sublease pursuant to which it was deposited) have been transferred to the City or such other third party.

(e) The Subtenants shall be in conformance with the 49 CFR part 23.75 limitations on long-term exclusive concession agreements and associated FAA guidance.

(f) Tenant and Subtenants must comply with CDA's Language Assistance Plan, (LAP) as may be amended from time to time, and must cooperate in reporting all Title VI complaints that may be received by CDA.

(g) Tenant agrees that it shall not require any Subtenants to pay the monthly rental or license payments under its Sublease more than one (1) months in advance of its respective due date.

(h) Marketing Fee. A Marketing Fee in the amount equal to Subtenants' proportionate share of Tenant's actual costs of one-half of one percent (0.5%) of each Subtenant's monthly Gross Receipts (the "**Marketing Fee**") for the purposes of advertising, publicity, promotional materials, events, directories, customer service training and other activities appropriate for marketing the Concession Program at the Airport (the "**Marketing Program**") shall be collected by Tenant from each Subtenants and shall be retained by Tenant for such use. Tenant shall prepare and submit an annual budget and plan for the Marketing Program which shall be subject to the prior written consent of the City, such consent not to be unreasonably, withheld, conditioned or delayed.

(i) CAM Fund. A pro rata share of Common Area maintenance (CAM) costs and real estate taxes associated with any common areas of the Premises not sublet to Subtenants as well as any centralized charges for services rendered by third party vendors which Tenant may determine to have provided for all Subtenants for items such as storefront cleaning, trash removal, pest control, grease trap cleaning and other miscellaneous services (the "**CAM Fund**").

(j) Utilities. Subtenants shall be required to pay for the installation of separate Utility meters or check meters for the Subtenants Premises and for the consumption of all utilities used in connection with the operations of the Subtenants in the Subtenants Premises.

(k) Impositions. A pro rata share of Impositions that may be levied or assessed from time to time with respect to the Premises, Tenant's or the Subtenants leasehold interests in the Premises and with respect to the conduct of any operations under this Lease.

(l) City Charges. A pro rata share of City Charges and any other sums charged by the City to Tenant pursuant to this Lease such as costs for security badges and any logistical support or distribution fees, for example.

Tenant shall negotiate the terms of the respective Subleases in such a manner that the obligations to pay for all pass-through items shall be apportioned on an equitable basis among similarly-situated Subtenants, to the extent that such items are not metered and billed separately to said Subtenants. Tenant shall not charge a separate management fee to the Subtenants separate from the Subtenants rent.

The Sublease shall also grant to the City the direct right to enforce the provisions of the Sublease in the event of an emergency or if the same involves life safety or Airport security issues at the Commissioner's election in the place and stead of Tenant.

The Sublease shall also provide that Tenant and its Subtenants will work cooperatively in attempting to retain existing concession employees working at the Airport as of the Effective Date of the Lease pursuant to the Tenant's Employee Retention Plan as approved by the City.

3.6 Documentation of Agreement with Subtenants. All agreements with Subtenants shall be made in the form of the Sublease attached hereto as **Exhibit O** with business terms as approved by the Commissioner. Any material modifications to the form of the Sublease negotiated with a particular Subtenant shall be subject to the Commissioner's prior approval, such approval not to be unreasonably withheld, conditioned or delayed, and prior to Tenant entering into such a Sublease with a Subtenants. The Commissioner's approval of all of the proposed terms and conditions of the Sublease, including without limitation, the proposed rent, term, the nature of the proposed Subtenant's business and the compatibility of the proposed use with the other Concession Program operations at the Terminal and with the objective of achieving an appropriate mix of Concession Program operations, shall be granted, withheld or conditioned by the Commissioner on a commercially reasonable basis. The amortization period applicable to any given Sublease shall be equal to either: (i) the term of the Sublease, or (ii) the useful life of the asset, whichever period is shorter. Tenant may make immaterial modifications to the Sublease without the approval of the Commissioner but shall identify in writing all such modifications to the Commissioner when the Sublease is submitted for approval. In order to facilitate the Commissioner's review process, Tenant shall furnish the Commissioner with drafts of all proposed Subleases, marked to identify all variations, if any, from the standard form of Sublease and the Commissioner shall indicate his or her approval or disapproval to Tenant within thirty (30) days. Should the Commissioner not approve within (30) day period, then the Sublease shall be deemed to null and void, and Tenant shall not be permitted to enter into such Sublease. If any respective Sublease(s) is approved by the Commissioner, Tenant shall furnish the Commissioner with a copy of all such executed Subleases, and no such Sublease shall be amended without the prior written consent of the Commissioner, such approval not to be



unreasonably withheld, conditioned or delayed.

3.7 Defaults of Subleases. Tenant shall promptly notify the Commissioner (in writing) of any default by any Subtenants involving the failure of such Subtenants to pay any sums when due under its Sublease or any other material events which, with the passage of time or the giving of notice, or both, would constitute a default on the part of any Subtenants under its Sublease, including but not limited to failure to comply with the ACDBE Special Conditions (each, a "Subtenant Default"). Tenant shall provide the Commissioner with copies of all notices of default delivered to any Subtenants promptly following the delivery of any such notice to Subtenants. Tenant shall utilize commercially reasonable and diligent efforts to enforce Subtenant's obligations under said Sublease. However any such Subtenant Default shall not relieve the Tenant of any leasing, managing and payment obligations under this lease.

3.8 Providing Continuous Concession Program Operations.

(a) In the event a Subtenant ceases operating for any reason, or is otherwise removed by Tenant in accordance with the terms of an applicable Sublease, Tenant shall use commercially reasonable efforts to provide for interim operation of the affected Concession Premises such that said Concession Premises are re-opened as soon as reasonably possible under the circumstances (taking into consideration the level of Actual Enplaned Passengers in the Terminal at the time of any such cessation), but in any event within sixty (60) days unless Tenant reasonably demonstrates to the Commissioner's satisfaction that the level of Enplaned Passengers does not justify operations in that location. Tenant may, but shall in no event be obligated to, conduct such concession operations on an interim basis not to exceed six (6) months, during which time Tenant shall act diligently to procure a suitable substitute Subtenant. Alternatively, Tenant is entitled to have a Subtenant who already is operating at the Premises or any other suitable third party to operate such Concession Premises on an interim basis not to exceed one (1) year, during which time Tenant shall act diligently to procure a suitable substitute permanent Subtenant (which may include the Subtenant or other suitable third party conducting the interim operations). All such interim operations of such Concession Premises shall be subject and subordinate to the terms and provisions of this Lease and shall be in writing, the form and content of which is subject to the prior approval of the Commissioner, such approval not to be unreasonably withheld.

(b) In the event a Subtenant's Premises are operated on an interim basis, the permanent replacement Subtenant shall be selected in accordance with this Lease. The occurrence of a Subtenant Default, or the termination by a Subtenant of its concession operations, shall not release Tenant from any of its responsibilities hereunder, including, without limitation, those regarding compensation to the City and maintaining ACDBE compliance.

(c) In the event: (a) Tenant fails to use commercially reasonable efforts to enforce Subtenant's obligations to continuously provide concession operations pursuant to the Sublease, or (b) the interim agreements described in this paragraph last for a period in

excess of one (1) year without the consent of the Commissioner, the parties have agreed that if any portion of the Concession Premises is not being thereafter operated during the term of this Lease in accordance with this Lease, then, Tenant shall pay the City, as liquidated damages, and not as a penalty, the amount of fifty percent (50%) of the vacant premises most recent monthly MAG. Such liquidated damage payment shall continue from the date concession operations cease until the earlier of, (1) the date concession operations resume, or (2) the date of termination of this Lease. Said liquidated damages shall be paid monthly in arrears and shall be deemed Additional Rent.

(d) Notwithstanding anything to the contrary herein contained, in the case of the cessation of concession operations by any Subtenant for any reason during the final three (3) years of the Term, Tenant's failure to procure a suitable permanent Subtenant in accordance with this Section shall not constitute a breach of Tenant's obligations under this Lease provided Tenant shall have made, and shall continue to make, a commercially reasonable and diligent effort to procure a suitable Subtenant in accordance with this Lease and shall continue to cause concession operations to be conducted in the Concession Premises in question.

## **ARTICLE 4**

### **TERM**

#### **4.1 Term.**

(a) Term. This Lease is in full force and effect upon the Effective Date. The term of this Lease ("**Term**") commences on the Commencement Date and ends at 11:59 p.m. on the Expiration Date, unless sooner terminated as provided herein. The Term shall not be extended beyond the expiration or earlier termination of this Lease due to the inclusion of any additional premises which may be added from time to time during the Term.

(b) Date of Beneficial Occupancy. The Date of Beneficial Occupancy, (DBO) shall be \_\_\_\_\_.

In the unlikely event the City is unable to deliver to the Tenant the Undeveloped Concession Space associated with the Passenger Security Checkpoint project in the time period as agreed to by the Parties, the Term of this Lease shall be extended by the difference of months between the agreed upon delivery date and the actual delivery date to the Tenant. However, under no circumstances shall the Term be extended beyond one (1) calendar year after the initial Expiration Date. All of the terms and provisions of this Lease shall be applicable during any extension and unless the context otherwise specifically requires, all references in this Lease to "Term" shall also include any extensions of the Term.

#### **4.2 Termination.** Unless earlier terminated in accordance with its terms, this Lease shall

terminate on \_\_\_\_\_, without the necessity of notice, and Tenant hereby waives all rights to any notice to terminate, vacate or quit the Premises except as may otherwise be expressly provided for in this Lease. Tenant hereby waives any and all rights of redemption, granted by or under any present or future Law (as hereinafter defined) in the event it is lawfully evicted or dispossessed for any lawful cause, or in the event the City obtains possession of the Premises in any other lawful manner. Such termination of the Lease, as provided herein, and the removal, restoration and surrender obligations of Tenant shall in no way give rise to any claims for or rights to payment to Tenant by the City, including without limitation, (i) any and all awards in the nature of land damages under applicable Laws, and (ii) any and all rights under the terms of this Lease, and (iii) incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises; and (iv) any reimbursement to Tenant or its Subtenants for any Improvements.

#### 4.3 Holding Over.

(a) Without Commissioner Objection. Except as provided in (b), any holding over following expiration or termination shall constitute a tenancy from month-to-month on the same terms and conditions as this Lease, including payment of the Rent attributable to the portion of the Premises Tenant and its Subtenants continue to occupy. Tenant and its Subtenants must surrender and vacate any portion of the Premises no later than thirty (30) days following written notice from the Commissioner that the month-to-month tenancy is being terminated.

(b) Commissioner Objection. If the Commissioner notifies Tenant in writing that holding over is not allowed, or if the Commissioner notifies Tenant that any holdover month-to-month tenancy is being terminated as to any portion of the Premises, and Tenant continues to hold over after receipt of such written notice, Tenant must thereafter pay Rent at one hundred fifty percent (150%) the annual rate of the Rent payable, on a per diem basis, during that portion of the last calendar year falling within the Term of this Lease.

No occupancy of the Premises by Tenant after the expiration or earlier termination of this Lease (in its entirety or as to the portion of the Premises in question) extends the Term of this Lease with respect to the portion of the Premises, except as a holdover tenancy. Tenant and its Subtenants shall be required to vacate and surrender any portion of the Premises during the holdover tenancy in accordance with notices from the Commissioner from time to time to accommodate any of the City's replacement tenant's construction and commencement of operations. In the event of any unauthorized and willful occupancy after such expiration or termination, Tenant must indemnify the City against all damages arising out of the retention of occupancy, and all insurance policies and letters of credit required to be obtained and maintained by Tenant as set forth in this Lease must continue in effect.

#### 4.4 Surrender.

(a) At the termination or expiration of this Lease as to any portion of the Premises, Tenant and its Subtenants shall promptly, peaceably, quietly and in good order quit, deliver up and return the Premises (or that portion as to which the Lease has terminated, in the case of a partial termination) in good condition and repair, ordinary wear and tear and damage by fire or other casualty excepted. Except as provided below, Tenant and its Subtenants must remove all of Tenant's personal property from the Premises or the affected portions of the Premises within three (3) days following the date of termination or expiration of this Lease. All Improvements installed by or for Tenant and each of its Subtenants shall remain in the Premises and shall in no event be required to be removed by Tenant or its Subtenants. Tenant shall or shall cause its Subtenants to repair any damage to the Concession Premises caused by Tenant's or its Subtenant's removal of personal property, trade fixtures and other items which Tenant or its Subtenants are permitted to remove. All the removal and repair required of Tenant under this Section are at Tenant's sole or its Subtenant's cost and expense.

(b) If Tenant or its Subtenants fail to perform any of their obligations, then the Commissioner may cause the obligations to be performed and Tenant shall pay the cost of the performance, together with interest thereon at the Default Rate from and after the date the costs were incurred until receipt of full payment therefor. Tenant shall be permitted to pass through any such costs and expenses to applicable Subtenants as the case may be. Any property of Tenant not or its Subtenants removed by Tenant or its Subtenant's in accordance herewith is deemed abandoned and the Commissioner may dispose of it as she sees fit, without any liability to Tenant or any other person.

(c) Any Improvements remaining in the Premises shall become property of the City, except that all of Tenant's or its Subtenant's trade dress, service marks, trademarks and trade names must be removed, obliterated or painted out in a commercially reasonable manner at Tenant's or its Subtenant's cost, within three (3) days following the expiration or termination of the Term.

4.5 Termination Due to Change in Airport Operations. This Lease is subject to termination by either party on sixty (60) days written notice in the event of any action by the Federal Aviation Administration ("FAA"), the TSA or any other governmental entity or the issuance of an order by any court of competent jurisdiction which prevents or restrains the use of the Airport, the Terminal or a portion thereof for commercial aviation purposes that renders performance under this Lease by either Party impossible, and which governmental action or court order remains in force and is not stayed by way of appeal or otherwise, for a period of at least ninety (90) days, so long as the action or order is not the direct and specific result of any Event of Default of Tenant.

### **ARTICLE 5**

#### **RENT, REPORTS AND AUDITS**

5.1 Rent.

(a) Rent. In consideration of Tenant's use of the Concession Premises and the right to develop, lease, sublease, market, manage and operate the Concession Program in the Airport, and the associated rights and privileges granted in this Lease, Tenant shall pay to City as Premises Rent for each Lease Year the following:

(i) **MAG:**

<b>Lease Year</b>	<b>MAG Rate (dollars per enplanement)</b>
2016	\$1.656
2017	\$1.657
2018	\$1.871
2019	\$1.930
2020	\$2.006
2021	\$2.076
2022	\$2.114
2023	\$2.156
2024	\$2.197
2025	\$2.240
2026	\$2.283
2027	\$2.325
2028	\$2.466
2029	\$2.516
2030	\$2.567
2031	\$2.619

**MAG shall be calculated by multiplying the number of enplanements for the prior Lease Year by the applicable MAG Rate. For the first Lease Year, the MAG shall be calculated by multiplying the number of enplanements for calendar year 2015 as determined by the City, by the applicable MAG Rate.**

(ii) **Percentage Rent:** Food and Beverage Services: 15%; News/Convenience: 17%; Specialty Retail and Services: 13%; Duty Free: 18%; Automated Vending: 10%.

(iii) **Contingent Fee:** The Contingent Fee shall be equal to 3% of Gross Receipts.

The Tenant's Rent obligations shall begin on the Date of Beneficial Occupancy as described in section 1.2 of this Lease agreement.

The MAG applicable to the first and last Lease Year shall be prorated if less than a full twelve (12) calendar months.

(b) Additional Rent. The following items shall be considered as Additional Rent hereunder:

(i) Impositions. Tenant must timely pay, as and when due, any and all taxes, assessments, fees, and charges levied, assessed or imposed by a governmental unit upon this Lease, the Premises, Tenant's leasehold or upon Tenant's personal property, including but not limited to all permit fees and charges of a similar nature for Tenant's conduct of any business or undertaking in the Premises (collectively, "**Impositions**"). Tenant must provide Commissioner a copy of all notices relating to leasehold taxes on the Premises within thirty (30) days after receipt and must provide the Commissioner with a receipt indicating payment of leasehold taxes on the Premises when due. Nothing in this Lease precludes Tenant from contesting the amount of an Imposition, including those taxes or charges enacted or promulgated by City; but Tenant must not contest the applicability of an Imposition in connection with the Premises. Failure of Tenant to pay any Imposition when due, except to the extent that Tenant is contesting the amount of the Imposition, will constitute an Event of Default. Tenant shall include this provision in all Subleases.

(ii) Any other amounts expressly identified as Additional Rent in this Lease.

Tenant shall be entitled to charge a proportionate share of Additional Rent to its Subtenants in an equitable and non-discriminatory manner.

## 5.2 Time of Payments.

(a) Commencing on the Date of Beneficial Occupancy, Tenant shall pay to the City on or before twentieth (20<sup>th</sup>) day following the expiration the preceding calendar month commencing with the second (2<sup>nd</sup>) month following the Date of Beneficial Occupancy:

- (i) Percentage Rent for the preceding calendar month;
- (ii) Contingent Fee for the preceding calendar month.

Tenant shall also pay Impositions if and when due following the Date of Beneficial Occupancy to the appropriate governmental agencies and shall continue to pay Impositions throughout the Term of this Lease.

(b) Commencing on the Date of Beneficial Occupancy, Tenant shall pay to the City:

- (i) the MAG, in equal consecutive monthly installments equal to one-twelfth (1/12<sup>th</sup>) of the MAG, which shall be due and payable on or before the first (1<sup>st</sup>) day of each month. The MAG shall be prorated for any partial calendar month;

(ii) the amount, if any, by which the actual Percentage Rent and Contingent Fee for the preceding calendar month exceeds the monthly installment of the MAG for such month, which shall be due and payable on or before fifteen (15) days following the expiration of the preceding calendar month; and

(iii) the Additional Rent attributable to the preceding calendar month which shall be due and payable on or before twenty (20) days following the expiration of the preceding calendar month.

5.3 No Waiver or Setoff. Payment of Rent other than Impositions by Tenant to the City shall not be considered to be a tax and shall be in addition to and exclusive of all license fees, taxes, or franchise fees which Tenant may now or in the future be obligated to pay to the City. Tenant's obligations to pay Rent hereunder is independent of each and every other covenant and agreement contained in this Lease and Tenant shall pay all Rent without any setoff, abatement, counterclaims or deduction whatsoever except as otherwise expressly provided in this Lease. Tenant's obligation to pay Rent shall be absolute and unconditional. Acceptance by the City of any payment or partial payment of Rent, liquidated damages or other fees or charges shall not constitute a waiver of any right on the part of the City. No such payment shall be deemed to be other than a payment on account of the earliest Rent then due, nor shall any endorsement of any check or payment be deemed an accord and satisfaction unless specifically agreed to in writing by the City, and the City may accept such check or payment without prejudicing in any way its right to recover the balance of such Rent.

5.4 Material Underpayment or Late Payment. Without waiving any other remedies available to the City, if: (i) Tenant underpaid Rent due in any calendar year by more than 5%; or (ii) Tenant failed to make any Rent payments within ten (10) days following notice of such nonpayment from the City, then, in either such event, Tenant shall pay, in addition to the amount due the City as Rent, and late payment at the Default Rate. Late payments shall be considered Additional Rent. The provision for late payment does not constitute an authorization by the City of underpayment or late payment.

5.5 Security Deposit.

(a) Form of Security Deposit.

(i) Tenant must provide the City no later than the sixty (60) days following the execution of this Lease with an irrevocable, unconditional sight draft Letter of Credit in favor of the City in the amount equal to four months (4) of the MAG. The Letter of Credit and any replacements or renewals of it must be issued with an expiration date of at least one (1) year after the respective dates of issuance or renewal and must be maintained by Tenant, through and including the date that is one hundred twenty (120) days after the expiration of the Term. The Letter of Credit must be in the form set forth in **Exhibit G** or as otherwise approved by the City's Corporation Counsel.

(ii) In lieu of the Letter of Credit, Tenant may provide cash or a cashier's check in the same amount for immediate deposit in the City's accounts. The Letter of Credit, cash or cashier's check, as applicable, is referred to in this Lease as the "**Security**." The Security secures the faithful performance by Tenant of all of Tenant's obligations under this Lease. The Commissioner is entitled to draw on any such Letter of Credit unless proof of renewal of the Letter of Credit or a replacement Letter of Credit in form and substance satisfactory to the Corporation Counsel has been furnished to the Corporation Counsel at least thirty (30) days before its expiration date. The City will hold the proceeds as a cash Security to secure the full and faithful performance of Tenant's obligations under this Lease. The Commissioner is not obligated to pay or credit Tenant with interest on any Security.

(iii) The Commissioner also is entitled to draw on the Letter of Credit in whole or in part upon the occurrence of an Event of Default, in which event the Commissioner is entitled to apply all or any part of the proceeds of it or any cash or other Security deposited by Tenant and held by the City for the payment of any obligation of Tenant arising before or after the Event of Default.

(iv) The Letter of Credit must provide that the Commissioner may draw upon the Letter of Credit in whole or in part upon the delivery by the Commissioner to the issuer of the Letter of Credit of a demand for payment, purportedly signed by the Commissioner, together with a written statement that the Commissioner is entitled to draw upon the Letter of Credit under the terms of this Lease. If amounts are drawn upon the Letter of Credit or amounts of a cash Security are applied by the Commissioner in accordance with the terms of this Lease, Tenant must reinstate the Letter of Credit or cash Security to its full amount required in this Lease within ten (10) days following receipt of written notification by the Commissioner of the City's draw upon the Letter of Credit or use of the cash Security. The rights reserved to the Commissioner or the City under the Letter of Credit or any cash Security are in addition to any rights they may have under this Lease or under law.

(b) Qualified Issuers. The Letter of Credit called for in this Lease must be issued by companies or financial institutions having a rating of "A" or better as determined by Standard and Poor's or by Moody's Investors Service, Inc., or a net worth of at least \$500,000,000.00 unless otherwise approved in writing by the Commissioner. If any draw requires personal appearance by a City representative, such shall occur at a location in Chicago or, if the issuer does not have an office in Chicago, the City shall be entitled to draw on the Letter of Credit for any travel expenses incurred by the City.

(c) Right to Require Replacement of Letter of Credit. If the financial condition of the institution issuing the Letter of Credit materially and adversely changes, the Commissioner may, at any time, require that the Letter of Credit be replaced with a Letter of Credit from another institution and in accordance with the requirements set forth in this Section.



(d) No Excuse from Performance. None of the provisions contained in this Lease nor in the Letter of Credit required under this Lease excuse Tenant from faithfully performing in accordance with the terms and conditions of this Lease or limit the liability of Tenant under this Lease for any and all damages in excess of the amounts of the Letter of Credit.

(e) Non-Waiver. Notwithstanding anything to the contrary contained in this Lease, the failure of the Commissioner to draw upon the Letter of Credit required under this Lease or to require Tenant to replace the Letter of Credit at any time or times when the Commissioner has the right to do so under this Lease does not waive or modify the Commissioner's rights to draw upon the Letter of Credit and to require Tenant to maintain or, as the case may be, replace the Letter of Credit, all as provided in this **Article 5**.

## 5.6 Reports.

(a) Monthly. Tenant must furnish to the Commissioner on or before the tenth business day (10<sup>th</sup>) day of each month falling wholly or in part within the Term of this Lease, a complete statement, certified by an authorized representative of Tenant, showing in all reasonable detail, the amount of Gross Receipts derived from each Concession Location and by category of concession during the preceding month and the calculation of Percentage Rent and Contingent Fee due from Tenant for the preceding month (the "**Monthly Certified Statement**").

Tenant must also furnish a balance scorecard with key performance indicators including, but not limited to, customer satisfaction, point of purchase, incremental sales, average purchase value, and sales per enplanement.

(b) Quarterly.

Tenant must furnish to the Commissioner on or before the tenth (10<sup>th</sup>) business day of April, July, October, and January a presentation on the following:

Quarterly analysis of Sales and Revenue by location and by category;

Quarterly analysis of Sales and Revenue versus projections by location and category; and

Proposed marketing initiatives.

(c) Annually.

(i) Tenant also must furnish to Commissioner no later than one hundred twenty (120) days following the end of each Lease Year and within one hundred twenty (120) days after the expiration or termination of this Lease, a complete

statement of the amount of Concession Fee payable by Tenant for such Lease Year certified by an independent certified public accountant engaged by Tenant, showing in all reasonable detail the amount of the MAG, Percentage Rent and Contingent Fee due from Tenant for the preceding Lease Year (the "**Annual Certified Statement**"). The Commissioner may, from time to time, reasonably require upon not less than thirty (30) days prior written notice to Tenant, copies of all Subtenants returns and other information filed with respect to Illinois sales and use taxes as well as such copies of the respective annual certified statements received from Subtenants, and other reasonable financial and statistical reports as requested.

(ii) Tenant's Annual Certified Statement must include a breakdown of Subtenants Gross Receipts by month generated by the Concession Program for each Subtenant by location. Tenant's Annual Certified Statement shall include a standard non-qualified opinion of an independent certified public accountant as to the accuracy of the Annual Certified Statement.

(d) All such reports and statements described in this **Article 5** shall be prepared on a form approved by the Commissioner, such approval not to be unreasonably withheld. If Tenant fails to timely furnish to the Commissioner any Monthly Certified Statement or Annual Certified Statement required under this Lease or if the independent certified public accountant's opinion is qualified or conditioned in any material manner, the Commissioner has the right (but is not obligated) without notice, to conduct an audit of Tenant's and, as needed, Subtenants' books and records and to prepare the statements at Tenant's sole cost and expense. Tenant must also provide the Commissioner with such other reasonable financial or statistical reports and information concerning the Concession Program or any part thereof, in the form as may be reasonably required from time to time by the Commissioner.

5.7 Adjustments Based Upon Annual Certified Statements. In the event that the Annual Certified Statement required under **Article 5** indicates an underpayment for any Lease Year or portion thereof of the Term, Tenant shall pay the difference between the amounts paid under **Article 5** and the amount due based on the Annual Certified Statement and if such underpayment is in excess of two percent (2%), Tenant shall also pay interest thereon at the Default Rate from the date or dates when such amounts were originally due. Such payment shall be made no later than fifteen (15) days from the time that the Annual Certified Statement is due. In the event that the Annual Certified Statement indicates an overpayment for any Lease Year or portion thereof during the Term, the City, upon approval of such Annual Certified Statement, shall reimburse Tenant, for the difference between the amounts paid by Tenant under **Article 5** and the amount due based upon the Annual Certified Statement or as a credit against future payments of Rent hereunder until fully applied. In the event that this Lease is terminated in accordance with the terms hereof, such reimbursement shall be made as a lump sum payment within ninety (90) days after the expiration or earlier termination of this Lease.

5.8 Books, Records and Audits.

(a) Except as provided below, Tenant and its Subtenants shall maintain at their respective principal business offices located in the United States and to make the same available for inspection in Chicago full, complete and proper books, records and accounts in accordance with generally accepted accounting procedures relating to and setting forth the Gross Receipts, both for cash and on credit, and must require and cause its operations personnel to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by the Subtenants. The books and source documents to be kept by the Subtenants shall include true copies of all federal, state and local tax returns and reports, daily receipts from all sales and other pertinent original sales records and records of any other transactions conducted in or from the Concession Premises by anyone conducting business in or from the Concession Premises. Pertinent original sales records for Subtenants are to include: (i) cash register tapes, including tapes from temporary registers; (ii) sequentially numbered transactions; (iii) original records indicating that merchandise returned by customers was purchased at each Subtenants Premises by the customers; (iv) detailed original records of any exclusions or deductions from Gross Receipts; (v) sales tax records; (vi) employment records of Tenant and Subtenant employees; and (vii) such other sales records, if any, that would normally be examined by an independent accountant under accepted auditing standards in performing an audit of the Gross Receipts. Tenant or its Subtenants (as the case may be) must maintain any such books, records, and source documents in a secure location for a period of five (5) years following the expiration of each Lease Year during this Lease and for the same period following the final Lease Year.

(b) Tenant shall cause each of its Subtenants to record at the time of each sale or other transaction, in the presence of the customer, all receipts from the sale or other transaction, whether for cash, credit or otherwise, in a FMS having a cumulative total that must be sealed in a manner approved by the Commissioner and that must possess such other features as reasonably required by the Commissioner. The books, records and accounts, including any sales tax reports that Tenant and its Subtenants may be required to furnish to any government or governmental agency, must at all reasonable times be open to the inspection (including the making of copies or extracts) of the Commissioner, the Commissioner's auditor or other authorized representative or agent at Tenant's or the applicable Subtenant's principal business office located in the United States (with copies thereof to be made available for inspection within the City of Chicago, if so requested by the Commissioner) for a period of at least three (3) years after the expiration of each calendar year falling wholly or in part within the Term. All of the costs and expenses incurred in any such examination or inspection by the City shall be at the City's sole cost and expense except as otherwise provided in this Lease. Tenant shall conduct audits of the books and records of its Subtenants from time to time as Tenant deems necessary or desirable and shall conduct such an audit of each Subtenants at least once every three (3) Lease Years. Notwithstanding the foregoing, Tenant shall not be required to audit the books and records of any Subtenants more often than once per Lease Year and not more often than two (2) times over a period of three (3) Lease Years.

(c) The acceptance by the Commissioner of payments of any Premises Rent is

without prejudice to the Commissioner's right to conduct an examination of the Tenant's books and records related to Rent and/or its Subtenant's books and records relating to Gross Receipts at the Concession Premises, in order to verify the amount of Rent due hereunder and to verify the amount of Gross Receipts made in and from the Concession Premises.

(d) After providing Tenant at least three (3) days prior written notice, the Commissioner may inspect the books and records of any Subtenants but shall provide five (5) days prior written notice in the case of inspection of Tenant's books and records. Further, at its option, the Commissioner may at any reasonable time, upon no less than ten (10) days prior written notice to Tenant cause a complete audit to be made of Tenant's entire records relating to the Concession Premises for the period covered by any statement issued by Tenant as above set forth. If the audit discloses that Tenant's statement of Rent is understated to the extent of:

(i) Three percent (3%) or more, Tenant must promptly pay the City the cost of the audit in addition to the deficiency (plus any interest on the deficiency at the Default Rate), which deficiency is payable in any event; and if

(ii) Five percent (5%) or more due to Tenant's fraudulent or willful misconduct, an Event of Default is considered to have occurred, and the City shall have in addition to all other remedies available under this Lease, at law, or in equity, the Commissioner has the right to terminate this Lease immediately upon giving notice to Tenant, without any opportunity for Tenant to cure.

In addition to the foregoing, and in addition to all other remedies available to the City, if Tenant or the City's auditor schedules a date for an audit of Tenant's records and Tenant fails to be available or otherwise fails to comply with the reasonable requirements for the audit, Tenant must pay all reasonable costs and expenses associated with the scheduled audit.

5.9 Lien. In addition to any liens as may arise under Illinois law, the City has a contractual lien under this Lease on all property, including Tenant's personal property located on the Premises, as security for non-payment of any Rents due.

## **ARTICLE 6**

### **TRANSFERS OTHER THAN SUBLEASES**

#### **6.1 City.**

The City expressly reserves the right to sell, assign or otherwise transfer all or any part of its interest under this Lease, at any time and to any third party. Upon the effective date of such a sale, assignment or transfer, the City is forever relieved, from and after such date of any and all obligations arising under or out of this Lease to the extent such obligations

are assumed by the buyer, assignee or transferee.

6.2 Tenant.

(a) Transfers. Except as expressly provided elsewhere in this Lease, neither this Lease nor any interest of Tenant in this Lease or the leasehold created hereby shall be directly or indirectly sublet, sold, assigned, transferred, mortgaged, pledged or otherwise disposed of or encumbered (each considered a "Transfer") without the express written consent of the City. A change in ownership or control of Tenant, either directly or indirectly, shall be deemed a Transfer.

(b) City Consent. Whenever City consent is required, a Transfer of all of Tenant's interest in this Lease or the leasehold created hereby shall require consent of the City Council of the City of Chicago, which may be withheld in the sole discretion of the City Council, and a Transfer of less than all of Tenant's interest shall require consent of the Commissioner. In determining whether or not to consent to a Transfer, City will take into account, without limitation, the promotion of a competitive environment at the Airport in light of the then-existing circumstances, the proposed use of the Premises by any transferee, the balanced utilization of the Airport facilities, operational considerations relating to the characteristics of the proposed transferee, the financial condition of the proposed transferee and the impact on City's ability to exercise control over the Airport. Consent by City to any type of Transfer shall not in any way be construed to relieve Tenant from obtaining further authorization from City for any subsequent Transfer of any nature whatsoever.

(c) Transfers not requiring City Consent.

(i) Transfers to Affiliates. Tenant may effect a Transfer to an Affiliate of Tenant without City consent with sixty (60) days' prior notice to the City, provided that: (i) the proposed transferee Affiliate is in compliance with all of the legal requirements of this Lease, (ii) the proposed transferee Affiliate is sufficiently financially responsible, experienced and capable to perform Tenant's obligations under this Lease, (iii) the proposed transferee Affiliate assumes all of Tenant's obligations under this Agreement, (iv) in the Commissioner's reasonable opinion, the Transfer will not have a material adverse effect upon the Airport or operation of the Terminal, (v) no Event of Default then exists and (vi) the transferee Affiliate executes the City's EDS form and certifies therein compliance with all laws and ordinances referenced.

(ii) Transfers Due to Trading on a National or International Exchange. Transfers that are changes in ownership of Tenant due to trading in or issuance of a parent company's stock or other forms of ownership interests on a national or international exchange shall not be subject to City consent; however, Tenant shall promptly notify the City of any such change in ownership which would require disclosure of a new owner or disclosure of other changes in percentage ownership on the then-current version of the City's EDS form, and Tenant shall submit

revised EDS form(s) accordingly. As used in this provision, “national or international exchange” means the New York Stock Exchange, the American Stock Exchange, or their foreign equivalent.

(d) Tenant to Remain Primarily Liable. Notwithstanding any Transfer, with or without City consent, Tenant shall remain fully liable for the payment of all of its fees and fully responsible for the performance of all of its other obligations hereunder, except where the City Council consents to the Transfer and expressly relieves Tenant of such liability and responsibility.

(e) Requests for City Consent. Any and all requests by Tenant for City consent to a Transfer shall be made in writing to City. Upon request by City, Tenant shall provide copies of the proposed documents of Transfer. Requests for City consent to a Transfer shall completely disclose any and all monetary and non-monetary considerations made or to be made to Tenant for said Transfer and shall include completed EDSs from the proposed transferee. Any or all of the requests by Tenant for consents under this Section must be made in writing and provided to the Commissioner (a) at least 60 days prior to the proposed Transfer if the Commissioner’s consent is required; and (b) at least 120 days prior to a proposed Transfer if the City Council’s consent is required, unless the City determines that more time is required.

(f) City’s Right to Collect from Transferee. If any Transfer shall occur, with or without City consent, City may collect fees and other sums to be paid under the Lease from any assignee, subleasee or other transferee of Tenant, and in such event shall apply the net amount collected to the fees and other sums payable by Tenant hereunder without such action by City releasing Tenant from any of its obligations hereunder. If any Transfer requiring City consent shall occur without City consent, and if City collects fees and other sums from the transferee and applies the net amount collected in the manner described in the preceding sentence, such actions by City shall not be deemed to be a waiver of the consent requirement or constitute acceptance of such transferee.

(g) Transfers Without City Consent Void. Any Transfer requiring City consent made without such City consent shall be void and of no effect. Further, any such Transfer shall constitute an Event of Default subject to all remedies, including termination of this Lease at the City’s option, and does not relieve Tenant of any of its obligations under this Lease for the balance of the Term. This Section applies to prohibit a Transfer, such as an assignment by a receiver or trustee in any federal or state bankruptcy, insolvency or other proceedings or by operation of law. Under no circumstances will any failure by the Commissioner to act on or submit any request by Tenant or any Subtenants to City Council or to take any other action as provided in this Lease be deemed or construed to constitute consent to the Tenant’s or any Subtenants’ request by the Commissioner or by the City Council.

(h) Excess Rent. In the event of a permitted Transfer of all or any portion of the Premises or Transfer of all or any portion of the Term, where the fees or rent payable to Tenant exceed the Rent or pro rata portion of the Rent payable by Tenant to City under

this Lease, as the case may be, for the Premises or Term, Tenant must pay the City monthly, as Additional Rent, at the same time as the monthly installments of other Rent under this Lease that are payable in monthly installments, the excess of the fees or rent payable to Tenant pursuant to the Transfer over the Rent payable to the City under this Lease.

(i) City Expenses. All reasonable costs and expenses actually incurred by the City in connection with processing its consent to a proposed Transfer shall be payable to the City as Additional Rent.

(j) Subleases. Although Subleases are not considered Transfers for purposes of this Article, similar restrictive provisions on Transfers will be included in every Sublease so that Subtenants may not Transfer their Subleases or their interests in them without Tenant and Commissioner's consent.

## **ARTICLE 7**

### **CONCESSION MANAGEMENT AND OPERATIONS**

7.1 Concession Plan. Tenant shall develop, market, manage and operate the Concession Program so as to provide a first-class, high-quality customer service oriented Concession Program in accordance with the Concession Plan. The initial Concession Plan shall be deemed to be the plan for operation of the Airport's concessions as contained in the CDA-Approved Tenant Concept/Development Plan attached hereto as **Exhibit B**. Tenant may propose amendments or modifications to the Concession Plan from time to time, subject to the approval of the City which may be granted or withheld in its sole and absolute discretion. Further, the City shall have the right to direct Tenant to alter or modify the Concession Plan as it deems reasonably necessary or appropriate to meet the demonstrated needs of Enplaned Passengers in the Terminal.

7.2 Tenant's Concession Management Program Responsibilities. In managing and operating the Concession Program, Tenant shall, without limitation, perform the following duties:

(a) Develop, market, manage, and operate the Concession Program pursuant to the terms of this Lease;

(b) Enter into Subleases of the Concession Premises and any Storage Premises, as the case may be, in accordance with the Concession Plan. All Subtenants (other than the Initial Operators and the existing operators as defined in **Article 3**) shall require the written consent of the City, and their Subleases shall be subject to and subordinate to this Lease. As provided in Article 3, Subleases shall contain similar enforcement clauses (including, without limitation, default and penalty clauses) to those contained in this Lease, shall be consistent with this Lease and shall be otherwise substantially similar to

the Sublease form submitted by Tenant and approved by the City pursuant to **Section 3.4** hereof;

- (c) Bill and use its best efforts to collect all amounts payable to Tenant by each and every Subtenant pursuant to the terms of the respective Subleases;
- (d) Monitor the sales activity of each and every Subtenant;
- (e) Ensure that the Subtenants operate in a manner comparable to retailers in first-class dining and retail projects in the Chicago metropolitan area and so as to not interfere with Airport operations or create any hazardous situation;
- (f) Conduct audits of Subtenants compliance with the Service and Performance Operating Standards as provided below;
- (g) Continuously manage the Concession Plan and Concession Program and cause its Subtenants to continuously operate in accordance with this Lease;
- (h) Monitor and use commercially reasonable and good faith efforts to enforce the compliance by all Subtenants of all ACDBE requirements as set forth in this Lease;
- (i) Use good faith efforts to assist the City's Construction Manager to monitor and report Tenant's and Subtenants' compliance with their respective MBE/WBE Participation Plans;
- (j) Maximize the financial return to the City and Tenant and, in addition, provide quality services to the public in accordance with the pricing policies set forth in this Lease;
- (k) Understand and implement those changing trends in the retail, food and beverage, news & gifts and service industries, to the extent permitted to do so under the Subleases;
- (l) Attend meetings at the request of the Commissioner with respect to Tenant's obligations under this Lease and issues related to the Concession Plan and Concession Program. Tenant shall cause members of its Operational Staff as defined below or senior employees or staff (and, if needed, Subtenants representatives) to attend such meetings as may be reasonably requested by the Commissioner;
- (m) Provide the City with such data and information with respect to the Concession Plan and Concession Program as the City may reasonably request from time to time, including sales forecasts; and
- (n) Oversee, manage, and use diligent efforts to enforce all obligations by Subtenants with the provisions of this Lease and the respective Subleases. Tenant shall not unjustly discriminate among Subtenants in the enforcement of their Subleases.



- (o) Coordinate and or perform monthly training for concession employees including but not limited to an airport ambassador training program encompassing customer service, airport facility knowledge, CPR, and AED training.
- (p) Perform annual passenger market survey to assess customer service and customer satisfaction.
- (q) Monitor, approve and facilitate the submission of airport security badge applications in accordance with all federal regulations.
- (r) Partner with City personnel to integrate innovative means of using online presence to market Tenants. This includes uses of social media, public address system, targeted media campaigns, and integration with advertising concessionaire.

7.3 Service to the Public. Tenant acknowledges and agrees that the Concession Program operations are an important service to users of the Airport and vital for the economic development of the City, and that therefore Tenant and the Subtenants shall conduct themselves in a first-class, customer service focused, efficient, courteous and accommodating manner. Tenant shall, and shall cause the Subtenants to, render those public services generally performed by parties providing concession operations at the Airport, including, without limitation, making reasonable change, giving directions, welcoming and assisting international travelers and assisting the public generally. Tenant shall have the authority to manage and administer the Concession Program, subject to the rights of the City specified herein to direct Tenant in order to ensure that the Airport operates in the most effective and efficient way possible, and to supervise the performance of Tenant and the Subtenants as provided in this Lease.

7.4 Maximization of Business. Tenant covenants to take all reasonable measures to maintain, develop and facilitate the increase of the business conducted by the Subtenants and, in addition, shall provide quality services to the public in accordance with the pricing policies set forth in this Lease. Tenant further covenants that it will not divert or cause or allow to be diverted any business from the Concession Premises to other locations outside of the Terminal.

7.5 Obligation to Discontinue. Tenant agrees to promptly discontinue or remedy any practice of the Concession Program operations or the sales of any items or the offering of any services which are objectionable to the Commissioner and shall use commercially reasonable efforts cause the Subtenants to do likewise. Live entertainment in the Terminal is prohibited without the advance written approval of the Commissioner.

7.6 Annual Marketing Plan. Tenant shall no later than forty-five (45) days prior to the expiration of each Lease Year of the Term, present an annual marketing plan describing the Tenant's strategy for concession operations for the subsequent Lease Year ("Annual Marketing Plan") to the Commissioner for review and approval which approval shall not be unreasonably withheld, conditioned or delayed. Such Annual Marketing Plan shall contain a summary on proposed advertising events, sales promotions, public relations, customer service training for Subtenants and results of Subtenants secret shops and Subtenants employee incentive contests and other items.

7.7 Standards of Service. Tenant shall comply with the following standards of service in the management of the Concession Program.

(a) Staffing/Personnel. Tenant shall employ a full-time trained professional staff ("**Operating Staff**") at all times during the Term of this Lease of sufficient size, expertise, ability, suitability, and experience in retail, customer service and lease management to carry out all of its obligations and responsibilities under this Lease and Tenant shall maintain a sufficient number of Operating Staff on-site at the Premises during the normal airport business hours (but such Operating Staff shall be available at other times as provided below) in accordance with the staffing plan submitted by Tenant (the "**Staffing Plan**"). Such Staffing Plan, upon approval by the City, shall be modified upon the reasonable request of the City. The Parties hereby agree that the Staffing Plan reflects that Tenant's Operating Staff shall, at a minimum include a general manager, assistant general manager, marketing and operations manager, tenant construction coordinator, leasing manager, an ACDBE coordinator, and an administrative assistant. Tenant shall cause its Subtenants to maintain a sufficient number of personnel including, without limitation, cashiers, management and supervisory personnel to fully meet the needs of customers during the Service Hours. Tenant's operating staff on the Premises shall be available by telephone and/or such other communication device as the City may require during the service hours.

(b) Service Hours. The Airport is open for business every day, three hundred sixty-five (365) days per year and is busy during non-traditional working and shopping hours. Accordingly, "**Service Hours**" shall include the hours the Concession Program shall be open as directed by the City from time to time, including without limitation, the hours necessary to provide service for the earliest daily incoming and outgoing flights (including the provision of service to passengers who arrive in advance of same) and the latest daily incoming and outgoing flights, including non-scheduled activity by charter airlines. Facilities must be open 365 days a year with the operating hours and staffing levels that support passenger activity at the Airport. Standard service hours are from 4:00 a.m. to 12:01 a.m. daily. However, some locations may be required to open early or stay open later due to the scheduled flights or at the Commissioner's sole discretion. The Tenant must maintain at least four locations with 24-hour per day operations including one location pre-security and three locations post-security. To that end, Tenant shall cause its Subtenants to open and operate the Concession Program, during hours directed by the City; provided that, if passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the reasonable opinion of the City, the Concession Program shall be open at times not then scheduled. The City reserves the right to direct Tenant to change or adjust the Service Hours, and Tenant agrees and covenants to cause the Subtenants to open and adequately staff the Concession Program during the hours directed by the City. The City shall give Tenant at least a thirty (30) day notice of any permanent adjustment in Service Hours. In addition, in an emergency, as determined by the City, Tenant shall use commercially reasonable efforts to cause the Subtenants operating essential concessions (such as newsstands and food & beverage concessions) to open or keep open the Concession Program or portions thereof upon two

(2) hours prior verbal notice. The Service Hours and the need for flexibility as described herein shall be included in all Subleases.

(c) Customer Service. Tenant's and Subtenant's employees shall provide a high level of customer service consistent with a first class concession program. Tenant's and its Subtenants employees shall be courteous, neat in appearance, appropriately attired and shall use skill and diligence in the conduct of business. Tenant's and Subtenant's employees shall have sufficient knowledge of the Airport Terminal and to promptly and courteously direct and assist passengers in and around the Terminals , including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals and ground transportation. No employee of Tenant or its Subtenants shall act in a loud, offensive or otherwise objectionable manner or in a manner detrimental to the best interests of the City. Each Concession Premises shall accept all major credit cards and shall provide change-making services without charge upon request. Tenant shall provide initial and on-going customer service training to its and its Subtenants employees in order to ensure compliance with the specific service and performance operating standards and to provide a high level of customer service, consistent with a first class food and beverage operation in general.

(d) Concession Premises facilities and Equipment. Tenant shall cause its Subtenants to operate the Concession Premises in a well-organized, safe, professional, clean and attractive manner and condition. All Operating Equipment shall be maintained in good condition and repair.

(e) Material Transportation. It is necessary due to the number of vendors in the Terminal buildings that the City protects the airside operation area and the landside curb utilization integrity for the flow of airline passengers. Therefore, Concessionaire agrees that the City, in its sole discretion, may require that all merchandise and materials ordered by Tenant for resale or operation of its business on the Premises be delivered only within the times and at the locations authorized by Airport personnel. In transporting merchandise and materials associated with operating the concessions to and from the premises The Tenant shall use only carts or conveyances that are sealed, leak-proof, and equipped with wheels suitable for operating on carpet or other flooring without damage thereto, as approved by the City. Airport personnel may require changes in the method, location or time of the delivery of Tenant's merchandise or materials.

(f) Technology. During the Term of the Agreement, Tenant shall be required to implement a first-class, nationally-recognized FMS. Such FMS shall be compatible with all point of sale systems, and shall be capable of providing the sales data described in Sections 5.8(b) and 7.19 of the Lease. If the City instructs Tenant to use technology, equipment, software and systems, the City shall not be obligated to furnish Tenant with such technology. If the Tenant fails to comply within the time designated by the City, default rate penalties shall apply.

All business transactions, which occur in the Premises, must be completed by a register

transaction and a receipt must be offered to each customer.

During the term of the Agreement, the Airport reserves the right to implement procedures for submitting concessions data which does not only include sales data, product lists, and price comparisons. The Tenant shall use commercially reasonable efforts to cooperate with the Airport in implementing the appropriate technology to adhere to procedures.

(g) Trash and Refuse. The Tenant shall provide a complete and proper arrangement for the adequate sanitary handling of all trash and other refuse caused as a result of the operation of the Premises. The Tenant shall provide and use suitable sealed fireproof receptacles for all trash and other refuse on or generated in connection with the Tenant's use of the Premises. Piling of boxes, cartons, barrels or other similar items in, or within view from, a public area shall not be permitted. The Tenant shall comply with all Airport rules and regulations relative to trash, waste disposal, or recycling that may be made from time-to-time, and the Tenant shall pay the costs associated with trash removal and disposal, as it may be amended from time to time.

(h) Customer Complaints. In the event that Tenant or any of its Subtenants receive any written complaint concerning the Concession Program or any concession operations therein, Tenant shall within twenty-four (24) hours of receipt of such complaint by Tenant forward a copy of the complaint to the Commissioner and Tenant shall or shall cause its Subtenants to respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint. Tenant shall submit a copy of its response to complaint to the Commissioner upon issuance of said response if from Tenant or upon receipt of said response if from a Subtenants. If the City receives a written complaint regarding the Concession Program or any concession operations therein, the City shall forward a copy of the same to Tenant and Tenant shall respond as set forth herein.

(i) General Manager/Emergency Contact. In order to assure compliance with the terms, covenants and conditions of this Lease, Tenant shall retain a qualified competent manager suitably experienced and acceptable to the City to provide on-site management of the Concession Program on a full-time basis to manage all of Tenant's obligations and responsibilities under this Lease. Tenant shall notify the City of the identity of its General Manager and of any changes to the staff. Tenant shall assure that the General Manager or his or her designee is available by telephone and such other communication device as the City may require, on a 24 hour per day, seven (7) days per week basis to respond to the City on day to day issues and in the event of emergencies. Tenant shall notify the City of the name and telephone number of such representative and shall update such information as necessary. If any General Manager, in the City's reasonable judgment, does not perform up to standards consistent with the fulfillment of Tenant's obligation and responsibilities under this Lease, Tenant, in good faith, shall promptly take steps to remedy any such failure in performance.

(j) Continuous Operation. As provided in Article 3, Tenant hereby covenants that it shall continuously sublease, market, manage and operate any available Concession

Premises pursuant to the terms of this Lease. and cause its Subtenants to continuously and uninterruptedly occupy and use the Concession Premises for the Concession Program and shall keep the Concession Program open for business during the Service Hours, except as may otherwise be permitted under this Lease or to the extent Tenant or any of its Subtenants may be prevented therefrom by force majeure, or occasioned by the City's negligence or willful misconduct. Tenant acknowledges that the Concession Program are essential services at the Terminal and Tenant's failure to cause its Subtenants to provide continuous operation of the Concession Program or any portion thereof will result in damages to the City that are difficult to quantify in light of airport operational and customer service factors. Therefore, in addition to any other remedies set forth herein, the City may assess, and if so assessed, Tenant shall pay to the City as liquidated damages and not as a penalty, the amount of equal to the average daily revenue generated at each location in the peak month of operations plus 10% for each day the Concession Program is not continuously operated.

7.8 Concession Monitoring. Performance Standards and Audits. Tenant acknowledges the desire of the City to provide first class, customer service oriented concessions to the traveling public and other customers of the Airport, consistent with the provisions of this Lease. Tenant shall use commercially reasonable efforts to cause its Subtenants to maintain the Concession Premises in a clean, neat, sanitary and safe condition in accordance with the service and operating standards which have been reviewed and approved by the City, and in accordance with the provisions of this Lease. Tenant shall work with its Subtenants to achieve and maintain compliance with such requirements, including but not limited to, conducting daily walk through inspections and periodic meetings with Subtenants on an as needed basis.

In addition, Tenant shall conduct formal performance audits of a selection of the Concession Premises on a quarterly basis and more frequently as needed, without notice to any Subtenants, to ensure that all requirements of this Lease and the Subleases are met. Such audits shall be conducted by Tenant or by consultants hired by Tenant, at no expense to the City. The City reserves the right to participate in such audits, at its discretion and at its own expense, to conduct its own audits in accordance with the provisions hereof; without notice to any Subtenants and to request that Tenant conduct an audit at a time not then scheduled. The City may enter any Concession Premises for the purposes described hereunder, at any time, without notice to Tenant or any Subtenants.

Tenant shall notify each Subtenant of any deficiencies and of any failure to meet a minimum performance standard and shall use reasonable efforts to cause the Subtenants to correct the deficiency and Tenant shall assess and collect the appropriate liquidated damages. Tenant may, in its reasonable business judgment and in light of the circumstances then present in the Airport, use such judgment and circumstances in determining whether liquidated damages shall be assessed and collected whenever a minimum performance standard is not met. Such deficiencies and the amount of the liquidated damages imposed shall be reported to the City. If the deficiency is not corrected within any applicable grace period, Tenant may impose and collect the appropriate additional liquidated damages or Tenant may pursue other remedies provided in the Sublease or available at law or in equity. If assessed, liquidated damages imposed for failure to correct a deficiency within the applicable grace period or for failing to meet a minimum

performance standard shall accrue on a daily basis until the deficiency is corrected and shall be reported by Tenant to the City. All liquidated damages collected under this Section shall be retained by Tenant to cover its overhead administrative expenses.

If the City determines that a Subtenants has failed to properly correct any deficiency after receiving notice from Tenant, the City shall have the right, but not the obligation, to so notify the Tenant in writing as to the steps to be taken by Tenant and Subtenants and Tenant shall thereafter pursue any and all other appropriate remedies available pursuant to the Sublease, and at law or in equity.

The City expressly reserves the right to establish its own concession monitoring program and Tenant agrees to comply with and to cause its Subtenants to comply with the provisions of the City's concession monitoring program following sixty (60) days prior written notice to Tenant by the City.

7.9 Value Pricing. The City has established a Value Pricing policy for all Tenants at the Airport. The policy generally requires Tenants to charge a price for a product or service at the Airport of no more than 10% higher than the price charged for the same product or service at similar stores in the City (each hereinafter referred to as a "Benchmark Store"). Benchmark Stores will be proposed by the Tenant subject to approval by the City. The following locations and areas shall be excluded when establishing Benchmark Stores: hotel restaurants or kiosks, bus and train transportation centers, entertainment centers, arenas, theaters, convention centers or similar venues. Benchmark Store exclusions may change throughout the Term as determined necessary by the City. If the Tenant or its Subtenants currently operate the exact other locations in the City of Chicago, then these locations may be designated Benchmark Stores. Otherwise, Benchmark Stores will be selected based on stores that are comparable to the proposed concept. Notwithstanding the aforementioned exclusions, in the case of a news and gift store where Tenant or its Subtenant currently operate a same-brand location in the City of Chicago, in a transportation center, and that location has its own customer walk-up street access, the City may consider allowing Tenant to propose that location as a Benchmark Store. In such a case, the Value Pricing policy prohibits mark-up of pricing higher than that of the applicable Benchmark Store because that store already is in a transportation center.

7.10 Other Pricing Policy. The Commissioner may adopt other reasonable pricing policies, with which Tenant and Subtenants shall comply, to restrict overcharging and price gouging by Subtenants due to their dominant market position and any exclusive rights granted, but in no event shall the Commissioner require prices lower than the established Value Pricing.

7.11 Subtenants Sales. Tenant shall monitor the sales activity of each and every Subtenant and shall develop an action plan (with respect to merchandising, management and marketing efforts) for Subtenants who do not meet sales projections and work with Subtenants to improve performance. Tenant shall inform the City of such failures and shall propose corrective action to be taken and the time frame during which such steps shall be taken to improve Subtenants' sales performance for the City's approval. The City may modify, alter or amend such corrective action plan and may direct Tenant to take other reasonable measures if the Subtenant's performance does not improve within such time frame as permitted under the Sublease, and at law or in

equity. The foregoing shall not be applicable if the failure of a Subtenant to meet its sales projections results primarily due to factors beyond the Subtenant's control, such as a decrease in airlines operating from the Terminal or a decrease in the Enplaned Passengers in the Terminal, for example. If a Subtenants sales fall below a pre-established targeted level for more than six (6) continuous months, the Tenant must work with Subtenant to resolve (by merchandising, rebranding or terminating the subcontract) the sales target deficiency.

7.12 Employee Discounts. Tenant and its Subtenants shall offer at a minimum a price discount of ten percent (10%) to all badged airport employees, active duty military personnel and senior citizens age 65 or older on the sale of food and non-alcoholic beverages. Additionally, the concession must post conspicuously that such discounts are offered.

7.13 Vendors, Suppliers and Contractors. Except as otherwise provided herein, Tenant and its Subtenants shall have the right to obtain supplies or services from suppliers, vendors or contractors of their own choice for their operations at the Airport, provided that the City reserves the right to license and regulate all persons or companies doing business on the Airport and to prohibit persons from engaging in aeronautical activities, the provision of ground transportation services or any commercial activities at the Airport except in accordance with this Lease and agreements, concession contracts, permits or operating agreements entered into between the City and said persons.

7.14 Access for Delivery and Removal. Tenant shall not and shall not allow its Subtenants to receive or remove supplies, material, equipment, rubbish or debris through any Common Areas or service areas or otherwise utilize said areas, except at such times and in such manner and by such route as may from time to time be designated by the City. In connection with the Redevelopment and the new Concession Program, Tenant shall upon request submit to the City a plan for the removal of rubbish and for the delivery and removal of supplies, material and equipment, subject to approval by the City in its sole and absolute discretion. The City reserves the right to require Tenant and its Subtenants to participate in the City's recycling program.

7.15 Efficient Use of Space. Tenant acknowledges that a portion of the Concession Premises is to be used by the traveling public. Tenant shall make and shall cause its Subtenants to make available such space to the traveling public on a nondiscriminatory basis and shall coordinate its activities and operations with abutting tenants and the City so as to maximize efficient use of available space.

7.16 No Waste of Nuisance. Tenant covenants and agrees that it shall not and shall not allow Its Subtenants to injure, deface or otherwise harm the Premises or use the Premises in any manner that will constitute waste, and that it shall not cause or permit any unlawful conduct, unreasonable annoyance or nuisance to exist on the Premises, nor permit any activity or omission which constitutes or results in unlawful conduct, unreasonable odor nor overload the floor of the Premises, nor permit any use of the Premises which will invalidate or increase the premiums on any of the City's insurance.

7.17 Signs/Corporate Identification/Promotional Materials. Tenant shall not place or allow its Subtenants to place on the exterior walls of the Premises (including both interior and exterior

surfaces of windows and doors) or on any part of the Terminal outside the Premises, any signs, symbols, advertisements or the like visible from outside of the Premises without the prior written consent of the City in accordance with the City approval process, which consent may be withheld in the City's sole and absolute discretion. Tenant acknowledges that a separate contract for advertising at all of the City's facilities is in effect, and that all signage, including promotional material and activities of Tenant and Subtenants may be restricted by and subject to its provisions.

7.18 Cleaning, Janitorial and Pest Control. Tenant shall or shall cause its Subtenants to provide cleaning, janitorial and pest control services to the Concession Premises. Tenant shall be entitled to retain an independent third party to provide such cleaning, janitorial and pest control services and charge the actual costs incurred, without any administrative mark-up or profit to Tenant, proportionately to all Subtenants as Operating Costs.

7.19 Intentionally Omitted.

7.20 Employee Retention. Pursuant to its Employee Retention Plan, Tenant will provide, and cause its Subtenants to provide, interviews to all employees of incumbent Tenants who choose to be interviewed. Participation in the interviewing process is at the sole election of the employees. The Tenant and its Subtenants will keep records concerning their implementation of the plan and will provide such records to the City upon request.

7.21 Minimum Wage. Tenant agrees that this Agreement is subject to Mayoral Executive Order 2014-1 ("Executive Order 2014-1"), which provides for a fair and adequate Minimum Wage to be paid to employees of City concessionaries and their contractors, subcontractors and sub-lessees. Tenant and any of its Subtenants, subcontractors, and subleasees must pay the Minimum Wage set forth in Executive Order 2014-1 and comply with any applicable regulations issued by the Chief Procurement Office. As of July 1, 2016 the Minimum Wage for all employees to be paid pursuant to Executive Order 2014-1 is \$13.15 per hour. This requirement applies to any employee working at the Airport. When the employer takes an allowance for gratuities pursuant to 820 ILCS 105/3(c), the employer shall base the calculation of the amount to be paid by the employer to the employee on the minimum wage as set forth in 820 ILCS 105/3, and add \$1.00 per hour to that amount. As of July 1, 2016, the resulting amount to be paid, taking an allowance for gratuities, is \$6.05 per hour.

Every July 1, these hourly wages shall increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor. Any hourly wage increase shall be rounded up to the nearest multiple of \$0.05. Such increase shall remain in effect until any subsequent adjustment is made. On or before June 1 of each year, the City will make available to the Tenant a bulletin announcing the adjusted minimum hourly wages for the upcoming year.

Tenant, and any Subtenants, subcontractors, that pay an employee the wage for employees who receive gratuities, shall transmit to the City, in a manner provided by regulation, substantial evidence establishing both the amount that the employee received as gratuities during the relevant pay period or periods, and the fact that the employee did not return any part of those



gratuities to the Tenant, Subtenants, or subcontractor. If Tenant, Subtenants, or subcontractor, is required by the Minimum Wage Law to provide substantially similar data to the Illinois Department of Labor, the City may allow compliance with this requirement by filing the same documentation with the City. The City shall utilize this data to ensure that each employee receives, in combined salary and gratuities, at least the base hourly wage required under Executive Order 2014-1.

However, the Minimum Wage is not required to be paid to categories of employees subject to subsection 4(a)(2), subsection 4(a)(3), subsection 4(d), subsection 4(e), or Section 6 of the Illinois Minimum Wage Law. Nevertheless, the Minimum Wage is required to be paid to those workers described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Illinois Minimum Wage Law.

Additionally, the Minimum Wage is not required to be paid to employees subject to a collective bargaining agreement that provides for different wages than those required by Executive Order 2014-1, if that collective bargaining agreement was in force prior to October 1, 2014 or if that collective bargaining agreement clearly and specifically waives the requirements of the order.

This Minimum Wage section does not apply if Tenant or Subtenant is a not-for-profit organization having tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code and recognized under Illinois law governing not-for-profit corporations.

## **ARTICLE 8**

### **CONSTRUCTION, MAINTENANCE AND REPAIR**

8.1 **City Improvements.** The City shall deliver the Premises in its AS-IS Condition and the City shall also permit Tenant to take over the responsibility for the overall management of the existing concessions in the Premises including management of existing concession operators with respect to the operation of any concessions which shall continue to operate during the transition of the Concession Program and prior to the Redevelopment. The City shall not be obligated to make or cause to be made any improvements of any nature to the Premises except as and only to the extent expressly set forth in the Scope of Work. In the event that the City makes or causes any improvements to be made (“**City Improvements**”), the City shall own and maintain said City Improvements, unless otherwise agreed to in writing.

8.2 **City Maintenance and Repair.** The City shall repair and maintain in good condition the Common Areas, the exterior and the structural portions of the Premises and the Terminal, including the roofs and any building systems not required to be maintained by Tenant pursuant to this **Article 8** as well as the overall Airport property including the Landing Area.

8.3 **Tenant and Subtenants Improvements.**

(a) **General.** All Tenant Base Building Improvements and Subtenants Fixed

Improvements shall: (i) be constructed in accordance with Plans and Specifications approved in writing by the City; (ii) be constructed by Contractors pursuant to written construction contracts entered into between Tenant or Subtenants and the Contractor named therein; (iii) be constructed and installed in a good and workmanlike manner using only new (or recycled sustainable) materials; (iv) be constructed in compliance with all applicable statutes, ordinances, building codes, codes and rules, regulations, and directives of any local, state or federal entity having jurisdiction and all generally applicable procedures and requirements of the City including the City's CDG; (v) be constructed at Tenant's or Subtenant's sole expense and at such times and in such manner as the City may from time to time reasonably designate without unreasonable interference with or disruption of the operations of tenants or other occupants of the Terminal and the Airport; and (vi) become part of the Premises unless the City elects otherwise in accordance with the CDG.

(b) Plans and Specifications. Subject to Force Majeure as defined in this Lease or to events beyond Tenant's or any of its Subtenants' reasonable control, Tenant shall use diligent efforts to submit in a timely manner and cause its Subtenants to submit in a timely manner complete Plans and Specifications to the City for Tenant's Base Building Improvements and the Subtenants Fixed Improvements, including all storefronts and other designs in accordance with the requirements of the City approval process in a manner to allow for completion of construction of Tenant's Base Building Improvements and the Subtenants Fixed Improvements in accordance with the proposed Completion Dates set forth in the Redevelopment plan. All of such Plans and Specifications shall be submitted for approval by the City in accordance with the City approval process prior to the commencement of any construction. The City shall use its best efforts to notify Tenant in writing of its approval, disapproval or comments upon any Plans and Specifications submitted in accordance with the City approval process within thirty (30) days of its receipt. Within one hundred eighty (180) days of the completion of construction of the Tenant's Base Building Improvements or a Subtenant's Fixed Improvements, Tenant with respect to Tenant's Base Building Improvements shall deliver to and shall cause its Subtenants with respect to the Subtenant's Fixed Improvements to deliver to the Commissioner final and complete "as-built" Plans and Specifications as outlined in the CDG.

The City's approval of any Tenant or Subtenants Plans and Specifications may be withheld, granted or conditioned upon factors which it determines in its sole discretion has or may have an impact upon the City, the Airport, the Terminal or its efficient or productive operation thereof; including but not limited to, the removal of the proposed improvement, structure, alteration, modification, sign or addition upon termination or expiration of the Tenant's or any Subtenant's occupancy of the Concession Premises, if a Subtenants so desires to remove. The City shall notify Tenant in writing of its approval, disapproval or comments upon any request submitted in accordance with the CDG then in effect

The City's approval of any Plans and Specifications shall not be deemed or be construed to indicate or demonstrate adequacy of the design, construction or safety of the proposed

improvement, structure, alteration, modification, sign or addition. Upon completion of the proposed improvement, structure, alteration, modification, sign or addition, Tenant shall or shall cause its Subtenants to deliver "as-built" drawings to the Commissioner.

#### 8.4 Tenant and Subtenants Construction Process.

(a) Tenant shall make and shall cause its Subtenants to make any construction or renovation of any proposed improvement, structure, alteration, modification, sign or addition in conformance with the City's CDG. Any request for the City's approval of preliminary engineering, architectural plans or other information, shall be in accordance with the requirements of the CDG in effect from time to time during the Term.

(b) Tenant shall or shall cause its Subtenants to, at their own expense, remove from the Premises all trash and debris which may accumulate in connection with Tenant's and Subtenant's construction activities and, should Tenant fail to do so, the City may, in addition to any other right or remedy of the City, remove such trash and debris following one (1) days' notice to Tenant, at Tenant's expense, and the expenses so incurred by the City shall be due and payable by Tenant, as Additional Rent on demand. Tenant expressly acknowledges and agrees that Tenant shall be responsible for obtaining or causing its Subtenants to obtain all necessary permits, approvals and variances and for compliance with all applicable laws and regulations. Tenant shall be entitled to pass through such expenses for any Subtenants who fail to comply with this provision.

(c) All contracts for the construction or installation of Tenant's Base Building Improvements and each Subtenant's Fixed Improvements shall require:

(i) insurance coverage in accordance with **Exhibit P** and sureties reasonably satisfactory to the City for the protection of the City, its laborers, suppliers, contractors, subcontractors and the public; and

(ii) that all Contractors comply with all applicable provisions of this Lease.

(d) Tenant and its Subtenants must comply in its design, construction, use, occupancy and operation of the Premises or any Subtenants Premises, at their own cost, with:

(i) all regulations and directives now or later promulgated by the FAA or TSA pertaining to Airport security, as such regulations and directives may be amended or modified from time to time during the Term of this Lease;

(ii) all federal, State of Illinois, and City laws, rules, regulations and ordinances, including all building, zoning and health codes and all Environmental Laws; and

(iii) the CDG and the Airport Concession Program Handbook.

Tenant and its Subtenants must complete or cause to be completed all of Tenant's Base

Building Improvements and the Subtenants Fixed Improvements in accordance with all rules, regulations and standards, including the CDG, and the approved Construction Documents for any Improvements. If there is a conflict between work requirements stated in this Lease and those set forth in the CDG, the terms and provisions of the CDG shall control. No construction must take place until the Commissioner has approved the Construction Documents.

#### 8.5 Tenant and Subtenants Construction Costs.

(a) **Tenant Base Building Improvements.** Within one hundred eighty (180) days of the completion of Tenant's Base Building Improvements or following any refurbishments made by Tenant to Tenant's Base Building Improvements during the Term of this Lease Tenant shall furnish the City with a statement certified by an officer of Tenant subject to audit by the City, detailing the actual costs expended for the construction of Tenant's Base Building Improvements or refurbishments made thereto, as the case may be, along with documentation of such expenditures, invoices and evidence of payment of such invoices and any other documentation the City shall reasonably request. Upon approval by the City, in accordance with the terms of this Lease, the approved amount for Tenant's initial Base Building Improvements and/or any such refurbishments made thereto shall be deemed for all purposes of this Lease as the **"Tenant Certified Construction Costs"**.

(b) **Subtenants Fixed Improvements.** Within one hundred eighty (180) days of the completion of each Subtenant's Subtenants Fixed Improvements, Tenant shall cause its Subtenants to furnish Tenant with a statement certified by an officer of each Subtenants subject to audit by Tenant and the City, detailing the actual costs expended for the construction of each Subtenant's Fixed Improvements, along with documentation of such expenditures, invoices and evidence of payment of such invoices and any other documentation the City shall reasonably request. Following review and approval of the Subtenants invoices by Tenant, Tenant shall furnish all such information to the City. Upon approval by the City, in accordance with the terms of this Lease, the approved amount shall be deemed for all purposes of this Lease as the **"Subtenants Certified Construction Costs"**.

(c) Only the following items shall be included in the Tenant Certified Construction Costs and Subtenants Certified Construction Costs:

(i) directly contracted construction, installation and fabrication costs with respect to Tenant's Base Building Improvements and the Subtenants Fixed Improvements;

(ii) furniture, fixtures, decorative treatments and Operating Equipment purchased for and used in the Premises;

(iii) architectural, design, engineering and construction management costs, not to exceed twenty percent (20%) of the total approved cost of the items as defined in (A) and (B) above. The City reserves the right to require Tenant and

Subtenants to provide a list of selected architects, interior designers, and construction managers for prior written approval by the City, which approval shall be timely and shall not be unreasonably withheld.

8.6 No Mechanics' Liens. Tenant or its Subtenants must notify its subcontractors that no mechanic's liens under the Illinois Public Mechanic's lien Act, 770 ILCS 60/23 will be permitted to arise, be filed, or maintained against public funds, the work, or any part thereof or any interest therein, or any improvements thereon, or against any monies due or to become due to the Subtenants on account of any work, labor, services, materials, equipment, or other items performed or furnished for or in connection with the Project; and the Subtenants, for itself and its subcontractors, does hereby expressly waive, release, and relinquish such liens and all rights to file or maintain such liens; and agrees further that this waiver of liens and waiver of the right to file or maintain such liens will be an independent covenant. Tenant and its Subtenants must not permit any mechanics' lien for labor or materials furnished or alleged to have been furnished to it to attach to any portion of the Premises, any Subtenants Premises, the Terminal or the Airport, Tenant's leasehold interest, and Subtenant's leasehold interest or this Lease in any way relating to any work performed by or at the direction of Tenant or Subtenants. Upon making payments to Contractors, Tenant shall use commercially reasonable efforts to obtain from each Contractor a waiver or mechanics' liens against any portion of the Premises, any Subtenants Premises, the Airport, Tenant's leasehold interest, and Subtenant's leasehold interest or this Lease arising out of any work done by the Contractor and each and every of the Contractor's materialmen and workmen. If, nonetheless, any such mechanics' lien is filed upon any portion of the Premises, any Subtenants Premises, the Terminal or the Airport, Tenant's leasehold interest, any Subtenant's leasehold interest, or this Lease, Tenant, or its Subtenants, as the case may be, shall indemnify, protect, defend and save harmless the City against any loss, liability or expense whatsoever by reason of it and must promptly and diligently proceed with or defend, at its own expense, the action or proceedings as may be necessary to remove the lien. Tenant must deliver notice to the Commissioner of any such lien or claim within fifteen (15) days after Tenant has knowledge of it. Tenant or its Subtenants, as the case may be, may permit the mechanics' to remain undischarged and unsatisfied during the period of the contest and appeal; provided that, if requested by the Commissioner, Tenant or its Subtenants must within thirty (30) days following the Commissioner's request post a bond with the City equal to 100% of the amount of the lien. If the lien is stayed and the stay later expires or if by nonpayment of any lien any portion of the Premises, any Subtenants Premises, the Terminal or the Airport, Tenant's leasehold interest, any Subtenants leasehold interest or this Lease will be, or is claimed to be, subject to loss or forfeiture, then Tenant or its Subtenants must immediately pay and cause to be satisfied and discharged the lien. If Tenant or its Subtenants fails to do so, the Commissioner may, in her sole discretion, draw on the bond and make such payment. If the Commissioner has not requested a bond, then the Commissioner may, in her sole discretion, make such payment out of legally available Airport funds and, in such event, the amount paid shall immediately be payable by Tenant or its Subtenants as Additional Rent. Failure to post a bond when requested by the Commissioner or pay such Additional Rent shall be an Event of Default.

The Tenant must give, or cause to be given, a copy of these provisions to all subcontractors and will include these provisions in all contracts with subcontractors and/or give written notice of same to all subcontractors or other persons having oral or written agreements with such

subcontractors.

8.7 City Resident Construction Worker Employment Requirement.

(a) Use of Residents. In connection with and during the construction of the Work, Tenant, its Subtenants and their respective Contractors must comply with the provisions of §2-92-330 of the Municipal Code of the City of Chicago ("**Municipal Code**"), as amended from time to time concerning the minimum percentage of total construction worker hours performed by qualified actual residents of the City. At least 50% of the total construction worker hours worked by persons on the site of the Work must be performed by actual residents of the City and 7.5% of the total work hours (which may be included in the 50%) must be performed by residents of neighborhoods surrounding the Airport as defined in paragraph (b). Tenant or its Subtenants may request a reduction or waiver of this minimum percentage level of Chicagoans in accordance with standards and procedures developed by the Chief Procurement Officer of the City. In addition to complying with this percentage, Tenant, its Subtenants and any of their respective Contractors are required to make good faith efforts to utilize qualified actual residents of the City in both unskilled and skilled labor positions. "**Actual residents of the City**" means persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home. Tenant, its Subtenants and each of their respective Contractors (for purposes of this subsection, "**Employer**") must provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed. Each Employer will maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

(b) Neighborhood Areas for Construction at Chicago Midway International Airport.

The Neighborhood areas for this lease are as follows:

- Garfield Ridge
- Clearing
- Archer Heights
- West Elston
- West Lawn

(c) Community Area Map:



Commissioner, affidavits and other supporting documentation may be required of each Employer to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

(f) Level of Effort. Efforts on the part of each Employer to provide utilization of actual Chicago residents that are not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the City's Chief Procurement Officer will not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

(g) Shortfalls; Liquidated Damages. When the Work is completed, in the event that the City has determined that Tenant has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual residents of the City or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1% of the aggregate hard construction costs of the Improvement Costs (the product of .0005 x such aggregate hard construction costs) (as evidenced by approved contract value for the actual contracts) must be surrendered by Tenant to the City as liquidated damages, and not as a penalty, in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly will result in the surrender of the entire liquidated damages as if no actual residents of the City were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Tenant, its Subtenants and/or the Contractors to prosecution. The City may draw against the Security any amounts that appear to be due to the City under this provision pending the City's determination as to the full amount of liquidated damages due on completion of the Work.

(h) Nothing set forth in this Section acts as a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Lease or related documents, as applicable.

(i) Inclusion in Contracts. Tenant and its Subtenants must cause or require the provisions of this Section to be included in all construction Contracts related to the Work.

8.8 Licensing of General Contractor. This Lease is subject to Chapter 4-36 of the Municipal Code which requires all persons acting as a general contractor (as defined in Chapter 4-36) to be licensed as a general contractor by the City. Tenant's failure to ensure that any general contractor working on Tenant's Base Building Improvements complies with Chapter 4-36 of the Municipal Code will be an Event of Default under this Lease. Tenant shall also include a similar provision in the Subleases to reflect that a Subtenant's failure to ensure that any general contractor working on the Subtenants Fixed Improvements complies with Chapter 4-36 of the Municipal Code will be a default by the Subtenants under the Subleases.



8.9 Prevailing Wages. In connection with the construction, repair, and maintenance of Improvements, Tenant must comply with the applicable provisions of 820 ILCS 130/0.01 et seq. regarding the payment of prevailing wages, and the most recent Illinois Department of Labor schedule of prevailing wages, and any successors to them. Tenant and its Subtenants must insert appropriate provisions in all Contracts covering construction work under this Lease to ensure compliance of all construction Contractors with the foregoing wage statutes and regulations.

8.10 Contractor Certifications. Tenant and its Subtenants must require all Contractors performing Work in connection with this Lease to be bound by the following provision and Tenant must cooperate fully and shall cause its Subtenants to cooperate fully with the City in exercising the rights and remedies described below or otherwise available at law or in equity:

“Contractor certifies and represents that Contractor and any entity or individual that owns or controls, or is controlled or owned by, or is under common control or ownership with Contractor is not currently indebted to the City and will not at any time during the Term be indebted to the City, for or on account of any delinquent taxes, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, Contractor acknowledges that any breach or failure to conform to this certification may, at the option and direction of the City, result in the withholding of payments otherwise due to Contractor for services rendered in connection with the Lease and, if the breach or failure is not resolved to the City’s satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against the payments otherwise due to Contractor and/or the termination of Contractor for default (in which case Contractor will be liable for all excess costs and other damages resulting from the termination.)”

8.11 Project Manager. Tenant shall act as the project manager for the Tenant’s Base Building Improvements and the Subtenants Fixed Improvements, including design and construction and any other Subtenants construction and shall coordinate same with the City pursuant to the City approval process. Tenant shall designate a full-time qualified construction project manager with experience in projects of similar size and scope (“**Tenant’s Project Manager**”) reasonably acceptable to the City to coordinate construction of the Subtenants Fixed Improvements and Tenant’s Base Building Improvements with the City. Tenant acknowledges that during construction of the Improvements, the Terminal will be operating and other tenants, the traveling public and others will be conducting business in and using the Terminal. Tenant acknowledges that it shall be the sole responsibility of Tenant to coordinate all aspects of construction of the Improvements in a diligent and timely fashion so as to ensure the completion of the Improvements on or before the proposed Completion Dates and the Final Completion Date set forth on the approved Redevelopment plan.

8.12 Periodic Refurbishment Reinvestment. During the Term of this Lease, Tenant shall cause the Subtenants to sufficiently maintain the Concession Premises in a first-class condition normal wear and tear excepted.

Throughout the Term of this Lease but no less frequently than every seven (7) years after the opening of each Concession Premises, Tenant shall cause its Subtenants to renovate, or with the consent of the Commissioner, refurbish, the Concession Premises so that each Concession Premises shall be maintained in a contemporary appearance and in a first-class condition at all times. All such refurbishments and/or renovations shall be pursuant to a written plan, subject to the prior approval of the Commissioner. Any such refurbishments and/or renovation, must be performed in accordance with the terms hereof. Within 120 days of the completion of such improvements, Tenant shall furnish the City with a statement certified by an officer of Tenant, subject to audit by the City, detailing the actual costs expended for the investment. Following approval of the costs and expenses for any investment provided for in this Lease, the approved amounts shall be included in Tenant's Certified Construction Costs and/or in each applicable Subtenants Certified Construction Costs, as the case may be.

**8.13 Ownership of Improvements.** Unless otherwise provided herein, Improvements and any alteration or modification thereto installed in the Premises by Tenant or any of its Subtenants shall become part of the Premises, and upon completion of the Improvements title thereto shall vest in the City (subject to Tenant's and its Subtenants' leasehold interest), except with respect to Operating Equipment and any other items of personal property in the Premises from time to time. Upon termination of Tenant's or any of its Subtenant's occupancy of the Premises or the expiration of the Term, Tenant shall or shall cause its Subtenants, upon request of the City, to remove any Operating Equipment and personal property repair any damage to the Premises caused by such removal, reasonable wear and tear and damage by casualty excepted. If Tenant does not promptly remove or cause the removal of such Operating Equipment and personal property upon request of the City, the City may, without any obligation to do so, enter the Premises and remove such Operating Equipment and personal property, hold the same for the owners thereof or may place the same in a public warehouse, all at the expense and risk of Tenant and/or the Subtenants, as the case may be. Tenant shall or shall cause its Subtenants to reimburse the City for any reasonable expense incurred by the City in connection with such removal, repair and storage. Tenant shall indemnify, release and hold harmless and shall also cause its Subtenants to indemnify, release and hold harmless the City (and Tenant, in the case of a Subtenants) from any and all damage, costs and expenses related to said removal, repair and storage. In addition, the City shall have the right, but not the obligation, to dispose of such property as waste or sell such stored property in accordance with law. In the event the actual and reasonable expenses of such removal, repair, storage, disposal and sale shall exceed the proceeds of such sale, Tenant shall pay or cause its Subtenants, as the case may be, to pay such excess to the City upon demand.

**8.14 Tenant Maintenance and Repair.** Tenant shall, at Tenant's sole cost and expense, keep, maintain and repair or shall cause its Subtenants to keep, maintain and repair the Premises and each and every part thereof; including all Improvements, fixtures, facilities, equipment and interior window glass therein (and including any portion of building systems located outside of the Premises but exclusively serving the Premises) in first class, safe, clean, neat, sanitary and lawful order, condition and repair, excepting only (a) reasonable wear and tear that does not negatively affect the appearance of the Premises and any Improvements thereon, (b) damage caused by fire or other casualty or resulting from the exercise of the power of eminent domain, (c) those repairs expressly required to be made by the City and (d) any condition caused solely

by an act, neglect, fault, omission, negligence or willful misconduct of the City, or any agent, contractor or employee of the City.

Tenant shall not and Tenant shall not allow its Subtenants to place or construct any Improvements, structures, alterations, modifications, signs, communications equipment, wiring or additions or Operating Equipment in, to, or upon the Premises without the prior written approval of the City, in accordance with the City approval process, which may be withheld in the City's sole and absolute discretion. In the event Tenant fails to obtain the City's prior written approval, the City may, without limiting other remedies available to it, direct in writing that Tenant or its Subtenants modify, reconstruct or remove any work done without the approval of the City.

**8.15 Performance of Improvements, Maintenance and Repairs.** At no cost to the City, Tenant shall promptly or shall cause its Subtenants to promptly make all repairs, replacements and restorations to the Tenant's Base Building Improvements and Subtenants Fixed Improvements and to the Premises (other than City's maintenance and repair obligations pursuant to this **Article 8**), whether ordinary or extraordinary, foreseen as well as unforeseen. Tenant shall perform all construction of Tenant's Base Building Improvements, and shall cause its Subtenants to perform all construction of the Subtenants Fixed Improvements, alterations, maintenance or repairs in conformance with all applicable statutes, ordinances, building codes, rules, regulations and directives of any local, state or federal entity having jurisdiction, and in good and workmanlike manner, in accordance in all material respects with the drawings and specifications as may be approved by the City pursuant to the CDG Process, as it may be amended from time to time. The Tenant and its Subtenants shall bear any and all costs of compliance with the requirements of this Section.

**8.16 Certain Rights Reserved by the City.** In addition to those rights reserved by the City in **Article 13** and otherwise contained herein, the City reserves the following rights:

(a) If Tenant or its Subtenants do not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then the City, in addition to any other remedy which may be available to it, may enter the Premises upon reasonable advance notice to Tenant and any applicable Subtenants and perform such maintenance or repair, as the City determines, in its sole and absolute discretion, is required.

(b) Except as expressly provided otherwise in this Lease, the City has the rights set forth below, each of which the City may exercise with notice to Tenant and without liability to Tenant or its Subtenants for damage or injury to property, persons or business on account of exercising them (unless such damage is determined to be due to the intentional tortuous act or willful misconduct of the City); the City's exercise of any such rights is not deemed to constitute a breach of this Lease or a disturbance of Tenant's or its Subtenant's use or possession of the Premises; the City's exercise does not give rise to any claim, including for set-off or abatement of Rent; the City's exercise also does not relieve Tenant of any obligation to pay all Rent when due. The rights include the rights

to:

(i) Install, affix and maintain any and all signs on the exterior and on the interior of the Terminal;

(ii) Decorate or to make repairs, inspections, alterations, additions, or improvements, whether structural or otherwise, in and about the Terminal, or any part of them, and for such purposes to enter upon the Premises, and during the continuance of any of the work, to temporarily close doors, entryways, public space and corridors in the Terminal, and to interrupt or temporarily suspend services or use of facilities, all without affecting any of Tenant's obligations under this Lease, so long as the Premises is reasonably accessible and usable;

(iii) Require Tenant or its Subtenants to furnish the City door keys for the entry doors of the Premises or any portion thereof, where applicable, and to retain them at all times, and to use in appropriate instances, keys, including master keys and passkeys, to all doors within and into the Premises or any portion thereof, but the keys will at all times be kept under adequate and appropriate security by the Commissioner. Tenant and its Subtenants must purchase only from the City additional duplicate keys as required, and must not change any locks, nor affix locks on doors without the prior written consent of the Commissioner.

Notwithstanding the provisions for the City's access to the Premises or any portion thereof Premises, Tenant releases and shall cause its Subtenants to release the City from all responsibility arising out of theft, robbery, pilferage and personal assault unless the same results from the City's negligence or willful misconduct. Upon the expiration of the Term of this Lease or Tenant's or its Subtenants' right to possession of the Premises or any portion thereof, Tenant must return and cause its Subtenants to return all keys to the Commissioner and must disclose to the Commissioner the combination of any safes, cabinets or vaults left in the Premises;

(iv) Approve the weight, size and location of safes, vaults and other heavy equipment and articles in and about the Premises and the Terminal so as not to exceed the legal load per square foot designated by the structural engineers for the Terminal, and to require all such items and furniture and similar items to be moved into or out of the Terminal and the Premises only at the times and in the manner as the Commissioner directs in writing. Tenant or its Subtenants must not install or operate machinery or any mechanical devices of a nature not directly related to Tenant's or its Subtenants' ordinary use of the Premises without the prior written consent of the Commissioner. Movements of Tenant's or any Subtenants' property into or out of the Terminal or the Premises and within the Terminal is entirely at the risk and responsibility of Tenant or its Subtenants, and shall be in accordance with the requirements of the TDCMP, the TDCMP Process and the Airport Concession Program Handbook;

- (v) Establish controls for the purpose of regulating all property and packages, both personal and otherwise, to be moved into or out of the Terminal and the Premises;
- (vi) Regulate delivery and service of supplies and the usage of the apron area, loading docks, receiving areas and freight elevators and designate the times within which, and the locations at which, deliveries may be made to or by Tenant or its Subtenants;
- (vii) Show the Premises to prospective tenants at reasonable times during the final Lease Year or upon earlier termination of this Lease and, if any portion of the Premises is vacated or abandoned, prepare such portion of the Premises for re-occupancy;
- (viii) Erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances to them, in and through the Premises at reasonable locations which do not materially impact Tenant's and its Subtenants use and possession of the Premises or materially interfere with the conduct of business in the Concession Premises;
- (ix) Enter the Premises for the purpose of periodic inspection for fire protection, maintenance and compliance with the terms of this Lease and exercise any rights granted to it in this Lease; except in the case of emergency, however, the right must be exercised upon reasonable prior notice to Tenant and with an opportunity for Tenant or its Subtenants to have an employee or agent present;
- (x) Grant to any person the right to conduct any business or render any service in or to the Terminal for the types of concessions permitted in the Concession Program under **Article 6**, except as may otherwise be provided in this Lease.
- (xi) Promulgate from time to time rules and regulations regarding the operations at the Airport;
- (xii) City reserves the right to perform any fire suppression system work and charge the Tenant for the actual and reasonable cost thereof and specify charges as Additional Rent under this Lease or to approve Tenant's proposed contractor, at the City's sole option. Tenant may pass through any such charges to any applicable Subtenants as part of the Operating Costs.
- (xiii) Maintain newspaper vending machines at any location in the Airport.

#### 8.17 Visual Rights Act.

- (a) Tenant and its Subtenants will cause any artist who creates artwork for the Premises or a Subtenants Premises, as the case may be, to waive any and all rights in the

artwork that may be granted or conferred on any work of visual art (the “**Artwork**”) under Section 106A and Section 113 of the United States Copyright Act, (17 U.S.C. § 101 et seq.) (the “**Copyright Act**”). The waiver must include, but is not limited to, the right to prevent the removal, storage, relocation, reinstallation, or transfer of the Artwork. Tenant or its Subtenants shall acknowledge and will cause the artist to acknowledge that such removal, storage, relocation, reinstallation or transfer of the Artwork may result in the destruction, distortion, mutilation or other modification of the Artwork. Further, the Tenant or its Subtenants shall acknowledge and consent and will cause the artist to acknowledge and consent that the Artwork may be incorporated or made part of a building or other structure in such a way that removing, storing, relocating, reinstalling or transferring the Artwork will cause the destruction, distortion, mutilation or other modification of the Artwork.

(b) Tenant represents and warrants, and shall cause each Subtenants to represent and warrant, that such Tenant or its Subtenants will obtain a waiver of Section 106A and Section 113 of the Copyright Act as necessary from any employees and subcontractors, or any other artists. Tenant or its Subtenants, as the case may be, must provide City with copies of any such waivers required by Section 106A and Section 113 of the Copyright Act prior to installation of any Artwork in the Premises or any Subtenants Premises.

#### 8.18 Casualty and Restoration.

(a) Insubstantial Damage. If Tenant’s Base Building Improvements or Subtenants’ Fixed Improvements to any of the Premises are damaged, in whole or in part, by fire or casualty, and there is no Major Damage (as defined below) to the portion of the Terminal served by the damaged Tenant Base Building Improvements or Subtenant’s Fixed Improvements, then the Commissioner must repair any damage to the Shell and Core at the City’s expense, and Tenant must repair the damage to Tenant’s Base Building Improvements as soon as reasonably possible (after completion of the Shell and Core) at Tenant’s expense and Subtenants must repair the damage to the Subtenants Fixed Improvements as soon as reasonably possible (after completion of the Tenant Base Building Improvements) at Subtenant’s expense.

(b) Major Damage.

(i) “**Major Damage**” means any damage or destruction that, based on reasonable estimates made by the Department within sixty (60) days after the occurrence of the damage or destruction, in order to be repaired to the condition existing before the damage or destruction:

a. would cost, with respect to the Improvements, in excess of fifty percent (50%) of the replacement cost value of all Improvements; or, if within the last five (5) years of the Term, in excess of twenty-five percent (25%) of such replacement cost; and

b. would cost, with respect to the Shell and Core, in excess of fifty percent (50%) of the replacement cost of the Shell and Core, or would require, in the sole judgment of the Commissioner, more than nine (9) months to complete.

(ii) If any part of the Terminal suffers Major Damage, whether or not including any portion of the Premises located in them, in whole or in part by fire or other casualty, the Commissioner has the right, for a period of six (6) months starting on the date of the occurrence, to elect not to repair the Major Damage as otherwise required under this Section, by giving written notice of the election to Tenant. If the Commissioner notifies Tenant of the Commissioner's election not to repair the Major Damage, this Lease will terminate as to the affected Premises effective as of the date of the Major Damage, all Rent due under this Lease must be prorated to the date of termination, and Tenant must surrender the affected portion of the Premises to the City.

(iii) If any portion of the Premises suffers Major Damage, and if after the occurrence of the damage the Lease is not terminated, the Commissioner and the Airport architect will estimate the cost of restoration and the length of time that will be required to repair the damage and will notify Tenant of the estimate. If sufficient insurance proceeds are available to repair the damage and the damage can be repaired and the Improvements restored before the Term expires, then Tenant or its Subtenants, as the case may be, may elect to repair the damage and restore the Improvements. If Tenant determines in its reasonable business judgment not to elect to perform the repair and restoration, then Tenant shall pay to the City all insurance proceeds received as a result of such Major Damage and then this Lease terminates as to the impacted portion of the Premises as of the date of the Major Damage. The City shall have the right to restore and thereafter lease any such locations to other third parties.

(iv) If this Lease is not terminated in accordance with paragraphs (b)(ii) or (iii) and a casualty has damaged or destroyed any portion of the Shell and Core involving the Premises, the City will restore the Shell and Core to the condition existing on when possession was delivered by the City to Tenant, according to the original as-built plans and specifications. Upon completion of the City's Shell and Core restoration work, if any, Tenant and Subtenants shall proceed to rebuild the Improvements as nearly as possible to the character of Improvements existing immediately before the occurrence.

(v) Before beginning to replace, repair, rebuild or restore Improvements, Tenant and its Subtenants must deliver to the Commissioner a report of an independent consultant acceptable to the Commissioner setting forth:

- a. an estimate of the total cost of the Work;
- b. the estimated date upon which the Work will be substantially

completed; and

c. a statement to the effect that insurance proceeds is projected to be sufficient to pay the costs of the Work.

(vi) The Commissioner will use commercially reasonable efforts to provide suitable temporary Relocation Space during the period of restoration subject to the reasonable approval of Tenant or its Subtenants. Tenant or its Subtenants must relocate impacted operations to the temporary Relocation Space, and the costs associated with any such relocation, including moving expenses and the cost of reconstructing the Improvements in the temporary Relocation Space, shall be borne by Tenant and its Subtenants but only to the extent insurance covers any such costs.

(c) Tenant's Option. If the Concession Premises or a portion of it is subject to Major Damage during the final three (3) years of the Term, Tenant has the right, for a period of sixty (60) days beginning on the date of the occurrence, to elect not to restore the affected Improvements as otherwise required under this Lease by giving the Commissioner written notice of the election, in which event this Lease will, as to the portion of the Premises, terminate upon the notice. If Tenant desires to rebuild the affected Premises, it may do so only upon the written approval of the Commissioner. If approved, Tenant will receive the unamortized Improvement Cost of the restoration upon termination or expiration of the Term, with amortization being calculated on a straight-line basis over a period of time equivalent to the original Term.

(d) Insufficient Insurance. In no event will the City, Tenant or any of its Subtenants be obligated to repair, alter, replace, restore, or rebuild any Improvements, or any portion of them, nor to pay any of the costs or expenses for them. If available insurance proceeds are not sufficient to cover the cost of the restoration as required under this **Article 8**, then this Lease shall terminate with respect to the portion of the Premise so damaged.

## **ARTICLE 9**

### **UTILITIES**

#### **9.1 Utilities to Premises.**

(a) The City shall allow Tenant and its Subtenants access to the various base building utility systems as they exist in the Airport for those types of utilities which are necessary for the operation of the Concession Program. These include natural gas, water, sewage, telephone and data transmission and electricity.

(b) Tenant or its Subtenants must pay for natural gas, water, sewage, telephone and data transmission and electricity furnished to the Premises, and Subtenants will be required to install separate meters or check meters in the Subtenants Premises to properly



measure the consumption of all utilities. All other utilities shall be provided without charge to the Tenant or its Subtenants.

(c) Tenant or its Subtenants must maintain utility lines to the Premises or Subtenants Premises as the case may be as follows:

(i) where the utility lines, including gas, electrical, telephone and data transmission, hot and cold water, fire sprinkler, gas, and sewer serve the Premises and other areas of the Airport. Tenant or its Subtenants shall only be obligated to maintain those branch lines and facilities that are exclusively serving the Premises, whether located within or outside the Premises but only up to the connection point to the main lines or facilities; and

(ii) where the utility lines are solely for the use of the Premises, Tenant or its Subtenants shall be obligated to maintain the utility lines from the Premises up to the main entry point to the Airport. Alternatively, the City may, at the Commissioner's sole discretion, maintain the lines and charge Tenant the reasonable cost of the maintenance. Tenant or its Subtenants must maintain all electrical cables, conduits, wiring, fire alarm systems, electrical panels and associated equipment exclusively serving the Premises.

(d) Telephone/Telecommunications. The City shall have no obligation to provide telephone or data communication services to the Premises but shall provide Tenants and Subtenants access to such services as they exist within the Airport.

9.2 Tenant's Acts. Tenant shall not and shall not allow its Subtenants to do or permit to be done anything which may interfere with the effectiveness or accessibility of any drainage and sewerage system, water system, ventilation, air-conditioning and heating systems, communications systems, key card access systems, elevators and escalators, electrical system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other utility and other systems, if any, installed or located on, under, in or adjacent to the Premises now or in the future.

9.3 No Constructive Eviction. The City shall make diligent efforts to supply Tenant with utility services as specified above; however, if the City makes such diligent efforts but fails to provide said utility services, said failure shall not constitute a constructive eviction, and the City shall not be liable to Tenant in damages, nor shall Tenant be entitled to any reduction in Rent except as otherwise provided herein, or otherwise: (i) if any utility shall become unavailable from any public utility company, public authority or any other Person or entity supplying or distributing such utility, or (ii) for any interruption in any service hereunder (including, without limitation, any heating, ventilation or air-conditioning) caused by the making of any necessary repairs or improvements, or (iii) by any cause beyond the reasonable control of the City which is not attributable solely to the negligence or willful misconduct of the City. In no event shall the City be liable to Tenant for indirect or consequential damages.

9.4 Energy Conservation. The City shall have the right to institute such policies, programs

and measures as may be reasonably necessary or desirable, in the City's discretion, for the conservation and/or preservation of energy or energy related services, or as may be required to comply with any applicable codes, rules and regulations, whether mandatory or voluntary.

## **ARTICLE 10**

### **ENVIRONMENTAL**

#### **10.1 Definitions.**

**“Environmental Agency”** Any federal, state, or local governmental agency or entity having responsibility, in whole or in part, for any matter addressed by any Environmental Law, including, without limitation, enforcement of any Environmental Law. An agency or other entity need not be responsible only for matters addressed by Environmental Law(s) to be an Environmental Agency. A non-exhaustive list of Environmental Agencies includes, without limitation: the Chicago Department of Public Health, the Illinois Emergency Management Agency, Illinois EPA, US EPA, the Illinois Department of Labor/Illinois OSHA, and the US Department of Labor/OSHA.

**“Environmental Claim”** Any type of assertion that any of the following persons is violating or otherwise failing to comply with any Environmental Law, has violated or otherwise failed to comply with any Environmental Law, is directly or indirectly causing or contributing to any type of environmental harm, or has directly or indirectly caused or contributed to any type of environmental harm: Tenant; any Subtenants; or any employee, agent, Contractor, or licensee of Tenant or any Subtenants. A non-exhaustive list of Environmental Claims includes, without limitation: demand letters, notices of intent to sue, lawsuits, and citations or charges of any kind. An assertion need not expressly reference an Environmental Law to constitute an Environmental Claim. An Environmental Claim may be made by an Environmental Agency or by any other person.

**“Environmental Law(s)”** Any Law that in any way, directly or indirectly, in whole or in part, bears on or relates to the environment or to health or safety. A non-exhaustive list of statutes and rules and regulations that are some examples of Environmental Laws includes, without limitation: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., the Hazardous Materials Transportation Authorization Act, 49 U.S.C. 5101, et seq., the Clean Air Act, 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq., the Occupational Safety and Health Act, 29 U.S.C. 651, et seq., the Toxic Substances Control Act, 15 U.S.C. 2601, et seq., the Safe Drinking Water Act, 42 U.S.C. 300(f), et seq., the Illinois Environmental Protection Act, 415 ILCS 5/1, et seq., the Illinois Occupational Safety and Health Act, 820 ILCS 219/1, et seq., and all related rules and regulations.

**“Existing Contamination”** Any waste or pollutant:

(i) that is already on the Premises – including, without limitation, in the soil, air, or groundwater of the Premises -- on the date that the City first delivers the Premises to Tenant for Tenant’s occupancy under this Lease; or

(ii) that, as the result of any discharge or release, migrates onto the Premises – including, without limitation, to the soil, air, or groundwater of the Premises – after the date that the City first delivers the Premises to Tenant for Tenant’s occupancy under this Lease, if:

(A) the discharge or release occurred before the date that the City first delivers the Premises to Tenant for Tenant’s occupancy under this Lease; and

(B) no role in causing, contributing to, or exacerbating the discharge or release or effects of the discharge or release is or was played by Tenant, any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants; provided, however, that Existing Contamination does not include material of any kind -- including, without limitation, any element, compound, substance, or mixture -- that is present on the date that the City first delivers the Premises to Tenant for Tenant’s occupancy under this Lease, if the material’s presence and condition on that date are compliant with Environmental Laws. For example, Existing Contamination does not include any asbestos-containing material that is in use and not damaged, friable, or in poor condition on the date that the City first delivers the Premises to Tenant for Tenant’s occupancy under this Lease.

**“Law(s)”** The word “Law” or “Laws” is intended in the broadest possible sense, including, without limitation, and as may be amended or otherwise modified from time to time, all federal, state and local: statutes; ordinances; codes; rules; regulations; executive, administrative, and judicial orders and directives of any kind; requirements and prohibitions of permits, licenses, and other similar authorizations of any kind; court decisions; common law; and all other legal requirements and prohibitions.

**“Non-Routine”** As applied to reports and notices, “Non-Routine” refers to a report or notice that is required pursuant to any Environmental Law but is not a Routine report or notice.

**“Routine”** As applied to reports and notices, “Routine” refers to a report or notice that, pursuant to any Environmental Law, must be made, submitted or filed on a periodic basis and that in no way arises from an unexpected release of any kind, or from an emergency response situation, or from any actual, possible or alleged noncompliance with any Environmental Law.

**“Subject Material(s)”** “Subject Material” or “Subject Materials” means any material of any kind, including, without limitation, any element, compound, substance, or mixture:

(i) that is defined as a hazardous substance, extremely hazardous substance, hazardous material, hazardous waste, or pollutant of any kind, in or by any Environmental Law;

(ii) that is regulated by or under any Environmental Law;

(iii) the manufacturing, sale, generation, use, storage, treatment, disposal, transportation, or other handling or management of which -- or any type of discharge or release of which -- is regulated by or under, or otherwise subject to requirements of, any Environmental Law; or

(iv) that due to its amount, concentration, or any characteristic, constitutes or contributes to -- or may reasonably be expected to constitute or contribute to -- a danger or hazard to the environment or to public health, safety, or welfare.

The term Subject Material includes, without limitation, petroleum, including crude oil and any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, and mixtures of natural and synthetic gas.

10.2 Environmental Laws. Tenant shall observe, obey and cause its Subtenants, employees, agents, Contractors, and licensees to observe and obey all applicable Environmental Laws.

10.3 Subject Materials and Surrender of Premises. Tenant must not cause or allow Subject Materials to enter or be present on the Premises; provided, however, that Tenant may cause and allow reasonable amounts of such Subject Materials as are customarily used or otherwise handled in connection with the concession operations to enter and be present on the Premises. Examples of Subject Materials customarily used or otherwise handled in connection with the concession operations may include cleaning fluids and business equipment materials (e.g., copy machine toner).

Tenant must ensure that all Subject Materials on the Premises are stored, used, disposed of, and otherwise handled and managed in compliance with all applicable Environmental Laws.

Upon the expiration or termination of this Lease, Tenant must surrender the Premises -- including, without limitation, the soil, air, and groundwater of the Premises -- to the City free from the presence of Subject Materials, waste, and pollution of any kind, other than any Existing Contamination.

10.4 Environmental Representations and Warranties and Other Matters. Tenant expressly warrants, represents, and covenants that Tenant, its Subtenants, and all employees, agents, Contractors, and licensees of Tenant and all Subtenants shall strictly comply with all Environmental Laws applicable to or affecting the Premises or concession operations, including, without limitation:

(i) that Tenant will not conduct, or cause or allow to be conducted, on the Premises -- including, without limitation, in the soil, air, or groundwater of the Premises -- any activity for which a permit or other authorization is required under any Environmental Law, unless such permit has been issued;

(ii) that Tenant will not cause or allow to exist on the Premises -- including, without limitation, in the soil, air, or groundwater of the Premises -- any occurrence or condition

for which a permit or other authorization is required under any Environmental Law, unless such permit has been issued; and

(iii) that Tenant will ensure that all Subtenants, and all employees, agents, Contractors, and licensees of Tenant and all Subtenants comply with the conditions of any and all permits issued under any Environmental Laws.

Tenant shall not be responsible or liable for remediation or removal of any Existing Contamination. Tenant shall not be responsible or liable for any release of Subject Materials, whether located within the Premises or elsewhere, unless Tenant or any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants, in any way caused, contributed to, or exacerbated the release or effects of the release by any action, any omission to act, any negligence, or any willful misconduct; provided, however, that Tenant shall be responsible and liable for any release of Subject Material(s), if at the time of the release the Subject Material(s) belonged to, or were in the possession, custody, or control of, Tenant or any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants.

**10.5 Reports, Notices, Environmental Claims, and Other Matters.** Tenant must immediately notify the City in writing of:

(i) any release, suspected release, or threatened release of Subject Material(s) on, in, under, from, or otherwise relating to the Premises -- including, without limitation, the soil, air, or groundwater of the Premises;

(ii) any notice of any kind received by Tenant, any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants, from any person, of or relating to any release, suspected release, or threatened release of Subject Material(s) on, in, under, from, or otherwise relating to the Premises -- including, without limitation, the soil, air, or groundwater of the Premises; and

(iii) any action, occurrence, or condition of any kind that in any way relates to the Premises -- including, without limitation, to the soil, air, or groundwater of the Premises -- or to concession operations, that could reasonably be expected to subject any person to an Environmental Claim or to any restriction in ownership, occupancy, transferability, or use of the Premises under any Environmental Law.

**Routine Reports and Notices.** Within 24 hours of receiving a written request from the City, Tenant must submit to the City a complete copy of any Routine report or notice that: (i) in any way relates to the Premises -- including, without limitation, to the soil, air, or groundwater of the Premises -- or to concession operations; and (ii) has been made, submitted, or filed to any Environmental Agency or other person, by or on behalf of Tenant, any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants.

**Non-Routine Reports and Notice.** If any Environmental Law requires Tenant, any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants to make, submit, or

file any Non-Routine notice or report of any kind to any Environmental Agency or other person – and the report or notice in any way relates to the Premises – including, without limitation, to the soil, air, or groundwater of the Premises -- or to concession operations, then Tenant must deliver a complete copy of the report or notice (or, in the case of telephonic or other oral reports or notices, a comprehensive written summary of same) to the City within 24 hours of the original report's or notice's having been made, submitted, or filed.

Thereafter, Tenant must notify the City in writing of any and all subsequent developments; each such notification must be made within 24 hours of the earliest development(s) addressed therein.

Environmental Claims. If Tenant, any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants receives an Environmental Claim, or any type of notice of threatened or potential Environmental Claim, that in any way relates to the Premises – including, without limitation, to the soil, air, or groundwater of the Premises -- or to concession operations, then within 24 hours of that person's receipt of the Environmental Claim or notice, Tenant must deliver a complete copy of the Environmental Claim or notice to the City.

Thereafter, Tenant must notify the City in writing of any and all subsequent developments; each such notification must be made within 24 hours of the earliest development(s) addressed therein.

Other Matters. If Tenant any Subtenants, or any employee, agent, Contractor, or licensee of Tenant or any Subtenants receives notice of any kind of any lien filed with respect to the Premises or in any way relating to the Premises or to concession operations, then within 24 hours of that person's receipt of the notice, Tenant must notify the City in writing.

Within 24 hours of receiving a written request from the City, Tenant must submit to the City complete copies of all documents that the City has reasonably requested, relating to any release, suspected release, or threatened release of Subject Material(s) on, in, under, from, or otherwise relating to the Premises -- including, without limitation, the soil, air, or groundwater of the Premises, or relating to any non-Routine notice or report, or relating to any Environmental Claim or notice of threatened or potential Environmental Claim, including, without limitation: responses, invoices, reports, photographs, manifests, pleadings, motions, discovery, orders and correspondence. If Tenant believes that the City's request or any portion the City's request is not reasonable, then Tenant must respond in writing to the City, within 24 hours of receiving the request, specifying what Tenant believes to be unreasonable and why.

10.6 Hazardous Substances. Tenant must not use or allow the Premises to be used for the release, storage, use, treatment, disposal or other handling of any hazardous substance, as defined in any Environmental Laws, except in full compliance with all Environmental Laws. Tenant must not use or allow the Premises to be used for the storage of any such hazardous substances except small amounts of cleaning fluids, business equipment materials (such as copy machine toner) and other small amounts of such hazardous substances customarily handled or used in connection with the concession operations, all of which must be stored and used in compliance with all applicable Environmental Laws. Upon the expiration or termination of this Lease, Tenant must surrender the Premises to the City free from the presence and contamination of any hazardous substances which were placed therein as a result of actions by Tenant or its Subtenants.

10.7 No Illegal Dumping. In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Tenant warrants and represents that it has not violated and is not in violation of the following sections of the Municipal Code (collectively, the “**Waste Sections**”):

7-28-390 Dumping on public way—Violation—Penalty;

7-28-440 Dumping on real estate without permit;

11-4-1410 Disposal in waters prohibited;

11-4-1420 Ballast tank, bilge tank or other discharge;

11-4-1450 Gas manufacturing residue;

11-4-1500 Treatment and disposal of solid or liquid waste;

11-4-1530 Compliance with rules and regulations required;

11-4-1550 Operational requirements;

11-4-1560 Screening requirements; and

any other sections listed in Section 11-4-1600(e), as it may be amended from time to time.

During the period while this Lease is executory, Tenant’s violation of the Waste Sections, whether or not relating to the performance of this Lease constitutes a breach of and an Event of Default under this Lease, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the Commissioner. Such breach and Event of Default entitles the City to all remedies under the Lease, at law or in equity. This Section does not limit the Tenant’s duty to comply with all Environmental Laws, in effect now or later, and whether or not they appear in this Lease. Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Lease, and may further affect the Tenant’s eligibility for future City agreements.

10.8 Sustainable Airport Practices. The City encourages Tenant and its Subtenants to incorporate sustainable design practices in the redevelopment of the Terminal’s Concession Program. The Sustainable Airport Manual attached hereto as **Exhibit N** (“SAM”) should be considered in every aspect of the Redevelopment and concession operations. Tenant and Subtenants should include a LEED (Leadership in Energy and Environmental Design) accredited professional on their respective design teams and should consider as part of their main objectives for sustainable design to avoid resource depletion of energy, water, and raw materials; prevent environmental degradation caused by facilities and infrastructure throughout their life cycle; and create built environments that are comfortable, safe and productive. Subtenants shall be encouraged to use recycled or recyclable materials for the packaging of products sold at the Airport. This shall include bags and boxes that are provided to customers at the time of sale.

Further, Subtenants are encouraged to use recycled or recyclable materials for the pre-packaging of products and any temporary display materials used at the Airport.

## ARTICLE 11

### INSURANCE AND INDEMNITY

#### 11.1 Tenant's and Subtenants' Insurance.

See **Exhibit P** for all applicable insurance requirements for the Lease.

#### 11.2 Indemnification.

(a) Except where this indemnity clause would be found to be inoperative or unenforceable under the Construction Contract Indemnification for Negligence Act, 740 ILCS 35/0.01 et seq. ("**Anti-Indemnity Act**"), Tenant must defend, indemnify, keep and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees, from and against any and all Losses, except for any Losses which are the result of the negligence or willful misconduct of the City, its employees, agents, contractors and subcontractors.

(b) "**Losses**" means, individually and collectively, liabilities of every kind, including losses, damages, and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or relate to the acts or omissions of Tenant, its Subtenants and their respective employees, agents, and Contractors.

(c) At the City Corporation Counsel's option, Tenant and Subtenants shall defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Tenant of the foregoing indemnity obligations under this Section. Tenant must not make any settlement without the prior written consent to it by the City Corporation Counsel if the settlement requires any action on the part of the City or in any way involving the Airport.

(d) To the extent permissible by law, Tenant and Subtenants waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due under any Losses, including any claim by any employee of Tenant that may be subject to the Workers' Compensation Act, 820 ILCS 305/1 et seq or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The waiver, however, does not require Tenant to indemnify the City for the City's own negligence or willful misconduct. The City, however, does not waive any limitations it may have on its liability under the Worker's Compensation Act or under the Illinois



Pension Code.

(e) The indemnities contained in this Section survive the expiration or earlier termination of this Lease, for matters occurring or arising during the Term of this Lease or as the result of or during the holding over of Tenant beyond the Term. Tenant acknowledges that the requirements set forth in this Section to indemnify, keep and save harmless and defend the City are apart from and not limited by the Tenant's duties under this Lease, including the insurance and Security requirements.

(e) Tenant agrees that these provisions will be included in all Subtenants leases.

## **ARTICLE 12**

### **COMPLIANCE WITH LAWS**

12.1 Compliance with Laws. Tenant shall, and shall cause its Subtenants, at all times observe and comply with all applicable laws, statutes, ordinances, rules, regulations, court orders and executive or administrative orders and directives of the federal, state and local government, now existing or later in effect (whether or not the law also requires compliance by other parties), including the Americans with Disabilities Act and Environmental Laws, that may in any manner affect the performance of this Lease (collectively, "**Laws**"), and must not use the Premises, or allow the Premises to be used, in violation of any Laws or in any manner that would impose liability on the City, Tenant or the Subtenants under any Laws. Tenant must notify the City within ten (10) days of receiving notice from a competent governmental authority that Tenant, its Subtenants or any of their respective Contractors may have violated any Laws. Provisions required by any Law to be inserted in this Lease are deemed inserted in this Lease whether or not they appear in this Lease or, upon application by either party, this Lease will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Lease is signed prevent its enforcement. Without limiting the foregoing, Tenant covenants that it will comply with all Laws, including but not limited to those Laws identified in this **Article 12**.

12.2 Economic Disclosure Statements and Affidavits. In connection with Section 2-92-320 of the Municipal Code, Tenant has executed an Economic Disclosure Statement and Affidavits which is attached to this Lease as **Exhibit H** and which contains a certification as required under the Illinois Criminal Code, 720 ILCS 5/33E, and under the Illinois Municipal Code, 65 ILCS 5/8-10-1 et seq. Ineligibility under Section 2-92-320 of the Municipal Code continues for 3 years following any conviction or admission of a violation of Section 2-92-320. For purposes of Section 2-92-320, when an official, agent or employee of a business entity has committed any offense under the section on behalf of such an entity and under the direction or authorization of a responsible official of the entity, the business entity is chargeable with the conduct. If, after Tenant and any Subtenants enters into a contractual relationship with a Contractor, it is determined that the contractual relationship is in violation of this subsection, Tenant and its Subtenants, if applicable, must immediately cease to use the Contractor. All Contracts must provide that Tenant is entitled to recover all payments made by it to the Contractor if, before or

subsequent to the beginning of the contractual relationship, the use of the Contractor would be violative of this Section.

12.3 Inspector General and Legislative Inspector General. It is the duty of Tenant and all officers, directors, agents, partners, and employees of Tenant to cooperate with the Inspector General and the Legislative Inspector General of the City in any investigation or hearing undertaken under Chapter 2-55 or Chapter 2-56 of the Municipal Code. Tenant understands and will abide by all provisions of Chapter 2-55 and Chapter 2-56 of the Municipal Code. Tenant must inform all Subtenants and Contractors of this provision and require under each Sublease and Contract compliance herewith by each Subtenants and Contractor all of their respective officers, directors, agents, partners and employees.

12.4 Section 2-92-586 of the Municipal Code. The City encourages Tenant to use Contractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

12.5 Airport Security.

(a) This Lease is expressly subject to the airport security requirements of Title 49 of the United States Code, Chapter 449, as amended (“**Airport Security Act**”), the provisions of which govern airport security, including the rules and regulations promulgated under it. Tenant is subject to, and further must conduct with respect to its Contractors and the respective employees of each, such employment investigations, including criminal history record checks and security threat assessments as the Commissioner, the TSA or the FAA may deem necessary. Further, in the event of any threat to civil aviation, as defined in the Airport Security Act, Tenant must promptly report any known information in accordance with those regulations promulgated by the United States Department of Transportation, the TSA and by the City. Tenant must, notwithstanding anything contained in this Lease to the contrary, at no additional cost to the City, perform under this Lease in compliance with those guidelines developed by the City, the TSA and the FAA with the objective of maximum security enhancement. The drawings, plans, and specifications provided by Tenant and its Subtenants under this Lease must comply with those guidelines for airport security developed by the City, the TSA and the FAA and in effect at the time of their submission.

(b) Further, Tenant shall comply with, and require compliance by its Contractors, suppliers of materials and furnishers of services and employees with all present and future laws, rules, regulations, or ordinances promulgated by the City, the TSA or the FAA, or other governmental agencies to protect the security and integrity of the Airport, and to protect against access by unauthorized persons. Tenant shall adopt procedures to control and limit access to the Airport and the Premises by Tenant and its Contractors, suppliers of materials and furnishers of services, employees, in accordance with all present and future City, TSA and FAA laws, rules, regulations, and ordinances. At all times during the Term, Tenant must have in place and in operation a security program for the Premises that complies with all applicable laws and regulations.

(c) Gates and doors located on the Premises, if any, that permit entry into restricted areas at the Airport must be kept locked by Tenant or its Subtenants at all times when not in use. Gate or door malfunctions must be reported to the Commissioner or the Commissioner's designee without delay and must be kept under constant surveillance by Tenant or the applicable Subtenants, as the case may be, until the malfunction is remedied.

(d) In connection with the implementation of its security program, Tenant may receive, gain access to or otherwise obtain certain knowledge and information related to the City's overall Airport security program. Tenant acknowledges that all such knowledge and information is of a highly confidential nature. Tenant covenants that no person will be permitted to gain access to such knowledge and information, unless the person has been approved by the Commissioner in advance in writing.

(e) To the extent any of Tenant's employees require identification badges or security clearance for access at the Terminal, Tenant shall be responsible at its expense for securing such badges or clearance. Tenant will cause Subtenants to be similarly responsible for their personnel under the Subleases, and will monitor compliance by Subtenants with required badging and security clearances and the screening of Subtenants goods, products, equipment, materials and supplies to the extent required in the Terminal. Subtenants will deliver any badge applications for Subtenants employees to Tenant which shall forward them to the Department. Tenant will apply fines, penalties or default remedies under Subleases as required to remedy violations or other deficiencies by Subtenants, but shall not have any other responsibility or liability with respect to security issues relating to such Subtenants employee badging and security clearance requirements and the screening of any such Subtenants goods, products, equipment materials and supplies. Subtenants shall be billed directly by the City for all costs for such badging of personnel and security clearances. If at any time more than five percent (5%) of all issued unexpired badges for any non-public area are lost, stolen, or otherwise unaccounted for, and the Department is required to reissue badges for that non-public area per the TSA, the tenant shall be liable to the City for the cost of that reissuance. The City acknowledges that Tenant has no obligation to conduct screening or inspection of goods, products, equipment, materials or supplies brought to the Terminal, Premises or Airport by or on behalf of Subtenants.

(f) Tenant further must indemnify, hold harmless and defend the City from and against any and all claims, reasonable costs, reasonable expenses, damages and liabilities, including all reasonable attorney's fees and costs, resulting directly from the breach of Tenant's covenants and agreements as set forth in this Section.

#### 12.6 Prohibition on Certain Contributions (Mayoral Executive Order No. 201 5-4).

(1) Tenant, any person or entity who directly or indirectly has an ownership or beneficial interest in Tenant of more than 7.5 percent ("**Owners**"), spouses and domestic partners of such Owners, Tenant's Contractors, any person or entity who directly or

indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent (“**Sub-owners**”) and spouses and domestic partners of such Sub-owners (Tenant and all the other preceding classes of persons and entities are together, the “**Identified Parties**”), shall not make a contribution of any amount to the Mayor of the City of Chicago (the “**Mayor**”) or to his political fund-raising committee (i) after execution of this bid, proposal or Agreement by Tenant, (ii) while this Lease or any Other Contract is executory, (iii) during the term of this Lease or any Other Contract between Tenant and the City, or (iv) during any period while an extension of this Lease or any Other Contract is being sought or negotiated.

(2) Tenant represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Tenant or the date the Tenant approached the City, as applicable, regarding the formulation of this Lease, no Identified Parties have made a contribution of any amount to the Mayor or to his political fund-raising committee.

(3) Tenant agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor’s political fund-raising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor’s political fund-raising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fund-raising committee.

(4) Tenant agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

(5) Tenant agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Lease, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Lease, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

(6) If Tenant violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Agreement resulting from this specification, the Chief Procurement Officer may reject Tenant’s bid.

(7) For purposes of this provision:

“**Bundle**” means to collect contributions from more than one source which is then delivered by one person to the Mayor or to his political fund-raising committee.

**“Other Contract”** means any other agreement with the City of Chicago to which Tenant is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

**“Contribution”** means a “political contribution” as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are **“Domestic Partners”** if they satisfy the following criteria: (a) they are each other’s sole domestic partner, responsible for each other’s common welfare; and (b) neither party is married; and (c) the partners are not related by blood closer than would bar marriage in the State of Illinois; and (d) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and (e) two of the following four conditions exist for the partners: (i) The partners have been residing together for at least 12 months; (ii) The partners have common or joint ownership of a residence; (iii) The partners have at least two of the following arrangements: a joint ownership of a motor vehicle; b. a joint credit account; c. a joint checking account; d. a lease for a residence identifying both domestic partners as Tenants; (iv) Each partner identifies the other partner as a primary beneficiary in a will.

**“Political fund-raising committee”** means a “political fund-raising committee” as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

12.7 City Ethics Ordinance. Tenant covenants that no payment, gratuity or offer of employment must be made in connection with this Lease by or on behalf of any Contractors or higher tier Contractors or anyone associated with them as an inducement for the award of a Subcontract or order; and Tenant further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 of the Municipal Code is voidable as to the City.

12.8 Business Relations with Elected Officials. Pursuant to Section 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other city official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any city council committee hearing or in any city council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. **Violation of §2-156-030(b) by any elected official with respect to this Lease is grounds for termination of this Lease.** Section 2-156-080 defines a “business relationship” as any contractual or other private business dealing of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest will not include: (1) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of

the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (2) the authorized compensation paid to an official or employee for his office or employment; (3) any economic benefit provided equally to all residents of the city; (4) a time or demand deposit in a financial institution; or (5) an endowment or insurance policy or annuity contract purchased from an insurance company. A "contractual or other private business dealing" will not include any employment relationship of an official's spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

12.9 Eligibility to do Business with the City. Failure by the Tenant or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City as required by Section 1-23-030 of the Municipal Code of Chicago shall be grounds for termination of this Lease.

## **ARTICLE 13**

### **RETAINED RIGHTS OF CITY**

13.1 Right to Enter, Inspect and Repair. The City, its authorized employees, agents, contractors, subcontractors and other representatives shall have the right upon forty-eight (48) hours prior notice to Tenant, which notice may be verbal followed by confirming written notice (except in the case of emergency as determined by the City when no notice shall be required), to enter upon the Premises without abatement of Rent, for the following purposes:

- (a) To inspect the Premises during regular business hours upon reasonable advance notice (or at any time in the case of emergency, in which case no notice shall be required) to ascertain the condition of the Premises and to determine Tenant's compliance with the terms of this Lease. The right of inspection shall impose on the City no duty to inspect and shall impart no liability upon the City for failure to inspect.
- (b) To perform any obligation, to perform maintenance and make repairs and replacements in any event where Tenant is obligated to do so under this Lease and has failed to perform such obligation following any applicable notice and cure periods provided for in this Lease or to initiate such repairs and maintenance within the time periods provided for in this Lease, if applicable, or, if no time period is provided, within thirty (30) days after written notice from the City, and thereafter to diligently complete such obligations, repairs or replacements, or at any time with or without written notice, in the event that the City, in its sole discretion, deems that it is necessary or prudent to do so to preserve all or any part of the Terminal from damage or to correct any condition likely to lead to injury or damage.
- (c) To perform any obligation of the City under this Lease and to make additions, alterations, maintenance and repairs to the Terminal and any other areas on the Airport.

In the event such entry is made during non-operating hours, a representative of Tenant or

a representative of Tenant's applicable Subtenants shall be present, except the case of an emergency when no such representatives shall be required to be present. Nothing contained in this Section shall prohibit, or diminish the right of, the City to enter the Premises at any time and conduct, without notice to Tenant or any Subtenants, inspections or audits as set forth in **Article 7** of this Lease to determine any Subtenant's compliance with the Service and Performance Operating Standards as set forth in **Article 7** of this Lease.

### 13.2 Accommodation of Airport Construction.

(a) Tenant acknowledges that from time to time the City may undertake construction, repair or other activities related to the operation, maintenance and repair of the Airport that will require temporary accommodation by Tenant and its Subtenants. In addition, the City reserves the right to permanently reconfigure the Common Areas and the Premises as necessary to accommodate the construction of connections at the Airport or relocate or reconfigure the Terminal Gates and Ramp Area. The City agrees to use reasonable efforts to minimize disruption in Tenant's and its Subtenants' business operations during such period of construction. Without limiting the generality of the foregoing, the City may temporarily or permanently close, alter, change, modify and/or relocate any entrances, passageways, doors and doorways, corridors, elevators, escalators or other parts of the Common Areas ; and the City may at any time and from time to time make such changes, alterations, additions, improvements, repairs or replacements in or to the Airport, as well as in or to the entrances, passages, elevators, escalators, and stairways thereof; as it may deem necessary or desirable, and to change the arrangement and/or location of entrances, passageways, doors and doorways, and corridors, elevators, stairs, rest rooms, or other public parts of the Common Areas or the Airport (other than the Premises), and may stop or interrupt any service or utility system, when necessary by reason of accident or emergency or construction work until the necessity for the interruption or stoppage has ended. The City will endeavor to give Tenant advance notice of such work whenever possible (except in the case of an emergency, in which case no notice shall be required).

(b) Tenant further acknowledges that such improvements may require substantial construction work in the Airport during normal business hours, which may disrupt Tenant's and its Subtenant's business operations and create noise, dust and other concomitants of construction work. Tenant agrees that it shall have no right except as expressly provided herewith, to any abatement of Rent, Additional Rent or other compensation or to any claim of breach of the City's covenant of quiet enjoyment (express or implied) or an actual or constructive eviction or for loss of business or inconvenience, or in any event for consequential damages on account of any such construction work, and without incurring any liability to Tenant or otherwise affecting Tenant's obligations under this Lease. Tenant agrees to accommodate and shall cause its Subtenants to accommodate the City in such activities even though the Tenant's and its Subtenants' own operations may be inconvenienced or partially impaired.

(c) In the event the City elects to exercise its rights under this Section to close any portion of the Premises, it shall give Tenant not less than fifteen (15) days' notice (except

in the case of an emergency in which case no notice shall be required) of the City's intent to temporarily close any portion of the Premises, which portion shall be described in such notice.

13.3 Status Report. Recognizing that the City may find it necessary to establish to third parties the then-current status of performance hereunder, Tenant shall, upon the request of the City from time to time, promptly furnish a statement of the status of any matter pertaining to this Lease. Without limiting the generality of the foregoing, Tenant specifically agrees, promptly upon the commencement of the Term hereof; to acknowledge to the City reasonable satisfaction of any requirements with respect to construction, except for such matters as Tenant may set forth specifically in said statement.

13.4 Eminent Domain. Nothing in this Lease shall be construed to limit any of the City's rights to acquire property by eminent domain.

## **ARTICLE 14**

### **FAA PROVISIONS**

14.1 No Exclusive Rights. Nothing contained in this Lease must be construed to grant or authorize the granting of an exclusive right, including an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the City reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature. It is clearly understood by Tenant that no right or privilege has been granted that would operate to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including maintenance and repair) that it may choose to perform.

14.2 Airport Landing Area. The City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Tenant or its Subtenants, and without interference or hindrance. The City reserves the right, but is not obligated to, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Tenant and its Subtenants in this regard.

14.3 No Obstructions. Tenant must comply with applicable notification and review requirements covered in Part 77 of the Federal Aviation Regulations if any future structure or building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. Tenant, by accepting the Lease, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the Premises above the applicable mean sea level elevation set forth in Part 77 of the Federal Aviation Regulations. If the covenants contained herein are breached, the City serves the right to enter upon the Premises and to remove the offending structure or object and/or cut down the offending tree, all of which will be at the expense of Tenant.



14.4 Aviation Easement. There is reserved to the City, its successors and assigns for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the Premises. This public right of flight includes the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or landing at, taking off from, or operation on the Airport. Tenant by accepting this Lease agrees for itself, its Subtenants, its successors, and assigns that it will not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from Airport or otherwise constitute a hazard. If the covenants contained herein are breached, the City reserves the right to enter upon the Premises and cause the abatement of the interference at the expense of Tenant.

14.5 National Emergency. This Lease and all the provisions of this Lease are subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation, and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

14.6 Airport Rules and Regulations. Tenant shall faithfully observe and comply, and shall cause its Subtenants to faithfully observe and comply, with any reasonable rules which the City may from time to time make provided that such rules apply to all similarly situated tenants, licensees or Tenants, if any, and are related to the safety, care, appearance, reputation, operation or maintenance of the Airport, the Premises, the Terminal or the Common Areas or the comfort of tenants or others using such areas or facilities. The City shall uniformly enforce such rules and regulations as to all similarly-situated tenants, including Tenant and its Subtenants, but shall not have any duty or obligation to Tenant to enforce such rules or the terms and conditions in any other lease as against any other tenants and the City shall not be liable to Tenant for violations of the same by other tenants, their employees, contractors, agents or licensees.

## **ARTICLE 15**

### **SPECIAL CONDITIONS**

15.1 Warranties and Representations. In connection with the execution of this Lease, Tenant warrants and represents statements (a) through (k) below are true as of the Effective Date. If during the Term there is any change in circumstances that would cause a statement to be untrue, Tenant must promptly notify the Commissioner in writing. Failure to do so will constitute an Event of Default. Tenant shall incorporate any of the following provisions set forth in this Section which are applicable to Subtenants in all Subleases, contracts entered into with any suppliers of materials, furnishers of services, Contractors, or that may provide any materials, labor or services in connection with this Lease, such that the parties warrant, represent and covenant to Tenant as to the matters set forth in this Section. Tenant must cause its Subtenants and Contractors to execute those affidavits and certificates that may be necessary in furtherance of these provisions. The certifications must be attached and incorporated by reference in the applicable agreements. If any Subtenants or Contractor is a partnership or joint venture, Tenant must also include provisions in its Sublease or Subcontract insuring that the entities comprising

the partnership or joint venture are jointly and severally liable for its obligations under it.

(a) Tenant is financially solvent and Tenant holds itself to very high standards of quality and professionalism. Tenant is competent to perform as required under this Lease; this Lease is feasible of performance by Tenant in accordance with all of its provisions and requirements; Tenant has the full power and is legally authorized to perform or cause to be performed its obligations under this Lease under the terms and conditions stated in this Lease; and Tenant can and will perform, or cause to be performed, all of its obligations under this Lease in accordance with the provisions and requirements of this Lease.

(b) Tenant is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Illinois; Tenant is qualified to do business in the State of Illinois; and Tenant has a valid current business privilege license to do business in the City, if required by applicable law.

(c) The person signing this Lease on behalf of Tenant has been duly authorized to do so by Tenant; all approvals or consents necessary in order for Tenant to execute and deliver this Lease have been obtained; and neither the execution and delivery of this Lease, the consummation of the transactions contemplated, nor the fulfillment of or compliance with the terms and conditions of this Lease:

(i) conflict with or result in a breach, default or violations of: Tenant's organizational documents; any law, regulation, ordinance, court order, injunction, or decree of any court, administrative agency or governmental body, or any of the terms, conditions or provisions of any restriction or any agreement or other instrument to which Tenant is now a party or by which it is bound; or

(ii) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Tenant under the terms of any instrument or agreement.

(d) There is no litigation, claim, investigation, challenge or other proceeding now pending or, to Tenant's knowledge after due and complete investigation, threatened, challenging the existence or powers of Tenant, or in any way affecting its ability to execute or perform under this Lease or in any way having a material adverse effect on the operations, properties, business or finances of Tenant.

(e) This Lease constitutes the legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium and other laws affecting creditors' rights and remedies generally and by the application of equitable principles.

(f) No officer, agent or employee of the City is employed by Tenant or has a financial interest directly or indirectly in this Lease, a Sublease, any contract or subcontract thereunder, or the compensation to be paid under it except as may be

permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code or as may be permitted by law.

(g) Tenant has not knowingly and will not knowingly use the services of any person or entity for any purpose in its performance under this Lease, when such person or entity is ineligible to perform services under this Lease or in connection with it, as a result of any local, state or federal law, rule or regulation, or when person or entity has an interest that would conflict the performance of services under this Lease.

(h) There was no broker instrumental in consummating this Lease and no conversations or prior negotiations were had with any broker concerning the rights granted in this Lease with respect to the Premises. Tenant must hold the City harmless against any claims for brokerage commission arising out of any conversations or negotiations had by Tenant with any broker.

(i) To the best of Tenant's knowledge, Tenant nor any Affiliate of Tenant is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U. S. Department of Commerce or their successors, or on any other list of persons with which the City may not do business under applicable law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, and Entity List, and the Debarred List.

(j) Tenant, and to the best of Tenant's knowledge, its Affiliates, any of their respective owners holding 7.5% or more beneficial ownership interest, and any of Tenant's directors, officers, members, or partners:

(i) have no interest, directly or indirectly, that conflicts in any manner or degree with Tenant's performance under this Lease;

(ii) have no outstanding parking violation complaints or debts, as the terms are defined in Section 2-92-380 of the Municipal Code (with the exception of any debt or obligation that is being contested in a pending administrative or judicial proceeding) and agrees that, for the Term, they will promptly pay any debts, outstanding parking violation complaints or monetary obligations to the City that may arise during the Term, with the exception of any debt or obligation that is being contested in a pending administrative or judicial proceeding;

(iii) are not in default under any other City contract or agreement as of the Effective Date, nor have been deemed by the City to have been in default of any other City contract or agreement within five years immediately preceding the Effective Date;

(iv) are not in violation of the provisions of § 2-92-320 of the Municipal Code pertaining to certain criminal convictions or admissions of guilt and are not currently debarred or suspended from contracting by any Federal, State or local governmental agency;

- (v) are not delinquent in the payment of any taxes due to the City;
  - (vi) will not at any time during the Term have any interest or acquire any interest, directly or indirectly, that conflicts or would or may conflict in any manner or degree with Tenant's performance under this Lease; and
  - (vii) will not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft at the Airport under current or future conditions or that might otherwise constitute a hazard to the operations of the Airport or to the public generally.
- (k) Except only for those representations, statements, or promises expressly contained in this Lease, including any Exhibits attached to this Lease and incorporated by reference in this Lease, no representation, warranty of fitness, statement or promise, oral or in writing, or of any kind whatsoever, by the City, its officials, agents, or employees, has induced Tenant to enter into this Lease or has been relied upon by Tenant, including any with reference to:
- (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Lease;
  - (ii) the nature of the services to be performed;
  - (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities, needed for the performance of this Lease;
  - (iv) the general conditions that may in any way affect this Lease or its performance;
  - (v) the compensation provisions of this Lease; or
  - (vi) any other matters, whether similar to or different from those referred to in clauses (i) through (iv) immediately above, affecting or having any connection with this Lease, the negotiation of this Lease, any discussions of this Lease, the performance of this Lease or those employed in connection with it.

15.2 Business Documents, Disclosure of Ownership Interests and Maintenance of Existence.

- (a) Tenant must provide evidence of its authority to do business in the State of Illinois including, if applicable, certifications of good standing from the Office of the Secretary of State of Illinois, and appropriate resolutions or other evidence of the authority of the persons executing this Lease on behalf of Tenant.
- (b) In accordance with **Section 12.2**, Tenant has provided the Commissioner with an Economic Disclosure Statement and Affidavit ("**EDS**") for itself and EDSs for all entities

with an ownership interest of 7.5 percent or more in Tenant, copies of which are attached to this Lease as **Exhibit H**. Upon request by the Commissioner, Tenant must further cause its Subtenants and proposed Transferees (and their respective 7.5 percent owners) to submit an EDS to the Commissioner. Tenant must provide the Commissioner, upon request, a "no change" affidavit if the information in the EDS(s) attached as **Exhibit H** remains accurate, or revised and accurate EDS(s) if the information contained in the attached EDS(s) has changed. In addition, Tenant must provide the City revised and accurate EDS(s) within thirty (30) days of any event or change in circumstance that renders the EDS(s) inaccurate. Failure to maintain accurate EDS(s) on file with the City is an Event of Default.

15.3 Licenses and Permits. Tenant shall and shall cause its Subtenants in a timely manner consistent with Tenant's obligations under this Lease, secure and maintain, or cause to be secured and maintained at its expense, the permits, licenses, authorizations and approvals as are necessary under federal, state or local law for Tenant and its Subtenants to operate the Concession Program; to construct, operate, use and maintain the Premises; and otherwise to comply with the terms of this Lease and the privileges granted under this Lease. Tenant and its Subtenants shall promptly provide copies of any required licenses and permits to the Commissioner when requested from time to time.

15.4 Confidentiality. Except as may be required by law during or after the performance of this Lease, Tenant or its Subtenants will not disseminate any non-public information regarding this Lease or the Concession operations without the prior written consent of the Commissioner, which consent will not be unreasonably withheld, conditioned or delayed. If Tenant or any Subtenants is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any documents that may be in its possession by reason of this Lease or any Sublease, Tenant must immediately give notice to the City's Corporation Counsel. The City may contest the process by any means available to it, at the City's sole cost and expense, before the records or documents are submitted to a court or other third party. Tenant or its Subtenants, however, are not obligated to withhold the delivery beyond that time as may be ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended. Tenant shall require each prospective Subtenant to abide by such restrictions in connection with their respective Subleases.

15.5 2014 Hiring Prohibitions

(a) The City is subject to the June 16, 2014 "City of Chicago Hiring Plan" (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(b) Tenant is aware that City policy prohibits City employees from directing any individual to apply for a position with Tenant, either as an employee or as a subcontractor, and from directing Tenant to hire an individual as an employee or as a subcontractor. Accordingly, Tenant must follow its own hiring and contracting

procedures, without being influenced by City employees. Any and all personnel of Tenant in connection with this Lease are employees or subcontractors of Tenant, not employees of the City of Chicago. This Contract is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel of Tenant.

(c) Tenant will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel associated with this Lease, or offer employment to any individual to provide services associated with this Lease, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Lease, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(d) In the event of any communication to Tenant by a City employee or City official in violation of Section 15.5(b) above, or advocating a violation of Section 15.5(c) above, Tenant will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the Commissioner of the Department.

#### 15.6 Multi-Project Labor Agreement.

(a) The City has entered into the Multi-Project Agreement ("PLA") with various trades regarding projects involving construction, demolition, maintenance, rehabilitation, and/or renovation work. During the term of this Agreement, Tenant, Subtenants, and Subcontractors shall not contract or subcontract, nor permit any other person, firm, company, or entity to contract or subcontract, any construction, demolition, rehabilitation or renovation work for the project work covered under this Agreement or within the trade jurisdiction of the signatory labor organization, to be performed at the site of construction or off-site solely for installation at the Premises, (including all tenant improvements, if applicable), unless such work is performed only by a person, firm or company signatory, or will to become a signatory, to the applicable area-wide collective bargaining agreement(s) with the union(s) or the appropriate trade/craft unions(s) or subordinate body or affiliate of the Chicago & Cook County Building & Construction Trades Council ("Council") or the Teamsters' Joint Council No. 25.

(b) Said provisions of this Agreement shall be included in all requests for bids and/or proposals and shall be explicitly included in all contracts or subcontracts of whatsoever tier by all contractors and subcontractors; provided that the total project value excess \$25,000.00. In the event a dispute arises with respect to the applicability of the PLA to a

particular project, the parties agree to submit said dispute to final and binding arbitration before an arbiter who shall be mutually agreed to by the parties.

15.7 Labor Peace Agreement. Tenant has an ongoing obligation to comply with, and ensure that all Subtenants and subleasees comply with, the Labor Peace Agreement ("LPA") Ordinance, MCC 10-36-210.

## **ARTICLE 16**

### **NONDISCRIMINATION AND AFFIRMATIVE ACTION**

#### **16.1 Non-Discrimination.**

(a) Tenant for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration of this Lease, covenants, and agrees with a covenant running with the land that: (i) no person on the grounds of race, color, or national origin will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in the use of the Premises; (ii) in the construction of any Improvements on, over, or under the Premises and the furnishing of services in them, no person on the grounds of race, color, or national origin will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination; (iii) Tenant will use the Premises in compliance with all other requirements imposed by or under 49 C.F.R. Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as those regulations may be amended and all other requirements imposed by or pursuant to the List of Pertinent Nondiscrimination Authorities (set forth in Appendix E of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration), and as that List may be amended; and (iv) Tenant shall manage the Concession Program on a fair, equal, and non-discriminatory basis. In addition to complying with Title VI of the Civil Rights Act of 1964, Tenant assures that it will comply and will cause its Subtenants to comply with all other pertinent statutes, including but not limited to 49 USC 47123, Executive Orders and the rules as are promulgated to assure that no person will, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefitting from federal assistance. In the event of breach of any of the above nondiscrimination covenants, City will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

(b) It is an unlawful practice for Tenant to, and Tenant must at no time: (i) fail or refuse to hire, or discharge, any individual or discriminate against the individual with respect to his or her compensation, or the terms, conditions, or privileges of his or her employment, because of the individual's race, creed, color, religion, sex, age, handicap or national origin; or (ii) limit, segregate, or classify its employees or applicants for employment in any way that would deprive any individual of employment opportunities

or otherwise adversely affect his or her status as an employee, because of the individual's race, creed, color, religion, sex, age, handicap or national origin; or (iii) in the exercise of the privileges granted in this Lease, discriminate or permit discrimination in any manner, including the use of the Premises, against any person or group of persons because of race, creed, color, religion, national origin, age, handicap, sex or ancestry. Tenant must post in conspicuous places to which its employees or applicants for employment have access, notices setting forth the provisions of this non-discrimination clause.

(c) Tenant and its Subtenants must comply with the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (1981), as amended, and to the extent required by the law, must undertake, implement and operate an affirmative action program in compliance with the rules and regulations of the Federal Equal Employment Opportunity Commission and the Office of Federal Contract Compliance, including 14 CFR Part 152, Subpart E. Attention is called to: Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000e note, as amended by Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §§ 6101-06 (1981); Rehabilitation Act of 1973, 29 U.S.C. §§ 793-94 (1981); Americans with Disabilities Act, 42 U.S.C. § 12101 and 41 CFR Part 60 et seq. (1990) and 49 CFR Part 21, as amended (the "ADA"); and all other applicable federal statutes, regulations and other laws.

(d) Tenant and its Subtenants must comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 5 Ill. Admin. Code §750 Appendix A. Furthermore, Tenant and its Subtenants must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended, and all other applicable state statutes, regulations and other laws.

(e) Tenant and its Subtenants must comply with the Chicago Human Rights Ordinance, sec. 2-160-010 et seq. of the Municipal Code, as amended, and all other applicable City ordinances and rules. Further, Tenant and its Subtenants must furnish or must cause each of its Contractor(s) to furnish such reports and information as requested by the Chicago Commission on Human Relations.

(f) Tenant and its Subtenants must insert these non-discrimination provisions in any agreement by which Tenant or its Subtenants grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Premises. Tenant and its Subtenants must incorporate all of the above provisions in all agreements entered into with any Subtenants, suppliers of materials, furnishers of services, Contractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Lease, and Tenant and its Subtenants must require them to comply with the law and enforce the requirements. In all solicitations either by competitive bidding or negotiations by Tenant or its Subtenants for work to be performed under a Subcontract, including procurements of materials or leases of equipment, each potential Contractor or supplier must be notified by Tenant of the Tenant's obligations under this



Lease relative to nondiscrimination.

(g) Noncompliance with this Section will constitute a material breach of this Lease; therefore, in the event of such breach, Tenant authorizes the City to take such action as federal, state or local laws permit to enforce compliance, including judicial enforcement. In the event of Tenant's noncompliance with the nondiscrimination provisions of this Lease, the City may impose such sanctions as it or the federal or state government may determine to be reasonably appropriate, including cancellation, termination or suspension of the Lease, in whole or in part.

(h) Tenant and its Subtenants must permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City, the Commissioner or the Federal government to be pertinent to ascertain compliance with the terms of this Section. Tenant and its Subtenants must furnish to any agency of the federal or state government or the City, as required, any and all documents, reports and records required by Title 14, Code of Federal Regulations, Part 152, Subpart E, including an affirmative action plan and Form EEO-1.

16.2 Airport Concession Disadvantaged Business Enterprises. This Lease is subject to the requirements of the U.S. Department of Transportation's regulations 49 C.F.R. Parts 23 and 26, as amended from time to time. The City has implemented an ACDBE Program under which qualified firms may have the opportunity to participate in the ownership and operation of Airport concession businesses. An ACDBE goal of thirty-seven percent (37%), as measured by total estimated annual Subtenants Gross Receipts following the Redevelopment and the opening of the New Concession Premises, has been established for the Concession Program under this Lease. During the Term, Tenant shall manage and monitor the commitments made by its Subtenants under the ACDBE Compliance Program on behalf of the City and shall provide the City with quarterly reports (or as more frequently as may be required by the City) in the format required by the FAA evidencing Subtenants' good faith efforts of reaching the goal of 37% participation by ACDBEs (certified either by the City or pursuant to the Illinois Unified Certification Program) in the Concession Program. Tenant shall enforce and its Subtenants must comply with the Special Conditions Regarding ACDBE participation attached hereto as **Exhibit C**. Failure to comply with such Special Conditions by any Subtenants shall be a Subtenant Default and Tenant shall include this provision in the Sublease. Tenant shall enforce the compliance of this provision with all Subtenants and shall indicate on the list of Initial Operators all ACDBEs identified on the Latest Date of Beneficial Occupancy. If Tenant shall fail to cause its Subtenants to comply with such Special Conditions, it shall be an Event of Default hereunder. Further, if Tenant enters into a Sublease directly with an ACDBE, Tenant shall comply with the Special Conditions Regarding ACDBE Participation. Tenant or its Subtenants shall provide all information and reports as may be required by the City and shall permit access to their books, records and accounts and facilities to determine compliance with ACDBE Special Conditions, directives and regulations. Commencing on the Earliest Date of Beneficial Occupancy and continuing thereafter during the Term, Tenant shall provide semi-annual reports to the City of all ACDBE Subtenants. Said reports shall be in a format acceptable to the City and shall provide the level of ACDBE participation for the period in question and on year-to-date basis, including the percentage of Subtenants Gross Receipts attributable to each ACDBE Subtenants. To the extent ACDBE

participation is in the form of joint venture, Tenant (or a consultant at Tenant's expense) will be responsible to work with and assist the certifying agency in the evaluation of the work performed by the ACDBE with the ACDBE's own forces to ensure that it meets the Subtenants stated ACDBE goals in accordance with the FAA's ACDBE joint venture guidance. During the Term, Tenant shall prepare, and the CDA shall be responsible for submitting, any and all ACDBE reports to the FAA.

16.3 MBE/WBE Compliance. During the Redevelopment of the Concession Program, Tenant and Subtenants shall make good faith efforts to meet their commitments with respect to participation of Minority Business Enterprises/Woman-Owned Business Enterprises ("MBE/WBE") in the design and construction of Tenant's Base Building Improvements and Subtenants Fixed Improvements, respectively, as set forth in Exhibit D. The stated goals for MBE\WBE participation consist of the following: (i) Design: 25% MBE and 5% WBE; and (ii) Construction: 25% MBE and 5% WBE.

16.4 Limited English Proficiency. The City is committed to compliance with federal Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency ("LEP"), and related FAA guidance. Tenant must cooperate with the City, and require its Subtenants to cooperate, in updating and implementing the LEP access plan. This may include but is not limited to collecting demographic data and conducting surveys of LEP customers, providing multilingual signage and menus, and hiring multilingual staff.

16.5 Other Provisions. Tenant shall comply with and shall use its best efforts to cause its Subtenants to comply with all federal and state laws and City regulations pertaining to Civil Rights and Equal Opportunity, including executive orders and rules and regulations of appropriate federal and state agencies unless otherwise exempt therein.

## **ARTICLE 17**

### **DEFAULT, REMEDIES AND TERMINATION**

#### **17.1 Events of Default.**

(a) The following constitute Events of Default by Tenant under this Lease. The Commissioner will notify Tenant in writing of any event that the Commissioner believes to be an Event of Default. Tenant will be given an opportunity to cure the Event of Default within a reasonable period of time, as determined by the Commissioner, but not to exceed thirty (30) days after written notice of the Event of Default; provided, that (i) if a provision of this Lease provides for a different cure period for a particular Event of Default, that different cure period will apply; (ii) if a provision of this Lease does not allow a right to cure a particular Event of Default, there will be no right to cure; and (iii) if neither (i) or (ii) apply and if the promise, covenant, term, condition or other non-monetary obligation or duty cannot be cured within the time period granted by the Commissioner, but Tenant promptly begins and diligently and continuously proceeds to cure the failure within the time period granted and after that continues to diligently and

continuously proceed to cure the failure, and the failure is reasonably susceptible of cure within sixty (60) days from delivery of the notice, Tenant will have the additional time, not in any event to exceed sixty (60) days, to cure the failure.

(1) Any material misrepresentation intentionally made by Tenant to the City in the inducement to City to enter this Lease or in the performance of this Lease. There is no right to cure this Event of Default.

(2) Tenant's failure to make any payment in full when due under this Lease and failure to cure the default within ten (10) days after the City gives written notice of the non-payment to Tenant. In addition, Tenant's failure to make any such payment within ten (10) days after the written notice more than three (3) times in any Lease Year constitutes an Event of Default without the necessity of the City giving notice of the fourth failure to Tenant or any opportunity to cure it.

(3) Subject to Force Majeure, Tenant's failure to promptly and fully keep, fulfill, comply with, observe, or perform any promise, covenant, term, condition or other non-monetary obligation or duty of Tenant contained in this Lease.

(4) Tenant's failure to provide or maintain the insurance coverage required under this Lease (including any material non-compliance with the requirements) and the failure to cure within two (2) days following written notice from the Commissioner; or, if the noncompliance is non-material, the failure to cure within twenty (20) days after the Commissioner gives written notice. The Commissioner, in her sole discretion, will determine if noncompliance is material.

(5) Subject to Force Majeure, Tenant's failure to cause the Concession Program operations in any Concession Premises at all times Tenant is required to do so under this Lease.

(6) Tenant's failure to require Subtenants to comply with the Street Pricing policy.

(7) Subject to Force Majeure, Tenant's failure to begin or to complete or to diligently cause its Subtenants to begin or complete its respective Improvements (as defined in Article 8 hereof) on a timely basis or to timely open for business in the Premises or any portion of it.

(8) A default by Tenant or any Affiliate under any other agreement it may presently have or may enter into with the City during the Term of this Lease and failure to cure such default within any applicable cure period.

(9) Tenant does any of the following and the action affects Tenant's ability to carry out the terms of this Lease: (i) becomes insolvent, as the term is defined under Section 101 of the United States Bankruptcy Code as amended from time to time; or (ii) fails to pay its debts generally as they mature; or (iii) seeks the benefit of any present or

future federal, state or foreign insolvency statute; or (iv) makes a general assignment for the benefit of creditors, or (v) files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the United States Bankruptcy Code or under any other law or statute of the United States or of any State or any foreign jurisdiction; or (vi) consents to the appointment of a receiver, trustee, custodian, liquidator or other similar official, of all or substantially all of its property, which remains in effect for a period in excess of sixty (60) days.

(10) An order for relief is entered by or against Tenant under any chapter of the Bankruptcy Code or similar law in any foreign jurisdiction and is not stayed or vacated within sixty (60) days following its issuance.

(11) Tenant is dissolved.

(12) A violation of law that results in a guilty plea, a plea of nolo contendere, guilty finding, or conviction of a criminal offense, by Tenant, or any of its directors, officers, partners or key management employees directly or indirectly relating to this Lease, and that may threaten, in the sole judgment of Commissioner, Tenant's performance of this Lease in accordance with its terms.

(13) Subject to Force Majeure, any failure to perform, act, event or omission that is specifically identified as an Event of Default elsewhere in this Lease.

**17.2 Remedies.** If an Event of Default occurs and is not cured by Tenant in the time allowed, in addition to any other remedies provided for in this Lease, including the remedy of Self-help as provided in **Section 17.3**, the City through the Commissioner or other appropriate City official may exercise any or all of the following remedies.

(a) Terminate this Lease with respect to all or a portion of the Premises and exclude Tenant from that part of the Premises affected by the termination. If the Commissioner elects to terminate this Lease, the Commissioner may, at the Commissioner's sole option, serve notice upon Tenant that this Lease ceases and expires and becomes absolutely void with respect to the Premises or that part identified in the notice on the date specified in the notice, to be no less than five (5) days after the date of the notice, without any right on the part of Tenant after that to save the forfeiture by payment of any sum due or by the performance of any term, provision, covenant, agreement or condition broken. At the expiration of the time limit in the notice, this Lease and the Term of this Lease, as well as the right, title and interest of Tenant under this Lease, wholly ceases and expires and becomes void with respect to the Premises identified in such notice in the same manner and with the same force and effect (except as to Tenant's liability) as if the date fixed in the notice were the date in this Lease stated for expiration of the Term with respect to the Premises identified in such notice.

(b) Recover all Rent, including Additional Rent and any other amounts due that have accrued and are then due and payable and also all damages available at law or under this Lease. If this Lease is terminated, whether in its entirety or with respect to a part of the

Premises, the damages will include damages for the balance of the scheduled Term, based upon any and all amounts that Tenant would have been obligated to pay for the balance of the Term with respect to the Premises, or if this Lease is terminated with respect to a portion of the Premises, that portion of the Premises affected by the termination, calculated as provided in this Lease or, if not fixed, as reasonably estimated and prorated among the various portions of the Premises. In determining the amount of damages for the period after termination, the Commissioner may make the determination based upon the sum of any future payments that would have been due to the City, for the full Lease Year immediately before the Event of Default. All amounts that would have been due and payable after termination for the balance of the Term with respect to all or a portion of the Premises must be discounted to present value at a rate deemed to be commercially reasonable for such purposes as of the date of termination. To the extent permitted by law, the Commissioner may declare all amounts to be immediately due and payable. Notwithstanding the foregoing, the City shall use its best efforts to mitigate its damages by finding a replacement Tenant for the Premises being terminated paying comparable Rent.

(c) At any time after the occurrence of any uncured Event of Default, whether or not this Lease has been terminated, reenter and repossess the Premises and/or any part of it with or without process of law, so long as no undue force is used, and the City has the option, but not the obligation, to re-lease all or any part of the Premises. The City, however, is not required to accept any tenant proposed by Tenant or to observe any instruction given the City about such a re-lease. The failure of the City to re-lease the Premises or any part or parts of it does not relieve or affect Tenant's liability under this Lease nor is the City liable for failure to re-lease. Reentry or taking possession of the Premises does not constitute an election on the City's part to terminate this Lease unless a written notice of the election by the Commissioner is given to Tenant. Even if the City re-leases without termination, the Commissioner may at any time after that elect to terminate this Lease for any previous uncured Event of Default. For the purpose of re-leasing, the Commissioner may decorate or make repairs, changes, alterations or additions in or to the Premises to the extent deemed by the Commissioner to be necessary to re-let the Premises, and the cost of the decoration, repairs, changes, alterations or additions will be charged to and payable by Tenant as Additional Rent under this Lease. Any sums collected by the City from any new tenant obtained on account of Tenant will be credited against the balance of the Rent due under this Lease. Tenant must pay the City monthly, on the days when payments of Rent would have been payable under this Lease, the amount due under this Lease less the amount obtained by the City from the new tenant, if any.

(d) Enter upon the Premises, distrain upon and remove from it all inventory, equipment, machinery, trade fixtures and personal property of any kind or nature, whether owned by Tenant or by others, and to proceed without judicial decree, writ of execution or assistance or involvement of constables or the City's and Tenant's officers, to conduct a private sale, by auction or sealed bid without restriction. Tenant waives the benefit of all laws, whether now in force or later enacted, exempting any of Tenant's property on the Premises or elsewhere from distrain, levy or sale in any legal proceedings

taken by the City to enforce any rights under this Lease.

(e) Seek and obtain specific performance, a temporary restraining order or an injunction, or any other appropriate equitable remedy.

(f) Seek and obtain monetary damages.

(g) Deem Tenant and Affiliates non-responsible in future contracts or concessions to be awarded by the City.

(h) Declare Tenant and Affiliates in default under any other existing contracts or agreements they might have with the City and to exercise any remedies available under those other contracts or agreements.

(i) Assume the assignment of any and all Subleases between Tenant and Subtenants.

(j) Require Tenant to terminate a Sublease or a Contract that is causing an Event of Default under this Lease which has not been cured.

### 17.3 Commissioner's Right to Perform Tenant's Obligations.

(a) Upon the occurrence of an Event of Default that Tenant has failed to cure in the time provided, the Commissioner may, but is not obligated to, make any payment or perform any act required to be performed by Tenant under this Lease in any manner deemed expedient by the Commissioner for the purpose of correcting the condition that gave rise to the Event of Default ("**Self-help**"). The Commissioner's inaction never constitutes a waiver of any right accruing to the City under this Lease nor do the provisions of this Section or any exercise by the Commissioner of Self-help under this Lease cure any Event of Default. Any exercise of Self-help does not limit the right of any other City department or agency to enforce applicable City ordinances or regulations.

(b) The Commissioner, in making any payment that Tenant has failed to pay:

(i) relating to taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim;

(ii) for the discharge, compromise or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien that may be asserted; and

(iii) in connection with the completion of construction, furnishing or equipping of the Premises or the licensing, operation or management of the Premises or the payment of any of its Operating Costs, may do so in such amounts and to such persons as the Commissioner may deem appropriate.

Nothing contained in this Lease requires the Commissioner to advance monies for any purpose.

(c) If Tenant fails to perform its obligations under this Lease to maintain the Premises or to manage the Concession Program in accordance with specified standards within sixty (60) days following written notice from the Commissioner, or in the event of a serious health or safety concern or in an emergency (in which case no notice is required) the Commissioner may, but is not obligated to, direct the Department to perform or cause the performance of any such obligation in any manner deemed expedient by the Commissioner for the purpose of correcting the condition in question.

(d) All sums paid by the City under the provisions of this Section and all necessary and incidental costs, expenses and reasonable attorneys' fees in connection with the performance of any such act by the Commissioner, together with interest thereon at the Default Rate, from the date of the City's payment until the date paid by Tenant, are deemed Additional Rent under this Lease and are payable to the City within ten (10) days after demand therefor, or at the option of the Commissioner, may be added to any Rent then due or later becoming due under this Lease, and Tenant covenants to pay any such sum or sums with interest at the Default Rate.

#### 17.4 Effect of Default and Remedies.

(a) The City's waiver of any one right or remedy provided in this Lease does not constitute a waiver of any other right or remedy then or later available to the City under this Lease or otherwise. A failure by the City or the Commissioner to take any action with respect to any Event of Default or violation of any of the terms, covenants or conditions of this Lease by Tenant will not in any respect limit, prejudice, diminish or constitute a waiver of any rights of the City to act with respect to any prior, contemporaneous or later violation or Event of Default or with respect to any continuation or repetition of the original violation or Event of Default. The acceptance by the City of payment for any period or periods after an Event of Default or violation of any of the terms, conditions and covenants of this Lease does not constitute a waiver or diminution of, nor create any limitation upon any right of the City under this Lease to terminate this Lease for subsequent violation or Event of Default, or for continuation or repetition of the original violation or Event of Default. Tenant has no claim of any kind against the City by reason of the City's exercise of any of its rights as set forth in this Lease or by reason of any act incidental or related to the exercise of rights.

(b) All rights and remedies of the City under this Lease are separate and cumulative and none excludes any other right or remedy of the City set forth in this Lease or allowed by law or in equity. No termination of this Lease or the taking or recovery of the Premises or any portion thereof deprives the City of any of its remedies against Tenant for Rent, including Additional Rent or other amounts due or for damages for the Tenant's breach of this Lease. Every right and remedy of the City under this Lease arising out of Tenant's default or indemnification obligations survives the expiration of the Term or the termination of this Lease.

17.5 Tenant's Right to Perform City Obligations. In the event that the City fails to perform its obligations as landlord (and not as Airport operator or municipality) with respect to the Premises under this Lease, the Tenant may send City written notice citing the Lease provision at issue and the facts surrounding the alleged non-performance. If the City does not respond to such notice within sixty (60) days and take timely corrective action as appropriate under the circumstances, Tenant may perform such obligation on behalf of the City. Tenant's reasonable and actual costs in performing may be offset against the following month's Rent.

## **ARTICLE 18**

### **GENERAL PROVISIONS**

18.1 Entire Lease. This Lease contains all the terms, covenants, conditions and agreements between the City and Tenant relating in any manner to the use and occupancy of the Premises and otherwise to the subject matter of this Lease. No prior or other agreement or understandings pertaining to these matters are valid or of any force and effect. This Lease supersedes all prior or contemporaneous negotiations, undertakings, and agreements between the parties. No representations, inducements, understandings or anything of any nature whatsoever made, stated or represented by the City or anyone acting for or on the City's behalf, either orally or in writing, have induced Tenant to enter into this Lease, and Tenant acknowledges, represents and warrants that Tenant has entered into this Lease under and by virtue of Tenant's own independent investigation.

18.2 Counterparts. This Lease may be comprised of several identical counterparts and may be fully executed by the parties in separate counterparts. Each such counterpart is deemed to be an original, but all such counterparts together must constitute but one and the same Agreement.

18.3 Amendments. Except as otherwise expressly provided in this Lease, the provisions of this Lease may be amended only by a written agreement signed by the City and Tenant. No review or approval by the Commissioner, including approval of Construction Documents, constitutes a modification of this Lease (except to the extent that the review or approval expressly provides that it constitutes such a modification or it is apparent on its face that the review or approval, if made in writing, modifies terms or provisions of this Lease that are within the express powers of the Commissioner under this Lease to modify), nor excuse Tenant from compliance with the requirements of this Lease or of any applicable laws, ordinances or regulations. Amendments must be signed by the Mayor, provided that the Commissioner alone may sign amendments to the Exhibits.

18.4 Severability. Whenever possible, each provision of this Lease must be interpreted in such a manner as to be effective and valid under applicable law. However, notwithstanding anything contained in this Lease to the contrary, if any provision of this Lease is under any circumstance prohibited by or invalid under applicable law, the provision is severable and deemed to be ineffective, only to the extent of the prohibition or invalidity, without invalidating the remaining provisions of this Lease or the validity of the provision in other circumstances.



18.5 Covenants in Subleases and Contracts. All obligations imposed on Tenant under this Lease pertaining to the maintenance and operation of the Premises and compliance with the ACDBE and M/WBE goals contained in this Lease are deemed to include a covenant by Tenant to insert appropriate provisions in all Subleases and Contracts covering work under this Lease and to use its commercially reasonable efforts to enforce compliance of all Subtenants and contractors with the requirements of those provisions.

18.6 Governing Law. This Lease is deemed made in the state of Illinois and governed as to performance and interpretation in accordance with the laws of Illinois. Tenant irrevocably submits itself to the original jurisdiction of those courts located within Cook County, Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Lease. Tenant consents to service of process on Tenant, at the option of the City, by registered or certified mail addressed to the applicable office as provided for in this Lease, by registered or certified mail addressed to the office actually maintained by Tenant, or by personal delivery on any officer, director, or managing or general agent of Tenant. If any action is brought by Tenant against the City concerning this Lease, the action can only be brought in those courts located within Cook County, Illinois.

18.7 Approvals. This Lease shall be subject to the approval of the (i) Aviation Committee of the City Council of the City of Chicago and the full City Council (the “**City Approvals**”); and (ii) to the Members of Tenant (the “**Tenant Approvals**”) and shall not be valid and enforceable until such City Approvals have been granted and the Tenant Approvals have been obtained.

18.8 Notices. Any notices or other communications pertaining to this Lease must be in writing and are deemed to have been given by a party if sent by nationally recognized commercial overnight courier or registered or certified mail, return receipt requested, postage prepaid and addressed to the other party. Notices are deemed given on the date of receipt if by personal service, or one (1) day after deposit with a nationally recognized commercial overnight courier, three (3) days after deposit in the U.S. mails sent by certified mail, return receipt requested, postage prepaid, or otherwise upon refusal of receipt. Unless otherwise directed by Tenant in writing, all notices or communications from City to Tenant will sent to Tenant’s notice address as set forth in this Lease. All notices or communications from Tenant to the City must be addressed to:

Commissioner, Chicago Department of Aviation  
City of Chicago  
O’Hare International Airport  
10510 W. Zemke Rd  
Chicago, Illinois 60666

and with a copy to: First Deputy Commissioner.

If the notice or communication relates to payment of Rent or other payments to the City or relates to the insurance requirements, a copy must be sent to:

City Comptroller  
City of Chicago  
City Hall - Room 501  
121 N. LaSalle Street  
Chicago, Illinois 60602

If the notice or communication relates to a legal matter or the indemnification requirements, a copy must be sent to:

City of Chicago, Department of Law  
Aviation, Environmental, Regulatory and Contracts Division  
30 North LaSalle Street, Suite 1400  
Chicago, Illinois 60602  
Attn: Deputy Corporation Counsel

Either party may change its address or the individual to whom the notices are to be given by a notice given to the other party in the manner set forth above.

18.9 Successors and Assigns; No Third Party Beneficiaries. This Lease inures to the exclusive benefit of, and is binding upon, the parties and their permitted successors and assigns; nothing contained in this Section, however, constitutes approval of an assignment or other transfer by Tenant not otherwise permitted in this Lease. Nothing in this Lease, express or implied, is intended to confer on any other person, sole proprietorship, partnership, corporation, trust or other entity, other than the parties and their successors and assigns, any right, remedy, obligation, or liability under, or by reason of, this Lease unless otherwise expressly agreed to by the parties in writing. No benefits, payments or considerations received by Tenant for the performance of services associated and pertinent to this Lease must accrue, directly or indirectly, to any employees, elected or appointed officers or representatives, or to any other person or persons identified as agents of, or who are by definition an employee of, the City. Neither this Lease nor any rights or privileges under this Lease are an asset of Tenant or any third party claiming by or through Tenant or otherwise, in any bankruptcy, insolvency or reorganization proceeding.

18.10 Subordination.

(a) This Lease is subordinate to the provisions and requirements of any existing or future agreements between the City and the United States government or other governmental authority, pertaining to the development, operation or maintenance of the Airport, including agreements the execution of which have been or will be required as a condition precedent to the granting of federal or other governmental funds for the development of the Airport. If the United States government requires modifications, revisions, supplements or deletions of any of the terms of this Lease, then Tenant consents to the changes to this Lease. In the event that any such modifications, revisions, supplements or deletions result in either a material increase to Tenant's obligations and liabilities under this Lease or a material decrease in Tenant's rights under this Lease or have a material adverse effect on the operation of the Concession Program, then Tenant

shall have the right to terminate this Lease upon prior written notice within ninety (90) days following written notification from the City of the required amendment.

(b) This Lease and all rights granted to Tenant under this Lease are expressly subordinated and subject to the International Terminal Use Agreement and the Use Agreement with any airline utilizing the Airport, including the Terminals, and any existing agreement with any airline consortium pertaining to the operation of the Airport, including the Terminals.

(c) To the extent of a conflict or inconsistency between this Lease and any agreement described in paragraphs (a) and (b) above, those provisions in this Lease so conflicting must be performed as required by those agreements referred to in paragraphs (a) and (b) except to the extent that any such conflicts or inconsistencies requiring Tenant to perform as required under such other agreements result in either a material increase to Tenant's obligations and liabilities under this Lease or a material decrease in Tenant's rights under this Lease or have a material adverse effect on the operation of the Concession Program.

18.11 Conflict. In the event of any conflict between the terms and provisions of this Lease and the terms and provisions of any Sublease or contract between Tenant and its Subtenants, Contractors and any other third party, the terms and provisions of this Lease govern and control.

18.12 Offset by Tenant. Whenever in this Lease the City is obligated to pay Tenant an amount, then the City Comptroller may elect to require Tenant to offset the amount due against Rent or other payments owed by Tenant to the City, in lieu of requiring the City to pay such amount. Tenant shall have no right to offset any amount due to City under this Lease against amounts due to Tenant by City unless so directed in writing by the City Comptroller.

18.13 Waiver Remedies. No delay or forbearance on the part of any party in exercising any right, power or privilege must operate as a waiver of it, nor does any waiver of any right, power or privilege operate as a waiver of any other right, power or privilege, nor does any single or partial exercise of any right, power or privilege preclude any other or further exercise of it or of any other right, power or privilege. No waiver is effective unless made in writing and executed by the party to be bound by it. The rights and remedies provided for in this Lease are cumulative and are not exclusive of any rights or remedies that the parties otherwise may have at law, in equity or both, except that the City will not be liable to Tenant for any consequential damages whatsoever related to this Lease.

18.14 Authority of Commissioner. Unless otherwise expressly stated in this Lease, any consents and approvals to be given by the City under this Lease may be made and given by the Commissioner or by such other person as may be duly authorized by the City Council, unless the context clearly indicates otherwise.

18.15 Estoppel Certificate. From time to time upon not less than fifteen (15) days prior request by the other party, a party or its duly authorized representative having knowledge of the following facts, will execute and deliver to the requesting party a statement in writing certifying as to matters concerning the status of this Lease and the parties' performance under this Lease,

including the following:

- (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, a description of the modifications and that the Agreement as modified is in full force and effect);
- (b) the dates to which Rental, including Additional Rental, have been paid and the amounts of the Rental most recently paid;
- (c) that the requesting party is not in default under any provision of this Lease, or, if in default, the nature of it in detail;
- (d) that, to its knowledge, the requesting party has completed all required improvements in accordance with the terms of this Lease, and Tenant is in occupancy and paying Rental on a current basis with no offsets or claims; and
- (e) in the case of the City's request under this Lease, such further matters as may be reasonably requested by the City, it being intended that any such statement may be relied upon by third parties.

18.16 No Personal Liability. Neither City nor Tenant, shall charge any elected or appointed official, agent, or employee of the City or Tenant personally or seek to hold him or her personally or contractually liable for any liability or expenses of defense under any provision of this Lease or because of any breach of its provisions or because of his or her execution, approval, or attempted execution of this Lease.

18.17 Limitation of City's Liability. Tenant, its Subtenants and Contractors must make no claims against the City for damages, charges, additional costs or fees or any lost profits or costs incurred by reason of delays or hindrances by the City in the performance of its obligations under this Lease. All Tenant, Subtenants, and Contractor personal property upon the Premises or upon any other part of the Airport, is at the risk of Tenant, Subtenants, or Contractor respectively only, and the City is not liable for any loss or damage to it or theft of it or from it. The City is not liable or responsible to Tenant, its Subtenants or Contractors, and Tenant waives, and will cause its Subtenants and Contractors likewise to waive, to the fullest extent permitted by law, all claims against the City for any loss or damage or inconvenience to any property or person or any lost profits any or all of which may have been occasioned by or arisen out of any event or circumstance, including theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority, or water leakage, steam, excessive heat or cold, falling plaster, or broken glass; or any act or neglect of the City or any occupants of the Airport, including the Terminal or the Premises, or repair or alteration of any part of the Airport, or failure to make any such repairs or any other thing or circumstance, whether of a like nature or a wholly different nature. If the City fails to perform any covenant or condition of this Lease that the City is required to perform and, notwithstanding the foregoing, Tenant recovers a money judgment against the City, the judgment must be satisfied only out of credit against the Rent and other monies payable by Tenant to the City under this Lease, and the City is not liable for any deficiency except to the extent provided in this Lease and to the extent

that there are legally available Airport funds.

18.18 Joint and Several Liability. If Tenant, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then in that event, each and every obligation or undertaking stated in this Lease to be fulfilled or performed by Tenant is the joint and several obligation or undertaking of each such individual or other legal entity.

18.19 Non-Recordation. Tenant must not record or permit to be recorded on its behalf this Lease or a memorandum of this Lease, in any public office.

18.20 Survival. Any and all provisions set forth in this Lease that, by its or their nature, would reasonably be expected to be performed after the expiration or termination of this Lease survive and are enforceable after the expiration or termination. Any and all liabilities, actual or contingent, that have arisen in connection with this Lease, survive any expiration or termination of this Lease. Any express statement of survival contained in any section must not be construed to affect the survival of any other section, which must be determined under this Section.

18.21 Force Majeure. Neither party is liable for non-performance of obligations under this Lease due to Force Majeure. As a condition to obtaining an extension of the period to perform its obligations under this Lease, the party seeking such extension due to a Force Majeure must notify the other party within twenty (20) days after the occurrence of the Force Majeure. The notice must specify the nature of the delay or interruption and the period of time contemplated or necessary for performance. The foregoing notwithstanding, however, in no event will Tenant be entitled to an extension of more than ninety (90) days due to a Force Majeure, without the express written consent of the Commissioner.

**[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK, SIGNATURE  
PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the City and the Tenant have hereto set their duly authorized hands and seals as of the date set forth above.

**MIDWAY PARTNERSHIP, LLC**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**CITY OF CHICAGO**

BY: \_\_\_\_\_

TITLE: Mayor

Recommended by:

BY: \_\_\_\_\_

TITLE: Commissioner of Aviation

Approved BY: \_\_\_\_\_  
[ Law Department ]

## **EXHIBIT A**

### **Concession Premises and Storage Premises**

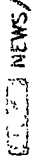
LEGEND



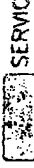
RETAIL



FOOD & BEVERAGE



NEWS/CONVENIENCE



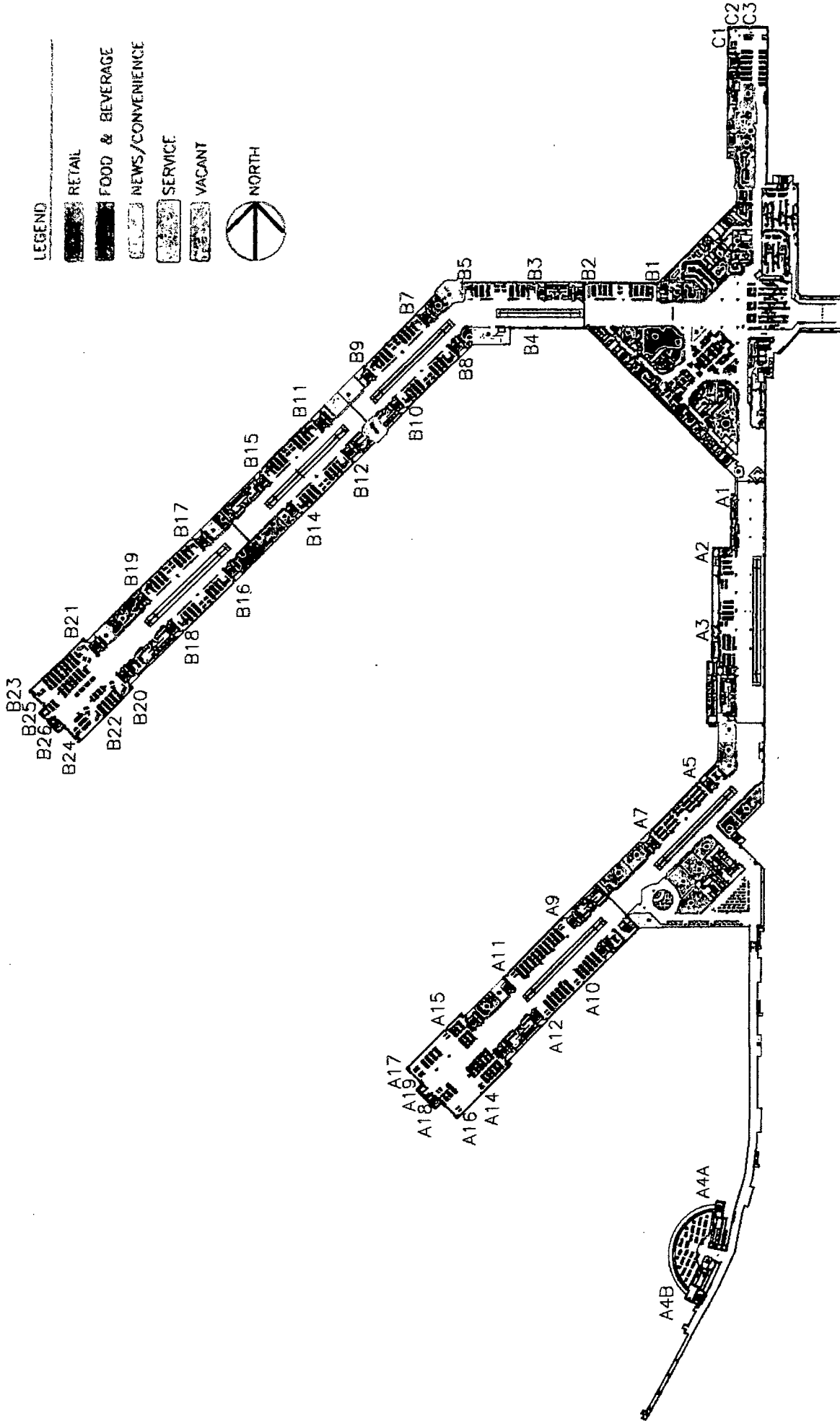
SERVICE



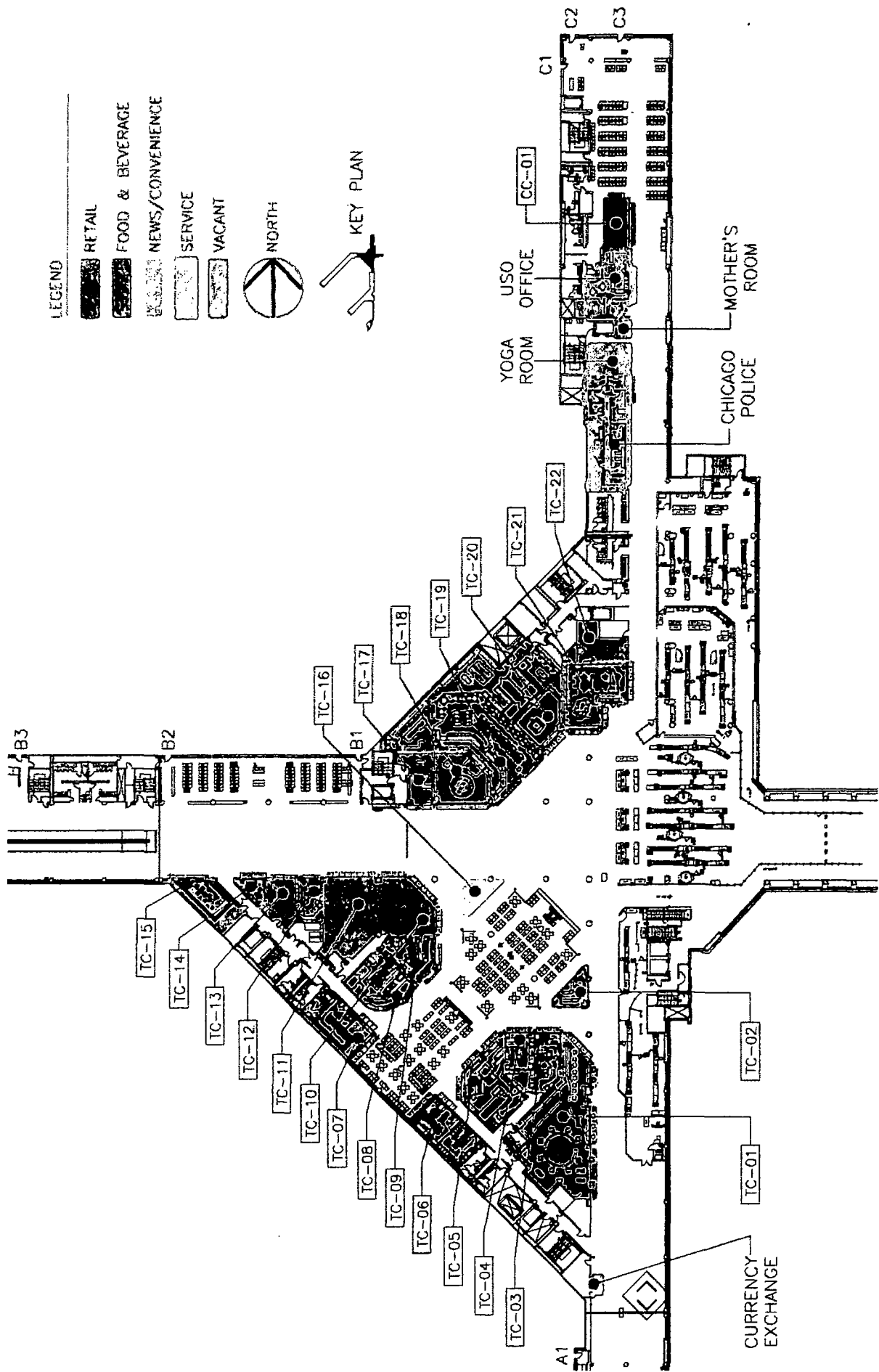
VACANT



NORTH

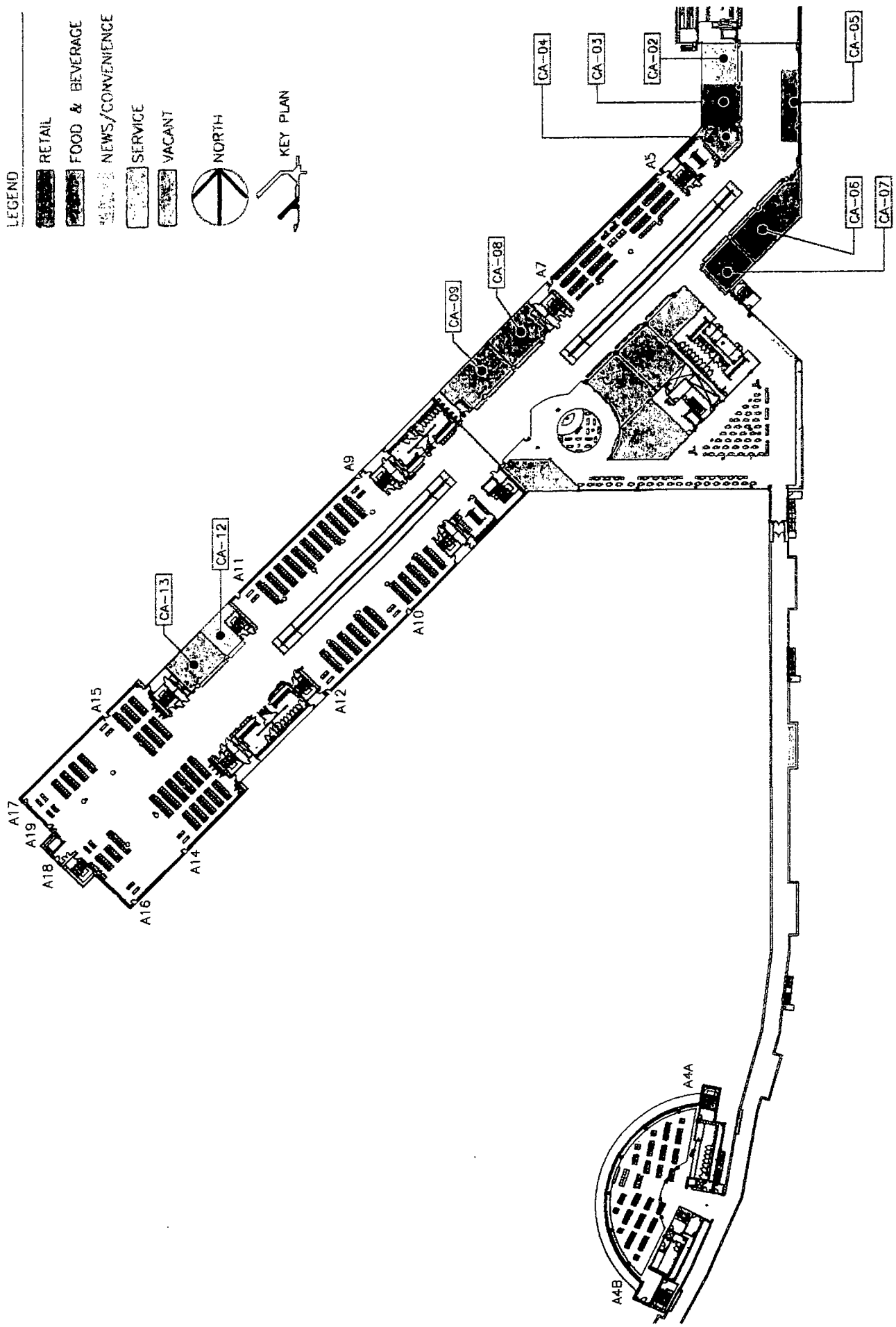






LEGEND

- RETAIL
- FOOD & BEVERAGE
- NEWS/CONVENIENCE
- SERVICE
- VACANT



# LEGEND

RETAIL

FOOD & BEVERAGE

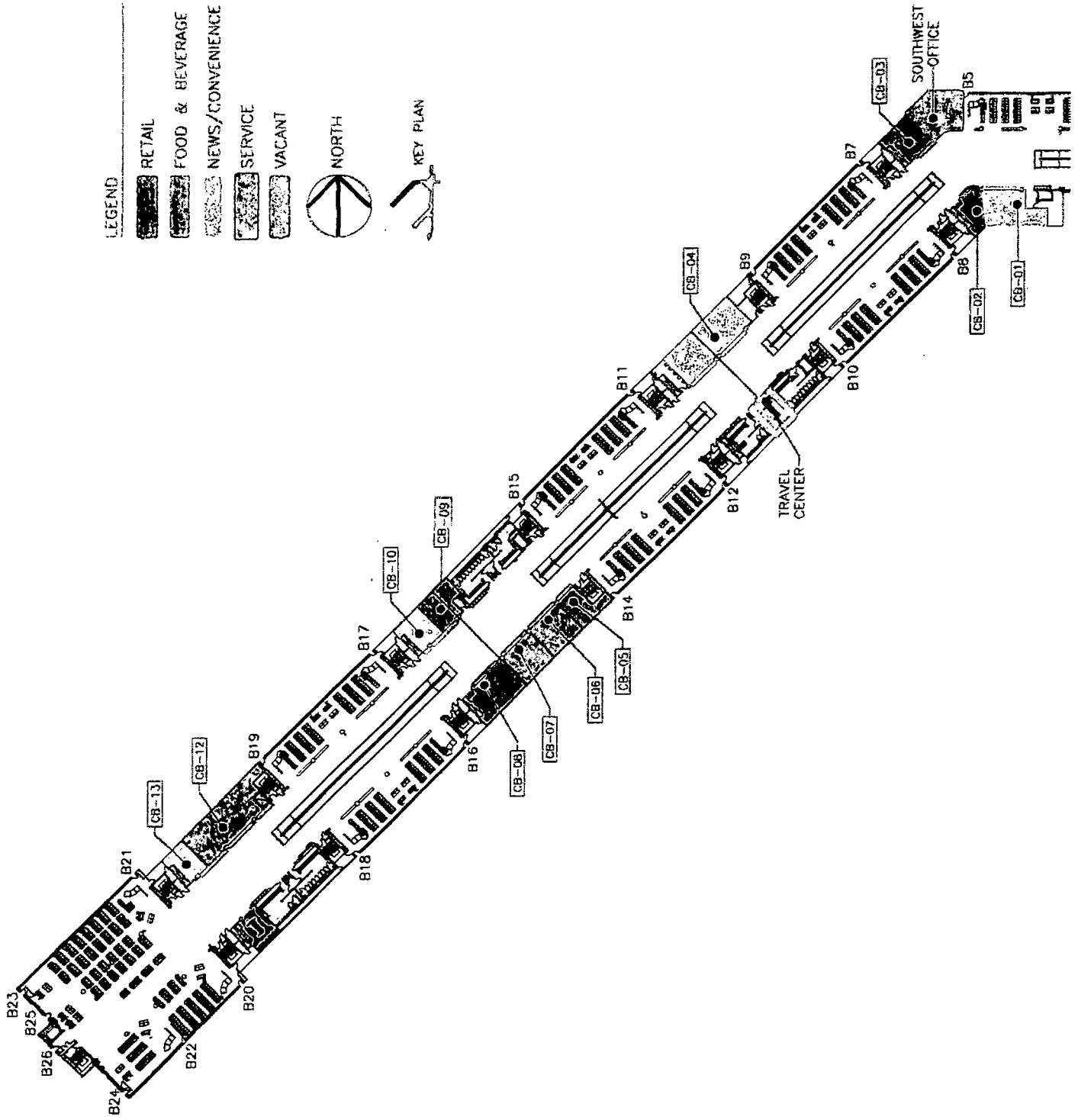
NEWS/CONVENIENCE

SERVICE

VACANT



KEY PLAN



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**Midway International Airport**  
**Concessions Storage Areas**  
(Sorted by Zone, Level)

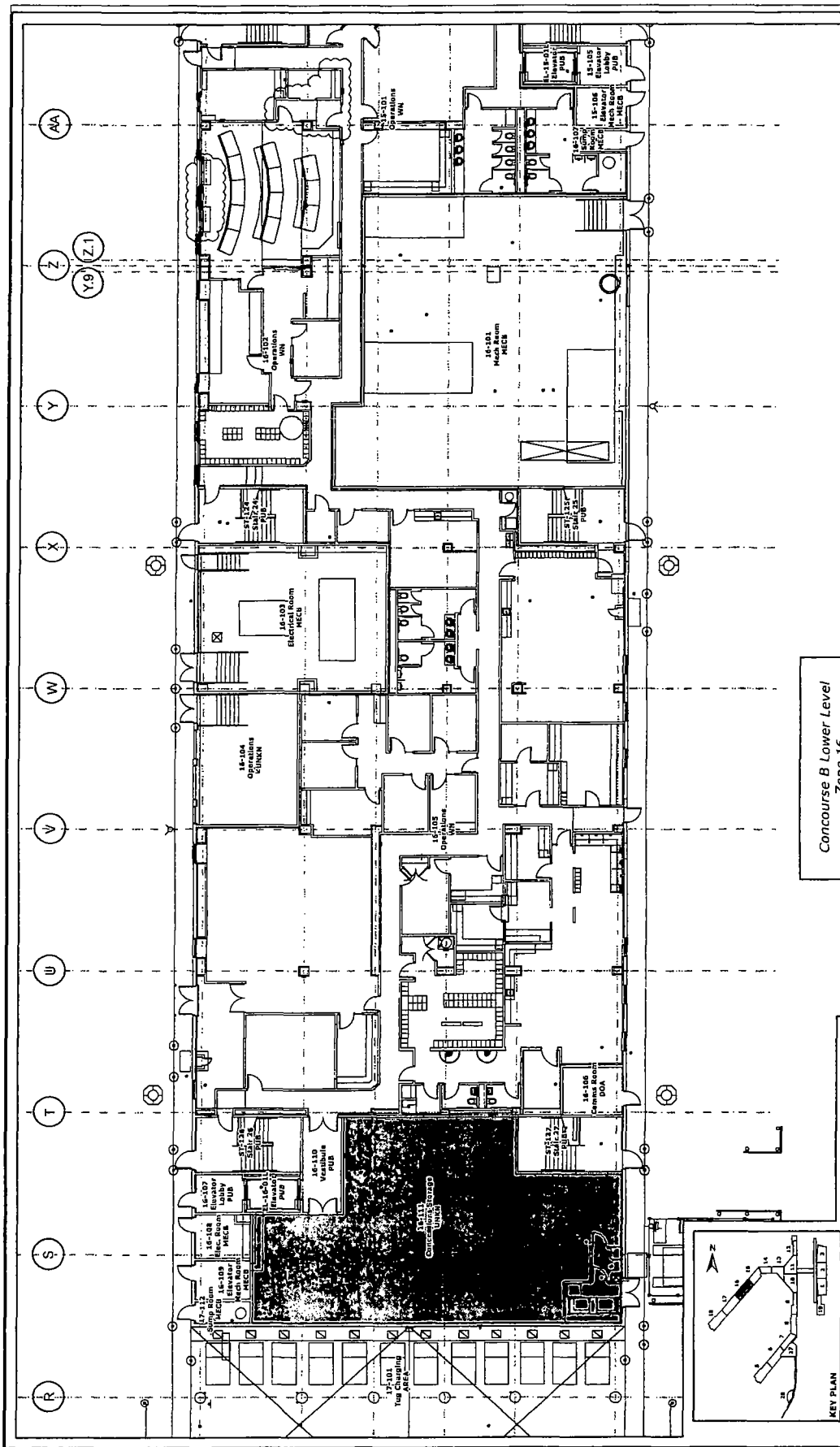
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ZONE	LEVEL	SPACE ID	DESCRIPTION	AREA (SF)
08	L	08-122	Concessions Storage	4,569.9
<b>ZONE 08 SUBTOTAL</b>				<b>4,569.9</b>
11	L	11-150	Concessions Storage	4,771.1
	L	11-152	Concessions Storage	614.8
	L	11-199	Concessions Storage	1,260.2
<b>ZONE 11 SUBTOTAL</b>				<b>6,646.1</b>
16	L	16-111	Concessions Storage	2,739.0
<b>ZONE 16 SUBTOTAL</b>				<b>2,739.0</b>
27	L	27-104	Concessions Storage	2,115.0
<b>ZONE 27 SUBTOTAL</b>				<b>2,115.0</b>
28	L	28-106	Concessions Storage	41.7
	L	28-107	Concessions Storage	112.3
<b>ZONE 28 SUBTOTAL</b>				<b>154.0</b>

**Concessions Storage Areas Total (SF) 16,224.0**





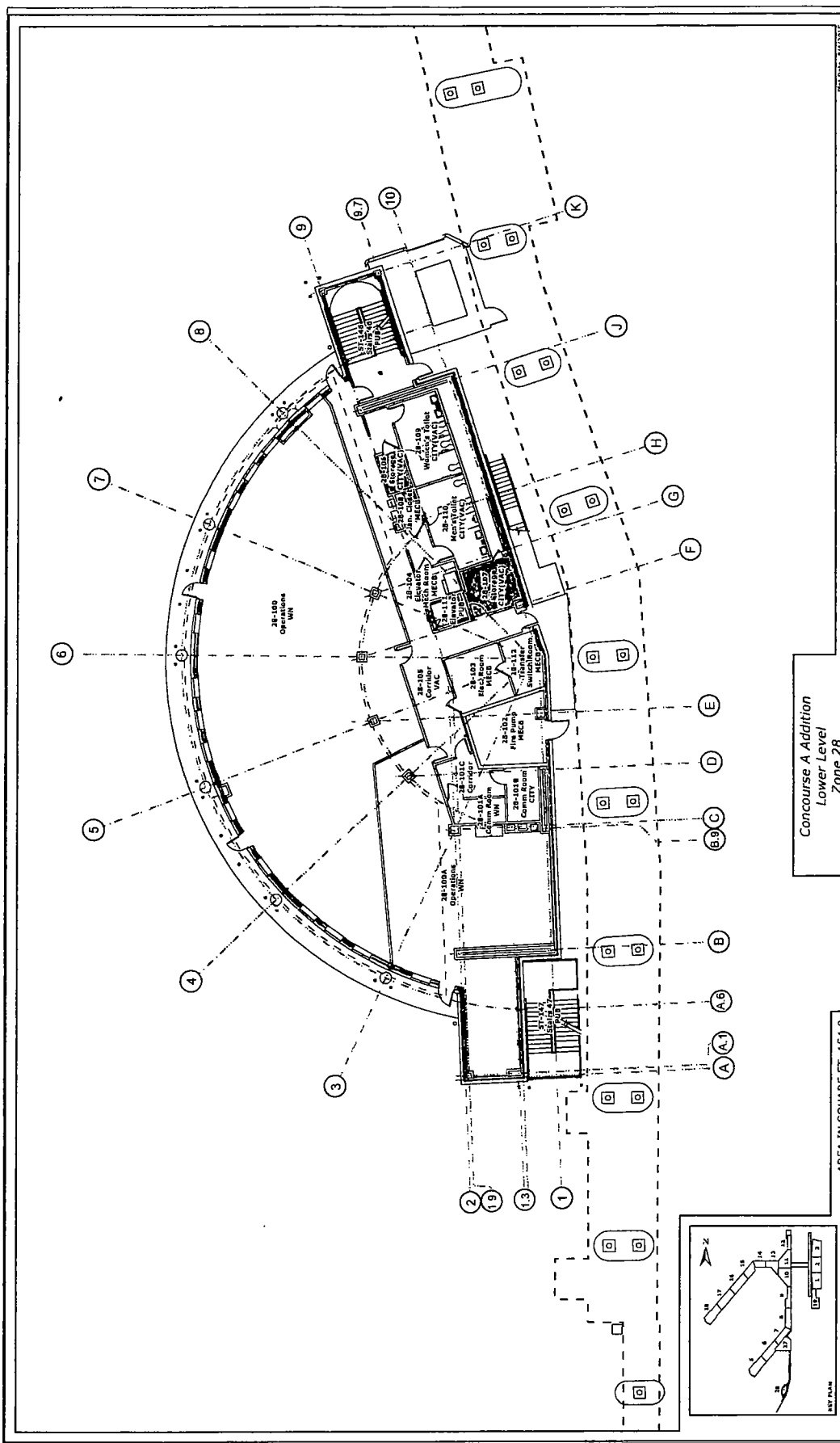


<p>AREA IN SQUARE FT: 2,739.0</p>	<p>Concourse B Lower Level Zone 16</p>	<p>Chicago Midway International Airport</p>	<p>City of Chicago Rahm Emanuel Mayor</p>	<p>Department of Aviation</p>
<p>CPA CONSULTING PARTNERS ASSOCIATES</p>	<p>LEB</p>	<p>FINAL LEASED PREMISES CONCESSIONS STORAGE</p>	<p>Effective Date: Scale: 1"=20'</p>	<p>Exhibit 3</p>

9/17/2015  
Per File COC-215 C1.pdf







AREA IN SQUARE FT. 154.0

Concourse A Addition  
Lower Level  
Zone 28

City of Chicago  
Rahm Emanuel  
Mayor

Department  
of Aviation

Chicago Midway  
International Airport

CDPA  
CONSTRUCTION DESIGN AND PROJECT ADMINISTRATION

LEB

FINAL LEASED PREMISES  
CONCESSIONS STORAGE

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

Scale: 1"=20'

Exhibit  
5

## **EXHIBIT B**

### **CDA-Approved Tenant Concept/Development Plan**

## Exhibit B

### Midway Concept/Development Plan

Proposed Concept/Brand	Category
Coopers Hawk	Bar
Goose Island	Bar
Reilly's Daughter	Bar
Shaller's Pump	Bar
Chicago White Sox	Casual Dining
Gene's Bistro	Casual Dining
Harry Caray's 7th Inning Stretch	Casual Dining
Home Run Inn	Casual Dining
Hubbard Inn	Casual Dining
Big Shoulders Coffee	Coffee
Café Des Carte	Coffee
Dunkin' Donuts	Coffee
Departures News & Gift	News and Convenience
Hudson	News and Convenience
South Side News	News and Convenience
US News and World Report	News and Convenience
Where Travelers News	News and Convenience
America's Dog	Quick Service
Arami	Quick Service
Big & Little's	Quick Service
Big Bowl	Quick Service
Big City Chicken	Quick Service
Billy Goat Tavern	Quick Service
Camden Food	Quick Service
Connie's Pizza	Quick Service
DeColores	Quick Service
Einstein's Bagels	Quick Service
Epic Burger	Quick Service
Freshii	Quick Service
Garretts Popcorn	Quick Service
Goddess and Grocer	Quick Service
Home Run Inn	Quick Service
Jimmy John's	Quick Service

M BURGER	Quick Service
Pegasus on the Fly	Quick Service
Pizano's Pizza	Quick Service
Pork Chop	Quick Service
RJ Grunts	Quick Service
Tallboy Taco's	Quick Service
Be Relax Spa	Services
The Club At MDW (Airport Lounge	Services
Garrett Popcorn	Snack
Nuts on Clark	Snack
Belkin	Specialty Retail
Birch Box	Specialty Retail
Boeing	Specialty Retail
Calvin Klein	Specialty Retail
Chicago Arts	Specialty Retail
Chicago Comics	Specialty Retail
Chicago Sports	Specialty Retail
Clark Street Sports	Specialty Retail
Coach	Specialty Retail
Dufry -Duty Free	Specialty Retail
Frank Lloyd Wright	Specialty Retail
I Store	Specialty Retail
Ink	Specialty Retail
Kiehl's	Specialty Retail
Lolli and Pops	Specialty Retail
Monster	Specialty Retail
Redefine 29	Specialty Retail
Sarah's Candies	Specialty Retail
Semoneta Gloves	Specialty Retail
Stitch Chicago	Specialty Retail
Swarovski	Specialty Retail
Swatch	Specialty Retail
Tails in the City	Specialty Retail
Tumi	Specialty Retail
Ty	Specialty Retail
Victoria's Secret	Specialty Retail
Where Traveler - Best of Chicago	Specialty Retail
Vending	Specialty Retail

## **EXHIBIT C**

### **Special Conditions Regarding ACDBE Participation and ACDBE Compliance Plan**

# **Special Conditions Regarding Airport Concession Disadvantaged Business Enterprise (ACDBE) Commitment**

[Special Conditions document follows]

**SPECIAL CONDITIONS REGARDING  
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)  
COMMITMENT**

**I. POLICY AND PROGRAM**

It is the policy of the City of Chicago ("City") not to discriminate on the basis of race, color, sex or national origin in the award or performance of airport concession agreements. Because the City is a recipient of Airport Improvement Program funds from the Federal Aviation Administration ("FAA"), the concessions at the City's airports are subject to 49 CFR Part 23, Participation of Disadvantaged Business Enterprise in Airport Concessions ("Part 23"). The City will not, directly or indirectly, through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or impeding the accomplishment of the objectives of Part 23. Compliance with Part 23 requirements will not diminish or supplant the Tenant's obligations to comply with non-discrimination laws as required elsewhere in the Agreement. In the event of a conflict between the provisions of these Special Conditions and the requirements of Part 23, the requirements of Part 23 shall prevail. Part 23 is available on-line at [www.access.gpo.gov/nara/cfr/waisidx\\_06/49cfr23\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/49cfr23_06.html).

It is further the policy of the City, in accordance with the requirements of Part 23, that Airport Concession Disadvantaged Business Enterprises ("ACDBEs") have the maximum opportunity to participate fully in the City's airport concession program. As used throughout these Special Conditions, the term "ACDBE" means an entity that has been certified as such under the Illinois Unified Certification Program ("UCP"). If a firm is not certified by the Illinois UCP as an ACDBE in accordance with the standards in Part 23, the firm's participation is not counted for Part 23 purposes. ACDBEs certified by other jurisdictions are not considered certified ACDBEs for purposes of this Agreement and will not be counted as such unless they have also been certified by the Illinois UCP.

In accordance with Part 23, Subparts B and D, the City submitted an ACDBE Program and ACDBE Goal for approval by the FAA. The FAA-approved ACDBE Program and ACDBE Goal are available upon request. In the event of any amendments or revisions to Part 23 (or any related or superseding regulations), these Special Conditions shall be subject to such revised regulations and any City-promulgated program, regulations, or goals established thereunder. Upon request by the City, this Agreement shall be amended to replace these Special Conditions with revised Special Conditions that reflect the then-current federal regulations, if necessary.

The following assurances are required to be included in the Agreement by 49 CFR §23.9(c). Tenant is deemed to be the "concessionaire or contractor" referenced.

1. This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the

owner's race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase order or other agreement covered by 49 CFR Part 23.

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

## II. GOALS

The City has established, and the Federal Aviation Administration has approved, aspirational goals for ACDBE participation in its airport concessions program as required by Part 23, Subpart D. Generally, ACDBE participation in airport concessions is measured as a percentage of annual gross receipts earned by the concessions. Details on counting ACDBE participation are found in 49 CFR §§ 23.53 (rental car concessions) and 23.55 (non-rental car concessions) and described further below:

Rental Car Concessions. Due to the lack of ACDBE rental car companies, the national or regional nature of rental car industry procurement practices and a general lack of reliable historical data, the City has determined that the aspirational goal for ACDBE participation in rental car concessions is 1.7%. Nevertheless, rental car concessionaires are encouraged to use all reasonable efforts to maximize procurement of goods and services from ACDBEs that may be certified in the Illinois UCP or the UCPs of other states.

Non-Rental Car Concessions. The City has determined that the appropriate aspirational goal for ACDBE participation in non-rental car concessions is 37%. Historical data regarding ACDBE participation at the City's airports indicates that this aspirational goal should consist of a race-neutral goal of 17% and a race-conscious goal of 20%.

The foregoing aspirational goals are for the City's concessions program as a whole. With respect to this Agreement, the City may or may not have established a contract-specific ACDBE aspirational goal at the time that the City issued the Request for Proposals for the concession ("RFP"). If the RFP included a contract-specific goal, Tenant's proposal either included participation by ACDBE(s) that met or exceeded the contract-specific goal or Tenant demonstrated "good faith efforts" to meet that contract-specific goal but was unable to do so. Guidance on "good faith efforts" can be found in Appendix A to 49 C.F.R. Part 26. Appendix A as it appears on the date of the Agreement is incorporated in Section VI.A. of these Special Conditions, but Tenant is responsible for compliance with federal regulations as they may be amended from time to time.

## III. TENANT'S ACDBE COMMITMENT

### A. INITIAL ACDBE COMMITMENT

1. Rental Cars. As provided in II above, there is no ACDBE participation goal for rental car concession agreements. Consequently, rental car concessions are not required to



commit to a percentage participation by ACDBEs in the concession, but rental car companies are strongly encouraged to utilize ACDBEs to the maximum extent possible in the procurement of goods and services.

2. Non-Rental Cars. The extent and nature of the ACDBE participation commitment by Tenant is documented in Schedules B, C and/or D attached to these Special Conditions ("ACDBE Commitment"). As used these Special Conditions and in Schedules B, C and D, "Tenant" means the entity with whom the City has entered into a concession agreement, whether that entity is referred to in that agreement as "Tenant", "Licensee" or other term.

The total ACDBE Commitment, stated as a percentage of the concessions gross revenues, must equal or exceed the percentage ACDBE participation required in the Term Sheet attached to the Agreement as Exhibit 1. If the Term Sheet indicates that there is no ACDBE participation requirement for this concession, it will be conclusive evidence that either (a) the RFP contained no contract-specific goal and Tenant did not propose any ACDBE participation or (b) the Tenant demonstrated, to the satisfaction of the City, that it exerted good faith efforts to obtain ACDBE participation to meet a contract-specific goal but was unable to obtain such participation. In either such event, there will be no Schedule B, C or D attached to these Special Conditions.

If there is ACDBE participation in the form of a joint venture member, the attached Schedule B sets forth the essential terms of that joint venture participation, including a representation as to the value of the ACDBE's activities in operating the concession as a percentage of gross revenues, and a copy of the joint venture agreement is attached to Schedule B. If there is ACDBE participation in the form of ACDBE(s) acting as sublicensee(s) or subcontractor(s), it is documented in Schedules C and D. Schedule(s) C is the commitment by the ACDBE(s) to participate by providing the goods or services indicated, and Schedule D is the commitment by the non-ACDBE to such participation by the ACDBE(s).

## B. CHANGES IN ACDBE PARTICIPATION

Arbitrary changes by the Tenant in its ACDBE Commitment are prohibited. Further, after entering into a joint venture agreement, sublicense or subcontract (collectively, "ACDBE agreement") with each approved ACDBE, Tenant and each ACDBE must thereafter neither terminate the ACDBE agreement, reduce the scope of the ACDBE's participation in the concession, nor decrease the compensation to the ACDBE, as applicable, without in each instance receiving the prior written approval of the City. Tenant must promptly notify the Commissioner of any proposed change in an ACDBE agreement and submit a copy of the proposed amendment to the ACDBE agreement. In any event, the collective participation of the previously approved ACDBE(s) must either continue to contribute to the concession at least the value of the ACDBE Commitment, as stated in terms of a percentage of gross revenues, or substitute or additional ACDBE(s) must be retained by Tenant pursuant to (D) below to maintain the ACDBE Commitment, except as provided in (C) below. Failure to comply with the ACDBE Commitment is an event of default under the Agreement. If the

proposed change in ACDBE participation is approved by the City, Tenant and ACDBE(s) must complete revised Schedules B, C or D, as applicable.

**C. INVOLUNTARY CHANGES IN ACDBE PARTICIPATION**

1. In the event that it appears that Tenant will not comply with its ACDBE Commitment because: (i) an ACDBE has defaulted in its performance under the ACDBE agreement through no fault of Tenant, (ii) an ACDBE is decertified by the Illinois UCP through no fault of Tenant and the ACDBE's participation can no longer be counted, (iii) the ACDBE's certified area of specialty has been changed through no fault of Tenant and the ACDBE's participation can no longer be counted, or (iv) an ACDBE is otherwise unable or unwilling to perform its obligations through no fault of Tenant, then Tenant must promptly notify the City, specifying one or more of the foregoing reasons as the cause for potential non-compliance with the ACDBE Commitment. If the City concurs with the specified reason, Tenant shall use good faith efforts as described in Section VI below to replace the ACDBE's participation with participation by another ACDBE. As provided in Section VI, Tenant must demonstrate those good faith efforts to the satisfaction of the Commissioner. In the event that Tenant wishes to replace an ACDBE or reduce an ACDBE's participation for reasons other than the foregoing, Tenant must replace the ACDBE's participation with participation by an ACDBE that is acceptable to the City so that total ACDBE participation meets or exceeds the ACDBE Commitment, and Tenant's good faith efforts to do so are not sufficient. Failure to comply with the foregoing shall be an event of default under the Agreement.
2. Tenant's position in these cases must be fully explained and supported with adequate documentation. Stated reasons which will NOT be acceptable include: A replacement firm has been recruited to perform the same function under terms more advantageous to the Tenant; issues about performance by the committed ACDBE were disputed (unless every reasonable effort has already been taken to have the issues resolved or mediated satisfactorily); and an ACDBE has requested reasonable price escalation which may be justified due to unforeseen circumstances.

**D. ACDBE SUBSTITUTION AND ADDITIONAL ACDBEs**

If Tenant identifies a substitute, replacement or additional ACDBE for the City's approval, Tenant's request for approval shall include the name, address, and principal official of the proposed ACDBE; the nature and essential terms of the ACDBE agreement under which the ACDBE will participate; and a letter of intent signed by Tenant and the ACDBE to enter into such an ACDBE agreement upon approval by the City. Tenant must provide such other affidavits and documents as the City may request to evaluate the request. The City will evaluate and respond to the submitted documentation within fifteen working days after the submittal of a complete request. The response may be in the form of approving the request, requiring more information, or requiring an interview.

Actual use of a substitute, replacement or additional ACDBE should not be made by Tenant before City approval is given. An ACDBE agreement between Tenant and the ACDBE must be executed within the time specified by the City, and a fully executed copy of the ACDBE agreement must be submitted immediately to the City.

#### **E. AGREEMENT EXTENSIONS, ASSIGNMENTS AND SUBLEASES**

If the Agreement contains a term extension or if the Tenant proposes an assignment or sublease of the Agreement, as a condition precedent to the City's consent to such extension, assignment or sublease, the City and Tenant will revisit and possibly adjust the Tenant's ACDBE Commitment to reflect any possible change in ACDBE availability and to ensure compliance with Part 23 as it may have been amended in the interim. Tenant will be required to provide amended Schedules D, B, or C, along with amended ACDBE agreements, to reflect any required changes to the ACDBE Commitment or provide documentation of good faith efforts to achieve increased ACDBE participation.

### **IV. COUNTING ACDBE PARTICIPATION**

#### **A. NON-RENTAL CAR CONCESSIONS**

In order for their participation in the concession to be counted and reported to the FAA, ACDBEs must perform a commercially useful function, as defined in 49 CFR § 23.55(a). The work performed or gross receipts earned by a firm after its ACDBE eligibility has been removed are not counted, except as provided in 49 CFR § 23.55(j). Costs incurred in connection with the renovation, repair, or construction of a concession facility (sometimes referred to as the "buildout") are not counted. Otherwise, ACDBE participation in non-rental car concessions is counted as follows:

1. Tenant is an ACDBE. When Tenant is an ACDBE or a joint venture consisting only of ACDBEs, the gross receipts earned by Tenant are counted. Gross receipts attributable to a non-ACDBE sublicensee of Tenant are not counted.
2. Separate locations. When an ACDBE performs as a sublicensee to Tenant with its own concession location or when Tenant is a joint venture which includes a non-ACDBE and in which an ACDBE operates its own separate location, the gross receipts earned by the ACDBE at its separate location are counted. The ACDBE location must be independently operated by the ACDBE as evidenced by the ACDBE's responsibility for all aspects of the management and operation of the location. Gross receipts attributable to a non-ACDBE sublicensee of the ACDBE are not counted.
3. Joint venture, no separate locations. When Tenant is a joint venture with an ACDBE participant and the ACDBE jointly participates with a non-ACDBE in the operation of all locations, only the portion of the Tenant's gross receipts attributable to the distinct, clearly defined portion of the work of the concession that the

ACDBE performs with its own forces is counted. When the City has reason to doubt the extent of an ACDBE joint venturer's commercially useful contribution towards the concessionaire's gross receipts, the City may require Tenant to submit evidence to substantiate the value of the ACDBE's contribution. If the Tenant fails to submit satisfactory evidence, it is an event of default under the Agreement.

4. Subcontractor participation. When an ACDBE provides, as a subcontractor to Tenant, goods or services for operation of the concession, the amounts paid to the ACDBE are counted as provided below. However, if the ACDBE enters into a subcontract with a non-ACDBE to provide the goods or services, the amounts paid to the non-ACDBE are not counted.
  - a. The entire amount of fees or commissions charged by an ACDBE firm for a *bona fide* service, provided that the City determines this amount to be reasonable and not excessive as compared with fees customarily paid for similar services. Such services may include, but are not limited to, professional, technical, consultant, legal, security systems, advertising, building cleaning and maintenance, computer programming, or managerial.
  - b. The entire amount of the cost of goods obtained from an ACDBE manufacturer, as provided in 49 CFR § 23.55(f).
  - c. The entire amount of the cost of goods purchased or leased from a ACDBE regular dealer, as provided in 49 CFR § 23.55(g).
  - d. For goods purchased from an ACDBE which is neither a manufacturer nor a regular dealer, the amount of reasonable fees, commissions, or delivery charges earned by the ACDBE, as provided in 49 CFR § 23.55(h).

#### B. RENTAL CAR CONCESSIONS

If Tenant is a rental car company, ACDBE participation counts in accordance with the provisions of 49 CFR §23.53. Goods and services will be counted in accordance with the following:

1. The entire amount of the cost charged by an ACDBE for repairing vehicles, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services; and further provided that any portion of a fee paid by a manufacturer to an ACDBE car dealership for reimbursement of work performed under the manufacturer's warranty is excluded;
2. The entire amount of the fee or commission charged by an ACDBE to manage a car rental concession under an agreement with the Tenant, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services.

3. For other goods and services, ACDBE participation counts as provided in 49 CFR §26.55 and §23.55. In the event of any conflict between these two sections, §23.55 controls.
4. If a rental car company has a national or regional contract with an ACDBE, it may count a pro-rated share of the amount of that contract toward the goals of each airport covered by the contract as provided in §23.55(f).

Rental car companies may also count ACDBE direct participation through direct ownership arrangements, but such arrangements are not required.

## **V. CERTIFICATION, RECORDS, REPORTS AND MONITORING**

### **A. CERTIFICATION**

Copies of letters of certification from a member of the Illinois UCP for each ACDBE that is part of Tenant's ACDBE Commitment are attached to their respective Schedule C or Schedule B. All letters of certification issued by the City of Chicago include a statement of the ACDBE firm's area of specialization.

Each ACDBE must promptly notify Tenant if there is any change in the ACDBE's certification status. Tenant, in turn, must notify Commissioner of any change in an ACDBE's certification status and provide a copy of any correspondence from the certifying agency regarding the status of an ACDBE's certification.

The ACDBE's scope of work, as detailed by Schedule B, C or D, must conform to its stated area of specialization. If, during the course of this Agreement, Tenant proposes to amend Schedules B, C or D so that an ACDBE performs additional work or supplies additional goods, materials or services not covered by its area of certification, the ACDBE must request an extension of its certification for such work, goods, materials or services in order to count toward the ACDBE's participation in the concession. The request to expand the scope of the ACDBE's certification, together with all documentation required by the City to process that request, must be received by the City at least 60 days in advance of the proposed date to perform such additional work or supply such additional goods, materials or services.

### **B. RECORDKEEPING**

The Tenant must maintain records of all relevant data with respect to the utilization of ACDBEs, retaining these records for a period of at least three years after termination or expiration of the Agreement. Tenant grants full access to these records to the City of Chicago, Federal or State authorities, the U.S. Department of Justice, or their duly authorized representatives.

### **C. REPORTING**

Tenant must file ACDBE utilization reports (monthly if non-rental car and quarterly if rental car), together with its concession license fee payment, delineating for the month or quarter, as applicable, and cumulatively for the year-to-date: (i) contribution by ACDBE joint venture member(s) or sublicensee(s) to Tenant's gross receipts and (ii) payments to ACDBE subcontractor(s). Each ACDBE utilization report must be signed by an authorized officer or representative of the Tenant and be notarized.

#### **D. MONITORING**

The City will, from time to time during the term of the Agreement, conduct investigations and interviews to monitor and verify that ACDBE participation in the concession meets or exceeds the ACDBE Commitment. Tenant must give, upon request, earnest and prompt cooperation to the City in submitting to inspections and interviews, in allowing entry to places of business, in providing further documentation, and in requiring the cooperation of its ACDBEs.

If the City determines that an ACDBE's actual role or responsibilities do not comply with the representations made by Tenant and the ACDBE in Schedules B, C or D, or that Tenant and/or ACDBE have misrepresented to the City either the payments to the ACDBE or the value of the ACDBE's participation in a joint venture, it shall be an event of default under the Agreement.

### **VI. GOOD FAITH EFFORTS**

#### **A. EXAMPLES**

Examples of "good faith efforts" are described below and in 49 CFR § 23.25, 49 CFR §26.53, and Appendix A to 49 CFR Part 26. As provided in § 23.25, §26.53 and Appendix A to 49 C.F.R. Part 26, the following are examples of documented actions that the City may take into consideration in determining whether Tenant made good faith efforts:

1. Soliciting through all reasonable and available means (e.g., advertising and/or written notices) the interest of all certified ACDBEs who have the capability to perform work or services or to supply goods relevant to the concession. Tenant must solicit this interest within sufficient time to allow the ACDBEs to respond to the solicitation. Tenant must determine with certainty if the ACDBEs are interested by taking appropriate steps to follow up initial solicitations.
2. Soliciting the work, services or goods in portions that increase the likelihood that an ACDBE can perform the work or services or provide the goods. This includes, when appropriate, breaking out contract items into economically feasible units to facilitate ACDBE participation, even when the concessionaire might otherwise prefer to perform these work items with its own forces.

3. Providing interested ACDBEs with adequate information about the operations, management and requirements of the concession in a timely manner to assist them in responding to a solicitation.
4. Negotiating in good faith with interested ACDBEs. Evidence of such negotiation includes the names, addresses and telephone numbers of ACDBEs that were considered; a description of the information provided regarding the opportunities selected for possible ACDBE participation; and evidence as to why agreement could not be reached for ACDBEs to perform the work.

NOTE: A concessionaire using good business judgment would consider a number of factors in negotiating with potential business partners or subcontractors, including ACDBEs, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using ACDBEs is not in itself sufficient reason for a failure to meet the ACDBE Commitment, as long as such costs are reasonable. Concessionaires are not, however, required to accept higher quotes from ACDBEs if the price difference in comparison to non-ACDBEs is excessive or unreasonable.

5. Not rejecting ACDBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The ACDBE's standing within its industry, membership in specific groups, organization or associations and political or social affiliation (for example union vs. non-union employee status) are not legitimate causes for rejection.
6. Making efforts to assist interested ACDBEs in obtaining bonding, lines of credit or insurance as required by the City or Tenant.
7. Making efforts to assist interested ACDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
8. Effectively using the services of available minority/women community organizations and contractors' groups; local, state and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of ACDBEs.

#### B. DOCUMENTATION

Whenever Tenant is required to demonstrate good faith efforts by Part 23 or these Special Conditions, Tenant must provide supporting documentation to the satisfaction of the Commissioner. This means documentation to show that Tenant took all necessary and reasonable steps which by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain compliance, even if not fully successful. The following types of documentation, as applicable to the situation, will be considered by the City in determining whether Tenant has made good faith efforts:

1. A listing of all ACDBE firms that were contacted that includes:
  - a. names, address and telephone numbers of ACDBE firms contacted;
  - b. date and time of contact;
  - c. method of contact (written, telephone, transmittal of facsimile documents, etc.);
  - d. name of the person contacted.
2. Copies of letters or any other evidence of mailing that substantiates outreach to ACDBE vendors that include:
  - a. concession identification and location;
  - b. descriptions/classification/commodity of work, services or goods for which quotations were sought; and
  - c. date, time and location for submittal of bids or proposals.
3. Detailed statement which summarizes direct negotiations with appropriate ACDBE firms and indicates why negotiations were unsuccessful.
4. Affirmation that good faith efforts have been demonstrated by choosing opportunities likely to be performed by ACDBEs by not imposing any limiting conditions which were not mandatory for all potential bidders\proposers; or denying the benefits ordinarily conferred for the type of opportunity that was solicited.
5. Copies of proposed portions of the work, services or goods to be performed or provided by ACDBEs in order to increase the likelihood of ACDBE participation.
6. Evidence that Tenant negotiated in good faith with interested ACDBEs.
7. Evidence that Tenant did not reject ACDBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
8. Evidence that Tenant made efforts to assist interested ACDBEs in obtaining bonding, lines of credit or insurance, as required by the City or the concessionaire.
9. Evidence that Tenant made efforts to assist interested ACDBEs in obtaining necessary equipment, supplies, materials or related assistance or services.



10. Evidence that Tenant has provided timely notice of the opportunity to at least 50 percent of the applicable ACDBEs listed in the Illinois UCP Directory. The City may contact the ACDBEs identified by Tenant for verification of such notification.
11. Evidence that ACDBE participation is excessively costly. ACDBE participation will be deemed excessively costly when the ACDBE bid or proposal exceeds the average price quoted by others by more than 15 percent. In order to establish that a ACDBE's quote is excessively costly, Tenant must provide the following information:
  - a. A detailed statement of the opportunity identified for ACDBE participation for which Tenant asserts the ACDBE quote(s) were excessively costly (in excess of 15 percent higher).
  - b. A listing of all potential business partners or subcontractors contacted for a quotation on that opportunity.
  - c. Prices quoted by all such potential business partners or subcontractors for that opportunity.
  - d. Other documentation that demonstrates to the satisfaction of the City that the ACDBE quotes are excessively costly, even though not in excess of 15 percent higher than the average price quoted.

C. ADMINISTRATIVE RECONSIDERATION

1. For the purposes of this Agreement, the City has delegated the responsibility for making the determination regarding a Tenant's good faith efforts to the Department of Aviation. The determination shall be based upon the Department's review of the documentation that the Tenant has timely submitted. Within five days of being informed by the Department that Tenant has not documented sufficient good faith efforts, Tenant may request administrative reconsideration. The request must be made in writing to the following official:

Department of Aviation  
10510 West Zemke Road  
Chicago, Illinois 60666  
Attention: Commissioner

NOTE: The Commissioner may not have played any role in the original determination that the Tenant did not make or timely document sufficient good faith efforts. The Commissioner may appoint a reconsideration officer, who did not play any role in the original determination, to act in his or her stead.

with copies to:

Department of Procurement Services  
City Hall, Room 403  
121 N. LaSalle Street  
Chicago, Illinois 60602  
Attention: Chief Procurement Officer

Department of Aviation  
10510 West Zemke Road  
Chicago, Illinois 60666  
Attention: Deputy Commissioner for Concessions

Department of Law  
30 North LaSalle Street, Room 900  
Chicago, Illinois 60602  
Attention: Deputy Corporation Counsel, Aviation

2. As part of this reconsideration, the Tenant will have the opportunity to provide written documentation or argument concerning the issue of whether it made adequate good faith efforts. The Tenant will have the opportunity to meet in person with the reconsideration officer to discuss whether it did so. The Department will send the Tenant a written decision on reconsideration, explaining the basis for finding that the Tenant did or did not make adequate good faith efforts.

## **VII. NON-COMPLIANCE AND DAMAGES**

### **A. NON-COMPLIANCE GENERALLY**

Tenant's failure to comply with these Special Conditions constitutes a material breach of the Agreement and entitles the City to declare an event of default. If Tenant fails to cure the default within the time allowed under the default provisions of the Agreement, the City may exercise those remedies provided for in the Agreement, at law or in equity, including termination of the Agreement. In addition to any remedies specified in the Agreement, at the City's option the term of this Agreement will become month-to-month until the City locates a new Tenant. At the City's option, any improvements added by Tenant must remain for the new tenant at no cost to the City or the new tenant.

### **B. NON-COMPLIANCE WITH ACDBE AGREEMENT**

If Tenant has not complied with the requirements of an ACDBE agreement, the affected ACDBE may seek to recover from Tenant damages suffered by the ACDBEs as a result of such non-compliance. Such disputes may impact the quality of concessions at the City's airports and/or the ability of other airport tenants to solicit ACDBE participation. Therefore, Tenant consents to have any disputes between Tenant and affected ACDBEs resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorneys' fees, being recoverable by the prevailing party.

in accordance with any applicable regulations. This provision is intended for the benefit of all

ACDBEs affected by Tenant's failure to comply with ACDBE agreements and grants ACDBEs specific third party beneficiary rights. In cases deemed appropriate by the City, a dispute may lead to the withholding of sums that the City may owe Tenant until the City receives a copy of the final arbitration decision, but in no event will Tenant be excused from making any payments due to the City during the pendency of a dispute. Noncompliance or non-cooperation with the City may affect continued eligibility to enter into future contracting arrangements with the City.

## **EXHIBIT D**

### **Special Conditions Regarding MBE/WBE Participation and MBE/WBE Compliance Plan**

## EXHIBIT D

### SPECIAL CONDITIONS REGARDING MINORITY OWNED BUSINESS ENTERPRISE COMMITMENT AND WOMEN OWNED BUSINESS ENTERPRISE COMMITMENT IN CONSTRUCTION CONTRACTS

#### I. Policy and Terms

As set forth in 2-92-650 *et seq.* of the Municipal Code of Chicago (MCC) it is the policy of the City of Chicago that businesses certified as Minority Owned Business Enterprises (MBEs) and Women Owned Business Enterprises (WBEs) in accordance with Section 2-92-420 *et seq.* of the MCC and Regulations Governing Certification of Minority and Women-owned Businesses, and all other Regulations promulgated under the aforementioned sections of the Municipal Code, as well as MBEs and WBEs certified by Cook County, Illinois, shall have full and fair opportunities to participate fully in the performance of this contract. Therefore, bidders shall not discriminate against any person or business on the basis of race, color, national origin, or sex, and shall take affirmative actions to ensure that MBEs and WBEs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

Failure to carry out the commitments and policies set forth herein shall constitute a material breach of the contract and may result in the termination of the contract or such remedy as the City of Chicago deems appropriate.

Under the City's MBE/WBE Construction Program as set forth in MCC 2-92-650 *et seq.*, the program-wide aspirational goals are 26% Minority Owned Business Enterprise participation and 6% Women Owned Business Enterprise participation. The City has set goals of 26% and 6% on all contracts in line with its overall aspirational goals, unless otherwise specified herein, and is requiring that bidders make a good faith effort in meeting or exceeding these goals.

#### **Contract Specific Goals and Bids**

A bid may be rejected as non-responsive if it fails to submit one or more of the following with its bid demonstrating its good faith efforts to meet the Contract Specific Goals by reaching out to MBEs and WBEs to perform work on the contract:

- A. An MBE/WBE compliance plan demonstrating how the bidder plans to meet the Contract Specific Goals (Schedule D); and/or
- B. Documentation of Good Faith Efforts (Schedule H).

If a bidder's compliance plan falls short of the Contract Specific Goals, the bidder must include either a Schedule H demonstrating that it has made Good Faith Efforts to find MBE and WBE firms to participate or a request for a reduction or waiver of the goals.

Accordingly, the bidder or contractor commits to make good faith efforts to expend at least the following percentages of the total contract price (inclusive of any and all modifications and amendments), if awarded the contract:

**MBE Contract Specific Goal: 26%**  
**WBE Contract Specific Goal: 6%**

This Contract Specific Goal provision shall supersede any conflicting language or provisions that may be contained in this document.

For purposes of evaluating the bidder's responsiveness, the MBE and WBE Contract Specific Goals shall be percentages of the bidder's total base bid. However, the MBE and WBE Contract Specific Goals shall apply to the total value of this contract, including all amendments and modifications.

**Contract Specific Goals and Contract Modifications**

1. The MBE and WBE Contract Specific Goals established at the time of contract bid shall also apply to any modifications to the Contract after award. That is, any additional work and/or money added to the Contract must also adhere to these Special Conditions requiring Contractor to (sub)contract with MBEs and WBEs to meet the Contract Specific Goals.
  - a. Contractor must assist the Construction Manager or user Department in preparing its "proposed contract modification" by evaluating the subject matter of the modification and determining whether there are opportunities for MBE or WBE participation and at what rates.
  - b. Contractor must produce a statement listing the MBEs/WBEs that will be utilized on any contract modification. The statement must include the percentage of utilization of the firms. If no MBE/WBE participation is available, an explanation of good faith efforts to obtain participation must be included.
2. The Chief Procurement Officer shall review each proposed contract modification and amendment that by itself or aggregated with previous modification/amendment requests, increases the contract value by ten percent (10%) of the initial award, or \$50,000, whichever is less, for opportunities to increase the participation of MBEs or WBEs already involved in the Contract.

**II. Definitions**

"Area of Specialty" means the description of a MBE's or WBE's activity that has been determined by the Chief Procurement Officer to be most reflective of the firm's claimed specialty or expertise. Each MBE and WBE letter of certification contains a description of the firm's Area of Specialty. Credit toward the Contract Specific Goals shall be limited to the participation of firms performing within their Area of Specialty. The Department of Procurement Services does not make any representation concerning the ability of any MBE or WBE to perform work within its Area of Specialty. It is the responsibility of the bidder or contractor to determine the capability and capacity of MBEs and WBEs to perform the work proposed.

"B.E.P.D." means an entity certified as a Business enterprise owned or operated by people with disabilities as defined in MCC 2-92-586.

"Broker" means a person or entity that fills orders by purchasing or receiving supplies from a third party supplier rather than out of its own existing inventory and provides no commercially useful function other than acting as a conduit between his or her supplier and his or her customer.

## CONSTRUCTION MBE & WBE SPECIAL CONDITIONS

"Chief Procurement Officer" or "CPO" means the chief procurement officer of the City of Chicago or his or her designee.

"Commercially Useful Function" means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, evidencing the responsibilities and risks of a business owner such as negotiating the terms of (sub)contracts, taking on a financial risk commensurate with the contract or its subcontract, responsibility for acquiring the appropriate lines of credit and/or loans, or fulfilling responsibilities as a joint venture partner as described in the joint venture agreement.

"Construction Contract" means a contract, purchase order or agreement (other than lease of real property) for the construction, repair, or improvement of any building, bridge, roadway, sidewalk, alley, railroad or other structure or infrastructure, awarded by any officer or agency of the City, other than the City Council, and whose cost is to be paid from City funds.

"Contract Specific Goals" means the subcontracting goals for MBE and WBE participation established for a particular contract.

"Contractor" means any person or business entity that has entered into a construction contract with the City, and includes all partners, affiliates and joint ventures of such person or entity.

"Direct Participation" the value of payments made to MBE or WBE firms for work that is done in their Area of Specialty directly related to the performance of the subject matter of the Construction Contract will count as Direct Participation toward the Contract Specific Goals.

"Directory" means the Directory of Minority Business MBEs and WBEs maintained and published by the Chief Procurement Officer. The Directory identifies firms that have been certified as MBEs and WBEs, and includes the date of their last certifications and the areas of specialty in which they have been certified. Bidders and contractors are responsible for verifying the current certification status of all proposed MBEs and WBEs.

"Executive Director" means the executive director of the Office of Compliance or his or her designee.

"Good Faith Efforts" means actions undertaken by a bidder or contractor to achieve a Contract Specific Goal that, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

"Joint venture" means an association of a MBE or WBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which each joint venture partner contributes property, capital, efforts, skills and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

"Minority Business Enterprise" or "MBE" means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and Regulations as

well as a firm awarded certification as a minority owned and controlled business by Cook County, Illinois.

"Supplier" or "Distributor" refers to a company that owns, operates, or maintains a store, warehouse or other establishment in which materials, supplies, articles or equipment are bought, kept in stock and regularly sold or leased to the public in the usual course of business. A regular distributor or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for performance of the Contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular distributor the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A regular distributor in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

"Women Business Enterprise" or "WBE" means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women owned business by Cook County, Illinois.

### III. **Joint Ventures**

The formation of joint ventures to provide MBEs and WBEs with capacity and experience at the prime contracting level, and thereby meet Contract Specific Goals (in whole or in part) is encouraged. A joint venture may consist of any combination of MBEs, WBEs, and non-certified firms as long as one member is an MBE or WBE.

A. The joint venture may be eligible for credit towards the Contract Specific Goals only if:

1. The MBE or WBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;
2. The MBE or WBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract for which it is at risk;
3. Each joint venture partner executes the bid to the City; and
4. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and all such terms and conditions are in accordance with the conditions set forth in Items 1, 2, and 3 above in this Paragraph A.

B. The Chief Procurement Officer shall evaluate the proposed joint venture agreement, the Schedule B submitted on behalf of the proposed joint venture, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other City of Chicago contracts. The decision of the Chief Procurement Officer



regarding the eligibility of the joint venture for credit towards meeting the Contract Specific Goals, and the portion of those goals met by the joint venture, shall be final.

The joint venture may receive MBE or WBE credit for work performed by the MBE or WBE joint venture partner(s) equal to the value of work performed by the MBE or WBE with its own forces for a distinct, clearly defined portion of the work.

Additionally, if employees of the joint venture entity itself (as opposed to employees of the MBE or WBE partner) perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.

The Chief Procurement Officer may also count the dollar value of work subcontracted to other MBEs and WBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the Contract Specific Goals.

C. Schedule B: MBE/WBE Affidavit of Joint Venture

Where the bidder's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the bidder must submit with its bid a Schedule B and the proposed joint venture agreement. These documents must both clearly evidence that the MBE or WBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the MBE's or WBE's responsibilities and risks are proportionate to its ownership percentage. The proposed joint venture agreement must include specific details related to:

1. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;
2. Work items to be performed by the MBE's or WBE's own forces and/or work to be performed by employees of the newly formed joint venture entity;
3. Work items to be performed under the supervision of the MBE or WBE joint venture partner; and
4. The MBE's or WBE's commitment of management, supervisory, and operative personnel to the performance of the contract.

NOTE: Vague, general descriptions of the responsibilities of the MBE or WBE joint venture partner do not provide any basis for awarding credit. For example, descriptions such as "participate in the budgeting process," "assist with hiring," or "work with managers to improve customer service" do not identify distinct, clearly defined portions of the work. Roles assigned should require activities that are performed on a regular, recurring basis rather than as needed. The roles must also be pertinent to the nature of the business for which credit is being sought. For instance, if the scope of work required by the City entails the delivery of goods or services to various sites in the City, stating that the MBE or WBE joint venture partner will be responsible for the performance of all routine maintenance and all repairs required to the vehicles used to deliver such goods or services is pertinent to the nature of the business for which credit is being sought.

IV. Counting MBE and WBE Participation Towards the Contract Specific Goals

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-1 for guidance on what value of the participation by MBEs and WBEs will be counted toward the stated Contract Specific Goals. The "Percent Amount of Participation" depends on whether and with whom a MBE or WBE subcontracts out any portion of its work and other factors.

**Firms that are certified as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE to demonstrate compliance with the Contract Specific Goals.** For example, a firm certified as both a MBE and a WBE may only be listed on the bidder's compliance plan under one of the categories, but not both. Additionally, a firm that is certified as both a MBE and a WBE could not self-perform 100% of a contract, it would have to show good faith efforts to meet the Contract Specific Goals by including in its compliance plan work to be performed by another MBE or WBE firm, depending on which certification that dual-certified firm chooses to count itself as.

- A. Only expenditures to firms that perform a **Commercially Useful Function** as defined above may count toward the Contract Specific Goals.
  - 1. The CPO will determine whether a firm is performing a commercially useful function by evaluating the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
  - 2. A MBE or WBE does not perform a commercially useful function if its participation is only required to receive payments in order to obtain the appearance of MBE or WBE participation. The CPO may examine similar commercial transactions, particularly those in which MBEs or WBEs do not participate, to determine whether non MBE and non WBE firms perform the same function in the marketplace to make a determination.
- B. Only the value of the dollars paid to the MBE or WBE firm for work that it performs in its **Area of Specialty** in which it is certified counts toward the Contract Specific Goals.

**Only payments made to MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements above will be counted toward the Contract Specific Goals.**

- C. If the MBE or WBE performs the work itself:
  - 1. 100% of the value of work actually performed by the MBE's or WBE's own forces shall be counted toward the Contract Specific Goals, including the cost of , supplies purchased or equipment leased by the MBE or WBE from third parties or second tier subcontractors in order to perform its (sub)contract with its own forces. 0% of the value of work at the project site that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals
- D. If the MBE or WBE is a manufacturer:
  - 1. 100% of expenditures to a MBE or WBE manufacturer for items needed for the Contract shall be counted toward the Contract Specific Goals. A manufacturer is

a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the bidder or contractor.

- E. If the MBE or WBE is a distributor or supplier:
  - 1. 60% of expenditures for materials and supplies purchased from a MBE or WBE that is certified as a regular dealer or supplier shall be counted toward the Contract Specific Goals.
- F. If the MBE or WBE is a broker:
  - 1. 0% of expenditures paid to brokers will be counted toward the Contract Specific Goals.
  - 2. As defined above, Brokers provide no commercially useful function.
- G. If the MBE or WBE is a member of the joint venture contractor/bidder:
  - 1. A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE or WBE performs with its own forces toward the Contract Specific Goals.
    - i. OR if employees of this distinct joint venture entity perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.
  - 2. Note: a joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs, however, work subcontracted out to non-certified firms may not be counted.
- H. If the MBE or WBE subcontracts out any of its work:
  - 1. 100% of the value of the work subcontracted to other MBEs or WBEs performing work in its Area of Specialty may be counted toward the Contract Specific Goals.
  - 2. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals (except for the cost of supplies purchased or equipment leased by the MBE or WBE from third parties or second tier subcontractors in order to perform its (sub)contract with its own forces as allowed by C.1. above).
  - 3. The fees or commissions charged for providing a *bona fide* service, such as professional, technical, consulting or managerial services or for providing bonds or insurance or the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, may be counted toward the Contract Specific Goals, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - 4. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - 5. The fees or commissions charged for providing any bonds or insurance, but not the cost of the premium itself, specifically required for the performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.

## **V. Procedure to Determine Bid Compliance**

The following Schedules and requirements govern the bidder's or contractor's MBE/WBE proposal:

### **A. Schedule B: MBE/WBE Affidavit of Joint Venture**

1. Where the bidder's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the bidder must submit with its bid a Schedule B and the proposed joint venture agreement. See Section III above for detailed requirements.

### **B. Schedule C: MBE/WBE Letter of Intent to Perform as a Subcontractor or Supplier**

The bidder must submit the appropriate Schedule C with the bid for each MBE and WBE included on the Schedule D. The City encourages subcontractors to utilize the electronic fillable format Schedule C, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Suppliers must submit the Schedule C for Suppliers, first tier subcontractors must submit a Schedule C for Subcontractors to the Prime Contractor and second or lower tier subcontractors must submit a Schedule C for second tier Subcontractors. Each Schedule C must accurately detail the work to be performed by the MBE or WBE and the agreed upon rates/prices. Each Schedule C must also include a separate sheet as an attachment on which the MBE or WBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the MBE or WBE in its Area of Specialty. If a facsimile copy of the Schedule C has been submitted with the bid, an executed original Schedule C must be submitted by the bidder for each MBE and WBE included on the Schedule D within five (5) business days after the date of the bid opening.

### **C. Schedule D: Compliance Plan Regarding MBE and WBE Utilization**

The bidder must submit a Schedule D with the bid. The City encourages bidders to utilize the electronic fillable format Schedule D, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. An approved Compliance Plan is required before a contract may commence.

The Compliance Plan must commit to the utilization of each listed MBE and WBE. The bidder is responsible for calculating the dollar equivalent of the MBE and WBE Contract Specific Goals as percentages of the total base bid. All Compliance Plan commitments must conform to the Schedule Cs.

A bidder or contractor may not modify its Compliance Plan after bid opening except as directed by the Department of Procurement Services to correct minor errors or omissions. Bidders shall not be permitted to add MBEs or WBEs after bid opening to meet the Contract Specific Goals, however, contractors are encouraged to add additional MBE/WBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial, documented justification is provided, the bidder or contractor shall not reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedule Cs and Schedule D. All

terms and conditions for MBE and WBE participation on the contract must be negotiated and agreed to between the bidder or contractor and the MBE or WBE prior to the submission of the Compliance Plan. If a proposed MBE or WBE ceases to be available after submission of the Compliance Plan, the bidder or contractor must comply with the provisions in Section VII.

**D. Letters of Certification**

A copy of each proposed MBE's and WBE's Letter of Certification from the City of Chicago or Cook County, Illinois, must be submitted with the bid.

A Letters of Certification includes a statement of the MBE's or WBE's area(s) of specialty. The MBE's or WBE's scope of work as detailed in the Schedule C must conform to its area(s) of specialty. Where a MBE or WBE is proposed to perform work not covered by its Letter of Certification, the MBE or WBE must request the addition of a new area at least 30 calendar days prior to the bid opening.

**E. Schedule F: Report of Subcontractor Solicitations**

A Schedule F must be submitted with the bid, documenting all subcontractors and suppliers solicited for participation on the contract by the bidder. Failure to submit the Schedule F may render the bid non-responsive.

**F. Schedule H: Documentation of Good Faith Efforts**

1. If a bidder determines that it is unable to meet the Contract Specific Goals, it must document its good faith efforts to do so, including the submission of Attachment C, Log of Contacts.
2. If the bidder's Compliance Plan demonstrates that it has not met the Contract Specific Goals in full or in part, the bidder must submit its Schedule H no later than three business days after notification by the Chief Procurement Officer of its status as the apparent lowest bidder. Failure to submit a complete Schedule H will cause the bid to be rejected as non-responsive.
3. Documentation must include but is not necessarily limited to:
  - a. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to MBEs and WBEs;
  - b. A listing of all MBEs and WBEs contacted for the bid solicitation that includes:
    - i. Names, addresses, emails and telephone numbers of firms solicited;
    - ii. Date and time of contact;
    - iii. Person contacted;
    - iv. Method of contact (letter, telephone call, facsimile, electronic mail, etc.).
  - c. Evidence of contact, including:
    - i. Project identification and location;

- ii. Classification/commodity of work items for which quotations were sought;
  - iii. Date, item, and location for acceptance of subcontractor bids;
  - iv. Detailed statements summarizing direct negotiations with appropriate MBEs and WBEs for specific portions of the work and indicating why agreements were not reached.
  - v. Bids received from all subcontractors.
- d. Documentation of bidder or contractor contacts with at least one of the minority and women assistance associations on Attachment A.
- G. Agreements between a bidder or contractor and a MBE or WBE in which the MBE or WBE promises not to provide subcontracting quotations to other bidders or contractors are prohibited.
- H. Prior to award, the bidder agrees to promptly cooperate with the Department of Procurement Services in submitting to interviews, allowing entry to places of business, providing further documentation, or soliciting the cooperation of a proposed MBE or WBE. Failure to cooperate may render the bid non-responsive.
- I. If the City determines that the Compliance Plan contains minor errors or omissions, the bidder or contractor must submit a revised Compliance Plan within five (5) business days after notification by the City that remedies the minor errors or omissions. Failure to correct all minor errors or omissions may result in the determination that a bid is non-responsive.
- J. No later than three (3) business days after receipt of the executed contract, the contractor must execute a complete subcontract agreement or purchase order with each MBE and WBE listed in the Compliance Plan. No later than eight (8) business days after receipt of the executed contract, the contractor must provide copies of each signed subcontract, purchase order, or other agreement to the Department of Procurement Services.

**VI. Demonstration of Good Faith Efforts**

- A. In evaluating the Schedule H to determine whether the bidder or contractor has made good faith efforts, the performance of other bidders or contractors in meeting the goals may be considered.
- B. The Chief Procurement Officer shall consider, at a minimum, the bidder's efforts to:
  - 1. Solicit through reasonable and available means at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of MBEs and WBEs certified in the anticipated scopes of subcontracting of the contract, as documented by the Schedule H. The bidder or contractor must solicit MBEs and WBEs within seven (7) days prior to the date bids are due. The bidder or contractor must take appropriate steps to follow up initial solicitations with interested MBEs or WBEs.
  - 2. Advertise the contract opportunities in media and other venues oriented toward MBEs and WBEs.

3. Provide interested MBEs or WBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.
  4. Negotiate in good faith with interested MBEs or WBEs that have submitted bids. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a bidder's failure to meet the Contract Specific Goals, as long as such costs are reasonable.
  5. Not reject MBEs or WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The MBE's or WBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for rejecting or not soliciting bids to meet the Contract Specific Goals.
  6. Make a portion of the work available to MBE or WBE subcontractors and suppliers and selecting those portions of the work or material consistent with the available MBE or WBE subcontractors and suppliers, so as to facilitate meeting the Contract Specific Goals.
  7. Make good faith efforts, despite the ability or desire of a bidder or contractor to perform the work of a contract with its own organization. A bidder or contractor who desires to self-perform the work of a contract must demonstrate good faith efforts unless the Contract Specific Goals have been met.
  8. Select portions of the work to be performed by MBEs or WBEs in order to increase the likelihood that the goals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE or WBE participation, even when the bidder or contractor might otherwise prefer to perform these work items with its own forces.
  9. Make efforts to assist interested MBEs or WBEs in obtaining bonding, lines of credit, or insurance as required by the City or bidder or contractor.
  10. Make efforts to assist interested MBEs or WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; and
  11. Effectively use the services of the City; minority or women community organizations; minority or women assistance groups; local, state, and federal minority or women business assistance offices; and other organizations to provide assistance in the recruitment and placement of MBEs or WBEs.
- C. If the bidder disagrees with the City's determination that it did not make good faith efforts, the bidder may file a protest pursuant to the Department of Procurement Services Solicitation and Contracting Process Protest Procedures within 10 business days of a final adverse decision by the Chief Procurement Officer.

**VII. Changes to Compliance Plan**

## CONSTRUCTION MBE & WBE SPECIAL CONDITIONS

- A. No changes to the Compliance Plan or contractual MBE and WBE commitments or substitution of MBE or WBE subcontractors may be made without the prior written approval of the Chief Procurement Officer. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the contractor's own forces, shall be a violation of these Special Conditions and a breach of the contract with the City, and may cause termination of the executed Contract for breach, and/or subject the bidder or contractor to contract remedies or other sanctions. The facts supporting the request for changes must not have been known nor reasonably could have been known by the parties prior to entering into the subcontract. Bid shopping is prohibited. The bidder or contractor must negotiate with the subcontractor to resolve the problem. If requested by either party, the Department of Procurement Services shall facilitate such a meeting. Where there has been a mistake or disagreement about the scope of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.
- B. Substitutions of a MBE or WBE subcontractor shall be permitted only on the following basis:
  - 1. Unavailability after receipt of reasonable notice to proceed;
  - 2. Failure of performance;
  - 3. Financial incapacity;
  - 4. Refusal by the subcontractor to honor the bid or proposal price or scope;
  - 5. Mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;
  - 6. Failure of the subcontractor to meet insurance, licensing or bonding requirements;
  - 7. The subcontractor's withdrawal of its bid or proposal; or
  - 8. De-certification of the subcontractor as a MBE or WBE. (Graduation from the MBE/WBE program does not constitute de-certification.)
- C. If it becomes necessary to substitute a MBE or WBE or otherwise change the Compliance Plan, the procedure will be as follows:
  - 1. The bidder or contractor must notify the Chief Procurement Officer in writing of the request to substitute a MBE or WBE or otherwise change the Compliance Plan. The request must state specific reasons for the substitution or change. A letter from the MBE or WBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its scope of work must be submitted with the request.
  - 2. The City will approve or deny a request for substitution or other change within 15 business days of receipt of the request.
  - 3. Where the bidder or contractor has established the basis for the substitution to the satisfaction of the Chief Procurement Officer, it must make good faith efforts to meet the Contract Specific Goal by substituting a MBE or WBE subcontractor. Documentation of a replacement MBE or WBE, or of good faith efforts, must meet the requirements in sections V and VI. If the MBE or WBE Contract Specific Goal cannot be reached and good faith efforts have



been made, as determined by the Chief Procurement Officer, the bidder or contractor may substitute with a non-MBE or non-WBE.

4. If a bidder or contractor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Compliance Plan, the bidder or contractor must obtain the approval of the Chief Procurement Officer to modify the Compliance Plan and must make good faith efforts to ensure that MBEs or WBEs have a fair opportunity to bid on the new scope of work.
5. A new subcontract must be executed and submitted to the Chief Procurement Officer within five business days of the bidder's or contractor's receipt of City approval for the substitution or other change.

D. The City shall not be required to approve extra payment for escalated costs incurred by the contractor when a substitution of subcontractors becomes necessary to comply with MBE/WBE contract requirements.

#### **VIII. Reporting and Record Keeping**

- A. During the term of the contract, the contractor and its non-certified subcontractors must submit partial and final waivers of lien from MBE and WBE subcontractors that show the accurate cumulative dollar amount of subcontractor payments made to date. Upon acceptance of the Final Quantities from the City of Chicago, FINAL certified waivers of lien from the MBE and WBE subcontractors must be attached to the contractor's acceptance letter and forwarded to the Department of Procurement Services, Attention: Chief Procurement Officer.
8. The contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the City of Chicago to the contractor for services performed, on the first day of each month and every month thereafter, email and/or fax audit notifications will be sent out to the contractor with instructions to report payments that have been made in the prior month to each MBE and WBE. The reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

Once the prime contractor has reported payments made to each MBE and WBE, including zero dollar amount payments, the MBE and WBE will receive an email and/or fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

All subcontract agreements between the contractor and MBE/WBE firms or any first tier non-certified firm and lower tier MBE/WBE firms must contain language requiring the MBE/WBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.

Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at: <http://chicago.mwdbe.com>

- C. The Chief Procurement Officer or any party designated by the, Chief Procurement Officer shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the contractor's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.
- D. The contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, retaining these records for a period of at least five years after final acceptance of the work. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

#### **IX. Non-Compliance**

- A. Without limitation, the following shall constitute a material breach of this contract and entitle the City to declare a default, terminate the contract, and exercise those remedies provided for in the contract at law or in equity: (1) failure to demonstrate good faith efforts; and (2) disqualification as a MBE or WBE of the contractor or any joint venture partner, subcontractor or supplier if its status as an MBE or WBE was a factor in the award of the contract and such status was misrepresented by the contractor.
- B. Payments due to the contractor may be withheld until corrective action is taken.
- C. Pursuant to 2-92-740, remedies or sanctions may include disqualification from contracting or subcontracting on additional City contracts for up to three years, and the amount of the discrepancy between the amount of the commitment in the Compliance Plan, as such amount may be amended through change orders or otherwise over the term of the contract, and the amount paid to MBEs or WBEs. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject.
- D. The contractor shall have the right to protest the final determination of non-compliance and the imposition of any penalty by the Chief Procurement Officer pursuant to 2-92-740 of the Municipal Code of the City of Chicago, within 15 business days of the final determination.

#### **X. Arbitration**

If the City determines that a contractor has not made good faith efforts to fulfill its Compliance Plan, the affected MBE or WBE may recover damages from the contractor.

Disputes between the contractor and the MBE or WBE shall be resolved by binding arbitration before the American Arbitration Association (AAA), with reasonable expenses, including attorney's fees and arbitrator's fees, being recoverable by a

prevailing MBE or WBE. Participation in such arbitration is a material provision of the Construction Contract to which these Special Conditions are an Exhibit. This provision is intended for the benefit of any MBE or WBE affected by the contractor's failure to fulfill its Compliance Plan and grants such entity specific third party beneficiary rights. These rights are non-waivable and take precedence over any agreement to the contrary, including but not limited to those contained in a subcontract, suborder, or communicated orally between a contractor and a MBE or WBE. Failure by the Contractor to participate in any such arbitration is a material breach of the Construction Contract.

A MBE or WBE seeking arbitration shall serve written notice upon the contractor and file a demand for arbitration with the AAA in Chicago, IL. The dispute shall be arbitrated in accordance with the Commercial Arbitration Rules of the AAA. All arbitration fees are to be paid *pro rata* by the parties.

The MBE or WBE must copy the City on the Demand for Arbitration within 10 business days after filing with the AAA. The MBE or WBE must copy the City on the arbitrator's decision within 10 business days of receipt of the decision. Judgment upon the arbitrator's award may be entered in any court of competent jurisdiction.

**XI. Equal Employment Opportunity**

Compliance with MBE and WBE requirements will not diminish or supplant equal employment opportunity and civil rights provisions as required by law related to bidder or contractor and subcontractor obligations.

## **EXHIBIT E**

### **Concessionaire Design Guidelines**

[http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions\\_Document\\_Archive/ConcessionDesignGuidelines.pdf](http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions_Document_Archive/ConcessionDesignGuidelines.pdf)

## **EXHIBIT F**

### **Redevelopment, Construction Phasing and Opening Schedule**

## Exhibit F

### Redevelopment, Construction Phasing, and Opening Schedule

Proposed Concept/Brand	Phasing	Category
Coopers Hawk	4	Bar
Goose Island	1	Bar
Reilly's Daughter	2	Bar
Shaller's Pump	2	Bar
Chicago White Sox	4	Casual Dining
Gene's Bistro	2	Casual Dining
Harry Caray's 7th Inning Stretch	1	Casual Dining
Home Run Inn	1	Casual Dining
Hubbard Inn	1	Casual Dining
Big Shoulders Coffee	1	Coffee
Café Des Carte	4	Coffee
Dunkin' Donuts	1	Coffee
Dunkin' Donuts	4	Coffee
Departures News & Gift	2	News and Convenience
Hudson	2	News and Convenience
Hudson	2	News and Convenience
Hudson	2	News and Convenience
South Side News	2	News and Convenience
US News and World Report	3	News and Convenience
Where Travelers News	1	News and Convenience
America's Dog	2	Quick Service
Arami	1	Quick Service
Big & Little's	2	Quick Service
Big Bowl	2	Quick Service
Big City Chicken	2	Quick Service
Billy Goat Tavern	1	Quick Service
Camden Food	2	Quick Service
Connie's Pizza	4	Quick Service
DeColores	2	Quick Service
Dunkin	2	Quick Service
Einstein's Bagels	2	Quick Service
Epic Burger	2	Quick Service
Freshii	4	Quick Service
Garretts Popcorn	2	Quick Service
Goddess and Grocer	1	Quick Service
Home Run Inn	4	Quick Service
Jimmy John's	4	Quick Service
M BURGER	4	Quick Service
Pegasus on the Fly	2	Quick Service

Pizano's Pizza	1	Quick Service
Pork Chop	2	Quick Service
RJ Grunts	2	Quick Service
Tallboy Taco's	2	Quick Service
Be Relax Spa	1	Services
Be Relax Spa	4	Services
The Club At MDW (Airport Lounge)	2	Services
Garrett Popcorn	4	Snack
Nuts on Clark	1	Snack
Belkin	3	Specialty Retail
Birch Box	1	Specialty Retail
Boeing	2	Specialty Retail
Calvin Klein	4	Specialty Retail
Chicago Arts	2	Specialty Retail
Chicago Comics	1	Specialty Retail
Chicago Sports	2	Specialty Retail
Clark Street Sports	1	Specialty Retail
Coach	3	Specialty Retail
Dufry - Duty Free	4	Specialty Retail
Frank Lloyd Wright	2	Specialty Retail
I Store	1	Specialty Retail
Ink	2	Specialty Retail
Ink	2	Specialty Retail
Kiehl's	4	Specialty Retail
Lolli and Pops	2	Specialty Retail
Monster	1	Specialty Retail
Redefine 29	2	Specialty Retail
Sarah's Candies	3	Specialty Retail
Semoneta Gloves	1	Specialty Retail
Stitch Chicago	1	Specialty Retail
Swarovski	4	Specialty Retail
Swatch	3	Specialty Retail
Tails in the City	1	Specialty Retail
Tumi	4	Specialty Retail
Ty	4	Specialty Retail
Vending	4	Specialty Retail
Victoria's Secret	3	Specialty Retail
Where Traveler - Best of Chicago	2	Specialty Retail



**EXHIBIT F-1**

**Capital Investment**

## **EXHIBIT F-1**

### **Capital Investment**

1) Base Building Commercial Space infrastructure development	<b>\$ 5,500,000.00</b>
2) Public area seating and dwell areas	<b>\$ 2,300,000.00</b>
3) Experiential elements	<b>\$ 2,200,000.00</b>
o Icon Tower	<b>\$ 900,000.00</b>
o Soffit Led/Information Displays	<b>\$ 800,000.00</b>
o Landscaping	<b>\$ 200,000.00</b>
o Center Columns enhancement	<b>\$ 300,000.00</b>
	<b>\$10,000,000.00</b>

## **EXHIBIT G**

### **Form of Letter of Credit/Payment and Performance Bond**

SAMPLE FORM OF LETTER OF CREDIT

*Issuing Bank Letterhead*

(must be a bank located in the Chicago metropolitan area)

Irrevocable Standby Letter of Credit

Letter of Credit No. \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Chicago Department of Aviation  
Chicago's O'Hare International Airport  
P.O. Box 66142  
Chicago, Illinois 60666

Attention: Commissioner

1. We hereby open in your favor, at the request and for the account of this irrevocable standby letter of credit in an aggregate amount not to exceed \$\_\_\_\_\_ Dollars ("Stated Amount"), to be available for payment of your drafts drawn at sight on us signed by the Commissioner of the Chicago Department of Aviation, or her designee.

Your sight drafts must be accompanied by a written certificate, in the form of Exhibit A attached hereto (the "Certificate") signed and completed by you.

2. Partial and multiple drawings are permitted hereunder.
3. This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by any document, instrument or agreement referred to herein, or in which this Letter of Credit is referred to, or to which this Letter of Credit relates; and no such reference shall be deemed to incorporate herein by reference any such document, instrument or agreement. The Account Party is not the owner or beneficiary under this Letter of Credit and possesses no interest whatsoever in this Letter of Credit or its proceeds. Further, this Letter of Credit shall not be affected by any bankruptcy or other insolvency proceeding initiated by or against the Account Party.

This credit shall expire on \_\_\_\_\_, 20\_\_\_\_, unless extended as provided herein.

4. It is a condition of this credit that it will be automatically extended without amendment for an additional period of twelve (12) months from the present and each future expiry date, unless, not less than ninety (90) days prior to the then relevant expiry date, we notify you and Corporate Counsel of the City by registered mail, return receipt requested, that we elect not to extend this credit for any additional period. Upon receipt of such a notification you may draw your sight draft on us prior to the then-relevant expiration date for the unused balance of this credit, which shall be accompanied by your signed written statement that you received notification of our election not to extend.

Drafts must be marked "Drawn under irrevocable Standby Letter of Credit No. \_\_\_\_\_."

5. We hereby agree to honor each draft drawn under and in compliance with the terms of this credit if duly presented at our offices on or before the close of business on the expiry date.
6. This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.
7. This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500, 1993 revision, ("IUCP") and to the Uniform Commercial Code - Letters of Credit, as adopted in Illinois, 810 ILCS 5 -101 et seq., as amended ("UCC"). To the extent that the provisions of the IUCP and UCC conflict, the provisions of the UCC shall govern.
8. We hereby undertake that a draft drawn in conformity with the terms of this Letter of Credit will be duly honored on presentation.

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**THIS IS AN INTEGRAL PART OF STANDBY LETTER OF CREDIT  
NO. \_\_\_\_\_**

**EXHIBIT A**

**CERTIFICATE FOR DRAWING**

The undersigned, the Commissioner of the Chicago Department of Aviation, represents, warrants and certifies to \_\_\_\_\_ (the "Bank") with reference to Letter of Credit No. \_\_\_\_\_ issued by the Bank in favor of the City of Chicago (the "Beneficiary") that:

1. A breach of the Lease and License Agreement ("Agreement") dated as of \_\_\_\_\_, 20\_\_\_\_, as amended, modified or supplemented, between the City of Chicago ("City") and \_\_\_\_\_, an \_\_\_\_\_, has occurred, or a replacement Letter of Credit in a form and substance satisfactory to the City Comptroller has not been issued to the City by a Financial Institution meeting the requirements set forth in the Agreement. As a result, the City is making demand under the Letter of Credit to pay \_\_\_\_\_ dollars (\$\_\_\_\_\_) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

2. Payment of the draft shall be made by bank wire paid to our account as per our wire instructions below:

\_\_\_\_\_  
(Name of Bank)  
\_\_\_\_\_  
(City & State)  
\_\_\_\_\_  
(ABA No.)  
\_\_\_\_\_  
(Account Name)  
\_\_\_\_\_  
(Account No.)  
\_\_\_\_\_  
(Reference No., if any)

3. All defined terms used but not defined herein shall have the meaning assigned hereto in the Letter of Credit.

In witness hereof, the City has executed this certificate as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CITY OF CHICAGO

BY: \_\_\_\_\_  
Its: Commissioner of Aviation

## **EXHIBIT H**

### **Economic Disclosure Statements and Affidavits**

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

MIDWAY PARTNERSHIP, LLC

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ the Applicant

OR

2. ☐ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 19465 Deerfield Avenue  
Lansdowne, VA 20176

C. Telephone: 703-723-1060 Fax: 410-510-1213 Email: patrick.murray@foodtravelexprets.co

D. Name of contact person: Pat Murray

E. Federal Employer Identification No. (if you have one):

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_



## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input checked="" type="checkbox"/> Limited liability company |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership        |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                        |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation           |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?         |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No      |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)               |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Illinois

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

- ☐ Yes ☐ No ☒ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
<u>SSP America, Inc.</u>	<u>Member of Management Committee</u>
<u>Hudson Group (HG) Retail, LLC</u>	<u>Member of Management Committee</u>

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
SSP America, Inc.	19465 Deerfield Ave., Ste. 109, Lansdowne, VA 20176	33.3%
<del>Hudson Group (HG) Retail LLC, 1 Meadowlands Plz., E. Rutherford, NJ 07073</del>		<del>33.3%</del>
Vantage Airport Group, Ltd., 1200 W. 73rd Ave., Vancouver, BS, Canada V6P 6G5		33.3%

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.
Applicant anticipates entering into subleases with various subtenants that will operate concessions at Midway airport			
Applicant will receive sub-rents from such subtenants at rates to be determined.			
Applicant has not retained any lobbyist in connection with the Matter.			

(Add sheets if necessary)

☐ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V – CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☒ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name

Business Address

Nature of Interest

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4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded**, complete this Section VI. **If the Matter is not federally funded**, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.



3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N. Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications. NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Midway Partnership, LLC

(Print or type name of Disclosing Party)

By:

(Sign here)

Jay G. Marshall

(Print or type name of person signing)

Authorized Signatory

(Print or type title of person signing)

Signed and sworn to before me on (date) January 23, 2017

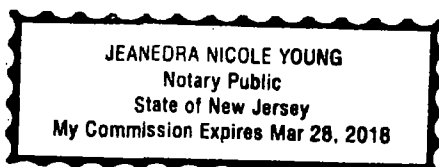
at Essex

County, New Jersey

(state).

Notary Public.

Commission expires: March 28, 2018



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX B**

**BUILDING CODE SCOFFLAW/PROBLEM LANDLORD CERTIFICATION**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent (an "Owner"). It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

1. Pursuant to Municipal Code Section 2-154-010, is the Applicant or any Owner identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☒ No

2. If the Applicant is a legal entity publicly traded on any exchange, is any officer or director of the Applicant identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☐ No

☒ Not Applicable

3. If yes to (1) or (2) above, please identify below the name of the person or legal entity identified as a building code scofflaw or problem landlord and the address of the building or buildings to which the pertinent code violations apply.

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**FILLING OUT THIS APPENDIX B CONSTITUTES ACKNOWLEDGMENT AND AGREEMENT THAT THIS APPENDIX B IS INCORPORATED BY REFERENCE INTO, AND MADE A PART OF, THE ASSOCIATED EDS, AND THAT THE REPRESENTATIONS MADE IN THIS APPENDIX B ARE SUBJECT TO THE CERTIFICATION MADE UNDER PENALTY OF PERJURY ON PAGE 12 OF THE ASSOCIATED EDS.**

## SECTION I -- GENERAL INFORMATION

SSP AMERICA (USA), LLC (holds an indirect interest in Applicant identified below)

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant  
OR
2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: MIDWAY PARTNERSHIP, LLC or
3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 19465 Deerfield Ave., Lansdowne, VA 20176

C. Telephone: (703) 723 – 1060 Fax: (410) 510 – 1213 Email: [Patrick.Murray@foodtravelexperts.com](mailto:Patrick.Murray@foodtravelexperts.com)

D. Name of contact person: Patrick Murray

E. Federal Employer Identification No. (if you have one):

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input checked="" type="checkbox"/> Limited liability company |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership        |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                        |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation           |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?         |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No      |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)               |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No (this entity will not conduct business in Illinois) ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Michael Svagdis - President, CEO	
Roger Worrell - CFO, Secretary	
Patrick Murray - Executive Vice President	
SSP FINANCING LIMITED - sole member and manager	

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
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SSP FINANCING LIMITED – 169 Euston Road, London, NW1 2AE – 100%		
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### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.



Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

NONE

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

NONE

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary): N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest
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4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. NOTE: With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:



F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

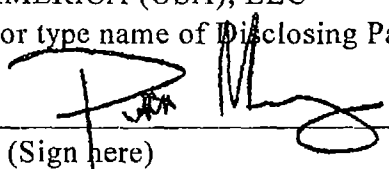
F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

SSP AMERICA (USA), LLC  
(Print or type name of Disclosing Party)

By:   
(Sign here)

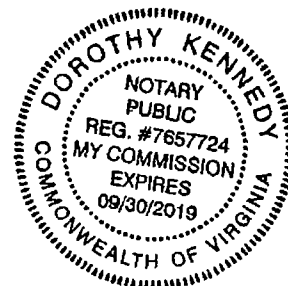
Patrick Murray  
(Print or type name of person signing)

Executive Vice President  
(Print or type title of person signing)

Signed and sworn to before me on (date) 1/23/17,  
at Loudoun County, Virginia (state).

 Notary Public.

Commission expires: 9/30/19.



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A

FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT

SECTION I -- GENERAL INFORMATION

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

SSP AMERICA, INC.

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: MIDWAY PARTNERSHIP, LLC or

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 19465 Deerfield Ave., Lansdowne, VA 20176

C. Telephone: (703) 723 - 1060 Fax: (410) 510 - 1213 Email: Patrick.Murray@foodtravelexperts.com

D. Name of contact person: Patrick Murray

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

California

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No (this entity will register soon) ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Michael Svagdis - President, CEO, Director	
Roger Worrell - CFO, Secretary, Director	
Patrick Murray - Executive Vice President, Director	

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
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SSP America (USA), LLC	19465 Deerfield Ave., Lansdowne, VA 20176	100%
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### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
McGuire Woods Consulting	77 West Wacker Drive Suite 4100 Chicago, IL 60601	lobbyist	\$60,000 (paid)
Alexander, Borovicka & O'Shea	230 W. Monroe St., Suite 2221 Chicago, IL 60606	lobbyist	\$30,000 (paid)
Resolute Consulting LLC	180 N. LaSalle Suite 2750 Chicago, IL 60601	consultant	\$1,000 (paid) *de minimus involvement in Matter; no longer retained on Matter
Transportation Development	8021 Kristo Lane  Orland Park, IL 60462	consultant	\$12,000 (paid)

☐ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

NONE

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

NONE

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary): N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name

Business Address

Nature of Interest


4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (Sec 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION,  
COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. NOTE: With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

SSP AMERICA, INC.

(Print or type name of Disclosing Party)

By: [Signature]  
(Sign here)

Patrick Murray

(Print or type name of person signing)

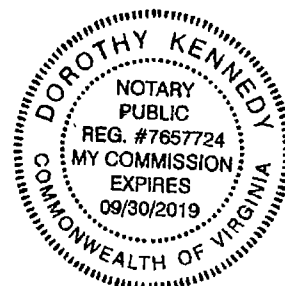
Executive Vice President

(Print or type title of person signing)

Signed and sworn to before me on (date) 1/23/17,  
at Loudoun County, Virginia (state).

[Signature] Notary Public.

Commission expires: 9/30/19.



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A

FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX B**

**BUILDING CODE SCOFFLAW/PROBLEM LANDLORD CERTIFICATION This Appendix**

is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent (an "Owner"). It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

1. Pursuant to Municipal Code Section 2-154-010, is the Applicant or any Owner identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☒ No

2. If the Applicant is a legal entity publicly traded on any exchange, is any officer or director of the Applicant identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☐ No

☒ Not Applicable

3. If yes to (1) or (2) above, please identify below the name of the person or legal entity identified as a building code scofflaw or problem landlord and the address of the building or buildings to which the pertinent code violations apply.

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**FILLING OUT THIS APPENDIX B CONSTITUTES ACKNOWLEDGMENT AND AGREEMENT THAT THIS APPENDIX B IS INCORPORATED BY REFERENCE INTO, AND MADE A PART OF, THE ASSOCIATED EDS, AND THAT THE REPRESENTATIONS MADE IN THIS APPENDIX B ARE SUBJECT TO THE CERTIFICATION MADE UNDER PENALTY OF PERJURY ON PAGE 12 OF THE ASSOCIATED EDS.**



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT

SECTION I -- GENERAL INFORMATION

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

SSP FINANCING LIMITED (holds an indirect interest in Applicant identified below)

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: MIDWAY PARTNERSHIP, LLC or

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 169 Euston Road, London, NW1 2AE

C. Telephone: +44 (0) 207 543 3300 Fax: +44 (0) 207 543 3386 Email: Helen.byrne@ssp-intl.com

D. Name of contact person: Helen Byrne

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input type="checkbox"/> Limited liability company  |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership  |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture  |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation   |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?   |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No  |
|   | <input type="checkbox"/> Trust  |
|   | <input checked="" type="checkbox"/> Other (please specify): <u>limited by shares (UK company)</u> |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

United Kingdom

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No (this entity will not conduct business in Illinois) ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Russell Chaplin - Director	
Miles Collins - Director	
Jonathan Davies - Director	
Christopher Wright - Director	
Helen Byrne - Secretary	

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
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SSP GROUP HOLDINGS LIMITED – 169 Euston Road, London, NW1 2AE – 100%		
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### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

[X] Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

NONE

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

NONE

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary): N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to



comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION,  
COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. NOTE: With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

SSP FINANCING LIMITED

(Print or type name of Disclosing Party)

By: [Signature]  
(Sign here)

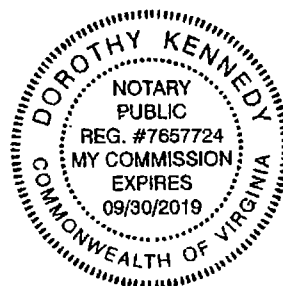
Jagpreet Singh  
(Print or type name of person signing)

Authorized Signatory  
(Print or type title of person signing)

Signed and sworn to before me on (date) 1/23/17,  
at Loudoun County, Virginia (state).

[Signature] Notary Public.

Commission expires: 9/30/19.



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A

FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT

SECTION I -- GENERAL INFORMATION

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

SSP GROUP plc (holds an indirect interest in Applicant identified below)

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: MIDWAY PARTNERSHIP, LLC or

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 169 Euston Road, London, NW1 2AE

C. Telephone: +44 (0) 207 543 3300 Fax: +44 (0) 207 543 3386 Email: Helen.byrne@ssp-intl.com

D. Name of contact person: Helen Byrne

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person                                   | <input type="checkbox"/> Limited liability company   |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership                                       |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture   |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation  |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?  |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No                                     |
|   | <input type="checkbox"/> Trust   |
|   | <input checked="" type="checkbox"/> Other (please specify): <u>UK public limited company</u> |
|   | <u>(London Stock Exchange)</u>   |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

United Kingdom

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No (this entity will not conduct business in Illinois) ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Vagn Sørensen -- Chairman, Director	
Kate Swann -- Chief Executive Officer, Director	
Jonathan Davies -- Chief Financial Officer, Director	
John Barton -- Senior Independent Non-Executive Director	
Ian Dyson -- Independent Non-Executive Director	
Denis Hennequin -- Independent Non-Executive Director	
Per Utnegaard -- Independent Non-Executive Director	
Helen Byrne -- Company Secretary	

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Old Mutual Plc - 2 Lambeth Hill, London, United Kingdom EC4P 4WR – approximately 12.97% (as of December 15, 2016)		
BlackRock, Inc. – 55 East 52nd Street, New York NY 10055 - approximately 7.68% (as of December 15, 2016)		

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.



Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
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(Add sheets if necessary)

[X] Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").  
NONE

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.  
NONE

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary): N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. NOTE: With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:



F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

SSP GROUP plc

(Print or type name of Disclosing Party)

By: [Signature]  
(Sign here)

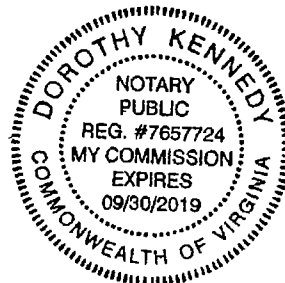
Jagpreet Singh  
(Print or type name of person signing)

Authorized Signatory  
(Print or type title of person signing)

Signed and sworn to before me on (date) 1/23/17,  
at Loudoun County, Virginia (state).

[Signature] Notary Public.

Commission expires: 9/30/19.



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A

FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT

SECTION I -- GENERAL INFORMATION

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

SSP GROUP HOLDINGS LIMITED (holds an indirect interest in Applicant identified below)

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: MIDWAY PARTNERSHIP, LLC or

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 169 Euston Road, London, NW1 2AE

C. Telephone: +44 (0) 207 543 3300 Fax: +44 (0) 207 543 3386 Email: Helen.byrne@ssp-intl.com

D. Name of contact person: Helen Byrne

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input type="checkbox"/> Limited liability company  |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership  |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture  |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation   |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?   |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No  |
|   | <input type="checkbox"/> Trust  |
|   | <input checked="" type="checkbox"/> Other (please specify): <u>limited by shares (UK company)</u> |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

United Kingdom

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No (this entity will not conduct business in Illinois) ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Russell Chaplin - Director	
Miles Collins - Director	
Jonathan Davies - Director	
Helen Byrne - Secretary	

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
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SSP GROUP plc – 169 Euston Road, London, NW1 2AE – 100%		
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### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
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(Add sheets if necessary)

[X] Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

SECTION V -- CERTIFICATIONS

A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

NONE

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

NONE

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary): N/A

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\_\_\_\_\_  
If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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#### SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

##### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION,  
COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. NOTE: With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

SSP GROUP HOLDINGS LIMITED

(Print or type name of Disclosing Party)

By: 71-2  
(Sign here)

Jagpreet Singh

(Print or type name of person signing)

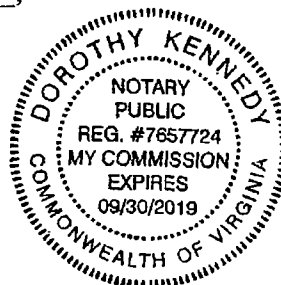
Authorized Signatory

(Print or type title of person signing)

Signed and sworn to before me on (date) 1/23/17  
at Loudoun County, Virginia (state).

DK Notary Public.

Commission expires: 9/30/19.



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A

FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

HUDSON GROUP (HG) RETAIL, LLC

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is: -

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: One Meadowlands Plaza

East Rutherford, NJ 07073

C. Telephone: 201-939-5050 Fax: 201-729-1324 Email: JMarshall@hudsongroup.com

D. Name of contact person: Jay G. Marshall

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_



## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input checked="" type="checkbox"/> Limited liability company |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership        |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                        |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation           |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?         |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No      |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)               |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☒ Yes ☐ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Hudson Group (HG), Inc.	Sole Member
President, Joseph DiDomizio	Vice President, Finance William Wolf
Vice President, CFO Adrian Bartella	Secretary, Jay G. Marshall
<del>Vice President, General Counsel Jay G. Marshall</del>	
<del>Vice President, Business Development Michael R. Mullaney</del>	

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Hudson Group (HG), Inc.	One Meadowlands Plaza East Rutherford, NJ 07073	100%

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.
See Schedule IV, attached.			

(Add sheets if necessary)

☐ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☐ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name

Business Address

Nature of Interest

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4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## **SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### **A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.



3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available online at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications. NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Hudson Group (HG) Retail, LLC

(Print or type name of Disclosing Party)

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

(Sign here)

Jay G. Marshall

(Print or type name of person signing)

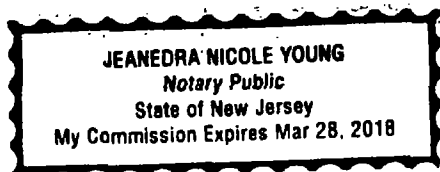
Authorized Signatory

(Print or type title of person signing)

Signed and sworn to before me on (date) January 23, 2017,  
at Essex County, New Jersey (state).

\_\_\_\_\_  
Notary Public.

Commission expires: March 28, 2018



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX B**

**BUILDING CODE SCOFFLAW/PROBLEM LANDLORD CERTIFICATION**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent (an "Owner"). It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

1. Pursuant to Municipal Code Section 2-154-010, is the Applicant or any Owner identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☒ No

2. If the Applicant is a legal entity publicly traded on any exchange, is any officer or director of the Applicant identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☐ No

☒ Not Applicable

3. If yes to (1) or (2) above, please identify below the name of the person or legal entity identified as a building code scofflaw or problem landlord and the address of the building or buildings to which the pertinent code violations apply.

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**FILLING OUT THIS APPENDIX B CONSTITUTES ACKNOWLEDGMENT AND AGREEMENT THAT THIS APPENDIX B IS INCORPORATED BY REFERENCE INTO, AND MADE A PART OF, THE ASSOCIATED EDS, AND THAT THE REPRESENTATIONS MADE IN THIS APPENDIX B ARE SUBJECT TO THE CERTIFICATION MADE UNDER PENALTY OF PERJURY ON PAGE 12 OF THE ASSOCIATED EDS.**

#### **Schedule IV**

Disclosing Party has retained the following lobbyists:

McGuire Woods Consulting  
77 Wacker Drive, Suite 4200  
Chicago, IL 60601

Compensation \$5,000 per month beginning October 1, 2015. Paid to date \$35,000.

C-Strategies, LLC  
208 Washington Street, Unit 2004  
Chicago, IL 60604

Compensation \$5,000 per month beginning December 1, 2015. Paid to date \$25,000.

Noble Ventures, LLC  
1359 North Noble Street, Suite 201  
Chicago, IL 60642

Compensation \$5,000 per month beginning September 1, 2015. Paid to date \$40,000.

All of the above may be terminated at any time in Disclosing Party's discretion. Disclosing party anticipates that it will continue to employ these lobbyists until a final concession agreement relating to the Matter has been executed or until an award is made to another company so each will continue to receive \$5,000 per month for that period of time.

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

DUFREY AG

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: Brunngässlein 12, Basel, Basel-Stadt, CH-4052, Switzerland

C. Telephone: 201-939-5050 Fax: 201-729-1324 Email: JMarshall@hudsongroup.com

D. Name of contact person: Jay G. Marshall

E. Federal Employer Identification No. (if you have one): None

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |  |  |
|--|--|
| <input type="checkbox"/> Person  | <input type="checkbox"/> Limited liability company       |
| <input checked="" type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership   |
| <input type="checkbox"/> Privately held business corporation                 | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                                 | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                                 | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                                 | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust   | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Switzerland

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name

Title

SEE ATTACHED SCHEDULE II B-1

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2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,



interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
SEE ATTACHED SCHEDULE II B-2		
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### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes ☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

  X   1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

       2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## **SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### **A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available online at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications. NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Dufry AG

(Print or type name of Disclosing Party)

By:

(Sign here)

Jay G. Marshall

(Print or type name of person signing)

Authorized Signatory

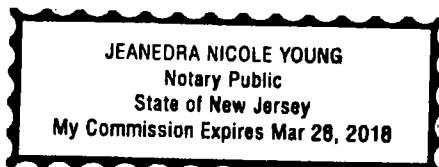
(Print or type title of person signing)

Signed and sworn to before me on (date) January 23, 2017.

at Essex County, New Jersey (state).

Notary Public.

Commission expires: March 28, 2018



## **SCHEDULE II B-1**

### **Directors and Officers**

#### **Members of Board of Directors**

Julian Diaz Gonzalez

Jorge Born

Xavier Bouton

George Koutsolioutsos

Juan Carlos Torres Carretero

Andres Holzer Neumann

Joaquin Moya-Angeler Cabrera

Claire Chiang

Heekyung (Jo) Min

#### **Officers**

Julian Diaz Gonzalez

Chief Executive Officer

Andreas Schneider

Chief Financial Officer

Jose Antonio Gea Puig

Global Chief Operating Officer

Luis Marin Mas-Sarda

Global Chief Corporate Officer

Pascal Christian Duclos

General Counsel

Jordi Martin-Consuegra

Global Resources Director

Joseph DiDomizio

Divisional Chief Executive Officer, North America

Rene Riedi

Divisional Chief Executive Officer, Latin America

Andrea Belardini

Divisional Chief Executive Officer, Asia, Middle  
East and Australia

**Pedro J. Castro Benitez**

**Divisional Chief Executive Officer, Southern  
Europe and Africa**

**Eugenio Andrades**

**Divisional Chief Executive Officer UK, Central and  
Eastern Europe**

**Gustavo Magalhães-Fagundes**

**Managing Director Brazil and Bolivia**

**SCHEDULE II B-2**

**Shareholders Owning 7.5% or More of Dufry AG**

GIC Private Limited and Purple Green Investment Pte. Ltd. 168 Robinson Road, #37-01, Capital Tower, Singapore 068912	7.53%
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Kinder Investments Pte. Ltd. 60B Orchard Road, #06-18 Tower 2 The Atrium@Orchard Singapore 238891	8.26%
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Travel Retail Investment S.C.A. 412F, route d'Esch, L-2086 Luxembourg Luxembourg	8.77%
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**None of the above owns more than a 2.93% indirect interest in the Applicant**

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

DUFREY INTERNATIONAL AG

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: Brunngässlein 12, Basel, Basel-Stadt, CH-4052, Switzerland

C. Telephone: 201-939-5050 Fax: 201-729-1324 Email: JMarshall@hudsongroup.com

D. Name of contact person: Jay G. Marshall

E. Federal Employer Identification No. (if you have one): None

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Switzerland

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
<u>Julian Diaz Gonzalez</u>	<u>Director and CEO</u>
<u>Andreas Schneider</u>	<u>Director and CFO</u>
<u>Jose Antonio Gea Puig</u>	<u>Director and COO</u>
<u>Luis Marin Mas-Sarda</u>	<u>COO</u>

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,



interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Dufry AG	Brunngässlein 12, Basel, Basel-Stadt, CH-4052, Switzerland	100%

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.
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(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

  X   1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

       2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## **SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### **A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications. NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Dufry International AG

(Print or type name of Disclosing Party)

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

(Sign here)

Jay G. Marshall

(Print or type name of person signing)

Authorized Signatory

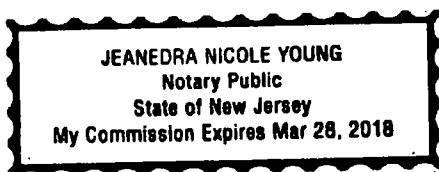
(Print or type title of person signing)

Signed and sworn to before me on (date) January 23, 2017.

at Essex County, New Jersey (state).

\_\_\_\_\_  
Notary Public.

Commission expires: March 28, 2018.



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

DUFY AMERICAS HOLDING, INC.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: Brunngässlein 12, Basel, Basel-Stadt, CH-4052, Switzerland

C. Telephone: 201-939-5050 Fax: 201-729-1324 Email: JMarshall@hudsongroup.com

D. Name of contact person: Jay G. Marshall

E. Federal Employer Identification No. (if you have one) \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
<u>Julian Diaz Gonzalez</u>	<u>Director and CEO</u>
<u>Andreas Schneider</u>	<u>Director and CFO</u>
<u>Jose Antonio Gea Puig</u>	<u>Director and COO</u>

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Dufry International AG	Brunngässlein 12, Basel, Basel-Stadt, CH-4052, Switzerland	100%

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").



Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes ☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE:** If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications. NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Dufry Americas Holding, Inc.

(Print or type name of Disclosing Party)

By: \_\_\_\_\_  
(Sign here)

Jay G. Marshall

(Print or type name of person signing)

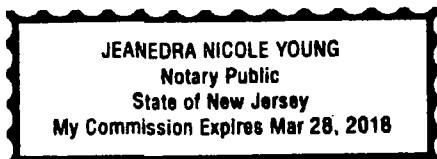
Authorized Signatory

(Print or type title of person signing)

Signed and sworn to before me on (date) January 23, 2017,  
at Essex County, New Jersey (state).

[Signature] Notary Public.

Commission expires: March 28, 2018.



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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## SECTION I -- GENERAL INFORMATION

HUDSON GROUP (HG), INC.

Page 1 of 13

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
------	-------

President: Joseph DiDomizio

Vice President, CFO: Adrian Bartella

Vice President, General Counsel: Jay G. Marshall

Vice President, Business Development, Michael R. Mullaney

~~Vice President, Finance: William Wolf~~

Secretary: Jay G. Marshall

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Dufry Americas Holding, Inc.	Brunngaesslein 12, CH-4052 Basel, Switzerland	100%

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to



comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### **A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

\_\_\_\_\_

\_\_\_\_\_

(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes ☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes ☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes ☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes ☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available online at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications. NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Hudson Group (HG), Inc.

(Print or type name of Disclosing Party)

By:

(Sign here)

Jay G. Marshall

(Print or type name of person signing)

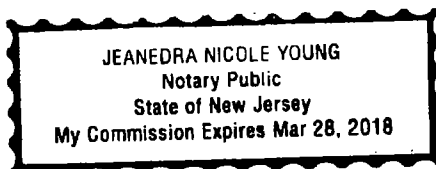
Authorized Signatory

(Print or type title of person signing)

Signed and sworn to before me on (date) January 23, 2018  
at Essex County, New Jersey (state).

Notary Public.

Commission expires: March 28, 2018



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Gateway Airports, L.P.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC via Vantage

OR

Airport Group, Ltd

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 717 Fifth Avenue, 24th Floor  
New York, NY 10022

C. Telephone: (212) 224-9400 Fax: (212) 224-9445 Email: Gateway@corsair-capital.com

D. Name of contact person: Cynthia Praschnik

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person                                   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership   |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input checked="" type="checkbox"/> Limited partnership           | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

United Kingdom

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name

Title

Corsair Infrastructure Management, L.P.

Investment Advisor

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
The limited partners' information is kept confidential per the Limited Partnership Agreement.		
No individual partner owns more than 15% of an equity interest in Gateway Airports, L.P.		
<del>The equity interest in Gateway Airports, L.P. is widely held by many limited partners, including a variety of pension funds, sovereign wealth funds and an insurance company.</del>		

**SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS**

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes                      ☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

\_\_\_\_\_

\_\_\_\_\_

**SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES**

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.



Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

**SECTION V -- CERTIFICATIONS**

**A. COURT-ORDERED CHILD SUPPORT COMPLIANCE**

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes
 ☐ No
 ☒ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes
 ☐ No

**B. FURTHER CERTIFICATIONS**

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

None

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes                      ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes                      ☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

✓ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

**B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes                      ☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)  
☐ Yes                      ☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?  
☐ Yes                      ☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?  
☐ Yes                      ☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:



F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

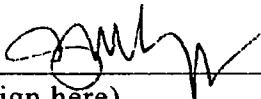
NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Gateway Airports, L.P.

(Print or type name of Disclosing Party)

By:   
(Sign here)

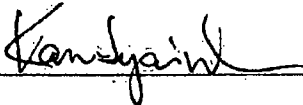
AMY KNAPP

(Print or type name of person signing)

COO/CFO

(Print or type title of person signing)

Signed and sworn to before me on (date) 23<sup>rd</sup> January 2017,  
at New York County, New York (state).



Notary Public.

KAM NGAI WOO  
Notary Public, State of New York  
Reg. No. 01WO6268816  
Qualified in Queens County  
My Commission Expires 09/17/2020

Commission expires: 09/17/2020.

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Corsair Infrastructure Management GP, Ltd.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☐ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_

OR

3. ☒ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: Corsair Infrastructure Management, L.P.

B. Business address of the Disclosing Party: c/o Corsair Infrastructure Management, L.P.  
717 Fifth Ave., 24th Floor, New York, NY 10022

C. Telephone: (212) 224-9400 Fax: (212) 224-9445 Email: Gateway@corsair-capital.com

D. Name of contact person: Cynthia Praschnik

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Cayman Islands

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
D.T. Ignacio Jayanti	Director
Nicholas B. Paumgarten	Director
Mervyn Davies	Director

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
D.T. Igancio Jayanti	717 Fifth Avenue, 24th floor	100%
	New York, NY 10022	

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes ☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.
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(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

None

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

[ ] is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes ☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

☒ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII.** For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

**B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes                      ☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)  
☐ Yes                      ☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?  
☐ Yes                      ☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?  
☐ Yes                      ☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

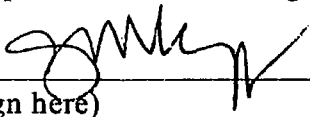
NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Corsair Infrastructure Management GP, Ltd.

(Print or type name of Disclosing Party)

By:   
(Sign here)

AMY KNAPP  
(Print or type name of person signing)

COO / CFO  
(Print or type title of person signing)

Signed and sworn to before me on (date) 23rd January 2017,  
at New York County, New York (state).

 Notary Public.

Commission expires: 09/17/2020.

KAM NGAI WOO  
Notary Public, State of New York  
Reg. No. 01WO6268816  
Qualified in Queens County  
My Commission Expires 09/17/2020

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Gateway Airports B.V.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC via Vantage

OR

Airport Group, Ltd

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party:

Prins Bernhardplein 200, 1097 JB

Amsterdam, the Netherlands

C. Telephone: +31208214777 Fax: +31205214888 Email: Gateway@corsair-capital.com

D. Name of contact person: Linda Kuiters

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_



## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

The Netherlands

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. **NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Amy Knapp	Managing Director A
Linda Kuiters	Managing Director B
Johan Broekhuis	Managing Director B

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2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Gateway Airports Cooperatief U.A.		
	Prins Bernhardplein 200, 1097 JB, Amsterdam, the Netherlands	
		100%

**SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS**

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes ☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

**SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES**

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

**SECTION V -- CERTIFICATIONS**

**A. COURT-ORDERED CHILD SUPPORT COMPLIANCE**

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes           
 ☐ No           
 ☒ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes           
 ☐ No

**B. FURTHER CERTIFICATIONS**

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

None

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes ☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

✓ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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**SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

**A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.



3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

**B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes                      ☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)  
☐ Yes                      ☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?  
☐ Yes                      ☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?  
☐ Yes                      ☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

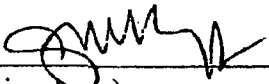
NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Gateway Airports B.V.

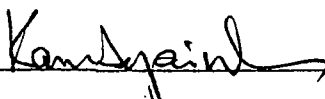
(Print or type name of Disclosing Party)

By:   
(Sign here)

AMY KNAPP  
(Print or type name of person signing)

COO / CFO  
(Print or type title of person signing)

Signed and sworn to before me on (date) 23<sup>rd</sup> January 2017,  
at New York County, New York (state).

 Notary Public.

Commission expires: 09/17/2020.

KAM NGAI WOO  
Notary Public, State of New York  
Reg. No. 01WO6268816  
Qualified in Queens County  
My Commission Expires 09/17/2020

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Corsair Infrastructure Management, L.P.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☐ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_

OR

3. ☒ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: Vantage Airport Group, Ltd., via  
Gateway Airports, L.P.

B. Business address of the Disclosing Party: 717 Fifth Avenue, 24th Floor  
New York, NY 10022

C. Telephone: (212) 224-9400 Fax: (212) 224-9445 Email: Gateway@corsair-capital.com

D. Name of contact person: Cynthia Praschnik

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person                                   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership   |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input checked="" type="checkbox"/> Limited partnership           | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Cayman Islands

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name

Title

Corsair Infrastructure Management GP, Ltd.

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2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Corsair Capital, L.P.	717 Fifth Avenue, 24th floor	100%
	New York, NY 10022	

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes

☒ No

☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes

☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.



2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

None

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is

☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes ☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

☒ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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**SECTION VI – CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

**A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

## B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

---

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

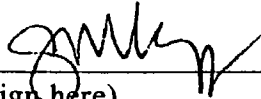
F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

**CERTIFICATION**

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

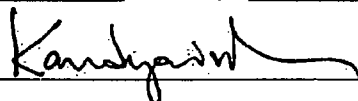
Corsair Infrastructure Management, L.P.  
(Print or type name of Disclosing Party)

By:   
(Sign here)

AMY KNAPP  
(Print or type name of person signing)

COO / CFO  
(Print or type title of person signing)

Signed and sworn to before me on (date) 23<sup>rd</sup> January 2017,  
at New York County, New York (state).

 Notary Public.

Commission expires: 09 / 17 / 2020.

KAM NGAI WOO  
Notary Public, State of New York  
Reg. No. 01WO6268816  
Qualified in Queens County  
My Commission Expires 09/17/2020



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Vantage Airport Group Ltd.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party:

Suite 1410 - 1200 West 73rd Avenue

Vancouver, BC, Canada V6P 6G5

C. Telephone: 604-269-0080 Fax: 604-269-3840 Email: SPatel@vantageairportgroup.com

D. Name of contact person: Sammy Patel

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Canada

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity? Not yet but the intention is to have a Ltd (Delaware)
- ☐ Yes ☒ No ☐ N/A registered to do business in the State of Illinois.

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. **NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Holly Koeppel	<del>Chairman</del> Director <i>JHC</i>
Cynthia Praschnik	Director
Hari R Rajan	Director
Benjamin DeCosta	Director

George Casey (~~President & CEO~~), ~~Stewart Steeves~~ (~~VP, Finance, CFO~~)

*Chair*

*Clarence Kwong Acting VP Finance and CFO*

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture, *JHC*

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Gateway Airports BV	Prins Bernhardplein 200, Amsterdam, The Netherlands, 1097 JB	100%
Gateway Airports Cooperatief U.A.	Prins Bernhardplein 200, Amsterdam, The Netherlands, 1097 JB	100% interest in Gateway Airports BV
Gateway Airports, L.P.	717 Fifth Avenue, 24th Floor, New York, NY 10022	99.999% interest in Gateway Airports Cooperatief U.A.

\*The limited partners' information in respect of Gateway Airports, L.P. is kept confidential per the Limited Partnership Agreement. No individual partner owns more than 15% of an equity interest in Gateway Airports, L.P. The equity interest in Gateway Airports, L.P. is widely held by many limited partners, including a variety of pension funds, sovereign wealth funds and an insurance company.

### **SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS**

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes

☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### **SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES**

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
McCarthy Tétrault LLP; Suite 2400, 745 Thurlow Street, Vancouver, BC, Canada, V6E 0C5;			
Attorneys; Estimated \$10,000+			

(Add sheets if necessary)

☐ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

  X   1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

       2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## **SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### **A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### **B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Vantage Airport Group Ltd.

(Print or type name of Disclosing Party)

By: 

(Sign here)

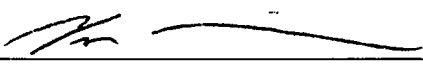
George Casey

(Print or type name of person signing)

Chair and CEO

(Print or type title of person signing)

Signed and sworn to before me on (date) Jan. 23 / 17,  
at VANCOUVER County, BC (state).

 Notary Public.

Commission expires: \_\_\_\_\_.

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**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX B**

**BUILDING CODE SCOFFLAW/PROBLEM LANDLORD CERTIFICATION**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent (an "Owner"). It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

1. Pursuant to Municipal Code Section 2-154-010, is the Applicant or any Owner identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☒ No

2. If the Applicant is a legal entity publicly traded on any exchange, is any officer or director of the Applicant identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code?

☐ Yes

☒ No

☐ Not Applicable

3. If yes to (1) or (2) above, please identify below the name of the person or legal entity identified as a building code scofflaw or problem landlord and the address of the building or buildings to which the pertinent code violations apply.

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**FILLING OUT THIS APPENDIX B CONSTITUTES ACKNOWLEDGMENT AND AGREEMENT THAT THIS APPENDIX B IS INCORPORATED BY REFERENCE INTO, AND MADE A PART OF, THE ASSOCIATED EDS, AND THAT THE REPRESENTATIONS MADE IN THIS APPENDIX B ARE SUBJECT TO THE CERTIFICATION MADE UNDER PENALTY OF PERJURY ON PAGE 12 OF THE ASSOCIATED EDS.**

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I – GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Gateway Airports Cooperatief U.A.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: Midway Partnership, LLC via Vantage

OR

Airport Group, Ltd

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: Prins Bernhardplein 200, 1097 JB  
Amsterdam, the Netherlands

C. Telephone: +31205214777 Fax: +31205214888 Email: Gateway@corsair-capital.com

D. Name of contact person: Linda Kuiters

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Master Concessionaire at Chicago Midway International Airport

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_



## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

The Netherlands

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☒ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Amy Knapp	Managing Director A
Linda Kuiters	Managing Director B
Johan Broekhuis	Managing Director B

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2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Gateway Airports, L.P. 717 Fifth Avenue, 24th Floor, New York, NY 10022, 99.999%		

**SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS**

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes                      ☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

\_\_\_\_\_

\_\_\_\_\_

**SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES**

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

**SECTION V -- CERTIFICATIONS**

**A. COURT-ORDERED CHILD SUPPORT COMPLIANCE**

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes                     
 ☐ No                     
 ☒ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes                     
 ☐ No

**B. FURTHER CERTIFICATIONS**

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

None

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is

☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes ☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

✓ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII.** For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.



3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

**B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes                      ☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)  
☐ Yes                      ☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?  
☐ Yes                      ☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?  
☐ Yes                      ☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

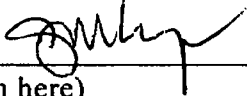
NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Gateway Airports Cooperatief U.A.

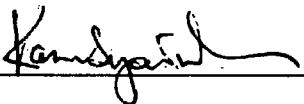
(Print or type name of Disclosing Party)

By:   
(Sign here)

AMY KNAPP  
(Print or type name of person signing)

COO / CFO  
(Print or type title of person signing)

Signed and sworn to before me on (date) 23rd January 2017,  
at New York County, New York (state).

 Notary Public.

Commission expires: 09/17/2020.

KAM NGAI WOO  
Notary Public, State of New York  
Reg. No. 01WO6268816  
Qualified in Queens County  
My Commission Expires 09/17/2020

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☐ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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## **EXHIBIT I**

### **Airport Concessions Handbook**

[http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions\\_Document\\_Archive/AirportConcessionsHandbook.pdf](http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions_Document_Archive/AirportConcessionsHandbook.pdf)

## **EXHIBIT J**

### **Form of Annual Certified Statement**

[http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions\\_Document\\_Archive/FormAnnualCertifiedStatement.pdf](http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions_Document_Archive/FormAnnualCertifiedStatement.pdf)



**EXHIBIT K**  
**Form of Monthly Certified Statement**

[http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions\\_Document\\_Archive/FormMonthlyCertifiedStatement.pdf](http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions_Document_Archive/FormMonthlyCertifiedStatement.pdf)

## **EXHIBIT L**

### **Service and Performance Operating Standards**

[http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions\\_Document\\_Archive/ServiceandPerformanceStandards.pdf](http://www.flychicago.com/SiteCollectionDocuments/Business/Concessions_Document_Archive/ServiceandPerformanceStandards.pdf)

## **EXHIBIT M**

### **Utilities Matrix**

## MIDWAY AIRPORT - EXISTING CONCESSIONS UTILITIES MATRIX

The utilities indicated below are subject to field verification by the Concessionaire. If additional utilities are needed, MDW base building has readily accessible utilities nearby for the Concessionaire to extend to their space at the Concessionaire's expense. All final design utility capacities must be submitted to CDA for review and coordination with the base building systems.

Location Concessions Reference Space #	Location MDW Room #	Description	Name (Operator-Store#)	Gate Location	Square Footage	Electric Service	Data/Comm (D1)	HVAC (H1)	Cooking Exhaust and Ansul Fp (Ex1)	Domestic Water	Hot Water Heater (Gas)	Hot Water Heater (Electric)	Sanitary Waste Line	Grease Trap(s) (GT1)	Fire Protection Sprinkler (Fp1)	Natural Gas
<b>Concourse A</b>																
CA-02	CA.U.08-222	News & Gifts	Relay (1)	A3/5	1,200	100A	X	X							X	
CA-03	CA.U.08-221	Specialty Retail	Discover Chicago (Hudson 1)	A5	777	100A	X	X							X	
CA-04		News & Gifts	Relay (2)	A5/7	220	E1	X	K							K	
CA-05	CA.U.08-223	Specialty Retail	House of Blues (Hudson 2)	A5	425	100A	X	X							X	
CA-06	CA.U.7-222	Food & Beverage	Manny's Deli (Mac One 1)	A5	1,591	EP1: 150A EP2: 150A EP3: 150A EP4: 400A	X	X	X	X					X	X
CA-07	CA.U.7-221	Food & Beverage	Halsted Street Bar (Mac One 2)	A5	815	Utilities shared with CA-06										
CA-08	CA.U.7-220	Food & Beverage	McDonald's (1)	A7	1,004	EP1: 400A EP2: 250A EP3: 400A EP4: Switchboard	X	X	X	P1			X	X	X	X
CA-09/10	CA.U.6-230 /CA.U.6-231	Food & Beverage	Tuscany (Mac One 3)	A9	1,398	EP1: 225A EP2: 400A	X	X	X	X			X	X	X	X
11-047B-1	CA.U.28-203	Food & Beverage	Barista (Mac One 4)	A4A/B	131	100A	X	X		X	P1		X	X	X	
11-047B-2		Food & Beverage	Get Snacked (Mac One 5)	A4B	243	E1	X	K							K	
CA-12	CA.U.5-231	News & Gifts	Hudson News (3)	A11		100A	X	X							X	
CA-13	CA.U.5-230	Food & Beverage	E@t Drink.com (Mac One 6)	A15	1,014	EP1: 225A EP2: 225A EP3: 400A	X	X	X	X			X	X	X	X
CA - amty		Service	Shoe Hospital (1)	A5	60	E1		X							K	
<b>Concourse B</b>																
CB-01	CB.U.14-223	News & Gifts	Relay (3)	B5	1,037	225A	X	X							X	
CB-02	CB.U.14-222	News & Gifts	Hudson Bookseller (4)	B8	420	100A	X	X							X	
CB-03	CB.U.8-222	Food & Beverage	Let Them Eat Cake (Mac One 7)	B7	696	225A	X	X		X	P1		X	X	X	
CB-04	CB.U.16-230	Food & Beverage	Miller's Pub (Mac One 8)	B9	1,781	EP1: 600A EP2: 225A	X	X	X	X	X		X	X	X	X
CB-05	CB.U.17-226	Food & Beverage	Sprigs (Mac One 9)	B12	590	100A	X	X		X	X		X	X	X	X
CB-06	CB.U.17-225	Food & Beverage	Manny's Express (Mac One 10)	B14	862	EP1: 200A EP2: 400A	X	X		X		X	X	X	X	X

## MIDWAY AIRPORT - EXISTING CONCESSIONS UTILITIES MATRIX

The utilities indicated below are subject to field verification by the Concessionaire. If additional utilities are needed, MDW base building has readily accessible utilities nearby for the Concessionaire to extend to their space at the Concessionaire's expense. All final design utility capacities must be submitted to CDA for review and coordination with the base building systems.

Location Concessions Reference Space #	Location MDW Room #	Description	Name (Operator-Store#)	Gate Location	Square Footage	Electric Service	Data/Comm (D1)	HVAC (H1)	Cooking Exhaust and Ansl Fp (Ex1)	Domestic Water	Hot Water Heater (Gas)	Hot Water Heater (Electric)	Sanitary Waste Line	Grease Trap(s) (GTT)	Fire Protection Sprinkler (Fp1)	Natural Gas
CB-07	CB.U.07	Food & Beverage	McDonald's (2)	B14	844	EP1: 225A EP2: 250A EP3: 250A	x	x	x	x	x		x	x	x	x
CB-08	CB.U.17-223	Food & Beverage	Taylor Street (Mac One 11)	B16	1,087	EP1: 100A EP2: 300A	x	x	x	x	x		x	x	x	x
CB-09	CB.U.17-221	News & Gifts	Discover Chicago (Hudson 5)	B17	665	100A	x	x							x	
CB-10	CB.U.17-220	News & Gifts	Relay (4)		615	225A	x	x							x	
CB-12A	CB.U.18-222	Food & Beverage	Oak Street Beach Café (Mac One 12)	B19	1,691	EP1: 600A EP2: 200A EP3: 220A	x	x	x	x	P1		x	x	x	x
CB-12B	CB.U.18-221	Food & Beverage	Red Mango (Mac One 13)-	B19	139	Utilities shared with CA-12A										
CB-13	CB.U.18-220	News & Gifts	Hudson News (6)	B21	540	100A	x	x							x	
CB - amty		Service	Shoe Hospital (2)	B10/12	60	E1		x							K	
<b>Triangle-Food Court</b>																
TC-01	CT.U.10-231	News & Gifts	Book Corner/Euro Café (Hudson 7)		2,950	125A	x	x		x		x	x	x	x	
TC-02	CT.U.10-237	Specialty Retail	Spirit of the Red Horse (1)		300	100	x	K							K	
TC-03	CT.U.10-236	Food & Beverage	Gold Coast Dogs (Aero-Dine 1)		600	225A	x	x	x	x		x	x	x	x	x
TC-04	CT.U.10-235	Food & Beverage	Pegasus on the Fly (Aero-Dine 2)		613	225A	x	x	x	x		x	x	x	x	x
TC-05	CT.U.10-233	Food & Beverage	Luigi Stefan's (1)		1,260	EP1: 225A EP2: 400A	x	x	x	x	x		x	x	x	x
TC-06	CT.U.10-232	Food & Beverage	Illinois Bar & Grille (1)		817	225A	x	x	x	x	x		x	x	x	x
TC-07	CT.U.13-220	Food & Beverage	Reilly's Daughter (1)		817	225A	x	x	x	x		x	x	x	x	x
TC-08	CT.U.10-241	Food & Beverage	King Wah (1)		915	225A	x	x	x	x		x	x	x	x	x
TC-09	CT.U.10-239	Food & Beverage	Laid's Mexican (Aero-Dine 3)		771	225A	x	x	x	x		x	x	x	x	x
TC-10	CT.U.10-240	Food & Beverage	Ben & Jerry's (1)		508	225A	x	x	x	x		x	x	x	x	
TC-11	CT.U.13-221	Food & Beverage	Potbelly Sandwich (1)		2,130	EP1: 225A EP2: 400A	x	x	x	x		x	x	x	x	
TC-12	CT.U.13-223	Food & Beverage	Nuts on Clark (1)		509	200A	x	x	x	x		x	x	x	x	
TC-13	CT.U.13-224	Specialty Retail	George's (Relay 5)		413	225A	x	x							x	
TC-14	CT.U.13-225	CDA Plug-in	CDA Amenity		270	E1	x	x							x	
TC-15	CT.U.13-226	Specialty Retail	Viva's Hallmark (1)		552	100A	x	x							x	
TC-16	CT.U.10-238	News & Gifts	Relay (6)		300	225A	x	x							x	

## MIDWAY AIRPORT - EXISTING CONCESSIONS UTILITIES MATRIX

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Location Concessions Reference Space #	Location MDW Room #	Description	Name (Operator-Store#)	Gate Location	Square Footage	Electric Service	Data/Comm (D1)	HVAC (H1)	Cooking Exhaust and Ansl Fp (Ex1)	Domestic Water	Hot Water Heater (Gas)	Hot Water Heater (Electric)	Sanitary Waste Line	Grease Trap(s) (GT1)	Fire Protection Sprinkler (Fp1)	Natural Gas
<b>Triangle-Atrium</b>																
TC-17	CT.U.11-242	Specialty Retail	Chicago Treasures (1)		623	100A	x	x							x	
TC-18	CT.U.11-243	Specialty Retail	Kid's Corner (Hudson 8)		877	100A	x	x							x	
TC-19	CT.U.11-240	Food & Beverage	Harry Caray's (Mac One 13)		4830	EPT: 225A EP2: 150A EP3: 225A EP4: 225A EP5:	x	x	x	x	x				x	x
TC-20	CT.U.11-244	Specialty Retail	Life is Good (Hudson 9)		866	70A	x	x							x	
TC-21	CT.U.11-245	Specialty Retail	Marketwalk (Hudson 10)		1,583	100A	x	x							x	
TC-22	CT.U.11-225	Food & Beverage	Let Them Eat Cake 2 (Mac One 14)		479	200A	x	x		x					x	
<b>Concourse C</b>																
CC-01	CC.U.12-241	News & Gifts	Aero Mart (Hudson 11)	C1	440	100A	x	x		x					x	
<b>Baggage Claim</b>																
UL-2	LL	Food & Beverage	Landings (Mac One 16)	Baggage	544	E1	x	K		x			P1	x	x	K

### Notes:

D1: Data/communication service is supplied through copper wiring. Glass fiber distribution is not available.

E1: Capacity unknown. Remote electric panel, CDA Base Building

Ex1: Concessionaire provides Cooking exhaust hoods and fans. CDA provides ansul fire protection modifications and installation at the Concessionaire's expense

Fp1: Concessionaire provides layout and required hydronic, CDA provides modifications and installation at the Concessionaire's expense

GT1: Concessionaire provides grease trap(s)

H1: CDA provides HVAC to each concessionaire at 50° F. Concessionaire provides VAV unit and distribution ductwork within space. Concessionaire must provide HVAC design capacity cfm for CDA review and coordination.

K: Kiosk, Base Building provides general lighting, HVAC, and fire protection. Concessionaire is responsible for lighting, HVAC, and fire protection verification or request base building modifications. CDA provides modifications and installation at the Concessionaire's expense

P1: HWH type is unknown, location is remote.



**EXHIBIT N**

**Sustainable Airport Manual**

**EXHIBIT N**

**Sustainable Airport Manual**

[http://www.flychicago.com/SiteCollectionDocuments/Midway/MDW%20RFP%20documents/SAM\\_v3.2.pdf](http://www.flychicago.com/SiteCollectionDocuments/Midway/MDW%20RFP%20documents/SAM_v3.2.pdf)

## **EXHIBIT O**

### **Form of Sublease Agreement**

CONCESSION SUBLEASE AND LICENSE AGREEMENT

BETWEEN

MIDWAY PARTNERSHIP, LLC

AND

[TENANT]

[d/b/a \_\_\_\_\_]

CHICAGO MIDWAY INTERNATIONAL AIRPORT  
CHICAGO, ILLINOIS

## SUBLEASE AND LICENSE AGREEMENT

THIS SUBLEASE AND LICENSE AGREEMENT ("**Agreement**") dated \_\_\_\_\_, \_\_\_\_\_, by and between MIDWAY PARTNERSHIP, LLC, an Illinois limited liability company ("**Landlord**"), and \_\_\_\_\_, a \_\_\_\_\_ ("**Tenant**").

### WITNESSETH:

WHEREAS, the City of Chicago, a municipal corporation and home rule unit of local government under the Constitution of the State of Illinois ("**City**"), acting through its Department of Aviation ("**CDA**" or "**Department**") owns and operates Chicago Midway International Airport ("**Airport**"). The City has determined that certain portions of the Airport will be used for commercial concessions designed to serve the needs of Airport patrons and employees and desires to have a concession program in the Airport to strive to meet the needs and desires of Airport users by providing first-class concession facilities.

WHEREAS, the City and Tenant have entered into a certain Concession Redevelopment and Management Lease Agreement dated \_\_\_\_\_, 2016 (the "**Master Lease**"). Subject to the terms and conditions contained herein, Landlord grants Tenant a license to operate a concession and a sublease to operate the concession from the premises identified on **Exhibit A** (individually and collectively the "**Premises**"), and Tenant accepts the license and the sublease from Landlord and assumes all of the duties and obligations of Tenant provided in this Agreement, the Master Lease and other documents referenced herein or therein. Tenant understands and agrees that both its license to operate a concession and its right to occupy the Premises will terminate upon the earlier of (i) the expiration or earlier termination of this Agreement and (ii) the expiration or earlier termination of the Master Lease.

WHEREAS, Landlord and Tenant desire to enter into this Agreement as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants, promises and agreements herein contained, and intending to be legally bound, the Landlord and the Tenant hereby agree as follows:

### ARTICLE 1 BASIC TERMS

The following terms shall have the following meanings in this Agreement. In the event of any inconsistency (as determined by Landlord) between this Article 1 and the other provisions of this Agreement, this Article 1 shall govern:

- (1) **Premises:** \_\_\_\_\_, as further identified on **Exhibit A**.
- (2) **Date of Beneficial Occupancy, or DBO:** The date that is the earlier to occur of (i) the date Tenant opens for business in the Premises, or (ii) ninety (90) days after the Commencement Date.

- (3) **Commencement Date:** The date Landlord delivers possession of the Premises to Tenant.
- (4) **Expiration Date:** The date that is the \_\_\_\_\_ anniversary of the Commencement Date (as defined in the Master Lease), unless sooner terminated as provided herein, which date will be memorialized in a memorandum of commencement and expiration date in the form attached hereto as **Exhibit N**.
- (5) **Minimum Annual Guarantee:** \_\_\_\_\_
- (6) **Percentage Rent:** The Percentage Rent equals the sum of the product of \_\_\_\_\_ percent (\_\_\_\_%) (the "**Percentage Rent Rate**") multiplied by the Gross Receipts.
- (7) **Contingent Rent:** The Contingent Rent equals the sum of the product of three percent (3%) multiplied by the Gross Receipts, which shall be payable in addition to the greater of Minimum Annual Guarantee and Percentage Rent.
- (8) **Permitted Use:** \_\_\_\_\_
- (9) **Trade Name:** \_\_\_\_\_
- (10) **Security Deposit:** \_\_\_\_\_
- (11) **Legal Notice Address:**

**To Landlord:**

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**With a copy to:**

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**To Tenant:**

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**With a copy to:**

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(12) **Rent Payment Address:**

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(13) **List of Exhibits**

- Exhibit A: Premises
- Exhibit B: Design & Construction Requirements
- Exhibit C: Special Conditions Regarding ACDBE Participation & ACDBE Compliance Plan
- Exhibit D: Insurance Requirements
- Exhibit E: Minimum Wage Requirements
- Exhibit F: Non-Discrimination and Affirmative Action Requirements
- Exhibit G: Economic Disclosure Statements and Affidavits
- Exhibit H: Value Pricing Requirement
- Exhibit I: Concessions Handbook
- Exhibit J: Form of Annual Certified Statement
- Exhibit K: Form of Monthly Certified Statement
- Exhibit L: Service and Performance Operating Standards
- Exhibit M: Sustainable Airport Manual
- Exhibit N: Memorandum of Commencement Date
- Exhibit O: Tenant's Initial Menu Offering
- Exhibit P: Labor Peace Agreement – Exhibit B of MOA

## ARTICLE 2 DEFINITIONS

**“Additional Rent”** shall mean all other payments due under this Agreement of any kind or nature other than Minimum Annual Guarantee and Percentage Rent

**“Affiliate”** shall mean, except where otherwise defined, any individual, corporation, partnership, trustee, administrator, executor or other legal entity that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with Tenant.

**“Airport Concession Disadvantaged Business Enterprise” or “ACDBE”** shall mean an entity meeting the definition of a disadvantaged business enterprise as defined in U.S.

Department of Transportation Regulations Title 49 Code of Federal Regulations, Parts 23 and 26, as amended from time to time ("**Regulations**") and certified in accordance with those Regulations. Landlord shall act as the City's representative in monitoring compliance with the Regulations and reporting ACDBE participation in the Concession Program, including Tenant's good faith efforts as required by the Regulations to comply with the Special Conditions Regarding ACDBE Commitment as attached hereto as **Exhibit C**. Failure of Tenant to comply with such Special Conditions shall be an Event of Default by the Tenant under this Agreement. The Special Conditions may be amended by the City from time to time to reflect changes in the Regulations and such amended Special Conditions shall be binding, to the extent applicable, on Tenant. [NOTE: PROVISIONS OF 16.2 TO BE INCLUDED IN EXHIBIT C]

**"Airport Concession Program Handbook"** shall mean **Exhibit I**, as it may be amended from time to time by the Department. Any amendment of the Airport Concession Program Handbook by the Department during the Term of this Agreement will be binding on Tenant without need for amendment of this Agreement. In the event of any conflict or inconsistency between the provisions of this Agreement and the Airport Concession Program Handbook, this Agreement shall be controlling.

**"Annual Certified Statement"** shall mean a statement in the form attached hereto as **Exhibit J** setting forth the Gross Receipts for each Lease Year (or fraction thereof) which shall specify in detail, in accordance with the Annual Certified Statement requirements set forth in this Agreement, all such Gross Receipts, shall include a summary of any revised Monthly Certified Statement previously submitted and an explanation for such revisions, shall be accompanied by a the certification of an independent certified public accountant employed by Tenant reasonably acceptable to Landlord, and shall be acknowledged by an officer of Tenant as being accurate and complete based on such officer's examination of the books, accounts and records of Tenant. The Landlord or the City may change the form of the Annual Certified Statement upon thirty (30) days' prior written notice to Tenant.

**"Certified Construction Costs"** shall mean (i) directly contracted construction, installation and fabrication costs with respect to Fixed Improvements; (ii) furniture, fixtures, decorative treatments and Operating Equipment purchased for and used in the Premises; and (iii) architectural, design, engineering and construction management costs, not to exceed twenty percent (20%) of the total approved cost of the items as defined in (i) and (ii) above. Landlord reserves the right to require Tenant to provide a list of selected architects, interior designers, and construction managers for prior written approval by Landlord, which approval shall be timely and shall not be unreasonably withheld. In the event the Premises is relocated in accordance with Section 4.6 herein, the unamortized Certified Construction Costs for the original Premises will deemed to be the unamortized Certified Construction Costs for the relocation space and shall continue to be amortized on the same schedule as the original Premises.

**"Chief Procurement Officer"** shall mean the head of the Department of Procurement Services of the City and any City officer or employee authorized to act on her behalf.

**"Common Areas"** shall mean those areas of the Airport that are not leased, licensed, or otherwise designated or made available by the Department for exclusive or preferential use by a specific party or parties.

**"Concession Premises"** shall mean the existing concession facilities (until closed



following redevelopment of the Concession Program), the new concession facilities to be developed by Landlord under the Master Lease and, if applicable, any additional concession facilities that may be added to the Concession Program during the term of the Master Lease.

**"Concession Program"** shall mean the first-class food and beverage operations and retail service operations within the Concession Premises, in accordance with the Concession Plan submitted under the Master Lease.

**"Concessionaire Design Guidelines" or "CDG"** shall mean those certain design standards and policies prepared by the City and/or Landlord, as amended from time to time.

**"Contractor"** means all entities providing work, services and/or materials to Tenant necessary for concession operations or for the design, construction, repair, and maintenance of the Premises and Fixed Improvements. The term Contractor also includes subcontractors of any tier, suppliers and materialmen, whether or not in privity with Tenant.

**"Contracts"** shall mean all written agreements with Contractors.

**"Construction Documents"** shall mean the drawings and specifications for the construction of Fixed Improvements, approved by the Commissioner pursuant to **Exhibit B**.

**"Days"** shall mean calendar days unless otherwise specified herein.

**"Default Rate"** shall mean an amount equal to sixteen percent (16%) per annum, but in no event higher than the highest rate permitted by law, that shall be imposed upon the Tenant by the Landlord in the event of Default by the Tenant. Such Default Rate is in addition to any amounts owed to the Landlord by Tenant.

**"Department"** shall mean the Chicago Department of Aviation or CDA.

**"Environmental Laws"** shall mean collectively, all applicable federal, state and local environmental, safety or health laws and ordinances and rules or applicable common law, including the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. §651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.), the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. §5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Clean Water Act (33 U.S.C. §1251 et seq.), the Safe Drinking Water Act (42 U.S.C. §300(f) et seq.) as any of the foregoing may later be amended from time to time; any rule or regulation pursuant to them, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision of it, or any agency, court or body of the federal government, or any state or other political subdivision of it, exercising executive, legislative, judicial, regulatory or administrative functions.

**"Existing Contamination"** shall mean any and all pollution or contamination caused by any Hazardous Material that previously existed in or exists in, or was released onto, the soil or groundwater at or beneath the Premises or the Airport or located within the Premises or the Airport as of the date the City first delivered the Premises to Landlord for occupancy by its subtenants under the Master Lease.

**"Event of Default"** shall have that meaning as described in Article 16.

**"Fixed Improvements"** shall mean any permanent addition, alteration, annexation or improvement which shall become affixed to the Premises or a portion thereof which cannot be removed, modified or changed without material damage to, or destruction of, either itself or the Premises or a portion thereof.

**"Force Majeure"** shall mean any event beyond the control of the party claiming it, including but not limited to, acts of God, acts of a public enemy (such as war (declared or undeclared), invasion, insurrection, terrorism, riots or rebellion), fires, floods, earthquakes, hurricanes, explosions, and strikes which wholly or materially prevents or impairs either party from performing its obligations in strict accordance herewith, provided, however, that any lack of funds shall not be deemed a cause beyond the control of a party.

**"GAAP"** shall mean generally accepted accounting principles generally accepted in the United States, consistently applied.

**"Gates"** shall mean those portions of the Airport used for passengers to board and disembark from aircrafts.

**"Hazardous Materials"** shall mean, but shall not be limited to, any oil, petroleum product and any hazardous or toxic waste or substance or any substance which because of its quantitative concentration, chemical, radioactive, flammable, explosive, infectious or other characteristics, constitutes or may reasonably be expected to constitute or contribute to a danger or hazard to public health, safety or welfare or to the environment, including, without limitation, any asbestos (whether or not friable) and any asbestos-containing materials, lead paint, waste oils, solvents and chlorinated oils, polychlorinated biphenyls (PCBs), toxic metals, explosives, reactive metals and compounds, pesticides, herbicides, radon gas, urea formaldehyde foam insulation and chemical, biological and radioactive waste or any other similar materials which are included under or regulated by any Environmental Law.

**"Impositions"** shall mean any and all taxes, assessments, fees, and charges levied, assessed or imposed by a governmental unit upon this Agreement, the Premises, Tenant's leasehold or upon Tenant's personal property, including, but not limited to, all permit fees and charges of a similar nature for Tenant's conduct of any business or undertaking in the Premises.

**"Lease Year"** shall mean the period commencing on the DBO and ending on the first December 31 following the DBO, which shall be a partial Lease Year, and thereafter shall mean each subsequent twelve (12) month period commencing on January 1 and ending on December 31 of each calendar year. Any portion of the final year of the Term from and after January 1 shall be the final partial Lease Year.

**"Monthly Certified Statement"** shall mean the statement in the form attached hereto as Exhibit K, which sets forth Tenant's calculation of Gross Receipts for the prior calendar month

or portion thereof during the Term. The Monthly Certified Statement shall be signed by a person authorized to sign for Tenant and shall be certified by a financial officer of Tenant. Landlord may change the form of the Monthly Certified Statement from time to time upon 30 days' prior written notice to Tenant.

**"Operating Equipment"** shall mean any trade furniture, trade furnishings, trade equipment, signs, trade appliances and trade fixtures that are fabricated, furnished, installed and used by Tenant in the Premises. Operating Equipment shall not include Tenant's Fixed Improvements.

**"Person"** shall mean a corporation, association, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, trust, organization, business, individual or government or any governmental agency or political subdivision thereof.

**"Ramp Area"** shall mean that portion of the apron adjacent to the Gates and the associated airfield ramp areas, but not including any taxiways and runways, in which aircraft maneuver on the ground, park or are serviced between flights.

**"Storage Premises"** shall have that meaning as described in Section 4.5.

**"Value Pricing"** shall mean a price for a product or service at the Airport offered for no more than 10% higher than the price charged for the same product or service at benchmark stores in the City of Chicago.

### ARTICLE 3 MASTER LEASE

#### Section 3.1. Master Lease.

This Agreement is subject and subordinate to the Master Lease, including all amendments and supplements thereto, whether entered into prior or after the date hereof, and to such other documents as required by the City, the Department or Landlord, all of which are incorporated herein by reference. Tenant acknowledges that Landlord's rights to the Premises arise solely under the Master Lease. Notwithstanding any provisions of this Agreement to the contrary, Landlord and Tenant hereby agree as follows:

(a) Tenant agrees to be bound by and perform all of the terms and conditions to be performed by Landlord under the Master Lease to the extent applicable to the Premises and/or Tenant's tenancy under this Agreement (except those that require the payment of money to the City);

(b) Tenant will comply with all covenants and conditions of the Master Lease respecting Landlord's use and occupancy of the Premises (except those that require the payment of money to the City);

(c) Tenant will not do or permit anything to be done in or on the Premises which will cause the occurrence of a default by Landlord under the Master Lease;

(d) Tenant shall indemnify, defend and hold Landlord harmless from and against any cost, claim, liability, loss or damage occurring by reason of Tenant's breach or default of this Agreement, including, without limitation, the cost of cure, loss of the Master Lease, and any attorneys' fees and disbursements incurred in connection with the foregoing; and

(e) Except as set forth in clause (k) and Section 4.6(a) below, if the Master Lease expires or is terminated for any reason, including without limitation, any default by the City or Landlord thereunder, or Landlord's election to exercise any right of termination, then this Agreement shall thereupon terminate, without any liability to Landlord, as if such date were the scheduled expiration date of the Term. Landlord shall take all reasonable actions to keep the Master Lease in full force and effect during the Term of this Agreement. Notwithstanding the preceding sentence, Landlord shall not be required to initiate any legal action.

In addition to the foregoing and notwithstanding any provisions of this Agreement to the contrary, the Tenant agrees as follows:

(f) Operations conducted and work performed by the Tenant shall be in accordance with the terms of the Master Lease;

(g) Nothing contained in this Agreement shall be construed to impair the rights of City under the Master Lease;

(h) Nothing contained in this Agreement or the Master Lease shall create or purport to create any obligations of the City to the Tenant;

(i) The City's approval of this Agreement shall not create or purport to create any obligation of the City to the Tenant;

(j) The City shall be a third party beneficiary of this Agreement;

(k) At the request of the City (at the City's option) and upon receipt of written notice from the City stating that the Master Lease has been terminated, the Tenant agrees that it will continue to perform its obligations under this Agreement for the benefit of City; and

(l) The Tenant shall be bound by the same requirements as Landlord under the Master Lease, including, without limitation, confidentiality requirements, maintenance and preservation of records, and audit by government representatives.

This Agreement shall be subordinate to the provisions of any existing or future agreements between City and any agency or instrumentality of the United States government relative to the operation and maintenance of the Airport.

Section 3.2. The City.

Landlord shall have no liability to Tenant for City's defaults under the Master Lease. Tenant agrees that Landlord shall not be obligated to perform any of the City's obligations under the Master Lease. Tenant further agrees that neither this Agreement nor any obligation hereunder, including the payment of Rents, shall be affected by City's default under the Master Lease, except to the extent the Master Lease is terminated. Landlord reserves exclusively all rights to enforce the Master Lease, but agrees to make reasonable efforts to enforce the City's obligations thereunder, to the extent that Tenant is a material beneficiary thereof. Landlord shall not be required to initiate any legal action against City, but agrees to reasonably cooperate with Tenant to enforce the City's obligations under the Master Lease.

### Section 3.3. Master Lease Governs.

In the event of any conflict in the rights of Tenant under this Agreement and the rights of Landlord under the Master Lease, the terms, conditions and covenants of the Master Lease shall control; provided, however, that the foregoing shall apply only to the extent that the Master Lease is more onerous or restrictive upon the Tenant than this Agreement, and in no event shall the terms and conditions of the Master Lease expand the rights of the Tenant hereunder or diminish any additional rights granted to Landlord hereunder.

### Section 3.4. Master Lease Acknowledgements.

(a) Landlord and Tenant acknowledge that the continued operation of the Airport as a safe, convenient and attractive facility is vital to the economic health and welfare of the City, that the City's right to supervise performance of the overall concession programs in the Airport is a valuable right incapable of quantification and that Tenant shall conduct itself in a first-class, businesslike, efficient, courteous and accommodating manner.

(b) Tenant hereby acknowledges that the Master Lease is a matter of public record and Tenant has had the opportunity to conduct its own review of the terms and provisions of the Master Lease and is not relying on Landlord to furnish the same to Tenant.

(c) In the event of an emergency or if the same involves life safety or Airport security issues, at the election of the City's representative, who is the Commissioner of the Department, or any City officer or employee authorized to act on his/her behalf ("**Commissioner**"), the City shall have the direct right to enforce the provisions of this Agreement in the place and stead of Landlord. Unless otherwise expressly stated in this Agreement to the contrary, any consents and approvals to be given by the City under this Agreement may be made and given by the Commissioner or by such other person as may be duly authorized by the City Council, unless the context clearly indicates otherwise.

(d) For definitional purposes, "**Tenant**" shall include Tenant, its agents, contractors, subcontractors, franchisees, invitees, licensees, subtenants, concessionaires and others performing work and/or conducting operations in the Premises. As the owner and operator of the Airport, the City has the right to promulgate rules and regulations with respect to Tenant's use and occupancy of the Premises and Tenant hereby agrees to abide by all of such rules and regulations as may be promulgated by the City from time to time. Any capitalized terms in this

Agreement not defined herein shall have the meanings set forth in the Master Lease. The references in the Master Lease to "Subtenant" shall mean Tenant.

#### ARTICLE 4 PREMISES AND TERM

##### Section 4.1. Premises.

(a) Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, the Premises described in Article 1 hereof. Following construction of the Premises by Tenant, the number of square feet of Floor Area may, at Landlord's option, be subject to adjustment based on actual field measurements as reasonably determined by Landlord with a representative of tenant present during such measurement, if Tenant so desires, and all charges hereunder based on a per square foot amount shall be adjusted accordingly.

(b) The Premises shall include the area from above the floor slab on which the space is located, to beneath the slab of the floor (or roof) above the space, and shall include the inner surfaces of the perimeter walls of the space, perimeter doors and windows but shall not include the land under or adjacent to the Premises, the roof or any utility or telecommunications lines, antennas, mains, shafts, pipes, conduits, ducts, wires or other building systems running through and not exclusively serving the Premises. Subject to those rules and regulations promulgated by the Commissioner, Tenant shall have such rights of ingress and egress to and from the Premises over the Common Areas and other public areas of the Airport as may be reasonably necessary for Tenant and its employees, agents, and Contractors and for each of their equipment and vehicles. Tenant shall control all of their respective vehicular traffic on the Airport, take all precautions as may be reasonably necessary to promote the safety of passengers, customers, business visitors and other persons, and employ such means as may be reasonably necessary to direct movements of any such vehicular traffic. Tenant agrees that Landlord and the City retain the right to place in, through or over the Premises utility lines, mains, telecommunication lines, antennas, shafts, pipes, ducts, conduits, wires and the like for the use and benefit of the City and other tenants and occupants of the Airport and to replace and maintain, repair and relocate such lines, antennas, mains, shafts, pipes, ducts, conduits, wires and the like, in, over and upon the Premises. When exercising rights under this Section 4.1(b), Landlord and the City agree to use reasonable efforts not to materially interfere with Tenant's use of the Premises. Any such lines, antennas, mains, pipes, shafts, ducts, conduits, wires and the like in, through or over the Premises shall not be deemed to be a part of the Premises.

(c) **TENANT ACKNOWLEDGES THAT NEITHER LANDLORD, THE CITY, NOR ANY OF THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS OR BROKERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION OR WARRANTY OF ANY KIND RESPECTING USE, OCCUPANCY OR OPERATION WITHIN THE AIRPORT BY ANY AIRLINES, PERSONS OR ENTITIES INCLUDING, WITHOUT LIMITATION, ANY FORECASTED, ANTICIPATED OR ESTIMATED PASSENGER VOLUME (WHETHER ENPLANEMENTS OR DEPLANEMENTS) IN THE AIRPORT OR SALES EXPECTED TO BE GENERATED AT OR FROM THE PREMISES. TENANT IRREVOCABLY**

WAIVES ANY CLAIM BASED UPON OR RELATED TO ANY SUCH CLAIMED REPRESENTATION BY LANDLORD OR THE CITY. NEITHER LANDLORD NOR CITY SHALL BE RESPONSIBLE FOR ANY LATENT DEFECT AND THE TENANT SHALL NOT, UNDER ANY CIRCUMSTANCES WITHHOLD ANY RENTAL OR OTHER AMOUNTS PAYABLE TO THE LANDLORD HEREUNDER ON ACCOUNT OF ANY DEFECT IN THE PREMISES. EXCEPT AS OTHERWISE PROVIDED HEREIN, TENANT ACCEPTS THE PREMISES IN ITS "AS-IS" AND WHERE-IS" CONDITION AS BEING FREE AND CLEAR FROM ALL DEFECTS AND IN GOOD, SAFE, CLEAN AND ORDERLY CONDITION AND REPAIR.

Section 4.2. Term. This Agreement is in full force and effect upon the Effective Date. The term of this Agreement (the "**Term**") shall commence upon the Commencement Date and end at 11:59 p.m. on the Expiration Date, unless sooner terminated as provided herein. Except as otherwise provided in this Agreement, Tenant's obligation to pay Minimum Annual Guarantee, Percentage Rent, Contingent Rent, Miscellaneous Charges and certain portions of Additional Rent (collectively, "**Rents**") shall commence upon the DBO set forth in Article 1 hereof. Any occupancy of the Premises by Tenant prior to the DBO shall be subject to all terms and conditions hereof other than payment of Rents, except for charges incurred during the performance of Tenant's Work as set forth in **Exhibit B**. Tenant shall open for business to the public (with all required improvements completed and the Premises fully fixtured, stocked with high quality merchandise and products and staffed, with Tenant prepared to engage in selling high quality merchandise, products and/or services) no later than the DBO. The Term of this Agreement shall terminate on the Expiration Date without the necessity of, and Tenant hereby waives all rights to, any notice to terminate, vacate or quit the Premises, unless sooner terminated pursuant to any provision of this Agreement in which Landlord shall provide notice thereof in accordance with such provisions. Tenant hereby waives any and all rights to recover or regain possession of the Premises and all rights of redemption, granted by or under any present or future law in the event it is evicted or dispossessed for any cause, or in the event either Landlord or the City obtains possession of the Premises in any lawful manner. Such termination of this Agreement, as provided herein, and the removal, restoration and surrender obligations of Tenant, shall in no event give rise to any claims for incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises.

Section 4.3. Late Opening. Landlord and Tenant agree that Tenant's failure to open any portion of the Premises on the DBO for such portion of the Premises will result in damages which are difficult to ascertain in light of operational, scheduling and public service factors. Therefore, subject to Force Majeure, in the event Tenant shall fail to open any portion of the Premises for business to the public on the DBO specified for such portion of the Premises, Landlord may assess, and Tenant shall pay, in addition to Rent due hereunder, the sum of up to a maximum of \$1,000.00 per day for each day Tenant is not open for business in such portion of the Premises after the DBO. Notwithstanding the foregoing, Landlord shall not be entitled to assess such liquidated damages in the event that such failure is due solely to delays caused by, or as a result of, the fault of Landlord. This remedy shall be in addition to any and all other remedies provided in this Agreement or by law to Landlord in the event of default by Tenant. Such liquidated damages shall be deemed to be in lieu of Percentage Rent only that might have been earned during the period of Tenant's failure to open.

Section 4.4. Surrender and Holding Over.

(a) Tenant covenants and agrees to surrender possession of the Premises upon termination of this Agreement (whether by termination, expiration or otherwise) in accordance with the terms of this Agreement, broom clean and in as good condition as on the Commencement Date (or in the case of improvements or alterations made or installed subsequent thereto, then as of the date such improvements or alterations were made or installed), reasonable wear and tear and damage from casualty as described in Article 13 resulting in the termination of this Agreement excepted and free of all Persons, liens and encumbrances. No act or thing done by Landlord during the Term shall be deemed an acceptance of a surrender of the Premises and no agreement to accept such surrender shall be valid, unless in writing signed by Landlord. The delivery of keys to any employee of the Landlord shall not operate as a termination of this Agreement or a surrender of the Premises.

(b) If Tenant, without the written consent of Landlord, holds over in the Premises after the expiration or earlier termination of this Agreement, Tenant shall be deemed to be a tenant-at-sufferance, and shall be bound by all applicable provisions of this Agreement and shall be liable for the use and occupancy of the Premises in an amount equal to one hundred fifty percent (150%) of the Rents payable during the last full month of the Term together with Percentage Rent, unless Landlord expressly consents in writing to a different amount of Rents. The foregoing provisions shall not serve as permission to Tenant to hold over, nor serve to extend the Term. In the event the Commissioner or Landlord notifies Tenant in writing that holding over is not allowed, or if the Commissioner or Landlord notifies Tenant that any holdover month-to-month tenancy is being terminated as to the Premises, and Tenant continues to hold over after receipt of such written notice, Tenant must thereafter pay an amount equal to two hundred percent (200%) of the Rents payable during the last full month of the Term together with Percentage Rent, on a per diem basis, during that portion of the last calendar year falling within the Term of this Agreement. The provisions of this Section shall not operate as a waiver of any right of re-entry provided to Landlord in this Agreement. Any holding over without Landlord's written consent shall entitle Landlord to reenter the Premises as provided in Article 16 of this Agreement. Tenant shall indemnify, defend and hold harmless Landlord and the City from and against any and all loss, claims, demands, liabilities, damages (including, without limitation, consequential damages), costs and/or expenses (including, without limitation, attorneys' fees and



expenses) resulting from any failure by Tenant to surrender the Premises in the manner and condition required by this Agreement upon the expiration of the Term or earlier termination of this Agreement, including, without limitation, any claims made by any proposed new tenant founded upon such failure.

Section 4.5. Storage Premises. If storage space becomes available and Tenant leases such storage space from Landlord (such space, the “**Storage Premises**”), Tenant shall enter into a separate storage premises agreement with Landlord. Any such Storage Premises is limited and shall be allocated by Landlord on a first-come, first-served basis. Tenant shall not anticipate or rely in any manner that Landlord or the City shall build out any Storage Premises. All rent for the Storage Premises and other charges (collectively “**Storage Premises Rent**”) shall be paid by Tenant to Landlord as set forth in such separate storage premises agreement. Tenant shall surrender the Storage Premises in accordance with the surrender provisions hereof. Tenant hereby acknowledges that as of the date hereof there is no available storage space.

Section 4.6. Relocation, Reduction and/or Termination of Premises.

(a) Relocation or Reduction of Premises. At any time during the Term, due to the nature of the Airport and airline industries in general, it may be necessary to relocate the Premises, reduce all or any part of the Premises or obtain possession of the Premises if Landlord or the Commissioner determines such action to be necessary for airline operational and/or airport operational considerations (e.g., the operation of non-concession services in the Airport, the operation of non-concession services for any airline or Airport operations or due to public health, safety or security issues relating to the operation of the Airport). For purposes hereof, relocation is defined as Landlord’s or the Commissioner’s decision to terminate possession of the Premises and, to the extent reasonably possible, provide a reasonably comparable (in terms of size, location, relation to airline gates and exposure to the Airport’s users’ pedestrian traffic flow patterns within the Airport) space for the substitute location. Reduction of the Premises includes, but is not limited to, the movement of walls of the Premises or any other action which reduces the Floor Area of the Premises. Landlord and the Commissioner each hereby reserves the right at any time to take any such actions. If Landlord or the Commissioner elect to exercise any such rights, it shall use diligent efforts to advise Tenant by 85 days’ prior written notice and Tenant hereby agrees to be bound by such election and to execute, upon receipt from Landlord, whatever amendments or other instruments as may be reasonably necessary to correctly reflect the foregoing. Any such relocation or reduction shall be accomplished, with Tenant’s complete cooperation, as expeditiously as is reasonable under the circumstances but in no event later than the date specified by Landlord to ensure the proper and efficient operation of the Airport. If any such relocation or reduction occurs after the Premises have been constructed and opened for business, Landlord agrees to reimburse Tenant for the actual costs of renovating the relocated and/or reduced Premises (in accordance with Final Drawings (as defined in **Exhibit B**) and actual renovation costs approved by Landlord) so that the same are comparable to the original Premises, to the extent comparable Fixed Improvements do not already exist in the relocated and/or reduced Premises; provided, however, if such relocation or reduction occurs at the election of the City, Landlord’s obligation to reimburse shall be limited to the extent that Landlord is actually reimbursed by the City pursuant to the terms of the Master Lease. Landlord also agrees to reimburse Tenant for the actual costs of moving Tenant’s Operating Equipment, inventory and exterior storefront signage; provided, however, if such relocation or reduction occurs at the election of the City, Landlord’s obligation to reimburse shall be limited to the extent that Landlord is actually reimbursed by the City pursuant to the terms

of the Master Lease. Tenant shall be responsible for any and all other costs involved. Landlord shall not have any liability for such relocation, change in size or the closing of the Premises other than as specifically set forth in this Section 4.6(a) and Tenant hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and claims for relocation benefits under any Federal, state or local law, ordinance or regulation or otherwise. If Tenant is unable to operate its business in the Premises as a result of the exercise of any of Landlord's rights, Tenant's payment of Rentals shall be abated during the period which Tenant is unable to operate. Notwithstanding the foregoing, if Landlord desires to relocate Tenant to a substitute Premises as provided in this Section 4.6(a) above, Tenant shall have the right, in its sole discretion, to terminate this Agreement within 30 days after receipt of Landlord's relocation notice, and such termination shall be effective at the expiration of the 85 day period referenced above or such later date as may be reasonably determined by Landlord, provided, however, Landlord can negate Tenant's election to terminate within 20 days after receipt of Tenant's termination notice by revoking Landlord's election to relocate the Premises and thereafter this Agreement shall continue to remain in full force and effect in accordance with its terms. If Tenant elects to terminate this Agreement as provided in this Section 4.6(a) due to the proposed relocation of the Premises, this Agreement shall terminate on the effective date thereof as reasonably specified by Landlord and Tenant shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Tenant under this Agreement up to and including the effective date of such termination. Upon the early termination of this Agreement by Tenant as provided in this Section 4.6(a), other than by reason of Tenant's default, within 30 days following the date that Tenant shall have vacated the Premises, paid all Rentals and performed all other accrued obligations hereunder through to the effective date of such termination, Tenant shall be reimbursed by Landlord for any unamortized investment in Fixed Improvements to the nearest full month as established by its amortization period for Tenant's Certified Construction Costs in accordance with the requirements set forth in Section 4.6(b) below; provided, however, if Landlord's obligation to reimburse shall be limited to the extent that Landlord is actually reimbursed by the City pursuant to the terms of the Master Lease. Such reimbursement shall be paid by Landlord to Tenant only after the full amount of a credit, issued by the Commissioner, against Rentals for the same amount due and owing to the City from Landlord under the Master Lease has been applied against Landlord's Rents, all as approved and determined by the Commissioner in its sole discretion. Notwithstanding anything herein to the contrary, Tenant's right to any reimbursement pursuant to this Section 4.6(a) shall be conditioned upon Tenant's execution and delivery to Landlord and the City of a general release of claims by Tenant, which release shall be in a form satisfactory in all respects to Landlord and the City.

(b) Certified Construction Costs. For purposes of this Agreement, Tenant's Certified Construction Costs shall be amortized by Tenant, depreciated monthly, using the straight-line method, over a period commencing no later than the DBO, and shall not exceed the Term of this Agreement.

(c) Termination. The City has the right to terminate the Master Lease upon 60 days' prior notice to Landlord in the event of any action by the FAA, the TSA or any other governmental entity or the issuance of an order by any court of competent jurisdiction which prevents or restrains the use of the Airport, or a portion thereof, for commercial aviation purposes that renders performance under the Master Lease by either party impossible, and which governmental action or court order remains in force and is not stayed by way of appeal or otherwise, for a period of at least ninety (90) days, so long as the action or order is not the direct and specific result of any event of

default by Landlord thereunder. Therefore, the City has the right to notify Landlord and require Landlord to terminate this Agreement and Landlord has the right to so terminate this Agreement and require Tenant to fulfill its removal and surrender obligations hereunder. Landlord, upon as much prior notice in writing to Tenant as is reasonably possible under the circumstances, may so terminate this Agreement. Tenant specifically acknowledges that this termination provision is a material inducement to Landlord in entering into this Agreement with Tenant. Such termination and the removal and surrender obligations of Tenant shall in no event give rise to any claims, causes of actions, suits, or damages that Tenant may have or rights to payment to Tenant by either Landlord or the City including, without limitation: (A) any and all rights under the terms of this Agreement, and (B) incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises.

## ARTICLE 5 USE

### Section 5.1. Permitted Use.

(a) Tenant shall occupy the Premises upon commencement of the Term, and thereafter will continuously the Premises only for the purpose conducting the business specifically set forth in Article 1 hereof, and for no other use or purpose. [**FOR FOOD TENANTS ONLY:** Tenant's initial menu offering is attached hereto as **Exhibit O** and made a part hereof.] Notwithstanding anything to the contrary contained herein, including Tenant's Permitted Use, if Landlord or the City reasonably determines that any item displayed, offered for sale or sold by Tenant, or any practice performed by Tenant, is objectionable or inappropriate for display or sale at the Airport, Tenant shall, upon delivery of Landlord's written notice to the Premises, immediately remove such item from display and its inventory (if the objectionable item and/or service displayed, offered for sale or sold shall be deemed to be potentially dangerous to the public or violate any security regulations, as reasonably determined by Landlord or the City from time to time, Tenant shall remove such potentially dangerous item and/or service or violation immediately upon verbal notice from Landlord) or immediately cease such practice and Tenant shall not thereafter display, offer for sale or sell any such item or service or perform such practice. If Tenant shall fail to remove any such item and/or service from display or cease to perform such practice as may be required from time to time by Landlord, then Tenant shall pay as liquidated damages and not as a penalty the amount of \$100.00 per day for the first violation in any 12 month period and the amount of \$250.00 per day for the second and any subsequent violations in any 12 month period until such time as Tenant has removed any such item and/or service from display. This remedy shall be in addition to any and all other remedies provided in this Agreement or by law to Landlord, including, but not limited to the liquidated damages listed in **Exhibit L**.

(b) Tenant represents and warrants that it holds all certificates, permits, licenses or other entitlements required by federal, state or local laws, rules or regulations in order to enable Tenant to conduct its operations and to engage in its Permitted Use and that such certificates, permits, licenses or other entitlements are and shall be kept current, valid and complete at all times during the Term hereof. Tenant shall submit any of the foregoing for inspection by Landlord and/or the City from time to time. Tenant, at Tenant's expense, shall at all times comply with the requirements of each such certificates, permits, licenses or other entitlements.

(c) Tenant shall not use the Premises for any use not specifically granted herein without the prior written approval of Landlord and the City, which approval may be granted or withheld in their sole and absolute discretion. Prohibited uses expressly agreed to include the following: (a) foreign currency exchange services; (b) banking and other financial services; (c) automated teller machines; (d) display of revenue generating advertising by Tenant in a manner inconsistent with the City's advertising program then in effect; (e) luggage cart services; (f) parking; (g) hotel, and (h) ground transportation services (collectively, the "**Prohibited Uses**"). With respect to advertising, the foregoing shall not prohibit Tenant from advertising its own store and products within the Premises. Live entertainment is prohibited without the advance written approval of Landlord.

(d) Tenant covenants and agrees that it shall not injure, deface or otherwise harm the Premises or use the Premises in any manner that will constitute waste, and that it shall not cause or permit any unlawful conduct, unreasonable annoyance or nuisance to exist on the Premises, nor permit any activity or omission which constitutes or results in unlawful conduct, unreasonable annoyance or nuisance, nor overload the floor of the Premises, nor permit any use of the Premises which will invalidate or increase the premiums on any of Landlord's or the City's insurance. Tenant shall not use or permit to be used any medium that might constitute a nuisance, such as loudspeakers, sound amplifiers, tape decks, compact disc players, radios, televisions, or any other sound producing or other device which will carry sound or odors outside the Premises and, upon notice from Landlord to Tenant at the Premises, Tenant shall cause any such noise or odors to cease immediately. Tenant shall not allow any use of the Premises or any other portion of the Airport in a manner which is a source of annoyance, disturbance or embarrassment to Landlord, or to the other tenants and occupants of the Airport or which is deemed by Landlord, in its sole discretion, as not in keeping with the character of the Airport. The Premises shall not be used for any unlawful or immoral purpose.

(e) Tenant shall operate its business in the Premises under the name specifically set forth in the Article 1 hereof ("**Trade Name**") and shall not change the Trade Name or change the character of the business operated in the Premises without the prior written approval of Landlord and the City, which may be withheld in the Landlord's or the City's sole and absolute discretion.

## ARTICLE 6 RENT AND SECURITY DEPOSIT

Section 6.1. Minimum Annual Guarantee. Tenant shall pay monthly installments of the Minimum Annual Guarantee in advance on or before the first (1<sup>st</sup>) day of each month, without prior demand or notice. All sums payable hereunder shall be paid to Landlord in U.S. currency at Landlord's payment address set forth in Article 1 here, or such other place as Landlord may designate in writing, without notice, setoff, counterclaim, deduction or demand whatsoever. Should the DBO occur on a day other than the first (1<sup>st</sup>) day of a calendar month or this Agreement expire or terminate on a day other than the last day of a calendar month, the Minimum Annual Guarantee shall be prorated on the basis of a thirty (30) day month. Should any Lease Year contain less than 12 calendar months, said Minimum Annual Guarantee shall be prorated on the basis of a 365 day year. Effective on each "**Adjustment Date**" during the Term of this Agreement (the

initial January 1 following the DBO and each January 1 thereafter), the Minimum Annual Guarantee shall adjust (but in no event shall Minimum Annual Guarantee decrease below the initial amount set forth in Article 1 hereof) by an amount equal to eighty-five percent (85%) of the prior Lease Year's total Effective Rent. "**Effective Rent**" shall mean the annual aggregate of Minimum Annual Guarantee plus Percentage Rent (based on actual annual Gross Receipts) required to be paid hereunder for the prior Lease Year, including any year-end adjustments to such actual Gross Receipts made by Tenant in its Annual Certified Statement or by Landlord as a result of an audit and examination of Tenant's books and records.

Section 6.2. Percentage Rent and Contingent Rent.

(a) (i) Tenant shall also pay for each month of the Term ("**Lease Month**"), Percentage Rent equal to the product of the Percentage Rent Rates times the amount of Tenant's Gross Receipts during such Lease Month in accordance with the Percentage Rent Rate as set forth in Article 1, such payment to be made if (and only to the extent) the monthly Percentage Rent exceeds the monthly installment of Minimum Annual Guarantee required to be paid by Tenant to Landlord. Tenant shall pay Percentage Rent to Landlord monthly without prior notice or demand within fifteen (15) days after the expiration of each Lease Month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Lease Month.

(ii) In addition to the Effective Rent, Tenant shall also pay for each Lease Month, the Contingent Rent equal to the product of three percent (3%) times the amount of Tenant's Gross Receipts during such Lease Month in accordance with Article 1 hereof, such payment to be made within fifteen (15) days after the expiration of each Lease Month. All Contingent Rent payments shall be computed based on all Gross Receipts made during the previous Lease Month.

(b) If, at the end of any Lease Year, the monthly installments of Percentage Rent are less than the annual Percentage Rent required to be paid, Tenant shall pay the amount of such deficiency on or before the time Tenant provides its Annual Statement, together with **Late Interest** (hereinafter defined) from the date any such amounts were originally due. If, at the end of any Lease Year, the monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid, Tenant shall receive a credit equivalent to such excess, which shall be credited by Landlord to the next monthly payment(s) of Rents due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid for such final Lease Year, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises at the conclusion of this Agreement, so long as the Premises are in the condition required by this Agreement, all of Tenant's obligations and liabilities have been performed to the satisfaction of Landlord and any other sums due Landlord from Tenant under this Agreement have been paid in full or Landlord shall be entitled to deduct such remaining sums due from any such excess. Percentage Rent is agreed to be a portion of the consideration for Landlord to enter into this Agreement and Landlord expects to supplement Minimum Annual Guarantee and Additional Rent to provide a fair rental return. Except as otherwise specifically permitted by this Agreement, if Tenant fails to continuously operate its business or keep the required hours of operation or vacates the Premises prior to the expiration of the Term hereof, Landlord and the City will suffer damages not readily ascertainable. Landlord shall have the right to treat any of such events as a non-curable,

material default and breach by Tenant and Landlord shall be entitled to all remedies provided hereunder or at law.

(c) **"Gross Receipts"** shall mean the total amount in dollars at the actual sales price of all receipts, whether for cash or on credit, that are derived from business conducted in, on or from the Premises, for sales made, services rendered, and customer orders fulfilled at or from the Premises, whether or not the orders are filled elsewhere, and all deposits not refunded to purchasers and all orders taken in and from the Premises and receipts or sales by Tenant and any other person or persons doing business in or from the Premises, including receipts from promotions, advertising, and receipts derived from retail display allowances or any other use of the Premises by Tenant. A **"sale"** is deemed to have been consummated for purposes of this Agreement, and the entire amount of the sales price must be included in Gross Receipts, at the time that: (A) the transaction is initially reflected in the books or records of Tenant; or (B) Tenant receives all or any portion of the sales price; or (C) the applicable goods or services are delivered to the customer, whichever occurs first.

The following shall be excluded from the computation of Gross Receipts: (i) any sums separately stated to and paid out by Tenant for any sales, retail excise, use, privilege, or retailers occupation or any other type of taxes now or later imposed by any duly constituted governmental authority; (ii) the portion of the sales price for all merchandise returned by customers and accepted by Tenant for credit to the extent of the credit or refund actually given to the customer as well as rebates, exchanges or allowances made to customers; (iii) bona fide transfers of merchandise to or from the Premises to any other stores or warehouses of Tenant; (iv) sales of Tenant's furniture, fixtures, equipment and other items of personal property not in the ordinary course of Tenant's business; (v) refunds from or the value of merchandise, services, supplies or equipment returned to vendors, suppliers or manufacturers (but excluding display allowances, placement allowances, or other promotional incentives); (vi) proceeds from the sale of gift certificates or like vouchers until such time as the gift certificates or like vouchers have been treated as a sale in or from the Premises pursuant to Tenant's record keeping system; (vii) the sale or transfer in bulk of the inventory of Tenant to a purchaser of all or substantially all of the assets of Tenant in a transaction not in the ordinary course of Tenant's business; (viii) insurance proceeds received from the settlement of claims for loss of or damages to Fixed Improvements, merchandise, fixtures, trade fixtures and any other Tenant personal property other than the proceeds of business interruption insurance; (ix) amounts for coupons and other forms of discounts (including, but not limited to, customary discounts given by Tenant on sales of merchandise or services to its employees, if separately stated, and the discounted portion of any discounts given by Tenant on sales of merchandise or services to other Airport lessees' employees, the Department or City employees and other employees employed at the Airport, if separately stated) such that only the amounts actually received are ultimately included in Gross Receipts; (x) gratuities for services performed by employees of Tenant paid by their customers, except to the extent Tenant may be entitled to receive a portion of the gratuities; and (xi) shipping, delivery, alteration and gift wrapping charges if there is no profit to Tenant and such charges are merely an accommodation to customers (to the extent there is any profit to a Tenant, such profit shall be included in Gross Receipts).

Section 6.3. Impositions. From and after the DBO, Tenant shall be solely responsible, as and when due, for the payment of any Impositions. Tenant must provide Landlord and the

Commissioner with a copy of all notices relating to leasehold taxes on the Premises within thirty (30) days after receipt and must provide Landlord and the Commissioner with a receipt indicating payment of leasehold taxes on the Premises when due. Failure of Tenant to pay any Imposition when due will constitute an Event of Default. If at any time any of such Impositions are not levied and assessed separately and directly to Tenant (for example, if the same are levied or assessed to Landlord or the City, or upon or against, the building containing the Premises and/or the land underlying said building), Tenant shall pay to Landlord Tenant's share thereof as reasonably determined and billed by Landlord. Tenant shall be responsible for Impositions whether or not the same shall have been billed or collected by Landlord, together with any and all interest and penalties levied thereon, and Tenant hereby agrees to indemnify Landlord and the City and hold them harmless from and against all claims by any taxing authority that the amounts, if any, collected from Tenant and remitted to the taxing authority by either Landlord or the City, or the amounts, if any, paid directly by Tenant to such taxing authority, were less than the total amount of taxes due, and for any sums including interest and penalties payable by Landlord or the City as a result thereof (unless such interest or penalties result from the gross negligence of Landlord including any intentional delay in payment of such amounts by Landlord). Landlord may, from time to time, reasonably require upon not less than fifteen (15) days' prior written notice to Tenant, copies of all Tenant returns and other information filed with respect to Illinois sales and use taxes.

Section 6.4. Additional Rent. In addition to Minimum Annual Guarantee and Percentage Rent, Tenant shall pay, as Additional Rent, in a manner and at the place provided herein, all sums of money required to be paid by Tenant under this Agreement, including but not limited to: Contingent Rent, Storage Premises Rent, if any, Miscellaneous Charges, Distribution Fees, Operating Costs and Expenses, Utility Charges, and contributions to the Marketing Fund. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next installment of Minimum Annual Guarantee thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All amounts of Rents payable in a given month shall be deemed to comprise a single rental obligation of Tenant.

Section 6.5. Miscellaneous Charges.

(a) Security Badge Charges. Tenant shall pay to Landlord any other fees and charges assessed by the City to Landlord relating to the City's operation and maintenance of the Airport, in accordance with standard rates established by the City from time to time. Such other fees and charges may include, but shall not be limited to, fees for security badges. All persons employed at the Airport are required to obtain background checks, security clearances and identification security badges from the City and the City has the right to institute a charge for the processing, issuance and reviews and renewals. All security badges must be properly accounted for by Tenant and promptly returned in accordance with the City's, and all other applicable, rules, policies and regulations.

(b) Screening. If applicable as may be required by local, state or federal law, including, but not limited to, the Federal Aviation Administration's ("FAA"), the Transportation Security Administration's ("TSA"), the City's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, merchandise, products,

equipment, materials and supplies, which shall be paid by Tenant directly to Landlord or the City, as the case may be.

(c) Other Amounts Due. Tenant shall pay to Landlord any other amount owing by Tenant to Landlord pursuant to a provision of this Agreement, including, but not limited to, amounts paid or costs incurred by Landlord to cure Tenant's default under or other failure to comply with this Agreement. Such amounts shall include, but not be limited to, Landlord's payments to any vendors used by Tenant as may be required by Landlord or otherwise required pursuant to the City's Permitting Process and Tenant's failure to pay the same together with interest thereon at the rates specified for late payments under this Agreement.

(d) Each of the forgoing shall be collectively referred to as "**Miscellaneous Charges.**"

Section 6.6. Late Payment Charge. In the event any Rents required to be paid hereunder are not made when due as indicated herein, Tenant shall pay interest on any such overdue amounts at the Default Rate, commencing on the due date; provided, however, any such late charges shall be waived if any such late payments are in fact received by Landlord within five (5) days following the due date. The parties hereto agree that such late payment charge represents a fair and reasonable estimate of costs and expenses Landlord will incur by reason of any such late payment. Neither (i) the acceptance of such late payment charge by Landlord nor (ii) the payment by Tenant of the late payment charge without contemporaneous payment of all unpaid amounts of Rents due shall constitute Landlord's waiver of Tenant's default nor prevent Landlord from exercising all other rights and remedies available to Landlord hereunder or at law. If Tenant is late more than twice during any consecutive twelve (12) month period, Landlord will no longer waive any such applicable late charges for the remainder of the Term.

Section 6.7. Payment of Rents. Landlord may in its discretion apply any payments received from Tenant to any Rents which are then due and payable. If Landlord shall not make any specific application, then any such payment received shall be applied first to Rents which have been overdue for the longest period of time. No such payment shall be deemed to be other than a payment on account of the earliest Rents then due, nor shall any endorsement of any check or payment be deemed an accord and satisfaction unless specifically agreed to in writing by Landlord and Landlord may accept such check or payment without prejudicing in any way its right to recover the balance of such Rents. Tenant covenants to pay all Rents hereunder independent of any obligation of Landlord. No breach of this Agreement by Landlord shall relieve Tenant of its obligation and duty to pay all such Rents when due under the terms hereof. Acceptance by Landlord of any payment or partial payment of Rents shall not constitute a waiver of any right on the part of Landlord. Payment of Rents other than Impositions by Tenant to the City shall not be considered to be a tax and shall be in addition to and exclusive of all license fees, taxes, or franchise fees which Tenant may now or in the future be obligated to pay to the City.

Section 6.8. No Set-Offs or Deductions. Under no circumstances or conditions, whether now existing or hereafter arising, or whether within or beyond the present contemplation of the parties, except to the extent expressly provided herein to the contrary, shall the Landlord be expected or required to make any payment of any kind whatsoever by reason of its estate or interest in the Premises or by reason of any rights or interests of the Landlord under this Agreement. Except as expressly otherwise provided herein, Tenant shall timely pay all Rents



and other sums due hereunder without any abatement, diminution, reduction, set-offs, deductions, counterclaims, carry forwards or carry backs.

Section 6.9. Security Deposit.

(a) Tenant shall provide Landlord with the Security Deposit in the amount specified in Article 1 hereof in the form of either immediately available funds or the irrevocable standby letter of credit in a form acceptable to Landlord ("**Letter of Credit**"). Tenant shall post a substitute Letter of Credit not less than 30 days prior to the expiration of the then effective Letter of Credit, provided that if said substitute Letter of Credit is with a bank other than the bank who provided the then effective Letter of Credit, said substitute Letter of Credit shall be posted not less than 90 days prior to the expiration of the then effective Letter of Credit. The substitute Letter of Credit shall be on the same terms as the original Letter of Credit, whether or not any amounts have been drawn on any previous Letter of Credit. The Letter of Credit and any replacements or renewals thereof must be issued with an expiration date of at least one (1) year after the respective dates of issuance or renewal, and must be maintained by Tenant, through and including the date that is one hundred twenty (120) days after the expiration of the Term. Landlord shall retain the Security Deposit throughout the Term as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Agreement. If Tenant defaults with respect to any provision of this Agreement, including but not limited to the provisions relating to the payment of Rents or the provision of a replacement Letter of Credit as provided above, Landlord is entitled to draw on the Letter of Credit and to hold the proceeds as security for Tenant's performance of its obligations hereunder, or to use, apply or retain all or any portion of the funds so drawn for the payment of any Rents or any other sum in default, or for the payment of any loss or damage which Landlord may suffer by reason of Tenant's default, or to compensate Landlord for any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default. If any portion of the Security Deposit is so used or applied Tenant shall, within 3 business days thereafter, deposit immediately available funds or reinstate or submit a new Letter of Credit in the full amount required. Tenant's failure to do so shall be a material breach of this Agreement. Landlord's right to bring a special proceeding to recover or otherwise to obtain possession of the Premises before or after Landlord's declaration of the termination of this Agreement for non-payment of Rents or for any other reason shall not in any event be affected by reason of the fact that Landlord holds the Security Deposit. In the event that Landlord regains possession of the Premises, whether by special proceeding, reentry or otherwise, because of Tenant's default or failure to carry out the covenants, conditions and agreements of this Agreement, Landlord may apply such Security Deposit to all damages suffered through the date of said repossession and may retain the Security Deposit to apply to such damages as may be suffered or shall accrue thereafter by reason of Tenant's default or breach. In the event any bankruptcy, insolvency, reorganization or other creditor-debtor proceedings shall be instituted by or against Tenant, or its successors or assigns, or any guarantor of Tenant hereunder, such Security Deposit shall be deemed to be applied first to the payment of any Rents due Landlord for all periods prior to the institution of such proceedings, and the balance, if any, of such Security Deposit may be retained by Landlord in partial liquidation of Landlord's damages. The Security Deposit shall not constitute a trust fund. Landlord shall not be obligated to keep such Security Deposit as a separate fund but may commingle the Security Deposit with its own funds. Tenant shall not be entitled to interest on the Security Deposit. If Tenant fully and faithfully performs every provision of this Agreement to be performed by it, the

Security Deposit or any balance thereof, less any sums then due Landlord or the City from Tenant under this Agreement, shall be returned to Tenant within 45 days following the later of the expiration of the Term of this Agreement, the earlier termination thereof or Tenant's vacating and surrendering possession of the Premises to Landlord in the condition required in this Agreement.

(b) The Letter of Credit called for in this Agreement must be issued by companies or financial institutions having a rating of "A" or better as determined by Standard and Poor's or by Moody's Investors Service, Inc., or a net worth of at least \$500,000,000.00 unless otherwise approved in writing by Landlord. If any draw requires personal appearance by a Landlord representative, the Landlord shall be entitled to draw on the Letter of Credit for any travel expenses incurred by the Landlord. If the financial condition of the institution issuing the Letter of Credit materially and adversely changes, the Landlord may, at any time, require that the Letter of Credit be replaced with a Letter of Credit from another institution and in accordance with the requirements set forth in this Section.

## ARTICLE 7 TENANT'S RECORDS AND AUDIT RIGHTS

### Section 7.1. Tenant's Records.

Tenant shall maintain in a true and accurate manner and in accordance with GAAP such accounts, books, records and data as would reasonably be expected to be examined by an independent certified public accountant in performing an audit or examination of Tenant's Gross Receipts in accordance with GAAP and with generally accepted auditing standards. Such records shall include, but not be limited to, true copies of all federal, state and local tax returns and reports, daily receipts from all sales and other pertinent original sales records and records of any other transactions conducted in or from the Premises. Pertinent original sales records, at a minimum, are to include: (i) cash register tapes, including tapes from temporary registers; (ii) sequentially numbered transactions; (iii) original records indicating that merchandise returned by customers was purchased at the Premises by the customers; (v) detailed original records of any exclusions or deductions from Gross Receipts; (vi) sales tax records; and (viii) such other sales records, if any, that would normally be examined by an independent accountant under accepted auditing standards in performing an audit of the Gross Receipts (collectively, "**books and records**"). Tenant shall record at the time of each sale or other transaction, in the presence of the customer, all receipts from the sale or other transaction, whether for cash, credit or otherwise, in a POS System (as hereinafter defined) having a cumulative total that must be sealed in a manner approved by Landlord and/or the City and that must possess such other features as reasonably required by Landlord and/or the City. Such records shall also include, but not be limited to, the following in addition to those required under the Master Lease: general ledgers, subsidiary books of record, sales journals, daily or periodic summary reports, inventory and purchasing records, cash register or computer terminal tapes, point of sale records, bank deposit slips, bank statements, tax report files with federal, state, county, city or other agencies, discount or rebate agreements, and records of refunds and contractual agreements with other third parties relating to this Agreement. Such books and records shall contain records of all of Tenant's pertinent activity under this Agreement in a form consistent with good accounting practice (which may include, without limitation, electronic media compatible with the computers available to Landlord, computer generated hard copies or legible microfiche or microfilm copies). In addition, upon the request of Landlord or the Commissioner, Tenant shall provide sales and activity data reporting

and statistical analysis on a calendar month basis and by providing electronic cash control systems for the Premises ("**Point of Sale Data**"), reflecting the amount of each sales transaction, items sold per transaction, time and date of the transaction, and specifying the sales category applicable to each item Tenant shall, at Tenant's sole cost and expense, install such a point of sale system ("**POS System**") in the Premises that conforms to the City's or Landlord's POS Systems and permit the City or Landlord to connect its POS System to Tenant's POS System using fiber optic cable or otherwise. Tenant shall retain and keep all documents and records relating to this Agreement for not less than seven (7) years after the end of each Lease Year during the Term to which such documents and records relate. In the event of litigation or claims arising out of or relating to this Agreement, retention shall extend until such litigation or claims are completely resolved and all time limits for appeal have expired. In the event of a conflict between the terms of this Agreement and GAAP or generally accepted auditing standards, this Agreement shall govern even where this Agreement references GAAP or such auditing standards.

**Section 7.2. Tenant's Records.** Tenant shall provide statements and reports without demand and at its own cost and expense, in accordance with the following:

(a) **Monthly Certified Statement.** No later than the 10<sup>th</sup> day of each calendar month after the 1<sup>st</sup> calendar month or portion thereof following the DBO (and including the 1<sup>st</sup> month after termination of this Agreement), Tenant shall deliver to Landlord (with a copy to its General Manager at Landlord's office in the Airport), the Monthly Certified Statement with respect to the preceding calendar month. A Monthly Certified Statement shall be submitted for every month, or portion thereof, during the Term.

(b) **Annual Certified Statement.** No later than 90 days after the last day of each Lease Year of the Term, Tenant shall deliver to Landlord the Annual Certified Statement for the preceding Lease Year. The Annual Certified Statement for the final Lease Year or portion thereof during the Term shall be submitted within 75 days after termination of this Agreement. Tenant shall require all subtenants, concessionaires, franchisees, licensees and/or assignees, if any, to furnish similar monthly and annual statements. Landlord may make reasonable changes to the form of the Monthly Certified Statement or Annual Certified Statement from time to time upon 30 days' prior notice to Tenant. Tenant acknowledges that the statements and reports required hereunder are essential to the operation of the Airport and that Tenant's failure to submit said statements and reports as required herein will result in damages to Landlord and the City that are difficult to quantify. Therefore, Tenant shall pay as liquidated damages and not as a penalty the amount of \$150.00 per day for each day that a report or statement required hereunder is not submitted when due. This remedy shall be in addition to any and all other remedies provided in this Agreement or by law to Landlord. In addition, if Tenant or any subtenant, concessionaire, licensee and/or assignee, if any, fails to furnish any three (3) Monthly Certified Statements or any two (2) Annual Certified Statements within the time required by this Section 7.2, then, without limiting any of the Landlord's other rights under this Agreement, Landlord shall have the right upon 10 days' prior written notice to conduct an audit as set forth in Section 7.4 below and any and all charges occasioned by reason thereof shall be the sole obligation of Tenant and payable to Landlord on demand.

Section 7.3. Right to Examine Books. Notwithstanding the acceptance by Landlord of payments of Rents or installments thereof, Landlord and/or the City shall have the right to audit all Rents and other charges actually due hereunder. Tenant agrees to keep records as are required to be maintained under Section 7.1 at its principal business office located in the United States. If Tenant maintains the books, accounts and records in another location outside the metropolitan Chicago area, Tenant shall make these documents available at Tenant's local office or a site designated by Landlord at the Airport upon 5 business days' written notice from Landlord. The acceptance by Landlord of payments of any Rents is without prejudice to Landlord's right to conduct an examination of Tenant's books and records in order to verify the amount of Rents due hereunder and to verify the amount of Gross Receipts made in and from the Premises.

Section 7.4. Audit. Tenant's books and records relating to its operations under this Agreement (including without limitation, the books and records required to be maintained under Section 7.1 shall be available for inspection by Landlord or its duly authorized representatives upon 72 hours' advance notice and during normal business hours (9:00 a.m. to 5:00 p.m.). Landlord shall have the right, upon such notice and during such business hours to cause an audit to be made of such books and records in order to determine Tenant's compliance with the provisions of this Agreement governing amounts owed, paid or payable to Landlord and compliance with the remaining terms and conditions of this Agreement. In the event such books and records are not maintained and not made available at a site designated by Landlord, Tenant shall make such books and records available to Landlord at the location where they are maintained and kept by Tenant and Tenant shall reimburse Landlord for all actual costs related thereto reasonably incurred by Landlord. Tenant agrees to reasonably accommodate Landlord's representatives by providing adequate workspace (including electrical outlets, data and phone access), allowing photocopying of any records and documents, and allowing the interviewing of such employees as Landlord's representative deems necessary to conduct and support the audit. The inspection and audit rights set forth in this Section 7.4 shall include the right to photocopy those accounts, books, records and data as Landlord determines in its reasonable discretion to be necessary or convenient in connection with its review or audit thereof. If Tenant's books and records have been generated from computerized data, Tenant agrees to provide Landlord or its representative with extracts of the data files in a computer readable format on data disks, E-mail with attached files or other suitable alternative computer data exchange formats. Tenant shall not charge Landlord for the use of Tenant's photocopy machine while conducting the audit, nor for any cost of retrieving, downloading to diskette, and/or printing any records or transactions stored in magnetic, optical, microform or other media. Tenant shall provide all records and retrievals requested within 7 days. If such records are not received within 10 days, Tenant shall pay Landlord as liquidated damages and not as a penalty the sum of \$150.00 per day that such records are not provided. The liquidated damages shall be owed beginning on the 11<sup>th</sup> day following the date the request was made by Landlord or its representative.

Section 7.5. Adjustment of Overpayment/Underpayment. As a result of the audit, if it is established that the amount of Tenant's Gross Receipts were understated, or the amount of any expense(s) and/or adjustments was overstated, so that Landlord shall have been paid less than it was entitled to receive under this Agreement, Tenant shall pay to Landlord as Additional Rent the difference between the amount that should have been paid, and the amount that was paid, plus interest at the Default Rate from the date such amount was originally due. Such payment shall be made within 20 days of receipt of written notice from Landlord. If the amount underpaid exceeds by two percent (2%) or more the amount that should have been paid, or if the

audit reveals that Tenant's records are in such a state that the Rents due Landlord cannot be properly determined, the entire expense of said audit and any costs of collection incurred by Landlord shall be borne by Tenant. If the audit establishes that Tenant has overpaid Landlord, then such overpayment shall, at Landlord's option, be credited to Tenant or reimbursed to Tenant within 60 days thereafter. If the foregoing occurs during the final Lease Year, then such overpayment shall be reimbursed to Tenant within 90 days thereafter. The provisions of this Article 7 shall survive the termination or expiration of this Agreement.

## ARTICLE 8 TENANT'S WORK

### Section 8.1. Landlord's Work.

(a) Landlord shall deliver the Premises to Tenant in its "AS IS" condition. For purposes of this Agreement, "AS IS" condition for the Premises shall include, but be limited to the following: "AS IS" concrete floors, demising studs and utility stub-ins provided to the areas designated by Landlord or adjacent thereto in locations and in the manner as selected by Landlord. Tenant shall assume all risks in connection therewith without representation or warranty by Landlord or the City, express or implied, in fact or by law, on the part of Landlord and the City and without recourse to Landlord and the City.

(b) Tenant acknowledges that: (i) Tenant shall have inspected the Premises and the availability of utilities and shall be fully aware of the condition of the Premises and availability of and capacity of such utilities as of delivery of possession and accepts delivery thereof in such "AS IS" condition; (ii) neither the City nor Landlord shall have any obligation to improve or alter the Premises for the benefit of Tenant; and (iii) neither Landlord nor any of its employees, agents, representatives, contractors nor brokers has made any representation or warranty of any kind respecting: (a) the condition of the Premises and/or the Airport, or (b) the suitability thereof for Tenant's permitted use or the conduct of Tenant's business, or (c) occupancy or operation within the Airport by any other person or entity. Tenant's taking possession of the Premises shall constitute Tenant's formal acceptance of the same and acknowledgment that the Premises are in the condition called for hereunder, subject to all field conditions existing at the time of delivery of possession. In no event shall Landlord or the City be liable for damages or otherwise as a result of any failure to make the Premises available within the time and/or in the condition provided in this Agreement and no such failure shall permit Tenant to rescind or terminate this Agreement.

### Section 8.2. Tenant's Work.

(a) Tenant agrees, at its sole cost and expense, promptly to commence and complete promptly all items of Tenant's Work as set forth in **Exhibit B ("Tenant's Work")** in accordance with plans and specifications approved in writing by Landlord, using new and high-quality materials and equipment. Tenant shall open for business as soon thereafter as possible but in no event later than the DBO. Plans and specifications for Tenant's Work, including the type of materials to be used by Tenant in the Premises, must be set forth in detail and submitted to Landlord for the written approval of Landlord immediately upon execution of this Agreement in accordance with the provisions set forth in **Exhibit B**. Tenant shall reimburse Landlord for its reasonable costs incurred in connection with the plan review. Tenant shall, at its sole cost and

expense, immediately commence to obtain, diligently pursue and comply with all necessary permits, licenses or approvals from all federal, state and local government agencies, offices and authorities governing the construction of the Tenant's Work.

(b) All improvements, alterations and modifications to the Premises, including the Tenant's Work, shall be made as set forth in this Article 8, and any other applicable provisions of this Agreement, **Exhibit B**, the City's Airport Concession Program Handbook, the CDG and any other requirements imposed by the City under the Master Lease. Tenant shall construct and install all Fixed Improvements and install Operating Equipment so that the Premises will provide attractive, well-designed facilities that promote the display and sale of merchandise, products and/or services and present a positive image to the public. Each of the parties hereto shall perform the obligations imposed upon such party in **Exhibit B**, the City's Airport Concession Program Handbook, and the CDG at the times and in the manner provided, including any subsequent revisions issued to such documents and requirements. It is understood and agreed by Tenant that any non-material changes from any plans and specifications covering Landlord's Work (if any) as described in **Exhibit B**, shall not affect or invalidate this Agreement. In the event of an ambiguity or conflict between the construction-related provisions contained in any of the foregoing documents, the CDG shall control. Tenant shall not place or construct any Fixed Improvements, structures, alterations, modifications, signs, communications equipment, wiring or additions or Operating Equipment in, to or upon the Premises without the prior written approval of the City, in accordance with the City's Airport Concession Program Handbook and the CDG, which may be withheld in the City's sole and absolute discretion. If Tenant fails to obtain the City's prior written approval, the City has the right under the Master Lease and may, without limiting other remedies available to the City, direct in writing to Landlord and Tenant to modify, reconstruct or remove any work done without the approval of the City, and Landlord following receipt of the City's notice, shall promptly notify Tenant.

(c) During the performance of Tenant's Work, the Premises shall, at Tenant's sole cost and expense, be kept free and clear of all trash and debris and shall be broom swept daily. Should Tenant fail to remove from the Premises all trash and debris which may accumulate in connection with Tenant's Work, Landlord and/or the City may, in addition to any other right or remedy of either, remove such trash and debris following one (1) days' notice to Tenant, at Tenant's expense, and the expenses so incurred by Landlord and/or the City shall be due and payable by Tenant, as Additional Rent on demand. No work which the City and Landlord permit Tenant to do or which Tenant is obligated to perform pursuant to this Agreement, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord or the City. Tenant shall notify its subcontractors that no mechanic's liens under the Illinois Public Mechanic's Lien Act, 770 ILCS 60/23 will be permitted to arise, be filed or maintained against public funds, the work or any part thereof or any interest therein, or any improvements thereon, or against any monies due or to become due to Tenant on account of any work, labor, services, materials, equipment or other items performed or furnished for in connection with the Premises, and Tenant, for itself and its subcontractors, does hereby expressly waive, release, and relinquish such liens and all rights to file or maintain such liens; and agrees further that this waiver of liens and waiver of the right to file or maintain such liens will be an independent covenant. Tenant shall not, directly or indirectly, create or permit to be created or to remain, and shall discharge, any mechanic's or other lien placed on the estate of either Landlord or the City, including any portion of the Premises or the Airport, Landlord's interest in the

Master Lease or Tenant's leasehold interest or this Agreement, in the ordinary course of business or with respect to any work performed by or on behalf of Tenant on or about the Premises. Tenant shall pay promptly all persons furnishing labor or materials with respect to any work performed by Tenant or its contractors or subcontractors on or about the Premises. Upon making payments to Contractors, Tenant shall use commercially reasonable efforts to obtain from each Contractor a waiver of mechanics' liens against any portion of the Premises, the Airport, Landlord's interest in the Master Lease, Tenant's leasehold interest or this Agreement arising out of any work done by the Contractor and each and every of the Contractor's materialmen and workmen. If, nonetheless, any such mechanics' lien is filed upon any portion of the Premises or the Airport, Landlord's interest in the Master Lease, Tenant's leasehold interest or this Agreement, **Tenant shall indemnify, protect, defend and save harmless Landlord and the City against any loss, liability or expense whatsoever by reason of it and must promptly and diligently proceed with or defend, at its own expense, the action or proceedings as may be necessary to remove the lien.** Tenant must deliver notice to Landlord and the Commissioner of any such lien or claim within fifteen (15) days after Tenant has knowledge of it. Tenant may permit the mechanics' lien to remain undischarged and unsatisfied during the period of the contest and appeal; provided that, if requested by Landlord or the Commissioner, Tenant shall, within twenty (20) days following Landlord's or the Commissioner's request, post a bond with the City equal to 100% of the amount of the lien. If the lien is stayed and the stay later expires or if by nonpayment of any lien any portion of the Premises or the Airport, Landlord's interest in the Master Lease, Tenant's leasehold interest or this Agreement will be, or is claimed to be, subject to loss or forfeiture, then Tenant must immediately pay and cause to be satisfied and discharged the lien. If Tenant fails to do so, Landlord or the Commissioner may, in either's sole discretion, draw on the bond and make such payment. If Landlord or the Commissioner has not requested a bond, then the either may, in either's sole discretion, make such payment out of legally available Airport funds and, in such event, the amount paid, including reasonable attorney's fees incurred by Landlord or the City in either defending against such lien or procuring the discharge or bonding of such lien, together with interest thereon at the Default Rate, shall immediately be payable by Tenant as Additional Rent. Failure to post a bond when requested by Landlord or the Commissioner or pay such Additional Rent shall be an Event of Default.

(d) Tenant shall make a minimum investment in the Fixed Improvements and Operating Equipment of not less than the following amounts per square foot of Floor Area in the Premises ("**Tenant Minimum Investment**"): \_\_\_\_\_. Only Tenant's Certified Construction Costs shall be considered in the Tenant Minimum Investment amount. Landlord is required under the Master Lease to conduct the Concession Program and to maintain all of the Premises leased under the Master Lease in a first-class manner consistent with the highest level of operating standards and policies required of similar airport Concession Programs and in no event at a level lower than the level in effect from time to time at first-class similar concession operations in the Chicago metropolitan area. Accordingly, throughout the Term of this Agreement, but no less frequently than 180 days prior to the expiration of [the 7<sup>th</sup> and 14<sup>th</sup> Lease Years,] Tenant shall propose to Landlord a program of reinvestment in the Fixed Improvements and Operating Equipment in the Premises ("**Tenant Reinvestment**"). On Landlord's and the Commissioner's approval, Tenant shall make such improvements to the Premises in accordance with Preliminary Plans and Final Drawings (all as defined in **Exhibit B**) approved by Landlord

and the Commissioner and shall complete such improvements prior to the expiration of [the 7<sup>th</sup> and 14<sup>th</sup> Lease Years, respectively]. Within 90 days of the completion of such improvements, Tenant shall furnish Landlord with a statement certified by an officer of Tenant, subject to audit by Landlord, detailing the actual costs expended for the Tenant Reinvestment. Following approval of the costs and expenses for any such periodic Tenant Reinvestment as provided in this Agreement, the approved amounts shall be included in Tenant's Certified Construction Costs.

### Section 8.3. Close Out Requirements.

(a) Within 30 days after completion of Tenant's Work, Tenant shall deliver to Landlord executed copies of all mechanics' lien waivers and/or releases or other lien waivers and/or releases on account of Tenant's Work, notarized and unconditional, in such form as Landlord shall have reasonably approved, copies of all building permits indicating inspection and approval by the issuer of said permits and an architect's certification that the Premises have been constructed in strict accordance with the approved Final Drawings and are fully complete in accordance with all of such requirements specified or referenced herein, and final and complete set of "as-built" Final Drawings on the most recent version of AutoCad (which version shall not predate Version 12.0) and shall comply with the City's AutoCad requirements and specifications, duly certified by a registered architect or registered engineer licensed in the State of Illinois. Further, Tenant shall also deliver to Landlord a copy of the Certificate of Occupancy with respect to the Premises within 10 days after receipt thereof.

(b) All punch list items required to be completed by Tenant shall be promptly completed, and in no event later than thirty (30) days following issuance of the written punch list item notice to Tenant. Tenant shall provide evidence satisfactory to Landlord of the completion of all such punch list items and Landlord shall not release Tenant's construction security deposit required under **Exhibit B** until all punch list items are completed to Landlord's and the City's satisfaction.

(c) Within 90 days of the completion of Fixed Improvements, Tenant shall deliver to Landlord a statement certified by either the chief executive officer or the chief financial officer of Tenant, subject to audit by Landlord and the City, detailing the actual costs expended for the construction of Tenant's Fixed Improvements and the actual costs of the Operating Equipment, along with documentation of such expenditures, including without limitation, invoices and evidence of payment of such invoices. Upon approval by Landlord, in accordance with the terms of this Agreement, the approved amount shall be deemed for all purposes of this Agreement as the "**Certified Construction Costs**." Tenant shall also provide any and all other closeout documentation required by the City as part of the permitting process in the timeframes as required in the permitting process. At a minimum, such cost information shall include copies of all contracts, copies of all invoices for the work which clearly identified the work completed and copies of all canceled checks or other evidence of payment, cross-referenced to the proper invoice, all of which shall be evidenced by a certificate from Tenant. Landlord reserves the right to audit documentation of all Certified Construction Costs during the entire Term of this Agreement and for a period of up to 1 year after the expiration or earlier termination of this Agreement. Tenant shall cooperate in such an audit and provide other supporting cost documentation upon request within 7 days after notice from Landlord. If Landlord disagrees with the Tenant's determination of: (i) Tenant's Certified Construction Costs, or (ii) the reasonableness of the cost of the item, or (iii) if supporting cost documentation is not sufficient, Landlord shall notify the Tenant in writing.



Tenant shall have 15 days following receipt of Landlord's notice in which to respond or provide any additional information. After consideration of any response or additional information provided, Landlord shall make a final reasonable determination as to whether or not the costs will qualify as Certified Construction Costs. Notwithstanding anything to the contrary, if Tenant shall fail to provide such information to Landlord within 1 year from the DBO, Tenant shall have forever waived its right to any reimbursement of any portion of Certified Construction Costs from Landlord and forever released Landlord and the City from any reimbursement obligation under Section 4.6.

(d) If Tenant shall fail to timely complete any such punch list items or fail to timely provide any of the foregoing documents, drawings, certifications and information within the applicable periods set forth in **Exhibit B** or as required under the permitting process, Tenant shall pay to Landlord, as liquidated damages and not as a penalty, the sum of \$250.00 per day for each day that such waivers, releases, certifications, certified drawings, construction costs and required documents have not been delivered to Landlord within such period of time or for each day any punch list items have not been completed to Landlord and the City's satisfaction. If such failure shall continue for a period exceeding 180 days after the completion of construction of Tenant's Work, Tenant shall be in material default hereunder and Landlord shall be entitled to all remedies available hereunder or at law.

#### Section 8.4. City Resident Construction Worker Employment Requirement.

(a) Use of Residents. In connection with and during the performance of Tenant's Work, Tenant and its Contractors must comply with the provisions of §2-92-330 of the Municipal Code of the City of Chicago ("**Municipal Code**"), as amended from time to time concerning the minimum percentage of total construction worker hours performed by qualified actual residents of the City. At least 50% of the total construction worker hours worked by persons at the Premises must be performed by actual residents of the City and 7.5% of total work hours (which may be included in the 50%), must be performed by residents of the "Neighborhood Areas", as defined below. Tenant may request a reduction or waiver of this minimum percentage level of Chicagoans in accordance with standards and procedures developed by the Chief Procurement Officer of the City. In addition to complying with this percentage, Tenant and its Contractors are required to make good faith efforts to utilize qualified actual residents of the City in both unskilled and skilled labor positions. "**Actual residents of the City**" means persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home. Tenant and its Contractors (for purposes of this subsection, "**Employer**") must provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed. Each Employer will maintain copies of personal documents supportive of every Chicago employee's actual record of residence. The Neighborhood Areas for this Agreement are as follows: (a) Garfield Ridge, (b) Clearing, (c) Archer Heights, (d) West Elston, and (e) West Lawn.

(b) Certified Payroll Reports. In connection with and during the performance of Tenant's Work, weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) must be submitted to the Commissioner in triplicate and must identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll and the date that the Employer hired the employee should be written in after the employee's name.

(c) Inspection of Records. In connection with and during the performance of Tenant's Work, each Employer must provide full access to its employment records to Landlord, the Chief Procurement Officer, the Commissioner, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Each Employer must maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of Tenant's Work. At the direction of Landlord and/or the Commissioner, affidavits and other supporting documentation may be required of each Employer to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

(d) Level of Effort. Efforts on the part of each Employer to provide utilization of actual Chicago residents that are not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the City's Chief Procurement Officer will not suffice to replace the actual, verified achievement of the requirements of this Section 8.4 concerning the worker hours performed by actual Chicago residents.

(e) Shortfalls; Liquidated Damages. When Tenant's Work is completed, in the event that Landlord and/or the City has determined that Tenant has failed to ensure the fulfillment of the requirement of this Section 8.4 concerning the worker hours performed by actual residents of the City or failed to report in the manner as indicated above, Landlord and the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section 8.4. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1% of the aggregate hard construction costs of Tenant's Certified Construction Costs (the product of .0005 x such aggregate hard construction costs) (as evidenced by approved contract value for the actual contracts) must be surrendered by Tenant to Landlord as liquidated damages, and not as a penalty, in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly will result in the surrender of the entire liquidated damages as if no actual residents of the City were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Tenant and/or the Contractors to prosecution. Landlord may draw against the Security Deposit any amounts that appear to be due to Landlord under this provision pending Landlord's determination as to the full amount of liquidated damages due on completion of Tenant's Work.

(f) Nothing set forth in this Section 8.4 acts as a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents, as applicable.

(g) Inclusion in Contracts. Tenant shall cause or require the provisions of this Section 8.4 to be included in all construction Contracts related to Tenant's Work.

#### Section 8.5. Additional Requirements.

(a) This Agreement is subject to Chapter 4-36 of the Municipal Code which requires all persons acting as a general contractor (as defined in Chapter 4-36) to be licensed as a general contractor by the City. Tenant's failure to ensure that any general contractor performing

Tenant's Work complies with Chapter 4-36 of the Municipal Code will be an Event of Default under this Agreement.

(b) In connection with the construction, repair, and maintenance of Fixed Improvements, Tenant must comply with the applicable provisions of 820 ILCS 130/0.01 et seq. regarding the payment of prevailing wages, and the most recent Illinois Department of Labor schedule of prevailing wages, and any successors to them. Tenant shall insert appropriate provisions in all contracts covering construction work under this Agreement to ensure compliance of all construction contractors with the foregoing wage statutes and regulations.

(c) Tenant shall require all contractors performing Tenant's Work to be bound by the following provision and Tenant must cooperate fully with Landlord and the City in exercising the rights and remedies described below or otherwise available at law or in equity:

"Contractor certifies and represents that Contractor and any entity or individual that owns or controls, or is controlled or owned by, or is under common control or ownership with Contractor is not currently indebted to the City and will not at any time during the Term be indebted to the City, for or on account of any delinquent taxes, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, Contractor acknowledges that any breach or failure to conform to this certification may, at the option and direction of the City, result in the withholding of payments otherwise due to Contractor for services rendered in connection with this Agreement and, if the breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against the payments otherwise due to Contractor and/or the termination of Contractor for default (in which case Contractor will be liable for all excess costs and other damages resulting from the termination)."

(d) Tenant shall make good faith efforts to meet its commitments with respect to participation of Minority Business Enterprises/Woman-Owned Business Enterprises ("MBE/WBE") in the design and construction of the Fixed Improvements: (i) Design: 25% MBE and 5% WBE, and (ii) Construction: 25% MBE and 5% WBE.

(e) All obligations imposed on Tenant under this Agreement pertaining to the maintenance and operation of the Premises and compliance with the ACDBE and M/WBE goals contained in this Agreement are deemed to include a covenant by Tenant to insert appropriate provisions in all contracts covering work under this Agreement and to use its commercially reasonable efforts to enforce compliance of all contractors with the requirements of those provisions. In the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of any contract between Tenant, its contractors or any other third party, the terms and provisions of this Agreement govern and control.

(f) Tenant shall comply with all federal and state laws and City regulations pertaining to Civil Rights and Equal Opportunity, including executive orders and rules and regulations of appropriate federal and state agencies unless otherwise exempt therein.

#### Section 8.6. Rights Reserved by Landlord and the City.

In addition to those rights reserved by Landlord and the City otherwise contained herein, Landlord and the City reserve the following rights:

(a) If Tenant does not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then Landlord and/or the City, in addition to any other remedy which may be available to it, may enter the Premises upon reasonable advance notice to Tenant and perform such maintenance or repair, as Landlord and/or the City, as applicable, determines, in either's sole and absolute discretion, is required.

(b) Except as expressly provided otherwise in this Agreement, Landlord and/or the City has the rights set forth below, each of which Landlord and/or the City, as applicable, may exercise with notice to Tenant and without liability to Tenant for damage or injury to property, persons or business on account of exercising them (unless such damage is determined to be due to the intentional tortuous act or willful misconduct of Landlord and/or the City); Landlord's and/or the City's exercise of any such rights is not deemed to constitute a breach of this Agreement or a disturbance of Tenant's use or possession of the Premises; Landlord's and/or the City's exercise does not give rise to any claim, including for set-off or abatement of Rents; Landlord's and/or the City's exercise also does not relieve Tenant of any obligation to pay all Rents when due. The rights include the rights to:

(i) Install, affix and maintain any and all signs on the exterior and on the interior of the Airport;

(ii) Decorate or to make repairs, inspections, alterations, additions, or improvements, whether structural or otherwise, in and about the Airport, or any part of them, and for such purposes to enter upon the Premises, and during the continuance of any of the work, to temporarily close doors, entryways, public space and corridors in the Airport, and to interrupt or temporarily suspend services or use of facilities, all without affecting any of Tenant's obligations under this Agreement, so long as the Premises is reasonably accessible and usable;

(iii) Require Tenant to furnish Landlord and/or the City door keys for the entry doors of the Premises or any portion thereof, where applicable, and to retain them at all times, and to use in appropriate instances, keys, including master keys and passkeys, to all doors within and into the Premises, but the keys will at all times be kept under adequate and appropriate security by Landlord and/or the Commissioner, as applicable. Tenant shall purchase only from Landlord and/or the City additional duplicate keys as required, and must not change any locks, nor affix locks on doors without the prior written consent of Landlord and/or the Commissioner;

(iv) Approve the weight, size and location of safes, vaults and other heavy equipment and articles in and about the Premises and the Airport so as not to exceed the legal load per square foot designated by the structural engineers for the Airport, and to require all such items and furniture and similar items to be moved into or out of the Airport and the Premises only at the times and in the manner as Landlord and/or the Commissioner directs in writing. Tenant must not install or operate machinery or any mechanical devices of a nature not directly

related to Tenant's Permitted Use without the prior written consent of Landlord and/or the Commissioner. Movements of Tenant's property into or out of the Airport or the Premises and within the Airport is entirely at the risk and responsibility of Tenant and shall be in accordance with the requirements of the CDG and the Airport Concession Program Handbook;

(v) Establish controls for the purpose of regulating all property and packages, both personal and otherwise, to be moved into or out of the Airport and the Premises;

(vi) Regulate delivery and service of supplies and the usage of the apron area, loading docks, receiving areas and freight elevators and designate the times within which, and the locations at which, deliveries may be made to or by Tenant;

(vii) Show the Premises to prospective tenants at reasonable times during the final Lease Year or upon earlier termination of this Agreement and, if the Premises is vacated or abandoned, prepare the Premises for re-occupancy;

(viii) Erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances to them, in and through the Premises at reasonable locations which do not materially impact Tenant's use and possession of the Premises or materially interfere with the conduct of business in the Premises;

(ix) Enter the Premises for the purpose of periodic inspection for fire protection, maintenance and compliance with the terms of this Agreement and exercise any rights granted to it in this Agreement; except in the case of emergency, however, the right must be exercised upon reasonable prior notice to Tenant and with an opportunity for Tenant to have an employee or agent present;

(x) Grant to any person the right to conduct any business or render any service in or to the Airport for the types of concessions permitted in the Airport, except as may otherwise be provided in this Agreement.

(xi) Promulgate from time to time rules and regulations regarding the operations at the Airport;

(xii) Landlord and the City reserve the right to perform any fire suppression system work and charge Tenant for the actual and reasonable cost thereof and specify charges as Additional Rent under this Agreement or to approve Tenant's proposed contractor, at Landlord and/or the City's sole option; and

(xiii) Maintain newspaper vending machines at any location in the Airport.

Notwithstanding the provisions for Landlord and the City's access to the Premises, Tenant releases Landlord and the City from all responsibility arising out of theft, robbery, pilferage and personal assault unless the same results from Landlord and/or the City's negligence or willful misconduct. Upon the expiration of the Term of this Agreement or Tenant's right to possession of the Premises, Tenant must return all keys to Landlord and the Commissioner and must disclose to Landlord and the Commissioner the combination of any safes, cabinets or vaults left in the Premises.

Section 8.7. Alterations by Tenant. Tenant shall not make or cause to be made any alterations, additions or improvements to the Premises (for example, but without limiting the generality of the foregoing, Tenant shall not install or cause to be installed any signs, floor covering, interior or exterior lighting, plumbing fixtures, shades, canopies, awnings, electronic detection devices, antennas, mechanical, electrical or sprinkler systems, or make any changes to the storefront), without the prior written approval of Landlord and the City. Tenant shall present to Landlord preliminary plans and final drawings for all alterations, additions or improvements, voluntary or otherwise, at the time approval is sought, in accordance with criteria and procedures as provided in **Exhibit B**, the Airport Concession Program Handbook and the CDG. Notwithstanding anything to the contrary contained in this Agreement or the exhibits hereto, no such alterations, additions or improvements by Tenant hereunder shall be included in **"Certified Construction Costs"**, it being expressly understood that any of the foregoing shall be at Tenant's sole cost and expense and not subject to any reimbursement or buy-out provisions in favor of Tenant under this Agreement or the exhibits hereto.

Section 8.8. Removal by Tenant. All Fixed Improvements and any alterations thereto made by Tenant shall, upon installation, be deemed to have become part of the Premises and title shall remain with Tenant during the Term of this Agreement and upon the expiration or earlier termination of this Agreement, title to all Fixed Improvements shall vest in Landlord (unless Landlord elects otherwise), except that all of Tenant's trade dress, service marks, trademarks and trade names must be removed, obliterated or painted out in a commercially reasonable manner at Tenant's sole cost and expense, following the expiration or termination of the Term. Tenant shall, at its expense, execute all documents requested and deemed necessary by Landlord to evidence the transfer of title to any Fixed Improvements. Upon the expiration or earlier termination of this Agreement, under no circumstances shall Fixed Improvements be demolished or removed except with the prior written consent of Landlord, and, in such event, Tenant shall, at its own cost and expense, promptly demolish or remove the same in accordance with the City's permitting process and immediately repair any damage to the Premises caused by such demolition or removal. All Operating Equipment installed by Tenant and not affixed to the Premises shall remain the property of Tenant and may be removed by Tenant upon expiration of this Agreement if all Rentals due hereunder are paid in full and Tenant is not, at such time, in default of any of the covenants, terms or provisions of the Agreement; provided that Tenant complies with the CDG and the permitting process and immediately repairs any damage caused by such removal and restores the Premises to the condition as of the date such Operating Equipment was installed, reasonable wear and tear and damage by casualty excepted. If Tenant does not promptly remove or cause the removal of such Operating Equipment and personal property and restore the Premises, Landlord or the City may, without any obligation to do so, at their option, enter the Premises and remove such Operating Equipment and personal property, hold the same for Tenant or may place the same in a public warehouse, all at the expense and risk of Tenant, and restore the Premises. Tenant shall, upon demand, pay to Landlord for itself or for the benefit of the City, the actual expense incurred in connection with such removal, storage, disposition, restoration and the repair of any damage to the Premises resulting from or caused by such removal. Tenant shall reimburse Landlord and/or the City for any reasonable expense incurred by Landlord and/or the City in connection with such removal, storage and restoration. **Tenant shall indemnify, release and hold harmless Landlord and the City from any and all damage, costs and expenses related to said removal, storage, disposition or restoration.** In addition, Landlord and the City shall have the

right, but not the obligation, to dispose of such property as waste or sell such stored property in accordance with law. In the event the expenses of such removal, storage, restoration, disposal and sale shall exceed the proceeds of such sale, Tenant shall pay such excess to Landlord for itself and for the benefit of the City, as the case may be, upon demand. The obligations contained in this Section 8.8 shall survive the expiration or earlier termination of this Agreement.

## ARTICLE 9 OPERATIONS

### Section 9.1 Operations by Tenant.

(a) General. Tenant and its Operating Staff (as defined below) and employees shall provide a high level of customer service consistent with first-class news, specialty retail and food & beverage concessions in the Chicago metropolitan area and other first-class concession programs in major urban airports located in the United States. Tenant shall accept all major nationally recognized credit cards for payment, shall offer all of its customers shipping and gift wrap services (if appropriate for the type and size of non-perishable merchandise or product being requested) at cost, and shall provide, without charge, change making service at each cashier's location in the Premises, regardless of whether a purchase is made. All newsstand and news & sundries concessions shall sell United States postage at face value with associated signage located in the Premises that postage stamps are available. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements and Operating Equipment shall be maintained in good condition and repair. At all times from and after the DBO, Tenant covenants that it shall continuously and uninterruptedly occupy and use the Premises for the Permitted Use and shall keep the Premises open for business during all required Airport concession hours, except to the extent that Tenant may be prevented therefrom by Force Majeure or as occasioned by Landlord's sole negligence or sole willful misconduct. Tenant shall install and maintain at all times a display of non-perishable merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise, products or appropriate displays. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises. Tenant shall not install or operate or cause to be installed or operated vending machines or other coin or credit card operated devices of any nature, including but not limited to any device using telephone or other telecommunications transmissions on the Premises without the prior written approval of Landlord and the City, determined in their discretion. Tenant shall not store anything in service or exit corridors. All receiving and delivery of goods and merchandise or products for the Premises, and all removal of merchandise, products, supplies, equipment, trash and debris and all storage of trash and debris from the Premises shall be made only by way of or in the areas provided therefor. Tenant shall be solely responsible for prompt disposal within the Premises or in such areas as may be provided for such disposal of all trash and debris from the Premises. Tenant shall not install any radio, television, communication dish or other similar device or related equipment exterior to the Premises, shall not cause or make any penetration of the roof of the Premises or the building in which the Premises is located and shall not erect any aerial or antenna on the roof or exterior walls of any building within the Airport. Landlord may direct the use by Tenant, at Tenant's expense, of pest extermination contractors at such intervals as Landlord may require; if Landlord arranges such services, Tenant shall use the same and reimburse Landlord for

its cost. If Landlord does not arrange such services, Tenant shall be required to contract directly with a pest control service reasonably approved by Landlord, at Tenant's sole cost and expense.

(b) Continuous Operations and Service Hours. Tenant agrees to be open for business and to continuously and uninterruptedly operate during the entire Term following the DBO, to actively and diligently conduct its business at all times in a first-class and reputable manner, making every reasonable and lawful effort to develop, maintain and increase Tenant's business, using best efforts to achieve maximum sales volumes, customer satisfaction and maintaining at all times a complete stock of high quality genuine merchandise and products. The Airport is open for business every day, 365 days per year and is busy during non-traditional working and shopping hours. Accordingly, service hours shall include the hours the Airport's concession program shall be open as directed by Landlord from time to time, including without limitation, the hours necessary to provide service for the earliest daily incoming and outgoing flights (including the provision of service to passengers who arrive in advance of same) and the latest daily incoming and outgoing flights, including non-scheduled activity by charter airlines. To that end, Tenant shall open and operate its business in the Premises during hours directed by Landlord; provided that, if passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the opinion of Landlord or as Landlord is directed by the City, the Airport's concession program, including the Premises, shall be open at times not then scheduled. Landlord reserves the right to direct Tenant to change or adjust the service hours at any time, and Tenant agrees and covenants to adequately staff the Premises and be open for business during the hours directed by Landlord. In addition, in an emergency, as determined by Landlord or the City, Tenant shall open or keep open the Premises upon 2 hours' prior verbal notice. Tenant expressly acknowledges the need for flexibility in the service hours from time to time. Any modifications to the required operating hours that may be requested from time to time by Tenant shall be subject to Landlord's prior written approval determined in its discretion. Tenant agrees to otherwise abide by all service hours of operation as set by Landlord. Tenant acknowledges that the concession program and its business operations are essential services at the Airport and Tenant's failure to cause continuous operation of its business in the Premises will result in damages to Landlord that are difficult to quantify in light of airport operational and customer service factors. Therefore, in addition to any other remedies set forth herein, including, but not limited to the liquidated damages listed in **Exhibit L**, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the amount of \$300.00 per hour for each hour Tenant fails to operate its business during any required operating hours for the first violation in any 12 month period, and the amount of \$500.00 per hour for each hour Tenant fails to operate its business during any required operating hours for the second and any subsequent violations in any 12 month period. Failure by Tenant to be open for business and to operate shall entitle Landlord, in addition to other remedies provided in this Agreement or by law, to a mandatory injunctive relief if awarded by a court of competent jurisdiction. Tenant shall not abandon or permanently vacate the Premises without the prior, advance written approval of Landlord. For the purposes of this Agreement "abandonment" shall mean closing the Premises to customers for 2 or more consecutive days, unless such closing is permitted by other provisions of this Agreement.

(c) Staffing/Personnel. Tenant shall employ a full-time trained professional staff ("**Operating Staff**") at all times during the Term of this Agreement of sufficient size, expertise, ability, suitability, and experience in sales and customer service to carry out all of its obligations under this Agreement and Tenant shall maintain a sufficient number of Operating Staff on-site at the Premises (including, cashiers, management and supervisory personnel) to fully service and



meet the needs of all customers at all times and shall increase such number of personnel upon the reasonable request of Landlord to provide outstanding customer service and satisfaction. Tenant's Operating Staff and employees shall be courteous, neat in appearance, free from offensive body odor, professional, courteous, appropriately attired, and shall use skill and diligence in the conduct of business and shall not act in a loud, offensive or otherwise objectionable manner or in a manner detrimental to the best interests of Landlord or the City. Tenant's Operating Staff shall be available by telephone and such other communication device as Landlord may require during the operating hours. Tenant's Operating Staff and employees shall have sufficient knowledge of the Airport to promptly and courteously direct passengers in and around the Airport, including, without limitation, to airlines, and shall participate in monthly training programs held by the City or Landlord, Gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation. Tenant's Operating Staff and employees shall wear name tags and security badges at all times. Tenant's Operating Staff shall welcome and assist international travelers and shall assist the public generally. Tenant shall not employ at or about the Premises any person who makes persistent announcements of its merchandise, products and/or services over loud speakers. Landlord may monitor, test, or inspect the services of Tenant at any time through the use of a shopping service or other commercially reasonable means that do not unduly interfere with Tenant's operations. **[FOR FOOD TENANTS ONLY:** Tenant shall provide and have readily available customer comment cards. Tip buckets, jars or containers are prohibited unless approved in writing, in advance, by Landlord, and "tipping" language is prohibited on printed sales and credit card receipts at all fast food units.]

(d) Store Manager/Emergency Contact. In order to assure compliance with the terms, covenants and conditions of this Agreement, Tenant shall retain a qualified, competent manager suitably experienced to provide on-site management of Tenant's business on a full-time basis and to manage all of Tenant's obligations and responsibilities under this Agreement ("**Store Manager**"). Tenant shall notify Landlord of the identity of its Store Manager and of any changes in such identity. Tenant shall assure that the Store Manager or his or her designee, is available, by telephone and such other communication device as Landlord may require, on a 24 hour per day, 7 day per week basis to respond to Landlord on day to day issues and in the event of emergencies. Tenant shall notify Landlord of the name and telephone number for such representative and shall update such information as necessary. If any Store Manager, in the Landlord's reasonable judgment, does not perform up to standards consistent with the fulfillment of Tenant's obligation and responsibilities under this Agreement, Tenant, in good faith, shall promptly take steps to remedy any such failure in performance.

(e) Customer Complaints. Tenant agrees that it will reasonably and promptly respond to all customer complaints regarding unsatisfactory service and/or unsatisfactory quality of merchandise, products and/or services, including all refunds as appropriately requested from time to time by any customer. In the event that Tenant receives any written complaint concerning its operations, Tenant shall within twenty-four (24) hours of receipt of such complaint by Tenant forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within 3 days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint. Tenant shall submit to Landlord a copy of the response to the complaint upon issuance of said response. If Landlord receives a written complaint regarding Tenant, it shall forward a copy of the same and Tenant shall respond as set forth herein.

(f) Compliance With Laws. Tenant shall, at its sole cost and expense, comply and cause its employees, agents, contractors and licensees to comply with all applicable present and future laws, statutes, ordinances, rules and regulations, orders, judgments, decrees, licenses and permits, now existing or later in effect (including, without limitation, the Americans with Disabilities Act, all Environmental Laws, and 49 CFR part 23.75), of all applicable federal, state and local governmental or quasi-governmental authorities, subdivisions, departments, agencies and the like, including any rules, regulations of the City, which impose any duty upon Landlord, the City or Tenant with respect to Tenant's use, occupancy or alteration of the Premises and with the rules, regulations and requirements of Landlord's, the City's and Tenant's insurance underwriters with respect to the Premises. Provisions required by any law to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement. Tenant shall promptly pay all fines, penalties, expenses to remedy or correct any violations or applicable laws, and damages that may arise out of or be imposed because of its failure to comply with the provisions of this Section 9.1. Tenant shall not do or permit anything to be done in or about the Premises, nor bring anything therein, which will in any way conflict with any such law, ordinance, order, rule, regulation or requirement affecting the occupancy or use of the Premises or the Airport which has been or may be hereafter enacted or promulgated by the City and all governmental authorities, or in any way obstruct or interfere with the rights of others, nor shall Tenant use or allow the Premises to be used for any improper, immoral or objectionable purposes or do any act tending to injure the reputation of the Airport. Tenant shall notify Landlord within ten (10) days of receiving notice from a competent governmental authority that Tenant or any of its contractors may have violated any laws.

(g) Material Transportation. It is necessary due to the number of vendors in the Airport buildings that the City protects the airside operation area and the landside curb utilization integrity for the flow of airline passengers. Tenant agrees that the City, in its sole discretion, may require that all merchandise and materials ordered by Tenant for resale or operation of its business on the Premises be delivered only within the times and at the locations authorized by Airport personnel. In transporting merchandise and materials associated with operating the concessions to and from the Premises, Tenant shall use only carts or conveyances that are sealed, leak-proof, and equipped with wheels suitable for operating on carpet or other flooring without damage thereto, as approved by Landlord and the City. Landlord may require changed in the method, location or time of the delivery of Tenant's merchandise or materials.

(h) **[FOR FOOD TENANTS ONLY: Commissary Agreement.** In connection with this Agreement, Landlord and Tenant will enter into a separate Commissary Agreement setting forth food preparation, distribution, and cross-docking procedures.]

(i) Technology. During the Term of the Agreement, Tenant shall be required to implement a first-class, nationally-recognized, point of sale system ("POS System"), approved by Landlord. Such POS System shall be compatible with the Centralized Point of Sale Management System, and shall be capable of providing the sales data described in Sections 5.8(b) and 7.19 of the Master Lease. All business transactions, which occur in the Premises, must be completed by a register transaction and a receipt must be offered to each customer. The City and Landlord reserves the right to implement

technology and procedures for submitting product lists and reporting price comparisons. Tenant shall use commercially reasonable efforts to cooperate with the City and Landlord in implementing such technology and procedures.

(j) Value Pricing and Other Pricing Policies. Tenant shall provide to customers high quality products and services and competitively price all products and services sold from the Premises such that the prices are not in excess of Value Pricing as set forth in the City's "Value Pricing" requirements attached hereto as **Exhibit H**. In addition, the Commissioner may adopt other reasonable pricing policies, with which Tenant shall comply, to restrict, but in no event shall Commissioner require prices lower than the established Value Pricing. Tenant agrees to adjust its prices to ensure that they meet the above criteria in accordance with the City's pricing policy and enforcement guidelines upon written notice from Landlord and shall provide reports on pricing issues to Landlord whenever requested. Tenant covenants that it will not divert or cause or allow to be diverted any business from the Premises to other locations outside of the Airport.

(k) Coordination of Operational Matters with Landlord and Performance Standards. To ensure that Tenant is in compliance with the quality of products, pricing and service standards set forth in this Section 9.1 and the Master Lease and in the Service and Operating Performance Standards ("**Performance Standards**") attached hereto as **Exhibit L**, and that Landlord's and the City's objectives are met, the City, Landlord or their representatives shall perform service audits, such as surprise shopper programs and inspections, of the conduct of Tenant's operation of its business in the Premises at any time during the Term of this Agreement. The results of such service audits performed on behalf of Landlord may be employed by Landlord to enforce Tenant's obligations under this Agreement. The Performance Standards address three main categories of performance: product and service quality/price, customer service/personnel, and Premises cleanliness and maintenance (collectively, the "**Performance Categories**"), among other matters and includes a set of minimum performance standards ("**Minimum Performance Standards**") for each of the Performance Categories.

(l) Trash and Refuse. The Tenant shall provide a complete and proper arrangement for the adequate sanitary handling of all trash and other refuse caused as a result of the operation of the Premises. The Tenant shall provide and use suitable sealed fireproof receptacles for all trash and other refuse on or generated in connection with the Tenant's use of the Premises. Piling of boxes, cartons, barrels or other similar items in, or within view from, a public area shall not be permitted. The Tenant shall comply with all Airport rules and regulations relative to trash, waste disposal, or recycling that may be made from time-to-time, and the Tenant shall pay the costs associated with trash removal and disposal, as it may be amended from time to time.

(m) [FOR FOOD TENANTS ONLY] Menus and Products. Menus must be well designed, clean, and display the correct prices for all menu items. Approved menus for Tenant must be on file with Landlord. Tenant may add or delete single menu items within each menu as approved by Landlord, but shall notify Landlord promptly, in writing, of each change, and maintain current menus with Landlord at all times. Landlord's prior written consent must be obtained before implementing a menu change that, in conjunction with prior menu changes in the same Lease Year, would result in more than 10% of the menu items being affected. Product weight must be accurate when referenced on a menu and should be specifically noted as pre-cooked or post-cooked weight.

(i) Written notifications and requests for menu changes under this Section must include the following information: (1) a clear description of the menu item to be changed, (2) the current price and portion size of the menu item, (3) a clear description of the proposed new menu item, including portion size, (4) if a price change is involved, the percentage change in price, (5) the rationale for the change, with any supporting documentation, and (6) a local market survey showing the prices and portion sizes at the street locations. Price increase requests will not be accepted in December or January. Landlord may require the removal of any menu item not approved in advance by Landlord.

(ii) Tenant shall keep on hand sufficient quantities of all products to allow preparation of all menu items to meet customer demand. Tenant shall make efforts to ensure only the highest quality food is sold at the Premises. Those efforts shall include, but are not limited to: (1) purchasing products in compliance with any local, state, and federal food quality standards, (2) purchasing products only from reputable commercial food vendors, (3) receiving, transporting, and storing fresh foods in a manner that ensures the quality of the product does not decline, and (4) discarding any fresh foods that have deteriorated below the acceptable quality of the product. "Fresh foods" are defined as food prepared within the previous four (4) hours unless stricter laws, regulations, or franchise rules apply.

(n) Language Assistance Plan (LAP); Limited English Proficiency. Tenant shall comply with CDA's Language Assistance Plan, as may be amended from time to time ("LAP"), and shall cooperate in reporting all Title VI complaints that may be received by the CDA. In addition, Tenant shall cooperate with the City and Landlord in updating and implement the access plan under the Federal Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency ("LEP"), which shall include, but not be limited to, collecting demographic data and conducting surveys of LEP customers, providing multilingual signage and menus, and hiring multilingual staff.

(o) Employee Retention. Pursuant to its Employee Retention Plan (as defined in the Master Lease), Tenant shall provide interviews to all employees of existing tenants at the Airport who choose to be interviewed. Participation in the interviewing process is at the sole election of the employees. Tenant shall keep records concerning their implementation of the plan and will provide such records to the City upon request.

(p) Annual Marketing Plan. Tenant shall no later than ninety (90) days prior to the expiration of each Lease Year of the Term, present an annual marketing plan describing the Tenant's strategy for its concession operations for the subsequent Lease Year ("**Annual Marketing Plan**") to the Landlord for review and approval which approval shall not be unreasonably withheld, conditioned or delayed. Such Annual Marketing Plan shall contain a summary on proposed advertising events, sales promotions, public relations, customer service training and results of Tenant's secret shops and employee incentive contests and other items.

(q) Liquidated Damages. If Tenant fails to comply with any of the provisions of this Section 9.1 or any of the provisions of the Performance Standards, Tenant shall pay as liquidated damages and not as a penalty, or as a series of graduated liquidated damages on a daily basis for

such failure in the correction of deficiencies of the Performance Standards, the amounts set forth in **Exhibit L** until such time as Tenant is in compliance with any such requirements. The liquidated damages set forth in **Exhibit L**, are in addition to the liquidated damages for failure to provide continuous operations during all Airport concession service hours as set forth in Section 9.1(b) above. This remedy shall be in addition to any and all other remedies provided herein or by law to Landlord. The provisions of this Section 9.1 shall survive the expiration or earlier termination of this Agreement.

#### Section 9.2 Environmental Matters.

(a) Tenant shall observe, obey and cause its employees, agents, contractors, subcontractors, and licensees to observe and obey all applicable Environmental Laws. Except as may be permitted by and only in compliance with applicable laws, including without limitation Environmental Laws, Tenant shall not allow any Hazardous Materials to exist or be stored, located, discharged, possessed, managed, processed, or otherwise handled on the Premises, and shall strictly comply with all Environmental Laws affecting the Premises, including, without limitation, those laws regarding the generation, storage, disposal, release and discharge of Hazardous Materials. Without limiting the generality of the foregoing, Tenant has not been, is not, and will not become involved in operations at the Premises involving Hazardous Materials, except as expressly permitted by and only in compliance with applicable laws. Tenant shall not use or allow the Premises to be used for the storage of any hazardous substances except small amounts of cleaning fluids, business equipment materials (such as copy machine toner) and other small amounts of such hazardous substances customarily handled or used in connection with concession operations, all of which must be stored and used in compliance with all applicable Environmental Laws. Tenant expressly warrants, represents and covenants that Tenant, its employees, agents, contractors and subcontractors and licensees shall strictly comply with the requirements of all Environmental Laws affecting the Premises and shall immediately notify Landlord and the City of any release or threat of release of Hazardous Materials at, upon, under, or within the Premises. No activity shall be undertaken on the Premises that would cause: (i) the Premises to be considered a hazardous waste treatment, storage or disposal facility as defined under any Environmental Laws; (ii) a release or threatened release of Hazardous Materials into any watercourse, surface or subsurface water or wetlands; or (iii) the discharge into the environment of any Hazardous Materials in each case requiring a permit under any Environmental Laws and for which no such permit has been issued. Tenant shall immediately notify Landlord and the City in writing of: (i) any release or threatened release of Hazardous Materials or the occurrence of any other environmental problem or liability with respect to the Premises or any real property adjoining or in the vicinity of the Premises or such other property which could subject Tenant or the Premises to a claim under any Environmental Laws or to any restriction in ownership, occupancy, transferability or use of the Premises under any Environmental Laws; (ii) any lien filed, action taken or notice given of the nature described above; (iii) any notice from any governmental authority with respect to any release or threatened release of Hazardous Materials; or (iv) the commencement of any litigation or any information relating to any threat of litigation relating to any alleged unauthorized release of any Hazardous Materials or other environmental contamination, liability or problem with respect to or arising out of or in connection with the Premises. Tenant shall provide Landlord with copies of any notices of releases of Hazardous Materials which are given by or on behalf of Tenant to any federal, state or local agencies or authorities with respect to the Premises. Such copies shall be sent to Landlord concurrently with their being mailed or delivered to the governmental agencies

or authorities. Tenant also shall provide Landlord with copies of any notices of responsibility or any other notices received by or on behalf of Tenant from any such agencies or authorities concerning any non-compliance with Environmental Laws on or about the Premises, including but not limited to notices regarding Hazardous Materials or substances located on or about the Premises. In addition, in connection with any litigation or threat of litigation affecting the Premises, Tenant shall deliver to Landlord any documentation or records as Landlord may reasonably request in connection with all such notices, inquiries and communications, and shall give written notice to Landlord of any subsequent developments.

(b) Except for Existing Contamination, Tenant shall be responsible for and shall, with all due diligence, and at its sole cost and expense, take all actions (to the extent and at the time or from time to time) as shall be necessary or appropriate for the remediation of all releases of Hazardous Materials at or from the Premises including the removal, containment and remedial actions in accordance with all applicable Environmental Laws (and in all events in a manner reasonably satisfactory to Landlord and the City), and shall further pay or cause to be paid at no expense to Landlord or the City all clean-up, administrative, and enforcement costs of applicable government agencies or the parties protected by such Environmental Laws which may be asserted against the Premises. All costs (including without limitation those costs set forth above), damages, liabilities, losses, claims, expenses (including reasonable attorneys' fees and disbursements) which are incurred by either Landlord or the City in connection with any of Tenant's obligations, or warranties and representations, without the requirement that Landlord or the City wait for the ultimate outcome of any litigation, claim or other proceeding, shall be paid as Additional Rent by Tenant to Landlord within 30 days after notice to Tenant itemizing the amounts incurred to the effective date of such notice with interest thereon at the Default Rate from the date of payment by Landlord or the City. If a lien is filed against Tenant's leasehold interest, the Premises or the Airport relating to Tenant's violation of any Environmental Laws, then Tenant shall, within 20 days or such shorter period as may be required under any Environmental Laws, or if a governmental authority has commenced steps to cause any of the foregoing to be sold pursuant to such lien, either: (i) immediately pay the claim and remove the lien; or (ii) immediately furnish a cash deposit, bond or such other security as is satisfactory in all respects to Landlord and sufficient to effect a complete discharge of such lien.

(c) Landlord reserves the right to annually conduct an environmental audit of the Premises and Tenant's operations, equipment, facilities and fixtures thereon. It shall be a default hereunder if the resulting audit report reveals non-compliance or violations by Tenant of any Environmental Laws. If the audit reveals any material non-compliance or material violations of any Environmental Laws by Tenant, Tenant shall pay for such audit and immediately commence to cure such non-compliance and/or violations.

(d) Tenant hereby unconditionally, irrevocably and absolutely agrees to pay, indemnify, defend with counsel acceptable to Landlord and the City and save harmless Landlord, the City, their respective members, officers, directors, employees, agents, shareholders, successors and assigns (the "Indemnified Parties") for, from and against any and all damages, losses, liabilities, obligations, claims, litigation, demands, defenses, judgments, suits, proceedings, fines, penalties, costs, disbursements and expenses (including, without limitation reasonable attorneys' and experts' fees and expenses, clean-up costs, waste disposal costs and those costs, expenses, penalties and fines within the meaning of CERCLA), of any kind or nature whatsoever which may at any time be

imposed upon, incurred by or asserted or awarded against any of the Indemnified Parties and arising from any violation or alleged violation of Environmental Laws relating to the Premises or as a consequence of any of Tenant's or the Indemnified Parties' interest in or operation of the Premises, including, without limitation, matters arising out of any breach by Tenant of its obligations under this Section 9.2. Tenant does further agree and covenant that none of the Indemnified Parties shall assume any liability or obligation for loss, damage, fines, penalties, claims or duty to clean up or dispose of Hazardous Materials, or other wastes or materials on or relating to the Premises regardless of any inspections or other actions made or taken by Landlord or the City on such property or as a result of any re-entry by Landlord or the City onto the Premises or otherwise. Notwithstanding the foregoing, the indemnity obligation of Tenant shall not apply to any liability, loss, or claim (a) caused by actions taken by or on behalf of the Landlord, City, their respective agents, employees and contractors which are caused solely by the negligence or willful misconduct by any of the foregoing, (b) to the extent Tenant demonstrates that such liability, loss or claim was caused by the negligence or willful misconduct of any agent, employee, contractor or subcontractor working for or at the direction of Landlord or the City, or (c) Existing Contamination. In addition, the covenants and indemnities of Tenant contained herein shall survive any exercise of any remedy by Landlord under this Agreement. Tenant agrees that the indemnification granted herein may be enforced by any of the Indemnified Parties; however, nothing contained herein shall prevent Landlord from exercising any other rights under this Agreement. Tenant shall give Landlord prompt written notice of any claims threatened or made or suit instituted against it which could result in a claim of indemnification hereunder. The obligations set forth in this Section 9.2 shall survive the expiration or earlier termination of this Agreement.

(e) In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Tenant warrants and represents that it has not violated and is not in violation of the following sections of the Municipal Code (collectively, the "Waste Sections"): (i) 7-28-390 Dumping on public way—Violation—Penalty; (ii) 7-28-440 Dumping on real estate without permit; (iii) 11-4-1410 Disposal in waters prohibited; (iv) 11-4-1420 Ballast tank, bilge tank or other discharge; (v) 11-4-1450 Gas manufacturing residue; (vi) 11-4-1500 Treatment and disposal of solid or liquid waste; (vii) 11-4-1530 Compliance with rules and regulations required; (viii) 11-4-1550 Operational requirements; (ix) 11-4-1560 Screening requirements; and any other sections listed in Section 11-4-1600(e), as it may be amended from time to time. Tenant's violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes an Event of Default hereunder, for which the opportunity to cure, if curable, will be granted only at the sole discretion of Landlord or the Commissioner. Such Event of Default entitles Landlord and the City to all remedies under the Agreement, at law or in equity. This Section 9.2 does not limit Tenant's duty to comply with all Environmental Laws, in effect now or later, and whether or not they appear in this Agreement. Non-compliance with these terms and conditions may be used by Landlord and/or the City as grounds for the termination of this Agreement, and may further affect Tenant's eligibility for future Landlord or City agreements.

(f) *[Note: To Be Included if Tenant is Participating in the Redevelopment -* The Sustainable Airport Manual attached to the Master Lease as Exhibit M ("SAM") should be considered in every aspect of the Redevelopment (as defined in the Master Lease) and concession operations. Tenant should include a LEED (Leadership in Energy and

Environmental Design) accredited professional on its design team and should consider as part of its main objectives for sustainable design to avoid resource depletion of energy, water, and raw materials; prevent environmental degradation caused by facilities and infrastructure throughout their life cycle; and create built environments that are comfortable, safe and productive. Tenant is encouraged to use recycled or recyclable materials for the packaging of products sold at the Airport. This shall include bags and boxes that are provided to customers at the time of sale. Further, Tenant is encouraged to use recycled or recyclable materials for the pre-packaging of products and any temporary display materials used at the Airport.]

### Section 9.3 Tenant's Signs.

(a) The design, construction, location, use and maintenance of Tenant's signs (whether blade or band signs) are subject to the provisions of the CDG, the Airport Concession Program Handbook and Section 8.2 hereof. Tenant shall affix a sign to the storefront of the Premises located inside the Airport, subject to the advance approval of Landlord and the provisions of the CDG and the Airport Concession Program Handbook. Tenant shall pay all costs of fabricating, constructing, operating and maintaining such storefront signs. Tenant shall maintain all signs in good condition and repair. Tenant shall not place or cause to be placed, erected or maintained on any exterior door, wall, window or the roof of the Premises, or on the interior or exterior surface of the glass of any window or door of the Premises, or on any location outside the Premises, or within any display window space in the Premises, or within one foot of the front of the storefront leaselines, or within any entrance to the Premises, any sign (flashing, moving, hanging, handwritten, or otherwise), decal, placard, decoration, flashing, moving or hanging lights, lettering, or any other advertising matter of any kind or description; provided, that subject to the prior written approval of Landlord with respect to design and placement, Tenant may place decals relating to charge cards accepted and alarm system used for safety purposes on glass storefronts where warranted. No symbol, design, name, mark or insignia adopted by either Landlord or the City for the Airport shall be used without the prior written consent of Landlord and/or the City. All signs located in the interior of the Premises shall be in good taste so as not to detract from the general appearance of the Premises and the Airport. Tenant shall not place on the exterior of the walls of the Premises (including both interior and exterior surfaces of windows and doors) or on any part of the Airport outside the Premises, any signs, symbols, advertisements or the like visible from outside the Premises without the prior written consent of Landlord or the City, which consent may be withheld in Landlord's or the City's sole discretion. Tenant acknowledges that a separate contract for advertising all of the City's facilities is in effect, and that all signage, including promotional material and activities of Tenant may be restricted by and subject to its provisions. Notwithstanding the foregoing, if Landlord or the City reasonably determines that any such materials are not appropriate for the Airport, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within 24 hours thereafter. Tenant, upon obtaining Landlord's prior consent not to be unreasonably withheld, may utilize its customary interior signs, placards and decorations provided they are professionally prepared and in good taste and are utilized in a manner substantially similar to the manner which Tenant employs in its first-class stores located in large, urban airports and regional shopping centers in the United States, and, further, so long as the same are approved in accordance with Landlord's and/or the City's requirements. If Tenant, in Landlord's reasonable and sole discretion, shall not be in compliance of this Section 9.3(a) which is not cured within 48 hours after notice, Tenant shall pay, as liquidated damages and not as a



penalty, the sum of \$150.00 for each day of such non-compliance in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

(b) Tenant acknowledges and agrees that the condition and appearance of its interior advertising for in-store goods, products and services and display windows including exterior glass windows (if any) is important and significant to Landlord. If Tenant installs such interior advertising display stanchions or window display or any signs in the window display which Landlord or the City determines to be objectionable to the general character and appearance of the Airport, Tenant agrees to remove the stanchions, window display and/or signs within 2 days after notice. If Tenant fails or refuses to remove such stanchion, window display or sign, Tenant hereby grants Landlord the right to remove the stanchion, display or sign at the Tenant's expense. Tenant agrees that its interior advertising display stanchions and display windows will be designed and printed in a professional manner and will contain only first class items. No temporary signs or displays will be used by Tenant including any employment opportunity signs, except for temporary holiday decorations, which shall also be designed and printed in a professional manner. Notwithstanding the foregoing, if Landlord reasonably determines that any such materials are not appropriate for the Airport, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within 24 hours thereafter. At a minimum, Tenant shall refresh and change the items and signs in the display windows on a quarterly basis during each Lease Year. If Tenant, in Landlord's reasonable and sole discretion, shall be not be in compliance with this Section 9.3(b) which is not cured within 48 hours after notice, Tenant shall pay, as liquidated damages and not as a penalty, the sum of \$150.00 for each day of such non-compliance in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

#### Section 9.4 ACDBE.

(a) This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations 49 C.F.R. Parts 23 and 26, as amended from time to time. The City has implemented an ACDBE Program under which qualified firms may have the opportunity to participate in the ownership and operation of Airport concession businesses. An ACDBE goal of \_\_\_\_\_ percent (\_\_\_\_%), as measured by total estimated annual Tenant's Gross Receipts following the Redevelopment and the opening of the New Concession Premises, has been established for the Concession Program under the Master Lease. During the Term, Tenant shall provide the Landlord with an annual report (or as more frequently as may be required by the Landlord) in the format required by the FAA evidencing Tenant's good faith efforts of reaching the goal of \_\_\_\_% participation by ACDBEs (certified either by the City or pursuant to the Illinois Unified Certification Program) in the Concession Program. Tenant shall comply with the Special Conditions Regarding ACDBE participation attached to the Master Lease as **Exhibit C**. Tenant's failure to comply with such Special Conditions shall be a default under this Agreement. Tenant shall provide all information and reports as may be required by Landlord or the City and shall permit access to its books, records and accounts and facilities to determine compliance with ACDBE Special Conditions, directives and regulations.

(b) Tenant represents and warrants to Landlord that it and/or its ACDBE participant meet all standards of qualification as an ACDBE in accordance with the current regulations for such certification. Tenant shall or shall cause its ACDBE participant to immediately take all

steps necessary to obtain the appropriate ACDBE certification from the City on or before the DBO and to obtain any requisite approval of the legal structure evidencing the proposed ACDBE participation interest. Any change in the ownership structure involving the certified ACDBE participant must be reported in writing to Landlord immediately and in no event later than 30 days following any such change in ACDBE ownership status.

Section 9.5 Landlord's and City's Access. Landlord, the City and their respective employees, agents, contractors, subcontractors and other representatives shall have the right to enter the Premises upon 48 hours' advance notice to Tenant which notice may be verbal (except in the case of emergency when no notice shall be required) and to enter upon the Premises without abatement of Rents, for the following purposes: (a) To inspect the Premises during regular business hours (or at any time in the case of emergency) to ascertain the condition of the Premises and to determine Tenant's compliance with the terms of this Agreement. The right of inspection shall impose on either Landlord or the City no duty to inspect and shall impart no liability upon either Landlord or the City for failure to inspect; (b) To perform any obligation, to perform maintenance and make repairs and replacements in any event where Tenant is obligated to do so under this Agreement and has failed to perform such obligation or to initiate such repairs and maintenance within the time periods provided for in the Agreement, if applicable, or, if no time period is provided, within 20 days after written notice from Landlord or the City, and thereafter to expeditiously complete such obligation, repairs or replacements, or at any time with or without written notice, in the event that either Landlord or the City, in their sole discretion, deems that it is necessary or prudent to do so to preserve all or any part of the Airport from damage or to correct any condition likely to lead to injury or damage; or (c) To perform any obligation of Landlord or the City under the Master Lease or this Agreement and to make additions, alterations, maintenance and repairs to any other areas on the Airport. The City and Landlord shall have the further right to enter the Premises to make such repairs, alterations, improvements or additions as the City and Landlord may deem necessary or desirable, and shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part, and the Rents shall not abate while said repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant, or otherwise. In exercising such right of entry, the City and Landlord shall use reasonable efforts not to materially disrupt Tenant's business in the Premises. In the event such entry is made during non-operating hours, a representative of Tenant shall be present, except in the case of an emergency when no such representative shall be required to be present. Finally, Landlord during the last 12 months prior to the expiration of the Term of this Agreement, may enter the Premises for the purpose of exhibiting the same to prospective subtenants and their representatives. Nothing in this Section 9.5 shall prohibit or diminish the right of the City or Landlord to enter the Premises at any time and conduct without notice to Tenant inspections or audits as set forth in Article 9 to determine Tenant's compliance with the service standards set forth in such Article 9.

***FOR FOOD TENANTS ONLY:*** Section 9.6 Food Court Provision.

Reference is made to the fact that the Premises are located within a portion of the Airport containing common area seating for the food tenants located within such portion. Landlord agrees that said common seating area shall be maintained in a clean condition at all times during the Term of this Agreement order that such common seating area may be utilized by the patrons

of the Airport and the Premises during the hours of operation thereof. The Tenant agrees that it shall pay to Landlord, as the Tenant's contribution towards the maintenance of such common seating area, as Additional Rent, Tenant's allocable share of the actual cost to Landlord of such maintenance, payable on the first day of each and every month, in advance, included within the Term hereof, the first such payment to be made on the commencement of the Term of this Sublease. For any fraction of a month, said monthly payment shall be prorated. Tenant's allocable share of such expenses shall be a fraction, the numerator of which is the number of square feet contained in Tenant's Floor Area and the denominator of which is number of square feet contained in the total floor area of all of the premises (including the Premises) located within the portion of the Airport containing such common area seating, as reasonably designated from time to time by Landlord.

**[FOR FOOD TENANTS ONLY: Section 9.7 Restaurant Provision.**

(a) Tenant covenants and agrees that during the entire term of this Agreement, Tenant will conduct in the Premises a high-grade operation serving first-quality food for on-premises consumption, and that the Premises will be kept spotlessly clean at all times. Tenant agrees to use all efforts which may be necessary to minimize odors and noises in the Premises and emitted therefrom. Tenant further agrees that it will, promptly upon receipt of written notice from the Landlord, take whatever steps may be necessary in order to comply with improvements of food, service, appearance, and the like in the Premises, as reasonably requested by the Landlord from time to time; and failure so to do shall be deemed to be an Event of Default hereunder, invoking all of the provisions with respect to an Event of Default under this Agreement.

(b) Tenant agrees to provide Landlord a digital version of its then-current menus of food offerings and/or retail products, and use commercially reasonable, good faith efforts to provide real time electronic feeds of its product/service inventory, as applicable (all through a reasonable digital mechanism specified by Landlord which may include XML, API, .CSV, etc.) at the Premises, as well as related digital images and pricing (with respect to retail and/or services, on a product-by-product and/or service-by-service basis) (collectively, the "**Digital Feed**"), for use by Landlord for Digital Marketing Purposes (as defined below). Tenant hereby grants Landlord and the City (including third party contractors/partners working on their behalf) a royalty free right and license during the Term hereof to use, reproduce, reasonably modify, publicly display and distribute the Digital Feed information (including product/service names and prices, related digital images, trademarks and the like) in connection with the marketing and promotion of Tenant's business at the Premises, including, without limitation, in connection with digital signage, digital promotions and offers, mobile/web applications, digital booking services and the like (collectively, "**Digital Marketing Purposes**").

(c) Tenant shall keep the Premises, along with any service pathways used by Tenant, clean, well-maintained and free of garbage, unpleasant odors, and hazardous conditions and notify Landlord promptly of hazardous conditions in the public areas outside the Premises. Tenant shall provide a complete and sanitary handling of all garbage and recyclables generated as a result of concession operations on the Premises, and shall provide for its timely removal to the central collection point provided by Landlord. At no time shall Tenant accumulate garbage or recyclables outside the Premises or within passenger view. Tenant shall keep all garbage and

recyclable materials in durable, fly-and rodent-proof, fireproof containers that are easily cleaned. The containers shall have tight-fitting lids, doors, or covers, and shall be kept covered when material is not being deposited in them and shall be cleaned as necessary to prevent odors. Boxes, cartons, barrels, or other conveyance items shall be disposed of promptly by Tenant and not remain within passenger view. Tenant shall make arrangements to provide containers, for each individual concession, to separate concession-generated recyclable materials from non-recyclable materials. All concession-generated recyclable materials acceptable to the City's recycling program must be brought to the recycle collection areas. All garbage and recycle containers (full or empty) shall be kept within the Premises, out of passenger view. Tenant is responsible for the regular and routine cleaning, inspection and maintenance of used cooking oil tallow bins and their surrounding areas, sewer lines, grease traps and interceptors, exhaust hood and vents, and all concession unit drains associated with the Premises. Tenant shall retain within each concession unit, and available upon Landlord's request, all equipment servicing schedules, maintenance logs and invoices documenting any and all routine inspections, services and cleanings of any equipment including, but not limited to: used cooking oil tallow bins; grease traps and interceptors and their associated pumping(s); jetting/augering of sewer lines; exhaust hood and vents; fire suppression equipment inspections; pest control services; and drain bio-augmentations. Each concession unit that serves coffee must include a floor-mounted interceptor at the sink adjacent to the coffee machine to capture coffee grounds inadvertently deposited in the sink. Tenant is responsible for proper disposal of all coffee grounds in all concession units and in no case are coffee grounds to be drained into the sewer system.]

## ARTICLE 10 COMMON AREAS, UTILITIES AND MARKETING FUND

Section 10.1 Repairs to Roof, Structural and Exterior Walls. Tenant agrees and acknowledges that the City has covenanted to Landlord in the Master Lease that it will make or cause to be made all structural repairs to exterior walls, interior or exterior columns, roof penetrations and structural floors which collectively enclose the Premises. Landlord agrees, at its expense, to use reasonable efforts to cause the City to make or cause to be made such repairs; provided (a) Tenant shall give Landlord notice of the necessity for such repairs, (b) the Landlord shall not be liable for the failure of the City to make such repairs, nor shall such failure constitute an eviction of Tenant, constructive or otherwise, (c) Landlord shall not be required to institute legal action, and (d) Landlord makes no covenants, representations or warranties, express or implied, regarding repair of such components required to be maintained by the City, or that the City will cause such repairs to be made. Tenant shall cooperate with the City in all ways to facilitate performance by the City of its repair and maintenance covenants set forth above.

Section 10.2 Repairs to Roof, Structural and Exterior Walls. Tenant, its respective employees, agents, invitees and contractors shall have the right as appurtenant to the Premises, subject, however, to the payment by Tenant to Landlord of reasonable nondiscriminatory fees and charges of general application customarily charged by the City for such rights, and Tenant's compliance with the terms and conditions of this Agreement, including, without limitation, Tenant's maintenance and repair obligations, Tenant's insurance and indemnification obligations, the limitations on Tenant's Permitted Use, and Tenant's compliance with all applicable non-discriminatory rules and regulations established from time to time by the City, to

the non-exclusive use, in common with others, of the Common Areas, subject to the exclusive control and management thereof at all times by the City, for the purposes of moving to and from the Premises to engage in the Permitted Use of the Premises required in this Agreement, provided that the City reserves the right to make any changes which it deems appropriate to said Common Areas, including relocating or eliminating all or any part of said Common Areas in the City's sole discretion, to assure public safety and convenience or to assure efficient operation of the Airport. Pursuant to the Master Lease, the City may at any time close any Common Areas to make repairs or changes, to prevent the acquisition of public rights in such Common Areas, to use the Common Areas for any purpose and may do such other acts in and to the Common Areas as in the City's judgment may be desirable.

#### Section 10.3 Distribution Fee.

(a) Landlord will establish a central receiving and distribution facility for tenant concession operations at the Airport ("**Distribution and Storage Facility**"). Tenant shall arrange for all deliveries to such Distribution and Storage Facility. The Distribution and Storage Facility may be operated through a third party contractor selected or approved by the Commissioner.

(b) Tenant shall pay its proportionate share of the costs of developing, operating and maintaining the Distribution and Storage Facility and the costs of transporting such deliveries from the facility to one or more designated locations within the Airport ("**Distribution Fee**"). Such Distribution Fee shall constitute Additional Rent hereunder. Tenant acknowledges that neither Landlord nor the City will be responsible for or will have liability related to the operation of (or the failure to operate) the Distribution and Storage Facility, including lost profits, consequential damages or any other losses or damages whatsoever.

#### Section 10.4 Logistical Support and Common Operation Maintenance Charge.

(a) All deliveries of equipment, supplies, materials, inventory, merchandise or products required to support the operations of Tenant shall be made to the loading dock areas of the Airport. No deliveries of any items shall be made by any persons or entities directly to the Premises without the prior written authorization of Landlord and if given by Landlord, Landlord shall have the right to revoke any such authorization at any time and for any reason. Tenant shall be advised by Landlord of all shipments for all items received at the loading dock area and Tenant shall be responsible, at its sole cost and expense, for promptly transporting all of such items from the loading dock area to the Premises. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of Landlord for such items including, but not limited to, the transporting of equipment, supplies, materials, inventory, merchandise or products in the Airport, pest extermination services, trash removal, refuse, recycling and compactor services. Tenant shall comply with all rules, regulations and directives of Landlord, the City, the FAA, the TSA or any other federal or state agency of competent jurisdiction with respect to deliveries which may include, but not be limited to: (i) restrictions on delivery times (days and hours) and the time in which any vehicle may remain in the loading dock areas; (ii) methods of delivering equipment, supplies, materials, inventory, merchandise or products from the loading dock areas to the Premises such as rolling carts, wheels, pallet or plastic wrap requirements; (iii) delivery escort guidelines, badging, background checks, rules, instructions and training if so required which must be complied with by Tenant and all transportation companies and vendors delivering any such items to the loading dock areas; and (iv) security

screening of equipment, supplies, materials, inventory, merchandise or products. Landlord and the City may deny access or require any vehicle to be removed for failure to follow any such rules, regulations, directives and guidelines that may be established by Landlord, the City or applicable governmental agencies from time to time. The foregoing is in addition to the requirements of Section 22.26.

(b) Tenant shall use and share Tenant's proportionate cost of common logistical support and common operation maintenance service providers provided by various independent contractors selected and contracted within the sole discretion of Landlord. Tenant shall pay directly to Landlord as Additional Rent in the manner hereinafter provided at Landlord's payment address set forth in this Agreement, Tenant's proportionate share of the logistical support and common operation maintenance charge of the following (collectively, "**Operating Costs and Expenses**"): all costs and expenses of every kind and nature, foreseeable or unforeseeable, paid or incurred by Landlord or any such service providers with respect to the loading dock areas which service all concession facilities, including the Premises, within the Airport as well as all costs and expenses of every kind and nature, foreseeable or unforeseeable, paid or incurred by Landlord or any such service providers with respect to the trash removal from all concession facilities, pest extermination services for all concession facilities and other similar common operations and cleaning services.

(c) By way of example, Operating Costs and Expenses may include, but not be limited to, the full cost of all labor costs (including both on-site and independent third party off-site supervisory personnel) as well as the cost of uniforms and identification badges for all of such personnel for persons employed to: (1) provide centralized trash, refuse and recycling material removal services in the Airport for all concession facilities, and in loading dock areas and storefront façade cleaning services for all concession facilities; (2) manage, operate, maintain, repair, clean and replace the loading dock areas and equipment and the areas surrounding the trash dumpsters; (3) operate the vehicle escort delivery service across the airfield and to maintain, repair and/or replace the escort delivery service equipment; (4) assist in the delivery of equipment, supplies, goods, inventory, merchandise and products (which may need to include the Distribution and Storage Facility); (5) to the extent not otherwise charged directly to tenants, provide security screening services for equipment, supplies, goods, inventory, merchandise and products; (6) provide pest extermination services for all concession facilities; and (7) any and all other direct costs and expenses which Landlord deems reasonably necessary or desirable in order to properly provide such services in an efficient and acceptable manner. The preceding is for definitional purposes only and shall not impose any obligation upon Landlord to incur such expenses or provide such services and, in the event such services are not provided by Landlord, Tenant shall have the obligation to contract for such services at the Premises at its sole cost and expense. Tenant shall comply in all respects with such procedures and the policies established by Landlord with respect to common logistical support and common operation maintenance services.

(d) Tenant shall pay Tenant's proportionate share of the annualized cost for providing, maintaining and operating these services, as well as the capitalized cost of any required vehicles and/or equipment, on the basis of the number of square feet of Floor Area of the Premises, usage of the distribution and other services rendered and the frequency, volume and nature of those services. Tenant's proportionate share of the Operating Costs and Expenses for each Lease Year during the Term following the DBO shall be paid in monthly installments on the 1<sup>st</sup> day of each calendar month, in advance, in an amount estimated by the Landlord from time to time determined in

Landlord's sole discretion. All sums not received within 5 days after written notice from Landlord shall be delinquent and shall be a default as defined in Article 16. Subsequent to the end of each Lease Year, Landlord shall furnish Tenant with a statement of Tenant's proportionate share of such Operating Costs and Expenses, as determined by Landlord, for such period showing the method of computing such share. If the total amount paid by Tenant under this Section 10.4 for any such Lease Year shall be less than the actual amount due from Tenant for such Lease Year as shown on such statement, Tenant shall pay to Landlord the difference between the amount paid by Tenant and the actual amount due, within 30 days after the furnishing of each such statement. If the total amount paid by Tenant hereunder for any such Lease Year shall exceed such actual amount due from Tenant for such year, such excess shall be credited against the next payment due from Tenant to Landlord for the Operating Costs and Expenses. If at the end of the final Lease Year the total amount paid by Tenant hereunder for such final Lease Year shall exceed the actual amount due from Tenant for such final Lease Year, such excess shall be refunded to Tenant by Landlord within 90 days after Tenant has vacated the Premises in the condition required by this Agreement at the conclusion of this Agreement and any other sums due Landlord from Tenant under this Agreement have been paid in full or deducted therefrom. Landlord may estimate the annual budget and costs and expenses to be incurred and Landlord shall charge the same to Tenant on a monthly basis, subject to revision by Landlord of the budget from time to time and final annual adjustment based upon the actual Operating Costs and Expenses. Tenant hereby expressly waives any rights, whether by statute or otherwise, to conduct an inspection or audit of any books or records pertaining to the Operating Costs and Expenses. Under no circumstances shall Landlord be liable to Tenant for any failure to perform and Tenant shall not have any inspection or audit rights of any books or records pertaining to the Operating Costs and Expenses.

(e) If Tenant suffers damages to equipment, materials, supplies, inventory, merchandise and products or any injuries to persons as a result of the activities of the various independent contractor service providers, Tenant shall only look to the independent contractor service provider who caused such damage or injuries for any recovery. Landlord and the City (including their members, shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits arising out of or relating to the activities of the various service providers.

(f) Tenant shall not receive or remove supplies, material, equipment, rubbish or debris through any Common Areas or service areas or otherwise utilize said areas, except at such times and in such manner and by such route as may from time to time be designated by Landlord. Tenant may be required to participate in the City's recycling program.

#### Section 10.5 Utility Services and Charges.

(a) Access to electricity, HVAC, water (if applicable), telephone and data transmission, natural gas and sewage (if applicable) services to the Premises provided by utility systems, connections and related equipment shall be provided by the means and in the amounts as set forth in the Master Lease, but neither Landlord nor the City shall have the obligation to provide telephone or data communication services to the Premises. Tenant shall not install, maintain or repair any electrical fixtures, appliances or equipment and shall not allow such installation, maintenance or repair within the Premises without Landlord's or the City's prior written approval, and Tenant agrees that its use of electric current shall never exceed the capacity of the

wiring installations in place. Tenant agrees that its use of HVAC shall never exceed the capacity of the HVAC installations in place. If Tenant shall require utilities in excess of the amounts as set forth in the Master Lease, and if (i) in Landlord's and the City's judgment, the existing facilities are inadequate for such excess requirements, or (ii) such excess use shall cause an additional burden on the existing utility systems, Tenant shall, subject to the Landlord's and the City's approval in accordance with the CDG, at Tenant's sole cost and expense, furnish and install such additional wires, conduits, feeders, switchboards and related equipment as reasonably may be required to supply such additional requirements of Tenant. Tenant shall be solely responsible for the operation of all equipment, systems, piping, tie-ins, utilities, lines and connections, mechanical, electrical, communication and other systems exclusively serving the Premises and shall perform, in accordance with this Agreement, all preventative maintenance, repairs, replacements and rebuilding of such systems. Tenant shall pay Landlord on a metered basis for all utilities which may be supplied by the City to the Premises, in accordance with the Master Lease, at charges which will reflect standard rates established by the City from time to time. Tenant shall purchase and install, at Tenant's sole cost and expense, separate submeters or check meters to determine the actual consumption of and charges for all of the utilities Tenant uses for the operation of its business in the Premises.

(b) To the extent applicable, Tenant shall be solely responsible for and shall promptly pay for all fees, deposits and charges, including use and/or connection fees, hook-up fees, standby fees, and/or penalties for discontinued or interrupted service, and the like, for water, gas, electricity, fire alarm, burglar alarm, telephone, cable television, sewer and sanitation, solid waste disposal and any other service or utility used in or upon or furnished to the Premises, including, without limitation, any services to be supplied by the City, irrespective of whether any of the foregoing are initially paid in advance by either Landlord or the City, or otherwise. Tenant shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of any drainage and sewerage system, water system, ventilation, air-conditioning and heating systems, communications systems, key card access systems, elevators and escalators, electrical system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other utility and other systems, if any, installed or located on, under, in or adjacent to the Premises now or in the future.

(c) Failure to provide any such utility services as specified above shall not constitute or be deemed to constitute actual or constructive eviction of Tenant, or excuse or relieve Tenant from its obligations under this Agreement, including but not limited to the payment of Rents or all other sums, damages, fees, costs and expenses payable under this Agreement, or otherwise: (i) if any utility shall become unavailable from any public utility company, public authority or any other person or entity supplying or distributing such utility, or (ii) for any interruption in any service hereunder (including, without limitation, any heating, ventilation or air-conditioning) caused by the making of any necessary repairs or improvements, or (iii) by any cause beyond the reasonable control of the Landlord. In no event shall Landlord or the City be liable for damages, loss of business, loss of profits or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, services from a central utility plant or any other utility or other service, or if either the quantity, quality or character thereof supplied to or by the City is changed or is no longer available for Tenant's requirements. The City shall have the right to institute such policies, programs and measures as may be necessary or desirable, in the City's discretion, for the conservation and/or preservation of energy or energy related services,



or as may be required to comply with any applicable codes, rules and regulations, whether mandatory or voluntary.

Section 10.6 Marketing Fund. Landlord shall provide or cause to be provided a central marketing and promotional fund which, in Landlord's sole judgment, will serve to promote the concessions at the Airport. The fund shall be known as the "**Marketing Fund.**" Tenant shall contribute during each month, as Tenant's share to the Marketing Fund, an amount equal to one-half of one percent (0.50%) of its monthly Gross Receipts. This amount is payable to Landlord and must be paid by the 10<sup>th</sup> day following the end of each month. Within 30 days of the end of each Lease Year, Tenant shall send a report to Landlord reconciling estimated and actual Gross Receipts and showing any over or underpayments to the Marketing Fund. A check for any underpayments must accompany the reconciliation. All overpayments will be credited to the next payment(s) due or if the Agreement is expired or terminated overpayments shall be refunded, without interest, to Tenant within 90 days of the Agreement termination date by Landlord. Landlord shall not be obligated to expend more for promotions and advertising than is actually collected from subtenants. Any promotional services and personnel so provided shall be under the exclusive control and supervision of Landlord, who shall have the sole authority to employ and discharge personnel and to establish a budget. The primary purpose, but in no way a limitation, of the Marketing Fund, will be to fund advertising, publicity, promotional materials, events, directories, customer service training and other activities appropriate for marketing the concession program at the Airport as determined by Landlord from time to time. Landlord reserves the right at any time to terminate the Marketing Fund and to refund, without interest, all balances to all subtenants and others who made contributions, based on actual contributions made by each tenant.

## ARTICLE 11 REPAIRS, MAINTENANCE AND ALTERATIONS

Section 11.1 Landlord's Obligation for Maintenance. The City's maintenance and repair obligations are as specifically set forth in the Master Lease and Landlord shall have no maintenance or repair obligations directly to Tenant with respect to the Premises, the Airport or any other facility other than as set forth in the Master Lease. Landlord and the City shall not be liable to Tenant for failure to make any repairs to the Premises, Common Areas or the Airport and Landlord and the City shall not be obligated or called upon to make any other improvements or repairs upon the Common Areas, Airport or upon the Premises. In the event Landlord or the City makes or causes to be made any improvements, the City or Landlord, as applicable shall own and maintain any such improvements and any additions or modifications thereto as set forth in the Master Lease (except any such improvements upon or to the Premises for which Tenant has the responsibility to maintain under this Agreement). In no event shall either Landlord or the City be liable for consequential damages or lost profits claimed to be caused by any failure of maintenance or repair by either Landlord or the City and nothing contained in this Section 11.1 shall limit Landlord's or the City's right to reimbursement from Tenant for maintenance costs, repair costs and replacement costs confirmed elsewhere in this Agreement or in the Master Lease. If Tenant does not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then Landlord or the City, in addition to any other remedy which may be available to it, may enter the Premises and perform such maintenance or repair, as Landlord or the City determines in their sole and absolute

discretion, is required. **Tenant shall indemnify and save harmless Landlord and the City from all injury, loss or damage to any Person or property occasioned by Landlord's or the City's completion of such maintenance or repair, except to the extent such loss or damage is solely the result of the negligence or willful misconduct of Landlord, the City, or their respective employees, agents or contractors.** Tenant shall reimburse Landlord for any and all reasonable costs incurred in completing such maintenance or repair, together with interest thereon at the Default Rate from the date either Landlord or the City incurred such costs.

Section 11.2 Tenant's Obligation for Maintenance.

(a) Tenant, at Tenant's sole cost and expense, shall keep and maintain in a first-class appearance and in a condition equal to or better than that which existed when Tenant initially opened the Premises for business, and in a safe, clean, neat, sanitary and lawful order, condition and repair (including replacement of parts and equipment, if necessary) in accordance with applicable City regulations and all laws, directions, rules and regulations of the applicable health, fire and building inspector officials or other governmental agencies having jurisdiction, the Premises and every part thereof and any and all appurtenances thereto wherever located, the interior surfaces of exterior walls, the exterior and interior portion of all doors, door frames, other entrances, windows, window frames, plate glass (excluding, for cleaning purposes only, the outside surface of any exterior window plate glass facing either the airside or the roadside of the Airport which shall be cleaned by the City in accordance with the Master Lease), storefronts, all plumbing and sewage facilities within and serving the Premises (including free flow to the main sewer line), Fixed Improvements, Operating Equipment, fixtures, HVAC and electrical and other utility systems exclusively serving the Premises (whether or not located within the Premises), sprinkler systems and sprinkler heads exclusively serving the Premises (whether or not located within the Premises), walls, floors and ceilings (including wall, floor and ceiling coverings) and all other repairs, replacements, renewals, restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen that relate to all of Tenant's Work; provided, however, the following shall be excepted from such obligation (a) reasonable wear and tear that does not negatively affect the appearance of the Premises and any Fixed Improvements and Operating Equipment thereon, (b) damage caused by fire or other casualty or resulting from the exercise of the power of eminent domain, (c) those repairs expressly required to be made by Landlord and/or the City, if any, and (d) any condition caused solely by an act, neglect, fault, omission, negligence or willful misconduct of Landlord or the City, or any agent, contractor or employee of Landlord or the City. Tenant shall comply with all requirements of laws, ordinances and otherwise affecting the Premises at Tenant's sole cost and expense, including complying with the requirements of any insurance underwriters, inspection bureaus or similar agencies designated in writing by either Landlord or the City upon suitable notice.

(b) Tenant shall, at Tenant's sole cost and expense, keep, maintain and repair the Premises and each and every part thereof, including all Fixed Improvements, Operating Equipment, fixtures, facilities, interior window glass therein (and including any portion of the Airport building systems located outside of the Premises but exclusively serving the Premises) in first class, safe, clean, neat, sanitary and lawful order, condition and repair and including the following duties: (i) Tenant, at its own expense, shall install and maintain fire extinguishers, fire hoses and other fire protection devices as may be required pursuant to City, the applicable fire marshal official and any agency having jurisdiction thereof or by the insurance underwriter insuring the Airport; (ii) Tenant shall obtain Landlord's prior written approval of the materials

used in any plate glass or window glass repair or replacement and the contractor performing any such repair and replacement (the foregoing is subject to Landlord's sole discretion); and (iii) maintenance, repairs and replacements shall be accomplished as necessary to maintain the Fixed Improvements and Operating Equipment in good condition. Tenant shall repaint, retile, recarpet or replace wall coverings, floor coverings and ceiling coverings as necessary, and high traffic areas shall be repainted, retiled, recarpeted on a regular basis or as otherwise reasonably directed by Landlord to maintain a high quality, first-class appearance; and all furniture and furnishings that become worn and torn shall be promptly replaced as necessary. Tenant shall make all repairs to the Premises in compliance with all applicable provisions of the Airport Concession Program Handbook and the City's CDG.

(c) With respect to plumbing and sewage facilities, utility systems and lines servicing the Premises: (i) in areas where such plumbing and sewage facilities, utility systems and lines serve other areas in the Airport in addition to the Premises, Tenant shall be responsible for the maintenance of the plumbing and sewage facilities within or serving the Premises (including free flow to the main sewer line), utility branch systems and branch lines located within or exclusively serving the Premises; (ii) where plumbing and sewage facilities, utility systems and lines are installed by Tenant and solely for its use, Tenant shall solely be responsible for the maintenance, repair and replacement thereof from the Premises up to the City-maintained main utility systems or lines or to the shut-off valves located in the Airport, as appropriate; and (iii) Tenant shall have sole responsibility for the maintenance, repair and replacement, as necessary, of all electrical, telephone, data transmission and other communication cables, wiring, fire alarm systems and protection devices, wiring panels and associated equipment located within or exclusively serving the Premises.

(d) Tenant shall prepare a comprehensive preventive maintenance program for all equipment and lines that it is responsible for maintaining and submit the same to Landlord and shall maintain such program on a current basis. Tenant shall report all malfunctions to all systems, lines, devices and equipment installed or located within the Premises to Landlord as promptly as possible after discovery and provide timely notice to Landlord as required by this Agreement with respect to maintenance issues.

(e) If there is cooking on the Premises, Tenant shall maintain a comprehensive preventative grease trap cleaning and maintenance program (including waste grease removal), and fixtures and equipment maintenance and cleaning (including exhaust hood, duct maintenance and cleaning and exhaust hood fire suppression equipment inspection and maintenance), all of which shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances including, but not limited to, FAA and TSA rules and regulations as well as all Airport rules and regulations promulgated from time to time by Landlord or the City. Tenant shall provide monthly reports to Landlord evidencing its compliance with this Section 11.2(e). If such reports are not received by the 10<sup>th</sup> day of the month, Tenant shall pay Landlord as liquidated damages and not as a penalty the sum of \$150.00 per day that such records are not provided.

(f) All repairs, replacements and maintenance by Tenant hereunder shall be performed in accordance therewith and with the applicable provisions of the Airport Concession Program Handbook and the CDG, and shall be subject to the Landlord's prior written approval, such approval to be determined in Landlord's sole discretion. All such maintenance, repairs and replacements shall be of a quality equal to the original in materials and workmanship, and

Landlord shall have the right to disapprove any improvements, replacements or alterations which, in its judgment, are of a design, quality, condition or in any color or in any other way deemed to be inconsistent with the Airport Concession Program Handbook, the CDG or the general character and design of the Airport. All maintenance and repairs shall be constructed in accordance with the requirements of Article 8; in completing any maintenance and repairs hereunder, Tenant shall keep the Premises free of any liens.

(g) Tenant shall take appropriate action to exterminate and prevent the presence of rodents and other vermin within the Premises.

Landlord, without prior notice to Tenant, may enter the Premises and make inspections as often as it considers necessary, to determine the proper maintenance of the Premises by Tenant. The provisions of this Section 11.2 shall survive the expiration or earlier termination of this Agreement.

Section 11.3 Changes and Additions. Tenant acknowledges that, pursuant to the Master Lease, from time to time, the City may undertake construction, repair or other activities related to the operation, maintenance and repair of the Airport, or portion thereof, which will require temporary accommodation by Tenant. Pursuant to the Master Lease, the City reserves the right to permanently reconfigure the Common Areas and the Premises as necessary to accommodate the construction of connections between terminals or facilities at the Airport or relocate or reconfigure the Gates and Ramp Areas and the City agrees to use reasonable efforts to minimize disruption in and to Landlord's leased premises during such period of construction. Without limiting the generality of the foregoing, the City may temporarily or permanently close, alter, change, modify and/or relocate any entrances, passageways, doors and doorways, corridors, elevators, escalators or other parts of the Common Areas or the Airport (other than the Premises), and the City may at any time and from time to time make such changes, alterations, additions, improvements, repairs or replacements in or to the Airport, as well as in or to the entrances, passages, elevators, escalators, and stairways thereof, as it may deem necessary or desirable, and to change the arrangement and/or location of entrances, passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Common Areas or the Airport (other than the Premises), and may stop or interrupt any service or utility system, when necessary by reason of accident or emergency or construction work until the necessity for the interruption or stoppage has ended. Pursuant to the Master Lease, the City shall endeavor to give Landlord advance notice of such work whenever possible and Landlord, following receipt of the City's notice, shall give prompt notice to Tenant (except in the case of an emergency, in which case no notice shall be required). Tenant further acknowledges that such improvements may require substantial construction work in the Airport during normal business hours, which may disrupt Tenant's business operations and create noise, dust and other concomitants of construction work. Tenant agrees that it shall have no right to any abatement of Rentals or other compensation or to any claim of breach of any covenant of quiet enjoyment (express or implied) or an actual or constructive eviction or for loss of business or inconvenience, or in any event for consequential damages on account of any such construction work, and without incurring any liability to Tenant or otherwise affecting Tenant's obligations under this Agreement. Tenant agrees to accommodate Landlord and the City in such activities even though Tenant's own operations may be inconvenienced or partially impaired and Tenant agrees that no liability shall attach to either Landlord or the City by reason of such inconvenience or impairment.

## ARTICLE 12 INSURANCE

### Section 12.1 Tenant's Insurance.

(a) Tenant, at its sole cost and expense, shall, during the entire Term hereof, procure and keep in force the insurance set forth in **Exhibit D** attached hereto.

(b) In the event that Tenant fails to procure or to maintain, at the times and for the duration specified in **Exhibit D**, any insurance required by **Exhibit D**, or fails to carry insurance required by law or governmental regulation, Landlord may (but shall not be required to) at any time or from time to time, and without notice to Tenant, procure such insurance and pay the premiums therefor, and the cost of same, plus a fifteen percent (15%) administrative fee, shall be deemed Additional Rent and shall be payable within 10 days after Landlord's written demand. Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's, the City's or the Airport's policies of hazard or liability insurance or which will prevent Landlord or the City from procuring such policies in companies acceptable to Landlord or the City.

Section 12.2 Landlord's Insurance. Landlord has the obligation to carry the insurance set forth in the Master Lease, but only to protect the interests of Landlord and the City. Landlord, by virtue of this Agreement or otherwise, has no obligation to protect the interests of Tenant nor name Tenant as an additional insured under any of its insurance covering the Airport.

Section 12.3 Indemnification of Landlord and City. To the extent not prohibited by applicable law, including the Construction Contract Indemnification for Negligence Act, 740 ILCS 35/0.01 et seq. ("**Anti-Indemnity Act**"), Tenant shall, at its sole cost and expense, indemnify, defend and save harmless Landlord, the City and their respective members, directors, officers, employees, affiliates, parent corporations, subsidiaries, partners, shareholders, representatives, management companies, and agents against and from any and all liability and expenses arising from (a) any and all claims, causes of action, suits by or on behalf of any Person arising out of (i) the occupancy of the Premises by Tenant, the conduct of any operations of Tenant on the Premises or elsewhere on the Airport, or the exercise by Tenant of its rights under this Agreement, or (ii) any breach or default by Tenant of any of its obligations under this Agreement, or (iii) any act, omission or negligence of Tenant or any of its agents, contractors, employees, invitees or licensees, or (iv) the failure of Tenant, Tenant's contractors, licensees, agents, invitees or employees to comply with any rule, order, regulation or lawful direction now or hereafter in force of any governmental agency or public authority, in each case to the extent the same are related, directly or indirectly, to the Premises or Tenant's use thereof, or (v) directly or indirectly, from any accident, injury or damage, however caused, to any Person or property on or about the Premises, or (vi) any accident, injury or damage to any Person or property occurring outside of the Premises but within the Airport, where such accident, injury or damage results, or is claimed to have resulted from, any act, omission or negligence on the part of Tenant, or Tenant's contractors, licensees, agents, employees, invitees or anyone claiming by, through or under Tenant, or (vii) any act, omission or negligence of Tenant, or Tenant's contractors, licensees, agents, invitees or employees, or any accident, injury or damage whatsoever caused to any Person or to the property of any Person occurring from and after the Commencement Date and until the end of the Term hereof and including any product liability claim or any labor dispute

involving Tenant or its contractors, subcontractors and agents, whether such accident, injury or damage occurs within the Premises, the Common Areas, or the Airport; and (b) any and all losses (including "Losses" as defined in the Master Lease), costs, reasonable attorneys' fees, investigation costs, adjusting fees, or any other expenses or liabilities incurred in connection with any such claim or any action or proceeding brought thereon (including without limitation costs and fees of any experts in connection therewith); provided, however, that Tenant shall not be required to indemnify Landlord or the City for any liabilities or expenses incurred by Landlord or the City to the extent such liabilities or expenses are caused by or resulting solely from the gross negligence, intentional act or willful misconduct of the City, its agents, contractors, licensees, tenants or employees. In case Landlord, the City or any other party so indemnified shall be made a party to any litigation commenced by or against Tenant, then Tenant shall defend, indemnify, protect and save them harmless with counsel reasonably acceptable to Landlord and the City and shall pay, as the same becomes due and payable, all costs, expenses and reasonable attorneys' fees and court costs incurred or paid by them in connection with such litigation. The foregoing express obligation of indemnification shall not be construed to negate or abridge any other indemnity running in favor of Landlord or the City which would exist at common law or under other provisions of this Agreement. The City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Tenant of the foregoing indemnity obligations under this Section. Tenant shall not make any settlement without the prior written consent to it by Landlord and/or the City Corporation Counsel if the settlement requires any action on the part of Landlord and/or the City or in any way involving the Airport. The provisions of this Section 12.3 shall survive the expiration, termination or earlier cancellation of this Agreement for matters occurring or arising during the Term of this Agreement or as the result of or during the holding over of Tenant beyond the Term. Tenant acknowledges that the requirements set forth in this Section 12.3 to indemnify, keep and save harmless and defend Landlord and the City are apart from and not limited by the Tenant's duties under this Agreement, including the insurance and security requirements. To the extent permissible by law, Tenant waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due under any Losses, including any claim by any employee of Tenant that may be subject to the Workers' Compensation Act, 820 ILCS 305/1 *et seq* or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The waiver, however, does not require Tenant to indemnify Landlord or the City for either's own negligence or willful misconduct. Landlord and the City, however, do not waive any limitations either may have on its liability under the Worker's Compensation Act or under the Illinois Pension Code.

## ARTICLE 13 DAMAGE AND DESTRUCTION

**Section 13.1 No Surrender or Abatement.** Except as otherwise provided herein, no destruction of or damage to the Airport or the Premises or any part thereof by fire or any other casualty, whether or not insured, shall permit Tenant to surrender this Agreement or shall relieve Tenant from its liability to pay the Rents or from any of its other obligations under this Agreement. Tenant agrees that the restoration obligations contained in this Article 13 shall be Tenant's sole recourse in the event of casualty, and Tenant waives any other rights now or hereafter conferred upon it by statute or other applicable law to quit or surrender this Agreement or the Premises or any part thereof, or to any suspension, diminution, abatement or reduction of Rents on account of any such destruction or damage, except as expressly provided herein.

### Section 13.2 Casualty.

(a) In the event that there is Substantial Damage, as hereinafter defined, to the Premises or the Airport (whether or not there is Substantial Damage to the Premises), or access thereto, then Landlord and/or the Commissioner has the right, for a period of six (6) months starting on the date of the occurrence, to elect not to repair the Substantial Damage as otherwise required under this Section 13.2, by giving written notice of the election to Tenant. If Landlord and/or the Commissioner notifies Tenant of its election not to repair the Substantial Damage, this Agreement will terminate effective as of the date of the Substantial Damage as if such date were the originally scheduled Expiration Date hereunder, all Rents due under this Agreement shall be prorated to the date of termination, and Tenant must surrender the Premises to Landlord. In the event this Agreement is not terminated under the foregoing provision, this Agreement shall remain in full force and effect, subject to the following provisions in this Section 13.2. Landlord or the City, to the extent required by the Master Lease, shall promptly repair any and all damage to the Airport or the structural portions of the Premises and restore same to substantially the same condition as it was in immediately prior to such damage and complete the same as expeditiously as possible, to the extent such damage is not required to be repaired by Tenant hereunder. Notwithstanding the foregoing, neither the City nor Landlord shall be required to expend for such repairs and restoration any amount in excess of any net insurance proceeds received. Landlord may request Tenant to undertake repairs to the Premises required hereunder to be completed by either Landlord or the City, and if so agreed to in writing by Tenant, Landlord shall reimburse Tenant (but only to the extent Landlord is reimbursed by the City pursuant to the Master Lease) within 30 days after submission of a request therefore containing such information as Landlord may reasonably require for the actual costs of repair incurred by Tenant. Tenant shall promptly repair any and all damage to the Fixed Improvements and to the Premises and Operating Equipment which Tenant is required to repair under Section 11.2 in accordance with the requirements of Article 8 and shall return such portions of the Premises to the condition existing immediately prior to such casualty. Tenant shall use diligent efforts to complete all repairs and restoration to be made by Tenant as expeditiously as possible, but in any event within 90 days or such longer period of time as is reasonable under the circumstances as may be reasonably approved by Landlord in writing. In the event Tenant fails to complete its repairs within such period, Landlord shall have the right to terminate this Agreement upon 30 days written notice to Tenant.

(b) Before beginning to replace, repair, rebuild or restore Fixed Improvements, Tenant shall deliver to Landlord and the Commissioner a report of an independent consultant acceptable to Landlord setting forth:

- a. an estimate of the total cost of the work;
- b. the estimated date upon which the work will be substantially completed; and
- c. a statement to the effect that insurance proceeds are projected to be sufficient to pay the costs of the work.

(c) "**Substantial Damage**" shall mean any damage or destruction as a result of which the City terminates the Master Lease or, which, based on reasonable estimates made by Landlord or

the City within sixty (60) days after the occurrence of the damage or destruction, in order to be repaired to the condition existing before the damage or destruction:

- a. would cost, with respect to Fixed Improvements, in excess of fifty percent (50%) of the replacement cost value of all Fixed Improvements; and
- b. would cost, with respect to the shell and core, in excess of fifty percent (50%) of the replacement cost of the shell and core, or would require, in the sole judgment of Landlord or the Commissioner, more than nine (9) months to complete.

(d) If the Premises is subject to Substantial Damage during the final three (3) years of the Term, Tenant has the right, for a period of sixty (60) days beginning on the date of the occurrence, to elect not to restore the affected Fixed Improvements as otherwise required under this Agreement by giving Landlord and the Commissioner written notice of the election, in which event this Agreement will terminate upon the notice. If Tenant desires to rebuild the affected Premises, it may do so only upon the written approval of Landlord and the Commissioner. If approved, Tenant will receive the unamortized Certified Construction Costs of the restoration upon termination or expiration of the Term, with amortization being calculated on a straight-line basis over a period of time equivalent to the original Term.

(e) If the Premises shall be damaged by fire or other casualty resulting from the acts, omissions to act, negligence or willful misconduct of Tenant, its agents, concessionaires, contractors, employees, licensees or subcontractors, and this Agreement is not terminated by Landlord as a result of such damage, Tenant shall not be released from any of its obligations hereunder including, without limitation, its duty to pay Rents without abatement or reduction. For purposes of computing Percentage Rent and Contingent Rent during any period when Tenant is unable to be open for business under this Section 13.2, Tenant shall pay to Landlord the highest of: (i) the amount of Percentage Rent or Contingent Rent, as applicable, paid by Tenant during the Lease Month immediately preceding such fire or other casualty; or (ii) the amount of Percentage Rent or Contingent Rent, as applicable, paid by Tenant during the same Lease Month during the previous Lease Year. If any portion of the Premises or the Airport is so damaged or destroyed resulting from a fire or other casualty due to Tenant's fault as provided in this Section 13.2, Tenant shall restore and repair the same to the same condition which existed immediately prior thereto in the manner in which Tenant is required to repair and restore the Premises provided in this Section 13.2.

## ARTICLE 14 CONDEMNATION

### Section 14.1 Effect of Taking.

If the whole or any part of the Premises shall be taken under the power of eminent domain, this Agreement shall terminate as to the part so taken on the date Tenant is required to yield possession thereof to the condemning authority. To the extent proceeds are available or made available by the City or the Landlord's mortgagee, Landlord shall make, or cause to be made, such repairs and alterations as may be necessary in order to restore the part not taken to useful condition, and all Rents (other than any Additional Rent due Landlord by reason of



Tenant's failure to perform any of its obligations hereunder) shall be reduced in the same proportion as the portion of the floor area of the Premises so taken bears to Tenant's Floor Area. If the aforementioned taking renders the remainder of the Premises unsuitable for the Permitted Use, either party may terminate this Agreement as of the date when Tenant is required to yield possession by giving notice to that effect within thirty (30) days after such date. If such portion of the Concession Premises shall be so taken so as to render the remainder, in Landlord's sole judgment, unsuitable for retail and concession purposes as then currently configured, then Landlord may elect to terminate this Agreement as of the date on which possession thereof is required to be yielded to the condemning authority, by giving notice of such election within ninety (90) days after such date. If any notice of termination is given pursuant to this Section 14.1, this Agreement and the rights and obligations of the parties hereunder shall cease as of the date of such notice and Rents (other than any Additional Rent due Landlord by reason of Tenant's failure to perform any of its obligations hereunder) shall be adjusted as of the date of such termination.

Section 14.2 Condemnation Awards. All compensation awarded for any taking of the Premises or the Concession Premises or any interest in any of the same, shall belong to and be the property of Landlord, Tenant hereby assigning to Landlord all rights with respect thereto; provided, however, nothing contained herein shall prevent Tenant from applying for reimbursement from the condemning authority (if permitted by law) for moving expenses, or the expense of removal of Tenant's trade fixtures, or loss of Tenant's business good will, but only if such action shall not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by Landlord.

Section 14.3 No Effect on City's Rights. Nothing contained in this Agreement shall be construed to limit any of the City's rights to acquire property by eminent domain.

## ARTICLE 15 ASSIGNMENT AND SUBLETTING

(a) Tenant shall not mortgage, pledge or encumber all or any part of this Agreement, nor Tenant's interest in the Premises and Tenant shall not assign or transfer this Agreement, or any right or privilege appurtenant thereto, nor enter into franchise, license or concession agreements allowing any other Person to occupy or use the Premises or any part thereof (collectively, "Transfer") without the prior written consent of Landlord as provided in Section 15.1(b) below; provided, however, the transfer of Tenant's securities in connection with Tenant becoming a publicly held company or issuing securities in connection with an additional public offering of securities shall not constitute a Transfer of this Agreement. The public trading of Tenant's securities on a nationally recognized exchange shall not constitute or be considered to result in any such Transfer. Each Transfer to which there has been consent shall be in writing, in form reasonably satisfactory to Landlord, and shall be executed by the transferee who shall agree in writing for the benefit of Landlord to be bound by and to perform the terms, covenants and conditions of this Agreement. Failure to first obtain in writing Landlord's consent, or failure to comply with the provisions herein contained shall operate to prevent any such Transfer from becoming effective. The receipt by Landlord of rent from any transferee of the Premises shall not be deemed a waiver of the covenant in this Agreement against Transfers or an acceptance of the transferee as a tenant or a release of the Tenant from further observance or performance by

Tenant of the covenants contained in this Agreement. Landlord has been induced to enter into this Agreement with Tenant in order to obtain for the benefit of the Airport's concession program, Tenant's experience and business reputation. The restrictions against Transfers contained herein are consistent therewith and expressly agreed to by Tenant.

(b) Notwithstanding the foregoing provisions of this Article 15, Tenant shall have the right to Transfer this Agreement, without Landlord's consent, but with thirty (30) days prior written notice, to a subsidiary of Tenant or its parent corporation or to an entity that has been an Affiliate of Tenant for a period of one year prior to such Transfer, or its parent corporation and with Landlord's consent, such consent not to be unreasonably withheld, to: (i) any corporation with which Tenant shall merge, reorganize or consolidate; or (ii) any corporation acquiring all or substantially all of the assets or stock of Tenant or which may succeed to a controlling interest in the business of Tenant; provided that in the case of any and each such Transfer under clauses (i) and (ii) above which is permitted hereunder, Landlord shall have the discretionary right to withhold its consent unless; (1) such transferee shall have a net worth equal to or greater than Tenant (or its guarantor, if any) as of the effective date of any proposed Transfer; (2) such transferee shall have proven airport concession operating experience and the ability to efficiently and effectively operate the business in the Premises consistent with at least as high a standard as then exists in the Premises; (3) the business conducted in the Premises by such transferee shall be conducted under the same Permitted Use and under the same Trade Name permitted to be used by Tenant hereunder; (4) Tenant shall not be in default after the applicable notice and cure periods under any of the terms and provisions hereof; (5) the use of the Premises by such transferee shall not violate any agreements affecting the Premises, the Airport, Landlord or other tenants or occupants in the Airport and shall not disrupt the concession mix within the Airport as determined in the sole and absolute discretion of Landlord; (6) if Tenant is a certified ACDBE or if Tenant's certified ACDBE participant is a member/partner of a limited liability company/general partnership or joint venturer of a joint venture with Tenant, any such Transfer of this Agreement shall not affect, modify or otherwise jeopardize the required ACDBE participation interest under this Agreement; (7) except as may otherwise be prohibited under federal securities laws, notice of any proposed Transfer shall be given to Landlord at least 30 days prior to its proposed effective date, and there shall be delivered to Landlord instruments evidencing such proposed Transfer and the agreement of such transferee to assume and be bound by all of the terms, conditions and covenants hereof, all in form reasonably acceptable to Landlord; and (8) Tenant and its guarantor, if any, shall continue to remain fully liable for the payment of all sums due and the performance of all the terms and conditions hereof. Any and all such Transfers shall also be subject to the consent of the City as determined in the City's sole and absolute discretion.

(c) Tenant shall not sublet the Premises or any part thereof without having first obtained the prior written consent of Landlord. In the event Tenant requests permission to sublease, the request shall be submitted to Landlord prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the subtenant, the area or space to be subleased, the rental to be charged, the type of business to be conducted, recent audited financial statements and history and all other information requested by Landlord shall be specified. In the event of an assignment or sublease where the rental per square foot established in the sublease exceeds the rental per square foot established in this Agreement, Tenant shall pay to Landlord as Additional Rent the excess of the rental received from the transferee or subtenant over that specified to be paid by Tenant herein per square foot. Should any method of computation of rental to be paid by a

transferee or subtenant, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Premises by Tenant exceeds the rental paid to Landlord for said proportionate area of the Premises. Any and all such subleases shall also be subject to the consent of the City as determined in the City's sole and absolute discretion.

(d) If Tenant is a corporation, association or partnership which, under the current laws, rules or guidelines promulgated by the governmental body or agency having jurisdiction and authority to promulgate the same, is not deemed a public corporation, or is an unincorporated association or partnership, the transfer, assignment or hypothecation, in the aggregate of more than a controlling interest of the total outstanding voting stock or voting interest in such corporation, association or partnership shall be deemed a Transfer within the meaning and provisions hereof.

(e) In the event (i) this Agreement shall extend (either by virtue of its Term or by virtue of holding over with City consent) beyond the expiration date of the Master Lease or (ii) the Master Lease is terminated due to a default by Landlord under the Master Lease, then Landlord shall assign all of its right, title and interest in and to this Agreement to the City or such other third party designated by the Commissioner, if such assignment is approved by the City, such approval to be determined in the sole and absolute discretion of the City, it being agreed that the assignee would be responsible only for the liabilities of Landlord which accrue under the Agreement from and after the effective date of any such assignment. Upon such assignment, the rights and obligations of Tenant under the Agreement shall be deemed to have been assigned and transferred to the City or such other third party designated by the Commissioner as of the effective date of any such assignment and Tenant shall be deemed to have made full and complete attornment to the City or such other third party for the balance of the Term of the Agreement without any action or confirmation from Tenant and, further, in such event, upon request from the Commissioner, Tenant shall enter into a new sublease with the City or such other third party on the same terms and conditions as in the Agreement. If the City assumes the rights and obligations of Tenant under this Agreement, the City shall have the right at any time during the Term, by providing written notice thereof to Tenant, to assign its rights, title and interest under the Agreement to a third party selected by the City, and from and after the effective date of such assignment, the City shall no longer have any obligation or liability under the Agreement. In no event shall the City or such other third party designated by the Commissioner to assume Landlord's rights and obligations under the Agreement be liable for (i) any prior acts or defaults of Tenant under the Agreement, (ii) completion of any Fixed Improvements relating to the Premises, or (iii) return of any security deposits of Tenant except to the extent said sums have been transferred to the City or such other third party.

## ARTICLE 16 EVENTS OF DEFAULT

### Section 16.1 Rights Upon Event of Default.

(a) The following shall be considered Events of Default: (i) Tenant fails to pay any Rent or other sums whatsoever due hereunder or any portion thereof (including without limitation, amounts due as reimbursement to Landlord or the City for costs incurred by Landlord or the City in performing obligations of Tenant hereunder upon Tenant's failure so to perform) for more than 5

days after written notice from Landlord to Tenant that such Rent or other sums whatsoever due hereunder were not received on the date required for payment pursuant to this Agreement, provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws and provided further that such notice shall not be required if Landlord has previously given 2 notices of such failure during the preceding 12 month period; (ii) Tenant fails to perform any other of the terms, conditions, or covenants of this Agreement to be observed or performed by Tenant for more than 20 days after written notice from Landlord to Tenant of such default (unless such default cannot be cured within said 20 days in which event Tenant shall not be deemed to be in default hereunder if Tenant shall have commenced to cure said default promptly within 20 days and shall thereafter proceed to prosecute such cure to completion with all reasonable dispatch and diligence, provided that in no event shall such cure period extend beyond 75 days), provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws; (iii) Tenant fails to submit any statement or report required on or before the date required by this Agreement, including without limitation the statements and reports required by Article 7, and such failure continues for 5 days after written notice by Landlord, provided such notice shall not be required if Landlord has previously given 2 notices of such a failure during the preceding 12 month period; (iv) Tenant fails to commence construction of Tenant's Work within 20 days of the City's approval of Tenant's Final Drawings and issuance of the Permits for such Tenant's Work and such failure is not occasioned by reason of Force Majeure; or (v) Tenant fails to complete Tenant's Work, move into and merchandise/stock the Premises with high-quality goods, merchandise, products or services and to initially open for business on or before the DBO; (vi) Tenant fails to operate continuously in the manner and during the hours established by Landlord pursuant to Section 9.1 hereof or for the Permitted Use or discontinues its business operations in the Premises for a period in excess of 48 consecutive hours; (vii) Tenant abandons the Premises, or permits this Agreement to be taken under any writ of execution or similar writ or order; (viii) Tenant fails to comply with any obligation as a result of any inspection or audit and such failure continues for 10 days after written notice from Landlord to Tenant of such failure; (ix) Tenant fails to comply with any of the other operational requirements set forth in Section 9.1 or any of the exhibits referenced therein (such as compliance with staffing/personnel, Value Pricing or fails to achieve the Minimum Performance Standards, for example); (x) if applicable, Tenant fails to use good faith efforts to obtain and thereafter maintain continuously throughout the Term, its eligibility and certification from the City of its ACDBE status and/or to renew such ACDBE eligibility and certification as may be required by the City from time to time and such failure shall continue for a period of 20 days after written notice from Landlord to Tenant of such failure; (xi) Tenant fails to carry insurance as required under this Agreement or fails to perform or observe any policies, regulations, directives, rules or practices pertaining to Airport safety and security, and such failure continues for 48 hours after written notice from Landlord and/or the Commissioner thereof; (xii) a governmental authority, board, agency or officer with competent jurisdiction terminates or suspends any certificate, license, permit or authority held by Tenant without which Tenant shall not be lawfully empowered to conduct its business operations in the Premises; (xiii) Tenant fails to ensure that any general contractor performing Tenant's Work complies with Chapter 4-36 of the Municipal Code; (xiv) any material misrepresentation intentionally made by Tenant to Landlord and/or the City in the inducement to Landlord and/or the City to enter into this Agreement or in the performance of this Agreement. There is no right to cure this Event of Default; (xv) a default by Tenant or any Affiliate under any other agreement it may presently have or may enter into with the City during the Term of this Agreement and failure to cure such default within any applicable cure period; (xvi) Tenant is dissolved; (xvii) a violation of law that results in a guilty plea, a plea of nolo contendere, guilty

finding, or conviction of a criminal offense, by Tenant, or any of its directors, officers, partners or key management employees directly or indirectly relating to this Agreement, and that may threaten, in the sole judgment of Landlord and/or the Commissioner, Tenant's performance of this Agreement in accordance with its terms; (xviii) except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within 90 days after it is begun, or if Tenant shall file or consent to a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of substantially all or general payment of debts; (xix) Tenant fails to notify Landlord of a change in any statement under the special conditions set forth in Section 22.42 herein; and/or (xx) Tenant fails to maintain accurate EDS(s) on file with Landlord or the City. If Tenant has the right and obligation to sell alcoholic beverages under Tenant's Permitted Use as set forth in Article 1 hereof in any portion of the Airport, Tenant's obligation to provide such alcoholic beverages continuously is of the essence of this Agreement and is of critical importance to Landlord and the City and Tenant agrees that the cessation of its sale of alcoholic beverages will result in damages which are difficult to quantify. Therefore, in addition to the remedies set forth in this Article 16, in the event that alcoholic beverages are not sold by Tenant continuously and uninterruptedly for four (4) or more consecutive hours at any time, and telephone notice of such cessation is made by Landlord to Tenant and such cessation is not cured by the next day's opening time and is not occasioned by Force Majeure then, in addition to any other remedy available to Landlord, Tenant shall pay to Landlord as liquidated damages and not as a penalty the amount of \$250.00 per hour for each hour that Tenant fails to sell alcoholic beverages. Further, and notwithstanding anything to the contrary set forth in this Agreement or in this Article 16, it shall be an Event of Default hereunder should Tenant fail to resume the sale of alcoholic beverages for more than 48 hours after written notice from Landlord to Tenant of such default.

(b) If an Event of Default occurs and is not cured by Tenant in the time allowed, in addition to any other remedies provided for in this Agreement, including the remedy of Self-help (as hereinafter defined) as provided in Section 16.1(c) below, Landlord may exercise any or all of the following remedies.

(i) Terminate this Agreement. If Landlord elects to terminate this Agreement, Landlord may, at Landlord's sole option, serve notice upon Tenant that this Agreement ceases and expires and becomes absolutely void on the date specified in the notice, to be no less than five (5) days after the date of the notice, without any right on the part of Tenant after that to save the forfeiture by payment of any sum due or by the performance of any term, provision, covenant, agreement or condition broken. At the expiration of the time limit in the notice, this Agreement and the Term of this Agreement, as well as the right, title and interest of Tenant under this Agreement, wholly ceases and expires and becomes void in the same manner and with the same force and effect (except as to Tenant's liability) as if the date fixed in the notice were the date in this Agreement stated for expiration of the Term.

(ii) Recover all Rents, including Additional Rent and any other amounts due that have accrued and are then due and payable and also all damages available at law or under this Agreement. Landlord shall automatically and without further action have a lien upon all of Tenant's Operating Equipment, merchandise, products, inventory and other personal property within the Premises to secure the payment thereof. If this Agreement is terminated, the damages will include damages for the balance of the scheduled Term, based upon any and all amounts that Tenant would have been obligated to pay for the balance of the Term, calculated as provided in this Agreement. In determining the amount of damages for the period after termination, Landlord may make the determination based upon the sum of any future payments that would have been due to Landlord, for the full Lease Year immediately before the Event of Default. All amounts that would have been due and payable after termination for the balance of the Term must be discounted to present value at a rate deemed to be commercially reasonable for such purposes as of the date of termination. To the extent permitted by law, Landlord may declare all amounts to be immediately due and payable. Notwithstanding the foregoing, Landlord shall use reasonable efforts to mitigate its damages by finding a replacement tenant for the Premises paying comparable Rent.

(iii) At any time after the occurrence of any uncured Event of Default, whether or not this Agreement has been terminated, reenter and repossess the Premises with or without process of law, so long as no undue force is used, and Landlord has the option, but not the obligation, to re-lease all or any part of the Premises. Landlord, however, is not required to accept any tenant proposed by Tenant or to observe any instruction given Landlord about such a re-lease. The failure of Landlord to re-lease the Premises or any part or parts of it does not relieve or affect Tenant's liability under this Agreement nor is Landlord liable for failure to re-lease. Reentry or taking possession of the Premises does not constitute an election on Landlord's part to terminate this Agreement unless a written notice of the election by Landlord is given to Tenant. Even if Landlord re-leases without termination, Landlord may at any time after that elect to terminate this Agreement for any previous uncured Event of Default. For the purpose of re-leasing, Landlord may decorate or make repairs, changes, alterations or additions in or to the Premises to the extent deemed by Landlord to be necessary to re-let the Premises, and the cost of the decoration, repairs, changes, alterations or additions will be charged to and payable by Tenant as Additional Rent under this Agreement. Any sums collected by Landlord from any new tenant obtained on account of Tenant will be credited against the balance of the Rents due under this Agreement. Tenant must pay Landlord monthly, on the days when payments of Rents would have been payable under this Agreement, the amount due under this Agreement less the amount obtained by Landlord from the new tenant, if any.

In the event of re-entry by Landlord, Landlord may remove all persons and property from the Premises and such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of Tenant, with notice but without resort to legal process and without Landlord being deemed guilty of trespass, conversion or becoming liable for any loss or damage which may be occasioned thereby. In the event Tenant shall not remove its property from the Premises within 10 days after Tenant has vacated the Premises, then such property shall be deemed abandoned by Tenant and Landlord may dispose of the same without liability to Tenant subject to the rights of the City to such improvements. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rents then due, then after the property has been stored for a period of 30 days or more Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable

following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in this Section 16.1(b).

(iv) Enter upon the Premises, distrain upon and remove from it all inventory, Operating Equipment and personal property of any kind or nature, whether owned by Tenant or by others, and to proceed without judicial decree, writ of execution or assistance or involvement of constables or Landlord's, the City's and Tenant's officers, to conduct a private sale, by auction or sealed bid without restriction. Tenant waives the benefit of all laws, whether now in force or later enacted, exempting any of Tenant's property on the Premises or elsewhere from distraint, levy or sale in any legal proceedings taken by Landlord to enforce any rights under this Agreement.

(v) Seek and obtain specific performance, a temporary restraining order or an injunction, or any other appropriate equitable remedy.

(vi) Seek and obtain monetary damages.

(vii) Deem Tenant and any Affiliate non-responsible in future contracts or concessions to be awarded by Landlord and/or the City.

(viii) Declare Tenant and any Affiliate in default under any other existing contracts or agreements they might have with the City and to exercise any remedies available under those other contracts or agreements.

(ix) Require Tenant to terminate a contract that is causing an Event of Default under this Agreement which has not been cured.

(c) Upon the occurrence of an Event of Default that Tenant has failed to cure in the time provided, Landlord may, but is not obligated to, make any payment or perform any act required to be performed by Tenant under this Agreement in any manner deemed expedient by Landlord for the purpose of correcting the condition that gave rise to the Event of Default ("**Self-help**"). Landlord's inaction never constitutes a waiver of any right accruing to Landlord under this Agreement nor do the provisions of this Section or any exercise by Landlord of Self-help under this Agreement cure any Event of Default. Any exercise of Self-help does not limit the right of any City department or agency to enforce applicable City ordinances or regulations. Landlord, in making any payment that Tenant has failed to pay:

(i) relating to taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim;

(ii) for the discharge, compromise or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien that may be asserted; and

(iii) in connection with the completion of construction, furnishing or equipping of the Premises or the licensing, operation or management of the Premises or the payment of any

of its Operating Costs and Expenses, may do so in such amounts and to such persons as Landlord may deem appropriate.

Nothing contained in this Agreement requires Landlord to advance monies for any purpose.

(d) If Tenant fails to perform its obligations under this Agreement to maintain the Premises in accordance with specified standards within sixty (60) days following written notice from Landlord and/or the Commissioner, or in the event of a serious health or safety concern or in an emergency (in which case no notice is required), Landlord may, but is not obligated to, perform, or direct the City and/or the Department to perform, or cause the performance of any such obligation in any manner deemed expedient by Landlord for the purpose of correcting the condition in question.

(e) All sums paid by Landlord under the Self-help provisions herein and all necessary and incidental costs, expenses and reasonable attorneys' fees in connection with the performance of any such act by Landlord, together with interest thereon at the Default Rate, from the date of Landlord's payment until the date paid by Tenant, are deemed Additional Rent under this Agreement and are payable to Landlord within ten (10) days after demand therefor, or at the option of Landlord, may be added to any Rents then due or later becoming due under this Agreement, and Tenant covenants to pay any such sum or sums with interest at the Default Rate.

(f) Landlord's waiver of any one right or remedy provided in this Agreement does not constitute a waiver of any other right or remedy then or later available to Landlord under this Agreement or otherwise. A failure by Landlord to take any action with respect to any Event of Default or violation of any of the terms, covenants or conditions of this Agreement by Tenant will not in any respect limit, prejudice, diminish or constitute a waiver of any rights of Landlord to act with respect to any prior, contemporaneous or later violation or Event of Default or with respect to any continuation or repetition of the original violation or Event of Default. The acceptance by Landlord of payment for any period or periods after an Event of Default or violation of any of the terms, conditions and covenants of this Agreement does not constitute a waiver or diminution of, nor create any limitation upon any right of Landlord under this Agreement to terminate this Agreement for a subsequent violation or Event of Default, or for continuation or repetition of the original violation or Event of Default. Tenant has no claim of any kind against Landlord by reason of Landlord's exercise of any of its rights as set forth in this Agreement or by reason of any act incidental or related to the exercise of rights.

(g) All rights and remedies of Landlord under this Agreement are separate and cumulative and none excludes any other right or remedy of Landlord set forth in this Agreement or allowed by law or in equity. No termination of this Agreement or the taking or recovery of the Premises deprives Landlord of any of its remedies against Tenant for Rents, including Additional Rent or other amounts due or for damages for the Tenant's breach of this Agreement. Every right and remedy of Landlord under this Agreement arising out of Tenant's default or indemnification obligations survives the expiration of the Term or the termination of this Agreement.

(h) At any time that Tenant has either failed to pay Rents within 5 days after the same shall be due or shall have delivered checks to Landlord for payments pursuant to this Agreement which shall have on at least 3 occasions during any Lease Year of the Term of this Agreement (whether



consecutive or not or whether involving the same check or different checks) been returned by Landlord's bank for any reason, Landlord shall not be obligated to accept any payment from Tenant unless such payment is made by cashier's check or in bank certified funds. Anything to the contrary notwithstanding, Landlord shall not be required to give notice under this Article 16 more than twice for the same type of default in any consecutive 12 month period.

(i) Tenant acknowledges and agrees that all of its covenants and obligations contained herein are independent of Landlord's covenants and obligations contained herein. Tenant shall neither be relieved from the performance of any of its covenants and obligations, including, without limitation, the obligation to pay Rents and other amounts hereunder, nor entitled to terminate this Agreement, due to a breach or default by Landlord of any of its covenants or obligations, unless expressly permitted by the terms of this Agreement. Except as otherwise set forth herein, any obligations of Tenant as set forth herein (including, without limitation, Rents and other monetary obligations, repair obligations and obligations to indemnify Landlord and the City) shall survive the expiration or earlier termination of this Agreement, and Tenant shall immediately reimburse Landlord for any expense incurred by Landlord in curing Tenant's failure to satisfy any obligation (notwithstanding the fact that such cure might be effected by Landlord following the expiration or earlier termination of this Agreement). The remedies described herein are not exclusive and are cumulative, and Landlord will be entitled to any and all other remedies now or hereafter provided by law or in equity in the event of any default or breach by Tenant of the terms of this Agreement. Landlord may pursue one or more remedies against Tenant and need not elect its remedy until such time as findings of fact have been made by judge or jury, whichever is applicable, in a trial court of competent jurisdiction. To the extent permitted by law, Tenant waives any right of redemption, re-entry or repossession.

(j) Tenant acknowledges that the continued operation of business in the Premises in the manner and upon the terms set forth in this Agreement are of a special importance to Landlord and the City and the operations at the Airport. Therefore, in the event this Agreement is not canceled and terminated upon the occurrence of the events set forth in Section 16.1(a)(xviii), then Tenant, and the trustee in bankruptcy or other representative of Tenant, or, in the event of an assignment, Tenant's assignee shall, prior to the assumption of this Agreement by such representative or trustee or assignee, comply with all of the provisions of Article 15 hereof and, in addition, provide adequate assurance to Landlord of each of the following: the source of Rents and other consideration payable under this Agreement; the continued use of the Premises in accordance with the Permitted Use only; that the operation of the business in the Premises shall continue to be of the high standard compatible with Landlord's other tenants in the Airport; the continuous operation of business in the Premises in strict accordance with the requirements of Section 9.1 hereof; that the design and furnishings of the Premises shall continue to be acceptable to Landlord in accordance with the terms hereof; and such other matters as Landlord may reasonably require at the time of such assumption or assignment. The furnishing of assurances in accordance with the foregoing, or as may be directed by a court of competent jurisdiction, shall not be deemed to waive any of the covenants or obligations of Tenant set forth in this Agreement. In the event that any Person assuming this Agreement, or taking the same by assignment, shall desire to make alterations to the Premises, Landlord may further require adequate assurance, by lien and completion bond, cash deposit or such other means as Landlord may approve, of the source of payment for the estimated cost of any work to be performed in connection therewith. Notwithstanding the foregoing, such alterations shall be subject in all

respects to the rights and obligations of Landlord or Tenant relating to such alterations, including, without limitation, those set forth in Article 8 hereof.

## ARTICLE 17 BANKRUPTCY OR INSOLVENCY

Section 17.1 Tenant's Interest Not Transferable. Neither Tenant's interest in this Agreement, nor any estate hereby created in Tenant nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the United States Bankruptcy Code, as amended ("Code").

Section 17.2 Election to Assume Agreement. Even though this is a sublease of real property in an airport, the parties contractually agree that this Agreement shall be construed to be a lease of real property in a shopping center within the meaning of Section 365(b)(3) of the Code. If Tenant becomes a Debtor under Chapter 7, 11 or 13 of the Code, and the Trustee or Tenant, as Debtor-In-Possession, elects to assume this Agreement for the purpose of assignment to a third party or otherwise, such election and assignment, if any, may only be made if all the terms and conditions of the applicable provisions of the Code are satisfied. If the Trustee or Tenant, as Debtor-In-Possession, fails to elect to assume or reject this Agreement by the 60th day after the entry of the Order for Relief in a case under Chapter 7, 11 and 13 of the Code, this Agreement shall thereafter be deemed rejected and terminated in accordance with Section 365 of the Code. The Trustee or Tenant, as Debtor-In-Possession, shall thereupon immediately surrender possession of the Premises to Landlord and Landlord shall have no further obligation to Tenant or Trustee hereunder. The acceptance of Rents by Landlord after the 60th day shall not be deemed a waiver of Landlord's rights herein and under Section 365 of the Code, and Landlord's right to be compensated for damages in such bankruptcy case shall survive.

Section 17.3 Occupancy Charges. When, pursuant to the Code, the Trustee or Tenant, as Debtor-In-Possession, shall be obligated to pay reasonable use and occupancy charges for the use of the Premises or any portion thereof, such charge shall not be less than Rents.

Section 17.4 Other Laws. The provisions of this Article 17 concerning the rights of Landlord and the obligations of Trustee, Tenant, Debtor, Receiver, Debtor-In-Possession and assignee are in addition to such rights and obligations provided by law, including those applicable provisions of the Code. Nothing contained in this Article 17 shall limit or reduce in any manner whatsoever such rights and obligations which are otherwise provided by law.

## ARTICLE 18 ESTOPPEL STATEMENT, ATTORNMENMENT AND SUBORDINATION

Section 18.1 Estoppels. Within 10 days after request therefor by Landlord and/or the City, Tenant shall execute, in recordable form, and deliver to Landlord a statement, in writing, certifying to the best of its knowledge that: (a) this Agreement is in full force and effect, (b) the actual DBO and expiration date, (c) all Rents and other charges hereunder are paid currently without any offset or defense thereto, (d) the amount of Rents and other charges hereunder, if any, paid in advance and the amounts of the Rents most recently paid, (e) whether this Agreement has been modified

and, if so, identifying the modifications, (f) there are no uncured defaults by Landlord or stating in reasonable detail those claimed by Tenant, and (g) such other matters as may be reasonably requested.

Section 18.2 Attornment. If the City terminates the Master Lease or in the event Landlord assigns, sells, or otherwise transfers its interest in the Master Lease pursuant to the terms thereof or any portion thereof containing the Premises, this Agreement shall either (i) terminate in accordance with the provisions of Section 4.6(c) hereof, or (ii) at the City's discretion, shall remain in full force and effect and shall be assigned to the City or its designee. If and when this Agreement is assigned to the City or its designee and the City or its designee, as the case may be, agrees to assume the same, then on request of the City, Tenant hereby attorns to and covenants and agrees to execute an instrument in writing satisfactory to the City whereby Tenant attorns to the City or its designee and recognizes the City or its designee as the landlord hereunder.

Section 18.3 Subordination. Tenant further agrees this Agreement shall be subject and subordinate in all respects to the terms, covenants and conditions of the Master Lease, of the City and to all matters of public record (including mortgages, deeds of trust, bond interests or any ground leases) that may now exist or be placed upon the Premises and/or the Airport and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacement and extensions thereof. Tenant agrees that upon the demand of Landlord, the City or any mortgagee, beneficiary or ground lessor, Tenant shall, within 20 days of the receipt of said demand, execute whatever reasonable instruments as may be required to carry out the intent of this Section 18.3 in the form requested by Landlord, the City or such mortgagee, beneficiary or ground lessor, including, without limitation, appropriate subordination agreements upon the condition that Tenant shall have the right to remain in possession of the Premises under the terms hereof, notwithstanding any default in any such mortgage, deeds of trust or ground lease, or after foreclosure thereof, so long as Tenant is not in default beyond the applicable notice and cure periods under any of the covenants, conditions and agreements contained herein.

## ARTICLE 19 TENANT'S PROPERTY

Neither Landlord nor the City shall be responsible or liable to Tenant, or those claiming by, through or under Tenant, for any loss or damage to persons or property resulting from any patent or latent defect in the Premises, the Airport or any appurtenant areas or occasioned by or through the acts or omissions of persons occupying space adjacent to or connected with the Premises or any other part of the Airport, or, to the maximum extent permitted by law, for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant or its or their property from fire, snow, the breaking, bursting, stoppage or leaking of electrical cable and wires, water (including sprinkler systems), gas, sewer or steam pipes, or (without limiting the foregoing) for any damage or loss of property within the Premises from any cause whatsoever. Tenant shall give immediate notice to Landlord in case of any damage to or destruction of all or any part of, or of accidents occurring within the Premises, or of defects therein or of any damage to or destruction of any inventory, fixtures or equipment within the Premises. To the maximum extent permitted by law, Tenant agrees to use and occupy the Premises, and to use such other portions of the Common Areas and Airport, as Tenant is herein given the right to use, at Tenant's own risk and Landlord and the City shall have no responsibility or liability for any loss of or damage to furnishings, fixtures, equipment or other personal property of Tenant, or of those claiming by, through or

under Tenant, unless caused by or due to the direct negligence or direct misconduct of Landlord, the City or their respective agents and employees.

## ARTICLE 20 RULES AND REGULATIONS

Tenant agrees to comply with and faithfully observe any rules and regulations established by the City or Landlord from time to time, with respect to the Airport, the Premises or any related matter provided that such rules apply to all similarly situated tenants, licensees, or concessionaires, if any, and are related to the safety, care, appearance, reputation, operation or maintenance of the Airport, the Premises or the Common Areas or the comfort of tenants or others using such areas or facilities. Neither the City nor Landlord shall have any duty or obligation to enforce such rules or the terms and conditions in any other lease or sublease as against any other tenant and neither the City nor Landlord shall be liable to Tenant for violations of the same by other subtenants, invitees, their servants, employees, contractors, subcontractors and agents. Tenant's failure to keep and observe said rules and regulations shall constitute a breach of the terms of this Agreement in the same manner as if the rules and regulations were contained herein as covenants.

## ARTICLE 21 QUIET ENJOYMENT

Subject to the terms and conditions hereof and upon payment of Rents herein provided and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term hereby demised without hindrance or interruption by Landlord or any other Person lawfully or equitably claiming by, through or under Landlord. The foregoing covenant of quiet enjoyment is in lieu of any other covenant, express or implied.

## ARTICLE 22 MISCELLANEOUS

Section 22.1 Waiver; Election of Remedies. One or more waivers of any covenant or condition by Landlord shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant. No breach by Tenant of a covenant or condition of this Agreement shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord. The rights and remedies of Landlord under this Agreement or under any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have elsewhere under this Agreement or at law or in equity, whether or not such Section, subsection or clause expressly so states.

Section 22.2 Entire Agreement. The exhibits attached to this Agreement are hereby made a part of this Agreement, with full force and effect as if set forth herein. This Agreement supersedes all prior agreements between the parties and sets forth all the covenants, promises, agreements, conditions, and understandings between Landlord and Tenant and the City as a third party

beneficiary concerning the Premises and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Agreement. Neither the City nor Landlord have made any representation or warranty regarding the profitability of the Premises or the Airport, and Tenant has not entered into this Agreement in reliance on any such representations, warranties or financial projections prepared or furnished to Tenant by Landlord. No alteration, amendment, change or addition to this Agreement shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party and consented to by Commissioner. Tenant shall pay all of Landlord's costs, expenses and reasonable fees of its attorney(s) in connection with any amendment, change or addition to this Agreement made at the request of or to accommodate Tenant, with any such costs, expenses and fees not to exceed \$500.00.

Section 22.3 Interpretation; Use of Pronouns; Authorization. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint ventures between the parties hereto, it being understood and agreed that neither the method of computation of Rents, nor any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If this Agreement is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this Agreement on behalf of such corporation, partnership or entity.

Section 22.4 Delays. In the event Tenant is delayed in the performance of any obligation required by this Agreement, such performance shall be excused (but only if the specific provision so provides) for the period of the delay and performance of any such obligation shall be extended for a period equal to the delay, if and only if the delay is by reason of Force Majeure. The time for Tenant's performance of any obligation shall not be extended due to any lack of funds, financial or economic problems of either Tenant or Tenant's architects, contractors, suppliers, agents, consultants and/or employees. If Tenant shall claim a delay due to Force Majeure, Tenant must notify Landlord in writing for receipt by Landlord within 15 days of the first occurrence of an event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming Force Majeure and the anticipated delay in Tenant's performance. In no event shall any delay extend Tenant's performance beyond a 30 day period without the specific written approval of Landlord. Under no circumstances shall any such condition or delay (unless the specific provision provides for abatement of Rents), whether such condition or delay is claimed by Landlord, the City or Tenant, excuse or delay Tenant's payment of any Rents due hereunder.

Section 22.5 Notices. Notwithstanding the fact that certain descriptions elsewhere in this Agreement of notices required to be given by one party to the other may omit to state that such notices shall be in writing, any notice, demand, request or other instrument which may be or is required to be given hereunder shall be in writing and sent by (i) United States certified mail, return receipt requested, postage prepaid, (ii) United States express mail, (iii) recognized overnight national air courier (such as Federal Express, Airborne or UPS for example), (iv) personal delivery or (v) any other overnight method creating a receipt, waybill or other indication of delivery, and shall be addressed (a) if to the Landlord, at the address as set forth in Article 1 hereof, or such other address or addresses as Landlord may designate by written notice, together with copies thereof to

such other parties designated by Landlord and, (b) if to Tenant, the address set forth in Article 1 hereof, or such other address or addresses as Tenant shall designate by written notice, together with copies thereof to such other parties designated by Tenant. Notices shall be deemed given on the 3<sup>rd</sup> day after deposit for notices sent under (i) and (ii) above, on the 1<sup>st</sup> day after deposit for notices sent under (iii) and (v) above and on the date delivered for notices sent under (iv) above.

Section 22.6 Captions and Section Numbers. The captions, section numbers, article numbers and index appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Agreement nor in any way affect this Agreement.

Section 22.7 Joint and Several Liability. If Tenant, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then in that event, each and every obligation or undertaking stated in this Agreement to be fulfilled or performed by Tenant is the joint and several obligation or undertaking of each such individual or other legal entity.

Section 22.8 Recording. Tenant shall not record this Agreement or any short form or memorandum of this Agreement.

Section 22.9 Financial Statements. Tenant has provided Landlord on or prior to the date of this Agreement with statements reflecting its financial condition and a credit report as of a date within the last 12 months as an inducement to Landlord to enter into this Agreement, and Tenant hereby represents and warrants that its financial condition and credit rating have not materially changed since the date of those statements and reports. Upon Landlord's or the Commissioner's written request, Tenant shall promptly furnish Landlord or the Commissioner, from time to time, with financial statements and a credit report reflecting Tenant's then current financial condition. Landlord shall treat such financial statements, credit reports and information provided to it confidentially, and shall not disclose them except to the City, Landlord's lenders or otherwise as reasonably necessary for the operation of the Airport or administration of Landlord's or the City's business or unless disclosure is required by any judicial or administrative order or ruling. Tenant shall also provide Landlord and/or the Commissioner with such other reasonable financial or statistical reports and information concerning the Premises and/or Tenant's business therein, in the form as may be reasonably required from time to time by Landlord and/or the Commissioner.

Section 22.10 Waiver of Counterclaim or Defenses in Action for Possession. Landlord and Tenant agree that in any action brought by Landlord to obtain possession of the Premises, the parties desire an expeditious resolution of such litigation. Accordingly, Tenant shall not file and hereby waives the right to file any non-compulsory counterclaim in such action. Tenant also shall not file and hereby waives the right to file any defense to such action for possession other than the defense that the default alleged by Landlord did not occur.

Section 22.11 Floor Area. "Floor Area" as used in this Agreement means with respect to any leasable area of the Premises the aggregate number of square feet of interior floor space of all floor levels therein, including any mezzanine space which shall be measured: (i) with respect to the front and rear width thereof, from the exterior face of the adjacent exterior or corridor wall, or if none, to the center of the demising partition, and (ii) with respect to the depth thereof, from the front of the lease line as shown on **Exhibit A** to the exterior face of the exterior wall, or corridor

wall, or if none, to the center of the demising partition. No deduction or exclusion from Floor Area shall be made by reason of columns, ducts, stairs, elevators, escalators, shafts or other interior construction or equipment.

Section 22.12 Interest on Past Due Obligations. Any amount due from Tenant to Landlord hereunder which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the Default Rate from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant under this Agreement. Any amount due from Tenant to the City shall be governed by this Section 22.12. If the City adjusts the Interest Rate under the Master Lease, the interest rate under this Agreement shall be so adjusted from time to time, upon notice to Tenant, provided that such revised interest rate does not exceed the maximum rate permitted by law.

Section 22.13 Liability of Landlord and the City; Limitation of Damages. If Landlord or the City shall fail to perform any covenant, term or condition hereof upon Landlord's or the City's part to be performed, and if as a consequence of such default Tenant shall recover a money judgment against Landlord or the City, such judgment shall be satisfied only out of the rents or other income from the concession program in the Airport received by Landlord or the City, as applicable and neither Landlord nor the City, nor any of their respective officers, directors, employees, agents, partners or affiliates of either shall be liable for any deficiency. All Tenant and Contractor personal property upon the Premises or upon any other part of the Airport, is at the risk of Tenant or Contractor, respectively, only, and neither Landlord nor the City is liable for any loss or damage to it or theft of it or from it. No shareholder, director, officer, agent or employee of Landlord or the City shall be charged personally or held contractually liable under any term or provision of this Agreement or because of any breach thereof or because of the execution or attempted execution of this Agreement. Landlord and the City (including their members, shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits arising out of or relating to this Agreement or Landlord's and the City's performance or non-performance hereunder. Neither Landlord nor the City is liable or responsible to Tenant or its contractors, and Tenant waives, and will cause its contractors likewise to waive, to the fullest extent permitted by law, all claims against Landlord and the City for any loss or damage or inconvenience to any property or person or any lost profits any or all of which may have been occasioned by or arisen out of any event or circumstance, including theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority, or water leakage, steam, excessive heat or cold, falling plaster, or broken glass; or any act or neglect of Landlord or the City or any occupants of the Airport, including the Premises, or repair or alteration of any part of the Airport, or failure to make any such repairs or any other thing or circumstance, whether of a like nature or a wholly different nature.

Section 22.14 Execution of Agreement; No Option. The submission of this Agreement to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of an option for Tenant to lease, or otherwise create any interest by Tenant in the Premises or any other premises in the Airport. Execution of this Agreement by Tenant and the return of same to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has

executed and delivered this Agreement to Tenant. Once so executed and delivered by Landlord as aforesaid, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives and assigns where permitted by this Agreement.

Section 22.15 Governing Law. This Agreement is deemed made in the state of Illinois and governed as to performance and interpretation in accordance with the laws of Illinois. Tenant irrevocably submits itself to the original jurisdiction of those courts located within Cook County, Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Tenant consents to service of process on Tenant, at the option of Landlord and/or the City, by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Tenant, or by personal delivery on any officer, director, or managing or general agent of Tenant. If any action is brought by Tenant against the City concerning this Agreement, the action can only be brought in those courts located within Cook County, Illinois.

Section 22.16 Specific Performance of Rights. Each party shall have the right to obtain specific performance of any and all covenants or obligations of the other party hereunder except to the extent otherwise provided herein for the benefit of Landlord excusing any such performance by Landlord, and nothing contained herein shall be construed as or shall have the effect of abridging such right.

Section 22.17 Survival of Obligations. All obligations of either party under this Agreement which cannot be ascertained to have been fully performed prior to the end of the Term or any earlier termination hereof shall survive the expiration or termination of this Agreement, whichever occurs earlier. Further, all of the terms, conditions, covenants, provisions, restrictions or requirements imposed upon Tenant hereunder shall be deemed to extend to Tenant's agents, employees, officers, directors, partners, guarantors, contractors, concessionaires, licensees and subcontractors and Tenant shall cause any such persons or entities to comply therewith and include any applicable provisions in any agreements, contracts, subcontracts or the like entered into by Tenant with respect to its activities and operations in the Premises and the Airport.

Section 22.18 Certain Rules of Construction. Time is of the essence in Tenant's performance of this Agreement. Notwithstanding the fact that certain references elsewhere in this Agreement to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Agreement by Tenant, omit to state that such acts shall be performed at Tenant's sole cost and expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant hereto shall be performed or fulfilled at Tenant's sole cost and expense, and all breaches or defaults by Tenant hereunder shall be deemed material. Tenant shall be fully responsible and liable for the observance and compliance by concessionaires, franchisees and licensees of Tenant and with all the terms and conditions of this Agreement, which terms and conditions shall be applicable to concessionaires, franchisees and licensees as fully as if they were the Tenant hereunder; and failure by a concessionaire, franchisee or licensee to fully observe and comply with the terms and conditions of this Agreement shall constitute a default by Tenant. Nothing contained in the preceding sentence shall constitute consent by Landlord to any concession, subletting or other arrangement. Further, although the printed provisions of this Agreement were drawn by Landlord, the parties agree that this circumstance alone shall not create any presumption, canon of



construction or implication favoring the position of either Landlord or Tenant and the deletion of language from this Agreement prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, adverse or opposite of the deleted language.

Section 22.19 Confidentiality. Any and all information contained in this Agreement or provided to or by Tenant and/or Landlord by reason of the covenants and conditions of this Agreement, economic or otherwise, shall remain confidential between Landlord and Tenant and shall not be divulged to third parties except to the City or the Commissioner and as required to be disclosed by law; provided, however Landlord shall be permitted to divulge the contents of statements and reports derived and received in connection with the provisions of Article 7 in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Master Lease or the Airport or in connection with any administrative or judicial proceedings in which Landlord is involved where Landlord may be required to divulge such information. If Tenant is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any documents that may be in its possession by reason of this Agreement, Tenant must immediately give notice to Landlord and the City's Corporation Counsel. Landlord or the City may contest the process by any means available to it before the records or documents are submitted to a court or other third party. Tenant, however, is not obligated to withhold the delivery beyond that time as may be ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

Section 22.20 Attorneys' Fees. If either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions hereof or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Any such amounts due from Tenant to Landlord under this provision shall be considered as Additional Rent hereunder and shall be paid by Tenant to Landlord within 20 days after written demand. Any such amounts due from Landlord to Tenant under this provisions shall be paid by Landlord to Tenant within 20 days after written demand.

Section 22.21 Waiver of Trial by Jury. Landlord and Tenant desire and intend that any disputes arising between them with respect to or in connection with this Agreement be subject to expeditious resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waive the right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought by either Landlord against Tenant or Tenant against Landlord or any matter whatsoever arising out of, or in any way connected with this Agreement, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Section 22.22 Agreements with the United States. In addition to this Agreement being subject

and subordinate to the Master Lease, this Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between the City and the United States government or other governmental authority, the execution of which is required to enable or permit transfer of rights or property to the City for airport purposes or expenditure of federal grant funds for Airport improvements, maintenance or development. Tenant shall reasonably abide by requirements or agreements entered into between the City and the United States. Tenant agrees to consent and promptly enter into any amendments or modifications to this Agreement if required by any such agreement or if required as a condition of the City's entry into such agreements so long as such changes to this Agreement shall not alter the economic terms hereof or otherwise materially diminish the rights or materially increase the obligations of Tenant hereunder.

Section 22.23 Vendors, Suppliers and Contractors. Except as otherwise provided herein, Tenant shall have the right to obtain supplies or services from suppliers, vendors or contractors of its own choice for its operations at the Airport, provided that the City reserves the right to license and regulate all persons or companies doing business on the Airport and to impose non-discriminatory charges for the privilege of conducting any such business and to prohibit persons from engaging in aeronautical activities, the provision of ground transportation services or any commercial activities at the Airport except in accordance with the Master Lease and agreements, concession contracts, permits or operating agreements entered into between the City and said persons. A charge will not be considered discriminatory for the purposes of this Agreement which is more for businesses located on the Airport than for businesses located off the Airport.

Section 22.24 Counterparts. This Agreement may be comprised of several identical counterparts and may be fully executed by the parties in separate counterparts. Each such counterpart is deemed to be an original, but all such counterparts together must constitute but one and the same Agreement.

Section 22.25 Economic Disclosure Statements and Affidavits. Tenant shall provide evidence of its authority to do business in the State of Illinois including, if applicable, certifications of good standing from the Office of the Secretary of State of Illinois, and appropriate resolutions or other evidence of the authority of the persons executing this Agreement on behalf of Tenant.

In connection with Section 2-92-320 of the Municipal Code, Tenant has executed an Economic Disclosure Statement and Affidavit which is attached to this Agreement as **Exhibit G** and which contains a certification as required under the Illinois Criminal Code, 720 ILCS 5/33E, and under the Illinois Municipal Code, 65 ILCS 5/8 10 1 et seq. Ineligibility under Section 2-92-320 of the Municipal Code continues for 3 years following any conviction or admission of a violation of Section 2-92-320. For purposes of Section 2-92-320, when an official, agent or employee of a business entity has committed any offense under the section on behalf of such an entity and under the direction or authorization of a responsible official of the entity, the business entity is chargeable with the conduct. If, after Tenant enters into a contractual relationship with any Contractor, it is determined that the contractual relationship is in violation of this subsection, Tenant must immediately cease to use the Contractor. All contracts must provide that Tenant is entitled to recover all payments made by it to the Contractor if, before or subsequent to the beginning of the contractual relationship, the use of the Contractor would be violative of this Section 22.25.

Tenant has provided Landlord and the Commissioner with an Economic Disclosure Statement and Affidavit ("EDS") for itself and EDSs for all entities with an ownership interest of 7.5

percent or more in Tenant, copies of which are attached to this Agreement as **Exhibit G**. Tenant must provide the Landlord or the Commissioner, upon request, a "no change" affidavit if the information in the EDS(s) attached as **Exhibit G** remains accurate, or revised and accurate EDS(s) if the information contained in the attached EDS(s) has changed. In addition, Tenant must provide Landlord or the City revised and accurate EDS(s) within thirty (30) days of any event or change in circumstance that renders the EDS(s) inaccurate. Failure to maintain accurate EDS(s) on file with Landlord or the City is an Event of Default.

#### Section 22.26 Security.

(a) Tenant shall be solely responsible, at its sole cost, for providing security to and within the Premises with no right of reimbursement from either Landlord or the City. Further, Tenant shall comply with, and require compliance by its Contractors, suppliers of materials and furnishers of services and employees with all present and future laws, rules, regulations, or ordinances promulgated by the City, the TSA or the FAA, or other governmental agencies to protect the security and integrity of the Airport, and to protect against access by unauthorized persons. Notwithstanding the foregoing, Tenant shall take such security precautions, at Tenant's sole expense with respect to the Premises and Tenant's and its operations, deliveries and service personnel, as Landlord, the City, the FAA, the TSA or any other federal or state agency of competent jurisdiction may in their sole discretion, from time to time, require, including without limitation, with respect to security badging of Tenant's employees. **Tenant hereby covenants and agrees with Landlord that Tenant shall indemnify, defend and hold harmless Landlord, the City and their respective agents and employees from and against any and all liabilities, claims, costs, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing out of or in any way connected with, directly or indirectly, the failure by Tenant to strictly comply with the requirements of local, state or federal law, including, but not limited to, the FAA's, the TSA's and the City's rules and regulations concerning the subject matter set forth in this Section 22.26. Tenant further agrees to reimburse Landlord and/or the City for all fines or charges imposed by the TSA or FAA against Landlord or the City as a result of Tenant's violation of any laws, rules and regulations promulgated by the TSA or FAA.**

(b) This Agreement is expressly subject to the airport security requirements of Title 49 of the United States Code, Chapter 449, as amended ("**Airport Security Act**"), the provisions of which govern airport security, including the rules and regulations promulgated under it. Tenant is subject to, and further must conduct with respect to its Contractors and the respective employees of each, such employment investigations, including criminal history record checks, as Landlord, the Commissioner, the TSA or the FAA may deem necessary. Further, in the event of any threat to civil aviation, as defined in the Airport Security Act, Tenant must promptly report any known information in accordance with those regulations promulgated by the United States Department of Transportation, the TSA and by the City. Tenant must, notwithstanding anything contained in this Agreement to the contrary, at no additional cost to Landlord or the City, perform under this Agreement in compliance with those guidelines developed by the City, the TSA and the FAA with the objective of maximum security enhancement. The drawings, plans, and specifications provided by Tenant under this Agreement must comply with those guidelines for airport security developed by the City, the TSA and the FAA and in effect at the time of their submission.

(c) Gates and doors located on the Premises, if any, that permit entry into restricted areas at the Airport must be kept locked by Tenant at all times when not in use. Gate or door malfunctions must be reported to Landlord and the Commissioner without delay and must be kept under constant surveillance by Tenant until the malfunction is remedied.

(d) In connection with the implementation of its security program, Tenant may receive, gain access to or otherwise obtain certain knowledge and information related to the City's overall Airport security program. Tenant acknowledges that all such knowledge and information is of a highly confidential nature. Tenant covenants that no person will be permitted to gain access to such knowledge and information, unless the person has been approved by the Commissioner in advance in writing.

(e) To the extent any of Tenant's employees require identification badges or security clearance for access at the Terminal, Tenant shall be responsible at its expense for securing such badges or clearance. Tenant shall deliver any badge applications for its employees to Landlord, who shall forward them to the Department. Landlord may apply fines, penalties or default remedies under this Agreement as required to remedy security violations or other deficiencies by Tenant, but shall not have any other responsibility or liability with respect to security issues relating to such Tenant employee badging and security clearance requirements and the screening of any such Tenant goods, products, equipment materials and supplies. Tenant shall be billed directly by the City for all costs for such badging of personnel and security clearances. If at any time more than five percent (5%) of all issued unexpired badges for any non-public area are lost, stolen, or otherwise unaccounted for, and the Department is required to reissue badges for that non-public area per the TSA, the tenant shall be liable to the City for the cost of that reissuance.

Section 22.27 Non-Discrimination and Affirmative Action. With respect to non-discrimination and affirmative action, Tenant, its agents, employees, licensees, contractors and subcontractors shall comply with all of the terms and conditions set forth in **Exhibit F**.

Section 22.28 Labor Harmony and Employee Retention.

(a) Tenant agrees that in the use of the Premises or any work performed by or on behalf of Tenant in or about the Premises, Tenant shall employ, directly or indirectly, only labor which can work in harmony with that being employed by Landlord, the City and by other tenants at the Airport. Tenant shall not employ or permit the use of any labor or otherwise take any action which might result in a labor dispute involving personnel performing work or providing services at the Airport by or on behalf of Tenant. Further, in the event of any such interference or conflict, Tenant, upon demand of Landlord or the City, shall cause such contractors or laborers causing such interference or conflict to leave the Airport immediately. In the event that Landlord or the City determines that it is necessary for public safety or the efficient operation of the Airport to post police details or to take other actions as a result of the inability of Tenant or its employees, contractors, subcontractors, or other parties performing work on or about the Premises to work in harmony with other elements of labor employed at the Airport, Tenant shall reimburse Landlord or the City, as applicable, for all reasonable and actual costs incurred by either in doing so.

(b) If Tenant's concession at the Premises is of the same type (i.e., food, retail, news/gifts or duty-free concession) as that of the immediately preceding concession operator at the Premises (the "**Predecessor Concession**"), Tenant agrees to work cooperatively in attempting to retain existing

concession employees. This will be accomplished by giving the existing concession employees preferential interviews for jobs that will be created and/or retained at the Premises.

Section 22.29 Food and Beverage Employee Discount. All tenants within the Airport shall be required to offer a ten percent (10%) discount on all food and non-alcoholic beverages compared to normal non-sale prices purchased by all employees at the Airport who have proper identification showing that they are employed at the Airport, which shall entitle such Airport employees to receive this employee discount. Although not mandatory, all tenants who operate a retail and/or service concession within the Airport may, but shall not be required, to also offer a similar discount on all products purchased or services rendered to all employees at the Airport who have proper identification showing that they are employed at the Airport.

Section 22.30 Cross Default. Notwithstanding anything to the contrary contained in this Agreement, a default of Tenant's obligations under the provisions of any other sublease with Landlord covering any other concession facilities within the Airport shall constitute a default by Tenant under this Agreement, entitling Landlord to the rights and remedies provided to it under this Agreement and at law.

Section 22.31 Airport Landing Area; National Emergency. The City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Tenant, and without interference or hindrance. The City reserves the right, but is not obligated, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Tenant in this regard. During time of war or national emergency, the City shall have the right to lease the landing area or any part thereof to the United States for government use, and, if such lease is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended. This Agreement and the provisions of this Agreement are subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

Section 22.32 Inspector General and Legislative Inspector General. It is the duty of Tenant and all officers, directors, agents, partners, and employees of Tenant to cooperate with the Inspector General and the Legislative Inspector General of the City in any investigation or hearing undertaken under Chapter 2-55 or Chapter 2 56 of the Municipal Code. Tenant understands and will abide by all provisions of Chapter 2-55 and Chapter 2 56 of the Municipal Code. Tenant must inform all Contractors of this provision and require under each Contract compliance herewith by each contractor all of their respective officers, directors, agents, partners and employees.

Section 22.33 Section 2-92-586 of the Municipal Code. Tenant is encouraged to use contractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

Section 27.34 Prohibition on Certain Contributions (Mayoral Executive Order No. 2011-4).

(a) Tenant, any person or entity who directly or indirectly has an ownership or beneficial interest in Tenant of more than 7.5 percent ("**Owners**"), spouses and domestic partners of such Owners, Tenant's Contractors, any person or entity who directly or indirectly has an ownership

or beneficial interest in any Contractor of more than 7.5 percent ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (Tenant and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "**Mayor**") or to his political fund-raising committee (i) after execution of this bid, proposal or Agreement by Tenant, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between Tenant and Landlord or the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

(b) Tenant represents and warrants that, since the date Landlord entered into the Master Lease with the City, no Identified Parties have made a contribution of any amount to the Mayor or to his political fund-raising committee.

(c) Tenant agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fund-raising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fund-raising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fund-raising committee.

(d) Tenant agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

(e) Tenant agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

(f) For purposes of this provision:

**"Bundle"** means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fund-raising committee.

**"Other Contract"** means any other agreement with the City to which Tenant is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

**"Contribution"** means a "**political contribution**" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are "**Domestic Partners**" if they satisfy the following criteria: (a) they are each other's sole domestic partner, responsible for each other's common welfare; and (b) neither party is married; and (c) the partners are not related by blood closer than would bar marriage in the State of Illinois; and (d) each partner is at least 18 years of age, and the

partners are the same sex, and the partners reside at the same residence; and (e) two of the following four conditions exist for the partners: (i) The partners have been residing together for at least 12 months; (ii) The partners have common or joint ownership of a residence; (iii) The partners have at least two of the following arrangements: a joint ownership of a motor vehicle; b. a joint credit account; c. a joint checking account; d. a lease for a residence identifying both domestic partners as tenants; (iv) Each partner identifies the other partner as a primary beneficiary in a will.

**“Political fund-raising committee”** means a **“political fund-raising committee”** as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Section 27.35 City Ethics Ordinance. Tenant covenants that no payment, gratuity or offer of employment must be made in connection with this Agreement by or on behalf of any Contractors or higher tier Contractors or anyone associated with them as an inducement for the award of a subcontract or order; and Tenant further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 of the Municipal Code is voidable as to the City.

Section 22.36 Business Relations with Elected Officials. Pursuant to Section 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the city, or any person acting at the direction of such official, to contact, either orally or in writing, any other city official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any city council committee hearing or in any city council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. **Violation of §2-156-030(b) by any elected official with respect to this Agreement is grounds for termination of this Agreement.** Section 2-156-080 defines a **“business relationship”** as any contractual or other private business dealing of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest will not include: (1) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (2) the authorized compensation paid to an official or employee for his office or employment; (3) any economic benefit provided equally to all residents of the city; (4) a time or demand deposit in a financial institution; or (5) an endowment or insurance policy or annuity contract purchased from an insurance company. A **“contractual or other private business dealing”** will not include any employment relationship of an official’s spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

Section 22.37 Eligibility to do Business with the City. Failure by Tenant or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City as required by Section 1-23-030 of the Municipal Code of Chicago shall be grounds for termination of this Agreement.

Section 22.38 2014 Hiring Prohibitions.

(a) The City is subject to the June 16, 2014 “City of Chicago Hiring Plan” (“**City Hiring**

Plan”) entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(b) Tenant is aware that City policy prohibits City employees from directing any individual to apply for a position with Tenant, either as an employee or as a subcontractor, and from directing Tenant to hire an individual as an employee or as a subcontractor. Accordingly, Tenant must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel of Tenant in connection with this Agreement are employees or subcontractors of Tenant, not employees of the City. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel of Tenant.

(c) Tenant will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel associated with this Agreement, or offer employment to any individual to provide services associated with this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(d) In the event of any communication to Tenant by a City employee or City official in violation of Section 22.38(b) above, or advocating a violation of Section 22.38(c) above, Tenant will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the Commissioner.

Section 22.39 Visual Artists Rights Act. Tenant will cause any artist who creates artwork for the Premises to waive any and all rights in the artwork that may be granted or conferred on any work of visual art (the “**Artwork**”) under Section 106A and Section 113 of the United States Copyright Act, (17 U.S.C. § 101 *et seq.*) (the “**Visual Artists Rights Act**”). The waiver must include, but is not limited to, the right to prevent the removal, storage, relocation, reinstallation, or transfer of the Artwork. Tenant shall acknowledge and will cause the artist to acknowledge that such removal, storage, relocation, reinstallation or transfer of the Artwork may result in the destruction, distortion, mutilation or other modification of the Artwork. Further, Tenant shall acknowledge and consent and will cause the artist to acknowledge and consent that the Artwork may be incorporated or made part of a building or other structure in such a way that removing, storing, relocating, reinstalling or transferring the Artwork will cause the destruction, distortion, mutilation or other modification of the Artwork. Tenant represents and warrants that Tenant will obtain a waiver of the applicable sections of the Visual Artists Rights Act as necessary from any employees and subcontractors, or any other artists. Tenant must provide Landlord and the City with copies of any such waivers required by the Visual Artists Rights Act prior to installation of any Artwork in the Premises.

Section 22.40 Avigation Easement. There is reserved to the City, its successors and assigns for



the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the Premises. This public right of flight includes the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or landing at, taking off from, or operation on the Airport. Tenant by accepting this Agreement agrees for itself, its successors, and assigns that it will not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from Airport or otherwise constitute a hazard. If the covenants contained herein are breached, Landlord and the City reserve the right to enter upon the Premises and cause the abatement of the interference at the expense of Tenant.

Section 22.41 Severability. Whenever possible, each provision of this Agreement must be interpreted in such a manner as to be effective and valid under applicable law. However, notwithstanding anything contained in this Agreement to the contrary, if any provision of this Agreement is under any circumstance prohibited by or invalid under applicable law, the provision is severable and deemed to be ineffective, only to the extent of the prohibition or invalidity, without invalidating the remaining provisions of this Agreement or the validity of the provision in other circumstances.

Section 22.42 Special Conditions. In connection with the execution of this Agreement, Tenant warrants and represents statements (a) through (k) below are true as of the date of this Agreement. If during the Term there is any change in circumstances that would cause a statement to be untrue, Tenant must promptly notify Landlord and the Commissioner in writing. Failure to do so will constitute an Event of Default. Tenant shall incorporate any of the following provisions set forth in this Section 22.42 which are applicable to Contracts entered into with any suppliers of materials, furnishers of services, contractors, or that may provide any materials, labor or services in connection with this Agreement, such that the parties warrant, represent and covenant to Tenant as to the matters set forth in this Section 22.42. Tenant shall cause its Contractors to execute those affidavits and certificates that may be necessary in furtherance of these provisions. The certifications must be attached and incorporated by reference in the applicable agreements. If any Contractor is a partnership or joint venture, Tenant must also include provisions in its subcontract insuring that the entities comprising the partnership or joint venture are jointly and severally liable for its obligations under it. Tenant acknowledges that Landlord is executing this Agreement in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing Landlord to enter into and execute this Agreement. In the event of any breach of the foregoing representations and warranties by Tenant, Landlord shall have the right, in addition to any other remedies provided under this Agreement or at law, to immediately terminate this Agreement upon written notice to Tenant. In the event of any such termination by Landlord, Tenant shall, immediately on receipt of Landlord's termination notice, close the Premises for business and surrender possession of the Premises to Landlord without Landlord resorting to any other legal process.

(a) Tenant is financially solvent and Tenant holds itself to very high standards of quality and professionalism. Tenant is competent to perform as required under this Agreement; this Agreement is feasible of performance by Tenant in accordance with all of its provisions and requirements; Tenant has the full power and is legally authorized to perform or cause to be performed its obligations under this Agreement under the terms and conditions stated in this Agreement; and Tenant can and will perform, or cause to be performed, all of its obligations under this Agreement in accordance with the provisions and requirements of this Agreement.

(b) Tenant is a \_\_\_\_\_ duly organized and validly existing and in good standing under the laws of state of \_\_\_\_\_; Tenant is qualified to do business in the State of Illinois; and Tenant has a valid current business privilege license to do business in the City, if required by applicable law.

(c) The person signing this Agreement on behalf of Tenant has been duly authorized to do so by Tenant; all approvals or consents necessary in order for Tenant to execute and deliver this Agreement have been obtained; and neither the execution and delivery of this Agreement, the consummation of the transactions contemplated, nor the fulfillment of or compliance with the terms and conditions of this Agreement:

(i) conflict with or result in a breach, default or violations of: Tenant's organizational documents; any law, regulation, ordinance, court order, injunction, or decree of any court, administrative agency or governmental body, or any of the terms, conditions or provisions of any restriction or any agreement or other instrument to which Tenant is now a party or by which it is bound; or

(ii) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Tenant under the terms of any instrument or agreement.

(d) There is no litigation, claim, investigation, challenge or other proceeding now pending or, to Tenant's knowledge after due and complete investigation, threatened, challenging the existence or powers of Tenant, or in any way affecting its ability to execute or perform under this Agreement or in any way having a material adverse effect on the operations, properties, business or finances of Tenant.

(e) This Agreement constitutes the legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium and other laws affecting creditors' rights and remedies generally and by the application of equitable principles.

(f) No officer, agent or employee of the City is employed by Tenant or has a financial interest directly or indirectly in this Agreement, any contract or subcontract thereunder, or the compensation to be paid under it except as may be permitted in writing by the Board of Ethics established under Chapter 2 156 of the Municipal Code or as may be permitted by law.

(g) Tenant has not knowingly used and will not knowingly use the services of any person or entity for any purpose in its performance under this Agreement, when such person or entity is ineligible to perform services under this Agreement or in connection with it, as a result of any local, state or federal law, rule or regulation, or when person or entity has an interest that would conflict the performance of services under this Agreement.

(h) There was no broker instrumental in consummating this Agreement and no conversations or prior negotiations were had with any broker concerning the rights granted in this Agreement with respect to the Premises. Tenant must hold Landlord and the City harmless against any claims for brokerage commission arising out of any conversations or negotiations had by Tenant with any broker.

(i) To the best of Tenant's knowledge, Tenant nor any Affiliate of Tenant is listed on any of the following lists maintained by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U. S. Department of Commerce or their successors, or on any other list of persons with which the City may not do business under applicable law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, and Entity List, and the Debarred List, or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities.

(j) Tenant, and to the best of Tenant's knowledge, its Affiliates, any of their respective Owners, and any of Tenant's directors, officers, members, or partners:

(i) have no interest, directly or indirectly, that conflicts in any manner or degree with Tenant's performance under this Agreement;

(ii) have no outstanding parking violation complaints or debts, as the terms are defined in Section 2 92 380 of the Municipal Code (with the exception of any debt or obligation that is being contested in a pending administrative or judicial proceeding) and agrees that, for the Term, they will promptly pay any debts, outstanding parking violation complaints or monetary obligations to the City that may arise during the Term, with the exception of any debt or obligation that is being contested in a pending administrative or judicial proceeding;

(iii) are not in default under any other City contract or agreement as of the date of this Agreement, nor have been deemed by the City to have been in default of any other City contract or agreement within five years immediately preceding the date of this Agreement;

(iv) are not in violation of the provisions of § 2 92 320 of the Municipal Code pertaining to certain criminal convictions or admissions of guilt and are not currently debarred or suspended from contracting by any Federal, State or local governmental agency;

(v) are not delinquent in the payment of any taxes due to the City;

(vi) will not at any time during the Term have any interest or acquire any interest, directly or indirectly, that conflicts or would or may conflict in any manner or degree with Tenant's performance under this Agreement; and

(vii) will not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft at the Airport under current or future conditions or that might otherwise constitute a hazard to the operations of the Airport or to the public generally.

(k) Except only for those representations, statements, or promises expressly contained in this Agreement, including any Exhibits attached to this Agreement and incorporated by reference in this Agreement, no representation, warranty of fitness, statement or promise, oral

or in writing, or of any kind whatsoever, by the City, its officials, agents, or employees, has induced Tenant to enter into this Agreement or has been relied upon by Tenant, including any with reference to:

- (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement;
- (ii) the nature of the services to be performed;
- (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities, needed for the performance of this Agreement;
- (iv) the general conditions that may in any way affect this Agreement or its performance;
- (v) the compensation provisions of this Agreement; or
- (vi) any other matters, whether similar to or different from those referred to in clauses (i) through (iv) immediately above, affecting or having any connection with this Agreement, the negotiation of this Agreement, any discussions of this Agreement, the performance of this Agreement or those employed in connection with it.

Section 22.43 Multi-Project Labor Agreement.

(a) The City has entered into the Multi-Project Agreement ("PLA") with various trades regarding projects involving construction, demolition, maintenance, rehabilitation, and/or renovation work. During the term of this Agreement, Tenant, Subtenants, and Subcontractors shall not contract or subcontract, nor permit any other person, firm, company, or entity to contract or subcontract, any construction, demolition, rehabilitation or renovation work for the project work covered under this Agreement or within the trade jurisdiction of the signatory labor organization, to be performed at the site of construction or off-site solely for installation at the Premises, (including all tenant improvements, if applicable), unless such work is performed only by a person, firm or company signatory, or will to become a signatory, to the applicable area-wide collective bargaining agreement(s) with the union(s) or the appropriate trade/craft unions(s) or subordinate body or affiliate of the Chicago & Cook County Building & Construction Trades Council ("Council") or the Teamsters' Joint Council No. 25.

(b) Said provisions of this Agreement shall be included in all requests for bids and/or proposals and shall be explicitly include din all contracts or subcontracts of whatsoever tier by all contractors and subcontractors; provided that the total project value excess \$25,000.00. In the event a dispute arises with respect to the applicability of the PLA to a particular project, the parties agree to submit said dispute to final and binding arbitration before an arbiter who shall be mutually agreed to by the parties.

Section 22.44 Labor Peace Agreement. Tenant has an ongoing obligation to comply with the Labor Peace Agreement ("LPA") Ordinance, MCC 10-36-210. Tenant acknowledges that the following provisions of the Memorandum of Agreement (the "MOA") between Landlord and Unite Here Local 1 are required to be incorporated into this Agreement, and as such agrees to such provisions. For purposes of the following provisions, Tenant is referred to as "Employer"

and Union is a reference to "Unite Here Local 1":

(a) The Employer will take a neutral approach to unionization of employees. The Employer will not do any action nor make any statement that will directly or indirectly state or imply any opposition by the Employer to the selection by such employees of a collective bargaining agent, or preference for or opposition to any particular union as a bargaining agent.

(b) The Employer shall follow Worker Retention procedures as provided in Exhibit B of the MOA, which is attached to this Agreement as **Exhibit P**, which shall only apply to any existing union-represented employees whose job is or will be eliminated as a result of the Employer obtaining concessions at the Airport. Whenever the Employer finds it necessary to hire additional Employees for vacancies in job classifications covered by this Agreement in the Operations, the Employer shall notify the Union to request applicants for such vacancies. When requesting applicants, the Employer shall state the qualifications applicants are expected to possess. The Union may furnish applicants for job vacancies specified by the Employer. The Union's selection of applicants for referral shall be on a non-discriminatory basis and shall not be based upon or in any way affected by membership in the Union or the Union's bylaws, rules, regulations, constitutional provisions, or any other aspects or obligation of Union membership policies or requirements, or upon personal characteristics of an applicant where discrimination based upon such characteristics is prohibited by law. The Employer agrees that any interest demonstrated by an applicant in joining the Union shall not constitute grounds for discriminatory or disparate treatment nor adversely impact the applicant's ability to be hired by the Employer. The Employer shall be the sole judge of an applicant's suitability, competence and qualifications to perform the work of any job to be filled.

(c) If the Union provides written notice to the Employer of its intent to organize employees covered by this Agreement, the Employer shall provide access to its premises and to such employees by the Union. The Union may engage in organizing efforts in non-work areas during employees' non-working times (before work, after work, and during meals and breaks) and/or during such other periods as the parties may mutually agree upon. "Organizing" includes communicating with employees before and after recognition of the Union as provided in Paragraph (e) below. The Employer shall request the granting of security clearance from the appropriate Airport Authority and use its best efforts to obtain clearance for the organizers. In the event security clearance is not granted to the Union, the Employer shall grant a commercially reasonable number of eligible employees a security badge with escort privileges to escort the Union into secure areas of the Airport. The Union shall exercise due care so that its access to employees does not disrupt the Employer's business or violate any security regulations.

(d) Within ten (10) days following receipt of written notice of intent to organize employees, the Employer will furnish the Union with a complete list of employees, including both full and part-time employees, showing their job classifications, departments, including terminals, addresses, phone numbers and email addresses if known to the Employer. Thereafter, the Employer will provide updated complete lists monthly.

(e) The Union may request recognition as the exclusive collective bargaining agent for the Employees in a unit consisting of all the operations. The Union may request recognition at any time a substantial and representative complement of Employees is actively at work in the

operations, even if some of the operations have not yet opened at the time the Union makes its request. The Arbitrator identified in the MOA, or another person mutually agreed to by Employer and Union, will conduct a review of Employees' authorization cards and membership information submitted by the Union in support of its claim to represent a majority of such employees. The review shall involve a comparison of the authorization card signatures of the employees to W-4 or I-9 forms for such Employees provided to the Arbitrator by the Employer. The identity of all card-signers shall be kept confidential from the Employer. Such review shall take place no more than ten (10) days after the Union's request absent mutual agreement to extend time. If that review establishes that a majority of such Employees has designated the Union as their exclusive collective bargaining representative or joined the Union, the Employer will recognize the Union as such representative of such Employees. The Employer will not file a petition with the National Labor Relations Board for any election in connection with any demands for recognition provided for in this agreement. The Union and the Employer agree that if any other person or entity petitions the National Labor Relations Board for any election as a result of or despite recognition of the Union pursuant to this Paragraph, (a) the Employer and the Union will each request that the NLRB dismiss the petition on grounds of recognition bar or, if they have agreed to a collective bargaining agreement covering Employees at the time the petition is filed, on grounds of contract bar, (b) if the petition is not dismissed, the Employer and the Union shall agree to a full consent election agreement under Section 102.62(c) of the NLRB's Rules and Regulations, and (c) the Employer and the Union shall at all times abide by the provisions of this Agreement except that the Union may file unfair labor practice charges. Except as provided above, the Union and the Employer will not file any charges with the National Labor Relations Board in connection with any act or omission occurring within the context of this agreement; arbitration under the MOA shall be the exclusive remedy.

(f) If the Union is recognized as the exclusive collective bargaining representative as provided in Paragraph (e) above, negotiations for a collective bargaining agreement shall be commenced immediately, unless the Employer has made an assignment to a multiemployer association as provided in the MOA. To ensure labor peace throughout the collective bargaining process, if the parties are unable to reach agreement on a collective bargaining agreement within 120 days after the date the Union reasonably proposes as the parties' first collective bargaining session all unresolved issues shall be submitted for resolution to final and binding arbitration pursuant to the MOA. The arbitrator identified in the MOA shall be the arbitrator, unless another arbitrator is mutually agreed to by the parties. The arbitrator shall be guided by, but not limited to, the following considerations: (a) wages, hours and other terms and conditions of employment of the Employer's competitors; (b) the Employer's financial capacity (if the Employer places this in issue); (c) cost of living as it affects the Employees; (d) ability of Employees to earn a living wage for the support of themselves and their families; (e) the proposals made by the parties during bargaining; (f) regional and local market conditions and (g) any other factors normally or traditionally considered in the determination of wages, hours and conditions of employment.

Section 22.45 Successors. Subject to the terms of Article 15 hereof, all rights and liabilities herein given to, or imposed upon, the parties to this Agreement shall inure to and be imposed upon the respective heirs, executors, administrators, successors and assigns of the said parties; and if there shall be more than one Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. Nothing in this Agreement, express or implied, is intended to confer on

any other person, sole proprietorship, partnership, corporation, trust or other entity, other than the parties and their successors and assigns, any right, remedy, obligation, or liability under, or by reason of, this Agreement unless otherwise expressly agreed to by the parties in writing. No benefits, payments or considerations received by Tenant for the performance of services associated and pertinent to this Agreement must accrue, directly or indirectly, to any employees, elected or appointed officers or representatives, or to any other person or persons identified as agents of, or who are by definition an employee of, the City. Neither this Agreement nor any rights or privileges under this Agreement are an asset of Tenant or any third party claiming by or through Tenant or otherwise, in any bankruptcy, insolvency or reorganization proceeding.

Section 22.46 Tenant's Infrastructure Contribution. In consideration of Landlord entering into this Agreement with Tenant and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Tenant and in order to reimburse Landlord for certain funds to be expended by Landlord with respect to the making changes to the infrastructure of the Airport for the overall concession program in the Airport (including changes necessary for Tenant's construction of the Premises), including the Capital Investment, Tenant hereby agrees to pay to Landlord the amount of \_\_\_\_\_ ("**Tenant's Contribution**"). Tenant's Contribution shall be due and payable in full and remitted to Landlord simultaneously with Tenant's execution and delivery of this Agreement and is a condition precedent to Landlord's obligations to Tenant under this Agreement. Landlord shall not be obligated to enter into and return this Agreement to Tenant without receipt of Tenant's Contribution in full. Under no circumstances shall Tenant's Contribution be considered as payment of Rents under any of the provisions of this Agreement or be considered as Rent (whether the Minimum Annual Guarantee, Percentage Rent or Additional Rent) under any of the provisions of the Master Lease or for any purposes set forth in this Agreement or in the Master Lease.

Section 22.47 Minimum Wage. Tenant agrees that this Agreement is subject to Mayoral Executive Order 2014-1 ("Executive Order 2014-1"), which provides for a fair and adequate Minimum Wage to be paid to employees of City's concessionaires and their contractors, subcontractors and sub-lessees. Tenant and any of its subtenants, contractors and subcontractors must pay the Minimum Wage set forth in Executive Order 2014-1 and comply with any applicable regulations issued by the Chief Procurement Office. As of July 1, 2015 the Minimum Wage for all employees to be paid pursuant to Executive Order 2014-1 is \$13 per hour. Additional requirements regarding this Section 22.47 and information regarding Executive Order 2014-1 is attached hereto as **Exhibit E**.

Section 22.48 FAA Provisions.

(a) No Exclusive Rights. Nothing contained in this Agreement must be construed to grant or authorize the granting of an exclusive right, including an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the City reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature. It is clearly understood by Tenant that no right or privilege has been granted that would operate to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including maintenance and repair) that it may choose to perform.

(b) No Obstructions. Tenant must comply with applicable notification and review

requirements covered in Part 77 of the Federal Aviation Regulations if any future structure or building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. Tenant, by accepting the Lease, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the Premises above the applicable mean sea level elevation set forth in Part 77 of the Federal Aviation Regulations. If the covenants contained herein are breached, the City serves the right to enter upon the Premises and to remove the offending structure or object and/or cut down the offending tree, all of which will be at the expense of Tenant.

(c) Airport Rules and Regulations. Tenant shall faithfully observe and comply, and shall cause its Subtenants to faithfully observe and comply, with any reasonable rules which the City may from time to time make provided that such rules apply to all similarly situated tenants, licensees or Tenants, if any, and are related to the safety, care, appearance, reputation, operation or maintenance of the Airport, the Premises, the Terminal or the Common Areas or the comfort of tenants or others using such areas or facilities. The City shall uniformly enforce such rules and regulations as to all similarly-situated tenants, including Tenant and its Subtenants, but shall not have any duty or obligation to Tenant to enforce such rules or the terms and conditions in any other lease as against any other tenants and the City shall not be liable to Tenant for violations of the same by other tenants, their employees, contractors, agents or licensees.

*[The rest of the page intentionally left blank. Signatures on following page.]*



IN WITNESS WHEREOF, Landlord and Tenant, personally or by their duly authorized agents, have executed this Agreement as of the day and year first above written.

**LANDLORD:**

Midway Partnership, LLC,  
an Illinois limited liability company

By: \_\_\_\_\_  
Name:  
Title:

**TENANT:**

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**PREMISES**

[ATTACH]

**EXHIBIT B**

**DESIGN & CONSTRUCTION REQUIREMENTS**

**EXHIBIT C**

**SPECIAL CONDITIONS REGARDING ACDBE PARTICIPATION & ACDBE  
COMPLIANCE PLAN**

[ATTACH EXHIBIT C FROM MASTER LEASE]

**EXHIBIT D**

**INSURANCE REQUIREMENTS**

[ATTACH EXHIBIT R FROM MASTER LEASE]

**EXHIBIT E**

**MINIMUM WAGE REQUIREMENTS**

[ATTACH]

**EXHIBIT F**

**NON-DISCRIMINATION & AFFIRMATIVE ACTION**

[ATTACH]

**EXHIBIT G**

**ECONOMIC DISCLOSURE STATEMENTS AND AFFIDAVITS**

[ATTACH]



**EXHIBIT H**

**VALUE PRICING REQUIREMENTS**

[ATTACH BASED ON FINAL LANGUAGE OF MASTER LEASE]

**EXHIBIT I**

**AIRPORT CONCESSIONS HANDBOOK**

**[ATTACH EXHIBIT I FROM MASTER LEASE]**

**EXHIBIT J**

**FORM OF ANNUAL CERTIFIED STATEMENT**

**[ATTACH EXHIBIT J FROM MASTER LEASE]**

**EXHIBIT K**

**FORM OF MONTHLY CERTIFIED STATEMENT**

[ATTACH EXHIBIT K FROM MASTER LEASE]

**EXHIBIT L**

**SERVICE AND PERFORMANCE OPERATING STANDARDS**

[ATTACH EXHIBIT L FROM MASTER LEASE]

**EXHIBIT M**

**SUSTAINABLE AIRPORT MANUAL**

**[ATTACH EXHIBIT N FROM MASTER LEASE]**

**EXHIBIT N**

**MEMORANDUM OF COMMENCEMENT DATE**

[ATTACH]

**EXHIBIT O**

**TENANT'S INITIAL MENU OFFERING**

[ATTACH]



## **EXHIBIT P**

### **EXHIBIT B OF THE MOA**

#### **Employee Retention Procedures**

1. The Employer shall give priority in its hiring needs to employees represented by the Union at the Airport whose jobs are or will be eliminated as a result of being employed in outlets which have been or will be closed as a result of the Employer obtaining concessions operations at the Airport, within six months before or after the Employer's first commencement of operations at the Airport. The Union shall be responsible to acquire the necessary information and compile a list of all such employees organized by job classification. Job classification shall be based on performance of similar duties even if called by different names by different employers. Within each job classification, employees shall be ranked in accordance with their total length of continuous service at the Airport, provided that a gap of not more than six months shall not be deemed to interrupt continuous service. The list shall include for each employee the employee's address and all other contact information available to the Union. The Union shall provide the list to the Employer.

2. The Employer shall offer employment to employees on the list in the job classifications needed by the Employer in descending order of continuous service at the airport. The Employer is not required to offer employment or hire any employees on the list if such an employee is unable to obtain security clearance to work at the Airport. The Employer requires security clearance to work at the Airport for all employees whether the location of their unit is positioned before or after TSA security checkpoints. The Employer and the employee may at any time mutually agree to postpone the start date of employment so the employee can give his or her current employer advance notice of changing jobs, provided that the employee continues to work at the outlet during such period.

3. The Employer shall facilitate training to employees whom it is to retain as provided above, either to improve their skills to the level necessary to obtain employment with the Employer or, if they are unable to meet standards imposed by the Employer, to qualify them for different kinds of work that the Employer has available in other classifications that has not been taken by employees on the list in those classifications. The Employer shall pay the costs of such training which it may provide directly through its own trainers and facilities or by contract to one or more joint labor-management training programs offered by or through the Union or otherwise acceptable to the Union. The Employer's training obligations shall cease after the list described in paragraph 1 is exhausted, and its costs to facilitate training as described herein shall not exceed \$400 per employee. The Employer is not required to provide training to any employee or prospective employee who is unable to obtain security clearance to work at the Airport.

4. Should the Employer operate interim facilities before opening permanent locations, Paragraphs 1 and 2 of this Exhibit B shall apply to the temporary jobs. Employees who transfer into the temporary jobs will have priority over other employees on the list to transfer into the permanent jobs, even though those on the list may have more continuous service at the Airport.

5. Should the Employer offer jobs in stages throughout any phased opening of its concessions, Paragraphs 1 and 2 of this Exhibit B shall be repeated for each stage.

6. The Employer shall not unlawfully discriminate against any employees retained pursuant to these procedures, in comparison to the treatment of new employees.

7. After hiring, all employees who at the time of hiring are represented by the Union will be subject to a 90-day probationary period. At the conclusion of that period, the Employer may choose to continue employment or terminate such Employee with or without cause unless otherwise provided in an applicable collective bargaining agreement.

8. Nothing in this Exhibit B shall be construed to require the Employer to hire workers at the Airport who were not represented by the Union.

9. Nothing in this Exhibit B shall require the Employer to maintain the wages or benefits, or other terms of employment of any employee hired from the list described in paragraph 1 above. The Employer may unilaterally set the wages, benefits, or other terms of employment of any employee hired from the list described in paragraph 1 unless the Employer has already reached a Collective Bargaining Agreement ("CBA") with the Union in which case the Employer shall provide whatever wages, benefits, or other terms of employment the CBA specifies. The Employer is subject to local wage laws.

**EXHIBIT P**  
**Insurance Requirements**

## INSURANCE REQUIREMENTS

Chicago Department of Aviation  
Concession Redevelopment and Management Lease Agreement  
Chicago Midway Airport  
(Subtenant's Requirements)

The Subtenant must provide and maintain at Subtenant's own expense during the term of the Lease and during the time period following expiration or termination if Subtenant is required to return to the Premises and perform any additional work or services, and until each and every obligation of the Subtenant contained in this Lease has been fully performed, the insurance coverages and requirements specified below, insuring all operations under this Lease.

### **A. INSURANCE TO BE PROVIDED**

#### **1) Workers Compensation and Employers Liability**

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Lease and Employers Liability coverage with limits of not less than \$ 100,000 each accident, illness or disease.

#### **2) Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 (landside), \$5,000,000 (airside access), \$10,000,000 (runway access) per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent), host liquor liability (if applicable).

The City of Chicago is to be named as an additional insured under the Subtenant's and any subcontractor's policy. Such additional insured coverage shall be provided on ISO form CG 2010 for ongoing operations or on a similar additional insured form acceptable to the City. The additional insured coverage must not have any limiting endorsements or language under the policy such as, but not limited to, Subtenant's sole negligence or the additional insured's vicarious liability. Subtenant's liability insurance shall be primary, without right of contribution by any other insurance or self-insurance maintained by or available to the City. Subtenant must ensure that the City is an additional insured on insurance required from subcontractors.

#### **3) Automobile Liability (Primary and Umbrella)**

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Subtenant must provide Automobile Liability Insurance with limits of not less than \$1,000,000 (landside), \$5,000,000 (airside access), \$10,000,000 (runway access) per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

#### **4) Property**

Subtenant must maintain All Risk Property Insurance for the Leased Space including improvements and betterments in the amount of their full replacement cost. Coverage extensions must include Business Income and extra expense. The City of Chicago is to be named as an additional insured and loss payee, as their interest may appear.

Subtenant is responsible for all loss or damage to personal property (including but not limited to material, equipment, tools, fixtures and contents) of Subtenant.

5) Liquor Liability

When applicable, Subtenant must maintain Liquor Liability Insurance with limits of not less than \$1,000,000 per occurrence, combined single limit. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from this Agreement or Subtenant's operations under this Lease.

6) All Risk Builders Risk

When Subtenant undertakes any construction, including improvements, betterments, upgrades and/or repairs, the Subtenant must provide or cause to be provided, All Risk Builders Risk Insurance to cover materials, supplies, equipment, machinery and fixtures that will be part of the of the permanent facility/project. The City of Chicago is to be named as an additional insured and loss payee as its interest may appear.

The Subtenant is responsible for all loss or damage to City of Chicago property at full replacement cost.

The Subtenant is responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by Subtenant.

**B. ADDITIONAL REQUIREMENTS**

The Subtenant must furnish the City of Chicago, Department of Aviation, 10510 W. Zemke Road, 60666, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Lease, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Lease. The Subtenant must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to execution of Lease. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Lease have been fully met or that the insurance policies indicated on the certificate are in compliance with all Lease requirements. The failure of the City to obtain certificates or other insurance evidence from Subtenant is not a waiver by the City of any requirements for the Subtenant to obtain and maintain the specified coverages. The Subtenant shall advise all insurers of the Lease provisions regarding insurance. Non-conforming insurance does not relieve Subtenant of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Lease, and the City retains the right to stop work until proper evidence of insurance is provided, or the Lease may be terminated.

The Subtenant must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Subtenant.

The Subtenant hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Subtenant in no way limit the Subtenant's liabilities and responsibilities specified within the Lease or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Subtenant under the Lease.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Lease or any limitation placed on the indemnity in this Lease given as a matter of law.

If the Subtenant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Subtenant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

If Subtenant is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Subtenant must require all subcontractors to provide the insurance required herein, or Subtenant may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Subtenant unless otherwise specified in this Lease. Subtenants must ensure that the City is an additional insured on Endorsement CG 2010 of the insurance required from subcontractors.

If Subtenant or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

Notwithstanding any provision in the Lease to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

**INSURANCE REQUIREMENTS**  
Chicago Department of Aviation  
Contractor Requirements for work on Premises by Subtenant

The Subtenant must provide and maintain at Subtenant's own expense or cause to be maintained by their Contractor, the insurance coverages and requirements specified below, insuring all operations related to the Subtenants Agreement and contract with its Contractor.

**A. INSURANCE TO BE PROVIDED**

**1) Workers Compensation and Employers Liability**

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under the Agreement and Employers Liability coverage with limits of not less than \$ 1,000,000 each accident, illness or disease.

**2) Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City of Chicago is to be named as an additional insured under the Subtenant's Contractor and any subcontractor's policy. Such additional insured coverage shall be provided on ISO form CG 2010 for ongoing operations and CG 2037 after project completion or on a similar additional insured form acceptable to the City. The additional insured coverage must not have any limiting endorsements or language under the policy such as, but not limited to, Subtenant's Contractor sole negligence or the additional insured's vicarious liability. Subtenant's Contractor liability insurance shall be primary, without right of contribution by any other insurance or self-insurance maintained by or available to the City. Subtenant's Contractor must ensure that the City is an additional insured on insurance required from subcontractors.

**3) Automobile Liability (Primary and Umbrella)**

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Subtenant's Contractor must provide Automobile Liability Insurance with limits of not less than \$5,000,000 per occurrence (for airside access) and \$2,000,000 (for landside) for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

Subtenant's Contractor is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools and supplies), owned, rented or used by the Subtenant's Contractor.

Subtenant's Contractor is responsible for all loss or damage to City of Chicago property at full replacement cost that results from the work project.

4) Risk Builders Risk

When Subtenant undertakes any construction, including improvements, betterments, upgrades and/or repairs, the Subtenant must provide or cause to be provided, All Risk Builders Risk Insurance to cover materials, supplies, equipment, machinery and fixtures that will be part of the of the permanent facility/project. The City of Chicago is to be named as an additional insured and loss payee as its interest may appear.

5) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with the Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

**B. ADDITIONAL REQUIREMENTS**

The Subtenant must cause its Contractor to furnish the City of Chicago, Department of Aviation, 10510 W. Zemke Road, 60666 and to the Tenant (\_\_\_\_), original Certificates of Insurance, or such similar evidence, to be in force on the date of the Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Subtenant's Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to execution of Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Subtenant's Contractor is not a waiver by the City of any requirements for the Subtenant's Contractor to obtain and maintain the specified coverages. The Subtenant's Contractor shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Subtenant's Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

Subtenant's Contractor must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Subtenant's Contractor.

Subtenant's Contractor hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Subtenant's Contractor in no way limit the Subtenant's Contractor's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Subtenant's Contractor under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.



If the Subtenant's Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Subtenant's Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

If Subtenant's Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Subtenant's Contractor must require their subcontractors to provide the insurance required herein, or Subtenant's Contractor may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Subtenant's Contractor's unless otherwise specified in this Agreement. Subtenants must ensure that the City is an additional insured on Endorsement CG 2010 of the insurance required from subcontractors.

If Subtenant's Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

Notwithstanding any provision in the Agreement to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

January 25, 2017

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Aviation, I transmit herewith an ordinance authorizing the execution of an intergovernmental agreement with the Illinois State Toll Highway Authority.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor



## CITY COUNCIL

### CITY OF CHICAGO

**COUNCIL CHAMBER**  
CITY HALL SECOND FLOOR  
121 NORTH LA SALLE STREET  
CHICAGO, ILLINOIS 60602  
TELEPHONE: 312-744-6828  
FAX: 312-744-1024



### COMMITTEE MEMBERSHIPS

AVIATION  
(CHAIRMAN)

BUDGET & GOVERNMENT OPERATIONS

HEALTH & ENVIRONMENTAL PROTECTION

RULES & ETHICS

ECONOMIC, CAPITAL & TECHNOLOGY  
DEVELOPMENT

WORKFORCE DEVELOPMENT & AUDIT

FINANCE

**MICHAEL R. ZALEWSKI**

**ALDERMAN, 23RD WARD**  
6247 SOUTH ARCHER AVENUE  
CHICAGO, ILLINOIS 60638  
TELEPHONE: (773) 582-4444  
MZALEWSKI@CITYOFCHICAGO.ORG

February 22, 2017

To the President and Members of the City Council:

Your Committee on Aviation begs to leave report and recommend that your Honorable Body pass the proposed ordinance(s) transmitted herewith.

A meeting was held on February 16, 2017 in Council Chambers at City Hall to consider the following ordinance(s):

O2017- 695 Concessions Redevelopment and Management Lease  
Agreement with Midway Partnership LLC Emanuel (Mayor)

✓ This ordinance was passed viva voce of the members with one dissenting vote by Alderman Arena (45).

\* O2017 – 234 Intergovernmental agreement with Illinois State Toll Highway Authority regarding Elgin O'Hare Western Access Project  
Emanuel (Mayor)

This ordinance was passed unanimously viva voce of the members with no dissenting votes.

Respectfully submitted,

Michael R. Zalewski  
Chairman,  
Committee on Aviation