



Office of the City Clerk

City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
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In control: City Council
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Sponsors: Emanuel, Rahm
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Date	Ver.	Action By	Action	Result
12/10/2014	1	City Council	Passed	Pass
12/8/2014	1	Committee on Aviation	Recommended to Pass	Pass
11/5/2014	1	City Council	Referred	

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL MAYOR

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November 5, 2014

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 a lease and license agreement with Chicago Travel Plazas, LLC.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

X

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of local government as defined in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, and, as such, may exercise any power and perform any function pertaining to its government and affairs;

WHEREAS, the City owns and operates, through its Chicago Department of Aviation ("CDA"), an airport commonly known as Chicago O'Hare International Airport (the "Airport") and possesses the power and authority to lease premises and facilities and to grant rights and privileges with respect thereto; and

WHEREAS, the CDA recognized that a multi-alternative fuel station represented an important commerce function for the City and the Airport; and

WHEREAS, the CDA also recognized that a multi-alternative fuel station would enhance CDA's continuing efforts to make the Airport environmentally friendly; and

WHEREAS, as part of the commerce function and service needs of the Airport, the CDA issued a request for proposals ("RFP") for a multi-fuel concession station ("multi-fuel station") and determined that the respondent, Chicago Travel Plazas, LLC ("Chicago Travel") was the sole respondent; and

WHEREAS, the City and Chicago Travel desire to enter into an Agreement, substantially in the form of Exhibit 1 to this ordinance, to use certain space at the Airport for a multi-fuel concession that would allow for both conventional fuels as well as alternative energy fuels that reduce greenhouse gas emissions, food service, convenience retail, and a car wash; and

WHEREAS, the multi-fuel station will serve the passenger vehicle fueling needs of the Airport, Airport-tenants, other Airport-associated customers, businesses and the general public; and

WHEREAS, the City and Chicago Travel 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; and

WHEREAS, the City desires that the Mayor, upon recommendation of the Commissioner of CDA, ("Commissioner") have the authority to execute such Agreement; 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 herein.

SECTION 2. The Mayor or his proxy, upon recommendation of the Commissioner, is hereby authorized to execute an Agreement with Chicago Travel in substantially the form attached hereto as Exhibit 1.

SECTION 3. The Commissioner and other City officials are further authorized to enter into and to execute all documents and perform any and all acts, including promulgation of any standards, rules or regulations, as shall be necessary or advisable to carry out the purpose and intent of this ordinance.

SECTION 4. To the extent that any ordinance, resolution, rule, order or provision of the City, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 5. This ordinance shall be in full force and effect from the date of its passage and approval.

CONCESSION LEASE AND LICENSE AGREEMENT

BETWEEN

THE CITY OF CHICAGO (CHICAGO DEPARTMENT OF AVIATION)

AND

**CHICAGO TRAVEL PLAZA, LLC AT
CHICAGO O'HARE INTERNATIONAL AIRPORT**

RAHM EMANUEL MAYOR

ROSEMARIE S. ANDOLINO COMMISSIONER

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SIGNATURE PAGE

SIGNED:

CITY OF CHICAGO

By:

Mayor

Date:

RECOMMENDED BY:

Commissioner

Chicago Department of Aviation APPROVED

AS TO FORM AND LEGALITY:

Senior Counsel

Chicago Travel Plaza, LLC

By: _____,
Abdolhossein Ejtemai

Its: President of Petroleum Marketing Group, Inc., which is the Manager of PMG Airport Plazas Developers, LLC, which is the Managing Member of Tenant

Date:

COMMITTEE ON AIRPORTS

AIRPORT PLAZA

CONCESSION LEASE AND LICENSE AGREEMENT

This Concession Lease and License Agreement ("Agreement") is entered into at Chicago, Illinois, as of October 1, 2014 ("Effective Date"). The Agreement is by and between Chicago Travel Plaza, LLC an Illinois company ("Tenant"), and 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 Chicago Department of Aviation ("CDA" or "Department").

RECITALS

WHEREAS, the City owns and, through its Chicago Department of Aviation ("CDA"), operates that certain airport known as Chicago O'Hare International Airport ("Airport"); and

WHEREAS, the City has the authority to lease premises and facilities and the power to grant rights and privileges with respect to the Airport; and

WHEREAS, the City and Tenant desire to enter into an Agreement for providing in part for the use and enjoyment by Tenant of certain premises depicted in Exhibit 1 hereto ("Leased Space") owned by the City at the Airport for a multi-fuel concession that would offer both gasoline and alternative energy fuels, food service, convenience retail, and car wash for sale to the general public; and

WHEREAS, City 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, and that the City's right to monitor Tenant's performance under this Agreement is a valuable right incapable of quantification;

NOW, THEREFORE, for and in consideration of use of the premises by Tenant and payment of rent to the City, and the other promises, mutual covenants and agreements herein contained, and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

ARTICLE 1 CITY APPROVAL

This Agreement is subject to approval by the City Council of the City of Chicago. The City is not bound by the terms of this Agreement until such time as it has been approved by the City Council and has been duly executed by the Mayor of Chicago or his proxy. As provided in Section 11.3, unless expressly provided otherwise in this Agreement, any amendment of this Agreement will require execution by the Mayor or his proxy. As further provided in Section 11.3, any substantial amendment of the terms of this Agreement will require approval by the City Council. As provided in

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Section 11.13, where the approval or consent of the City is required under this Agreement, unless expressly provided otherwise in this Agreement, it means approval or consent of the Commissioner or the Commissioner's authorized representative.

ARTICLE 2 INCORPORATION OF EXHIBITS

2.1 Incorporation of Exhibits. The following exhibits are incorporated into and made a part of this Agreement:

Exhibit 1 Exhibit 2 Exhibit 3 Exhibit 4 Exhibit 5 Exhibit 6 Exhibit 7 Exhibit 8 Exhibit 9 Exhibit 10
Leased Space Rent
Tenant's Development Plan Not Used
Types of Fuel and Rates Methodology Phase 1 Environmental Assessment Not Used
Insurance Requirements
ACDBE Special Conditions and Related Forms Economic Disclosure Statement(s) and Affidavit(s)

ARTICLE 3 DEFINITIONS

3.1 Interpretation and Conventions.

A. The term "include," in all of its forms, means "include, without limitation," unless the context clearly states otherwise.

B. The term "person" includes firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

C. Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies of this Agreement are solely for convenience of reference and do not constitute a part of this Agreement, nor do they affect its meaning, construction or effect.

D. Words in the singular include the plural and vice versa. Words of the masculine, feminine or neuter gender include correlative words of the other genders. Wherever an article, section, subsection, paragraph, sentence, exhibit, appendix, or attachment is referred to, the reference is to this Agreement, unless the context clearly indicates otherwise.

E. Where the approval or consent of Tenant is required under this Agreement, it means the written approval or consent of the Tenant's authorized representative. To be binding on the City, all approvals or consents must be in writing and signed by the appropriate City representative.

3.2 Definitions

In addition to terms defined elsewhere in this Agreement, the following words and phrases, when capitalized, have the following meanings:

"Additional Rent" has the meaning set forth in Section 7.1.

"Additional Space" means space that is added to Leased Space after the Effective Date pursuant to Section 5.1, but does not include Relocation Space. Additional Space, if any, that is offered to Tenant is solely at the discretion of the Commissioner. Tenant has absolutely no right or entitlement to be offered any Additional Space.

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

"Airport" means Chicago O'Hare International Airport, together with any additions thereto, or improvements or enlargements thereof, hereinafter made.

"Airport Concession Disadvantaged Business Enterprise" or "ACDBE" means an entity meeting the definition of airport concession disadvantaged business enterprise, as defined in U.S. Department of Transportation Regulations Title 49, Code of Federal Regulations, Part 23, as amended from time to time, and certified as such in the State of Illinois in accordance with those regulations.

"Base Rent" means the amount payable by Tenant on a square footage basis for use and occupancy of the Leased Space as set forth in Article 7 and Exhibit 2. ■:-

"Chief Procurement Officer" means the head of the Department of Procurement Services of the City and any City officer or employee authorized to act on her behalf.

"Commissioner" means the head of the Department and any City officer or employee authorized to act on her behalf. City contractors and consultants, including the Concession Management Representative, have no authority to grant approvals or consents required to be granted by the Commissioner under this Agreement. '.

"Comptroller" means the head of the Department of Finance of the City and any City officer or employee authorized to act on his behalf.

"Concession" means Tenant's business of offering vehicle fuel, food service, convenience retail, and car wash with zero discharge water reclamation system for sale to the public at the Airport pursuant to this Agreement.

"Concession Management Representative" means the entity retained by the City to assist in overseeing Concessions, including the construction of Improvements, at the Airport.

"Construction Documents" means the drawings and specifications for the construction or

installation of Improvements, approved by the Commissioner pursuant to Section 5.4.

"Date of Beneficial Occupancy" or "DBO" means the latter to occur of (A) or (B) as follows:

- A. the date that is eighteen (18) months after the Delivery Date of the Leased Space;
- B. the date that is twelve (12) months after the necessary development order, site permit, use (zoning) permit, storm water, utility, fire, food service, business license, fuel sale licenses, liquor licenses, and other necessary licenses and building permits for the Improvements for the Leased Space are issued; provided that the Tenant has demonstrated to the reasonable satisfaction of the Commissioner that Tenant timely submitted design drawings in accordance with Section 5.4 hereof and promptly applied for, and diligently pursued the issuance of, such licenses and building permits;
- C. provided, however, that the dates set forth above in this definition shall be extended one day for each day Tenant has demonstrated to the reasonable satisfaction of the Commissioner that Tenant was delayed due to force majeure pursuant to Section 11.20.

Notwithstanding the foregoing, if Tenant completes the Improvements and commences retail sales before the DBO determined in accordance with the foregoing, the DBO is the date that retail sales commence.

The DBO shall be confirmed in writing by the parties, and such written confirmation(s) shall thereafter be attached to Exhibit 1 of this Agreement without need for a formal amendment of this Agreement.

"Default Rate" means the annual rate of four percent (4%) plus the Prime Rate (hereinafter defined), unless a lesser interest rate shall then be the maximum rate permissible by law with respect thereto, in which event said lesser rate shall be the Default Rate. Changes in the Default Rate based on the Prime Rate shall take effect immediately upon the occurrence of a change in the Prime Rate. As used herein, the term Prime Rate at any time shall mean the rate of interest then most recently announced by Chase Bank or its successors at Chicago, Illinois as its corporate base rate. A certificate made by an officer of Chase Bank stating the corporate base rate in effect on any given day shall, for the purposes hereof, be conclusive evidence of the Prime Rate in effect on such day. In the event Chase Bank ceases to use the term corporate base rate in setting the base rate of interest for commercial loans, then the Prime Rate herein shall be determined by reference to the rate used by Chase Bank as a base rate of interest for commercial loans as the same shall be designated by Chase Bank. In the event Chase Bank ceases to exist, then the Prime Rate herein shall be determined by reference to the rate used by a lender qualified to be an Institutional Leasehold Mortgagee in Chicago, Illinois, selected by City, as a base rate of interest for commercial loans, as the same shall be designated by such lender.

"Delivery Date" means the date upon which the City gives Tenant possession of the Leased Space.

"Department" means the Chicago Department of Aviation, also known as CDA.

"Development Plan" means, as further described in Section 5.4, the Tenant's conceptual plans, budget and other design specifications for construction or installation of its Improvements and its schedule for commencement of retail sales. The Development Plan is attached hereto as Exhibit 3.

"Environmental Laws" means 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.

"Event of Default" has the meaning set forth in Article 9.

"Federal Aviation Administration" (sometimes abbreviated as "FAA") means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

"Gross Revenues" means 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 Leased Space, and receipts or sales by Tenant and any other person or persons doing business in or from the Leased Space, including receipts from promotions, advertising, and income derived from retail display advertising or any other use of the Leased Space by Tenant. Gross Revenues do not, however, include the following:

- A. any sums collected and paid out by Tenant for any sales, retail excise, use, privilege, or retailers occupation taxes now or later imposed by any duly constituted governmental authority or any vendor rebates;
- B. the amount of any cash or credit refund made upon any sale, but only if the original sale was made in or from the Leased Space and included in Gross Revenue;

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- C. sales of Tenant's fixtures and equipment not in the ordinary course of Tenant's business;
- D. amounts and credits received from suppliers for returned merchandise, sales of lottery tickets or fuel;
- H. charges for ATM usage or the amount of any money orders (although the commissions on money orders are included in Gross Revenues);

- I. subtenant rents; or
- J. insurance proceeds received from the settlement of claims for loss of or damages to Improvements, merchandise, fixtures, trade fixtures and other Tenant personal property other than the proceeds of business interruption insurance.

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 Revenues, at the time that: (i) the transaction is initially reflected in the books or records of Tenant; or (ii) Tenant receives all or any portion of the sales price; or (iii) the fuel is delivered to the customer, whichever occurs first.

"Imposition" means real estate taxes, permit fees, license fees, and any other fee or charge not specified in this Agreement but otherwise payable by Tenant pursuant to a statute, ordinance, or regulation in order for Tenant to operate the Concession at the Airport.

"Improvement Costs" means the total amount paid by Tenant for categories of labor, services, materials and supplies used in the design, development, installation and construction of the Improvements. Tenant's estimated budget for Improvement Costs must be included in the Development Plan. Tenant's actual, reasonable Improvement Costs will be memorialized in the written confirmation of DBO that will be attached to Exhibit 1 upon reasonable approval by the Commissioner.

"Improvements" means the improvements to be made to the Leased Space by Tenant that add or maintain value to the Leased Space, including fixtures and trade fixtures (but excluding trademarked or proprietary trade fixtures) and any other enhancements of a permanent or temporary nature made to the Leased Space, so that the Leased Space can be used for Concession operations. The Improvements must be described and depicted conceptually in the Development Plan.

"Lease" means the lease granted by the City to the Tenant in Section 4.1 to use and occupy the Leased Space in order to conduct and operate the Concession pursuant to the License.

"Leased Space" means the total space leased to Tenant under this Agreement, identified in Exhibit 1, which may be amended from time to time as space may be added to, deleted from, or relocated during the Term in accordance with the provisions of this Agreement. Leased Space shall be used for operation of the Concession and for no other purpose unless otherwise approved in writing by the Commissioner.

"Lease Year" means

- A. for the initial Lease Year of this Agreement, a period beginning on the Date of Beneficial Occupancy and ending on December 31 of that calendar year, and
- B. for the balance of the Term, each successive calendar year, but including only that portion of the final calendar year up to the date the Term expires or the Agreement is otherwise terminated.

"License" means the privilege granted to Tenant under this Agreement to operate the Concession at the Airport.

"License Fee" means the fee payable by Tenant for the License, equal to the greater of the "Percentage Fee" or "Minimum Annual Guarantee", as set forth in Section 7.1 and Exhibit 2.

"Minimum Annual Guarantee" or "MAG" means the minimum amount payable each Lease Year for the License Fee, as set forth in Exhibit 2.

"Percentage Fee" means the percentage fee(s) set forth in Exhibit 2.

"Relocation Space" means space to which Tenant must relocate or reject at the request of the Commissioner pursuant to Section 5.1.

"Rent" means all amounts payable by Tenant in connection with this Agreement, including but not limited to Base Rent, License Fees, Additional Rent and any liquidated damages specified in the Agreement for non-compliance with the City's requirements for Concession operations.

"Subcontractor" means all entities providing services and materials to Tenant necessary for its Concession operations or for the construction, repair, and maintenance of the Leased Space and Improvements. The term "Subcontractor" also includes subconsultants of any tier, subcontractors of any tier, suppliers and materialmen, whether or not in privity with Tenant.

"Subcontracts" means all oral or written agreements with Subcontractors.

"Sustainable Airport Manual" or "SAM" means the manual developed by the CDA regarding environmentally sustainable practices in the construction and operation of the Airports. The manual is available on the CDA website and may be updated from time to time by the CDA. Any amendment of the SAM by the CDA during the Term of this Agreement will be binding on Tenant without need for amendment of this Agreement, provided that the amendment of SAM does not conflict with the other terms and conditions of this Agreement.

"Term" means the period of time beginning on the Effective Date and ending at 11:59 p.m. on the 15th anniversary of the DBO of the final portion of the Leased Space to be delivered to the Tenant, excluding any Additional Space or Relocation Space, except as may be extended in accordance with the Agreement.

Transportation Security Administration (sometimes abbreviated as "TSA") means the

Transportation Security Administration created under the Aviation and Transportation Security Act of 2001, as amended, or any successor agency thereto.

"Use Agreements" means those certain airport use and facility lease agreements between the City and the airlines operating out of the Airport regarding the use and operation of the Airport, as amended or executed from time to time.

"Work" means 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.

ARTICLE 4 LICENSE, LEASE AND TENANT'S OPERATIONS

4.1 Concession License and Lease. As of the Effective Date, this Agreement, and the Lease and License granted under it, supersede, cancel and terminate any existing agreements or understandings between the parties and relating to the subject matter of this Agreement. Effective as of the Effective Date, the City grants Tenant a non-exclusive License to operate the Concession at the Airport and a Lease to operate the Concession from the Leased Space as depicted in Exhibit 1. Tenant accepts the License and Lease from the City and assumes the duties of Tenant provided in this Agreement. TENANT ACKNOWLEDGES AND AGREES THAT ALL AMOUNTS PAYABLE TO THE CITY UNDER THIS AGREEMENT CONSTITUTE RENT AND THAT THIS AGREEMENT CREATES A TAXABLE LEASEHOLD UNDER THE ILLINOIS PROPERTY TAX CODE, 35 ILCS 200/1 et seq. Tenant understands and agrees that both its License to operate a Concession and its right to occupy the Leased Space will terminate upon the expiration or earlier termination of this Agreement. Tenant will have the right of ingress to and egress from the Leased Space, for Tenant, its officers, employees, agents, Subcontractors, vendors, suppliers, customers, and invitees suitable to the nature of the Concession, subject, however, to all statutes, ordinances, rules and regulations from time to time enacted or established by the City, the FAA, the TSA or any other governmental agency or authority having jurisdiction. Tenant must not conduct its Concession operations in a manner that, in the reasonable judgment of the Commissioner:

- A. interferes or might interfere with the reasonable use by others of Airport;
- B. hinders or might hinder TSA, Airport security, police, fire-fighting or other emergency personnel in the discharge of their duties;
- C. would, or would be likely to, constitute a hazardous condition at the Airport;
- D. would, or would be likely to, increase the premiums for insurance policies maintained by the City, unless the operations are not otherwise prohibited under this Agreement and Tenant pays the increase in insurance premiums occasioned by the operations; or
- E. would involve any illegal purposes.

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2 Use. Tenant may use the Leased Space to operate a multi-alternative fuel station, as well as food service, convenience retail, and car wash with zero discharge water reclamation system, and any related or ancillary uses as described in the Request for Proposal for a Multi-Alternative Fuel Station at O'Hare International Airport issued by the Department on February 1, 2013 ("Use").

A. Subleases, assignments or other uses. Tenant understands and agrees that the Lease and the License granted under this Agreement are interdependent and that the principal purpose of this Agreement is to provide Tenant a License to operate its Concession, without right of sublease or assignment except as provided in this Agreement, from the Leased Space and that any sublease, assignment or other use of the Leased Space without the written consent of the City in accordance with the terms of this Agreement is absolutely prohibited and is an Event of Default. All subleases, assignments or documentation related to other uses of the Leased Space

submitted by Tenant to the City for written consent shall be ancillary or related to the use of the property as defined in this Section 4.2. The Department shall reasonably determine whether a sublease is for an ancillary or related use and consent shall not be given for any attempted sublease, assignment or other use of the Lease Space that is not ancillary or related to the use of the property as defined in this Section 4.2.

B. Subtenant Nondisturbance. With respect to each subtenant ("Subtenant") that leases part of the Leased Premises ("Subleased Space") under a lease ("Sublease") between Tenant and such Subtenant that was approved by the City as required under this Agreement:

(i.) If this Agreement is voluntarily or involuntarily terminated or is rejected under the bankruptcy code, then so long as the Subtenant cures any existing events of default of Tenant under this Agreement and, provided that the Subtenant is not in default under its Sublease beyond any applicable notice and cure periods provided for therein, the Sublease shall continue in full force and effect as a direct lease between Subtenant and the City, and Subtenant's occupancy and use of its Subleased Space under, the Sublease shall not be disturbed as a result of the termination or rejection of this Agreement. Tenant shall include in each Sublease as a condition for the foregoing requirement that the Subtenant attorn to the City as the lessor under the Sublease.

(ii.) Except as may be agreed to by Subtenant in writing, the City shall not enforce against Subtenant any change to this Agreement made subsequent to the effective date of the Sublease that diminishes Subtenant's rights under the Sublease or increases Subtenant's obligations under the Sublease.

(iii.) Each Subtenant shall be a third party beneficiary hereunder, but if a Subtenant requests that the City enter into a separate nondisturbance agreement with the Subtenant, the City will make a commercially reasonable effort to do so.

3 Rates.

Exhibit 5 to this Agreement states the methodology for determining the rates that Tenant is

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permitted to charge the public for, with the exception of fuel. Any changes to Exhibit 5 are subject to the Commissioner's and Tenant's prior written approval, which shall not be unreasonably withheld. Upon such mutual approval, Exhibit 5 may be amended without need for formal amendment of this Agreement pursuant to Section 11.3.

4.4 General Requirements for Operation of Concessions. Tenant has the authority to manage and administer the Concession in the Leased Space, subject to the rights of the City under the law, in equity, and under this Agreement to direct Tenant in order to ensure that the Airport operates in the most effective and efficient way possible and to supervise Tenant's performance. Tenant covenants to take all commercially reasonable measures to maintain, develop, facilitate and increase the business of the Concession so as to maximize Gross Revenues. Tenant further covenants that neither it nor any Affiliate of Tenant will divert or cause or allow to be diverted any business from the Leased Space to other locations not at the Airport that are operated by Tenant or any Affiliate of Tenant. A material condition of this Agreement is that Tenant must operate the Concession operations in accordance with the following general requirements:

A. Unless otherwise approved by the Commissioner in writing, Tenant must conduct business only

in the Tenant's trade name.

B. Tenant must conduct its Concession operations in a first-class, businesslike, efficient, courteous, and accommodating manner. The Commissioner has the right to make reasonable objections to the appearance and condition of the Leased Space. Tenant must discontinue or remedy any non-compliant practice, appearance or condition within ten days following receipt of a written notice by the Commissioner (or immediately upon receipt of such a notice if the Commissioner deems non-compliance hazardous or illegal). Tenant's failure to timely cure the non-compliance as required by the Commissioner would cause the City damages including, among other things, loss of goodwill that would be difficult or impossible to prove or quantify. Accordingly, if Tenant fails to timely cure non-compliance, then, in addition to all other remedies the City may have at law, in equity or under this Agreement, and beginning on the first day after expiry of the ten-day cure period, Tenant must pay the City, as liquidated damages in connection with the loss of good will among visitors to the Leased Space, and not as a penalty, the amount of \$200 per day for each day in which there is a non-compliant practice, appearance or condition specified in the notice that remains uncured after the cure period. Notwithstanding the foregoing, Tenant shall not be required to pay liquidated damages if Tenant is unable to cure the noncompliance due to an act or omission of the City.

D. Tenant must neither commit nor allow any nuisance, noise or waste in the Leased Space or annoy, disturb or be offensive to other Airport users.

E. Tenant must at all times accept as suitable payment any of at least three nationally recognized credit cards, such as but not limited to American Express, Visa, MasterCard and Discover. Tenant must offer a receipt with each purchase.

F. Tenant must not place or install any racks, stands, or trade fixtures directly on or over

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the boundaries of its Leased Space. Tenant must not use any space outside the Leased Space for sale, storage or any other undertaking.

G. In its capacity as Tenant under this Agreement, and not as an agent of the City, Tenant must manage the Concession operations and the Leased Space in accordance with this Agreement, in furtherance of which Tenant must, among other things:

- i) use reasonable efforts to remedy problems and issues raised by Airport patrons with respect to the operation of the Leased Space;
- ii) answer in writing all written customer complaints within 5 calendar days after receipt, furnishing a copy of the complaint and the answer to the Commissioner within that period; and,
- iii) furnish the Commissioner within 5 calendar days after their receipt copies of all written notices received by Tenant from any governmental authority or any subtenant with respect to any part of the Leased Space or any Subcontract.

If Tenant fails to timely respond to customer correspondence or governmental notices and furnish the requisite copies to the Commissioner, it is an Event of Default. Tenant acknowledges that the City may suffer loss of goodwill and other harm the value of which is difficult to determine, and thus, in addition to any remedies for the Event of Default, the Commissioner will assess as liquidated damages against Tenant, and not as a penalty:

(A) an amount of \$200 per day (up to a maximum of 90 days) for each day after the initial 5 calendar days until Tenant responds to the customer complaint or governmental notice and (B) if Tenant fails to provide the requisite copies to the Commissioner, \$100 per day (up to a maximum of 60 days) until the Tenant provides the Commissioner with the copies. Notwithstanding the foregoing, Tenant shall not be required to pay liquidated damages if Tenant is unable to respond to customer correspondence or governmental notices and furnish the requisite copies to the Commissioner in a timely manner due to an act or omission of the City.

4.5 Hours of Operation.

A. Except as otherwise permitted under this Agreement, Tenant must begin conducting its Concession operations on the Date of Beneficial Occupancy and continue them uninterrupted after that date during all hours of operation set forth in the approved Development Plan; provided that if Tenant decides it would be prudent to change the hours of operation. Tenant may request approval of a change in operating hours and the City will not unreasonably refuse to grant such approval.

B. Except as otherwise permitted under this Agreement, if Tenant fails to operate its Concession during all times that Tenant is required to do so under this Agreement (apart from temporary closings in connection with maintenance, repair, renovation, inventories, or other temporary closings in the normal course of business) and the failure continues for more than five days after the City gives Tenant notice, it is an Event of Default. In addition, Tenant acknowledges that failure to provide Concession services to the public would cause the City damages, a portion of

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which may be ascertainable but another portion of which, related to loss of goodwill due to the public's inability to fuel their vehicles, the provision of which is one of the key purposes of this Agreement, might be difficult or impossible to prove or quantify. Accordingly, in addition to other remedies available to the City for an Event of Default, Tenant must pay the City as liquidated damages (and not as a penalty) in connection with such loss of goodwill the lesser of \$50 per hour or \$500 per day, beginning as of the time that the City first notifies Tenant in writing that it is not operating the Concession in accordance with the time requirements of this Agreement. Notwithstanding the foregoing, Tenant shall not be required to pay liquidated damages due to loss of goodwill as specified in this Section 4.5 if such loss of goodwill is caused by an act or omission of the City. The obligation to make payments of liquidated damages will continue until the earliest of: (i) the time that the Concession re-opens for business; (ii) the date that this Agreement expires or is terminated; and (iii) the date that the Commissioner receives possession of the Leased Space.

4.6 Personnel.

A. Staff.

i) Tenant must maintain a fully trained staff during the Term of this Agreement having sufficient size, expertise and experience to operate the Concession

ii) All employees of Tenant must at all times be clean, courteous, neat in appearance and helpful to the public while on duty. While on duty, Tenant's employees must be appropriately

■' i dressed and must wear Airport identification badges and any other fofm(s) of identification that may be required by the Commissioner from time to time.

iii) Tenant and its personnel must reasonably participate and cooperate in all quality assurance programs that may be instituted by the Commissioner from time to time. Tenant must cause its personnel to attend all customer service training meetings and participate in such other programs as may be reasonably required by the Commissioner/ An appropriate officer or

" management representative of Tenant must meet with the Commissioner as reasonably requested by the Commissioner to discuss matters relating to this Agreement, including merchandising and ■i- marketing plans. In addition, at the Commissioner's reasonable request, an appropriate officer or management representative of Tenant must attend other meetings with the City, airlines, or any other parties designated by the Commissioner.

iv) The Commissioner reserves the right to reasonably object to any of the personnel responsible for the day-to-day operation of the Concession. Upon receipt of such objection, Tenant must use its best efforts to resolve the cause for Commissioner's objection or replace the objectionable personnel with personnel satisfactory to the Commissioner.

B. General Manager. Tenant must designate a General Manager experienced in management and supervision who has sufficient authority and responsibility to administer and manage the Concession. The General Manager (or authorized representative) must be immediately available to the Department whenever the Concession is operational. The base of operations of the

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General Manager must be at the Airport, and the General Manager must spend substantially all of his or her working hours at the Airport, unless the Commissioner approves in writing another arrangement). The General Manager is subject to removal at the direction of the Commissioner if the Commissioner reasonably determines that the General Manager is not performing up to standards consistent with the fulfillment of Tenant's obligations.

C. Salaries. Salaries of all employees of Tenant and its Subcontractors performing services or Work under this Agreement must be paid unconditionally and not less often than once a month without deduction or rebate on any account, except only for those payroll deductions that are mandated by law or permitted by the applicable regulations issued by the United States Secretary of Labor under the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874, and 40 U.S.C. § 276c). Tenant must comply with all applicable "Anti-Kickback" regulations and must insert appropriate provisions in all Subcontracts covering Work under this Agreement to insure compliance of all Subcontractors with those regulations and with the other requirements of this subsection, and is responsible for the submission of affidavits required under them, except as the United States Secretary of Labor may specifically provide for variations of, or exemptions from, the requirements of them.

7 Operation and Maintenance.

A. Tenant, at its sole cost and expense, shall keep in good repair the Leased Space. The Commissioner reserves the right to interrupt temporarily the electrical services furnished to the Leased Space or the Airport as a whole to make emergency repairs or for other reasonable purposes, and the Commissioner will restore the services as soon as reasonably possible. The City has no responsibility or liability for failure to supply electrical or any other service to the Leased Space or the Airport, when prevented from doing so by laws, orders or regulations of any federal, state or local governmental requirement (including any requirement of any agency or department of the City) or as a result of the making of repairs or replacements, fire or other casualty, strikes, failure of the utility provider to provide service or due to any other matter not within the City's reasonable control.

B: Tenant must provide all cleaning and janitorial services to the Leased Space. Tenant must clean, maintain and repair (including replacements, where necessary) the Leased Space and Improvements in first-class condition and repair during the entire Term. With respect to a Leased Space that has been designated to be relocated, if any, Tenant's obligations with respect to repair and maintenance will continue until such time as Tenant has completed the Improvements (at the City's cost as provided under Section 5.1(B)(iii) below) in the Relocation Space to which the affected Leased Space is being relocated or such earlier time as Tenant is required to vacate the affected Leased Space.

8 Utilities.

A. Tenant must pay for electricity furnished to the Leased Space, and all such electricity must be separately metered except to the extent that the Commissioner agrees otherwise in writing.

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B. Tenant must maintain utility lines to the Leased Space as follows:

- i) where the utility lines serve the Leased Space, Tenant is only obligated to maintain those branch lines and facilities that are located within and serving the Leased Space; and
- ii) Tenant must maintain all electrical cables, conduits, wiring, electrical panels and associated equipment located within and serving the Leased Space.
- iii) The City will provide Tenant with all right of way and/or easements which shall be required in order for Tenant to maintain utility lines as described in this Section 4.8.

9 Refuse Handling.

A. Tenant, at its own cost and expense, must provide for the handling of all refuse, including trash, garbage, and other waste created by its Concession operations and for their disposal at a centrally located dump site within the Airport designated by the Commissioner from time to time. Within its Leased Space, Tenant must provide a complete and proper arrangement for the adequate sanitary handling and disposal of trash, garbage and other refuse resulting from its Concession operations. Tenant must provide and use suitable covered metal receptacles for all trash, garbage and other refuse in accessible locations within the boundaries of each Leased Space. Piling of boxes, cartons, barrels or other similar items in an unsightly or unsafe manner on or about the Leased Space is forbidden. The Commissioner reserves the right, from time to time, to establish, time periods or schedules during which Tenant must remove refuse from the Leased Space.

B. *Tenant must comply with all present and future laws, orders and regulations and any ' rules and regulations promulgated by the Commissioner regarding the separation, sorting and" recycling of garbage, refuse and trash. If and when any system for centralized waste disposal is put in place for the Leased Space that is capable of appropriately allocating to Tenant its proportional share of the cost of disposal of the refuse that Tenant and others deposit in it, then Tenant must pay " its proportional share as determined by the Department of the portion of those disposal costs actually "-charged by any third party contractor to the City or billed directly to Tenant by the third party ••, contractor. {.*

10 Promotion.

A. Signs and Advertising. Tenant may, at its own expense and subject to obtaining any necessary permits, install and operate necessary and appropriate identification signs in and on the Leased Space for its promotional use (e.g., identifying the fuels and rates). All such signage must be in compliance with signage and other applicable criteria adopted by the Commissioner or other City agencies from time to time and subject to the prior written approval of the Commissioner as to the number, size, height, location and design (as applicable. Tenant must not install, affix, or display any signage outside the Leased Space except as permitted in writing by the Department. Without the prior written consent of the Commissioner, Tenant and its Subcontractors must not distribute any advertising, promotional or informational pamphlets, circulars, brochures or similar materials at the

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Airport except within the Leased Space and except as are related to Tenant's Concession.

B. Marketing and Advertising Fund. The Department operates a marketing and advertising fund for the purpose of financing a program for advertising and promoting Concessions at the Airport ("Marketing Fund"). Such program may include special events, shows, displays, signs, marquees, decor, seasonal events, and print, television, radio and other media advertisements. In addition, the City may use the Marketing Fund to defray the costs of administration of the Marketing Fund, including the expenses for a promotion and advertising manager. The Marketing Fund is funded by contributions from tenants, as required by the provisions of their agreements with the City. The monthly contribution by Tenant is in an amount equal to the product of the Gross Revenues for the prior month multiplied by 0.005 (one-half percent) (the "Marketing Fee"). The City may, but is not required to, contribute to the Marketing Fund. Tenant has no ownership or beneficial interest whatsoever in the Marketing Fund.

11 Distribution and Storage; Deliveries.

Concession deliveries must be made only within the times and at the locations reasonably authorized by the Commissioner or his designated representative and otherwise in accordance with the terms of this Agreement.

12 Certain Rights Reserved By the City.

Except as expressly provided otherwise in this Agreement: the City has the rights set forth below, each of which the City may exercise with notice to Tenant and without liability to Tenant for damage or injury to property, person or business on account of exercising them; 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, possession of, or Lease to

the Leased Space; the City's exercise does not give rise to any, 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 City's rights are:

- i) Install, affix and maintain any and all signs on the exterior and on the interior of the Leased Space;
- 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 Leased Space, and during the continuance of any of the work, to temporarily close access to the Leased, and to interrupt or temporarily suspend services or use of facilities, all without affecting any of Tenant's obligations under this Agreement;
- iii) Movements of Tenant property into or out of the Leased Space are entirely at the risk and responsibility of Tenant, and the Commissioner reserves the right to require permits before allowing any property (other than products sold in the ordinary course of Tenant's business) to be moved into or out of the Leased Space;

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- iv) Erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances to them, in and through the Leased Space at reasonable locations;
- v) Enter the Leased Space for the purpose of periodic inspection for 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;
- vi) Grant to any person the right to conduct any business or render any service in or to the Airport outside of the Leased Space;
- vii) Promulgate rules and regulations regarding the operations at the Airport.

ARTICLE 5 LEASED SPACE AND IMPROVEMENTS

5.1 Leased Space. As provided in Section 4.1, the City grants Tenant the right to use the Leased Space identified in Exhibit 1, or portions thereof, from the Delivery Date of each portion of the Leased Space through the remainder of the Term of this Agreement for the operation of the Concession, except as otherwise provided for herein. Exhibit 1 may be amended by written agreement of the Tenant and the Commissioner from time to time to reflect changes in Leased Space, including but not limited to any Additional Space or Relocation Space. As of the Effective Date, all square footage identified in Exhibit 1 is approximate, and is subject to final correction in accordance with field measurements to be taken after completion of the Improvements. All such measurements relating to the Leased Space will be made to and from the "lease lines" as identified on Exhibit 1. If the actual measured square footage of the Leased Space differs from the square footage identified on Exhibit 1, the Base Rent will be applied to the actual measured square footage.

A. Additional Space.

- (i) During the Term, the Commissioner may from time to time, at her sole discretion, make Additional

Space available for Teriant's Concession operations, In such event, the Commissioner will send written notice to Tenant to advise Tenant of the following:

- a. size and location of the Additional Space being offered, if any; and
- b. Tenant's Improvement obligations for the Additional Space.

Within 60 days after receiving the notice from the Commissioner, Tenant must notify the Commissioner if it accepts or rejects the Additional Space and the amount by which Tenant proposes to increase its Minimum Annual Guarantee to reflect the anticipated increase in Gross Revenues from the Additional Space. Upon written notification from Tenant to the Commissioner that Tenant accepts the Additional Space and acceptance by the Commissioner of the proposed increase in the Minimum Annual Guarantee, the square footage will be added to the Leased Space under this

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Agreement and Exhibits 1 and 2 modified accordingly. Upon written notification from Tenant to the Commissioner that it rejects the Additional Space or if Tenant fails to notify the Commissioner within 60 days that it accepts the Additional Space, the offer will terminate and the Commissioner may offer the Additional Space to others.

- (ii) Nothing in (i) above requires the Commissioner to offer any Additional Space to Tenant or limits or restricts the Commissioner's or the City's right to enter into any Concession agreement with any third party for such Space. Whether or not to offer such Additional Space to Tenant is at the Commissioner's sole and absolute discretion.**

B. Relocation Space. The Commissioner may at any time during the Term require Tenant to relocate all or portion of the Leased Space to another location within the Airport and terminate the Lease with respect to the Leased Space being vacated when, in the sole discretion of the Commissioner, the relocation is necessary for other Airport purposes or is in the best interest of the City. In such an event:

- i) The Commissioner will notify Tenant in writing within a reasonable period of time prior to the relocation of all or part of the Leased Space. Such notice will be not less than 180 days in advance of the relocation but, in any event, notice is not required more than 270 days in advance. This period applies only to notice of the relocation of all or part of the Leased Space, and is not intended to limit the time period in which the relocation shall take place
- ii) If Tenant rejects, in writing within 90 days of the Commissioner's notice, the Relocation Space, then the Lease will terminate on the date for the relocation set forth in the Commissioner's notice. Further, if Tenant rejects the Relocation Space, Tenant is entitled to be paid by the City an amount equal to the greater of (x) the unamortized portion of Tenant's actual Improvement Costs (but excluding any Improvement Costs for Tenant personal property or trade fixtures that can be moved and used by Tenant elsewhere) or (y) the fair market value of Tenant's interest in this Agreement. Any such amount will be first applied against Rent due and owing to the City

from Tenant and the remainder shall be paid to Tenant.

- iii) Except when Tenant rejects Relocation Space pursuant to (ii) above, the City is responsible for costs incurred in the relocation or replication of the Improvements to or in the Leased Space being vacated, including the cost of moving Tenant's equipment and inventory and the cost of constructing replacement Improvements comparable to the condition of the Improvements in the Leased Space 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 must promptly vacate the portion of the Leased Space required to be vacated and as to which this

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Agreement is being terminated and return the portion of the Leased Space in as good or better condition as existed as of the date that the City gave Tenant possession of the Leased Space being vacated, ordinary wear and tear excluded, unless the Commissioner otherwise agrees in writing. The City will endeavor not to require Tenant to move from the Leased Space being vacated to the Relocation Space before Work on Improvements in the Relocation Space is completed, but the Leased Space being vacated may be needed for other Airport purposes prior to the completion of Improvements in the Relocation Space. Because the City is replacing Improvements in kind, Tenant is not entitled to any credit for unamortized Improvement Costs for the Leased Space being vacated, and the unamortized Improvement Costs for the Leased Space 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 original Leased Space.

5.2 Title to Property in the Leased Space. Tenant or its lessors shall retain title and ownership to all fueling equipment and fuel storage tanks and other Tenant personal property and trade fixtures in the Leased Space, except in the event of deemed abandonment, as provided in Section 6.3. The City owns all other property in the Leased Space and, upon termination or expiration of this Agreement, Tenant Improvements.

5.3- Tenant's Improvement Obligations.

A. .. Tenant must complete, or cause to be completed, the Improvements described in the Development Plan in substantial accordance with Construction Documents (defined below) that have been approved by the Commissioner. Improvements shall be at Tenant's sole cost and expense and must be substantially completed on or before the date set forth for each portion of the Leased Space in accordance with the schedule set forth in the Development Plan, subject to Section 11.20, "Force Majeure". Tenant must provide for any supplemental utilities or infrastructure that Tenant may require to properly operate the Concession. All such supplemental utilities or infrastructure must be designed and installed in accordance with the TDCPM and applicable building codes, and must be approved by the Commissioner prior to installation. If at any time the Tenant's supplemental utilities or infrastructure fail to substantially comply with the design and operational standards set forth in the

TDCPM, Tenant must, on written notice from the City, cause repairs to be made so that Tenant is in compliance with this requirement.

B. Additional Space. Tenant must complete or cause to be completed, at Tenant's sole cost and expense, the Improvements for each Additional Space, if any.

C. Improvement Costs. Only Improvement Costs of the types set forth in the budget in the Development Plan are deemed to be validly incurred Improvement Costs for purposes of this Agreement. Tenant must provide the Commissioner with a statement certified by Tenant, setting forth the aggregate amount of the Improvement Costs expended by Tenant (including its subtenants)

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for the Leased Space, with such detail as may be reasonably requested by the Commissioner. The certified statement must be submitted at the same time as the "as-built" drawings for the Leased Space. Tenant must make available to the Commissioner, at the Commissioner's request, receipted invoices for labor and materials covering all Improvement Costs. The Commissioner has the right to audit the Improvement Costs. If there is an overall discrepancy of 5% or more, the cost of the audit must be paid promptly by Tenant upon request. The actual Improvement Costs, as approved by the Commissioner, will be memorialized in the confirmation of DBO for the Leased Space and attached to Exhibit 1.

E. Amortization of Improvement Costs. Except as otherwise provided in this Agreement, the amount of actual Improvement Costs approved by the Commissioner and memorialized in the confirmation of DBO will thereafter be used in the calculation of unamortized Improvement Costs wherever such amount is referenced in this Agreement. Amortization of Improvement Costs will be calculated on a straight-line basis over one hundred eighty (180) months beginning on the DBO.

5.4 Work Requirements.

A. TIME IS OF THE ESSENCE IN THE PERFORMANCE OF WORK UNDER THIS AGREEMENT.

B. Compliance with Standards. Tenant must comply in its design, construction, use, occupancy and operation of the Leased Space, at its own cost, with:

- i) all regulations and directives now or later promulgated by the United States Federal Aviation Administration ("FAA") or Transportation Security Administration ("TSA") pertaining to airport security, as such regulations and directives may be amended or modified from time to time during the Term of this Agreement;
- 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 Tenant Design and Construction Procedures Manual ("TDCPM") and the Airport Concession' Program Handbook.

Tenant must complete or cause to be completed all Improvements in accordance with all rules, regulations and standards, including the TDCPM, and the approved Construction Documents (as defined below) for any Improvements. If there is a conflict between work requirements stated in this Agreement and those set forth in the TDCPM, the Commissioner has the sole discretion to determine which prevails. No construction must take place until the Commissioner has approved the Construction Documents in accordance with this Agreement.

If Tenant decides to proceed beyond the inspection as set forth in Section 11.22 below, Tenant shall be responsible for any environmental remediation required to develop the site, and for remediation required at the end of occupancy, except for any contamination that entered the Leased Space from adjoining land. In addition to the requirements set forth in the TDCPM, Tenant acknowledges the City's goal to incorporate environmentally sustainable design in building, infrastructure, and tenant improvements at the Airport. Accordingly, Tenant agrees to use best efforts to comply to the extent that it is commercially reasonable to the requirements of the "CDA Sustainable Airport Manual," dated October 2011, as such may be amended and updated during the Term.

C. Development Plan. Tenant's Development Plan, as approved by the Commissioner, is attached hereto as Exhibit 3. It must describe or depict the Tenant's thematic concept for the Concession (including storefront design images, as appropriate), floor plan(s), its plan and schedule for implementing the Improvements and commencing Concession operations in the Leased Space, temporary facilities that may be necessary to meet the requirements of this Agreement, and other submission requirements as set forth in the TDCPM ("Development Plan"). The Development Plan must include the anticipated Date of Beneficial Occupancy.

D. 60 Percent Design Phase. Within 120 days of the Effective Date, Tenant must submit to the Commissioner its proposed 60 percent design drawings and specifications prepared as required under the TDCPM ("60 Percent Designs"), which must include any modifications to Airport systems required to accommodate Tenant's proposed Improvements in conformance with the Development Plan. The Commissioner will review and respond to the 60 Percent Designs within 15 days after the Commissioner's receipt with an (i) "accepted" or "accepted [with comments] as noted" if in compliance with this Agreement, or (ii) "revise and resubmit" if not in compliance with this Agreement, along with comments explaining the noncompliance. If any of the 60 Percent Designs requires resubmission, Tenant must resubmit the 60 Percent Designs addressing the Commissioner's comments within 15 days after receiving the Commissioner's response. If the 60 Percent Designs require resubmission after 5 attempts, then either party shall have the right to terminate this Agreement.

E. 100 Percent Design Phase. Tenant must prepare and submit to the Commissioner, within 60 days following its receipt of the Commissioner's approval of the 60 Percent Designs, the 100 percent design

drawings and specifications and a construction schedule that complies with the Development Plan ("100 Percent Designs"). The Commissioner will review and respond to the 100 Percent Designs within 10 days after the Commissioner's receipt with an (i) "accepted" or "accepted [with comments] as noted" if in compliance with this Agreement, or (ii) "revise and resubmit" if not in compliance with this Agreement, along with comments explaining the noncompliance. If any of the 100 Percent Designs requires resubmission, Tenant must resubmit the 100 Percent Designs addressing the Commissioner's comments within 15 days after receiving the Commissioner's response. If the 100 Percent Designs require resubmission after 5 attempts, then either party shall have the right to terminate this Agreement. Upon acceptance by the Commissioner, the 100 Percent Designs drawings, specifications, and construction schedule will be deemed the approved

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"Construction Documents". If Tenant desires to use the services of any Subcontractor to act as the general contractor, Tenant must submit the name and qualifications of the Subcontractor to the Commissioner for review and approval, which approval may be granted or denied in the Commissioner's sole discretion. Within 15 days following the receipt of Commissioner's approval of the 100 Percent Designs, Tenant must prepare and submit to the City's Buildings Department, or its successor agency, applications for all building permits required to undertake construction of the Improvements.

F. Start of Construction. For each portion of the Leased Space, within 60 days after the latest of occur of: 1) the Delivery Date of said portion of the Leased Space, 2) the date Tenant has obtained applicable building permits for said portion of the Leased Space, and 3) the date of commencement of construction set forth in the Development Plan, Tenant must begin construction of the Improvements under and consistent with the approved Construction Documents, in a diligent, first-class and workmanlike manner. Commissioner may require Tenant and its Subcontractors to meet with the Department's construction manager and Concessions Management Representative prior to starting construction. Among other requirements as are imposed under applicable law or otherwise in this Agreement, the Improvements:

- i) Must conform with all architectural, fire, safety, zoning and electrical codes and all federal, State, City and other local laws, regulations and ordinances pertaining to them, including the ADA, and all Airport standards, procedures and regulations.
- ii) Except as provided in Section 5.4.L of this Agreement be free and clear of any mechanics' or materialmen's liens or similar liens or encumbrances.
- iii) Except as otherwise provided in this Agreement, must be completed entirely at Tenant's cost and expense and in accordance with the requirements of this Agreement including, but not limited to, the requirements and procedures set forth in the TDCPM. ;
- iv) Upon the request of the Commissioner, Tenant must purchase and install a security camera and connect the camera feed into a junction box at a location to be determined by the Commissioner. Tenant will permit the Commissioner to connect the security camera to the Airport security

system.

Approval of the Construction Documents by the Commissioner does not constitute her or the City's representation or warranty as to their conformity with any architectural, fire, safety, zoning, electrical or building code, and responsibility therefore at all times remains with Tenant. Tenant must not permit its design and construction Subcontractors to make any substantial modifications to base building systems without prior written consent of the Commissioner which consent will not unreasonably be withheld.

G. Change Order Review. Tenant must cause all Work to be performed in a first class, good and workmanlike manner and in accordance with the Construction Documents, and shall not

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deviate from the Construction Documents in any way that would substantially change look, feel, operation, or functionality except upon an approved change order. Tenant may request in writing that change orders relating to the Work be responded to by the City, and the City will so respond within 10 days, unless a response within 10 days is unreasonable in the circumstances, in which case the response period will be as reasonably determined by the City but in no event longer than 20 days. The City will not unreasonably refuse to approve change orders. At all times during the Work, Tenant must have on file with the Commissioner and on the construction site for inspection by the Commissioner, a copy of the approved Construction Documents. Tenant must promptly begin to reconstruct or replace and diligently pursue to completion, at its sole cost and expense, before or after completion of the Work, any Work that is not performed in substantial accordance with the Construction Documents as approved by the Commissioner.

H. Inspection of Improvements in Progress. The Department has the right to enter upon the Leased Space for the purposes of inspecting and recording the Improvements in progress, ensuring that Tenant's construction complies with the Construction Documents, and rejecting any such construction that does not so conform

I. Notice of Substantial Completion and Inspection. At least 14 days prior to anticipated substantial completion of the construction of a Leased Space, Tenant must deliver to the Commissioner a "notice of substantial completion". On the date specified in the notice of substantial completion, the Department will perform a final inspection of the Improvements for = - compliance with the Construction Documents for the Improvements, and-will, not later than 10 days: after inspection, provide a punchlist to Tenant describing in sufficient detail any discrepancies <i between the Improvements and the Construction Documents. Tenant must cause all discrepancies (other than those approved by the Commissioner as variances, which consent will not unreasonably be withheld) to be reconstructed, replaced or repaired in substantial accordance with the Construction - Documents. Within 10 days after the date of substantial completion and prior to commencing Concession operations in Leased Space, Tenant must provide, as evidence of the substantial completion of the Work, copies of any and all Certificates of Occupancy and other approvals, if any, necessary for Tenant to occupy the portion ofthe Leased Space for its

intended use. Tenant shall not commence Concession operations in the Leased Space until such documents have been received by the Commissioner and until authorized to do so by the Commissioner such authorization not to be unreasonably be withheld.

J. Timeliness - Punch Lists; Opening for Business. Tenant acknowledges that if it fails to comply with Construction Document requirements (including all tasks necessary to satisfy them, such as, but not limited to, applying at the earliest possible time for and diligently pursuing all necessary building permits), the delay may cause the City to suffer damages, including loss of goodwill, that might be difficult to ascertain or prove. For that reason, but subject to extensions that may be approved by the Commissioner (such approval not to be unreasonably withheld), if Tenant has not caused the Improvements to be substantially completed in accordance with the Construction

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Documents and Concession to be open to the public for business not later than 60 days after the Date of Beneficial Occupancy, as defined herein:

- i) Tenant must pay the City liquidated damages at the rate of \$750.00 per day for each day from and after the Date of Beneficial Occupancy, until the date on which the Concession actually opens to the public for business (for clarity, it is acknowledged that this shall not apply just because food service is not yet operational, so long as fuel and convenience retail have opened); and
- ii) if Tenant fails to substantially complete the Improvements in accordance with the approved Construction Documents relating to them and open the Concession to the public for business within 120 days after the Date of Beneficial Occupancy, the failure is an Event of Default and the City has the right to exercise any and all remedies under this Agreement, at law or in equity; and further,
- (iv) if Tenant is permitted to open for business in accordance with the schedule in the Construction Documents but any punchlist items are not completed within 30 days following the date on which Tenant opens to the public for business, the Commissioner will assess liquidated damages against Tenant at the rate of \$200 per day for each day on which there is any one or more punchlist items not timely completed; and
- (v) if Tenant is permitted to open for business but any punchlist items are not completed within 60 days following the date on which Tenant opens to the public for business, the City reserves the right, at the Commissioner's reasonable discretion, to complete the punchlist Work at the City's cost and bill the Tenant for this Work, in which case the charges are considered Additional Rent.

Notwithstanding the foregoing, Tenant shall not be required to pay liquidated damages due to loss of goodwill as specified in this Section 5.4 if such loss of goodwill is caused by an act or omission of the

City.

K. Post-construction Documentation. Tenant must submit a complete set of "as-built" drawings and documentation as outlined in the TDCPM to the Commissioner within 30 days after the date the Commissioner authorizes Tenant to begin Concession operations in the Leased Space.

L. No Mechanics' Liens. Tenant 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 Leased Space, the Airport, Tenant's leasehold interest, or this Agreement in any way relating to any work performed by or at the direction of Tenant. Upon making payments to Subcontractors, Tenant must obtain from each Subcontractor a waiver of mechanics' liens against any portion of the Leased Space, The Airport, Tenant's leasehold interest, or this Agreement arising out of any Work done by the Subcontractor and each and every of the Subcontractor's materialmen and workmen. If,

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nonetheless, any such mechanics' lien is filed upon any portion of the Leased Space, the Airport, Tenant's leasehold interest, or this Agreement, Tenant must 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 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 Tenant must post a bond with the City equal to 150% of the amount of the lien. If by nonpayment of any lien any portion of the Leased Space, the Airport, 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 or contest such lien in court in order to block such loss or forfeiture. If Tenant 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 as Additional Rent. Failure to post a bond when requested in writing by the Commissioner or pay such Additional Rent when invoiced for it shall be an Event of Default.

5.5 Damage or Destruction of Improvements.

A. Non-Major Damage. If Improvements to any Leased Space 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 ^ Leased Space served by the damaged Improvements, then Tenant must repair the damage to the Improvements as soon as reasonably possible at Tenant's expense; or, provided that if there is less than three years left on the Term, Tenant may, upon written notice to the City within 60 days of the damage, elect not to repair the damage and terminate the lease.

B. Major Damage.

(i) "Major Damage" means any damage or destruction that, based on ; reasonable estimates made by the Department within 30 days after the occurrence of the damage or destruction, in order to be repaired to the condition existing before the damage or destruction would cost in excess of

50% of the replacement cost of the Improvements, or would require, in the sole judgment of the Commissioner more than nine months to complete.

- (ii) If any part of the Leased Space suffers Major Damage by fire or other casualty, Tenant has the right, for a period of 90 days 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 the Commissioner. If Tenant does not make such election, Tenant must repair the damage to the Improvements as soon as reasonably possible at Tenant's expense, and equitable changes will be made to the

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Rent, Minimum Annual Guarantee, and/or otherwise as may be appropriate starting as of the date of the damage through the date of the repair completion. .

- (iii) The repair costs incurred by Tenant, exclusive of any insurance benefits or proceeds received, will be included in Improvement Costs, and the amortization period specified in Section 5.3(D) will begin with respect to such repair costs as of the repair completion date.(v) Before beginning to replace, repair, rebuild or restore Improvements, Tenant 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; and
 - b. the estimated date upon which the Work will be substantially completed; and
 - c. a statement to the effect that insurance proceeds will or will not 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 written approval of Tenant. Tenant may, by written notice to the City, elect to relocate the Concession operations to the temporary Relocation Space, and, if the Tenant makes such election, the costs associated with any such relocation, including moving expenses and the cost of reconstructing any Improvements in the temporary Relocation Space, must be borne by Tenant. The relocation costs incurred by Tenant, exclusive of any insurance^ benefits or proceeds received, will be included in Improvement Costs, and the amortization period specified in Section 5.3(D) will begin with respect to such relocation costs as of the relocation date.

5.6 City Resident Construction Worker Employment Requirement.

A. Use of Residents. In connection with and during the construction of the Work, Tenant and its Subcontractors 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 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. 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 Subcontractors are required to make good faith efforts to utilize qualified 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 and principal establishment. Tenant and each Subcontractor (for purposes of this subsection, "Employer") must provide for the maintenance of adequate employee residency records to ensure

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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. Certified Payroll Reports. Monthly 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, the date that the Employer hired the employee should be written in after the employee's name.

C. Inspection of Records. Each Employer must provide full access to its employment records to 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 3 years after final acceptance of the Work. At the direction of 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 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.

E. 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 Chicago residents 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 Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Tenant and/or the Subcontractors to prosecution. Notwithstanding the foregoing, Tenant shall not be required to pay liquidated damages if Tenant's failure to ensure the fulfillment of the requirement of this section concerning the worker hours performed by actual Chicago residents or failure to report in the manner as indicated above due to an act or omission of the City.

F. 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

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action required for equal opportunity under the provisions of this Agreement or related documents, as applicable.

G. Inclusion in Subcontracts. Tenant must cause or require the provisions of this section to be included in all construction Subcontracts related to the Work.

7 Licensing of General Contractor. 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 working on Improvements complies with Chapter 4-36 will be an Event of Default.

8 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 must insert appropriate provisions in all Subcontracts covering construction work under this Agreement to ensure compliance of all construction Subcontractors with the foregoing wage statutes and regulations.

9 Subcontractor Certifications. Tenant must require all Subcontractors performing Work in connection with this Agreement to be bound by the following provision and Tenant must cooperate fully with the City in exercising the rights and remedies described below or otherwise available at law or in equity:

"Subcontractor certifies and represents that Subcontractor and any entity or individual that owns or controls, or is controlled or owned by, or is under common control or ownership with Subcontractor 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, Subcontractor 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 Subcontractor for services rendered in connection with the 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 Subcontractor and/or the termination of Subcontractor for default (in which case Subcontractor will be liable for all excess costs and other damages resulting from the termination.)"

ARTICLE 6 TERM OF AGREEMENT

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1 Term. The term of this Agreement is the "Term" as defined in Article 3, unless this Agreement is terminated earlier in accordance with its terms. The Agreement will become effective and binding on the date of its counter-signature by the Mayor ("Effective Date").

Subject to approval by the Federal Aviation Administration, the Term will commence on the Effective Date and will expire on the 15th anniversary of the Date of Beneficial Occupancy of the final portion of the Leased Space to be delivered to the Tenant, except as may be extended in accordance with the Agreement. The City reserves, at its sole discretion, the right to extend the Term with (2) two five year extensions.

2 Holding Over.

A. Without consent. If Tenant continues to occupy all or a portion of the Leased Space without the written consent of the Commissioner after expiration or termination of this Agreement in its entirety, or as to any such portion of the Leased Space where the Lease under this Agreement has expired or terminated, the holding over constitutes a month-to-month lease on the same terms and conditions as this Agreement, except that Tenant must pay Rent for the entire holdover period for the Leased Space where the Lease has expired or been terminated at 150% of the Base Rent payable for that Leased Space during the immediately preceding Lease Year, plus the applicable Percentage Rent. No occupancy of Leased Space by Tenant after the expiration or other termination of the Lease under this Agreement with respect to such Leased Space extends the Term of this Agreement or the Lease, except as a holdover tenancy. Also, in the event of such holdover tenancy, Tenant shall indemnify the City against all damages arising out of the Tenant's retention of occupancy, and all insurance policies and letters of credit required to be obtained and maintained by Tenant as set forth in this Agreement shall continue in effect.

B. With consent. Any holding over with the written consent of the Commissioner constitutes a month-to-month lease on the same terms and conditions as this Agreement, including payment of the Rent attributable to the portion or portions of the Leased Space that Tenant continues to occupy. Thereafter, Tenant must surrender and vacate the Leased Space no later than the 30th day following notice from the Commissioner that the month-to-month holdover is terminated; Tenant's failure to do so shall be deemed a holding over without consent under (A).

3 Return of the Leased Space and Removal of Improvements.

A. At the termination or expiration for any reason of this Agreement or the Lease as to any portion of the Leased Space, Tenant must promptly, peaceably, quietly and in good order quit, deliver up and return the Leased Space (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.

B. Tenant must remove all Tenant personal property and trade fixtures from the Leased Space or the portions of the Leased Space before the date of termination or expiration. Subject to Section 7.7, any personal property or trade fixtures remaining in the Leased Space 30 days after the

date of termination or expiration shall be deemed abandoned, and the City may dispose of such personal property or trade fixtures in the Commissioner's sole discretion, and Tenant shall have no claim to the proceeds, if any, from such disposition.

C. Further, at the Commissioner's request (which request will be given in writing at least 30 days before the termination or expiration of the Term), Tenant must, within a reasonable time after termination, remove all Improvements, including any underground storage tanks or fuel systems installed by or for Tenant, or Tenant's agents, employees or Subcontractors, except for Improvements that the Commissioner may elect to require Tenant to leave in place. As provided in Section 5.2, all Improvements are City property and, if not requested to be removed by the Commissioner, may be used by the City or a replacement tenant; provided, however, that all of Tenant's trade dress, service marks, trademarks and trade names shall be removed, obliterated or painted out in a commercially reasonable manner at Tenant's cost. If directed by the Commissioner to remove Improvements, Tenant must also cap off any plumbing or drains and remove, obliterate or paint out any and all of its signs, advertising and displays as the Commissioner or his designated representative may direct, and repair any holes or other damage left or caused by Tenant.

D. Tenant must repair any damage to the Leased Space caused by Tenant's removal of Tenant personal property, trade fixtures and Improvements (unless Tenant removes the Improvements pursuant to the City's election described above), ordinary wear and tear excepted. All the removal and repair required of Tenant under this section are at Tenant's sole cost and expense.

E. If Tenant fails to perform any of its foregoing obligations, then the Commissioner may cause the obligations to be performed by Department personnel or City contractors, and Tenant must 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.

4 Termination or Adjustment Due to Change. If any action by the FAA, the TSA or any other governmental entity or the issuance of an order by any court of competent jurisdiction or any law or any agreement with any airline using the Airport renders performance of a party's obligation under this Agreement impossible, then such party shall be relieved of that obligation until such time, if any, when the governmental action or court order is stayed, vacated, or reversed, so long as the action or order is not the result of such party's breach of this Agreement. If any governmental action or court order or any law or any agreement with any airline using the Airport impacts Tenant's use and enjoyment of the Leased Space, as described above, equitable changes will be made to the Rent, Minimum Annual Guarantee, and/or otherwise (including termination of this Agreement) as may be appropriate.

5 Eminent Domain.

A. If the entirety of the Leased Space is taken by eminent domain by an authority other than the City, the Term of this Agreement will end upon the earlier of the date when possession is required by the condemning authority or the effective date of the taking.

B. If any eminent domain proceeding is instituted by an authority other than the City in which it is sought to take any part of the Airport or the Leased Space, the taking of which would, in the reasonable discretion of the Commissioner or Tenant, render it impractical or undesirable to conduct Concession operations on the remaining portion of the Leased Space for the intended purposes, the Commissioner and Tenant will each have the right to terminate this Agreement upon not less than 90 days' written notice to the other. If this Agreement is not so terminated, then equitable changes will be made to the Rent, Minimum Annual Guarantee, and/or otherwise as may be appropriate.

C. In the event of termination of this Agreement under either (A) or (B), all Rent accrued for the Leased Space in question prior to the termination date is payable to the City. However, the City shall have no obligation to pay Tenant any unamortized Improvement Costs for such Leased Space, and Tenant shall look solely to the condemning authority for any award of damages.

ARTICLE 7 RENT AND FEES

7.1 Rent Payable.

A. In consideration of Tenant's Lease to the Leased Space and the License to operate its Concession in the Leased Space and the associated rights and privileges granted in this Agreement, Tenant must pay the following, without notice or demand, as rent and fees the Base Rent, License Fee and Additional Rent (collectively, "Rent") as follows:

- i) Base Rent. The "Base Rent" which, from DBO for the first Leased Space through the end of the initial Lease Year, is an amount equal to the product of the annual per square foot rental rate set forth in Exhibit 2 (the "Base Rent Rate") multiplied by the number of square feet of Leased Space as set forth in Exhibit 1 that has reached its DBO (and prorated as needed for partial year occupancy of Leased Space). Once DBO has been reached with respect to all Leased Spaces, the Base Rent for each Lease Year will be payable in equal monthly installments. At all times, Base Rent Rate is applicable to the actual square footage of the Leased Space for which DBO has been reached and is therefore subject to adjustment to reflect Additional Space, Relocation Space and any Leased Space that has been vacated by Tenant in compliance with this Agreement. Every three Lease Years following the initial Lease Year (i.e., for years 4, 7, 10, and so forth) the Base Rent Rate applicable to the Leased Space will increase by the lesser of 3% or the average CPI throughout the prior 3 years.
- ii) License Fee. Beginning as of the first Date of Beneficial Occupancy, an amount equal to the greater of a. or b.:
 - a. Percentage Fee. The "Percentage Fee" is an amount equal to the percentage rental rates set forth in Exhibit 2 as applied to Gross Revenues.

- b. Minimum Annual Guarantee. The "Minimum Annual Guarantee" or "MAG" for the second Lease Year is the MAG dollar amount set forth in Exhibit 2. Beginning with the third Lease Year, and for each Lease Year thereafter, the Minimum Annual Guarantee will equal the greater of: 1) eighty-five percent (85%) of the total Percentage Fee payable for the preceding Lease Year and 2) the Minimum Annual Guarantee dollar amount set forth in Exhibit 2 for the second Lease Year. The Minimum Annual Guarantee applicable to the last Lease Year will be pro-rated if less than 12 months.

Additional Rent. Any other charges payable to the City under this Agreement that are identified as Additional Rent.

Escalation upon Term Extension.

The Base Rent payable to the City pursuant to Exhibit B shall increase upon the commencement of an extension pursuant to Section 6.1. The amount of such increase shall be determined by the appraised fair market rent for the Leased Space, and each Improvement upon the Leased Space, respectively; fair market rent to be initially determined by City's independent appraiser as the rent that would be paid by an unrelated, willing tenant under the otherwise same terms and conditions as this Agreement, and City shall set forth such determination in a written notice to Tenant, which determination shall be provided to Tenant no later than 120 days prior to the expiration of the initial term. [

In the event that Tenant disputes the fair market rent as determined by City, then at any time on or before the date occurring thirty (30) days after Tenant has been notified by City of the fair market rent, Tenant may give written notice of such dispute to the City, supported by the report of its own independent appraiser as to the fair market rent. If City and Tenant are thereafter unable to reach agreement upon the fair market rent, then the parties shall select a mutually acceptable independent MAI appraiser with at least ten (10) years experience in commercial real estate appraisal of similar properties. The third appraiser shall, within forty-five (45) days of his or her appointment, select one of the two estimates of fair market rent submitted by City and Tenant as the one closer to the fair market rent as determined by the third appraiser. The value so selected shall be the fair market rent. The party whose estimate is not chosen by the third appraiser shall pay all costs and expenses of the third appraiser and any experts retained by the third appraiser. Each party shall pay the fees and expenses of the appraiser appointed by or for such party. The time periods in this provision are intended to be approximate guidelines only, and failure of the parties to strictly comply shall not invalidate the process.

- (iii) Within thirty (30) days of its receipt of the final determination of the fair market rent pursuant to the foregoing. Tenant, by written notice to the City, may elect to rescind its extension of the Term and terminate the Agreement, in which case this Agreement shall expire on the date it would have expired had the City not provided the Tenant notice of its intent to extend the Term.

C. 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 Agreement, the Leased Space, Tenant's leasehold, Tenant's Concession business 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 Leased Space (collectively, "Impositions"). Tenant must provide the Concession Management Representative with copies of any business licenses or permits required for the Tenant to operate the Concession. Tenant must provide Commissioner a copy of all notices relating to leasehold taxes on the Leased Space within 30 days after receipt and must provide the Commissioner with a receipt indicating payment of leasehold taxes on the Leased Space when due. Nothing in this Agreement precludes Tenant from contesting the amount of an Imposition, including those taxes or charges enacted or promulgated by City, but unless otherwise allowed by the applicable law or the entity imposing the tax or charge, Tenant must pay the tax or charge pending the judicial or administrative decision on the Tenant's contest. Failure of Tenant to pay any Imposition more than 10 days beyond when due, except to the extent that Tenant is allowed to withhold payment while contesting the amount of the Imposition/will constitute an Event of Default. As provided in Section 4.1, Tenant acknowledges that the leasehold created under this Agreement is taxable, and while Tenant may contest the amount of the leasehold tax, Tenant shall not contest its applicability.

D. Rent under this Agreement is not considered to be a tax and is independent of any Imposition levied by the City on the Tenant's business. Further, the payment of the Rent under this Agreement is independent of each and every other covenant and agreement contained in this Agreement, and Tenant must pay all Rent without any set off, abatement, counterclaim or deduction whatsoever except as otherwise expressly provided in this Agreement. If Tenant is directed to move its Concession operations to a Relocation Space, and the City determines that the Leased Space is to be closed before completion of the Improvements in the Relocation Space, then adjustments will be made to the Minimum Annual Guarantee until Tenant begins Concession operations in the Relocation Space.

7.2 Time of Payments.

A. On or before the first day of each calendar month, prorated for any partial calendar month, beginning on the Delivery Date of the first Leased Space and continuing throughout the Term, Tenant must pay to the City:

- (i) That portion of the Minimum Annual Guarantee as may be due pursuant to Section 7.1(A)(ii)(b); and

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- (ii) Base Rent as may be due pursuant to Section 7.1(A)(i).

B. On or before the 15th day of each month following the month in which the Delivery Date occurs, Tenant must pay the City:

- i) the amount, if any, by which the actual Percentage Fee for the preceding month pursuant to Section 7.1(A)(ii)(a) exceeds the Minimum Annual Guarantee payment that was made on the first day of the month;
- ii) the Marketing Fee if any, based on the Gross Revenues of the preceding month; and

C. If the annual statement of Gross Revenues indicates that the Percentage Fee

attributable to the preceding Lease Year exceeds the amount of all payments made by Tenant to the City for the Lease Year in question, then Tenant must pay the amount of the underpaid Percentage Fee to the City upon the submission of the annual statement of Gross Revenues. If the annual statement of Gross Revenues indicates that the Percentage Fee attributable to the preceding Lease Year is less than the amount of all License Fee payments made by Tenant to the City for the period in question, but the Percentage Fee still exceeds the MAG for that Lease Year, then Tenant will receive a credit against the next License Fee payment due under this Agreement for the amount by which the License Fee actually paid by Tenant exceeded the Percentage Fee attributable to the period.

3 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 v
- ii) Tenant failed to make any Rent payments within 5 days of the date due, then Tenant must pay, in addition to the amount due the City as Rent, interest on the amount of underpayment or late payment at the Default Rate. Interest on the amount underpaid accrues from the date on which the original payment was due until paid in full and shall be considered Additional Rent. The provision for the payment of interest does not constitute an authorization by the City of underpayment or late payment":

4 Reports.

A. Monthly. Tenant must furnish to the Commissioner on or before the 5th day of each calendar month falling wholly or in part within the Term of this Agreement a complete statement, certified by Tenant, of the amount of Gross Revenues during the preceding month.

B. Weekly. Tenant will furnish to the Commissioner weekly sales reports, if requested, in the form specified by the Commissioner.

C. Annually or more often.

- (i) Tenant also must furnish to Commissioner no later than March 30 of each Lease Year falling wholly or in part within the Term of this Agreement, and within 120 days after

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the expiration or termination of this Agreement, a complete statement of revenues certified by an independent certified public accountant engaged by Tenant or by the Tenant's CEO or CFO, showing in all reasonable detail the amount of Gross Revenues made by Tenant in, on or from the Leased Space during the preceding Lease Year and copies of all returns and other information filed with respect to Illinois sales and use taxes as well as such other reasonable financial and statistical reports as the Commissioner may, from time to time, require by written notice to Tenant in order to confirm Tenant's compliance with this Agreement.

- (ii) The annual statement must include a breakdown of Gross Revenues on a month by month basis and an opinion of an independent certified public accountant or the Tenant's CEO or CFO that must include the following language, or language of similar purport:

"We, a firm of independent certified public accountants, have examined the accompanying statement reported to the City of Chicago by [] for the year ended relating to its operations at the Airport pursuant to an Agreement dated , . Our examination was made in accordance with generally accepted accounting principles and, accordingly, includes such tests of the accounting records and such other procedures as we considered necessary in the circumstances.

In our opinion, the accompanying statement showing gross revenues of ' presents accurately the amount of Gross Revenues, as defined in the Agreement, for the year ended

D. All such reports and statements must be prepared in a form approved by the Commissioner and must, among other things, provide a breakdown of the Gross Revenues by category of Merchandise and an analysis of all Percentage Fees due and payable to the City with respect to the period in question. If Tenant fails to timely furnish to the Commissioner any monthly or annual statement required under this Agreement or if the independent certified public accountants' or CEO or CFO's opinion is qualified or conditioned in any manner, the Commissioner has the right (but is not obligated), upon reasonable written notice, to conduct an audit of Tenant's books and records in order to prepare the statements at Tenant's expense. Tenant must also provide the Commissioner with such other financial or statistical reports and information concerning the Leased Space or any part thereof, in the form as may be reasonably required from time to time by the Commissioner, as may be appropriate to confirm Tenant's compliance with this Agreement.

7.5 Books, Records and Audits.

A. Except as provided below, Tenant must prepare and maintain at its office full, complete and proper books, records and accounts in accordance with generally accepted accounting

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procedures relating to and setting forth the Gross Revenues, 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 Tenant. The books and source documents to be kept by Tenant must include true copies of all federal, state and local tax returns filed with respect to Tenant's Concession operation and reports, records of inventories and receipts of merchandise, daily receipts from all sales and other pertinent original sales records and records of any other transactions conducted in or from the Leased Space by Tenant and any other persons conducting business in or from the Leased Space. Pertinent original sales records must include the following documents or their auditable electronic equivalents:

- i) cash register tapes, including tapes from temporary registers,
- ii) serially pre-numbered sales slips,

- iii) the original records of all mail and telephone orders at and to the Leased Space,
- iv) original records indicating that merchandise returned by customers was purchased at the Leased Space by the customers,
- v) memorandum receipts or other records of merchandise taken out on approval,
- vi) detailed original records of any exclusions or deductions from Gross Revenues,
- vii) 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 Tenant's Gross Revenues.

B. Tenant must 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 cash register or cash registers having a cumulative total that must be sealed in a manner approved by the Commissioner and that must possess such other features as required by the Commissioner. The books, records and accounts relating to the Leased Space, including any sales tax reports that Tenant may be required to furnish to any government or governmental agency, must, upon at least 7 days prior written notice, 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 offices for a period of at least 3 years after the expiration of each calendar year falling wholly or in part within the Term..

C. The acceptance by the Commissioner of payments of any Percentage Fee is without prejudice to the Commissioner's right to conduct an examination of the Tenant's books and records relating to Gross Revenues.

D. Further, at its option, the Commissioner may at any reasonable time, upon no less than 10 days prior written notice to Tenant cause a complete audit to be made of Tenant's entire

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records relating to the Leased Space for the period covered by any statement issued by Tenant as above set forth within the 3 calendar years prior to the date of such audit. If the audit discloses that Tenant's statement of Gross Revenues is understated to the extent of:

- i) 3% or more, Tenant must promptly pay the City the cost of the audit in addition to the deficiency (and any interest on the deficiency at the Default Rate), which deficiency is payable in any event; and if
- ii) 7% or more, an Event of Default is considered to have occurred, and in addition to all other remedies available under this Agreement, at law, or in equity, the Commissioner has the right to terminate this Agreement 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.

6 Revenue Control. Upon the request of the Commissioner Tenant must make available monthly sales data ("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 sold. At such time, if any, as computerized Point of Sale Data systems ("POS Systems") have been developed to a point where the Commissioner deems it necessary or desirable to install such a POS System, then Tenant must upon request and at its own expense, install a compatible POS System or, if it already uses such a system, must use reasonable efforts to promptly cause the system to be compatible with the City's POS System. Tenant shall be given a reasonable amount of time, not to exceed one year, to accomplish the foregoing. Any such system later installed by Tenant must be compatible with any POS System installed by the Commissioner, and Tenant must permit the Commissioner to connect the Commissioner's POS System to Tenant's POS System using fiber optic cable or otherwise.

7 Lien. The City waives any statutory liens on any personal property and trade fixtures at the Leased Space. Tenant may lease or grant security interests in such assets. Such lessors or secured parties that give the City written notice of their lease or security interests, as well as any subtenants, shall be sent by the City copies of any notices of termination, reentry, repossession, distraint, or the like that the City sends to Tenant, and shall have thirty days from such notices to remove their collateral, leased assets, or subtenant assets, and must repair any damage caused by the removal; and such secured parties, lessors, and subtenants may rely on this section as third party beneficiaries.

ARTICLE 8 INSURANCE, INDEMNITY AND SECURITY

8.1 Insurance. Tenant must, at its sole expense, procure and maintain at all times during the Term of this Agreement, and during any time period following expiration or termination of this

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Agreement during which Tenant is holding over or Tenant is required to return to the Leased Space for any reason whatsoever, the types of insurance specified in Exhibit 8 covering all operations under this Agreement, with insurance companies authorized to do business in the State of Illinois.

2 Indemnification.

A. 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 to the extent Losses are caused by the negligence, willful misconduct, breach of contract, or violation of law by the City, its officers, representatives, elected and appointed officials, agents or employees.

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 employees, agents, subtenants, and Subcontractors.

C. Tenant must 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 any of its obligations under this Agreement. Tenant shall have the right to settle but 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, such consent not to be unreasonably withheld.

} D. 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 limits applicable to a 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, willful misconduct, breach of contract, or violation of law. 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. For clarity, it is acknowledged that Tenant's waiver hereunder is not in favor of any employee of Tenant or in favor of any other third party not expressly indemnified by Tenant hereunder.

E. The indemnities contained in this section survive expiration or termination 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 to indemnify, keep and save harmless and defend the City are apart from and not limited by the Tenant's duties under this Agreement, including the insurance and Security requirements.

3 Security

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A. Form of Security.

- i) Tenant must deliver to the City no later than the earlier to occur of: a) 30 days after the Effective Date or b) 30 days after the Delivery Date for the first Leased Space, an irrevocable, unconditional sight draft Letter of Credit in favor of the City. The face amount of the Letter of Credit and any replacements or renewals of it must be maintained by Tenant, through and including the date that is 180 days after the expiration of the Term or termination of this Agreement, as follows: the face amount of the Letter of Credit must at all times equal thirty thousand dollars (\$30,000). The Letter of Credit must be in such form as Tenant may request, subject to approvals by the Corporation Counsel, which approval shall not be unreasonably withheld.
- ii) In lieu or replacement 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 Agreement as the "Security." The original Letter of Credit, and all replacements of it, must be issued with an expiry date of at least one year after their respective dates of issuance. The Security secures the faithful performance by Tenant of all of Tenant's obligations under this Agreement. 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 reasonably

satisfactory to the Comptroller has been furnished to the Commissioner at least 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 Agreement. 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 shall apply 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. Any amounts drawn that are not applied shall be held as cash Security. Tenant may replace any cash Security with a Letter of Credit at any time.
- 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 Agreement, and a copy of the demand and written statement to be simultaneously sent to Tenant. If amounts are properly drawn upon the Letter of Credit and applied or amounts of a cash Security are properly applied by the Commissioner in accordance with the terms of this Agreement, Tenant must reinstate the Letter of Credit or cash Security to its full

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amount required in this Agreement within 10 days following 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 Agreement or under law.

- v) 180 days after the expiration of the Term or termination of this Agreement, the City will return to Tenant any unapplied Security.
- vi) Notwithstanding anything else in this Section 8.3, if there is no Tenant Event of Default prior to the date that is one year after the DBO, the Tenant will no longer be required to maintain the Security and the City will return to Tenant any cash Security.

B. Qualified Issuers. 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, and must have an office in Chicago where the Commissioner may draw on the Letter of Credit. The Commissioner also reserves the right to order Tenant to immediately close some or all of the Leased Space until the Letter of Credit is in place and effective.

C. Right to Require Replacement of Letter of Credit. If the financial condition of any Letter of Credit issuer issuing the Letter of Credit materially and adversely changes such that it is no longer qualified hereunder, the Commissioner may, at any time, reasonably 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 Agreement nor in the

Letter of Credit required under this Agreement excuse Tenant from faithfully performing in accordance with the terms and conditions of this Agreement or limit the liability of Tenant under this Agreement 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 Agreement, the failure of the Commissioner to draw upon the Letter of Credit required under this Agreement 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 Agreement 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 Section.

ARTICLE 9 DEFAULT, REMEDIES AND TERMINATION

9.1 Events of Default. The following (A) through (N) constitute Events of Default by Tenant under this Agreement. The Commissioner will notify Tenant in writing of any event that the Commissioner believes to be an Event of Default. Tenant may be given an opportunity to cure the Event of Default within a reasonable period of time, as such period to be determined by the

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Commissioner, but not to exceed 30 days after written notice of the Event of Default provided that (i) if a provision of this Agreement provides for a different cure period for a particular Event of Default, that different cure period will apply; (ii) if a provision of this Agreement 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 failure within the time period granted and after that continues to diligently and continuously proceed to cure failure, and the failure is reasonably susceptible of cure within 45 days from delivery of the notice. Tenant will have the additional time, not to exceed 5 days, to cure the failure.

A. Any material misrepresentation made by Tenant to the City in the inducement to City to enter this Agreement or in the performance of this Agreement. There is no right to cure this Event of Default.

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

B. Tenant's failure to make any payment in full when due under this Agreement and failure to cure the default within five days after the City gives written notice of the non-payment to Tenant. In addition, Tenant's failure to make any such payment within five days after the written notice more than three 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 allowing Tenant any opportunity to cure it.

C. 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 Agreement.

D. Tenant's failure to promptly and fully perform any obligation or duty, or to comply with any restriction of Tenant contained in this Agreement concerning Transfer or Change in Ownership, whether

directly or indirectly, of Tenant's rights or interests in this Agreement or of the ownership of Tenant. ..

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

F. Tenant's failure to conduct Concession operations in any Retail Space at all times Tenant is required to do so under this Agreement.

G. Tenant's failure to comply with the Value Pricing Policy.

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H. Tenant's failure to begin or to complete its Improvements on a timely basis or to timely open for business in the Leased Space or any portion of it.

I. An Event of 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 the default within any applicable cure period.

J. Tenant or Guarantor, if any, does any of the following and the action affects Tenant's ability to carry out the terms of this Agreement:

- i) becomes insolvent, as the term is defined under Section 101 of the 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 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.

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

L. Tenant is dissolved.

M. 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

Commissioner, Tenant's performance of this Agreement in accordance with its terms.

N. Any failure to perform, act, event or omission that is specifically identified as an Event of Default elsewhere in this Agreement.

9.2 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 Agreement, including the remedy of Self-help as provided in Section 9.3, the City through the Commissioner or other appropriate City official may exercise any or all of the following remedies:

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A. Terminate this Agreement with respect to all or a portion of the Leased Space and exclude Tenant from that part of the Leased Space affected by the termination. If the City elects to terminate this Agreement, the Commissioner shall serve written notice upon Tenant that this Agreement is terminated effective immediately upon receipt of 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 Agreement. If the Agreement is terminated, whether in its entirety or with respect to a part of the Leased Space, the damages will include damages for the balance of the scheduled Term (net of any rents collected by the City from another tenant to which the City may re-lease the space), based upon any and all amounts that Tenant would have been obligated to pay for the balance of the Term with respect to the Leased Space, or if this Agreement is terminated with respect to a portion of the Leased Space, that portion of the Leased Space affected by the termination, calculated as provided in this Agreement or, if not fixed, as reasonably estimated and prorated among the various portions of the Leased Space. 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 Leased Space must be discounted to present value at the Default Rate existing as of the date of termination. The Commissioner may declare such amount to be immediately due and payable.

C. Upon written notice, whether or not this Agreement has been terminated, reenter and repossess the Leased Space 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 Leased Space. 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 Leased Space or any part or parts of it does not relieve or affect Tenant's liability under this Agreement nor is the City liable for failure to re-lease, Reentry or taking possession of the Leased Space does not constitute an election on the City's part to terminate this Agreement 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 thereafter elect to terminate this Agreement 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 Leased Space to the extent deemed by the Commissioner to be desirable or convenient, 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 the City from any new Tenant obtained on account of Tenant will be credited against the balance of the Rent due under this Agreement. Tenant must pay the City monthly, on the days when payments of Rent would have been payable under this Agreement, the amount due under this Agreement less the amount obtained by the City from the new Tenant, if any.

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D. Upon written notice, enter upon the Leased Space, distraint 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, auction or sealed bid.

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

F. Seek and obtain money damages including special, exemplary, incidental and consequential 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. Accept the assignment of any and all Subcontracts between Tenant and the design and construction Subcontractors.

J. require Tenant to terminate a Subcontractor that is causing breaches of this Agreement.

9.3 Commissioner's Right to Perform Tenant's Obligations. 'T

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 Agreement in any manner reasonably 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 Agreement nor do the provisions of this section or any exercise by the Commissioner of Self-help under this Agreement 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

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- (iii) in connection with the completion of construction, furnishing or equipping of the Leased Space or the licensing, operation or management of the Leased Space or the payment of any of its operating costs, may do so in such amounts and to such persons as the Commissioner may reasonably deem appropriate.

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

C. If Tenant fails to perform its obligations under this Agreement to maintain and operate the Leased Space in accordance with this Agreement within 10 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 Commissioner will give advance notice to the extent practical) 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 Agreement and are payable to the City within 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 Agreement, and Tenant covenants to pay any such sum or sums with interest at the Default Rate.

9.4 Effect of Default and Remedies

A. Tenant, for itself and on behalf of any and all persons claiming through or under it (including creditors of all kinds), waives and surrenders all right and privilege that they or any of them might have under or by reason of any present or future law, to redeem the Leased Space or to have a continuance of this Agreement for the Term, as it may have been extended, after having been dispossessed or ejected by process of law or under the terms of this Agreement or after the termination of this Agreement as provided in this Agreement.

B. Either party'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 under this Agreement or otherwise. A failure by either party 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 the other party will not in any respect limit, prejudice, diminish or constitute a waiver of any rights of the either party 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 Agreement does not constitute a waiver or diminution of, nor create any limitation upon any right of the City under this Agreement to terminate this Agreement for subsequent violation or Event of Default, or for continuation or repetition of the original violation or

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Event of Default. Neither party has any claim of any kind against the other party by reason of the other party'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.

C. All rights and remedies of either party under this Agreement are separate and cumulative and none excludes any other right or remedy set forth in this Agreement or allowed by law or in equity. No termination of this Agreement or the taking or recovery of the Leased Space deprives either party of any of its remedies regarding any breach by the other party. Every right and remedy of either party under this Agreement survives the expiration of the Term or the termination of this Agreement.

ARTICLE 10 SPECIAL CONDITIONS

10.1 Warranties and Representations. In connection with the execution of this Agreement, 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 must incorporate all of the provisions set forth in this Section 10.1 in all Subcontracts entered into with any suppliers of materials, furnishers of services, Subcontractors, and labor organizations that furnish skilled, unskilled and craft union skilled labor, 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. Tenant must cause its Subcontractors 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 Subcontractor is a partnership or joint venture, Tenant must also include provisions in its Subcontract providing that the entities comprising the joint venture or the general partners of the partnership are jointly and severally liable for its obligations under it.

A. Tenant is financially solvent; Tenant holds itself to industry standards of quality and professionalism; Tenant and each of its employees and agents are 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 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 State of Illinois and the City of Chicago, if required by applicable law.

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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 lease or permit; 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 affect 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, a Subcontract under it, 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 and as may otherwise be permitted-by law.

G. Tenant has not and will not knowingly used 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 such 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 Leased Space. Tenant shall hold the City harmless against any claims for brokerage commission arising out of any conversations or negotiations had by Tenant with any broker.

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I. Neither 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, Subcontractors, any of their respective owners holding 7.5% or more beneficial ownership interest, and any of Tenant's directors, officers, members, or partners:

- i) currently have no interest, directly or indirectly, that conflicts with Tenant's performance under this Agreement and will not at any time during the Term have any interest nor acquire any interest, directly or indirectly, that conflicts 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; ^{vi},
 - (iii) are not in default under any other City contract or agreement as of the Effective Date, ⁱⁱⁱ 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; and
- (vi) will not make use of the Leased Space 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:

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- i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement;
- ii) the nature of the Concession license being granted;
- 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.

10.2 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 Agreement on behalf of Tenant.

B. 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 Agreement as Exhibit 10. Upon request by the Commissioner, Tenant must further cause its Subcontractors, subtenants, sublicensees 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 10 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 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.

10.3 Licenses and Permits. Tenant must in a timely manner consistent with its obligations under this Agreement, 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, its subtenants (if any), and Subcontractors: to operate the Concession; to construct, operate, use and maintain the Leased Space; and otherwise to comply with the terms of this Agreement and the privileges granted under this Agreement. Tenant must promptly provide copies of any required licenses and permits to the Commissioner and to the Concession Management Representative.

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4 Confidentiality. Except as may be required by law during or after the performance of this Agreement, Tenant will not disseminate any non-public information regarding this Agreement or the Concession operations without the prior written consent of the Commissioner, which consent will not be unreasonably withheld or delayed. 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 the City's Corporation Counsel. 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. Tenant must require each prospective Subcontractor to abide by such restrictions in connection with their respective Subcontracts. The City shall not disseminate any Tenant information and/or communications marked proprietary except as may be required by law.

5 Subcontracts and Assignments.

A. The City expressly reserves the right to assign or otherwise transfer all or any part of its interest under this Agreement, at any time and to any third party. The City will promptly notify Tenant of any such assignment. Upon assignment to any successor or assignee of the City's right, title and interest in and to the Airport, the City is forever relieved, from and after the date of the assignment, of any and all obligations arising under or out of this Agreement, to the extent the obligations are assumed by the successor or assignee.

B. Limits on Tenant's transfers and changes in ownership:

- i) Except as otherwise provided below, Tenant may not sell, assign, sublease, sublicense, convey, pledge, encumber or otherwise transfer (individually and collectively, "Transfer") all or any part of its rights or interests in or to this Agreement, the License, the Leased Space, the Term, or otherwise permit any third party to use the Leased Space, without prior consent of the City, which consent may be given or denied in the City's sole and absolute discretion.
- ii) Except as otherwise- provided below, any transaction involving a change of any ownership interest in Tenant, whether to an Affiliate, subsidiary or otherwise,, or the transfer of an interest in any holder of a direct or indirect ownership interest in Tenant, or any merger or consolidation of Tenant (individually and collectively, "Change in Ownership"), is subject to the consent of:
 - a. City Council, in its sole discretion, if the Change in Ownership involves a 100% Change in Ownership of Tenant, or
 - b. the Commissioner, in her reasonable discretion, if the Change in Ownership involves less than a 100% Change in Ownership of Tenant.

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- iii) If Tenant (or, if Tenant is a joint venture or other entity comprised of other entities, any of the entities comprising Tenant) is a corporation whose shares are traded at arms-length on a public exchange, any Change in Ownership through a transaction or a series of related transactions in which such corporation is a party (e.g., a merger or stock issuance) and which involves 5% or more of the shares of Tenant's (or if Tenant is a joint venture or other entity comprised of other entities, of any of the entities comprising Tenant) stock is subject to the City's consent as set forth above. In that event, Tenant must provide the City with such prior notice of a Change in Ownership as is not prohibited by law or by a confidentiality agreement executed in connection with the proposed Change in Ownership. If such prior notice is not permitted, then Tenant must notify the City as soon as possible after the Change in Ownership to obtain the City's consent to the Change in Ownership, which consent the City may grant or deny in its sole discretion. If Tenant (or if Tenant is a joint venture or other entity comprised of other entities, of any of the entities comprising Tenant) is a publicly traded corporation, a Change in Ownership of less than 5% does not require consent as set forth in (ii) above unless a series of such transactions results in a cumulative Change in Ownership of 5% or more.
- iv) Consent by the City to any Change in Ownership or Transfer does not relieve Tenant (or if Tenant is a joint venture, any of the entities comprising Tenant) from the requirement of obtaining consent from the City for any subsequent Change in Ownership or Transfer.
- v) Any Transfer or Change in Ownership made without the City's required prior consent is an Event of Default and does not relieve Tenant of any of its obligations under this Agreement 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 any request by Tenant or to take any other action as provided in this Agreement be deemed or construed to constitute consent to the Tenant's request by the Commissioner or by the City Council.
- vi) 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 or Change in Ownership if the Commissioner's consent is required; and (b) at least 120 days prior to a proposed Transfer or Change in Ownership if the City Council's consent is required. All requests for consent must include copies of the proposed documents of Transfer or Change in Ownership, evidence of the financial condition, reputation and business experience of the proposed transferee, completed Economic Disclosure Statements and Affidavits for all involved parties in the form then required by the City, and such other documents as the City may reasonably require to evaluate the proposed Transfer or Change in Ownership.

All documents of Transfer or Change in Ownership must completely disclose any and all monetary considerations payable to Tenant in connection with the Transfer or Change in Ownership.

As a condition of the consent, the City may require a written acknowledgment from Tenant that, notwithstanding the proposed Transfer or Change in Ownership, transferor remains fully and completely liable for all obligations of Tenant under this Agreement; however, transferor shall remain so liable regardless of whether or not the City requests a written acknowledgement, except to the extent the City consents in writing to transferor not remaining liable and provided that an approved Transfer of all of transferor's interest in this Agreement will relieve transferor of all its obligations under this Agreement.

vii) If any Transfer or Change in Ownership under this Agreement occurs, whether or not prohibited by this section, the Commissioner may collect the Rent payable under this Agreement from any transferee of Tenant and in that event will apply the net amount collected to the amounts payable by Tenant under this Agreement without, by doing so, releasing Tenant from this Agreement or any of its obligations under this Agreement. If any Transfer or Change in Ownership occurs without the consent of the City and the City collects compensation from any transferee of Tenant and applies the net amount collected in the manner described in the preceding sentence, the actions by the City are not deemed to be waiver of the covenant contained in this section and do not constitute acceptance of the transferee by the City.

viii) All reasonable costs and expenses incurred by the City in connection with any prohibited or permitted Transfer or Change in Ownership must be borne by Tenant and are payable to the City as Additional Rent.

C. The provisions of this Agreement, to the extent applicable, are deemed a part of any sublease or contract between Tenant and a subtenant or Subcontractor.

D. Assignment of Subleases, Sublicenses and Subcontracts.

(i) Tenant shall assign to the City all of Tenant's right, title and interest in and to each and every permitted sublease and sublicense and each and every Subcontract with a design and construction Subcontractor, now or later executed by Tenant in connection with the License or the Leased Space or any part of it. In connection with the assignment, Tenant must deliver all originally executed subleases, sublicenses and Subcontracts to the Commissioner. Any such assignment will become operative and effective only when and if the City accepts the assignment by giving written notice to Tenant and either this Agreement and the Term of this Agreement or Tenant's right to possession under this Agreement are terminated pursuant to Article 9.

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(ii) At the time, if any, that the assignment becomes effective as provided above, the subtenants or Subcontractors will be deemed to have waived all claims, suits, and causes of action against the City arising out of or relating to the period before the effective date of the assignment. Further,

in no instance will the City be responsible for any claims by a subtenant or Subcontractor arising from or related to any fraud, misrepresentation, negligence or willful or intentionally tortious conduct by Tenant, its officials, employees, or agents.

E. Leasehold Mortgage.

i) Right to Mortgage. Tenant may secure financing or refinancing for the Improvements and in connection therewith may encumber its interest in this Agreement by a security instrument and/or pledge ("Leasehold Mortgage") in favor of a secured lender ("Leasehold Mortgagee").

ii) Notice & Cure. If the City sends to Tenant any default notice, whether or not such default is an Event of Default, the City will also send a copy thereof to Leasehold Mortgagee by prepaid registered or certified mail, return receipt requested, or by pre-paid nationally recognized overnight delivery service. It will be Tenant's and Leasehold Mortgagee's obligation to provide the City with written notice of Leasehold Mortgagee's name and address and written notice of any change thereof. No default notice to Tenant will be effective unless it is also sent to Leasehold Mortgagee as required herein. Leasehold Mortgagee may cure any default, but has no obligation to do so. The City will accept Leasehold Mortgagee's performance as if Tenant had performed. The City may exercise any remedies it may have by reason of the default only if the default is not cured within the longer of any cure period provided to Tenant or within thirty (30) days of the default notice sent to Leasehold Mortgagee, or such longer period as may reasonably be required, provided that Leasehold Mortgagee or Tenant diligently pursues such cure to completion within such reasonable period of time. Any action by Leasehold Mortgagee to cure any Tenant default or otherwise to exercise Tenant's rights under this Agreement will not be deemed to be an assumption by Leasehold Mortgagee of Tenant's obligations unless Leasehold Mortgagee forecloses and succeeds to Tenant's interest in this Agreement or expressly assumes such obligations in writing. The City will also send Leasehold Mortgagee a copy of any notice of termination, reentry, repossession, distraint, or the like that it sends to Tenant.

iii) Succession & Assignment. If Leasehold Mortgagee forecloses and succeeds to Tenant's interest in this Agreement, the City will thereafter accept Leasehold Mortgagee as the Tenant under this Agreement, and this Agreement will continue in full force and effect, provided that there is no existing default under this Agreement or the Leasehold Mortgagee undertakes to cure any such default as provided above. The City will not unreasonably refuse to allow Leasehold Mortgagee to assign its interest in this Agreement, such that the assignee will become Tenant hereunder in substitution of Leasehold Mortgagee.

iv) Changes. This Agreement will not be amended, terminated, surrendered, or waived, in whole or in part, by any exercise of any option or election by Tenant, or by the giving of any notice

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by Tenant, or by Tenant signing any amendment, termination, surrender, or waiver, unless such amendment, termination, surrender, or waiver is assented to in writing by Leasehold Mortgagee. Any such attempted amendment, termination, surrender, or waiver without such assent is void.

v) Limitation of Liability. Leasehold Mortgagee will be liable to perform only the obligations imposed on Tenant in this Agreement during any period when Leasehold Mortgagee is in possession or ownership of the leasehold estate created by this Agreement.

vi) Subordination. The City hereby subordinates its statutory and any other landlord's lien to the lien of Leasehold Mortgagee, as well as any lien on any subtenant rents that may be assigned to Leasehold Mortgagee.

vii) Insurance. Leasehold Mortgagee may be the loss payee under Tenant's policies on condition that the insurance proceeds are to be applied as required under this Agreement.

viii) Reliance. Leasehold Mortgagee may rely on Section 10.5(E) as third party beneficiary.

10.6 Compliance with Laws. Tenant must 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 Agreement (collectively, "Laws"), and must not use the Leased Space, or allow the Leased Space to be used, in violation of any Laws or in any manner that would impose liability on the City or Tenant under any Laws. Tenant must notify the City within seven days of receiving notice from a competent governmental authority that Tenant or any of its Subcontractors may have violated any Laws. Subject to Section 6.4 hereof, 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: Without limiting the foregoing, Tenant covenants that it will comply with all Laws, including but not limited to the following:

A. 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 10 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 a Subcontractor, it is determined that the contractual relationship is in violation of this subsection, Tenant must

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immediately cease to use the Subcontractor. All Subcontracts must provide that Tenant is entitled to recover all payments made by it to the Subcontractor if, before or subsequent to the beginning of the contractual relationship, the use of the Subcontractor would be violative of this subsection.

B. 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 2-56 or Chapter 2-55 of the Municipal Code, respectively. Tenant understands and will abide by all provisions of Chapters 2-55 and 2-56 of the Municipal Code. Tenant must inform all Subcontractors of this provision and require under each Subcontract compliance herewith by each Subcontractor as to each such Subcontractor and all of its officers, directors, agents, partners and employees.

C. Tenant must not use or allow the Leased Space 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 Leased Space 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 Agreement, Tenant must surrender the Leased Space to the City free from the presence and contamination of any hazardous substances except any that were present prior to the DBO or which entered the Leased Space from adjoining land.

D. In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Tenant warrants and represents that it, and to the best of its knowledge, its Subcontractors have not violated and are 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.

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During the period while this Agreement is executory, Tenant's or any Subcontractor's violation of the Waste Sections with respect to the Leased Space, constitutes an Event of Default. Such breach and Event of Default entitles the City to all remedies under the Agreement, at law or in equity. This section does not limit the Tenant's and its Subcontractors' 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 will be an Event of Default and may further affect the Tenant's eligibility for future City agreements.

E. Section 2-92-586 of the Municipal Code: The City encourages Tenant to use contractors and subcontractors 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.

F. Prohibition on Certain Contributions (Mayoral Executive Order No. 2011-4):

1. Tenant agrees that, 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 (collectively, "Tenant 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 Tenant's bid or proposal or this 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 the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Tenant shall include in all Subcontracts a clause that the Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (collectively, "Sub Identified Parties") shall not make a contribution of any amount to the Mayor or to his political fund-raising committee (i) after execution of Subcontractor's bid or proposal or the Subcontract by Tenant, (ii) while the Subcontract is executory, (iii) during the term of the Subcontract, or (iv) during any period while an extension of the Subcontract 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 Agreement, no Tenant 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

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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 Tenant Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4. Tenant shall include a clause in all Subcontracts that Sub Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 05-1.

5. Tenant agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision by Tenant or violation of Mayoral Executive Order No. 2011 -4

by Tenant 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.

6. If Tenant violates this provision or Mayoral Executive Order No. 05-1 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 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 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

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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.

G. Tenant covenants that no payment, gratuity or offer of employment must be made in connection with this Agreement by or on behalf of any Subcontractors or higher tier Subcontractors 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.

H. 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

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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.

I. Visual Rights Act.

i) The Tenant will cause any artist who creates artwork for the Leased Space 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. The Tenant acknowledges 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 acknowledges and consents 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.

ii) The Tenant represents and warrants that it will obtain a waiver of Section 106A and
ii) Section 113 of the Copyright Act as necessary from any employees and subcontractors, or any
other

ii) artists. Tenant must provide City with copies of any such waivers required by Section 106A and
ii) Section 113 of the Copyright Act prior to installation of any Artwork in the Leased Space.
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10.7 Airport Security.

A. This Agreement is expressly subject to the airport security requirements of Title 49 of the United States Code, Chapter 449, as amended ("Airport Security Laws"), the provisions of which govern airport security and are incorporated by reference, including the rules and regulations promulgated under it. . Tenant is subject to, and further must conduct with respect to its ■■ Subcontractors and the respective employees of each, such employment investigations, including r criminal history record checks, 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 Laws, Tenant must promptly report any 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 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.

B. Further, Tenant must comply with, and require compliance by its Subcontractors, suppliers of materials and furnishers of services, employees, and business invitees, with all present and future laws, rules, regulations, or ordinances promulgated by the City, the TSA or the FAA, or

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other governmental agencies to protect the security and integrity ofthe Airport, and to protect against access by unauthorized persons. Subject to the approval of the TSA, the FAA and the Commissioner, Tenant must adopt procedures to control and limit access to the Airport and the Leased Space by Tenant and its Subcontractors, suppliers of materials and furnishers of services, employees, and business invitees 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 Leased Space that complies with all applicable laws and regulations.

C. Gates and doors located on the Leased Space, if any. that permit entry into restricted areas at the Airport must be kept locked by Tenant at all times when not in use or under Tenant's constant security surveillance. 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 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. Tenant further must indemnify, hold harmless and defend the City and other users of the Airport from and against any and all claims, reasonable costs, reasonable expenses, damages and liabilities, including all reasonable attorney's fees and costs, resulting directly or indirectly from the breach of Tenant's covenants and agreements as set forth in this section.

E. Tenant understands that fines and/or penalties may be assessed by the TSA or FAA for Tenant's noncompliance with the provisions of 49 CFR Parts 1540 and 1542 entitled "Airport Security" or by other agencies for noncompliance with regulations applicable to Tenant's operations. In the event the City shall be subject to any fine or penalty by reason of any violation at the Airport of any such rule, regulation or standard, the Commissioner may conduct an investigation and make a determination as to the identity of the party responsible for the violation. If it is determined by the Commissioner that Tenant, or any party for which Tenant is liable under this Agreement, is responsible for all or part of the fine or penalty, the Tenant shall pay said amount of the fine or penalty as Additional Rent.

10.8 Non-Discrimination.

A. Tenant for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration of this Agreement, covenants 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 Leased Space; (ii) in the construction of any Improvements on, over, or under the Leased Space 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

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denied the benefits of, or otherwise be subjected to discrimination; (iii) Tenant will use the Leased Space 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 (iv) Tenant shall operate the Concession on a fair, equal, and not illegally discriminatory basis to all users of it, and shall charge fair, reasonable, and nondiscriminatory prices for Merchandise (but Tenant is allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.) In addition, Tenant assures that it will comply with all other pertinent statutes, 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.

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 Agreement, discriminate or permit discrimination in any manner, including the use of the Leased Space, 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 must comply with the Civil Rights Act of 1964, 42 U.S.C. § 2000e et secu (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 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, 5 111. Admin. Code §750 Appendix A. Furthermore, Tenant 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.

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E. Tenant 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 must furnish or must cause each of its Subcontractor(s) to furnish such reports and information as requested by the Chicago Commission on Human Relations.

F. Tenant must insert these non-discrimination provisions in any agreement by which Tenant grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Leased Space. Tenant must incorporate all of the above provisions in all agreements entered into with any subtenants, suppliers of materials, furnishers of services, Subcontractors 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 Agreement, and Tenant must require them to comply with the law and enforce the requirements. In all solicitations either by competitive bidding or negotiations by Tenant for work to be performed under a Subcontract, including procurements of materials or leases of equipment, each potential Subcontractor or supplier must be notified by Tenant of the Tenant's obligations under this Agreement relative to nondiscrimination.

G. Noncompliance with this Section will constitute a material breach of this Agreement; 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 Agreement, 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 Agreement, in whole or in part.

H. Tenant 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 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.

9 Airport Concession Disadvantaged Business Enterprises (ACDBEs). This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations 49 C.F.R. Parts 26 and 23, as amended from time to time.. Tenant must comply with the Special Conditions Regarding ACDBE participation attached hereto as Exhibit 9 and incorporated here by reference. Failure to comply with such Special Conditions shall be an Event of Default.

Tenant must comply with the Special Conditions Regarding ACDBE participation attached hereto as Exhibit 9 and incorporated here by reference. Failure to comply with such Special Conditions shall be an Event of Default.

10 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

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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.

11 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, and without interference or hindrance. The City reserves the right, but is not obligated to Tenant, 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.

12 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 Leased Space, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Space. 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 Leased Space above the applicable mean sea level elevation set forth in Part 77 of the Federal Aviation Regulations. If these covenants are breached, the City serves the right to enter upon the Leased Space 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. :

13 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 Leased Space. 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 successors, and assigns that it will not make use of the Leased Space in any manner that might interfere with the landing and taking off of aircraft from Airport or otherwise constitute a hazard. If these covenants are breached, the City reserves the right to enter upon the Leased Space and cause the abatement of the interference at the expense of Tenant.

14 National Emergency. This Agreement and all 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 nonexclusive use of the Airport by the United States during the time of war or national emergency.

ARTICLE 11 GENERAL CONDITIONS

11.1 Entire Agreement. This Agreement contains all the terms, covenants, conditions and agreements between the City and Tenant relating in any manner to the use and occupancy of the

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Leased Space and otherwise to the subject matter of this Agreement. No prior or other agreement or understandings pertaining to these matters are valid or of any force and effect. This Agreement 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, or by the Tenant or anyone acting for or on the Tenant's behalf, either orally or in writing, have induced Tenant or City, respectively, to enter into this Agreement, and each party acknowledges, represents and warrants that it has entered into this Agreement under and by virtue of its own independent investigation.

2 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.

3 Amendments. Except as otherwise expressly provided in this Agreement, the provisions of this Agreement 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 Agreement (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 Agreement that are within the express powers of the Commissioner under this Agreement to modify), nor excuse Tenant from compliance with the requirements of this Agreement 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. Notwithstanding the foregoing, any amendment that would modify ' the Agreement such that the Agreement would no longer substantially conform with the form of Agreement that was approved by City Council requires approval by the City Council.

4 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 (subject to application of Section 6.4 hereof), only to the i extent of the prohibition or, invalidity, without invalidating the remaining provisions of this Agreement or the validity of the provision in other circumstances.

5 Covenants in Subcontracts. All obligations imposed on Tenant under this Agreement pertaining to the maintenance and operation ofthe Leased Space and compliance with the ACDBE requirements in this Agreement are deemed to include a covenant by Tenant to insert appropriate provisions in all Subcontracts covering work under this Agreement and to enforce compliance of all Subcontractors with the requirements of those provisions.

6 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

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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 anyway concerning the execution or performance of this Agreement. 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 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.

11.7 Notices. Any notices or other communications pertaining to this Agreement 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 day after deposit with a nationally recognized commercial overnight courier 3 days after deposit in the U.S. mails, or otherwise upon refusal of receipt. Unless otherwise directed by Tenant in writing, all notices or communications from City to Tenant will be addressed to the person identified as the Tenant's contact person in the Tenant's Economic Disclosure Statement and Affidavit, as attached as Exhibit 10, with a copy to Tenant's General Counsel. 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: Deputy Commissioner of Concessions at the same address.

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

City of Chicago, City Comptroller 121 North
LaSalle Street, 7th floor 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

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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.

8 Successors and Assigns; No Third Party Beneficiaries. This Agreement inures to the exclusive benefit of, and be 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 Agreement. 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 provided in this Agreement or expressly agreed to by the parties in a separate writing signed by the parties. 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.

9 Subordination.

A. This Agreement 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 Agreement, then Tenant consents to the changes to this Agreement, subject to application of Section 6.4 hereof.

B. This Agreement and all rights granted to Tenant under this Agreement are expressly subordinated and subject to any existing agreement or any Use Agreement with any airline utilizing the Airport, including the Leased Space, and any existing agreement with any airline consortium pertaining to the operation of the Airport, including the Leased Space, subject to application of Section 6.4 hereof.

C. To the extent of a conflict or inconsistency between this Agreement and any agreement described in paragraphs A. and B. above, those provisions in this Agreement so conflicting must be performed as required by those agreements referred to in paragraphs A. and B.

10 Conflict. In the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of any sublease or Subcontract between Tenant and third parties, the terms and provisions of this Agreement govern and control.

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11 Offset by Tenant. Whenever in this Agreement 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 Agreement against amounts due to Tenant by City unless so directed in writing by the City Comptroller.

12 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 Agreement 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 neither party will be liable to the other party for any consequential damages whatsoever related to this Agreement.

13 Authority of Commissioner. Unless otherwise expressly stated in this Agreement, 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.

11.14 Estoppel Certificate. From time to time upon not less than 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 Agreement and the parties' performance under this Agreement, including the following:

A. that this Agreement 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 Rent, including Additional Rent, have been paid and the amounts of the Rent most recently paid;

C. that the requesting party is not in default under any provision of this Agreement, 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 Agreement (or if not completed, a description of what has not been completed), and Tenant is in occupancy and paying Rent on a current basis with no offsets or claims (or, as the case may be, that Tenant is not in occupancy or is not paying Rent on a current basis with no offsets or claims); and

E. such further matters as may reasonably be requested, it being intended that any such statement may be relied upon by third parties.

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15 No Personal Liability. Tenant, or any subtenant, sublicensee, assignee or Subcontractor, must not charge any elected or appointed official, agent, or employee of the City personally or seek to hold him or her personally or contractually liable to Tenant, subtenant, sublicensee, assignee, or Subcontractor for any liability or expenses of defense under any provision of this Agreement or because of any breach of its provisions or because of his or her execution, approval, or attempted execution of this Agreement.

16 Limitation of City's Liability. Tenant, its subtenants and Subcontractors 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 Agreement. All Tenant, subtenant, and Subcontractor personal property upon the Leased Space or upon any other part of the Airport, is at the risk of Tenant, subtenant, or Subcontractor 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 Subcontractors, and Tenant waives, and will cause its subtenants and Subcontractors 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 Leased Space, 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 Agreement 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 Agreement, and the City is not liable for any deficiency except to the extent provided in this Agreement and to the extent that there are legally available Airport funds.

11.17- 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. For clarity, it is acknowledged that a Tenant that is a corporation, limited liability company, or limited partnership is not comprised of its

shareholders, members, or limited partners.

18 Recordation. Tenant may record or permit to be recorded on its behalf a memorandum of this Agreement in any public office.

19 Survival. Any and all provisions set forth in this Agreement that, by its or their nature, would reasonably be expected to be performed after the expiration or termination of this Agreement survive and are enforceable after the expiration or termination. Any and all liabilities, actual or contingent, that have arisen in connection with this Agreement, survive any expiration or

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termination of this Agreement. 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.

20 Force Majeure. Neither party is liable for non-performance of obligations under this Agreement due to delays or interruptions beyond their reasonable control, including delays or interruptions caused by strikes, lockouts, labor troubles, war, fire or other casualty, acts of God ("force majeure event"). As a condition to obtaining an extension of the period to perform its obligations under this Agreement, the party seeking such extension due to a force majeure event must notify the other party within 20 days after the occurrence of the force majeure event. The notice must specify the nature of the delay or interruption and the period of time contemplated or necessary for performance.

21 Title Review. At Tenant's expense, Tenant will have thirty (30) days following the Effective Date to obtain a current survey and/or title examination of the Leased Space and, at Tenant's option and expense, to obtain a title insurance commitment for a leasehold title policy in such amount as Tenant deems appropriate. If the title review or survey reveals any encroachments, overlaps, boundary disputes or other defects which render title unmarketable or which Tenant reasonably determines would interfere with Tenant's intended development or use, or if the title insurance commitment shows any exceptions which render title unmarketable or which Tenant reasonably determines would interfere with Tenant's intended development or use, Tenant shall notify the City in writing thereof before expiration of the 30 day period. The City shall have the right, but not the obligation, within sixty (60) days of the notice, to cure such defects and exceptions (or to make arrangements with the title insurer for the removal of such exceptions). If the defects are not cured or if the exceptions are not cured (or removed) by the end of the sixty day period, Tenant may elect to terminate this Agreement upon written notice to the City within fifteen (15) days after expiration of the sixty day period.

22 Inspections. At Tenant's expense, Tenant will have sixty (60) days following the Effective Date to have conducted any inspections, tests, assessments, studies, and other due diligence that Tenant reasonably deems appropriate regarding the Leased Space, including, but not limited to, physical inspection, soil tests, environmental assessment, topographic studies, engineering and site planning studies, market studies, and legal due diligence. If Tenant reasonably determines, based on the results, that it would not be prudent for Tenant to proceed with the intended development or use, Tenant may elect to terminate this Agreement upon written notice to the City within fifteen (15) days after expiration of the 60 day period.

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**EXHIBIT 1 LEASED SPACE
(INCLUDING CONFIRMATION OF DBO AND ACTUAL IMPROVEMENT COSTS)**

Proposed Site Location

Proposed
Environmental Assessment

Multi-Alternative

Fuel

Station

Short

Form

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EXHIBIT 2 RENT

1. Base Rent (per square foot per annum) Rate: \$ 1.02 per square foot
2. Percentage Fee:
Years 1 and 2 of the Lease:
5% on all annual concessions sales (retail, food, carwash etc. excluding lottery tickets and ATM fees) ("Annual Concessions Sales") over \$1million; \$.015 per gallon on all annual fuel sales over 1.5 million gallons.
Remaining term of the Lease (Years 3-15):
2.5% on all Annual Concessions Sales until such sales reach \$1 million; and 5% on all Annual Concessions Sales over \$1 million; \$.015 per gallon on all annual fuel sales over 1.5 million gallons.
3. MAG (prorated among Retail Spaces if more than one Retail Space): \$47,068.00
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**EXHIBIT 3 DEVELOPMENT PLAN (INCLUDING BUDGETED IMPROVEMENT COSTS, AND
SCHEDULED DBO DATES)**

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**EXHIBIT 5
TYPES OF FUEL AND RATE METHODOLOGY**

A minimum of sixty percent (60%) of the fuel pumping infrastructure installed by Tenant on the Leased

Space must be of the types listed in Figure 1 below ("Alternative Fuel"). The remaining forty percent (40%) or less of the fuel pumping infrastructure installed by Tenant on the Leased Space shall be conventional fuel as identified in Figure 2 below ("Conventional Fuel"). Additionally, a single fuel cannot account for more than 60 percent of the total number of pumps at the station.

Fuel pricing to be based on the rates charged by comparable airport travel plazas, taking into account geographical differences in wholesale fuel prices.

Figure 1 - Alternative Fuel

Compressed Natural Gas	Biodiesel	Liquefied Petroleum Gas	Ethanol	Hydrogen	Electric
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Figure	2	-	Conventional	Fuel	Gasoline
Diesel					

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EXHIBIT 6

PHASE 1 ENVIRONMENTAL ASSESSMENT

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EXHIBIT 8

INSURANCE REQUIREMENTS Chicago Department of Aviation Multi-Alternative Fuel Station at Chicago O'Hare Airport

Concession Redevelopment and Management Agreement

Tenant must provide and maintain at Tenant's own expense or cause to be maintained, during the term of the Agreement and until each and every obligation of Tenant contained in this Agreement has been fully performed, the insurance coverages and requirements specified below, insuring all operations under this Agreement.

A. INSURANCE TO BE PROVIDED BY TENANT/DEVELOPER

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Lease and Employers Liability coverage with limits of not less than

\$500,000 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, explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City of Chicago and its elected and appointed officials, agents, representatives and employees must be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work or services under or in connection with this Agreement.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with this Agreement, Tenant must provide Automobile Liability Insurance with limits of not less than \$5,000,000 per occurrence for bodily injury and property damage. The City of Chicago and its elected and appointed officials, agents, representatives and employees must be named as an additional insured on a primary, non-contributory basis.

4) Professional Liability/Errors and Omissions

When any program/project managers, construction management professionals or any other professional consultants perform work or services in connection with this Agreement, Professional Liability Insurance covering acts, errors or omissions must be

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maintained with limits of not less than 5,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede start of work or services in connection with the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 2 years.

5) Valuable Papers

When any plans, designs, drawings, specifications, media, data, reports, files, lease records, and other documents are produces or used under this Agreement Valuable Papers Insurance must be maintained in an amount to insure against any loss, and must have limits sufficient to pay for the for the re-creation and reconstruction of such records.

B. INSURANCE TO BE PROVIDED DURING CONSTRUCTION

The Tenant must provide and maintain or cause their Contractor to maintain the insurance coverages and requirements specified below, insuring all operations related to the Tenant's concession Agreement and to the Tenant's contract with its Contractors and Design Engineers.

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work or Services under this 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 \$15,000,000 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, independent contractors, separation of insured, 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 on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Contractor must maintain limits of not less than \$5,000,000, with the same terms herein.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, Automobile Liability Insurance must be provided with limits of not less than \$15,000,000 per occurrence for bodily injury and property damage. Coverage extension must include if applicable, an MCS-90 Endorsement where required by the Motor Carrier Act of 1980. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

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Subcontractors performing work for the Contractor must maintain limits of not less than \$5,000,000 with the same terms herein.

Builders Risk

When Tenant undertakes any construction, including improvements, betterments, and/or repairs, Tenant must provide or cause to be provided, All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility/project. Coverages must include but are not limited to the following: right to partial occupancy, material stored off-site and in-transit, equipment breakdown, earth movement, flood, water including overflow, leakage, sewer backup or seepage, collapse, debris removal, faulty workmanship or materials, testing, mechanical-electrical breakdown and other consequential loss. The City of Chicago is to be named as an additional insured and loss payee.

The Contractor is responsible for all loss or damage to personal property (including but not limited to material, equipment, tools and supplies), owned, rented or used by the Contractor

Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work or Services in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$5,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede start of work on the Agreement. A claims-made policy which is

not renewed or replaced must have an extended reporting period of two (3) years.

Subcontractors performing professional services for the architect, engineers, project managers or other consultants must maintain limits of not less than \$2,000,000 with the same terms herein.

Valuable Papers

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, Contractors Pollution Liability must be provided or cause to be provided, covering bodily injury, property damage and other losses caused by pollution conditions that arise from the work performed with limits of not less than \$5,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide

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with or precede start of work under the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City of Chicago is to be named as an additional insured.

C. INSURANCE TO BE PROVIDED DURING OPERATION

Tenant must provide and maintain at Tenant's own expense or cause to be maintained, during the term of the Agreement and until each and every obligation of Tenant contained in this Agreement has been fully performed, the insurance coverages and requirements specified below, insuring all operations under this Agreement.

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$500,000 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 explosion, collapse, underground, separation of insured, 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 on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

3) Automobile Liability (Primary and Umbrella) ;

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, Automobile Liability Insurance must be provided with limits of not less than \$5,000,000 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) All Risk Property

Tenant must maintain or cause to be maintained, All Risk Property Insurance at full replacement cost covering loss or damage to building, machinery and equipment including improvements or betterments of Tenant's property including fuel storage tanks and fueling equipment that is part of the Fuel Station facility/premises. Coverage extensions must include business income/ loss of rents in an amount not less than the sum of (i) the Fees then payable under the Agreement, plus (ii) the rent payable under the Agreement for a period of one (1) year. The City of Chicago is to be named as an additional insured and loss payee.

5) Pollution Legal Liability

Pollution Legal Liability Insurance must be provided or cause to be provided, covering bodily injury, property damage and other losses caused by pollution conditions that arise from the Agreement scope of services with limits of not less than \$1,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense,

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excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced the policy retroactive date must coincide with or precede start of work in connection with this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 2 years. The City of Chicago is to be named as an additional insured.

6) Blanket Crime

Crime Insurance or equivalent covering all persons handling funds under this Agreement, against loss by dishonesty, robbery, burglary, theft, destruction or disappearance, computer fund transfer fraud, credit card forgery, and other related crime risks. The policy limit must be written to cover losses in the amount of maximum monies, collected, received and in the possession of Tenant at any given time.

7) Liquor Liability

When applicable, Tenant must maintain or caused to be maintained, 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 the operations under of this Agreement.,

D. ADDITIONAL REQUIREMENTS

Tenant and Contractor must furnish the City of Chicago, Chicago Department of Aviation, O'Hare Airport, 10510 West Zemke Road, Chicago, Illinois 60666, original Certificates of Insurance, or such similar evidence, to be in force on the date of this 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. Tenant and Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form, a copy which is attached hereto as Exhibit E (or other form acceptable to the City prior to execution of the 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 requirements of Agreement. The failure of the City to obtain certificates or other insurance evidence from the Tenant and Contractor is not a waiver by the City of any requirements for the Tenant and Contractor to obtain

and maintain the specified coverages. Tenant and Contractor must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve the Tenant and Contractor of the obligation to provide insurance as specified herein. Non-fulfillment 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.

Tenant and 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 the Tenant and Contractor.

Tenant and Contractor hereby waives and agrees to require their insurers to waive their rights of

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subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by the Tenant and Contractor in no way limit the Tenant's and Contractor's liabilities and responsibilities specified within the Agreement documents or by law.

Any insurance or self-insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Tenant under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

If Tenant and Contractor are joint venture or limited liability companies, the insurance policies must name the joint venture or limited liability company as a named insured.

Tenant and Contractor must require all Subcontractors to provide the insurance required herein, or Tenant and Contractor may provide the coverage for Subcontractors. All Subcontractors are subject to the same insurance requirements of the Tenant unless otherwise specified herein.

If the Tenant and/or Contractor desire additional coverages, Tenant and Contractor are responsible for the acquisition and cost of such additional protection.

Notwithstanding any provisions in the Agreement to the contrary, the City of Chicago Risk Management Division maintains the right to modify, delete, alter or change these requirements, provided that the modification, deletion, alteration or change does not impose an obligation that exceeds the above requirements.

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EXHIBIT 9

ACDBE SPECIAL CONDITIONS AND RELATED FORMS

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 nondiscrimination 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, unless the requirements of Part 23 are amended to permit such counting.

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

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

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 0%. 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 40%. Historical data regarding ACDBE participation at the City's airports indicates that this aspirational goal should consist of a race-neutral goal of 15% and a race-conscious goal of 25%.

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.

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

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.

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

- r percentage of gross revenues, and a copy of the joint venture agreement is attached to Schedule B. If there is ACDBE participation is 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; however, the foregoing is not intended to preclude Tenant from exceeding its ACDBE commitment. 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

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

of a percentage of gross revenues., or Tenant must use good faith efforts to increase ACDBE participation or to obtain substitute or additional ACDBE(s) 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 use good faith efforts to 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 reasons for termination of an ACDBE's participation must be fully explained and supported with adequate documentation. Stated reasons which will NOT be acceptable include: 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 and no reasonable effort has 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.

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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 a reasonable time 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:

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

1. Tenant is an ACDBE. When Tenant is an ACDBE, the gross receipts earned by Tenant are counted. Gross receipts attributable to a non-ACDBE sublicensee of Tenant are not counted.
2. Sublicensee is an ACDBE. When an ACDBE performs as a sublicensee to Tenant with its own concession 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. Tenant is a Joint Venture. When an ACDBE performs as a participant in a joint venture, the portion of gross receipts equal to a distinct, clearly defined portion of the work of the concession that the ACDBE performs with its own forces are counted.

a. *When Tenant is a joint venture, Tenant must submit the joint venture agreement, and must submit on an ongoing basis any updates, changes, or amendments to the joint venture agreement. The joint venture agreement must clearly define the participation of each party in the contribution of property, capital, efforts, skills and knowledge, and must include all the information required by the FAA ACDBE Joint Venture Guidance.*

b. When Tenant is 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.

c. Joint Venture/Separate Locations. 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.

d. Joint Venture/Jointly-operated 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.

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BUSINESS ENTERPRISE (ACDBE)
COMMITMENT**

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 an 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.

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- 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 must be 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 expansion of its certification scope 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

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

Chicago, Federal or State authorities, the US 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.

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."

E. JOINT VENTURES.

When Tenant is a joint venture, additional reporting is required. Tenant must submit a copy of the joint venture agreement, and must submit within ten business days of execution, copies of any updates, changes, or amendments to the joint venture agreement. The joint venture agreement must clearly define the participation of each party in the contribution of property, capital, efforts, skills and knowledge.

In addition to providing information about the joint venture agreement itself, information Tenant must submit to the City on an ongoing basis includes but is not limited to:

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1. Capital contributions. Tenant must specify the initial capital contributions made by each party, and how future capital contributions are allocated.
2. Financial statements and other documentation demonstrating that profits and losses are being allocated in accordance with the joint venture agreement.
3. Minutes, agendas, and attendance rosters of meetings of the joint venture partners, to be provided for review by the City no less than once per year.
4. Detailed valuation of the distinct portion of the work performed by the ACDBE participant(s).

The City may require Tenant to submit additional documentation as the City deems necessary to comply with FAA regulations or guidance, or otherwise as evidence to substantiate the value of the ACDBE's contribution or the amount of the ACDBE's participation. If the Tenant fails to submit satisfactory documentation, it is 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.

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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

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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.

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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 an 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:

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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:

Office of Compliance 333 S. State St.,
Suite 320 Chicago, IL 60604

Attention: Deputy Director, Supplier Diversity

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

Department of Law
30 North LaSalle Street, Room 1400
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.

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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.

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SCHEDULE B B AFFIDAVIT OF ACDBE JOINT VENTURE IN AIRPORT CONCESSIONS

This form is to be submitted if Tenant is a joint venture that is proposing ACDBE participation in the concession as a joint venture member. Add additional sheets if necessary. A copy of the joint venture agreement must be attached to this Schedule B, along with copies of the most recent certification letter for each ACDBE identified below. The joint venture agreement must clearly state the following: 1) each joint venture member=s roles and responsibilities in the management and day-to-day operations of the joint venture, 2) the capital contribution requirements for each joint venture member, and 3) the allocation of risks and liabilities between joint venture members. [NOTE: The concession Agreement with the City will require joint venture members to be jointly and severally liable for obligations of the joint venture under the concession Agreement.] If Tenant is proposing to perform as a joint venture, the City will not execute a concession Agreement with the Tenant until the City has received and reviewed a signed joint venture agreement that complies with the Federal Aviation Administration's regulations, policies and guidance. No subsequent changes to the joint venture agreement will be allowed without prior notice to the City. Any changes in the joint venture agreement that impact the roles, rights and/or responsibilities of the ACDBE joint venture member will require the prior approval of the City.

Name of Tenant joint venture:

Description of Airport Concession (from title page of Request for Proposals):

Name, address and phone number of joint venture contact person:

I. Identify Joint Venture Members

Firms participating in joint venture (use additional pages if necessary):

Name of firm: ;

Address:

Phone Number:

Contact name/phone number:

% ownership: %

ACDBE: yes / no Certifying agency:

Date of Certification:

Type of work for which certification was granted:

Schedule B, page J

Firms participating in joint venture (use additional pages if necessary):

Name of firm:

Address:

Phone Number:

Contact name/phone number:

% ownership: %

ACDBE: yes / no Certifying agency:

Date of Certification:

Type of work for which certification was granted:

Name of firm:

Address:

Phone Number:

Contact name/phone number:

% ownership: %
ACDBE: yes / no Certifying agency:
Date of Certification:
Type of work for which certification was granted:

II. Capital Investment

Non-ACDBE initial capital contribution: \$, %

ACDBE initial capital contribution: \$, [%

Source of funds for the ACDBE capital contribution:

Future capital contributions (explain requirements):

III. Joint Venture Agreement

For each of the following, cite the applicable provision of the joint venture agreement that addresses the question asked. Attach additional sheets if necessary.

Describe the portion of the work or elements of the business controlled by the ACDBE:

Describe the portion of the work or elements of the business controlled by the non-ACDBE:

Schedule B. page 2

Describe the ACDBE's involvement in the overall management of the joint venture (e.g., participation on a management committee or managing board, voting rights, etc.):

Describe the ACDBE's share in the profits of the joint venture:

Describe the ACDBE's share in the risks of the joint venture:

Describe the roles and responsibilities of each joint venture participant with respect to managing the joint venture (use additional sheets if necessary):

- a. ACDBE joint venture participant (s):
- b. Non-ACDBE joint venture participant(s):

Describe the roles and responsibilities of each joint venture participant with respect to day-to-day operation of the joint venture (use additional sheets if necessary):

- a. ACDBE joint venture participant(s):
- b. Non-ACDBE joint venture participant(s):

IV. Management Information

Please provide information relating to the approximate number of management, administrative, support and non-management employees that will be required to operate the business and indicate whether they will be employees of the ACDBE, non-ACDBE or joint venture.

	Non-ACDBE Firm	ACDBE Firm	Joint Venture
Management			
Support			
Hourly Employees			

Please provide the name of the person(s) who will be responsible for hiring employees for the joint venture:

Who will they be employed by?

Which firm will be responsible for accounting functions relative to the joint venture's business?

Explain what authority each party will have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties (cite to applicable section(s) of joint venture agreement and use additional sheets if necessary):

List all other business relationships between the joint venture participants, including other joint venture agreements in which the parties are jointly involved:

Schedule B, page 3

1

V. Employee Information

Are any of the proposed joint venture employees currently employees of any of the joint venture partners?
yes / no

If yes, please attach a roster showing the number and positions and indicates which firm currently employs the individual(s).

The undersigned covenants and agrees to provide the City with current, complete and accurate information regarding the actual performance by the ACDBE joint venture member in the concession's management and operations, as required by the concession Agreement and/or upon request by the City. Any material

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THIS DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED ON BEHALF OF THE TENANT TO MAKE THIS AFFIDAVIT.

(Signature)

(Date)

The above signed officer, _____ (Name of Affiant), personally appeared and, known by me to be the per son described in the above Affidavit, acknowledged that (s)he executed the same in the capacity stated above and for the purposes stated above.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

(Notary Public Signature)

Seal

Commission expires:

Schedule B. page 4

SCHEDULE C
Letter of Intent from ACDBE to Perform As Sublicensee, Subcontractor, Supplier
and/or Consultant to Tenant

[NOTE: If Tenant is proposing to count ACDBE participation pursuant to a joint venture of ACDBE firms and non-ACDBE firms, use Schedule B B Affidavit of Joint Venture B instead of Schedules C and D.]

Name of Tenant:

Description of Airport Concession (from title page of Request for Proposals):

From: _____ (AACDBE0)
Name of ACDBE Firm

To: _____ and the City of Chicago:
Name of Tenant

The ACDBE certification status of the undersigned is confirmed by the attached Letter of Certification from the City of Chicago dated _____ (or letter of certification from the Illinois Department of Transportation dated _____). This Schedule C and the Letter of Certification will be attached to Schedule D B Commitment of Tenant to ACDBE Participation.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named airport concession:

Description of ACDBE Participation in concession	Description of compensation to be paid to ACDBE
---	--

Value of participation by ACDBE as percentage of projected concession gross revenues: %

[NOTE: If more space is needed to fully describe the ACDBE firm=s proposed role and/or compensation, attach additional sheets.]

Schedule C: Letter of Intent from ACDBE

SUB-SUBCONTRACTING LEVELS

% of the value of the ACDBE=s participation will be sub-subcontracted to non-ACDBE contractors.

% of the value of the ACDBE=s participation will be sub-subcontracted to ACDBE contractors.

NOTES:

- 1) IF ACDBE WILL NOT BE SUB-SUBCONTRACTING ANY OF THE PARTICIPATION DESCRIBED IN THIS SCHEDULE, A ZERO (0) MUST BE SHOWN IN EACH BLANK ABOVE.
- 2) IF MORE THAN TEN PERCENT (10%) OF THE VALUE OF THE ACDBE=s PARTICIPATION WILL BE SUB-SUBCONTRACTED, A BRIEF EXPLANATION AND DESCRIPTION OF THE WORK TO BE SUB-SUBCONTRACTED MUST BE ATTACHED TO THIS SCHEDULE.

The undersigned will enter into a formal written agreement for the above participation with Tenant, conditioned upon the City of Chicago selecting the Tenant as a concessionaire, approval of Tenant=s ACDBE Participation Commitment referencing this Schedule C by the City of Chicago, and successful negotiation of a concession Agreement between Tenant and the City of Chicago.

(Signature of Owner, President, or Authorized Agent of ACDBE)

Name/Title (Print)

Date

Phone

**SCHEDULE D: Commitment by Tenant to Participation by Airport Concession
Disadvantaged Business Enterprises (ACDBE=s) as Sublicensee, Subcontractor,
Supplier and/or Consultant to Tenant**

[NOTE: If Tenant is proposing to count ACDBE participation pursuant to a joint venture of ACDBE firms and non-ACDBE firms, use Schedule B B Affidavit of Joint Venture B instead of Schedules C and D.]

Name of Tenant:

Description of Airport Concession (from title page of Request for Proposals):

State of)

County (City) of)

In connection with the above-referenced Airport Concession Request for Proposals (ARFP0) and any concession agreement entered into pursuant to the RFP, I,
(Name of Affiant) HEREBY DECLARE AND AFFIRM that I am
the (Title of Affiant) and duly authorized representative of the above-named Tenant and that I have personally reviewed the information set forth in the attached Schedule(s) C, with the following being a summary of such information:

Name of ACDBE Firm	Role of ACDBE in Concession (as set forth in Schedule C)	Proposed ACDBE Participation (as percentage of gross revenues)
--------------------	--	--

Total Proposed ACDBE Participation Commitment: %

To the best of my knowledge, information, and belief, the facts and representations contained in the aforementioned attached Schedules are true, and no material facts have been omitted.

The Tenant will enter into formal agreements with all listed ACDBE firms for work as indicated by this Schedule D and accompanying Schedule(s) C so as to ensure compliance with the Total Proposed ACDBE Participation Commitment stated above, and understands that it must enter into such agreements as a condition precedent to execution of a concession Agreement by the City of Chicago. Copies of each signed sublicense, subcontract, purchase order, or other agreement (collectively, aACDBE agreements) will be submitted to the Chicago Department of Aviation so as to assure receipt no later than ten (10) business days prior to anticipated execution of the concession Agreement by the City.

The Tenant designates the following person as its ACDBE Liaison Officer:

(Name B Please print or type) (Phone)

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THIS DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED ON BEHALF OF THE TENANT TO MAKE THIS AFFIDAVIT.

(Name and Title of Affiant B Print or type)

(Signature)

(Date)

On this day of , 20 ,

The above signed officer, (Name of Affiant), personally appeared and, known by me to be the person described in the above Affidavit, acknowledged that (s)he executed the same in the capacity stated above and for the purposes stated above.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

(Notary Public Signature)

Commission expires:

CONCISION LI'ASI ACIRIT Nil NIAIRPORT PI A/A

EXHIBIT 10

ECONOMIC DISCLOSURE STATEMENT(S) AND AFFIDAVIT(S)

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:

Chicago Travel Plaza, 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

2. 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:* 2359 Research Court
Woodbridge, VA 22192

C. *Telephone:* 703-576-1744 *Fax:* 703-576-1694 *Email:* nrassekh@petromg.com <mailto:nrassekh@petromg.com>

D. Name of contact person: *Neysan Rassekh*

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):

Multi-fuel travel center development (convenience store, food service, fuel station) located at SE corner of W Higgins Rd & Patton Rd Rosemont IL 60018.

G. Which City agency or department is requesting this EDS? *City of Chicago: 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 #

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SECTION IT -- DISCLOSURE OF OWNERSHIP INTERESTS

A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party: ☐ Person
☐ Publicly registered business corporation ☐ Privately held business corporation ☐ Sole proprietorship ☐ General partnership ☐ Limited partnership ☐ Trust

☒ Limited liability company ☐ Limited liability partnership ☐ Joint venture ☐ Not-for-profit corporation

(Is the not-for-profit corporation also a 501(c)(3))?

☐ Yes

☐ No

☐ 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?

☒ 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:

PMG Airport Plazas Developers, LLC

Managing Member

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,

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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 Disclosing Party
------	------------------	---

<i>PMG Airport Plazas Developers, LLC</i>	<i>2359 Research Court 100% Woodbridge VA 22192</i>	
---	---	--

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

r.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.

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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.
--	------------------	--	---

None have yet been retained, but applicant expects to retain professionals such as engineering, architectural, and construction firms.

(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.

Tf "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.

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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").

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Neither the Disclosing Party, nor to Disclosing Party's knowledge 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 to Disclosing Party's knowledge 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 "N/A," 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

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

C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

1. ☐ 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.L, 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.L, 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

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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):

None

(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.

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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: Applicant is a

Single Purpose Entity

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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:

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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.

Chicago Travel Plaza, LLC

(Print or type name of Disclosing Party)

(Sign here) ~

Abdolhossein Ejtemai

(Print or type name of person signing)

President of Petroleum Marketing Group, Inc, which is the Manager of PMG Airport Plazas Developers LLC, which is the Managing Member of Applicant

(Print or type title of person signing)

Signed and sworn to before me on (date) 7/1/2016 at
Franklin County Illinois (state).

7164426 = MY COMM. EXPIRES: 05/31/2016

Notary Public. Commission expires: 07/01/2017 / REGISTRATION NO.: 7164426

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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:

PMG Airport Plazas Developers, 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: *Chicago Travel Plaza, 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: *2359 Research Court*
<■ Woodbridge, VA 22192 L

C. Telephone: *703-576-1744* Fax: *703-576-1694* Email: *nrassekh@petromg.com* [<mailto:nrassekh@petromg.com>](mailto:nrassekh@petromg.com)

D. Name of contact person: *Neysan Rassekh*

E. Federal Employer Identification No. (if you have one): . s

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):

Multi-fuel travel center development (convenience store, food service, fuel station) located at SE corner of WHiggins Rd & Patton Rd Rosemont IL 60018.

G. Which City agency or department is requesting this EDS? *City of Chicago: 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 #

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SECTION II - DISCLOSURE OF OWNERSHIP INTERESTS

A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party: ☐ Person

☐ Publicly registered business corporation ☐ Privately held business corporation ☐ Sole proprietorship ☐ General partnership ☐ Limited partnership ☐ Trust

☒ Limited liability company ☐ Limited liability partnership ☐ Joint venture ☐ Not-for-profit corporation

(Is the not-for-profit corporation also a 501(c)(3))?"

☐ Yes

☐ No

☐ Other (please specify)

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Virginia

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?

☒ No

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:

Petroleum Marketing Group, Inc. 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,

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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

Petroleum Marketing Group, Inc.

E&C Enterprises Incorporated

Abdolhossein Ejtemai

Airport Plazas Management, LLC

Percentage Interest in Disclosing Party

8%

64%

20%

8%

336 No. Broadway (# 206) Jericho NY, 11753

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?

[X]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.
--	------------------	--	---

(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 1 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").

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Neither the Disclosing Party, nor to Disclosing Party's knowledge 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 to Disclosing Party's knowledge 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 "N/A," 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

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

C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

1. ☐ 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

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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):

None

(If no explanation appears or begins on the lines above, or if the letter is "NA" or if the word "None" appears, 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.

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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:

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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.

PMG Airport Plazas Developers, LLC (Print or
type name of Disclosing Party)

Abdolhossein Ejtemai

(Print or type name of person signing)

*President of Petroleum Marketing Group, Inc, which is the Manager of PMG Airport Plazas Developers
LLC*

(Print or type title of person signing)

Signed and sworn to before me on (date)

Notary Public. Commission expires:

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**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?

[JYes [X]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:

Petroleum Marketing Group, 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: *Chicago Travel Plaza, LLC*

OR

3. ☐ a legal entity with a right of control (see Section TLB. 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:* *2359 Research Court
Woodbridge, VA 22192*

C. *Telephone:* 703-576-1744 *Fax:* 703-576-1694 *Email:* nrasekh@pe.tromg.com <mailto:nrasekh@pe.tromg.com>

D. *Name of contact person:* *Neysan Rassekh*

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):

Multi-fuel travel center development (convenience store, food service, fuel station) located at SE corner of WHiggins Rd & Patton Rd Rosemont IL 60018.

G. *Which City agency or department is requesting this EDS?* *City of Chicago: 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 #

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- DISCLOSURE OF OWNERSHIP INTERESTS

A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party: ☒ Person

☐ Publicly registered business corporation ☒ Privately held business corporation

☐ Sole proprietorship

☐ General partnership

☐ Limited partnership ; ☐ Trust

☐ Limited liability company ☐ Limited liability partnership ☐ Joint venture ☐ Not-for-profit corporation

(Is the not-for-profit corporation also a 501(c)(3))?

☐ Yes

☐ No

☐ Other (please specify)

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Maryland

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?

☒ No

B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY: j

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:

Abdolhossein Ejtemai President

David Noland

Julio Cornejo Secretary

Vice President

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,

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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 Disclosing Party
<i>Abdolhossein Ejtemai</i>	<i>2359 Research Court Woodbridge VA 22192</i>	<i>85%</i>
<i>David Noland</i>	<i>Same as above</i>	<i>15%</i>

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.

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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 T 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.

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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").

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Neither the Disclosing Party, nor to Disclosing Party's knowledge 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 to Disclosing Party's knowledge 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:

Page 6 of 13

If the letters "N/A," 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

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

C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

1. ☐ 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.I., 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

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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):

None

(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.

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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, 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:

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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.

Petroleum Marketing Group, Inc. .

(Print or type name of Disclosing Party)

By

(Sign, if Abdolhossein

Ejtemai

(Print or type name of person signing)

President

(Print or type title of person signing)

Signed and sworn to before me on (date)

Notary Public, County of Cook, State of Illinois, at Chicago, Illinois

My commission expires: 05/31/2016

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**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.

[illegible]

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