

3/7/2019

**SAN ANTONIO INTERNATIONAL AIRPORT
FOOD & BEVERAGE PRIME CONCESSION AGREEMENT**

Between

CITY OF SAN ANTONIO

And

PARADIES LAGARDERE @ SAT, LLC

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SAN ANTONIO INTERNATIONAL AIRPORT FOOD & BEVERAGE PRIME CONCESSION AGREEMENT

THIS FOOD & BEVERAGE PRIME CONCESSION AGREEMENT (“Agreement”) is made and entered into on _____, 2019, by and between the **CITY OF SAN ANTONIO** (“City”), a Texas home-rule municipality, acting by and through its City Manager, pursuant to Ordinance No. _____, passed and approved by the San Antonio City Council and **PARADIES LAGARDERE @ SAT, LLC**, a Texas limited liability company (“Concessionaire”), acting by and through its authorized officers.

WHEREAS, the City of San Antonio is the owner and operator of the San Antonio International Airport, and;

WHEREAS, the City operates a concession program at the Airport as an essential service for its passengers and other patrons using the Airport; and

WHEREAS, on _____, the Concessionaire in response to a public solicitation, submitted a proposal to the City for a non-exclusive prime concessionaire for purposes of operating food, beverage and retail concession businesses at designated location(s) within Terminal A and its proposal was recommended for acceptance by the City, and

NOW THEREFORE, in consideration of the mutual covenants, terms, conditions, privileges, obligations and agreements herein contained, the City and the Concessionaire hereby mutually undertake, promise and agree, each for itself, and its successors and assigns, as follows:

ARTICLE I. DEFINITIONS

The terms used in this Agreement shall have the meanings indicated in this Definitions Article unless the context clearly indicates otherwise. Words used in this Agreement in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular number includes the plural and the plural includes the singular. The word “person” means a business or corporation as well as a natural person.

“**Additional Rent**” means all costs and expenses that Concessionaire assumes or is obligated to pay to City under this Agreement in addition to Rents, including, but not limited to, waste removal charges, Food Court charges, logistics charges, marketing fees, and storage fees.

“**Airport**” means San Antonio International Airport.

“**Annual Statement**” is defined in **Section 4.02(a)**.

“**BPA Process**” means the City’s Building Permit Application process.

“Commencement Date” means the date that City executes this Agreement.

“Concession Manager” means the natural person employed by Concessionaire to manage the day-to-day concession operations as further described in **Section 8.02(b)** hereof.

“Concourse” means the area of a Terminal which provides passengers access to the planes.

“Contractual Charges” are charges for violation of various lease requirements as further described in **Section 3.05** hereof.

“Day” means calendar day of twenty-four (24) hours measured from midnight to the next midnight.

“Delivery of Premises Date” means the date(s) on which the City delivers each location of the Premises shown in **Section 2.01**, subject of this Agreement, to Concessionaire.

“Director” means the Aviation Director, or his designee, for the City of San Antonio.

“FAA” means the Federal Aviation Administration.

“Fixed Improvements” means any addition, alteration, annexation or improvement which shall become affixed to the Premises which cannot be removed, modified or changed without damage to, or destruction of, either itself or any portion of the Premises.

“Floor Area” means, with respect to any leasable area of the Premises, the aggregate number of square feet of interior floor space of all floor levels therein, which shall be measured: (i) with respect to the front and rear width thereof, from the exterior face of the adjacent exterior or corridor wall, or if none, to the center of the demising partition, and (ii) with respect to the depth thereof, from the front of the lease line as shown on **Exhibit A2** to the exterior face of the exterior wall, or corridor wall, or if none, to the center of the demising partition. No deduction or exclusion from Floor Area shall be made by reason of columns, ducts, stairs, elevators, escalators, shafts or other interior construction or equipment.

“Food Court(s)” means a non-exclusive, common public seating area, developed by City or its contractors and not by Concessionaire, for customers of food & beverage concession facilities and for the traveling public.

“Force Majeure” is defined in **Section 25.04**.

“Gross Receipts” is defined in **Section 3.02(c)**.

“Lease Year” means a period of 12 consecutive calendar months commencing once all of the Premises have a Rental Commencement Date, and each ensuing 12-month period, or fraction thereof, until the Agreement terminates.

“Leased Premises” or **“Premises”** means those premises made available to Concessionaire

under this Agreement excluding Public Areas.

“Location MAGs” means the MAGs for individual locations within the Premises as set out in **Section 3.01**.

“Minimum Annual Guaranteed Rent” “MAG” means guaranteed Rent as more fully defined in **Section 3.01**.

“Operating Equipment” means any removable trade furniture, furnishings, equipment and fixtures that are fabricated, furnished and installed by Concessionaire and used in its operations in the Premises, but does not include Fixed Improvements nor any displays, advertising materials or decorations that are of a seasonal or temporary promotional nature.

“Party” or “Parties” means City and Concessionaire, as the context so requires.

“Percentage Rent” means the Rent for individual locations within the Premises as set out in set out in **Section 3.02**.

“Permitted Use” means the commercial activities that Concessionaire is authorized to conduct in the Leased Premises, as such activities are described in **Section 8.01**.

“Premises” is defined in **Section 2.01**.

“Public Areas” means, to the extent provided by City, all improved interior and exterior areas within the Terminal which are not devoted to the exclusive use by any airline, concessionaire or other occupant occupying space in the Terminal including, without limitation, public transportation loading and unloading facilities, pedestrian walkways and horizontal pedestrian movers, delivery areas, landscaped areas, community rooms, elevators, escalators, stairs and ramps, public restrooms and comfort stations, service areas, service and fire exit corridors, passageways and parking facilities.

“Rental Commencement Date” means the first day of the month on which Concessionaire is under obligation to pay MAG for each individual location within the Premises under this Agreement.

“Rents” and “Rentals” means the amounts payable by Concessionaire to City including MAG, Percentage Rent, and Additional Rent.

“SAIA-SSC” means the San Antonio International Airport Standard Specifications for Construction.

“Temporary Location” means any store or kiosk operating under this Agreement from a non-permanent space or from a reduced footprint due to construction of the Premises.

“Term” is defined in **Section 2.03**.

“**Terminal**” means Terminal A of the Airport.

“**Transition Period**” means the period of time between the first delivery of Premises by City to Concessionaire and the beginning of the first Lease Year.

“**Transition Rent**” means Rent assessed on premises operated by the concessionaire before completion of the Transition Period as further defined in **Section 3.01**.

“**TSA**” means the Transportation Security Administration.

ARTICLE II. PREMISES, GRANT AND TERM

Section 2.01 PREMISES.

The Premises, containing approximately 10,454 square feet of Floor Area as shown on **Exhibit A2 (“Premises”)**, are comprised of the following locations that may be reconfigured during the term of this Agreement. Concessionaire shall operate its business in the Premises under the names specifically set forth below (“Trade Name”) and shall not change the advertised name or character of the business operated in the Premises without the prior written approval of the Director, which may be withheld in the City’s absolute discretion.

| Location | Planned Concept | Trade Name | Square Footage |
|-----------------|--------------------------|-------------------------|-----------------------|
| TA-188 | Marche and Coffee | Sip Brew Bar and Market | 928 |
| TA-110,112,&114 | Casual Dine – BBQ | Smoke Shack | 2,665 |
| TA-116 | Specialty Coffee | Local Coffee | 885 |
| TA-132 | Specialty Retail | Spurs | 344 |
| TA-172 | QSR | Chick-fil-a | 985 |
| TA-162 | Specialty Retail | IStore | 875 |
| TA-162 | Specialty Retail | Adina’s Market | 633 |
| TA-158 | Casual Dine with Bar | The Luxury | 2,033 |
| TA-150 | Specialty Coffee | Boss Bagels & Coffee | 1,006 |
| TA-Bag Claim | Specialty Coffee – Kiosk | SIP | 100 |
| TOTAL | | | 10,454 |

Section 2.02 CONDITIONS OF GRANT.

The City has the right to make any modifications to the Airport. Concessionaire acknowledges that the City may change the shape, size, location, number and extent of the improvements generally shown on **Exhibits A1 and A2** and eliminate or add any improvements to any portion of the Terminal and the Airport at any time without Concessionaire’s consent. The City shall have the right to locate, install, maintain, use, repair and replace pipes, utility lines, conduits, ducts, flues, refrigerant lines, drains, sprinkler mains and valves, wires and wiring and structural elements leading through the Premises serving the Premises or any other parts of the Terminal.

Section 2.03 COMMENCEMENT AND ENDING DATE OF TERM.

The Term shall commence upon execution of this Agreement by City and shall terminate at midnight on the last day of the seventh Lease Year, unless sooner terminated in accordance with this Agreement. [e.g. Concessionaire completes its build out according to schedule and the last store opens for business on December 13, 2017. The first Lease Year would commence on January 1, 2018 and the seventh Lease Year would end at midnight on December 31, 2024.]. The term may be extended by an additional three one-year periods at the sole discretion of the Aviation Director provided that the City provides the Prime Concessionaire no less than ninety (90) days' advance written notice of such extension(s). Unless otherwise approved in writing by the Director, Concessionaire shall open all its concessions for business to the public (with all required improvements substantially completed and the Premises fully fixtured, stocked with high quality merchandise and products, and staffed, with Concessionaire prepared to engage in selling high quality merchandise and products and/or services as permitted hereunder) in accordance with the schedule set forth in **Exhibit B**.

Section 2.04 HOLDING OVER.

Any holding over after expiration of the Term with the consent of the Director shall be construed to be a tenancy from month to month pursuant to the terms hereof at one-twelfth (1/12th) of the MAG required to be paid by Concessionaire (as established for a Lease Year under **Section 3.01(b)** hereof, together with Percentage Rent and an amount estimated by the City for the monthly Additional Rent payable pursuant hereto, and shall be on the same terms and conditions as herein specified so far as applicable.

Without City waiving any rights, any other holding over shall be construed to be a tenancy from month to month pursuant to the terms hereof at one-twelfth (1/12th) of an amount equal to one hundred fifty percent (150%) the MAG that would otherwise be required, together with Percentage Rent, and an amount estimated by the City for the monthly Additional Rent payable pursuant hereto, and shall be on the same terms and conditions as herein specified so far as applicable. In the event of such hostile holdover, City shall be entitled to reenter the Premises at any time in order to retake possession of the same. Concessionaire shall indemnify, defend and hold harmless the City from and against any and all loss, claims, demands, liabilities, damages, costs and/or expenses (including, without limitation, attorneys' fees and expenses) resulting from any failure by Concessionaire to surrender the Premises in the manner and condition required by this Agreement upon the expiration of the Term or earlier termination of this Agreement, including, without limitation, any claims made by any proposed new concessionaire founded upon such failure.

Section 2.05 LATE OPENING.

Except as otherwise provided in **Section 25.04**, if Concessionaire fails to open for business in each of the location Premises by the dates identified in **Exhibit B, Construction Phase-In Schedule and MAG Commencement**, and such failure shall be due to the fault of Concessionaire including, but not limited to, obtaining approval from the Director of the Concessionaire's plans to construct the Premises and obtaining any permits or certificates from the City, then the Parties agree that it is and will be impracticable to determine the actual damages suffered by the City. The schedule in Exhibit B shall be adjusted for delays caused by City for: (a) City's failure to timely approve or provide comments to Concessionaire's plans within 14 days after submittal by Concessionaire; provided, however, such plans strictly meet the

requirements set forth in this Agreement and the construction requirements referred to herein; or (b) City's failure to timely deliver the Premises. The Parties have agreed that in order to compensate the City for its loss resulting from Concessionaire's late opening, Concessionaire shall pay the location(s) MAG for spaces that fail to open according to the schedule set out in **Exhibit B** until the location(s) opens. The MAG shall be prorated in an equitable manner so as to only apply on a per day basis for each location that fails to open timely. This remedy shall be in addition to any other remedies available to the City in the event of such failure to open by Concessionaire. The amount has been determined based on the MAG applicable to each space during the Transition Period, and as proposed by Concessionaire in its proposal.

In the event that Concessionaire fails to open a store in accordance with **Exhibit B** due to delay(s) by City of the type described in the preceding paragraph, or for such other reason as the Parties may mutually agree to in writing, the Director may, in his sole discretion, adjust the commencement of Location MAGs and/or the overall MAG to effectuate an equitable adjustment to the commencement of any rent and the beginning of the first Lease Year. Such adjustments, if any, shall be made in writing and by the issuance of a revised **Exhibit B**.

Section 2.06 VACANT PREMISES.

Concessionaire shall make good and reasonable efforts to replace in a timely manner any vacant or abandoned concession Premises.

ARTICLE III. RENTAL

From and after the Rental Commencement Date, but prior to the first Lease Year, Concessionaire shall pay to the City the greater of the applicable Location MAG or Percentage Rent. Concessionaire shall also pay Additional Rent and other charges set forth herein.

Concessionaire's obligation to pay applicable Location MAG, Percentage Rent, and Additional Rent prior to the first Lease Year shall commence upon such individual location's store opening. Any occupancy of the Premises by Concessionaire following the Commencement Date and prior to the beginning of the first Lease Year shall be subject to all terms and conditions hereof, including payment of Rents.

Section 3.01 MINIMUM ANNUAL GUARANTEED RENT ("MAG")

(a) From and after the beginning of the first Lease Year and subject to all applicable provisions of this Agreement, Concessionaire shall no longer pay Location MAG for each individual location, but shall pay to the City the MAG in the total amount set forth in the table below ("Total MAG"). Concessionaire shall pay such Total MAG in equal consecutive monthly installments in advance on or before the first day of each month, without prior demand or notice. Should any Lease Year contain less than 12 calendar months, the MAG shall be prorated in a manner determined by Director in accordance with customary business practices.

| LOCATION | CONCEPT | LOCATION MAG (\$) |
|----------|---------|-------------------|
|----------|---------|-------------------|

| | | |
|-------------------|-------------------------|--------------------|
| TA-188 | Sip Brew Bar and Market | \$51,577 |
| TA-110,112, & 114 | Smoke Shack | \$559,545 |
| TA-116 | Local Coffee | \$282,329 |
| TA-132 | Spurs | \$92,400 |
| TA-172 | Chick-fil-a | \$366,507 |
| TA-162 | iStore | \$165,000 |
| TA-162 | Adina's Market | \$142,800 |
| TA-158 | The Luxury | \$374,417 |
| TA-150 | Boss Bagels & Coffee | \$94,854 |
| TA-Bag Claim | SIP | \$35,571 |
| TOTAL MAG | | \$2,165,000 |

(b) The MAG for the second Lease Year and each succeeding Lease Year shall be calculated by multiplying 85% by the total amount of concession fees (consisting of MAG and Percentage Rent) due from Concessionaire to the City in the immediately preceding twelve-month period and be provided to Concessionaire within 30 days prior to the beginning of the succeeding Lease Year. For example, assuming that the Lease Year begins in January, in order to provide the MAG to the Concessionaire in December, the MAG would be based on the Rents due, excluding Additional Rents, for the sales during the prior twelve month period from November 1st through October 31st. However, because the Lease Year began in January, there were no reported sales in November and December before the Lease Year began. Therefore, the 10 months (January through October) of payments to the City would be annualized pursuant to the following calculation in order to determine the second Lease Year MAG:

Payments to City for January 1 through October 31 \div 10 x 12 x 85% = second Lease Year MAG.

In no event, however, shall the MAG for any Lease Year be less than 100% of the MAG for the first Lease Year, except as provided in **Section 3.01(d)** below.

(c) MAG during Transition Period. Notwithstanding the foregoing, Concessionaire shall pay Transition Rent during the Transition Period. Transition Rent shall consist of (i) Percentage Rent for Temporary Locations, if any; (ii) the greater of the Location MAG or Percentage Rent for those locations for which construction is complete and are open to the public; (iii) the greater of Location MAG or Percentage Rent for those locations that have been delivered to the Concessionaire, are not yet constructed but are operating and open to the public; and (iv) applicable Additional Rent. Location MAG identified under (iii) above shall be abated when the location begins an active construction phase (not design). For each location, Concessionaire's obligation to pay the Transition Rent shall begin on the first day of the month following store opening. Percentage Rent is applicable at all times.

(d) The MAG shall abate on a monthly basis if the following two events occur: (i) the number of enplanements decreases by twenty-five (25%) for a period covering the immediately prior six consecutive months when compared with the previous year's corresponding period and (ii) Concessionaire's gross sales do not trigger the payment of Percentage Rent during the period of the enplanements decrease. Percentage Rent shall never abate.

(e) Concept Replacement.

(e)(1). Voluntary Replacement. Should any of the original concepts specified in Section 3.01(a) herein, fail to meet Concessionaire's or City's expectations regarding profitability, or fail to generate at least sixty-five percent (65%), on average, of the designated Location MAG for any rolling six (6) month period, or longer, Concessionaire may propose replacement with another concept. The Director shall consult with Concessionaire, and upon mutual agreement of the parties regarding any new concept, provide written permission for the change.

(e)(2). Mandatory Replacement. Should any of the original concepts specified in Section 3.01(a) herein, fail to generate at least fifty percent (50%), on average, of the designated Location MAG for any rolling six (6) month period, or longer, and that deficiency is not the result of decreased passenger volume caused by a natural event or national emergency, or other occurrence outside of Concessionaire's control, the Director may, at his sole discretion, **require** that the Concessionaire replace the concept at the specified location. The Director shall consult with Concessionaire, and provide at least ninety (90) days' written notice of any decision requiring mandatory replacement of the concept.

(e)(3). Any such change of concept shall be made at the Director's sole discretion. Any and all costs associated with concept replacement shall be borne by Concessionaire, and shall not be considered any portion of Concessionaire's required capital improvement expenditures, as specified in Article 6(e) of this Agreement.

Section 3.02 PERCENTAGE RENT.

(a) In addition to the MAG, Additional Rent and other charges set forth herein, after opening of one or more stores, Concessionaire shall pay to the City, for each month of the Term, Percentage Rent for those months in which the year-to-date Percentage Rent exceeds the year-to-date MAG. The Percentage Rent shall be equal to the product of the Percentage Rent Rate, by category, times Concessionaire's year-to-date Gross Receipts (as defined below) minus the sum of the year-to-date MAG amount and percentage rent paid year-to-date as set forth below [*Percentage Rent = (Percentage Rent Rate X year-to-date Gross Receipts) – (year-to-date MAG + percentage rent paid year-to-date)*]. Concessionaire shall pay Percentage Rent, if any, to the City monthly without prior notice or demand within 15 days after the expiration of each calendar month. Percentage Rent shall apply at all times during the term of this Agreement.

| Product Category | Percentage Fee Rate |
|-------------------------------|---|
| Food/ Non-Alcoholic Beverages | <u>14</u> % on annual Gross Receipts for all stores except Chick-fil-a <u>10</u> % on annual Gross Receipts for Chick-fil-a *if term is extended - <u>14</u> % on annual Gross Receipts for Chick-fil-a |
| | <u>18</u> % on annual Gross Receipts |

| | |
|---|---|
| Alcoholic Beverages | |
| Retail items (concept-related, nonfood merchandise) | <u>16</u> % on annual Gross Receipts for all stores except iStore <u>13</u> % on annual Gross Receipts for iStore |

(b) If, at the end of any Lease Year, the total amount of monthly installments of MAG and Percentage Rent paid for such Lease Year are less than the total amount of annual MAG and Percentage Rent required to be paid for such Lease Year, Concessionaire shall pay the amount of such deficiency on or before the time Concessionaire submits its Annual Statement. If, at the end of any Lease Year, the total amount of monthly installments of MAG and Percentage Rent paid based on Gross Receipts for such Lease Year exceeds the total amount of annual MAG and Percentage Rent required to be paid for such Lease Year, as indicated in Concessionaire's Annual Statement, Concessionaire shall receive a credit equivalent to such excess, which shall be credited by the City to the next monthly payment(s) of Percentage Rent and/or MAG due from Concessionaire to the City hereunder. If at the end of the final Lease Year the total amount of Percentage Rent paid by Concessionaire exceeds the total amount of annual Percentage Rent required to be paid by Concessionaire for such final Lease Year (calculated in the same manner provided hereinabove for non-final Lease Years), such excess shall be refunded to Concessionaire within 120 days after 1) Concessionaire has vacated the Premises at the conclusion of this Agreement, 2) the Premises are in the condition required by this Agreement, 3) Concessionaire has met all obligation under this Agreement to include submission of an Annual Report and Independent Audit Report, and 4) and any other sums due the City from Concessionaire under this Agreement have been paid in full or the City shall be entitled to deduct such remaining sums due from any such excess.

(c) "Gross Receipts" means and includes all monies paid or payable to Concessionaire, whether for cash, credit or otherwise, for sales made and services rendered at or from the Premises regardless of when or where the order therefor is received and outside the Premises if the order is received at the Premises and other revenues of any type arising out of or in connection with Concessionaire's operations at the Premises, including, without limitation: mail, catalogue, closed circuit television, computer, other electronic or telephone orders; all deposits not refunded to or otherwise forfeited by customers; orders taken, although said orders may be filled elsewhere; the entire amount of the actual sales price and all other receipts for sales and services rendered; all insurance proceeds received due to loss of gross earnings paid under Concessionaire's business interruption insurance policy because of business interruptions; retail display allowances or other promotional incentives received from vendors and suppliers, etc.; and the spread earned on any exchange or foreign currency transaction whether for an exchange service or for merchandise, products and/or services. A "sale" shall be deemed to have been consummated for purposes hereof, and the entire amount of the sales price shall be included in Gross Receipts and deemed received at the time of determination of the amount due for each transaction, whether for cash, credit or otherwise, and not at the time of billing or payment. Losses from "bad" checks or credit card fee transactions are Concessionaire's sole responsibility and shall not be excluded from Gross Receipts. Gross Receipts shall include all such sales, revenues or receipts generated by Concessionaire's subtenants or anyone else conducting

business pursuant to an arrangement with Concessionaire within the Premises.

Gross Receipts shall not include: (i) any amounts collected for any federal, state, county and municipal sales taxes, so-called luxury taxes, use taxes, consumer excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed by law upon the sale of merchandise and products or services but only if separately stated from the sales price and only to the extent paid by Concessionaire to any duly constituted governmental/taxing authority; (ii) similar taxes as those listed in (i) that are not separately stated from the sales price because it is prohibited by law to do so, such as the mixed beverage tax, but only to the extent paid by Concessionaire to the applicable taxing authority; (iii) the portion of the sales price for all merchandise and products returned by customers and accepted for credit to the extent of the credit actually given to the customer as well as rebates, exchanges or allowances made to customers; (iv) shipping and delivery charges if there is no profit to Concessionaire and such charges are merely an accommodation to customers; (v) sale of trade fixtures, equipment or property which are not stock in trade and not in the ordinary course of business; (vi) receipts in the form of refunds from or the value of merchandise and products; services, supplies or equipment returned to vendors, shippers, suppliers or manufacturers including volume discounts received from vendors, suppliers or manufacturers; (vii) customary discounts given by Concessionaire on sales of merchandise and products or services to Concessionaire's employees, if separately stated, and limited in amount to not more than 1% of Concessionaire's Gross Receipts per lease month; (viii) gratuities for services performed by employees of Concessionaire which are paid by Concessionaire's customers to such employees; (ix) exchange of merchandise and products between stores or warehouses owned by or affiliated with Concessionaire (where such exchange is made solely for the convenient operation of the business of Concessionaire and not for purposes of consummating a sale which has theretofore been made in or from the Premises and/or for the purpose of depriving the City of the benefit of a sale which otherwise would be made in or from the Premises); (x) proceeds from the sale of gift certificates or like vouchers until such time as the gift certificates or like vouchers have been treated as a sale pursuant to Concessionaire's recordkeeping system or have been recognized as income; (xi) the sale or transfer in bulk of the inventory of Concessionaire to a purchaser of all or substantially all of Concessionaire's assets in a transaction not in the ordinary course of Concessionaire's business; (xii) except with respect to proceeds received for business interruptions paid on a gross earnings business interruption insurance policy as provided in the definition of Gross Receipts, receipts from all other insurance proceeds received by Concessionaire as a result of a loss or casualty, and (xiii) unless otherwise agreed by Director, sales reported by Concessionaire under another Lease with the City.

(d) Percentage Rent is agreed to be a portion of the consideration for the City to enter into this Agreement and the City expects to supplement MAG and Additional Rent to provide a fair rental return. If Concessionaire fails to continuously operate its business, keep the required hours or vacates the Premises prior to the expiration of the Term, the City will suffer damages not readily ascertainable. The City shall have the right to treat any of such events as a material default and breach by Concessionaire and the City shall be entitled to all remedies provided hereunder or at law.

(e) In the event that the MAG or Location MAG is abated or reduced to \$0.00, Percentage Rent

shall still apply.

Section 3.03 ADDITIONAL RENT.

In addition to MAG and Percentage Rent hereunder, Concessionaire shall pay, as Additional Rent (whether or not so designated herein), in a manner and at the place provided herein, all sums of money required to be paid by Concessionaire hereunder, including but not limited to: rent for the Trash Removal Charges, Logistics Charges, Food Court Maintenance Charges (if any), contributions to the Concessions Marketing Fund, utility charges (if any), and Storage Premises, if any, identified in this document. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next installment of MAG thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of the City. All amounts of MAG, Percentage Rent and Additional Rent (collectively "Rentals") payable in a given month shall be deemed to comprise a single rental obligation of Concessionaire to the City.

(a) Trash Removal. Concessionaire, at its sole expense, shall at all times keep the Premises orderly, neat, safe, clean and free from rubbish and dirt, and shall store all trash, garbage and other waste within the Premises or in such areas as may be designated by the Director for such storage and shall properly dispose of the same in accordance with the City's requirements. Concessionaire shall pay its proportionate share of the cost and expense incurred by the City to provide trash removal services for all of the concession operators in the Airport as provided in Section 9.03. Trash Removal charges shall apply to Space TA-188 Sip Brew Bar and Market; Space TA110, 112, & 114 Smoke Shack; Space TA-116 Local Coffee; Space TA-132 Spurs; Space TA-172 Chick-fil-a; Space TA-162 iStore; Space TA-162 Adina's Market; Space TA-158 The Luxury; TA-150 Boss Bagels & Coffee and Space TA Baggage Claim SIP.

(b) Logistics Charge. At the time of execution of the Agreement, City will not have a Logistics Charge and such will not be assessed to Concessionaire prior to opening of any stores to the public. However, City intends to institute a Logistic Charge during the term of this Agreement. Upon City's institution of a Logistics Charge, Concessionaire shall pay its proportionate share of the Logistics Charges as provided in **Section 9.04**.

(c) Food Court Charge. From and after opening all or a portion of the Premises to the public, if the Premises are located within or reasonably adjacent to a food court within the Terminal, Concessionaire shall pay its proportionate share of the Food Court Maintenance Charge as provided in **Section 9.05**, which shall be charged on the basis of each square foot of Floor Area in the Premises on an annual basis, payable in equal monthly installments, subject to adjustment. Food Court Maintenance Charges shall apply to Space TA-172, Chick-fil-a.

(d) Marketing Fees. Concessionaire shall pay marketing fees in the amount of one-half of one percent (0.5%) of Concessionaire's Gross Receipts per month, payable monthly, subject to adjustment as described in **Section 3.12**.

(e) Storage Premises. If available, commencing on the date of actual delivery of the Storage Premises, Concessionaire shall pay as Additional Rent, the amount set forth in the related

Storage Premises Lease or other written document as determined by the City from time to time and thereafter all of the terms, provisions and conditions of Concessionaire's use and occupancy of the Premises set forth herein shall apply fully to Concessionaire's use and occupancy of the Storage Premises and for all purposes of this Agreement, the Premises shall be deemed to include the Storage Premises. The City has the right at any time, in its reasonable discretion, to designate alternative Storage Premises. In the event of the relocation of the Storage Premises, Concessionaire shall be solely responsible for all moving and other costs related thereto. Additional Rent for the Storage Premises shall be payable in equal consecutive monthly installments in advance on or before the first day each month, without prior demand or notice. If delivery occurs on a date other than the first day of a month, the Additional Rent for the Storage Premises shall be prorated on a daily basis for any such partial month.

(e) Utility Charges. Upon connection of utilities to the Premises and City's demand, Concessionaire shall pay its proportionate share of utilities in accordance with **Article 13**.

Section 3.04 MISCELLANEOUS CHARGES.

The following charges shall be collectively referred to as "Miscellaneous Charges":

(a) Employee Parking. The City, while providing parking facilities at the Airport to Concessionaire's employees in common with employees of other concessionaires and users of the Airport, retains the right to institute a reasonable charge for the privilege of using these parking facilities. Such charges shall be evidenced by an invoice from the City and shall be promptly paid to the City, with payment directly at the office of the Aviation Director at the Airport at such intervals as shall be demanded by the City from time to time.

(b) Identification Security Badges. All persons employed at the Airport, including Concessionaire's employees, are required to obtain identification security badges from the City and the City reserves the right to institute a reasonable charge for the issuance and replacement of these identification security badges. Such charges shall be evidenced by an invoice from the City and shall be promptly paid to the City, with payment directly at the office of the Aviation Director at the Airport at such intervals as shall be demanded by the City from time to time.

(c) Maintenance and Repairs Performed by the City. If the City is required to perform any emergency and other routine maintenance and repairs to the Premises as provided in **Section 11.03**, the cost of all labor and materials required to complete the work will be paid by Concessionaire to the City within ten (10) days following written demand from the Director for said reimbursement payment at the City's standard rates then in effect plus any overhead which may be reasonably determined by the Director. Such charges shall be evidenced by an invoice from the City and shall be promptly paid to the City, with payment directly at the office of the Aviation Director at the Airport at such intervals as shall be demanded by the City from time to time.

Section 3.05 OTHER CONTRACTUAL CHARGES.

Concessionaire shall pay the following charges (collectively "Contractual Charges") for violation of various lease requirements set out in the referenced sections below. Acceptance of payment for contractual charges shall not constitute a waiver by City to pursue other contractual or legal

remedies:

| Section | Violation | Amount of fee |
|----------------|---|---|
| 4.02(f) | Late Monthly Statements | \$100.00 per late statement per month until submitted. |
| 4.02(g) | Late Annual Audit | \$100.00 per month until submitted |
| 6.02 | Late submission of lien waivers, lien releases, certificates of occupancy, as-built drawings, statement of construction costs | \$500.00 per month, or fraction thereof, until all documents are submitted. |
| 8.01 | Failure to remove objectionable item from display, service or sale | \$50.00 per day until item is removed. |
| 8.02 (f) | Failure to operate during required hours | \$500.00 per day for each violation. |
| 8.02 (q) | Failure to comply with the provisions of 8.02 | \$150.00 per day until compliant. |

Section 3.06 PAYMENTS.

All Rents, fees, and charges shall be paid by Concessionaire by check payable to the City of San Antonio, which shall be delivered or mailed, postage prepaid to the address in this section or to such other address as may be designated in writing by Director.

City of San Antonio
 c/o Frost National Bank,
 P.O. Box 1958
 San Antonio, TX 78297-1958

Payments may also be made by Automatic Clearing House (ACH) transfer, or other alternative means, if agreed to, in writing, by all Parties.

Section 3.07 TIME OF PAYMENT.

The following sets forth the time of Concessionaire payments of Rentals, fees, and charges to City which shall all be paid without deduction or setoff:

(a) The MAG and Additional Rent as applicable but excluding Marketing Fees shall be due and payable, without deduction or setoff, in monthly installments in advance on or before the first day of each month.

(b) Percentage Rent and Marketing Fees for each month of operations shall be due and payable without deduction or setoff by the fifteenth (15th) day of the month for the prior month.

(c) Miscellaneous, Contractual, and/or Late Payment Charges shall be paid by Concessionaire within ten (10) days of transmittal of an invoice or other writing by City or in conformance with procedures established by Director.

Section 3.08 LATE PAYMENT CHARGE.

If any Rentals, charges, or fees required to be paid to the City hereunder are not made when such Rentals, charges and fees are due, including amounts identified as a result of any audit findings, are delinquent for a period of ten (10) days or more from the date when such payment is due to City, Concessionaire shall pay City late fees thereon, from the date such Rentals, fees, or charges became payable to the date of payment at the rate of one and one-half percent (1.5%) per month; provided, however, that if the maximum rate then provided by law is less than one and one-half percent (1.5%) per month, then the rate shall be such maximum legal rate. City may, but is not obligated to, provide Concessionaire with a written reminder when invoiced Rentals, fees, or charges have not been received within ten (10) days of the due date. The Parties hereto agree that such late payment charge represents a fair estimate of expenses the City will incur by reason of any such late payment. The City's acceptance of partial payments or late payment charges shall not constitute a waiver of Concessionaire's default with respect to Concessionaire's nonpayment nor prevent the City from exercising all other rights and remedies available to the City under this Agreement or at law.

Section 3.09 CONCESSIONAIRE'S PAYMENT OBLIGATIONS.

The City may apply any payments received from Concessionaire to any Rentals which are then due. If the City does not make any specific application of a payment received from Concessionaire, then any such payment received shall be applied first to the Rentals which have been overdue for the longest period of time. No designation of any payment by Concessionaire for application to a specific portion of Concessionaire's financial obligations hereunder shall be binding unless otherwise required under the Texas law. Concessionaire covenants to pay all Rentals hereunder independent of any obligation of the City. No breach of this Agreement by the City shall relieve Concessionaire of its obligation and duty to pay all such Rentals when due under the terms hereof. Except as otherwise specifically set forth herein, all Rentals shall be paid by Concessionaire to the City without set-off, deduction, demand, notice or abatement. All payments received by the City shall be credited and be deemed to be on account of the Rental and other charges first then due. No statements or endorsements on any check or any letter accompanying any check or payment of Rental or other charges shall be deemed an accord and satisfaction of any debt or obligation of Concessionaire hereunder. The City reserves the right to accept any check or payment without prejudicing in any way the City's right to recover the balance of any and all Rental and other charges due from Concessionaire after receipt of any such check or payment or to pursue any other remedy provided herein or by law.

Section 3.10 TITLE TO CITY'S COMPENSATION.

Immediately upon Concessionaire's receipt of monies from doing business under this Agreement, including the sale of food, beverages, merchandise and/or services that it is authorized to sell under the terms of this Agreement, the percentages of said monies belonging to City shall immediately vest in and become the property of the City. Concessionaire shall be responsible as trustee for said monies until the same are delivered to City.

Section 3.11 PERFORMANCE GUARANTEE.

Concessionaire shall deliver to the City and shall keep in force throughout the term of this Agreement either an irrevocable standby letter of credit in favor of City drawn upon a bank satisfactory to City or a surety bond payable to City. If a letter of credit is delivered it shall be in

the exact form as set forth in **Exhibit C** to this Agreement. If a bond shall be delivered, it shall be issued by a sound indemnity company authorized to do business in Texas. The amount of the irrevocable letter of credit or surety bond to be delivered by Concessionaire to the Director on or before the effective date of the Agreement and shall be in an amount not less than fifty percent (50%) of the MAG for the first Lease Year. For each subsequent Lease Year, the amount of the performance guarantee shall be adjusted so that it all times equals not less than fifty percent (50%) of the MAG then in effect. The City shall retain said performance guarantee for the benefit of the City throughout the Term of this Agreement, and for a period of one hundred and twenty (120) days after the expiration or termination of this Agreement, as security for the faithful performance by Concessionaire of all of the terms, covenants and conditions of this Agreement. If Concessionaire defaults with respect to any provision of this Agreement, including but not limited to the provisions relating to the payment of Rentals, the City may use, apply or retain all or any part of the performance guarantee for the payment of any Rentals or any other sum in default, or for the payment of any loss or damage which the City may suffer by reason of Concessionaire's default, or to compensate the City for any other amount which the City may spend or become obligated to spend by reason of Concessionaire's default. In no event, except as specifically hereinafter provided, shall the City be obliged to apply the same to Rentals or other charges in arrears or to damages for Concessionaire's failure to perform said covenants, conditions and agreements; however, the City may so apply the performance guarantee, at its option. The City's right to bring a special proceeding to recover or otherwise to obtain possession of the Premises before or after the City's declaration of the termination of this Agreement for non-payment of Rentals or for any other reason shall not in any event be affected by reason of the fact that the City holds the performance guarantee. In the event that the City regains possession of the Premises, whether by special proceeding, reentry or otherwise, because of Concessionaire's default or failure to carry out the covenants, conditions and agreements of this Agreement, the City may apply such performance guarantee to all damages suffered through the date of said repossession and may retain the performance guarantee to apply to such damages as may be suffered or shall accrue thereafter by reason of Concessionaire's default or breach. In the event any bankruptcy, insolvency, reorganization or other creditor-debtor proceedings shall be instituted by or against Concessionaire, or its successors or assigns, or any guarantor of Concessionaire hereunder, such performance guarantee shall be deemed to be applied first to the payment of any Rentals and/or other charges due the City for all periods prior to the institution of such proceedings, and the balance, if any, of such performance guarantee may be retained by the City in partial liquidation of the City's damages. The performance guarantee shall not constitute a trust fund. In the event the City applies the performance guarantee in whole or in part, Concessionaire shall, within 10 days after written demand by the City, deposit sufficient funds by delivering an amendment to the existing clean irrevocable standby letter of credit or delivering a new clean irrevocable standby letter of credit to maintain the performance guarantee in the initial amount. Failure of Concessionaire to supply such additional funds shall entitle the City to avail itself of the remedies provided in this Agreement for non-payment of Rentals by Concessionaire. If Concessionaire fully and faithfully performs every provision of this Agreement to be performed by it, the performance guarantee or any balance thereof, less any sums then due the City from Concessionaire under this Agreement, shall be returned to Concessionaire (or, at the City's option to the last assignee of Concessionaire's interest thereunder) no later than 120 days following the expiration or earlier termination of this Agreement.

Section 3.12 CONCESSION MARKETING FUND.

The City shall cause to be provided a central marketing and promotional program which, in the City's sole judgment, will serve to promote the overall concession program and facilities in the Airport. Concessionaire, along with other concession facility operators will contribute to the fund for this program, which shall be known as the Concession Marketing Fund. Concessionaire, from and after the Rental Commencement Date, shall contribute during each month, as Concessionaire's share to the Concession Marketing Fund, and pay to the City as Additional Rent, the marketing fees required under **Section 3.03(d)**. This amount is payable to the City and must be paid no later than the 15th day following the end of each lease month. The City shall not be obligated to expend more for marketing and promotional programs than is actually collected from Concessionaire and other concession facility operators in the Airport. Any services and personnel so provided shall be under the exclusive control and supervision of the Director, who shall have the sole authority to employ and discharge personnel, retain third party independent contractors and to establish all budgets with respect to the Concession Marketing Fund. The primary purpose, but in no way a limitation, of the Concession Marketing Fund, will be used to fund intra-Airport promotional and advertising programs such as permanent directories, graphics, take-one directory pamphlets and establishing customer service and training programs with respect to the operations of the concession facilities in the Airport, such as customer surveys, "secret shopper" programs and sales technique seminars or on any other items that may enhance the user's overall experience in the Airport. The City shall conduct quarterly meetings to discuss the promotional and advertising programs and customer service and training programs. The City reserves the right at any time to terminate the Concession Marketing Fund and, in such event, shall notify Concessionaire in writing. Thereafter, in the event of such termination, Concessionaire shall no longer be obligated to make any further contributions to the Concession Marketing Fund and any remaining funds previously contributed to the Concession Marketing Fund shall be used by the City to promote the overall concession program and facilities within the Airport.

ARTICLE IV. RECORDS AND SALES REPORTS

Section 4.01 CONCESSIONAIRE'S RECORDS.

(a) Concessionaire shall keep and maintain full and accurate books and source documents, in accordance with generally accepted accounting principles ("GAAP"), of the Gross Receipts, whether for cash, credit or otherwise, of Concessionaire's business at any time operated within the Premises and of the operations of each subconcessionaire conducting business at any portion of the Premises and shall require and cause all such parties to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Concessionaire (collectively, "Records"). The Records to be kept by Concessionaire at its principal business office in the United States shall include, without limitation, true copies of all federal, state and local sales and use tax returns and reports, daily receipts from all sales (including those from mail, electronic or telephone orders), duplicate bank deposit slips, invoices, journals, ledgers and other pertinent original sales records and records of any other transactions conducted in or from the Premises. Pertinent original sales records shall also include a point of sale system of record keeping and such other reasonable documentation which would normally be examined by an

independent accountant pursuant to GAAP in performing an audit of Concessionaire's sales sufficient to provide determination and verification of Gross Receipts and the exclusions therefrom.

(b) Concessionaire must also provide an electronic cash control system which will provide all significant point-of-sale information reasonably satisfactory to the Director which must include:

- i. sales by general product category, if applicable, by each location and total for all locations;
- ii. sales transactions by time of day and day of week, if requested by the Director; and
- iii. average sales transactions.

(c) Concessionaire's electronic cash control system must ensure tight cash control, have complete audit capability and include:

- i. the ability to record transactions by sequential control number which can be printed on audit tape(s);
- ii. be capable of printing transactions on tape or receipt for customers showing time of day and day, month and year;
- iii. print out customer receipts showing the amount of the transaction, the amount of cash, check or credit tendered and the amount of cash or credit returned to the customer; and
- iv. the point-of-sale device shall have a provision for non-resettable totals and access for resetting the control totals shall be reserved solely to the point-of-sale device supplier.

(d) The Records shall be preserved by Concessionaire and its subcontractors for a period of three (3) years following the expiration of the Transition Period and each subsequent Lease Year of the Term or earlier termination of this Agreement. All Records maintained pursuant hereto shall at all reasonable times, during Concessionaire's normal business hours after 20 days prior written notice, be open to the inspection of, and may be copied or extracted from, in whole or in part, by, the City, or the City's designated management representatives or agents, including City's internal or external auditors.

Section 4.02 REPORTS BY CONCESSIONAIRE.

(a) **Monthly Statement.** Concessionaire shall within 15 days after the expiration of each lease month, deliver to the City a written statement on a form reasonably satisfactory to the Director signed by an officer of Concessionaire, showing the Gross Receipts made from the Premises during such period including an itemization of any exclusions or deductions made to Gross Receipts and the amount of Percentage Rent paid, if any, and Additional Rent paid among other matters ("Monthly Statement"); and

(b) **Independent Audit.** Concessionaire shall within 90 days after the expiration of each Lease Year and after termination of this Agreement, deliver to the City a written audit by an independent certified public accountant ("CPA"):

- i. showing in reasonable detail the amount of Gross Receipts made by

Concessionaire from the Premises during the preceding Lease Year including an itemization of any exclusions or deductions made to Gross Receipts, the payments of MAG, Percentage Rent and Additional Rent paid among other matters.

- ii. stating that in the CPA's opinion Concessionaire's total Gross Receipts for the previous Lease Year and the MAG, Percentage Rent and Additional Rent paid by Concessionaire to the City were calculated and reflected by Concessionaire in its Annual Statement in accordance with the applicable terms of this Agreement and prepared in accordance with GAAP. Concessionaire shall require all subconcessionaires and/or assignees, if any, operating in the Premises to furnish a similar statement; and

(c) **Annual Statement.** With the independent audit, Concessionaire shall deliver to City a written statement, on a form reasonably satisfactory to the Director, signed by an officer of Concessionaire ("Annual Statement"). Concessionaire shall certify in its Annual Statement that

- i. the independent audit has been prepared in accordance with the terms of this Agreement and GAAP,
- ii. that all revenues derived from Concessionaire's activities hereunder which are required to be included in Gross Receipts have been so included, and
- iii. that all payments of MAG, Percentage Rent and Additional Rent have been made in accordance with the terms of this Agreement.

The Annual Statement and the independent audit together shall comprise the annual report "Annual Report").

(d) **Analysis of Operations.** The Monthly Statements and Annual Statements prepared by Concessionaire shall also provide an analysis of operations, which shall include the following data:

- i. total Gross Receipts and Concessionaire shall calculate such Gross Receipts per square foot of Floor Area in the Premises;
- ii. sales by general product category and location;
- iii. total number of transactions per location;
- iv. average dollar amount per transaction per location;
- v. sales variance analysis as compared to the immediately prior lease month and/or Lease Year; and
- vi. sales time distribution if requested by the Director.

(e) The Director may make reasonable changes to the form of the Monthly Statement or Annual Statement from time to time upon 30 days prior notice to Concessionaire.

(f) In addition to payment of the Contractual Charges specified in **Section 3.05** within 10 days of written demand therefor by the City, if Concessionaire fails to furnish City with the Monthly Statement required above, Concessionaire's monthly sales shall be determined by assuming that the total sales during the preceding month were one hundred fifty percent (150%) of gross sales for the highest month in the preceding 12-month period. Any necessary adjustment in such Percentage Rent shall be calculated after an accurate report is delivered to the Director by

Concessionaire for the month in question, and resulting surpluses or deficits shall be applied to Concessionaire for the next succeeding month. This remedy shall be in addition to other remedies provided herein or by law to the City.

(g) If Concessionaire fails to furnish to the Director an Annual Statement as required above, the Concessionaire shall pay within 10 days of written demand therefor by the City the Contractual Charges specified in **Section 3.05**, until the Annual Statement is delivered to Director by Concessionaire. This remedy shall be in addition to other remedies provided herein or by law to the City.

(h) In the event the City institutes a digital reporting system, Concessionaire shall utilize such digital reporting system and enter and/or upload sales data into the system as requested.

ARTICLE V. AUDIT

Section 5.01 RIGHT TO EXAMINE BOOKS.

Notwithstanding the acceptance by the City of payments of Rentals or installments thereof, the City shall have the right to audit all Rentals and other charges due hereunder. Concessionaire shall make available to the Director within thirty (30) days following the City's written request for the same at the Director's office in the Airport for the purpose of examination, extracting and/or copying all books, source documents, accounts, records and sales tax reports filed with applicable government agencies of Concessionaire and any subconcessionaires, licensees and/or assignees, if any, in order to verify the amount of Gross Receipts in and from the Premises and the amount of all Rentals.

Section 5.02 AUDIT.

The City may at any time upon thirty (30) days' prior written notice to Concessionaire, cause a complete audit to be made by an auditor or accountant selected by the City of the entire records and operations of Concessionaire and/or any subconcessionaires, licensees and/or assignees, if any, relating to the Premises for the period covered by any statement issued or required to be issued by Concessionaire as above set forth in **Article IV**. Concessionaire shall make available to the City's auditor at its office in the Airport within thirty (30) days following the City's written notice requiring such audit, all of the books, source documents, accounts, records and sales tax reports of Concessionaire which such auditor deems necessary or desirable for the purpose of making such audit. If the audit is conducted after the expiration of this Agreement, Concessionaire shall make the records available at the address indicated by City.

If such audit discloses that Concessionaire's Gross Receipts as previously reported for the period audited were understated, Concessionaire shall immediately pay to the City the additional Percentage Rent due for the period audited together with interest at the Interest Rate from the date(s) such amount was originally due. Further, if such understatement was in excess of three percent (3%) of Concessionaire's actual Gross Receipts as disclosed by such audit, Concessionaire shall immediately pay to the City or to the City's designee the reasonable and actual cost of such audit, within 30 days of an invoice therefor. If such understatement was in excess of five percent (5%) of Concessionaire's Gross Receipts as disclosed by such audit due to Concessionaire's intentional, willful or fraudulent act or omission, the City may declare this

Agreement terminated and the Term ended, in which event this Agreement shall cease and terminate on the date specified in such notice with the same force and effect as though the date set forth in such notice were the date set forth in this Agreement for expiration of the Term, and Concessionaire shall vacate and surrender the Premises on or before such date in the condition required by this Agreement for surrender upon the expiration of the Term. If upon examination or audit the City's auditor, accountant or representative reasonably determines that sufficient documentation is not maintained, retained, recorded, or available in accordance with GAAP to verify Concessionaire's actual Gross Receipts, Concessionaire shall pay for the reasonable and actual cost of such audit and, in addition, should the City deem it necessary, Concessionaire shall reconstruct, at its sole cost and expense, all records for the determination of Gross Receipts for any period being audited.

If Concessionaire is not able to provide records as required under this Article, City reserves the right to review records/conduct an audit at Concessionaire's office within the continental United State of America, at Concessionaire's full expense. City shall be entitled and Concessionaire shall advance all expenses associated with conducting the audit.

ARTICLE VI. CONSTRUCTION OF PREMISES

Section 6.01 CONSTRUCTION OF PREMISES.

(a) The City shall deliver and Concessionaire will take possession of the Premises in an "AS IS", "WHERE LOCATED" condition. All improvements to be made to the Premises shall be in accordance with **Exhibit D**, the SAIA-SSC, as they currently exists and as amended from time to time, and permitted in accordance with all applicable laws and regulations and any other requirements required by the City. Concessionaire shall construct and install all of its improvements (including both Fixed Improvements and Operating Equipment) to the Premises so that the Premises will provide attractive, well-designed concession facilities that promote the marketing of merchandise, products and/or services and present a positive image to the Terminal's users. Each of the Parties hereto shall perform the obligations imposed upon such Party in **Exhibit D**, at the times and in the manner therein provided. It is understood and agreed by Concessionaire that any non-material changes from any plans and specifications covering the City's work (if any), as described in **Exhibit D**, shall not affect, change or invalidate this Agreement. In the event of an ambiguity or conflict between the construction-related provisions contained in this Article, **Exhibit D**, the SAIA-SSC, and the City's permitting process, the City's permitting process shall control over any such construction-related provisions.

(b) Within 30 days of the Commencement Date, Concessionaire, at its expense, shall submit its conceptual drawings and plans ("Conceptual Plans") for approval by the City, such approval to be determined in its discretion. Once the Conceptual Plans are approved, Concessionaire shall, at its expense, prepare and complete final drawings and specifications ("Final Drawings") no later than 60 days after approval of the Conceptual Plans. In no event shall the time required by Concessionaire to complete the Final Drawings after approval of the Conceptual Plans impact or delay Concessionaire's opening the Premises for business to the public in accordance with the schedule set out in **Exhibit B**, as such exhibit may be revised per **Section 2.05**. The Final Drawings shall be based upon the approved Conceptual Plans meeting the requirements set forth in this Agreement and the documents referenced herein and shall be submitted for the approval

of the City pursuant to the permitting process. The City shall have the right to approve or disapprove the Final Drawings as determined in its discretion. In the event of disapproval, Concessionaire shall immediately revise the Final Drawings and shall promptly and continually re-submit them for approval of the City until such approval is obtained. Concessionaire's failure to furnish the Conceptual Plans and Final Drawings within the time frames set forth herein and in the form required by this Agreement, **Exhibit D** and the documents referenced therein, or failure to perform any other obligation under this section, **Exhibit D** and the permitting process, shall constitute a material default by Concessionaire hereunder, which shall entitle the City to all remedies set forth in **Article XX**. If the Director reasonably determines that the Parties are unable to agree upon the Conceptual Plans and/or the Final Drawings or if Concessionaire fails to timely provide the Conceptual Plans and/or Final Drawings, including any revisions required thereto within 30 days from the dates required, the City may at its option, terminate this Agreement upon 24 hours' notice to Concessionaire, in which event this Agreement shall terminate on the date specified in such notice and thereafter neither Party shall have any further obligations to the other Party. No deviation from the Final Drawings, once approved by the City (and once so approved they are incorporated into this Agreement by reference herein), except minor deviations required due to existing field conditions, shall be made by Concessionaire without the City's prior written consent. Approval of the Conceptual Plans and Final Drawings by the City shall not constitute any representation or warranty or the assumption of any responsibility or any liability by the City for their accuracy, efficacy or sufficiency and Concessionaire shall be solely responsible for such items. Storefront barricades, reasonably acceptable to the City, attractively screening the Premises from view during construction shall be erected and maintained by Concessionaire in accordance with the City's permitting process at all times prior to Concessionaire's opening for business and shall be removed and properly disposed of by Concessionaire prior to such opening, all at Concessionaire's sole cost and expense. If Concessionaire fails to construct, erect, maintain, remove and dispose any such storefront barricades, Concessionaire shall reimburse the City for all reasonable and actual costs incurred by the City in performing any of the same.

(c) After receipt of all approvals of the Final Drawings, Concessionaire shall immediately apply for and diligently pursue, at Concessionaire's expense, any and all permits necessary to perform Concessionaire's construction. Concessionaire, at its expense, shall construct, equip and complete the Fixed Improvements and install its Operating Equipment proceeding at all times with due diligence and in a good and workmanlike manner under the supervision of a Texas licensed architect or engineer in accordance with all applicable legal and code requirements, the Aviation Department's review process and the permits in order to complete the same and open the Premises for business to the public in accordance with the schedule set out in **Exhibit B**. All such construction shall be completed free and clear of all liens, encumbrances and security instruments. If any mechanics', materialmen's or other lien is filed against the Premises, the Terminal, the Airport, the City or any interest in this Agreement as a result of any work or act of Concessionaire, Concessionaire shall fully and completely discharge the lien and have it released from record by payment or posting a bond within 20 days after the filing thereof. If Concessionaire fails to discharge and have the lien released from record as provided above, the City may, at its option, bond or pay the lien or claim for the account of Concessionaire without inquiring into the validity thereof and Concessionaire shall, within 30 days after notice, completely reimburse the City for any funds so spent to bond or pay the lien or claim.

- (d) All contracts and subcontracts for the performance of Concessionaire's Work shall require:
- i. all employees to work in harmony with other labor employed at the Airport in accordance with this Agreement,
 - ii. all personnel be properly bonded and badged for Airport security purposes;
 - iii. insurance coverage and suretyship reasonably satisfactory to the City;
 - iv. compliance with all of the requirements of this Agreement, the BPA process, all applicable permits, and/or as otherwise required by code;
 - v. in the case of Fixed Improvements, performance and payment bonds in a form and substance reasonably satisfactory to the City, each of which shall name the City as an additional obligee and aggregating in the penal sum equal to all of Concessionaire's construction contracts.

(e) Capital investment is agreed to be a portion of the consideration for the City to enter into this Agreement. Concessionaire shall perform improvements in accordance with the following criteria:

- i. A minimum of an average of \$300.00 per square foot in improvements to the Premises.
- ii. A minimum of \$225.00 per square foot per location.
- iii. Include no more than fifteen (15%) of all improvement costs on engineering and architecture services.
- iv. Final improvements must total at least ninety-five percent (95%) of the amount specified in Concessionaire's proposal.

In the event that Concessionaire fails to perform improvements to the Premises in an amount that equals or exceeds ninety-five percent (95%) of the proposed capital improvements stated in Concessionaire's proposal, Concessionaire shall remit payment to City equal to the difference between such ninety-five percent minus actual expenditures (a maximum of 15% of actual expenditures may be credited towards engineering and architectural costs).

(f) Cost of Fixed Improvements. Within 90 days after completion of construction of each location within the Premises, Concessionaire shall furnish to the Director such information as the City may reasonably require in connection with the determination of such costs. At a minimum, such cost information shall include copies of all contracts, copies of all invoices for the work which clearly identified the work completed and copies of all canceled checks for payment, all of which shall be evidenced by a certificate from Concessionaire. After completion of all locations within Premises, Concessionaire shall certify the total cost of each location and the total Premises.

The City reserves the right to audit documentation of all Cost of Fixed Improvements for the same period that the City has to audit Concessionaire's other Records as set forth in this Agreement. Concessionaire must cooperate in such an audit and provide other supporting cost documentation (including books, records, documents and other evidence and accounting procedures and practices sufficient to reflect properly all construction costs claimed to have been incurred in performing Concessionaire's Work) upon request within 15 days after notice from the Director. If the City disagrees with the Concessionaire's determination of: (i) Cost of Fixed

Improvements, or (ii) the reasonableness of the cost of the item, or (iii) if supporting cost documentation is not sufficient, the Director shall notify the Concessionaire in writing. Concessionaire shall have 15 days following receipt of the Director's notice in which to respond or provide any additional information. After consideration of any response or additional information provided, the City will make a reasonable final determination as to whether or not the construction costs will qualify as Cost of Fixed Improvements.

Section 6.02 OCCUPANCY PERMITS, LIEN WAIVERS AND OTHER DOCUMENTS.

Within 60 days after Concessionaire's opening for business in the Premises, Concessionaire shall deliver to the City executed copies of all mechanics' lien waivers and/or releases or other lien waivers and/or releases on account of Concessionaire's Work, notarized and unconditional, in such form as the Director shall have reasonably approved and an architect's certification that the Premises have been constructed in accordance with the approved Final Drawings and are fully complete in accordance with all of such requirements specified or referenced herein. Further, Concessionaire shall also deliver to the Director a copy of the Certificate of Occupancy with respect to each location. In no event shall Concessionaire commence operations in a location unless and until it has obtained a Certificate of Occupancy for such location.

Within 90 days after Concessionaire's opening for business in the Premises, Concessionaire shall deliver to the Director (i) final and complete sets of "as-built" Final Drawings and Computer Aided Drafting and Design ("CADD") drawings, duly certified by a registered architect or registered engineer licensed in the State of Texas; and (ii) statements of the total construction costs incurred by Concessionaire which is certified by a responsible officer of Concessionaire as correct together with copies of all supporting documentation required by the City. If Concessionaire shall fail to provide any of the same within such 90 day period, Concessionaire shall pay to the City as Contractual Charges, within 10 days after demand, the sum of not more than \$500.00 per month for each month that such certified drawings, construction costs and required documents have not been delivered to the City within such period of time. If such failure shall continue for a period exceeding 6 months after Concessionaire's opening for business in the Premises, such shall be a material default by Concessionaire hereunder entitling the City to all remedies available to it hereunder or at law.

Section 6.03 DELIVERY AND CONDITION OF PREMISES.

(a) Concessionaire agrees and understands that at the Commencement Date, the Premises will be operated by third-parties pursuant to prior contractual arrangements between City and said third parties. Concessionaire agrees to cooperate and accommodate City by notifying City a minimum of forty-five (45) days in advance of the date Concessionaire is prepared to accept delivery of each location so that City may provide termination notices to such third parties while at the same time minimizing interruptions of concession services to the traveling public. Concessionaire understands and agrees that it will be required to fully design the Premises prior to delivery of the Premises by City to Concessionaire.

Concessionaire agrees to design the furnishings for the Food Courts in Terminals A and B. Upon City's written acceptance of design concepts, Concessionaire shall purchase and install all furnishings. For Terminal A, the City shall reimburse Concessionaire for Fifty Percent (50%) of the cost of design and purchase by a rent credit (MAG) during the first year of the term. For Terminal B, City will reimburse Concessionaire for One Hundred Percent (100%) of the cost of

design, and should City opt to proceed with purchase of furnishing, City shall reimburse Concessionaire One Hundred Percent (100 %) of the cost of said furnishings, by rent credit (MAG) within one calendar year of completion of project..

(b) Except as otherwise specifically provided herein (including, without limitation, in **Exhibits B & D**), Concessionaire hereby agrees that upon delivery of possession of the Premises to Concessionaire, Concessionaire shall accept such delivery of possession of individual locations that comprise the Premises in its then existing “**AS IS**” condition, and Concessionaire acknowledges that

- i. Concessionaire shall have inspected the Premises and shall be fully aware of the condition of the Premises as of delivery of possession;
- ii. the City shall have no obligation to improve or alter the Premises for the benefit of Concessionaire other than to complete any remaining portion of the City’s Work, if any, under **Exhibit D**;
- iii. except as may be expressly provided herein, neither the City nor any of the City’s employees, agents, designated management representatives, contractors nor brokers has made any representation or warranty of any kind respecting
 - 1) the condition of the Premises, and/or the Terminal,
 - 2) the suitability thereof for Concessionaire’s permitted use or the conduct of Concessionaire’s business, or
 - 3) occupancy or operation within the Terminal by any other airline, person or entity including forecasted or estimated enplaned passenger volume in the Terminal.

(c) Concessionaire irrevocably waives any claim based upon or related to any such claimed representation by the City or its designated management representatives as to public traffic to be expected at the Premises or sales to be expected at the Premises. Concessionaire’s taking possession of the Premises shall constitute Concessionaire’s formal acceptance of the same and acknowledgment that the Premises are in the condition called for hereunder, subject to all field conditions existing at the time of delivery of possession. In no event shall the City be liable for damages or otherwise as a result of any failure to make the Premises available within the time and/or in the condition provided herein.

Section 6.04 ULTIMATE COMPLETION OF CONSTRUCTION.

Notwithstanding anything to the contrary contained herein, if for any reason whatsoever (excluding, without limitation, Force Majeure), the construction on all or any of the premises delivered shall not have commenced prior to such date as shall be one (1) year from the Commencement Date or such longer period of time as the Director may approve in writing to Concessionaire, then, at the City’s option, this Agreement shall be automatically terminated, in whole or in part, without further act of either Party hereto and each of the Parties hereto shall be released from any further obligation hereunder with respect to the unconstructed premises.

ARTICLE VII. ALTERATIONS, CHANGES AND ADDITIONS

Section 7.01 ALTERATIONS BY CONCESSIONAIRE.

Concessionaire shall not make or cause to be made any alterations, additions or improvements to the Premises (for example, Concessionaire shall not install or cause to be installed any signs, floor covering, interior or exterior lighting, plumbing fixtures, shades, canopies, awnings, electronic detection devices, antennas, mechanical, electrical or sprinkler systems, or make any changes to the storefront or the general appearance of the Premises), without the prior written approval of the City pursuant to the BPA process.

Concessionaire, with the prior written approval of the Director, may make such voluntary alterations, additions and improvements to the interior of the Premises provided that:

- i. the same are cosmetic and not structural in nature, do not affect a utility system, the storefront or storefront sign and are not inconsistent with the Final Drawings approved by the City;
- ii. Concessionaire complies with the provisions concerning contractors, labor relations, reporting of costs and insurance and bonds, the provisions of **Exhibit D**, the SAIA-SSC;
- iii. after Concessionaire has obtained the City's approval, Concessionaire shall submit to the Director 15 days written notice prior to undertaking any of the foregoing together with a schedule of the commencement and completion dates of the work; and
- iv. Concessionaire shall comply with the BPA process. Concessionaire shall present to the City, Final Drawings for all alterations, additions or improvements, voluntary or otherwise, at the time approval is sought, in accordance with criteria and procedures as provided in **Exhibit D**, the SAIA-SSC, and the permitting process.

Section 7.02 REMOVAL BY CONCESSIONAIRE.

All Fixed Improvements and any alterations thereto made by Concessionaire shall be deemed to have permanently attached to the Premises and title shall immediately be deemed vested in the City. Upon the expiration or earlier termination of this Agreement, Concessionaire shall not remove any of such Fixed Improvements; provided, however, that Operating Equipment, removable trade fixtures installed by Concessionaire and not permanently affixed to the Premises and Concessionaire's personal property shall remain the property of Concessionaire and may be removed throughout the Term hereof or upon expiration or earlier termination of the Term hereof if all Rental and other charges due hereunder are paid in full and Concessionaire is not otherwise then in default of any of the covenants, terms or provisions of this Agreement beyond applicable notice and cure periods; provided that Concessionaire immediately repairs any damage caused by such removal. Under no circumstances shall fixed improvements be demolished or removed except with the prior written consent of the Director. If Concessionaire shall fail to remove any of its personal property and Operating Equipment, the City may, at its option, retain either any or all of such property, and title thereto shall thereupon vest in the City without compensation to Concessionaire; or the City may remove all or any portion of the property from the Premises and dispose of the property in any manner, without compensation to Concessionaire. In the latter event, Concessionaire shall, upon demand, pay to the City the reasonable and actual expense of such removal and disposition and the repair of any damage to the Premises resulting from or

caused by such removal. Concessionaire shall, at its expense, execute all documents requested and deemed necessary by the City to evidence the title to any fixed improvements. The obligations contained in this Section shall survive the expiration or earlier termination of this Agreement.

Section 7.03 CHANGES AND ADDITIONS.

The City reserves the right at any time, and from time to time, to make extensive renovations and/or alterations to, and/or to build additional stories on, the Terminal and to construct other buildings and improvements in the Airport, including any extensive modifications of the Public Areas in connection therewith, to enlarge or reduce the Terminal, to add decks or elevated parking facilities, and to sell or lease any part of the land comprising the Airport, for the extensive construction thereon of a building or buildings which may or may not be part of the Airport. The City reserves the right at any time to relocate, reduce, enlarge, or reconfigure the Terminal, the Airport, parking areas and other Public Areas shown on **Exhibits A1** and **A2**. Concessionaire agrees to accommodate and cooperate with the City in such matters, even though Concessionaire's own operations may be inconvenienced or impaired thereby and Concessionaire agrees that no liability shall attach to the City (including its agents, contractors, designated management representatives, directors, employees, officers and subcontractors) by reason of such inconvenience or impairment and Concessionaire hereby waives any and all claims for damages and other consideration by reason of such inconvenience or impairment. The City shall use reasonable efforts not to materially inconvenience Concessionaire or materially impair Concessionaire's operations and the Director shall give reasonable notice to Concessionaire of any such construction, repair or related activity. The City shall have the exclusive right to use all or any part of the roof of the Terminal for any purpose; to erect additional stories or other structures over all or any part of the Premises; to erect in connection with the construction thereof temporary scaffolds and other aids to construction on the exterior of the Premises, provided that access to the Premises shall not be materially impaired; and to install, maintain, use, repair and replace within the Premises pipes, ducts, conduits, wires and all other mechanical equipment serving other parts of the Terminal, the same to be in locations as will not unreasonably deny Concessionaire's use thereof. The City may make any use it desires of the side or rear walls of the Premises (including, without limitation, freestanding columns and footings for all columns) and the City, at its expense, shall repair all damage to the Premises resulting from any work related to such use.

Section 7.04 RELOCATION, REDUCTION OR TERMINATION.

(a) At any time during the Term hereof, due to the nature of the commercial air public transportation facilities in general, it may be necessary to relocate and/or reduce all or any part of the Premises if the Director determines such action to be necessary for airline and/or airport operational considerations (e.g., the operation of non-concession services in the Terminal, the operation of non-concession services for any airline or Airport operations in the Terminal or due to public health or safety issues relating to the operation of the Terminal). For purposes hereof, relocation is defined as the City's decision to terminate possession of an existing concession facility and to provide a reasonably comparable space for the substitute concession facility in terms of size, location, relation to airline gates and exposure to the Terminal's users' pedestrian traffic flow patterns (particularly enplaned passengers) within the Terminal. Reduction of the Premises includes, but is not limited to, the movement of walls of the Premises or any other

action which may reduce the Floor Area of the Premises. In the event the Director elects to exercise any such rights as the City deems reasonably necessary or desirable, it shall advise Concessionaire by 60 days prior written notice and Concessionaire hereby agrees to be bound by such election and to execute; upon receipt from the Director, whatever amendments, terminations or other instruments as may be necessary. If the Premises are relocated or reduced to a size reflecting a 10% or greater decrease in the Floor Area, the Parties agree to negotiate in good faith on a commercially reasonable basis with respect to an equitable adjustment to the MAG. Any such relocation or reduction of the Premises shall be accomplished, with Concessionaire's complete cooperation, as expeditiously as is reasonable under the circumstances but in no event later than the date specified by the Director to ensure the proper and efficient operation of the Terminal. In the event any such relocation or reduction occurs after the Premises have been constructed and opened for business to the public, the City agrees to reimburse Concessionaire (through appropriate credits against future payments of MAG and/or Percentage Rent, through direct reimbursement, or by bearing costs directly, or a combination of any methods legally available to City) for the reasonable and proper costs of renovating the relocated and/or reduced Premises (in accordance with Final Drawings and total renovation costs approved by the Director) so that the same are reasonably comparable to the original Premises. The City also agrees to reimburse Concessionaire (through appropriate credits against future payments of MAG and/or Percentage Rent, through direct reimbursement, or by bearing costs directly, or a combination of any methods legally available to City) for the reasonable and proper costs of moving Concessionaire's Operating Equipment and exterior storefront signage. Concessionaire shall be responsible for any and all other costs involved. The City shall not have any liability for such relocation or reduction of the Premises other than as specifically set forth in this **Section 7.04(a)** and Concessionaire hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and claims for relocation benefits under Federal and any state law. If Concessionaire is unable to operate its business in the Premises or any portion thereof as a result of the exercise of any of the City's rights, Concessionaire's payment of the MAG shall be abated during the period which Concessionaire is unable to operate. Notwithstanding the foregoing, if the Director desires to relocate Concessionaire to a substitute concession facility as provided in this **Section 7.04(a)**, Concessionaire shall have the right, in its sole discretion, to terminate this Agreement within 30 days after receipt of the Director's relocation notice. If Concessionaire elects to terminate this Agreement as provided in this **Section 7.04(a)** due to the proposed relocation of the Premises, this Agreement shall terminate on the effective date thereof as reasonably specified by the Director and Concessionaire shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Concessionaire under this Agreement up to and including the effective date of such termination. Upon the early termination of this Agreement by the Concessionaire as provided in this **Section 7.04(a)**, other than by reason of Concessionaire's default, Concessionaire shall be entitled to be reimbursed by the City for any unamortized investment in Fixed Improvements to the nearest full month as established by its amortization period for Cost of Fixed Improvements in accordance with the requirements set forth in **Section 7.04(b)** below.

(b) In the event the Director in its reasonable judgment believes it desirable for the City to obtain possession of the Premises, or any portion thereof, for airline and/or airport operational considerations (e.g., the operation of non-concession services in the Terminal, the operation of

non-concession services for any airline or Airport operations in the Terminal or due to public health or safety issues relating to the operation of the Terminal), the Director, upon 90 days prior notice in writing to Concessionaire, may terminate this Agreement as to the affected Premises. In the event of such termination, within 120 days following the date that Concessionaire shall have vacated and surrendered possession of the terminated Premises to the City in the condition required under this Agreement, paid all Rentals and performed all other accrued obligations hereunder through the effective date of such termination, the City shall pay to Concessionaire a sum equal to net book value of Cost of Fixed Improvements. In order to obtain any funds from the City, at a minimum, Concessionaire must have furnished to the Director in accordance with **Section 6.01 (f)**, all such relevant information concerning the net book value of the Cost of Fixed Improvements. The following will be considered the net book value of the Cost of Fixed Improvements: (i) the unamortized balance of reasonable amounts paid by the Concessionaire for the construction and installation of Fixed Improvements upon the terminated Premises; (ii) the unamortized balance of reasonable amounts paid by the Concessionaire to extend utility lines into the terminated Premises; and (iii) the unamortized balance of reasonable sums paid to external architects, engineers, surveyors, and construction managers in connection with the design, development and construction of Fixed Improvements upon the terminated Premises. For purposes of this Agreement, the Concessionaire's Cost of Fixed Improvements shall be amortized by Concessionaire, depreciated monthly, using the straight-line method, over a period beginning with each location's Rental Commencement Date through the seventh (7th) anniversary of the first Lease Year or over the useful life of each Fixed Improvement in accordance with GAAP, whichever period is shorter.

(c) Such payments under **Sections 7.04(a)** or **(b)** shall be in lieu of any claims, causes of actions, suits, or damages that Concessionaire may have as a result of its use and occupancy of the Premises, including, without limitation, any and all rights and/or awards under any applicable Federal or state law.

ARTICLE VIII. CONDUCT OF BUSINESS BY CONCESSIONAIRE

Section 8.01 PERMITTED USE.

Concessionaire shall use the Premises only for the purpose of conducting the business of selling those items of merchandise and products and/or providing services specifically set forth below ("Permitted Use") and with menus and merchandise items approved by Director and for no other use or purpose. Any other use shall require the advance written approval of the Director.

City reserves the right to allow others to conduct operations and/or sell goods or services in other locations at the Airport that are the same, similar, or even identical to those being sold by Concessionaire. Concessionaire understands and agrees that its right to conduct operations and/or sell any goods or services at the Airport is not exclusive.

For any given location, Concessionaire shall submit the location's initial menu for Director's approval no less than thirty (30) days prior to the location's opening for business. Initial pricing for menu items shall be finalized within (30) days of a location's opening. All menus must include breakfast, lunch and dinner items and may include water, flavored water, juices, tea, and sodas; and grab and go items within the overall food concept for the location in question.

| Space/ Location | Permitted Use (items for sale) |
|-----------------------------------|--|
| TA-188 Sip Brew Bar and Market | Gourmet coffee, bottled beverages, gourmet snacks and chocolates and a variety of healthy grab and go options. European-style sandwich marche and seating. |
| TA-110,112, & 114 Smoke Shack | BBQ, sides, and a variety of different beverages. |
| TA-116 Local Coffee | Gourmet specialty hot or iced-coffee, tea, and bakery products from Bakery Lorraine. |
| TA-132 Spurs | Spurs memorabilia such as shirts, jerseys, and hats. Will also carry San Antonio FC and Rampage products. |
| TA-172 Chick-fil-a | Chicken sandwiches, salads, wraps, fries, and some retail items. |
| TA-162 iStore | Premium electronics for all the travelers needs including Apple products. |
| TA-162 Adina's Market | Gift shop with travel essentials, snack and regionally-themed memorabilia, local gourmet and wine and Brighton accessories. |
| TA-158 The Luxury | Casual dining - Sandwiches, salad, and alcoholic beverages including cocktails, beer, and wine. |
| TA-150 Boss Bagels & Coffee | Bagels with a variety of schmears and coffee |
| TA-Bag Claim SIP | Kiosk offering a quick bite to eat with grab and go food items, pastries, snacks, bottled beverages. |

Notwithstanding anything to the contrary contained herein, including Concessionaire's Permitted Use, if the Director reasonably determines that any item and/or service displayed, offered for sale or sold by Concessionaire is objectionable or inappropriate for display or sale at the Terminal and/or Airport, Concessionaire shall, within 1 day after delivery of the Director's written notice to the Premises, immediately remove such item and/or service from display and its inventory (if the objectionable item and/or service displayed, offered for sale or sold shall be deemed to be offensive or potentially dangerous to the general public, as reasonably determined by the Director from time to time, Concessionaire shall remove such offensive or potentially dangerous item and/or service immediately upon verbal notice from the Director or his/her designee) and Concessionaire shall not thereafter display, offer for sale or sell any such objectionable or inappropriate item and/or service. If Concessionaire shall fail to remove any such item and/or service from display as may be required from time to time by the City within such 1 day period, then Concessionaire shall pay, within 10 days of demand therefor by the Director, the Contractual Charges set forth in **Section 3.05** hereof until such time as Concessionaire has removed any such item and/or service from display. This remedy shall be in addition to any and all other remedies provided in this Agreement or by law to the City. Concessionaire represents and warrants that it holds all certificates, permits, licenses or other entitlements required by federal, state or local, laws, rules or regulations in order to enable Concessionaire to conduct its

operations and to engage in its Permitted Use and that such certificates, permits, licenses or other entitlements are and shall be kept current, valid and complete at all times during the Term hereof. Concessionaire shall submit any of the foregoing for inspection by the City from time to time. Concessionaire, at Concessionaire's expense, shall at all times comply with the requirements of any and all such certificates, permits, licenses or other entitlements.

Section 8.02 OPERATION OF BUSINESS.

(a) Concessionaire agrees to be open for business and to continuously and uninterruptedly operate in all of the Premises during the entire Term following the Rental Commencement Date, to actively and diligently conduct its business at all times in a first class and reputable manner, making every reasonable and lawful effort to develop, maintain and increase Concessionaire's business, using best efforts to achieve maximum sales volumes, customer satisfaction and maintaining at all times a complete stock of high quality merchandise and products.

(b) Concessionaire shall at all times retain an experienced, full-time manager ("Concession Manager") on-site who has been approved in writing by City. The Concession Manager shall be fully authorized to represent and act for the Concessionaire in all matters pertaining to its operations under this Agreement, including, but not limited to, employee conduct, customer complaints or concerns, decisions regarding returns or credits and food and beverage quality, and the condition of the Premises. The Concession Manager shall be dedicated exclusively to the management of the concession program at the Airport. At times when the Concession Manager is not present at the Airport, Concessionaire shall assign a qualified subordinate to act for the Concession Manager. The Concession Manager, or the designated subordinate, shall be accessible via email, pager or cellular phone in the event of weather and/or other airport emergencies. Subject to the prior written approval of the Aviation Director, in the event that Concessionaire is party to more than one Airport concession agreement with the City, Concessionaire may utilize one Concession Manager to meet its contractual obligations to have such manager under both agreements.

(c) Concessionaire shall maintain a sufficient number of personnel at all times to service customers. All such personnel shall be knowledgeable, helpful to Terminal users, courteous, efficient, neat in appearance and appropriately attired and shall not act in a loud, offensive or otherwise objectionable manner. Concessionaire's employees shall wear name tags and security badges at all times. Concessionaire shall not employ at or about the Premises any person who shall use offensive language, makes persistent announcements of its merchandise and products and/or services over loud speakers or whose conduct is loud or offensive or otherwise detrimental to the best interests of the Terminal and/or Airport. Concessionaire also agrees not to divert or allow or cause to be diverted (other than operating its business in accordance with this Agreement) any business from the Terminal and/or Airport. Concessionaire agrees that it will reasonably and promptly respond to all customer complaints regarding unsatisfactory service and/or unsatisfactory quality of merchandise, products and/or services, including all refunds as appropriately requested from time to time by any customer.

(d) Concessionaire agrees to accept at least two (2) nationally recognized credit cards for payment of purchases made at the Premises and Concessionaire shall offer all of its customers shipping of purchased products at cost. Concessionaire agrees to provide the ability for

customers to pay with Mobile payments that use NFC (near-field communication) to power contactless payments. Concessionaire shall not abandon or permanently vacate the Premises without the prior, advance written approval of the Director. For purposes hereof, "abandonment" shall mean closing the Premises to public trade for five (5) or more consecutive days, unless other provisions hereof permit such closing.

(e) Concessionaire shall install and maintain at all times a display of merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted.

(f) Concessionaire shall be obligated to be open for business and to operate continuously during all hours established as Terminal concession business hours. Hours of operation are subject to periodic modification at the sole discretion of the Director upon 15 days advance notice to Concessionaire (if the City determines that passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the reasonable opinion of the Director, services shall be available at times not then scheduled). Hours may be established by the City to account for various zones within the terminal building. Any modifications to the required operating hours that may be requested from time to time by Concessionaire shall be subject to the Director's prior written approval determined in its discretion. Concessionaire agrees to otherwise abide by all hours of operation as set by the Director. The hours of operation of concessions are in general, at a minimum, 7 days per week, 365 days per year as necessary to service the earliest daily outgoing flights and the latest daily outgoing flights except as may otherwise be approved in writing by the Director., with the exception of Chick-fil-a. Chick-fil-a will be closed on Sundays. Concessionaire's obligation to be open for business shall include, but not be limited to, opening for business not more than fifteen (15) minutes late, closing the business not more than fifteen (15) minutes early, and closing the business for not more than fifteen (15) minutes during Terminal and/or Airport business hours. If Concessionaire fails to comply with any of the foregoing operating requirements, then Concessionaire shall pay the Contractual Charges set forth in **Section 3.5** for each such violation that occurs more than twice during any month within 10 days of written demand therefor by the City. This remedy shall be in addition to any and all other remedies provided herein or by law to the City. Concessionaire understands and agrees that its operation hereunder is a service to airline customers and the users of the Terminal and the Airport.

(g) Notwithstanding the requirements set forth herein, the Director shall have the right to make reasonable objections to the number or quality of sales staff used by Concessionaire, the prices for merchandise and products sold or services rendered, the number or quality of articles sold or services rendered, the character of the service offered to the public, responses to customer complaints and the appearance and condition of the Premises. Concessionaire agrees to take reasonable steps to promptly comply with the Director's reasonable objections. The Director shall be the sole judge of which hours and days shall be Terminal concession business hours and days.

(h) Concessionaire, at its expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations, applicable business licenses and requirements of the City and all governmental authorities having jurisdiction affecting or applicable to the Premises or the

cleanliness, safety, occupancy, operation and use of the same, whether or not any such law, ordinance, order, rule, regulation or requirement is foreseen or unforeseen, ordinary or extraordinary, shall necessitate changes or improvements (other than structural changes or structural improvements) and/or interfere with the use and enjoyment of the Premises. Concessionaire shall promptly correct any deficiencies reported by the City and all other governmental authorities having jurisdiction. Concessionaire shall not do or permit anything to be done in or about the Premises, nor bring anything therein, which will in any way conflict with any such law, ordinance, order, rule, regulation or requirement affecting the occupancy or use of the Premises or the Terminal which has been or may hereafter be enacted or promulgated by the City and all governmental authorities, or in any way obstruct or interfere with the rights of others, nor shall Concessionaire use or allow the Premises to be used for any improper, immoral or objectionable purposes or do any act tending to injure the reputation of the Terminal and/or Airport.

(i) Any area occupied by Concessionaire and all equipment and materials used by Concessionaire shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive or unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of the City and in accordance with any and all laws, statutes, ordinances and regulations that may be promulgated from time to time by governmental agencies and authorities. All apparatus, utensils, devices, cooking equipment, machines and piping used by Concessionaire shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and serving of all food & beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. All knives shall be stored and maintained in accordance with TSA regulations.

(j) From time to time and as often as required by the City, Concessionaire shall conduct pressure, water-flow, and other appropriate tests of the fire-extinguishing system and apparatus located within the Premises. Concessionaire shall keep in proper functioning order all firefighting equipment on the Premises and Concessionaire shall at all times maintain on the Premises adequate stocks of fresh, usable chemicals for use in such system and apparatus. Concessionaire shall notify the City prior to conducting such tests. If requested, Concessionaire shall furnish the City with copies of written reports of such tests.

(k) No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises.

(l) Concessionaire shall not permit the installation or operation of any coin operated or vending machines or pay telephones in the Premises, including, but not limited to, sales of entertainment event tickets and lottery tickets, pre-paid telephone calling cards and reservations for ground transportation, hotels or other lodging.

(m) Concessionaire shall not sell or display any merchandise and products or service except within the areas outlined in the SAIA-SSC unless such sale or display shall be expressly approved by the Director, in writing, except that Concessionaire shall be permitted to display merchandise and products in the display windows, if any. Concessionaire shall not use the areas adjacent to or outside the Premises for business purposes or any other purposes, including the display and sale of merchandise, products or services in any areas outside of the Premises without the Director's advance written approval, which approval may be withheld in the Director's sole discretion. Concessionaire shall not store anything in service or exit corridors.

(n) All receiving and delivery of goods and merchandise and products for the Premises, and all removal of merchandise and products, supplies, equipment, trash and debris and all storage of trash and debris from the Premises shall be made only by way of or in the areas provided therefor. No trash, trash containers, hand trucks, carts, racks or movable fixtures designed for the movement of merchandise and products and/or trash within the Premises or to or from the Premises may be left unattended in the storefront, corridors or other Public Areas, nor may such items or devices in non-Public Areas be visible from Public Areas of either the Premises or the Terminal. Concessionaire shall be solely responsible for prompt disposal within the Premises or in such areas as may be provided for such disposal of all trash and debris from the Premises.

(o) Concessionaire shall not use or permit the use of any portion of the Premises for any unlawful purposes or for any purpose not specifically permitted in **Section 8.01**. Concessionaire shall not install any radio, television, communication dish or other similar device or related equipment exterior to the Premises, shall not cause or make any penetration of the roof of the Premises or the building in which the Premises is located and shall not erect any aerial or antenna on the roof or exterior walls of any building within the Terminal.

(p) Concessionaire, at its sole cost and expense, shall contract directly with a pest control service reasonably acceptable to the Director at such intervals as the City may require.

(q) If Concessionaire shall fail to comply with any of the provisions of this **Section 8.02(g)-(p)**, with the exception of **8.01(f)** which has separate charges, then Concessionaire shall pay, within 10 days of demand therefor by the City, the Contractual Charges set forth in **Section 3.5** until such time as Concessionaire is in compliance. This remedy shall be in addition to any and all other remedies provided in this Agreement or by law to the City.

(r) As the owner and operator of the Airport, the City has the right to regulate and control certain aspects of Concessionaire's operations at the Premises including but not limited to the matters listed below

- i. **Hours of Operation.** The City has the right to control the hours of operation of all concessions at the Terminal.
- ii. **Street Pricing.** Concessionaire shall, at all times, observe and comply with the City's street pricing policy as set forth in **Exhibit E**.

(s) Concessionaire agrees that after it has taken delivery of the Premises, it will contact the

Airport Concessions Manager on all operational matters pertaining to its occupancy including but not limited to the following areas: (a) hours of operation, (b) employee parking and security requirements, (c) customer inquiries and complaints, (d) facility maintenance issues, (e) utility services, and (f) staffing issues.

Section 8.03 SOLICITATION OF BUSINESS.

Concessionaire shall not give samples, approach customers, distribute handbills or other advertising matter or otherwise solicit business in the parking or other Public Areas or any part of the Terminal or the Airport other than in the Premises. In the event Concessionaire violates the foregoing, Concessionaire shall, at Concessionaire's sole cost and expense, be responsible to clean the area of any such materials so distributed by Concessionaire, its agents or employees. Notwithstanding the foregoing, the Director may approve in writing activities, prohibited in this Section, to be conducted for a limited period of time.

Section 8.04 AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAM.

(a) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire 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 this concession agreement or other agreement covered by 49 CFR Part 23.

(b) The concessionaire 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.

(c) Concessionaire shall comply with City's approved Airport Concessions Disadvantaged Business Enterprise (ACDBE) program submitted in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Office of the Secretary, Part 23, Participation by Disadvantaged Business Enterprise programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(d) Concessionaire shall make a good faith effort to adhere to the ACDBE program submitted with Concessionaire's Proposal, which assures that 25% of the gross receipts derived from the operation of its business at the Airport be attributed to certified ACDBEs throughout the concession term.

(e) Concessionaire has advised the City that it will use the ACDBEs listed on attached **Exhibit F** in providing the services described thereon. Concessionaire agrees that within 30 days after the expiration of each calendar quarter during the term of this Agreement, it will provide an expenditure report to the City, in a form acceptable to the City, describing the goods and services utilized by Concessionaire in fulfilling the obligations prescribed by this Agreement. Such expenditure report shall also include goods and services for each ACDBE described on attached **Exhibit F** and each substitute ACDBE obtained pursuant to **Section 8.04(h)**, calculated in accordance with the requirements of 49 CFR Part 23.

(f) Should this Agreement be considered for any Term renewals or extensions, the extent of Concessionaire's ACDBE participation will be reviewed prior to any recommendation for renewal of the Term of this Agreement to Council, to consider whether an increase or decrease in ACDBE participation is warranted. Concessionaire agrees to make good faith efforts at that time to find additional ACDBE participants as required should the City deem an increase in ACDBE participation warranted.

(g) Concessionaire agrees that it will also submit within the same period described in this Section, a report to the City, in a form acceptable to the City, describing the Concessionaire's total gross receipts for the entire contract, and a breakdown of such gross receipts by location.

(h) Concessionaire will have no right to terminate an ACDBE for convenience without the City's prior written consent. If an ACDBE is terminated by the Concessionaire with the City's consent or because of the ACDBE's default, then the Concessionaire must make a good faith effort, in accordance with the requirements of 49 CFR part 23.25(e)1(iii) and (iv), and 49 CFR part 26.53, to find another ACDBE to substitute for the original ACDBE to perform the tasks or provide services, if feasible, for the remaining Term of this Agreement attributable to the same estimated gross receipts under the Agreement as the ACDBE that was terminated. In the event such action is not feasible, the Concessionaire shall make good faith efforts during the remaining Term of the Agreement to encourage ACDBEs to compete for purchases and or leases of goods and services to be made by the Concessionaire. Should City notify Concessionaire that Concessionaire has not attained the ACDBE participation required under this Agreement, Concessionaire shall submit a corrective action plan to City to remedy such non-attainment within 30 days of the non-attainment notice.

(i) The Concessionaire's breach of its obligations under this Section shall constitute an event of default by Concessionaire and shall entitle the City to exercise any and all of its contractual and legal remedies, including termination of this Agreement.

(j) The City reserves the right to apply any and all legal and contract remedies available under federal, state and local law, including but not limited to, responsibility determinations in future contracts, suspension/debarment procedures, and forfeiture of profits as provided elsewhere.

(k) Pursuant to 49 CFR 26.107, any person or entity that makes a false or fraudulent statement in connection with participation of an ACDBE in any DOT-assisted program or otherwise violates applicable federal statutes, may be referred to the Department of Transportation, and possibly the Department of Justice for prosecution.

Section 8.05 ENVIRONMENTAL COMPLIANCE.

(a) Concessionaire shall, in conducting any activity on the Premises, comply with all environmental laws and regulations, including but not limited to environmental laws and regulations regarding the generation, storage, use, transportation and disposal of solid wastes, hazardous materials, toxic chemicals, special wastes or other contaminants and shall comply with all laws, regulations and notice requirements pertaining to releases or threatened releases of hazardous materials, toxic chemicals, special wastes or other contaminants into the environment.

Concessionaire shall not cause or permit its employees, agents, permittees, contractors, subcontractors, subconcessionaires or others in Concessionaire's control, supervision, or employment to release (whether by way of uncapping, pouring, spilling, spraying, spreading, attaching, or otherwise) into or onto the Premises or any other location upon the Airport (including the air above, the ground and ground water thereunder and the sewer and storm water drainage systems therein) any quantity of hazardous substances (as defined or established from time to time by applicable local, state, or federal law and including, among other things, hazardous waste and any other substances that have been or may in the future be determined to be toxic, hazardous, or unsafe). To the extent any such release may exceed quantities or volumes permitted by applicable federal, Texas, or local law, Concessionaire shall immediately notify the Director, the Texas Commission on Environmental Quality (TCEQ) and the Local Emergency Planning Committee (LEPC) as may be required under the federal Emergency Planning And Community Right To Know Act. Concessionaire shall be responsible for compliance with the Emergency Planning And Community Right To Know Act if any such release occurs. Concessionaire shall acquire and comply with all necessary federal, state and local environmental permit requirements.

(b) Concessionaire shall remedy any such release or threatened release as described above and, whether resulting from such release or otherwise, shall remove any hazardous materials, and special wastes and any other environmental contamination as are caused by Concessionaire on or under or upon the Premises, as are necessary to protect the public health and safety and the environment from actual or potential harm and to bring the Premises into compliance with all environmental laws and regulations. Such work shall be performed at Concessionaire's sole expense after Concessionaire submits to the City a written plan for completing such work. The City shall have the right to review and inspect all such work at any time using consultants and representatives of its choice. The cost of such review and inspection shall be paid by Concessionaire. Specific cleanup levels for any environmental remediation work shall be designed to meet all of the applicable environmental laws and regulations, to the satisfaction of the appropriate regulatory agency and the City.

(c) Except for the environmental matters not caused by Concessionaire, **Concessionaire agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, officers, agents, designated management representatives and employees from and against any and all loss, claim, liability, damages, injunctive relief, injuries to person, property or natural resources, cost, expense, enforcement actions, action or cause of action, fines and penalties arising as a result of action or inaction by the Concessionaire, its employees, agents or contractors in connection with the release, threatened release or presence of any hazardous material, contaminants, or toxic chemicals at, on, under, over or upon the Premises, the Terminal and the Airport, whether foreseeable or unforeseeable, regardless of the source of such release or threatened release or when such release or threatened release or presence occurred or is discovered.** The foregoing indemnity includes without limitation, all costs at law or in equity for removal, clean-up, remediation any kind and disposal of such contaminants, all resultant and associated costs of determining whether the Premises, the Terminal or the Airport is in compliance and causing the Premises, the Terminal or the Airport to be in compliance with all applicable environmental laws and regulations and all costs associated with claims for damages to persons, property or natural resources. **In the event that the City is**

named in any enforcement action or lawsuit by any Party in connection with the environmental condition of the Premises, the Terminal or the Airport caused by the action or inaction of the Concessionaire, Concessionaire shall defend the City and indemnify and hold harmless the City its elected and appointed officials, officers, agents, designated management representatives and employees from any costs, damages, fines and penalties resulting therefrom.

(d) In addition to any other rights of access regarding the Premises herein contained, the City shall have access to the Premises to inspect the same in order to confirm that the Concessionaire is using the Premises in accordance with all applicable environmental laws and regulations. Concessionaire shall, upon the Director's demand and at Concessionaire's sole expense, demonstrate to the Director (through such tests, professional inspections, or samplings, or otherwise as is in the Director's reasonable judgment sufficient for the purpose) that Concessionaire has not caused or permitted any release of hazardous substances or contaminants in excess of quantities or volumes permitted by applicable federal, state or local law. Any such tests and assessments shall be conducted by qualified independent experts chosen by Concessionaire and subject to the City's approval. Copies of reports from any such testing or assessments shall be provided to the City upon receipt by Concessionaire. Should Concessionaire not provide such tests, inspections, or samplings, or assessments, the City may conduct or cause to be conducted such tests, inspections, samplings and assessments and Concessionaire shall reimburse the City for all costs of such actions, no later than thirty (30) days following receipt by Concessionaire of invoices therefor. The City reserves the right to conduct any of the above actions at the Director's discretion, when in the opinion of the Director, additional or supplemental assessment is in the best interest of the City. Concessionaire, at the request of the City, shall make available for inspection and copying upon reasonable notice and at reasonable times, any or all of the documents and materials the Concessionaire has prepared pursuant to any environmental law or regulation, which may be retained by the City or submitted to any governmental regulatory agency; provided, that such documents and materials relate to environmental regulatory compliance and are pertinent to the Premises, the Terminal or the Airport. If any environmental law or regulation requires the Concessionaire to file any notice or report of a release or threatened release of regulated materials on, under or about the Premises, the Terminal or the Airport, Concessionaire shall promptly submit such notice or report to the appropriate governmental agency and shall simultaneously provide a copy of such report or notice to the City. In the event that any allegation, claim, demand, action or notice is made against Concessionaire regarding Concessionaire's failure or alleged failure to comply with any environmental law or regulation, Concessionaire immediately shall notify the City in writing and shall provide the City with copies of any such written allegations, claims, demands, notices, or actions so made.

(e) Concessionaire shall not discharge or cause to be discharged any matter or substance (whether in liquid, solid, gaseous, gelatinous, or other form) into the storm water system unless expressly approved by Director and in full compliance with the City's storm water permit and applicable law and regulations. Wastewater from maintenance and operational activities shall be pretreated with grease traps. Concessionaire shall not inappropriately dispose of cooking oil/grease, such as in Concessionaire's floor drains, mop sinks, or floor sinks.

(f) The Parties to the Concession Agreement, including subconcessionaires who may enjoy a future right of occupation through the Concessionaire, acknowledge a right and a duty in the City, exercised by the Director, to review safety and potential environmental impacts of any proposed operation, business, maintenance activity, or other activity of the Concessionaire and its subconcessionaires. To this end, the Director shall have authority to disapprove an activity of the Concessionaire and/or any subconcessionaire on the basis of a risk assessment. Discretion and judgment are reserved to the Director for reason that combinations and proximity of such materials are synergistic. The Director's decision in this regard is final. The Director shall exercise such review prior to any lease or sublease and shall exercise such review from time to time as he or she may deem necessary for appropriate risk assessment of existing leases and subleases.

ARTICLE IX. PUBLIC AREAS, TRASH REMOVAL AND FOOD COURT MAINTENANCE CHARGES

Section 9.01 OPERATION AND MAINTENANCE OF PUBLIC AREAS.

The manner in which all interior and exterior Public Areas of the Terminal and/or the Airport are operated and maintained, and the expenditures therefor, shall be determined at the City's sole and absolute discretion. The use of such interior and exterior Public Areas shall be subject to reasonable and non-discriminatory rules and regulations as the City may make from time to time.

Section 9.02 USE OF PUBLIC AREAS.

(a) Concessionaire shall have as appurtenant to the Premises the right to the non-exclusive use in common with others all Public Areas in the Terminal as designated by the Director from time to time, and such reasonable access, during Concessionaire's normal operating hours, to the Premises. Such appurtenant rights shall be subject to such reasonable rules, regulations, fees and security directives from time to time established by the City by suitable notice. The City shall have the right, but not the obligation, from time to time, to modify the Public Areas, remove portions of the Public Areas from common use, to permit entertainment events, advertising displays, educational displays and other displays in the Public Areas that in the City's judgment tend to attract the public, and to allow the City to lease retail merchandising units ("RMUs") or temporary pushcarts or carts. If the City determines in its discretion to place RMUs in the Public Areas near the Premises, such placement shall not be within 15 feet of Concessionaire's storefront entrance and shall not materially interfere with ingress or egress to the Premises by the public. Concessionaire shall not be entitled to any credit for income earned by the City with respect to the Public Areas.

(b) Concessionaire and its employees shall not park their cars or any other vehicles in the parking facilities except in the areas specifically designated by the Director for employee parking. There is no free parking at the Airport for Concessionaire or any of Concessionaire's employees, contractors or customers. Concessionaire and its agents, employees, contractors or subcontractors shall comply with the City's rules and regulations with respect to parking as the same may be amended or modified from time to time and will be subject to any enforcement action (including towing) pursued by the City's airport police without any notice thereof. The City may at any time close any Public Areas to make repairs or changes, to prevent the acquisition of public rights in such area, to use areas for attendant or valet parking, and may do

such other acts in and to the Public Areas as in its judgment may be desirable.

Section 9.03 CONCESSIONAIRE'S PROPORTIONATE SHARE OF THE TRASH REMOVAL CHARGE.

(a) All trash, refuse and non-hazardous waste removal services required to support the operations of the Concessionaire shall be controlled by the City. Such responsibilities shall include, but not be limited to, removing all trash, refuse and non-hazardous waste from all of the concession facilities located within the Terminal and depositing the same into a central trash dumpster area to be provided by the City for each Terminal at the Airport. Concessionaire agrees to pay as Additional Rent for the benefit of the City, the Trash Removal Charge as further described in this Section and the following shall apply.

(b) Concessionaire shall pay to the City, as Additional Rent in the manner and at the place hereinafter provided, Concessionaire's proportionate share of the Trash Removal Charge as follows: (collectively, "Waste Removal Operating Costs and Expenses"): all costs and expenses of every kind or nature paid or incurred by the City with respect to the removal of all trash, refuse and non-hazardous waste for the concession facilities, including the Premises, within the Terminal. By way of example, Waste Removal Operating Costs and Expenses shall include, but not be limited to, the full cost and expense of: (i) all labor costs for persons employed to remove trash, refuse and non-hazardous waste from the concession facilities to the central trash dumpster areas, to clean the area surrounding the central trash dumpsters and to operate the central trash dumpster areas as well as the cost of uniforms and identification badges for all such personnel; (ii) the cost to maintain, repair and/or replace all trash removal receptacles, supplies and equipment utilized to remove trash, refuse and non-hazardous waste from the Airport; (iii) any and all other direct costs and expenses which the Director deems reasonably necessary or desirable in order to properly perform the removal of trash, refuse and non-hazardous waste in order to implement an efficient removal program; and (iv) an administrative fee not to exceed ten percent (10%) of the total annual amount of the actual Waste Removal Operating Costs and Expenses. With respect to the replacement cost of any procurement of any receptacles and equipment and other items necessary for the operation of the trash, refuse and non-hazardous waste removal program, the City shall use commercially reasonable efforts to control such replacement costs.

(c) The proportionate share to be paid by Concessionaire shall be that portion of Waste Removal Operating Costs and Expenses which the number of square feet of Floor Area in the Premises bears to the total number of square feet of Floor Area of gross leased and occupied Floor Area of all concession facilities in the Terminal; provided, however, any vacant Floor Area excluded shall not exceed twenty-five percent (25%) of the gross leaseable Floor Area of all such concession facilities in the Terminal. The gross leased and occupied Floor Area in effect for the whole of any Lease Year shall be the average of the gross leased and occupied Floor Area on the first day of each calendar month in such Lease Year.

(d) Concessionaire's proportionate share of Waste Removal Operating Costs and Expenses for the Trash Removal Charge following shall be paid to the City as Additional Rent in equal, consecutive monthly installments on or before the first day of each calendar month, in advance, in an amount reasonably estimated by the Director from time to time. Subsequent to the end of

each Lease Year, the City shall furnish Concessionaire with a detailed statement of Concessionaire's actual proportionate share of such Waste Removal Operating Costs and Expenses for such period showing the general method of computing such actual proportionate share. Concessionaire shall not have any inspection or audit rights of any of the City's books and records pertaining to Waste Removal Operating Costs and Expenses and the Trash Removal Charge and Concessionaire hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Concessionaire for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on the City's statement, Concessionaire shall pay the difference between the amount paid and the actual amount due, within 30 days after the furnishing of each such statement. If the total amount paid by Concessionaire for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Concessionaire to the City for Waste Removal Operating Costs and Expenses under this Agreement. If at the end of the Term of this Agreement, the total amount paid by Concessionaire for such final Lease Year shall exceed the actual amount due for such final Lease Year, such excess shall be refunded to Concessionaire within 60 days after Concessionaire has vacated the Premises in the condition required at the conclusion of this Agreement and all Rentals and other sums due the City from Concessionaire under this Agreement have been paid in full or the City shall be entitled to deduct any such remaining sums due from any such excess. The City may estimate the annual budget and charge the same to Concessionaire on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Waste Removal Operating Costs and Expenses for the Trash Removal Charge. Notwithstanding anything herein to the contrary, there will be no duplication in charges to Concessionaire in this Section under any other provisions of this Agreement.

Section 9.04 CONCESSIONAIRE'S LOGISTICAL SUPPORT AND PROPORTIONATE SHARE OF THE LOGISTICS CHARGE.

All deliveries of supplies, materials, inventory or merchandise and products required to support the operations of Concessionaire shall be made to the dock area controlled by the City. No deliveries of any items shall be made by any persons or entities directly to the Premises without the prior written authorization of the Director and if given by the Director, the Director shall have the right to revoke any such authorization at any time and for any reason. Following notice of all shipments for all items received at the dock area, Concessionaire shall be responsible, at its sole cost and expense, for promptly transporting all of such items from the dock area to storage and/or the Premises. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of the City as they relate to the transporting of supplies, materials, inventory or merchandise and products in the Terminal and at the Airport and shall be in compliance with all applicable federal, state and local laws, regulations and ordinances as well as all Airport rules and regulations promulgated from time to time by the City. The dock area controlled by the City may be located within the airfield of the Airport and may be subject to all post-security regulations with respect to access to secured areas in airports in the United States. Therefore, all delivery vehicles may have to be escorted to the dock by authorized service personnel and vehicles. The City, in its discretion, shall have the right to establish rules and regulations with respect to such deliveries including, but not limited to:

- i. restrictions on delivery times (days and hours), staging areas for delivery vehicles (if any), and the time period in which any vehicle may remain in the dock area;

- ii. methods of delivering supplies, materials, inventory or merchandise and products from the dock area to storage and/or the Premises such as pallet or plastic wrap requirements, for example; and
- iii. delivery vehicle escort guidelines, rules, instructions and training if so required which must be complied with by Concessionaire and all transportation companies and vendors delivering any such items to the dock area.

The City may deny access or require any vehicle to be removed for failure to follow any such rules, regulations and guidelines that may be established by the City from time to time.

(a) At the sole option of the Director, after first giving reasonable notice to Concessionaire, Concessionaire shall pay to the City, as Additional Rent in the manner and at the place hereinafter provided, Concessionaire's proportionate share of the Logistics Charge ("**Logistical Charges**") as follows: all costs and expenses of every kind and nature paid or incurred by the City with respect to the provision of logistical support within the Airport as set forth herein (collectively, "**Logistics Costs and Expenses**"). Logistical Costs and Expenses shall include, but not be limited to, the full cost and expense of:

- i. all labor costs for persons employed to perform logistical support services as described herein, including the cost of identification badges and uniforms for all such personnel;
- ii. the cost of all supplies and equipment utilized to perform logistical support services;
- iii. any and all other direct costs which the City deems necessary or desirable in order to perform logistic support services; and
- iv. an administrative fee not to exceed ten percent (10%) of the total annual amount of the actual Logistics Costs and Expenses.

With respect to the replacement cost of any procurement of equipment and other items necessary for the performance of logistical support services, the City shall use commercially reasonable efforts to control such replacement costs.

(b) The proportionate share to be paid by Concessionaire shall be that portion of Logistics Costs and Expenses which the number of square feet of Floor Area in the Premises bears to the total number of square feet of Floor Area of gross leased and occupied Floor Area of all concession facilities in the Airport; provided, however, any vacant Floor Area excluded shall not exceed twenty-five percent (25%) of the gross leaseable Floor Area of all such concession facilities. The gross leased and occupied Floor Area in effect for the whole of any Lease Year shall be the average of the gross leased and occupied Floor Area on the first day of each calendar month in such Lease Year.

(c) Concessionaire's proportionate share of Logistics Costs and Expenses for the Logistics Charge following the Rental Commencement Date shall be paid to the City as Additional Rent in equal, consecutive monthly installments on or before the first day of each calendar month, in advance, in an amount estimated by the Director from time to time. Subsequent to the end of each Lease Year, the City shall furnish Concessionaire with a detailed statement of Concessionaire's proportionate share of such Logistics Costs and Expenses for such period

showing general method of computing such proportionate share. Concessionaire shall not have any inspection or audit rights of any of the City's books and records pertaining to Logistics Costs and Expenses and the Logistics Charge and Concessionaire hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Concessionaire for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on the City's statement, Concessionaire shall pay the difference between the amount paid and the actual amount due, within 30 days after the furnishing of each such statement. If the total amount paid by Concessionaire for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Concessionaire to the City for Logistics Costs and Expenses under this Agreement. If at the end of the Term of this Agreement, the total amount paid by Concessionaire for such final Lease Year shall exceed the actual amount due for such final Lease Year, such excess shall be refunded to Concessionaire within 60 days after Concessionaire has vacated the Premises in the condition required at the conclusion of this Agreement and all Rentals and other sums due the City from Concessionaire under this Agreement have been paid in full or the City shall be entitled to deduct any such remaining sums due from any such excess. The City may estimate the annual budget and charge the same to Concessionaire on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Logistics Costs and Expenses for the Logistics Charge.

Section 9.05 CONCESSIONAIRE'S PROPORTIONATE SHARE OF THE FOOD COURT MAINTENANCE CHARGE.

The City has developed Food Courts and related food court public seating areas at the Airport. All sanitation and trash removal services for such Food Courts and related food court public seating areas shall be controlled by the City. Such responsibilities shall include, but not be limited to, cleaning of such public seating areas within the Food Courts including floors, trash removal, trash receptacles, food court trays (operating food court tray washing equipment and well as retrieval and distribution of food court trays to food court concession facilities), food court tables and chairs, related food court furniture and fixtures, if any, and routine maintenance. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of the City. If the Premises are located within or reasonably adjacent to the Food Court areas within the Terminal(s), Concessionaire agrees to pay as Additional Rent for the benefit of the City, its proportionate share of the costs incurred by City in maintaining the Food Courts ("Food Court Maintenance Charge") as further described in this Section and the following shall apply. Concessionaire shall have the non-exclusive use, in common with other food & beverage concession facilities, to the food courts, subject to the exclusive control and management thereof at all times by the City, as a common seating and food consumption area for its customers; provided that the City, at its sole cost, reserves the right to make any changes which it deems appropriate to the food courts, including relocating and/or eliminating all or any part of the Food Courts in the City's reasonable discretion, to assure public safety and convenience or to assure efficient operation of the Terminal, provided any changes shall provide Concessionaire with reasonable common seating areas for its customers non-exclusive use.

(a) Concessionaire shall pay to the City, as Additional Rent, in the manner and at the place hereinafter provided, Concessionaire's proportionate share of the Food Court Maintenance Charge in operating, equipping, cleaning, painting, providing sanitation and trash removal

services, repairing, replacing and maintaining the public seating areas and plantscape materials within the Food Courts as follows (collectively, "Food Court Operating Costs and Expenses"):

- i. all labor costs for persons employed to clean the public seating areas within the food courts, to perform trash removal services, to retrieve and redistribute the food trays within the Food Courts and to operate the food tray washing equipment including the cost of identification badges and uniforms for all such personnel;
- ii. the cost of all supplies and equipment utilized to clean the public seating areas within the Food Courts;
- iii. the cost of all trash receptacles and equipment for the Food Courts;
- iv. the cost to maintain, repair and/or replace all food court tables, chairs, trash removal receptacles and equipment, furniture and fixtures and routine plantscape maintenance;
- v. the cost to purchase, clean, retrieve and distribute, maintain, repair and/or replace the food trays used by customers and to operate, maintain, repair and/or replace the food tray washing facilities and equipment;
- vi. any and all other direct costs which the City deems necessary or desirable in order to operate and maintain a first-class food court facilities; and
- vii. an administrative fee not to exceed ten percent (10%) of the total annual amount of the actual Food Court Operating Costs and Expenses.

With respect to the replacement cost of any procurement of equipment and other items necessary for the operation of the food court areas, the City shall use commercially reasonable efforts to control such replacement costs.

(b) The proportionate share to be paid by Concessionaire shall be that portion of Food Court Operating Costs and Expenses which the number of square feet of Floor Area in the Premises bears to the total number of square feet of Floor Area of gross leased and occupied Floor Area of all food and beverage concession facilities located immediately adjacent to such Food Courts in the Terminal; provided, however, any vacant Floor Area excluded shall not exceed twenty-five percent (25%) of the gross leaseable Floor Area of all such food and beverage concession facilities located immediately adjacent to such food court in the Terminal. The gross leased and occupied Floor Area in effect for the whole of any Lease Year shall be the average of the gross leased and occupied Floor Area on the first day of each calendar month in such Lease Year.

(c) Concessionaire's proportionate share of Food Court Operating Costs and Expenses for the Food Court Maintenance Charge following the Rental Commencement Date shall be paid to the City as Additional Rent in equal, consecutive monthly installments on or before the first day of each calendar month, in advance, in an amount estimated by the Director from time to time. Subsequent to the end of each Lease Year, the City shall furnish Concessionaire with a detailed statement of Concessionaire's proportionate share of such Food Court Operating Costs and Expenses for such period showing general method of computing such proportionate share. Concessionaire shall not have any inspection or audit rights of any of the City's books and records pertaining to Food Court Operating Costs and Expenses and the Food Court Maintenance Charge and Concessionaire hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Concessionaire for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on the City's statement, Concessionaire shall pay the difference between the amount paid and the actual

amount due, within 30 days after the furnishing of each such statement. If the total amount paid by Concessionaire for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Concessionaire to the City for Food Court Operating Costs and Expenses under this Agreement. If at the end of the Term of this Agreement, the total amount paid by Concessionaire for such final Lease Year shall exceed the actual amount due for such final Lease Year, such excess shall be refunded to Concessionaire within 60 days after Concessionaire has vacated the Premises in the condition required at the conclusion of this Agreement and all Rentals and other sums due the City from Concessionaire under this Agreement have been paid in full or the City shall be entitled to deduct any such remaining sums due from any such excess. The City may estimate the annual budget and charge the same to Concessionaire on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Food Court Operating Costs and Expenses for the Food Court Maintenance Charge. Notwithstanding anything herein to the contrary, there will be no duplication in charges to Concessionaire in this Section under any other provisions of this Agreement.

ARTICLE X. SIGNS

Section 10.01 CONCESSIONAIRE'S SIGNS.

The design, construction, location, use and maintenance of Concessionaire's signs are subject to the provisions of the SAIA-SSC and the approved Final Drawings. Concessionaire shall affix a sign to the exterior surface of the storefront of the Premises located inside the Terminal, subject to the advance approval of the Director. Concessionaire shall pay all costs of fabricating, constructing, operating and maintaining such sign. Concessionaire shall keep said sign well lighted, if applicable, during such business hours and shall maintain said sign in good condition and repair at all times. Said sign shall conform to the criteria for signs contained in the approved Final Drawings and the SAIA-SSC, and the size, content, design and location thereof shall be subject to the prior written approval of the Director. Except as hereinabove mentioned, Concessionaire shall not place or cause to be placed, erected or maintained on any exterior door, wall, window or the roof of the Premises, or on the interior or exterior surface of the glass of any window or door of the Premises, or on any other location outside the Premises, or within any display window space in the Premises, or within one foot of the front of the storefront lease line, whether or not there is display window space in the Premises, or within any entrance to the Premises, any sign (flashing, moving, hanging, handwritten, or otherwise), decal, placard, decoration, flashing, moving or hanging lights, lettering, or any other advertising matter of any kind or description; provided, Concessionaire may place small decals relating to charge cards accepted and alarm system used for safety purposes on glass storefronts. No symbol, design, name, mark or insignia adopted by the City for the Terminal or the Airport shall be used without the prior written consent of the Director. All signs located in the interior of the Premises shall be in good taste so as not to detract from the general appearance of the Premises and Terminal.

Section 10.02 CONCESSIONAIRE'S DISPLAY WINDOWS.

Concessionaire acknowledges and agrees that the condition and appearance of its interior advertising stanchions and display windows facing into or in any manner visible from the Terminal property including exterior glass windows (if any) is important and significant to the City. If Concessionaire installs such interior advertising display stanchions or window display or

any signs in the window display facing into or in any manner visible from the Public Areas of the Terminal which the Director reasonably determines to be objectionable to the general character and appearance of the Terminal, Concessionaire agrees to remove the stanchions, window display and/or signs within 2 days after notice. If Concessionaire fails or refuses to remove such stanchion, window display or sign, Concessionaire hereby grants the City the right to remove the stanchion, display or sign at the Concessionaire's expense. Concessionaire agrees that its interior advertising display stanchions and display windows will be designed and printed in a professional manner and will contain only first class items. No temporary signs or displays will be used by Concessionaire including any employment opportunity signs, except for temporary holiday decorations, which shall also be designed and printed in a professional manner. At a minimum, Concessionaire shall refresh and change the items and signs in the display windows on a quarterly basis during each Lease Year.

ARTICLE XI. MAINTENANCE AND REPAIRS

Section 11.01 CITY'S MAINTENANCE AND REPAIRS.

The City shall keep and maintain the Terminal property, which is not part of the Premises, and the roof (excluding any skylights, Concessionaire installed rooftop HVAC units and/or roof penetrations made by Concessionaire, any of which shall only be permitted with the Director's prior written consent), structural elements and structural foundation and the exterior surface of the exterior walls of the building in which the Premises is located (exclusive of storefronts, doors, door frames, door checks, other entrances, windows or window frames which are part of the Premises or which are not part of the Public Areas of Terminal), the Public Areas of the Terminal adjacent to the Premises in good repair, except that the City shall not be required to undertake any maintenance or repair required or occasioned by any act, negligent act or omission to act of Concessionaire, its agent, employees, licensees, contractors or subcontractors or caused by any alteration, addition, construction or improvement by Concessionaire, its agents, employees, licensees, contractors or subcontractors. Such maintenance of the Terminal required by the City herein shall be maintained in a condition which the City determines for the proper operation thereof, determined in the City's sole discretion. The City shall not be called upon or required to make any other improvements or repairs of any kind upon the Premises and appurtenances, except as specifically required under this Agreement. In no event shall the City be liable for any damages, whether consequential damages or otherwise or lost profits claimed to be caused by any failure of maintenance or repair by the City and nothing contained in this Section shall limit the City's right to reimbursement from Concessionaire for maintenance costs, repair costs and replacement costs confirmed elsewhere in this Agreement.

Section 11.02 CONCESSIONAIRE'S MAINTENANCE AND REPAIRS.

(a) Except as provided in **Section 11.01**, Concessionaire, at its sole cost and expense, shall keep and maintain in a first-class appearance, reasonable wear and tear and damage by fire and other casualty excepted, and in a safe, clean, neat, sanitary and lawful order, good condition and repair (including replacement of parts and equipment, the Premises and every part thereof and any and all appurtenances thereto wherever located, including, without limitation, surfaces of all walls, windows and window casings and sills (both interior and exterior), the interior and exterior portion of all doors, door frames and door checks, other entrances, plate glass (except outside surfaces of windows, window casings and sills located on the exterior of the Terminal building,

if any), storefronts, wall coverings, floor coverings, ceilings, relamping and/or replacement of light fixtures, trade fixtures, Fixed Improvements, Operating Equipment, HVAC and electrical and other utility systems and utility branch lines exclusively serving the Premises (whether or not located within the Premises), sprinkler systems and sprinkler heads exclusively serving the Premises (whether or not located within the Premises), and all other repairs, replacements, renewals, restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen that relate to all work by or on behalf of Concessionaire pursuant to **Article VI, Article VII, and Exhibit D**, the SAIA-SSC.

(b) Concessionaire shall also keep and maintain the Premises in accordance with applicable City regulations and all directions, rules and regulations of the applicable health, fire and building inspector officials or other proper officials of governmental agencies having jurisdiction. Concessionaire shall comply with all requirements of laws, ordinances and otherwise affecting the Premises at Concessionaire's sole cost and expense, including complying with the requirements of any insurance underwriters, inspection bureaus or similar agencies designated in writing by the City upon suitable notice. Concessionaire shall promptly undertake and complete diligently any repair, replacement or maintenance to any of the foregoing as may be considered reasonably necessary by the City with materials and labor reasonably approved by the City. At the end of the Term or upon the earlier termination of this Agreement, Concessionaire shall surrender the Premises broom-clean and in good order, condition and repair, reasonable wear and tear and damage by fire, loss or other casualty not covered or required to be covered by Concessionaire's insurance or not otherwise attributable to Concessionaire's fault or negligence excepted.

(c) Concessionaire's maintenance and repair of the Premises includes all of the following duties, to be performed at Concessionaire's sole cost and expense:

- i. Install and maintain fire extinguishers, fire hoses and other fire protection devices as may be required by the Director, fire marshal official and any agency having jurisdiction thereof or by the insurance underwriter insuring the Terminal;
- ii. Obtain the Director's prior written approval of the materials used in any plate glass or window glass installation, repair or replacement and contractor performing any such repair and replacement;
- iii. At all times, Concessionaire shall use the Premises with care. Maintenance, repairs and replacements shall be accomplished as necessary to maintain the Fixed Improvements and Operating Equipment and trade fixtures in good condition. Concessionaire shall repaint, retile, recarpet or replace wall coverings, floor coverings and ceiling coverings as reasonably necessary, and high traffic areas shall be repainted, retiled, recarpeted on a regular basis or as otherwise reasonably directed by the Director to maintain a high quality, first-class appearance; and all furniture and furnishings that become worn or torn shall be promptly replaced by Concessionaire as necessary;
- iv. Provide complete and adequate arrangements for the sanitary handling and disposal of all trash, garbage, recycling materials and other refuse generated in the Premises, including suitable receptacles situated in locations reasonably determined by the Director. Such shall be removed at times and in a manner which will cause minimum

interference with the use of the Terminal by the public and other authorized persons. Concessionaire shall also furnish custodial services for the Premises. Piling of boxes, cartons, containers or other similar items in the Public Areas or in the Premises is not permitted;

- v. With respect to utility systems and lines servicing the Premises,
 - 1) in areas where they serve other areas in the Terminal in addition to the Premises, Concessionaire shall only be responsible for the maintenance of the utility branch systems and utility branch lines located within or exclusively serving the Premises,
 - 2) where utility systems and lines are installed by Concessionaire and solely for its use, Concessionaire shall solely be responsible for the maintenance, repair and replacement thereof from the Premises up to the City - maintained main utility systems or lines or to the shut-off valves located in the Terminal, as appropriate,
 - 3) Concessionaire on a regular basis as reasonably required by the Director from time to time shall have sole responsibility for the maintenance, repair and replacement, as necessary, of all electrical, grease traps, exhaust systems, cooking and refrigerant apparatus, telephone, data transmission and other communication cables, conduits, wiring, fire alarm systems and protection devices, wiring panels, waste water and sewage disposal lines and associated equipment located within or exclusively serving the Premises;
 - 4) When operating a food and beverage enterprise, Concessionaire shall keep its grease lines clean and in good working condition. Concessionaire, at Concessionaire's sole cost, shall ensure the grease traps are inspected and cleaned at least once every month and shall provide to City a monthly report to that effect;
- vi. Concessionaire shall provide a comprehensive preventive maintenance program for everything that it is responsible for maintaining and submit the same to the Director and shall maintain such program on a current basis and provide evidence to the Director from time to time by submission of paid invoices. Upon approval by Director of said maintenance program, as may be updated from time to time, the program shall automatically become **Exhibit H** to this Agreement. Concessionaire shall report all malfunctions to all systems, lines, devices and equipment installed or located within the Premises to the City in accordance with the City's regulations and as promptly as possible after discovery and provide timely notice to the City as required by this Agreement with respect to maintenance; and
- vii. All repairs, replacements and maintenance by Concessionaire hereunder shall comply with all of the applicable provisions of the City's BPA process, as the same may be amended from time to time by the City in its sole discretion, shall be performed in accordance therewith and with the applicable provisions of the SAIA-SSC and shall be subject to the City's prior written approval (except in the case of emergencies when only prior notice to the City shall be required), such approval to be determined in the City's sole discretion.

All such maintenance, repairs and replacements shall be of a quality equal to the original in materials and workmanship, the City shall have the right to disapprove any improvements,

replacements or alterations which, in its judgment, are of a design, quality, condition or in any color or in any other way deemed to be inconsistent with the SAIA-SSC, the City's BPA process or the general character and design of the Terminal.

Section 11.03 RIGHTS OF THE CITY.

If at any time Concessionaire shall fail to comply with any of its obligations under **Section 11.02** hereof, the City reserves the right to perform and complete such maintenance, repairs, replacements or alterations after reasonable notice to Concessionaire of its default thereunder and Concessionaire's failure to timely cure the same, and charge back to Concessionaire the full cost thereof for such work performed on behalf of Concessionaire. The City, during Concessionaire's business hours and with prior reasonable notice to Concessionaire (if such notice is possible and does not interfere or limit City's exercise of its governmental functions or powers), may enter the Premises and make inspections as often as it considers necessary, to determine the proper maintenance of the Premises by Concessionaire. Further, the City reserves the right to interrupt, temporarily, all utility services provided by the City when necessary to make repairs, alterations, replacements or improvements in such systems. The City shall not have any responsibility or liability to Concessionaire (including consequential damages and lost profits) for failure to supply heat, air conditioning, all other utilities or plumbing or, when prevented from doing so by laws, orders or regulations of any federal, state or local agency as a result of strikes, accidents, Force Majeure or by any other cause whatsoever beyond the City's control. The City shall provide Concessionaire with as much advance notice as reasonably possible and under the circumstances shall use reasonable efforts to avoid interrupting Concessionaire's business operations except as deemed necessary by the Director.

ARTICLE XII. INSURANCE AND INDEMNITY

Section 12.01 INSURANCE

(a) Prior to the commencement of any work under this Agreement, Concessionaire shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City of San Antonio Aviation Department, 9800 Airport Boulevard, San Antonio, Texas 78216, Attn: Airport Concessions Manager, which shall be clearly labeled "*Airport Prime Concessionaire Program-Terminal A*" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to perform under this Agreement until such certificate and endorsements have been received and approved by the City's Aviation Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

(b) The City reserves the right to review the insurance requirements of this Article during the effective period of this contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will City allow modification whereupon City may incur increased risk.

(c) A Concessionaire’s financial integrity is of interest to the City; therefore, subject to Concessionaire’s right to maintain reasonable deductibles in such amounts as are approved by the City, Concessionaire shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Concessionaire’s sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best’s rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

| <u>TYPE</u> | <u>AMOUNTS</u> |
|--|---|
| 1. Workers' Compensation 2. Employers' Liability | Statutory \$1,000,000/\$1,000,000/\$1,000,000 |
| 3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury | For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage |
| 4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles | <u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence |
| 5. Builder’s Risk | All Risk Policy written on an occurrence basis for 100% replacement cost during construction phase of any new or existing structure. |
| 6. Property Insurance: For physical damage to the property of LESSEE, including improvements and betterment to the Leased Premises | Coverage for replacement value with a minimum co-insurance factor of eighty percent (80%) of the cost of Concessionaire’s property |
| 7. Commercial Crime/Employee Dishonesty | \$100,000 |

(d) The City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Concessionaire shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Concessionaire shall pay any costs incurred resulting from said changes. All notices shall be given to the City at the following address:

City of San Antonio Aviation Department
ATTN: Airport Concessions
9800 Airport Boulevard, Suite 185
San Antonio, Texas 78216

(e) Concessionaire agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- i. Name the City and its officers, officials, employees, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- ii. Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- iii. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
- iv. Provide thirty (30) days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) days advance written notice for nonpayment of premium.

(f) Within five (5) days of a suspension, cancellation, or non-renewal of coverage, Concessionaire shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Concessionaire's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

(g) In addition to any other remedies the City may have upon Concessionaire's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Concessionaire to stop work hereunder, and/or withhold any payment(s) which become due to Concessionaire hereunder until Concessionaire demonstrates compliance with the requirements hereof.

(h) Nothing herein contained shall be construed as limiting in any way the extent to which Concessionaire may be held responsible for payments of damages to persons or property resulting from Concessionaire's or its subcontractors' performance of the work covered under this agreement.

(i) It is agreed that Concessionaire's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this contract.

(j) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

(k) Concessionaire and any Subcontractors are responsible for all damage to their own equipment and/or property.

Section 12.02 INDEMNITY.

Concessionaire covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, and representatives of the City, individually and collectively, from and against any and all costs, claims, liens, damages (, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, intellectual property infringement, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Concessionaire's activities under this Agreement, including any acts or omissions of Concessionaire, any agent, officer, director, representative, employee, consultant or subcontractor of Concessionaire, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONCESSIONAIRE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this indemnity are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Concessionaire shall advise the City in writing within 24 hours of any claim or demand against the City or Concessionaire known to Concessionaire related to or arising out of Concessionaire 's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Concessionaire 's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Concessionaire of any of its obligations under this paragraph.

Section 12.03 INJURY CAUSED BY THIRD PARTIES.

Concessionaire covenants and agrees that the City (including its agents, employees, officers, directors, elected officials, designated management representatives and shareholders) shall not be responsible or liable to Concessionaire, or any entity or person claiming by, through or under Concessionaire, for any injury, death or damage to persons or property resulting from any latent defect in the Premises, the Terminal, the Airport and appurtenant areas; or from any acts or omissions of entities, persons, concessionaires or other occupants occupying adjoining premises

in the Terminal or any other part of the Airport or the agents, servants, employees, contractors or invitees of such entities, persons, concessionaires or occupants; or from fire, electricity, water, snow or leaks from any part of the Terminal or Terminal systems, including sprinkler systems; or from any other cause of whatever nature, unless caused by or due to the direct and sole negligence or direct and sole misconduct of the City, its agents and employees.

ARTICLE XIII. UTILITIES

(a) The City shall provide access to commercially reasonable and normal amounts (as determined by the City) of electric, heat, air conditioning, and if applicable, gas, domestic cold water, high temperature hot water and sewage services to the Premises for use by Concessionaire provided by utility systems, connections and related equipment existing as of the Premises delivery date but shall have no obligation to provide telephone or data communication services to the Premises. With respect to telephone and data transmission services, Concessionaire (including all retail, service and food & beverage concessions) shall make separate arrangements with the applicable public utility service provider and shall pay directly to the applicable public utility service provider all charges incurred. In the event Concessionaire requires access to utility services over and above those provided by the City, with the Director's prior written permission, Concessionaire may extend those additional utilities and shall pay directly for the construction and installation costs of extending those additional utilities to the Premises. If Concessionaire extends any gas or electrical utilities, Concessionaire shall be solely responsible for and shall promptly install and pay for the construction and installation of utility submeters in locations approved by the City and/or the appropriate public utility service provider. Concessionaire shall be solely responsible for all fees, deposits and charges, including use and/or connection fees, hook-up fees, standby fees, and/or penalties for discontinued or interrupted service, and the like, for water (domestic cold and high temperature hot, if applicable), gas (if applicable), sewage (if applicable), electric, fire alarm, burglar alarm, telephone, data transmission, cable television, sewer and sanitation, solid waste disposal and any other service or utility used in or upon or furnished to the Premises, including, without limitation, any services to be supplied by the City, irrespective of whether any of the foregoing are initially paid in advance by the City, or otherwise.

(b) For all food & beverage concessions, Concessionaire shall pay to the City for utilities used and consumed by Concessionaire for the conduct of its business within the Premises on a pro-rata square foot basis. Additionally, Concessionaire shall pay City for gas consumption (if applicable) within the food court on a pro-rata square foot basis, the proportionate share of all gas consumption charges incurred for the operation of all concessions in the food court area. Gas consumption charges will reflect fully compensatory, non-discriminatory rates reasonably established and allocated to the Premises by the City. Concessionaire's proportionate share of gas consumption charges shall be determined by multiplying the total gas consumption charges incurred by the City for the operation of the food court area by a fraction, the numerator of which is the number of square feet of Floor Area in the Premises and the denominator of which is the number of square feet of all food & beverage concession facilities located within or reasonably adjacent to the food court area.

For utility services, other than the food court, the Director shall make a reasonable allocation to calculate the amount owed by Concessionaire at rates which will reflect fully compensatory, non-discriminatory, standard rates established by the applicable public utility service providers. Any such utility charges shall be billed by the City to Concessionaire in arrears and shall be paid, as Additional Rent, with the next monthly installment of the MAG following Concessionaire's receipt of the invoice therefor.

(c) In no event shall the City be liable for damages, loss of business, loss of profits or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, services from a central utility plant or any other utility or other service, or if either the quantity, quality or character thereof supplied to or by the City is changed or is no longer available for Concessionaire's requirements, nor shall any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character constitute or be deemed to constitute actual or constructive eviction of Concessionaire, or excuse or relieve Concessionaire from its obligations hereunder, including but not limited to the payment of Rental or all other sums, damages, fees, costs and expenses payable under this Agreement. Any obligation of the City to furnish light, power and services from a central utility plant shall be conditioned upon the availability of adequate energy sources. The City shall have the right to reduce heating, cooling and lighting within the Premises and the Public Areas as required by any mandatory or voluntary fuel or energy saving allocation, or similar statute, regulation, order or program. Notwithstanding anything to the contrary contained in this **Section 13.01(c)**, if any utility to the Premises is supplied by or through the City and, due to the sole negligence of the City, such utility to the Premises is interrupted which forces Concessionaire to close its business within the Premises for more than 2 complete and consecutive days, then the MAG shall abate for the period commencing on the 3rd day after Concessionaire is forced to close its business within the Premises and shall continue until the earlier of: (i) the date such utility is restored to the Premises, or (ii) the date Concessionaire reopens its business in the Premises.

(d) If applicable, Concessionaire shall operate its additional heating, ventilating and air conditioning ("HVAC") system(s), if applicable, serving the Premises so as to maintain comfortable conditions during regular Terminal concession business hours. Temperatures in the Premises shall be compatible with temperatures in the Terminal. Concessionaire's obligation to connect to the services supplied by the City, as set forth in this Section and **Exhibit D**, as well as Concessionaire's operation and maintenance of its additional HVAC system(s) within the Premises, shall be as set forth herein, in **Exhibit D**, the SAIA-SSC, and in any related exhibit(s) such as the approved Final Drawings. If Concessionaire desires to install any equipment which shall exceed the capacity of any utility facilities or which shall require additional utility facilities, Concessionaire shall not have the right to do so without the Director's prior written approval of Concessionaire's plans and specifications therefor. If such installation is approved by the Director, and if such additional facilities are provided to accommodate Concessionaire's installation, Concessionaire agrees to pay the City, on demand, the cost of providing such additional utility facilities or utility facilities of greater capacity. Concessionaire shall in no event use any of the utility facilities in any way which would overload or overburden the utility systems at the Terminal and the Airport. The City shall have the right to impose reasonable restrictions and require Concessionaire to comply with any state or local regulations or measure adopted from time to time with respect to conservation of any utilities including water usage.

ARTICLE XIV. SUBORDINATION AND TIME OF EMERGENCY

Section 14.01 SUBORDINATION.

This Agreement shall be subordinate to the provisions of any existing or future agreement between the City and the United States of America relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. Should the effect of such agreement with the United States Government be to take any of the property under lease or substantially alter or destroy the commercial value of the leasehold interest granted herein, the City shall not be held liable therefor, but in such event Concessionaire may cancel this Agreement upon ten (10) days' written notice to the City. Notwithstanding the foregoing, however, the City agrees that, in the event the City becomes aware of any such proposed or pending agreement or taking, the City shall utilize the City's best efforts to (i) give the maximum possible notice thereof to Concessionaire, and (ii) cooperate with Concessionaire to mitigate the impact of such agreement or taking or other government action upon Concessionaire, including but not limited to reasonably assisting Concessionaire in securing alternate premises, and minimizing any disruption of or interference with Concessionaire's business.

Section 14.02 TIME OF EMERGENCY.

During time of war or national emergency, the City shall have the right to lease the landing area or any part thereof to the United States for government use, and, if such lease is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.

ARTICLE XV. ASSIGNMENT AND SUBLETTING

Section 15.01 RESTRICTIONS, PROCEDURES AND OTHER ASPECTS GOVERNING THE CONCESSIONAIRE.

(a) Concessionaire shall not transfer or assign this Agreement or Concessionaire's interest in or to the Premises or any part thereof without having first obtained the prior written consent of the City which may be given only by or pursuant to an ordinance enacted by the City Council of San Antonio, Texas; provided, however, the transfer of Concessionaire's securities in connection with Concessionaire becoming a publicly held company or issuing securities in connection with an additional public offering of securities shall not constitute a transfer or assignment of this Agreement. The public trading of Concessionaire's securities on a nationally recognized exchange or on the NASDAQ market shall not constitute or be considered to result in any such transfer or assignment of this Agreement. Notwithstanding the foregoing and for so long as any pledge or collateral assignment of Concessionaire's interest in the Agreement shall be by instrument substantially in such form as shall have previously been approved by the City Council, the consent of the City to such pledge or collateral assignment may be given by the City acting by and through the Director. Each transfer, assignment or subletting to which there has been consent shall be by instrument in writing, in form satisfactory to the City, and shall be executed by the transferee, assignee or subconcessionaire who shall agree in writing for the benefit of the City to be bound by and to perform the terms, covenants and conditions of this

Agreement. Four executed copies of such written instrument shall be delivered to the City. Failure to first obtain in writing the City's consent, or failure to comply with the provisions herein contained shall operate to prevent any such transfer, assignment or subletting from becoming effective. The receipt by the City of rent from an assignee, subtenant or occupant of the Premises shall not be deemed a waiver of the covenant in this Agreement against assignment and subletting or an acceptance of the assignee, subtenant or occupant as a tenant or a release of the Concessionaire from further observance or performance by Concessionaire of the covenants contained in this Agreement. No provision of this Agreement shall be deemed to have been waived by the City unless such waiver be in writing, signed by the Director.

(b) Notwithstanding the foregoing provisions of this Article, Concessionaire shall have the right to transfer or assign this Agreement, with the Director's consent, such consent not to be unreasonably withheld, to:

- i. a subsidiary of Concessionaire or its parent corporation or to an entity that is an affiliate of Concessionaire or its parent corporation;
- ii. any corporation with which Concessionaire shall merge, reorganize or consolidate; or
- iii. any corporation acquiring all or substantially all of the assets of Concessionaire or which may succeed to a controlling interest in the business of Concessionaire; provided that in the case of any and each such transfer or assignment under clauses (ii) and (iii) above which is permitted hereunder, the City shall have the discretionary right to withhold its consent unless;
 - 1) such transferee or assignee shall have a net worth equal to or greater than Concessionaire (or its guarantor, if any) as of the effective date of any proposed transfer or assignment;
 - 2) such transferee or assignee shall have proven airport concession operating experience as a prime concessionaire and the ability to efficiently and effectively operate the business in the Premises consistent with at least as high a standard as then exists in the Premises;
 - 3) the business conducted in the Premises by such transferee or assignee shall be conducted under the same use and under a trade name permitted to be used by Concessionaire hereunder;
 - 4) Concessionaire shall not be in default after the applicable notice and cure periods under any of the terms and provisions hereof;
 - 5) the use of the Premises by such Concessionaire shall not violate any agreements affecting the Premises, the City or other tenants or occupants in the Airport and shall not disrupt the concession mix within the Terminal as determined in the sole and absolute discretion of the City;
 - 6) if Concessionaire is a certified ACDBE or if Concessionaire's certified ACDBE participant is a member/partner of a limited liability company/general partnership or joint venturer of a joint venture with Concessionaire, any such transfer or assignment of this Agreement shall not effect, modify or otherwise jeopardize the required ACDBE participation interest under this Agreement;
 - 7) except as may otherwise be prohibited under federal securities laws, notice of any proposed transfer or assignment shall be given to the City at least 30 days prior to its proposed effective date, and there shall be delivered to the City

instruments evidencing such proposed transfer or assignment and the agreement of such transferee or assignee to assume and be bound by all of the terms, conditions and covenants hereof, all in form acceptable to the City; and

- 8) Concessionaire and its guarantor, if any, shall continue to remain fully liable for the payment of all sums due and the performance of all the terms and conditions hereof.

(c) Concessionaire shall not sublet the Premises or any part thereof without having first obtained the prior written consent of the City which may be given by the City acting by and through the Director. In the event Concessionaire requests permission to sublease, the request shall be submitted to the Director prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the subconcessionaire, the area or space to be subleased, the rental to be charged, the type of business to be conducted, recent audited financial statements and history and all other information requested by said Director shall be specified. Concessionaire shall not sublease a total of more than 25% of the Premises.

(d) In the event of a sublease where the rental per square foot established in the sublease exceeds the rental per square foot established in this Agreement, Concessionaire shall pay to the City as Additional Rent the excess of the rental received from the subconcessionaire over that specified to be paid by Concessionaire herein per square foot. Should any method of computation of rental to be paid by a subconcessionaire, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Premises by Concessionaire exceeds the rental paid to the City for said proportionate area of the Premises.

(e) Should the transfer or assignment of this Agreement be approved by the City and to the extent that such transferee or assignee assumes Concessionaire's obligation hereunder, Concessionaire may by virtue of such assignment be released from such obligation to the extent the City approves such release in writing. Should the subletting of the Premises be approved by the City, however, Concessionaire agrees and acknowledges that Concessionaire shall remain fully and primarily liable under this Agreement, notwithstanding any such sublease and that any such subconcessionaire shall be required to attorn to the City under the terms of this Agreement.

ARTICLE XVI. WASTE OR NUISANCE

Concessionaire shall not commit nor permit any of its employees, contractors, subcontractors, subconcessionaires or agents to injure, deface or otherwise harm the Premises, the Terminal or the Airport, nor commit any waste upon the Premises, the Terminal or the Airport, and shall not place a load upon the floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry. Concessionaire shall not commit nor permit any of its employees, contractors, subcontractors, subconcessionaires or agents to commit any nuisance or other act or thing which may constitute a menace or which may impact either the City's operation of the Terminal or the Airport or disturb the quiet enjoyment of any other occupant or concessionaire of the Airport. Concessionaire shall not use or permit to be used any medium that

might constitute a nuisance, such as loudspeakers, sound amplifiers, tape decks, compact disc players, radios, televisions, or any other sound producing or other device which will carry sound or odors outside the Premises except as may otherwise be approved in advance in writing by the Director and, upon notice from the Director to Concessionaire's business representative at the Premises, Concessionaire shall cause any such noise or odors to cease immediately. Concessionaire shall not allow any use of the Premises or any other portion of the Terminal and/or Airport in a manner which is a source of annoyance, disturbance or embarrassment to the City, or to the other concessionaires and occupants of the Terminal and/or Airport or which is deemed by the City, in its sole discretion, as not in keeping with the character of the Terminal and/or Airport. The Premises shall not be used for any unlawful or immoral purpose or which will invalidate or increase the premiums on any of the City's insurance.

ARTICLE XVII. DAMAGE AND DESTRUCTION

(a) If the Premises shall be partially damaged by fire or other casualty, the Concessionaire shall give immediate notice thereof to the City and the same shall be repaired at the expense of the City without unreasonable delay unless the City determines that the damage is so extensive that repair or rebuilding is not feasible. From the date of such casualty until said building is so repaired, monthly Rental payments hereunder shall abate in such proportion as the part of the Premises thus destroyed or rendered untenable bears to the total Floor Area of the Premises; provided, however, that if the Premises shall be so slightly injured in any such casualty as not to be rendered unfit for occupancy, the Rentals hereunder shall not cease or be abated during any repair period. In the event that the damage to the Premises should be so extensive as to render it untenable, the Rentals shall cease until such time as it shall be put in repair, but in the event the Premises is damaged by fire or other casualty to such an extent as to render it necessary in the exclusive judgment of the City not to rebuild the same, then at the option of the City, and upon notice to Concessionaire, this Agreement shall cease and come to an end and the Rentals hereunder shall be apportioned and paid up to date of such damage. If the City elects to rebuild the Premises, the City shall notify Concessionaire of such intention within thirty (30) days of the date of the damage, otherwise this Agreement shall be deemed canceled and of no further force or effect. Notwithstanding any provision above, should the destruction or damage to the Premises (to the extent of work that is to be provided as part of the City's obligation) be so great that it will not be reasonably repaired or restored by the City within one hundred twenty (120) days to the state of fitness that existed prior to the commencement of improvements, if any, performed by Concessionaire, Concessionaire may, at Concessionaire's option, terminate this Agreement by written notification of same given to the City within thirty (30) days after the occurrence of such casualty, or upon notification that the work will not be completed within the one hundred twenty (120) days.

(b) The City's obligations to rebuild or repair under this Article shall, in any event, be limited to restoring the Premises to substantially the condition that existed prior to the commencement of improvements, if any, performed by Concessionaire and shall further be limited to the extent of the insurance proceeds available to the City for such restoration. Concessionaire agrees that if the City elects to repair or rebuild as set forth herein, then Concessionaire will proceed with reasonable diligence and, at its sole cost and expense, to rebuild repair and restore its improvements, signs, fixtures, furnishings, equipment and other items provided or installed by

Concessionaire in or about the Premises in a manner and to a condition at least equal to that which existed prior to the damage or destruction. Should the commencement, construction or completion of said repair, reconstruction or replacement be prevented or delayed by reason of war, civil commotion, acts of God, strikes, governmental restrictions or regulations, fire or other casualty, or any other reason beyond the control of either Party, the time for commencing or completing the repair, reconstruction or replacement, as the case may be, shall automatically be extended for the period of each such delay.

(c) City's election to repair the premises, as provided in this Article, shall not be construed as a waiver or limitation of City's right to pursue and/or recover damages/losses suffered by City.

ARTICLE XVIII. NON-DISCRIMINATION

Section 18.01 GENERAL PROHIBITION.

Any discrimination by Concessionaire, its agents or employees on account of race, creed, color, sex, age, disability, religion or national origin, in employment practices or in the use of or admission to the Premises is prohibited. Concessionaire, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, that: (a) no person on the grounds of race, creed, color, sex, age, disability, religion or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises, (b) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, age disability, religion or national origin shall be excluded from participation, denied the benefits of, or otherwise be subjected to discrimination, (c) that Concessionaire shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended and/or supplemented.

Section 18.02 AFFIRMATIVE ACTION.

To the extent required by law, Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, sex, age, disability, religion or national origin be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Concessionaire assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Concessionaire assures that it will require that its covered sub-organizations provide assurances to Concessionaire that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect. Concessionaire shall comply with the City's Nondiscrimination Clause as set forth in the Concessionaire Handbook which shall include submittal of Concessionaire's affirmative action plan for equal employment opportunity relating to the conduct of its business in the Premises. If requested by the City, this plan shall be submitted on an annual basis and monitored through the submission of an annual status report reflecting prior year activity. Quarterly affirmative action status reports shall also be provided, if requested by the City.

Section 18.03 CITY CODE NON-DISCRIMINATION REQUIREMENT.

As a party to a contract with City, Concessionaire understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein. Concessionaire acknowledges that it understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Concessionaire from participating in City contracts, or other sanctions.

ARTICLE XIX. DEFAULT

Section 19.01 CONCESSIONAIRE'S DEFAULT.

(a) Notwithstanding any provision herein to the contrary and irrespective of whether all or any rights conferred upon the City by this Article are expressly or by implication conferred upon the City elsewhere herein, each of the following shall constitute an the event of default by Concessionaire:

- i. Concessionaire shall fail to pay any Rentals or any other charges whatsoever due as provided for in this Agreement and such failure shall continue for a period of 10 days after written notice thereof, provided that such notice from the City shall be in lieu of, and not in addition to, any notice of default required by applicable laws;
- ii. Concessionaire shall neglect or fail to perform or observe any of the other terms, conditions, or covenants herein contained, and on Concessionaire's part to be performed or in any way observed if such neglect or failure shall continue for a period of 30 days after written notice of such neglect or failure (or if more than 30 days shall be required because of the nature of the default, if Concessionaire shall fail within said 30 days to commence and thereafter diligently proceed to cure such default to completion, provided that in no event shall such cure period extend beyond 60 days or such longer period of time as is approved by the Director in writing and if Concessionaire's cure period is so extended, Concessionaire must, within 5 days after the written extension notice provide a written plan to the Director outlining all steps Concessionaire is taking to cure the default and when the cure shall be completed), provided that such notice from the City shall be in lieu of, and not in addition to, any notice of default required by applicable laws;
- iii. Concessionaire shall fail to commence construction of Concessionaire's Work within 30 days of the City's issuance of the City's building permits and such failure is not occasioned by reason of Force Majeure;
- iv. Concessionaire shall fail to move into the Premises and to initially open for business on or before the Latest Rental Commencement Date and such failure is not occasioned by reason of Force Majeure;
- v. Concessionaire shall fail to operate continuously in the manner and during the hours established by the Director or for the Permitted Use;

- vi. Concessionaire shall voluntarily discontinue its operations at the Premises for a period of three (3) consecutive days and such failure is not occasioned by reason of Force Majeure or permitting this Agreement to be taken under any writ of execution or similar writ or order;
- vii. Concessionaire shall become insolvent, shall take the benefit of any present or future insolvency statute, shall make a general assignment for the benefit of creditors, shall file a voluntary petition in bankruptcy or a petition or answer seeking a reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any state thereof, or shall consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property;
- viii. an Order of Relief shall be entered at the request of Concessionaire or any of its creditors under the federal bankruptcy or reorganization laws or under any law or statute of the United States or any state thereof and shall not be vacated within 60 days;
- ix. a petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against Concessionaire and shall not be dismissed within 90 days after the filing thereof;
- x. by or pursuant to or under the authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Concessionaire and such possession or control shall continue in effect for a period of 60 days;
- xi. if applicable, Concessionaire shall become a corporation in dissolution or voluntarily or involuntarily forfeit its corporate charter;
- xii. Concessionaire shall fail to carry insurance as required under this Agreement or to comply with any applicable law, rule or regulation concerning security, and such failure continues for forty-eight (48) hours after written notice from the City thereof;
- xiii. a governmental authority, board, agency or officer with competent jurisdiction terminates or suspends any certificate, license, permit or authority held by Concessionaire without which Concessionaire shall not be lawfully empowered to conduct its business operations in the Premises;
- xiv. the rights of Concessionaire hereunder shall be transferred to, pass to, or devolve upon, by operation of law or otherwise, any other person, firm, corporation, or other entity by or in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation or other similar proceedings or occurrences.

(b) If any condition of Concessionaire's event of default shall occur which shall not be timely cured as provided in **Section 19.01(a)**, in addition to any other rights or remedies the City may have by law, the City, then, or at any time thereafter, but prior to the removal of such event of default shall have the right, either to terminate this Agreement by giving at least 5 days written notice to Concessionaire at which time Concessionaire will then quit and surrender the Premises to the City, but Concessionaire shall remain liable as hereinafter provided, or, to enter upon and take possession of the Premises (or any part thereof in the name of the whole), without demand or notice, and repossess the same as of the City's former estate, expelling Concessionaire and those claiming under Concessionaire, forcibly if necessary, without prejudice to any remedy for arrears of Rentals or preceding breach of covenant and without any liability to Concessionaire or those claiming under Concessionaire for such repossession, in which event the City shall have the right to enforce all of the City's rights and remedies hereunder including the right to recover all Rentals and other charges payable by Concessionaire hereunder as they become due hereunder. The City's repossession of the Premises shall not be construed as an election to terminate this Agreement nor shall it cause a forfeiture of Rentals or any other charges remaining to be paid during the balance of the Term hereof, unless a written notice of such intention be given to Concessionaire, or unless such termination is decreed by a court of competent jurisdiction. If the City elects to terminate this Agreement, the City shall have the right to recover immediately from Concessionaire damages calculated as follows: (i) all unpaid Rentals that had been earned at the time of termination of the Agreement; and (ii) the worth at the time award of the amount by which the unpaid Rentals which would have been earned after termination until the time of the award exceeds the amount of the loss of such Rentals that Concessionaire affirmatively proves has been or could have reasonably been avoided; (iii) the worth at the time of award of the amount by which the unpaid Rentals for the balance of the Term after the time of award exceeds the amount of the loss of Rentals that Concessionaire affirmatively proves could reasonably be avoided; and (iv) any other amount necessary to compensate the City for all damages proximately caused by Concessionaire's default or which in the ordinary course would likely result therefrom (for purposes of subsection (ii) above, "worth at the time of award" shall be computed by allowing interest at the maximum rate permitted by Texas law and for purposes of subsection (iii) above, "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank whose jurisdiction includes the Airport at the time of the award, plus one (1%) percent per annum to its present worth). Upon repossession, the City shall have the right (at its election and whether or not this Agreement shall be terminated) to relet the Premises or any part thereof for such period or periods (which may extend beyond the Term of this Agreement) at such rent or rent and upon such other terms and conditions as the City may, in good faith, deem advisable. Notwithstanding any law or anything contained herein to the contrary, to the full extent permitted under applicable law, Concessionaire and the City agree that the City's duty to relet the premises or otherwise to mitigate damages under this Agreement shall be limited to those requirements set forth in the Texas Property Code, as amended. The City shall in no event be liable and Concessionaire's liability shall not be affected or diminished in any way whatsoever for failure to relet the Premises, or in the event the Premises are relet, for failure to collect any rent under such reletting, so long as the City uses objectively reasonable efforts to comply with said Texas Property Code. The City and Concessionaire agree that any such duty shall be satisfied and the City shall be deemed to have used objective reasonable efforts to relet the Premises and mitigate the City's damages by: (1) posting a "For Lease" sign on the Premises; (2) advising the City's

leasing agent, if any, of the availability of the Premises; and (3) advising at least one outside commercial brokerage entity of the availability of the Premises.

(c) If the City shall elect to relet, then rent received by the City from such reletting shall be applied: first, to the payment of any indebtedness other than Rentals due hereunder from Concessionaire to the City under this Agreement, second, to the payment of any cost of such reletting; third, to the payment of Rentals due and unpaid hereunder; and the residue, if any, shall be held by the City and applied hereunder. Should that portion of such rent received from such reletting during any month, which is applied to the payment of Rentals hereunder, be less than the Rentals payable during that month by Concessionaire hereunder then Concessionaire shall pay such deficiency to the City. Such deficiency shall be calculated and paid monthly. Concessionaire shall also pay to the City, as soon as ascertained, any costs and expenses incurred by the City in such reletting not covered by the rent received from such reletting of the Premises.

(d) If the City shall terminate this Agreement or take possession of the Premises by reason of an event of default, Concessionaire and those holding under Concessionaire, shall forthwith remove their goods and effects from the Premises within seven (7) days. If Concessionaire or any such claimant shall fail to effect such removal forthwith, the City may, without liability to Concessionaire or those claiming under Concessionaire, remove such goods and effects and may store the same for the account of Concessionaire or of the owner thereof at any place selected by the City, or, at the City's election, and upon giving 15 days written notice to Concessionaire of date, time and location of sale, the City may sell the same at public auction or private sale on such terms and conditions as to price, payment and otherwise as the City in its sole discretion may deem advisable. If, in the City's judgment, the cost of removing and storing or the cost of removing and selling any such goods and effects exceeds the value thereof or the probable sale price thereof, as the case may be, the City shall have the right to dispose of such goods in any manner the City may deem advisable. Concessionaire shall be responsible for all costs of removal, storage and sale, and the City shall have the right to reimburse the Airport Revenue Fund from the proceeds of any sale for all such costs paid or incurred by the City. If any surplus sale proceeds remain after such reimbursement, the City may deduct from such surplus any other sums due to the City hereunder and shall pay over to Concessionaire any remaining balance of such surplus sale proceeds. Any amount paid or expense or liability incurred by the City for the account of Concessionaire may be deemed to be Additional Rent and the same may, at the option of the City, be added to any Rentals then due or thereafter falling due hereunder.

(e) If the City shall enter into and repossess the Premises for reason of the default of Concessionaire in the performance of any of the terms, covenants or conditions herein contained, then, and in that event, Concessionaire hereby covenants and agrees that Concessionaire will not claim the right to redeem or re-enter the Premises to restore the operation of this Agreement and Concessionaire hereby waives the right to such redemption and re-entrance under any present or future law, and does hereby further, for any party claiming through or under Concessionaire, expressly waive its right, if any, to make payment of any sum or sums of Rentals, or otherwise, of which Concessionaire shall have made default under any of the covenants of this Agreement and to claim any subrogation of the rights of Concessionaire under these presents, or any of the covenants thereof, by reason of such payment

(f) Anything to the contrary notwithstanding, the City shall not be required to give notice under this Article more than three (3) times for the same type of default in any consecutive twelve-month period. All rights and remedies of the City herein created or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as deemed desirable. If proceedings shall, at any time, be commenced for recovery of possession as aforesaid and compromise or settlement shall be effected either before or after judgment whereby Concessionaire shall be permitted to retain possession of the Premises, then such proceeding shall not constitute a waiver of any condition or agreement contained herein or of any subsequent breach thereof or to this Agreement.

Section 19.02 CITY'S DEFAULT.

(a) Each of the following shall constitute an event of default by the City:

- i. the permanent abandonment of the Airport by the City;
- ii. the issuance by a court of competent jurisdiction of any injunction preventing or restraining the use of the Airport in such a manner as to substantially restrict Concessionaire from conducting business operations within the Premises and the remaining in force of such injunction for at least 60 days;
- iii. the default by the City of any of the terms, covenants or conditions of this Agreement to be kept, performed or observed by the City and the failure of the City to remedy such default for a period of 60 days after written notice from Concessionaire of the existence of such default has been received by the City or if more than 60 days shall be required because of the nature of such default, if the City shall fail within said 60 day period to commence and thereafter diligently proceed to cure such default;
- iv. the assumption by the United States government, or any authorized agency thereof, or the operation, control or use of the Airport and its facilities in such a manner as to substantially restrict the Concessionaire from conducting business operations within the Premises hereunder if such restriction shall be continued for a period of 3 consecutive months or more.

(b) If any event of default shall occur which is not cured by the City, and notwithstanding any waiver or indulgence granted by Concessionaire with respect to any event of default in any form or instance, Concessionaire's sole right and remedy shall be to declare this Agreement to be terminated upon not less than 30 days prior written notice to the City. If Concessionaire elects to terminate this Agreement due to the City's default, this Agreement shall terminate upon the expiration of such 30 day notice period to the City and Concessionaire shall pay to the City all Rentals and other charges due under this Agreement which shall have accrued prior to the effective date of any such termination. Concessionaire shall not be entitled to any other claims or remedies and Concessionaire hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and all monetary claims for breach of this Agreement under Federal and any state law.

ARTICLE XX. BANKRUPTCY OR INSOLVENCY

Section 20.01 CONCESSIONAIRE'S INTEREST NOT TRANSFERABLE.

Neither Concessionaire's interest in this Agreement, nor any estate hereby created in Concessionaire nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the United States Bankruptcy Code, as amended ("Code").

Section 20.02 ELECTION TO ASSUME AGREEMENT.

Even though this is an Agreement of real property in an airport, the Parties contractually agree that this Agreement shall be construed to be a lease of commercial real property within the meaning of Section 365 of the Code. If Concessionaire becomes a Debtor under Chapter 7, 11 or 13 of the Code, and the Trustee or Concessionaire, as Debtor-In-Possession, elects to assume this Agreement for the purpose of assignment to a third party or otherwise, such election and assignment, if any, may only be made if all the terms and conditions of the applicable provisions of the Code are satisfied. If the Trustee or Concessionaire, as Debtor-In-Possession, fails to elect to assume or reject this Agreement by the 60th day after the entry of the Order for Relief in a case under Chapter 7, 11 and 13 of the Code, this Agreement shall thereafter be deemed rejected and terminated in accordance with Section 365 of the Code. The Trustee or Concessionaire, as Debtor-In-Possession, shall thereupon immediately surrender possession of the Premises to the City and the City shall have no further obligation to Concessionaire or Trustee hereunder. The acceptance of Rental by the City after the 60th day shall not be deemed a waiver of the City's rights herein and under Section 365 of the Code, and the City's right to be compensated for damages in such bankruptcy case shall survive.

Section 20.03 OCCUPANCY CHARGES.

When, pursuant to the Code, the Trustee or Concessionaire, as Debtor-In-Possession shall be obligated to pay reasonable use and occupancy charges for the use of the Premises or any portion thereof, such charge shall not be less than the MAG and Percentage Rent and all other monetary obligations of Concessionaire for the payment of Additional Rent.

ARTICLE XXI. ACCESS BY THE CITY

(a) The City, its agents and designated management representatives shall have the right to enter the Premises for any reasonable purpose (including inspecting the condition of the Premises) upon reasonable notice to Concessionaire. Concessionaire shall cooperate upon receipt of any such notice and arrange for its personnel to be available during any such entry. The City shall have the further right to enter the Premises to make such repairs, alterations, improvements or additions as it may deem necessary or desirable, and shall be allowed to take all material into and upon the Premises that may be required without the same constituting an eviction of Concessionaire in whole or in part, and the MAG, Percentage Rent, Additional Rent and other charges reserved hereunder shall not abate while said repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Concessionaire, or otherwise.

(b) If the City exercises the foregoing rights and as a result thereof there is a material adverse effect to Concessionaire's use and occupancy of the Premises to the extent that Concessionaire is forced to close its business in the Premises for two (2) or more complete consecutive days, Concessionaire's obligation to pay the MAG shall be abated during the period that

Concessionaire is totally prohibited from operating. Upon the reopening of the Premises, which Concessionaire shall reopen on the day following the cessation of such material adverse effect, Concessionaire's payment of the MAG to the City shall immediately recommence on the date of the reopening of the Premises.

(c) In exercising such right of entry, the City shall use reasonable efforts not to disrupt Concessionaire's business in the Premises. The City or its agents and designated management representatives shall have the further right to enter the Premises without notice at any time in the event of emergency. Finally, the City, during the last 12 months prior to the expiration of the Term, may enter the Premises for the purpose of exhibiting the same to prospective concessionaires and their representatives.

ARTICLE XXII. CONCESSIONAIRE'S PROPERTY

Section 22.01 TAXES ON CONCESSIONAIRE'S PERSONAL PROPERTY.

Concessionaire shall be responsible for, and agrees to pay prior to delinquency, any and all taxes or other taxes, assessments, levies, fees and other governmental charges and impositions of every kind of nature, regular or special, direct or indirect, presently foreseen or unforeseen or known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (i) Concessionaire's leasehold interest in the Premises, and (ii) the Fixed Improvements, the Operating Equipment, all furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Premises by Concessionaire (collectively, "Concessionaire's Taxes"). Concessionaire shall provide the Director with evidence of Concessionaire's timely payment of such Concessionaire's Taxes upon the Director's request. If at any time any of such Concessionaire's Taxes are not levied and assessed separately and directly to Concessionaire (for example, if the same are levied or assessed to the City, or upon or against, the building containing the Premises and/or the land underlying said building), Concessionaire shall pay to the City Concessionaire's share thereof as reasonably determined and billed by the City.

Section 22.02 LOSS AND DAMAGE.

The City shall not be responsible or liable to Concessionaire for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying premises or any part of the premises adjacent to or connected with the Premises or any part of the building of which the Premises are a part, or any other area in the Airport, or for any loss or damage resulting to Concessionaire or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes, or (without limiting the foregoing) for any damage or loss of property within the Premises from any cause whatsoever. Concessionaire shall give immediate notice to the Director in case of any damage to or destruction of all or any part of, or of accidents occurring within the Premises, or of defects therein or of any damage to or destruction of any inventory, fixtures or equipment within the Premises.

Section 22.03 THE CITY'S LIEN.

Concessionaire hereby gives to the City a lien upon all of its property, now, or at any time hereafter placed in or upon the Premises to secure the prompt payment of the charges herein

stipulated to be paid for the use of the Premises; all exemptions of such property, or any of it, being hereby waived. In the event that the amount of the Letter of Credit provided by Concessionaire to the City under the terms of this Agreement at all times during the term of this Agreement shall equal the greater of the Rentals payable by Concessionaire to the City for the current calendar year, then, and in such event, the provisions set forth above shall not be applicable to this Agreement.

ARTICLE XXIII. RULES AND REGULATIONS

Concessionaire agrees to comply with and observe all reasonable rules and regulations, including, without limitation, the Concessionaire Handbook, established by the City from time to time, with respect to the Airport, the Terminal, the Premises or any related matter. Concessionaire and its employees shall faithfully observe and comply with any other reasonable rules which the Director may from time to time make after notice to Concessionaire, provided such rules apply to all similarly situated concession operators in the Airport and are reasonably related to the safety, care, appearance, reputation, operation or maintenance of the Terminal or the Airport or the comfort of occupants and others using the Airport. The City shall not have any duty or obligation to enforce such rules or the terms and conditions in any other concession agreement, lease or sublease as against any other concessionaire, lessee or tenant and the City shall not be liable to Concessionaire for violations of the same by other concessionaires, lessees, tenants, subtenants, invitees, their servants, employees, contractors, subcontractors and agents. Concessionaire's failure to keep and observe said rules and regulations shall constitute a breach of the terms hereof in the same manner as if the rules and regulations were contained herein as covenants.

ARTICLE XXIV. QUIET ENJOYMENT

Subject to the terms and conditions hereof, upon payment by Concessionaire of the Rentals herein provided and other charges payable by Concessionaire hereunder, and upon the observance and performance of all the covenants, terms and conditions on Concessionaire's part to be observed and performed, Concessionaire shall peaceably and quietly hold and enjoy the Premises for the Term hereby demised without hindrance or interruption by the City.

ARTICLE XXV. MISCELLANEOUS

Section 25.01 WAIVER; ELECTION OF REMEDIES.

One or more waivers of any covenant or condition by either Party shall not be construed as a waiver of a subsequent breach of the same covenant or condition by the other Party, and the consent or approval by the City to or of any act by Concessionaire requiring the City's consent or approval shall not be deemed to render unnecessary the City's consent or approval to or of any subsequent similar act by Concessionaire. No breach by either Party of a covenant or condition hereof shall be deemed to have been waived by the non-breaching Party unless such waiver is in writing and signed by a representative of the non-breaching Party. The rights and remedies of the City hereunder or in any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which the City has or may have elsewhere hereunder or at law or equity, whether or not such Section, subsection or clause expressly so

states.

Section 25.02 ENTIRE AGREEMENT.

This Agreement supersedes all prior agreements between the Parties and sets forth all the covenants, promises, agreements and conditions, and understandings between the City and Concessionaire concerning the Premises, the Terminal and the Airport and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Agreement. Neither the City nor its designated management representatives, employees, elected officials and/or agents have made any representation or warranty regarding the profitability of the Premises, the enplaned passenger and/or airline volume in the Terminal and/or the Airport or operating airlines in the Terminal and/or the Airport, and Concessionaire has not entered into this Agreement in reliance on any such representations, warranties or financial projections prepared or furnished to Concessionaire by the City or its designated management representatives, employees, elected officials and/or agents. No alteration, amendment, change or addition to this Agreement shall be binding upon the City or Concessionaire unless reduced to writing and signed by each Party.

Section 25.03 INTERPRETATION; AUTHORIZATION.

Nothing contained herein shall be deemed or construed by the Parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint ventures between the Parties hereto, it being understood and agreed that neither the method of computation of Rentals, nor any other provision contained herein, nor any acts of the Parties herein, shall be deemed to create any relationship between the Parties hereto other than the relationship of landlord and tenant. If this Agreement is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this Agreement on behalf of such corporation, partnership or entity.

Section 25.04 DELAYS; FORCE MAJEURE.

In the event either Party is delayed in the performance of any obligation required by this Agreement, such performance shall be excused (unless the specific provision otherwise provides) for the period of the delay and performance of any such obligation shall be extended for a period equal to the delay, if and only if the delay is by reason of "Force Majeure", which as used herein shall mean fire, earthquake, hurricane, flood and a similar act of God constituting a natural disaster, explosion, terrorist action, war, executive order of government or similar causes not within the control of the entity being delayed. However, the time for Concessionaire's performance of any obligation shall not be extended due to any lack of funds, financial or economic problems of either Concessionaire or Concessionaire's architects, contractors, suppliers, agents, consultants and/or employees. If Concessionaire shall claim a delay due to Force Majeure, Concessionaire must notify the Director in writing for receipt by the City within 15 days of the first occurrence of an event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming Force Majeure and the anticipated delay in Concessionaire's performance. In no event shall any delay extend Concessionaire's performance beyond a 75 day period without the specific written approval of the Director. Under no circumstances shall any such condition or delay (unless the specific provision provides for abatement of Rentals), whether such condition or delay is claimed by the City or Concessionaire,

excuse or delay Concessionaire's payment of any Rentals and other charges due hereunder. Further, the City's reasonable reduction of heat, light, air conditioning or any other services whatsoever to the Terminal, the Airport or the Premises shall not relieve or excuse Concessionaire from any of its obligations hereunder.

Section 25.05 NOTICES.

Notwithstanding the fact that certain descriptions elsewhere in this Agreement of notices required to be given by one Party to the other may omit to state that such notices shall be in writing, any notice, demand, request or other instrument which may be or is required to be given hereunder shall be in writing and sent by (i) United States certified mail or registered mail, postage prepaid, (ii) United States express mail, (iii) recognized national air courier (such as Federal Express), (iv) personal delivery or (v) any other method creating a receipt, waybill or other indication of delivery, and shall be addressed (a) if to the City, at the address as set forth below, or such other address or addresses as the City may designate by written notice, together with copies thereof to such other parties designated by the City and, (b) if to Concessionaire, the address set forth below, or such other address or addresses as Concessionaire shall designate by written notice, together with copies thereof to such other parties designated by Concessionaire.

If to the City:

City of San Antonio
Attention: Airport Concessions Manager
9800 Airport Blvd., Suite 185
San Antonio, TX 78216

If to Concessionaire :

Paradies Lagardere @ SAT, LLC.
Attention: General Counsel
2849 Paces Ferry Road, Suite 400
Atlanta, GA 30339

Concessionaire's Billing Address:

Paradies Lagardere @ SAT, LLC
Attention: Lease Administration
2849 Paces Ferry Road, Suite 400
Atlanta, GA 30339

This Article shall apply only to notices required by this Agreement. Service of process must be performed in accordance with applicable law.

Section 25.06 CAPTIONS AND SECTION NUMBERS.

The captions, section numbers and article numbers appearing herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles hereof nor in any way affect this Agreement.

Section 25.07 BROKER'S COMMISSION.

Each Party shall be solely responsible for the payment of any claims for brokerage commissions or finder's fees due as a result of such Party retaining a broker or similar entity in connection with this Agreement, and Concessionaire agrees to indemnify the City and hold the City harmless from all liabilities arising from any claim for brokerage commissions and finder's fees

in connection with this Agreement. Such indemnity shall survive the termination hereof.

Section 25.08 RECORDING.

Concessionaire shall not record this Agreement or any short form or memorandum hereof.

Section 25.09 FURNISHING OF FINANCIAL STATEMENTS.

Concessionaire has provided the City at or prior to the date of this Agreement with statements reflecting its financial condition and a credit report as of a date within the last 12 months as an inducement to the City to enter into this Agreement, and Concessionaire hereby represents and warrants that its financial condition and credit rating have not materially changed since the date of those statements and reports. Upon the Director's written request, Concessionaire shall promptly furnish the City, from time to time, but not more frequently than once in any Lease Year, with financial statements and a credit report reflecting Concessionaire's then current financial condition. The City shall treat such financial statements, credit reports and information provided to it confidentially, and shall not disclose them except to the City's lenders or otherwise as reasonably necessary for the operation of the Terminal or the Airport or administration of the City's business or unless disclosure is required by any judicial or administrative order or ruling. Notwithstanding the foregoing, Concessionaire acknowledges and agrees that the any and all requests for information in the possession of City are subject to the Texas Public Information Act under chapter 552 of the Texas Government Code, and shall be handled in accordance with the provisions of that act.

Section 25.10 CONCESSIONAIRE'S WAIVERS IN ACTION FOR POSSESSION.

The City and Concessionaire agree that in any action brought by the City to obtain possession of the Premises, the Parties desire an expeditious resolution of such litigation. Accordingly, Concessionaire shall not file and hereby waives the right to file any non-compulsory counterclaim in such action. Concessionaire also shall not file and hereby waives the right to file any defense to such action for possession other than the defense that the default alleged by the City did not occur unless Concessionaire would otherwise be precluded from the filing of any such other defense in a separate action.

Section 25.11 ALL AMOUNTS IN U.S. CURRENCY.

All amounts mentioned, calculated, or required in this Agreement shall be in U.S. dollars.

Section 25.12 EXECUTION OF AGREEMENT; NO OPTION.

The submission of this Agreement to Concessionaire shall be for examination purposes only, and does not and shall not constitute a reservation of an option for Concessionaire to lease, or otherwise create any interest by Concessionaire in the Premises or any other premises in the Terminal or the Airport. Execution of this Agreement by Concessionaire and the return of same to the City shall not be binding upon the City, notwithstanding any time interval, until the City has executed and delivered this Agreement to Concessionaire. Once so executed and delivered by the City as aforesaid, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

Section 25.13 GOVERNING LAW.

All obligations of the Parties created hereunder are performable in Bexar County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas except where state law shall be preempted by any rules, laws or regulations of the government of the United States of America. If any provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the Parties, to the extent possible; in any event, all other provisions hereof shall be deemed valid and enforceable to the full extent.

Section 25.14 SPECIFIC PERFORMANCE OF RIGHTS.

Each Party shall have the right to obtain specific performance of any and all covenants or obligations of the other Party hereunder except to the extent otherwise provided herein for the benefit of the City excusing any such performance by the City, and nothing contained herein shall be construed as or shall have the effect of abridging such right.

Section 25.15 SUCCESSORS.

All rights and liabilities herein given to, or imposed upon, the Parties hereto shall inure to and be imposed upon the respective heirs, executors, administrators, successors and assigns of the said Parties; and if there shall be more than one entity or individual comprising Concessionaire, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Concessionaire unless the assignment to such assignee has been approved in advance by the Director in writing or approved by Ordinance as required by **section 25.15** or **Article XV**.

Section 25.16 SURVIVAL OF OBLIGATIONS.

All obligations of either Party hereunder which cannot be ascertained to have been fully performed prior to the end of the Term or any earlier termination hereof shall survive any such expiration or termination. All of the terms, conditions, covenants, provisions, restrictions or requirements imposed upon Concessionaire hereunder shall be deemed to extend to Concessionaire's agents, employees, officers, directors, partners, guarantors, contractors, licensees, subconcessionaires and subcontractors and Concessionaire shall cause any such persons or entities to comply therewith and include any applicable provisions in any agreements, contracts, subcontracts or the like entered into by Concessionaire with respect to its activities and operations in the Premises, the Terminal and the Airport.

Section 25.17 CERTAIN RULES OF CONSTRUCTION.

Time is of the essence in Concessionaire's performance of this Agreement. Notwithstanding the fact that certain references elsewhere in this Agreement to acts required to be performed by Concessionaire hereunder, or to breaches or defaults of this Agreement by Concessionaire, omit to state that such acts shall be performed at Concessionaire's sole cost and expense, or omit to state that such breaches or defaults by Concessionaire are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Concessionaire pursuant hereto shall be performed or fulfilled at Concessionaire's sole cost and expense, and all breaches or defaults by Concessionaire hereunder shall be deemed material. Concessionaire shall be fully responsible and liable for the observance and compliance by subconcessionaire, and contractors of Concessionaire, which terms and conditions shall be

applicable to subconcessionaire and contractors as fully as if they were the Concessionaire hereunder; and failure by a subconcessionaire or contractor fully to observe and comply with the terms and conditions of this Agreement shall constitute a default by Concessionaire. Nothing contained in the preceding sentence shall constitute consent by the City to any subconcession, subletting or other arrangement. Further, although the printed provisions of this Agreement were drawn by the City, the Parties agree that this circumstance alone shall not create any presumption, canon of construction or implication favoring the position of either the City or Concessionaire and the deletion of language from this Agreement prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the Parties intended thereby to state the converse, adverse or opposite of the deleted language.

Section 25.18 ATTORNEY FEES.

If the City brings any action under this Agreement, and prevails in said action, then the City shall be entitled to recover from Concessionaire its reasonable and actual attorney's fees incurred in the defense or prosecution of such action to the extent and in the manner that the City is awarded any such fees from the court.

Section 25.19 A.D.A. COMPLIANCE.

Concessionaire agrees that within the Premises Concessionaire shall be fully and solely responsible for compliance with the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et. seq.), and the regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto. Further, Concessionaire agrees to construct its Fixed Improvements and install its Operating Equipment and operate the Premises so that the Premises shall at all times accommodate customers with luggage.

Section 25.20 SECURITY.

(a) Concessionaire shall be fully responsible, at its sole cost, for providing security for the Premises with no right of reimbursement from the City. Notwithstanding the foregoing, Concessionaire shall take such reasonable security precautions with respect to the Premises and its operations and personnel as the City in its discretion may require from time to time. To the extent applicable with respect to security requirements for the Air Operations Area (A.O.A.) and/or Security Identification Display Area (S.I.D.A.), Concessionaire shall provide for the security of the A.O.A. and/or S.I.D.A. to prevent entry or movement of unauthorized persons thereupon in accordance with Chapter 3, Section 3-23 of the City Code of San Antonio, Texas as such section currently exists or as it may be amended or replaced in the future. Additionally, in appropriate cases, physical barriers to prevent access to the A.O.A. and/or the S.I.D.A. must be placed by Concessionaire upon the Premises and supervised by Concessionaire during construction upon the Premises. Concessionaire's employees who must have demonstrated a requirement to access the A.O.A. and/or the S.I.D.A. will, after a needs assessment by the Airport Security Compliance Division of the Aviation Department, be provided with a proper identification security badge. Qualified employees must complete the appropriate forms and provide appropriate employment history and other background investigation materials as mandated by law and the City from time to time.

(b) Concessionaire shall comply with all rules, regulations, statutes, orders, directives or other

mandates of the United States of America or of the State of Texas regarding security requirements or security measures upon the Airport, including, but not limited to, compliance with any badging requirements for all of its personnel employed at the Airport. Concessionaire shall also comply with the mandates of the FAA and/or the TSA for background investigations of its personnel, as such mandates now exist or as they may be changed, amended or replaced with new and different mandates in the future. **Concessionaire shall indemnify and hold harmless the City, its elected officials, officers, designated management representatives and employees from any charges, fines or penalties that may be assessed or levied by any department or agency of the United States of America, including the FAA, the TSA or of the State of Texas by reason of Concessionaire's failure to comply with any applicable security provision and/or with any provision or requirement for compliance set forth in this Section 27.22.**

Section 25.21 LABOR HARMONY AND WAGES.

Concessionaire agrees that in the use of the Premises or any work performed in or about the Premises that Concessionaire will employ only labor which can work in harmony with all elements of labor being employed at the Airport or as otherwise reasonably required by the Director from time to time. Concessionaire shall pay wages that are not less than the minimum wages required by Federal and State statutes and City ordinances to persons employed in its operations hereunder.

Section 25.22 CROSS DEFAULT.

Notwithstanding anything to the contrary contained in this Agreement, an event of default of Concessionaire's obligations under the provisions of any other agreement with the City covering any other concession facilities within the Airport shall constitute a default by Concessionaire under this Agreement, entitling the City to the rights and remedies provided to it under this Agreement and at law.

Section 25.23 AMENDMENTS.

Nonmaterial changes to this Agreement which do not alter the Term, the MAG or the Permitted Use, may be effectuated by an amendment signed by both Parties and may be executed by the Director without City Council approval. All material changes to this Agreement, unless otherwise provided for herein, must be accomplished by an amendment executed by both Parties and approved by City Council.

Section 25.24 CONFLICT OF INTEREST.

(a) Concessionaire acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a

subcontractor on a City contract, a partner or a parent or subsidiary business entity.

(b) Pursuant to the subsection above, Concessionaire warrants and certifies, and this contract is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Concessionaire further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

Section 25.25 APPROVALS BY THE CITY.

Whenever this Agreement calls for approval by the City, such approval shall be evidenced by the prior written approval of the Director and/or the City Manager or her designee provided however that this section shall not apply to construction permits or licenses that must be sought outside the Aviation Department.

Section 25.26 RFP AND CONCESSIONAIRE'S PROPOSAL.

To the extent that they do not conflict with the provisions of this Agreement, City's Request for Proposals (RFP) and RFP Addenda, and Concessionaire's proposal are hereby incorporated into this Agreement. The terms of this Agreement shall control over the terms of the RFP, as amended, and over Concessionaire's Proposal. The terms of the RFP, as amended, shall control over Concessionaire's proposal.

IN WITNESS WHEREOF, the City and Concessionaire, personally or by their duly authorized agents, have executed this Agreement as of the day and year first above written.

**PARADIES LAGARDERE
@ SAT, LLC**

CITY OF SAN ANTONIO,

By: _____

By: _____

Erik J. Walsh
City Manager

Printed Name

Position

APPROVED AS TO FORM:

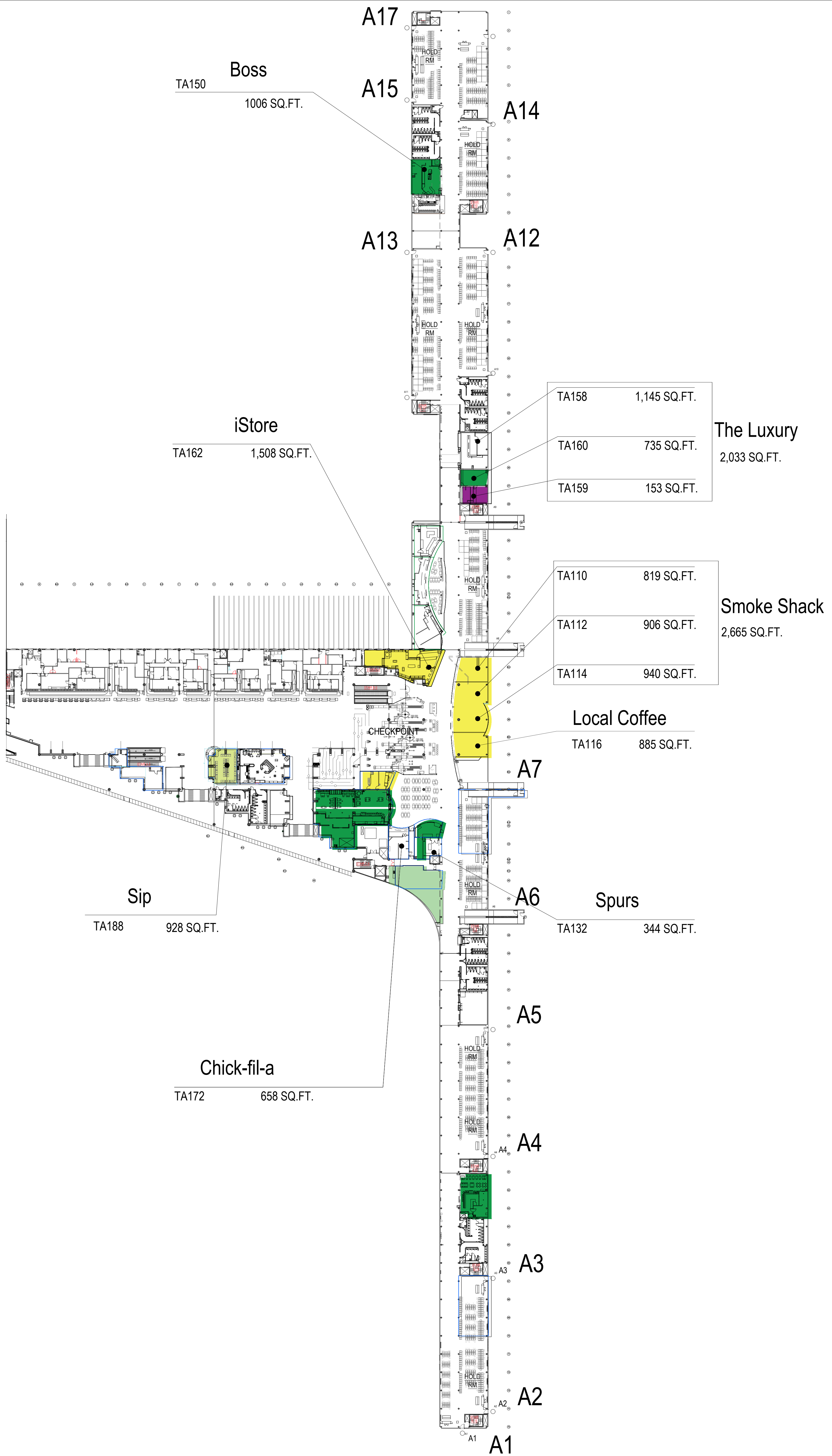
City Attorney

EXHIBIT A1 – Terminal A General Site Plan

And

EXHIBIT A2- Premises Floor Plan

See attached map



**SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A - DEPARTURE LEVEL**

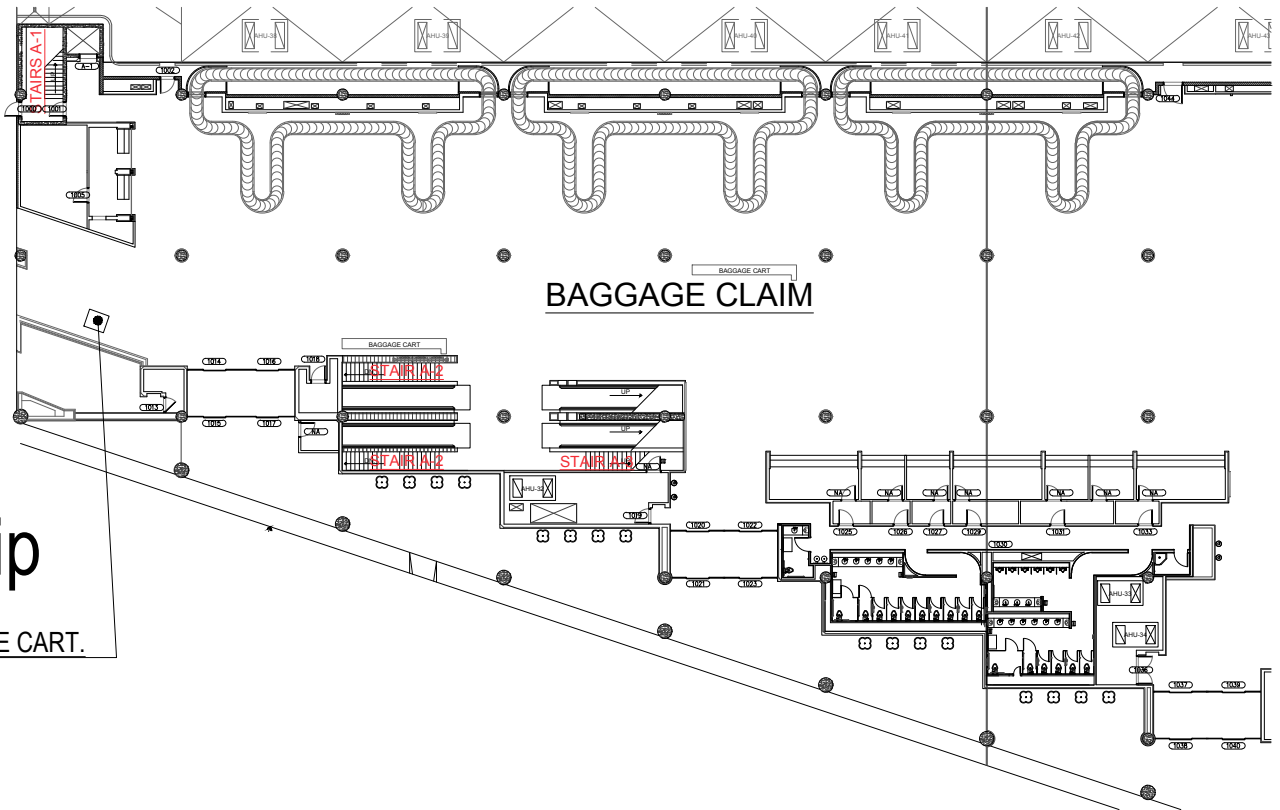
**EXHIBIT
A1**

LEASE SPACES

**9800 AIRPORT BLVD.
SAN ANTONIO, TX 78216**

PAGE 1 OF 1





Sip

COFFEE CART.



**SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A**

9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

DEPARTURE LEVEL

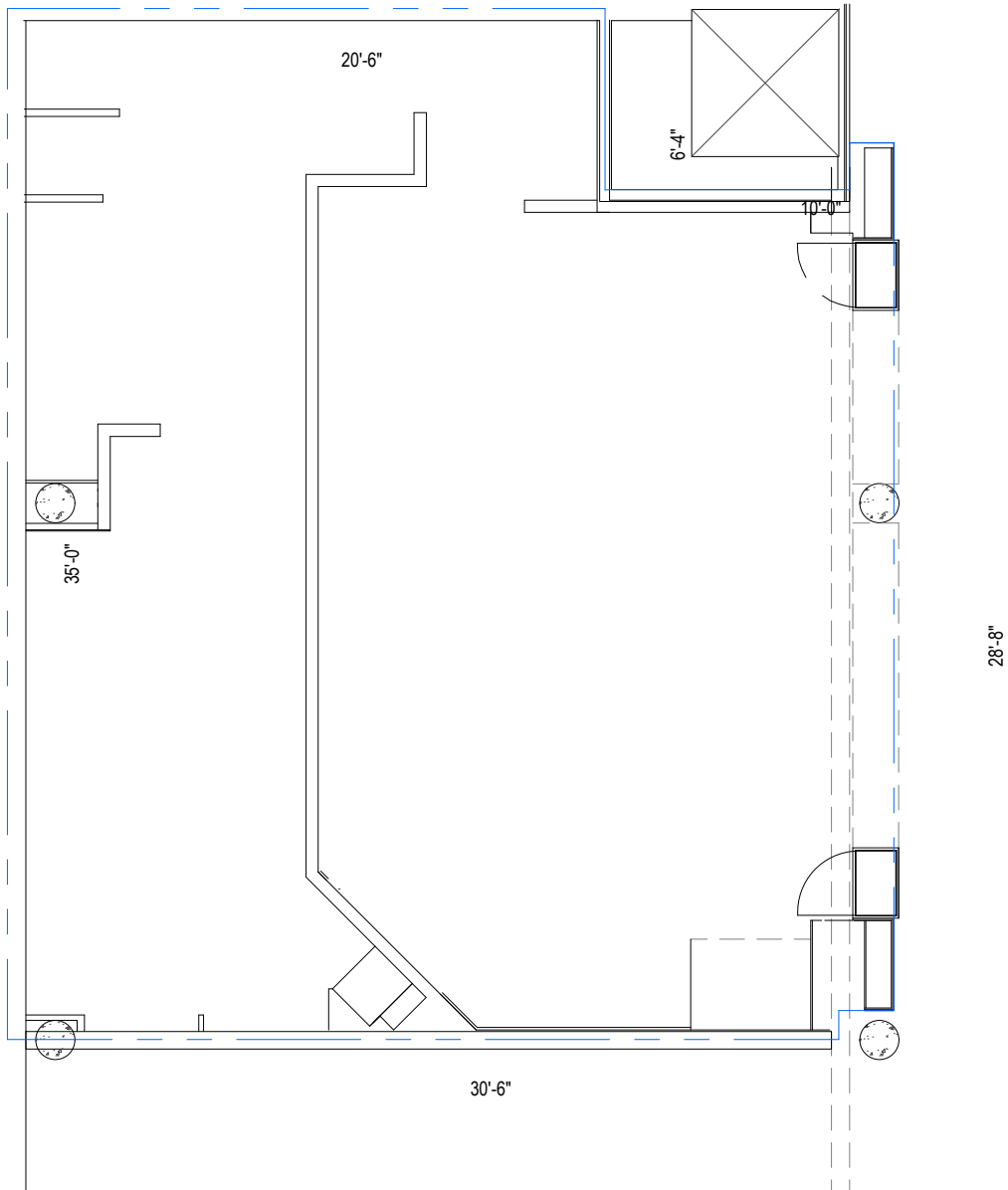
JANUARY 11, 2018

COFFEE CART.

100 SQ.FT.

PAGE 1 OF 9

**EXHIBIT
A2**



**SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A**

9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

DEPARTURE LEVEL

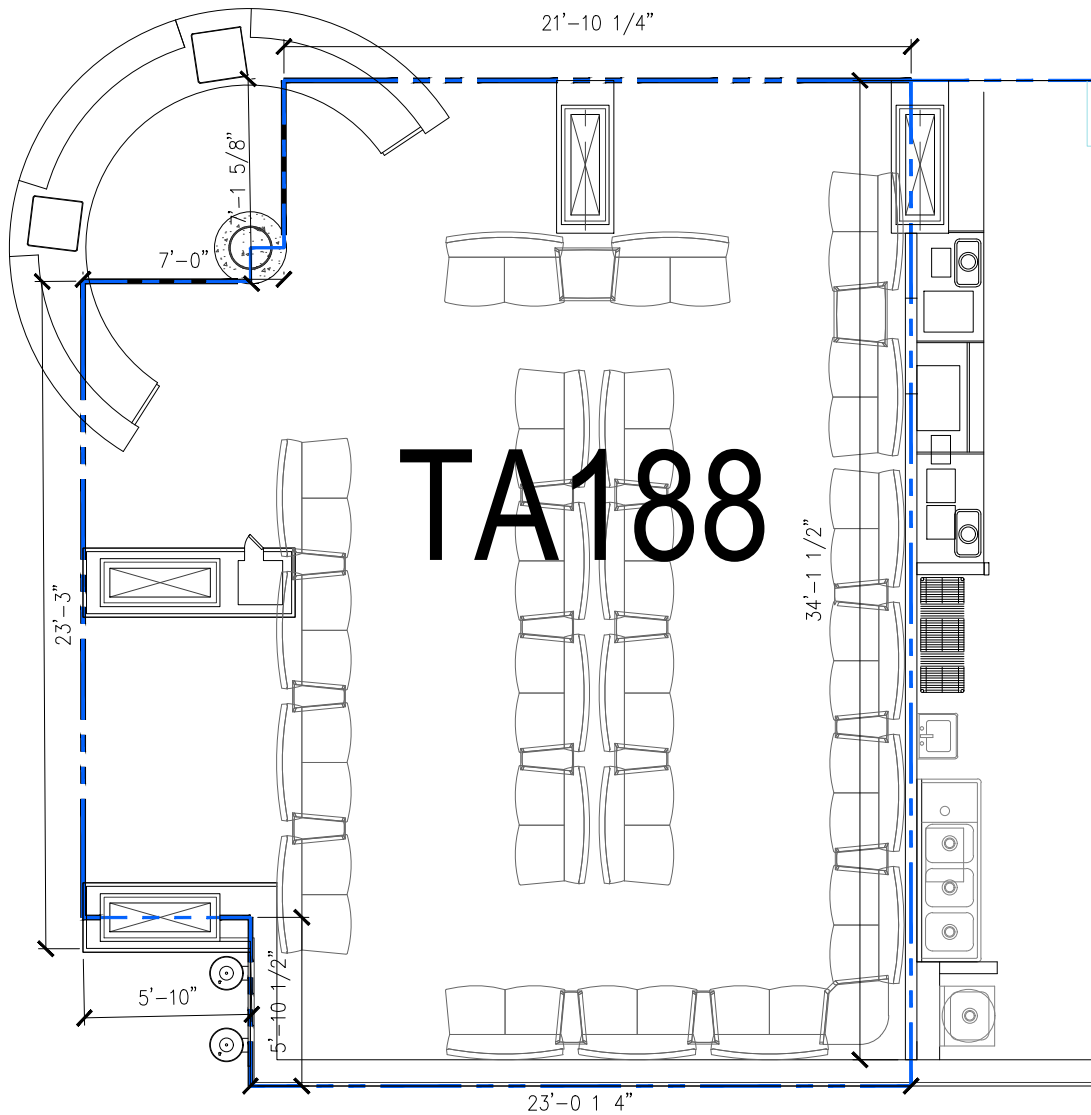
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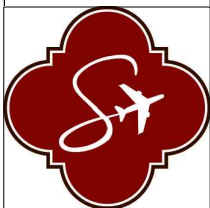
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PAGE 2 OF 9

**EXHIBIT
A2**



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**SAN ANTONIO INTERNATIONAL
AIRPORT**
9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

PAGE 3 OF 9

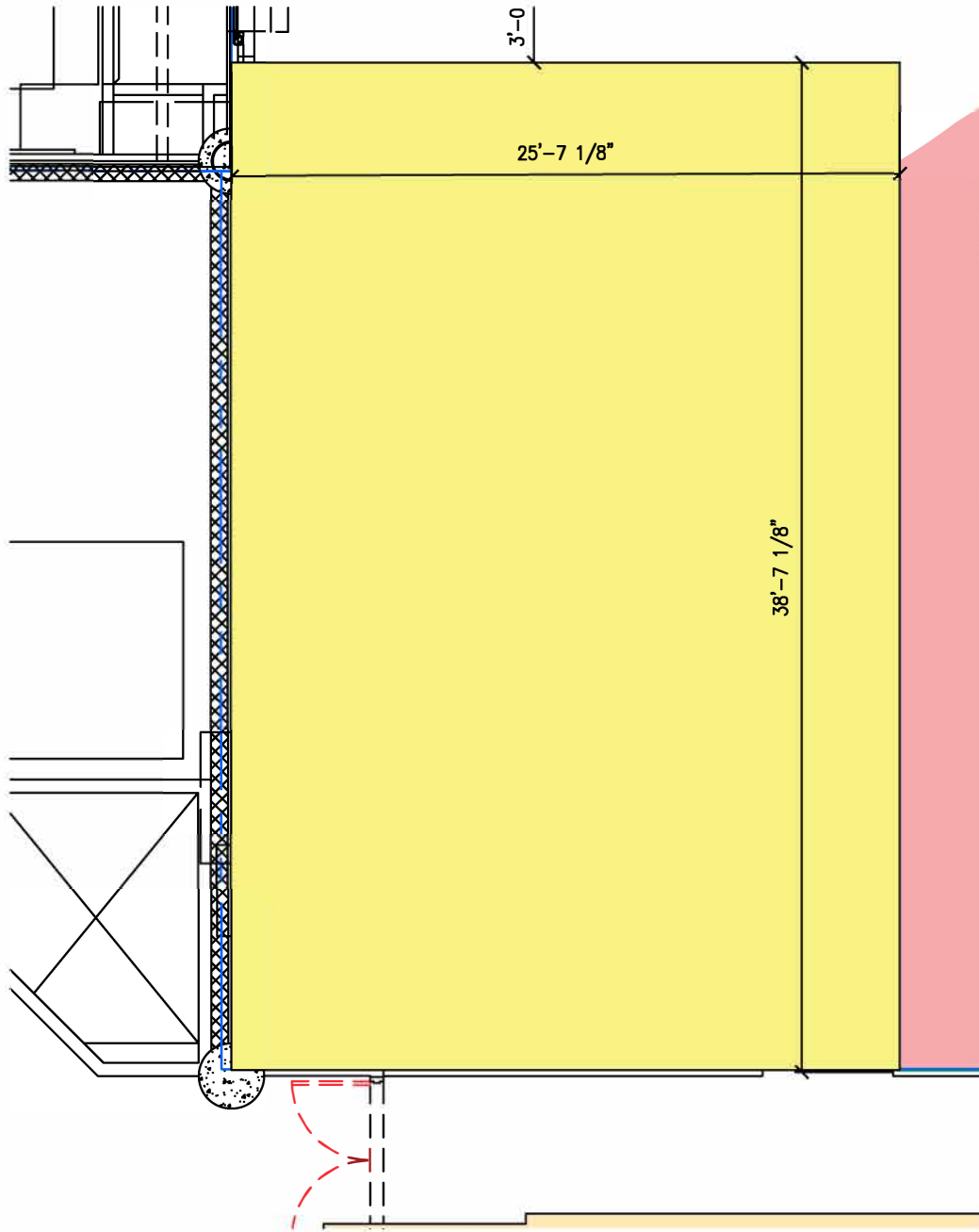
DEPARTURE LEVEL

Jan 12, 2018

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928 SQ.FT.

**EXHIBIT
A2**



**SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A**

9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

DEPARTURE LEVEL

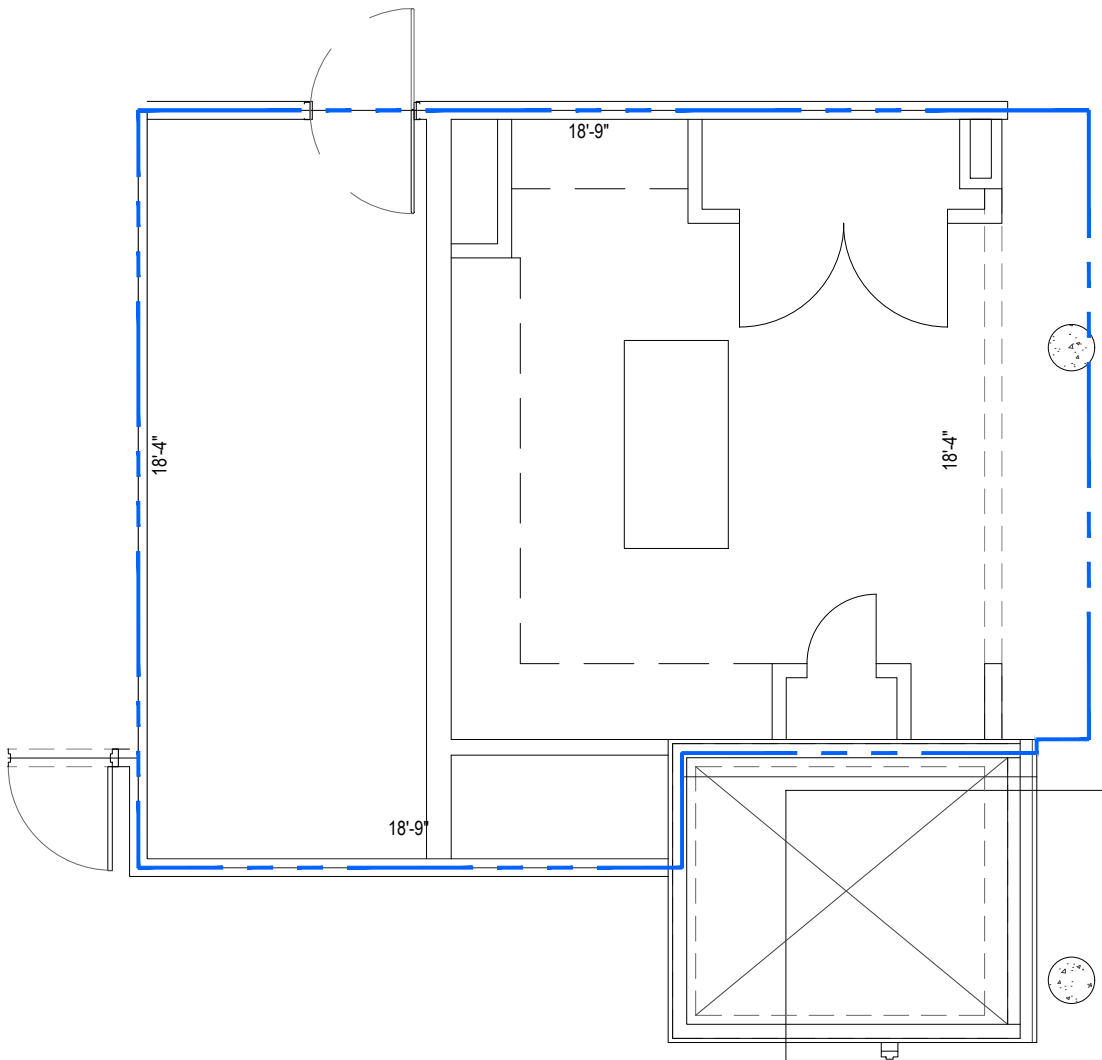
JANUARY 2, 2019

TA172

986 SQ.FT.

PAGE 5 OF 9

**EXHIBIT
A2**



**SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A**

9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

DEPARTURE LEVEL

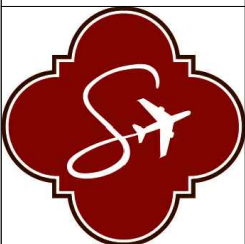
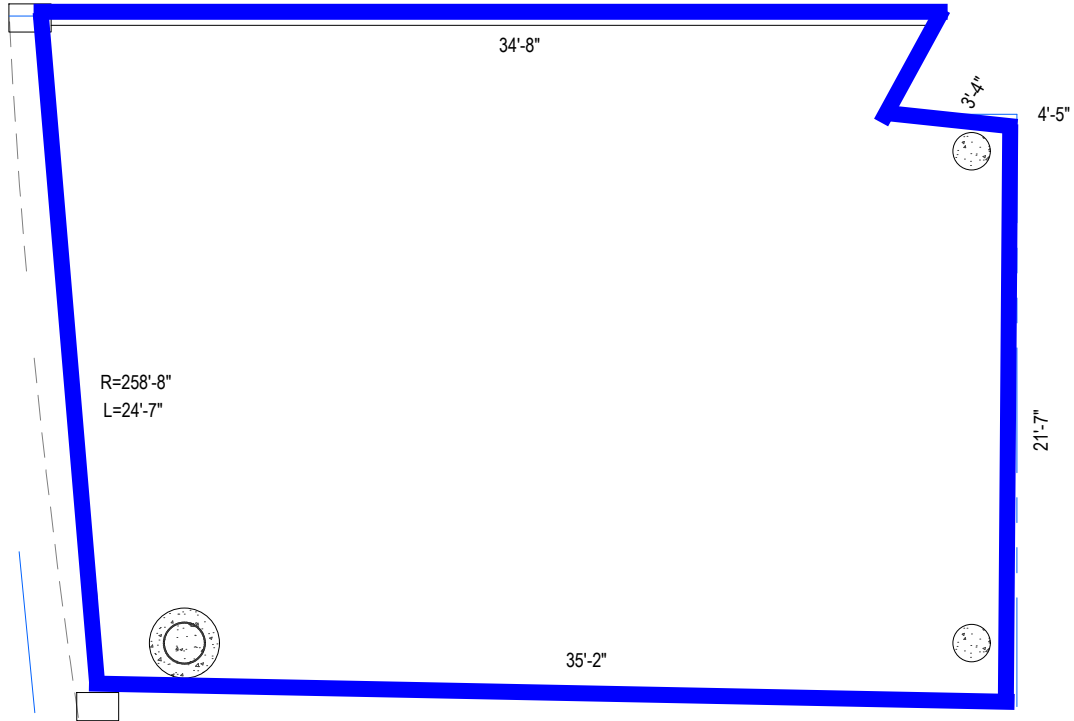
JANUARY 11, 2018

TA132

344 SQ.FT.

PAGE 6 OF 9

**EXHIBIT
A2**



**SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL A**

9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

DEPARTURE LEVEL

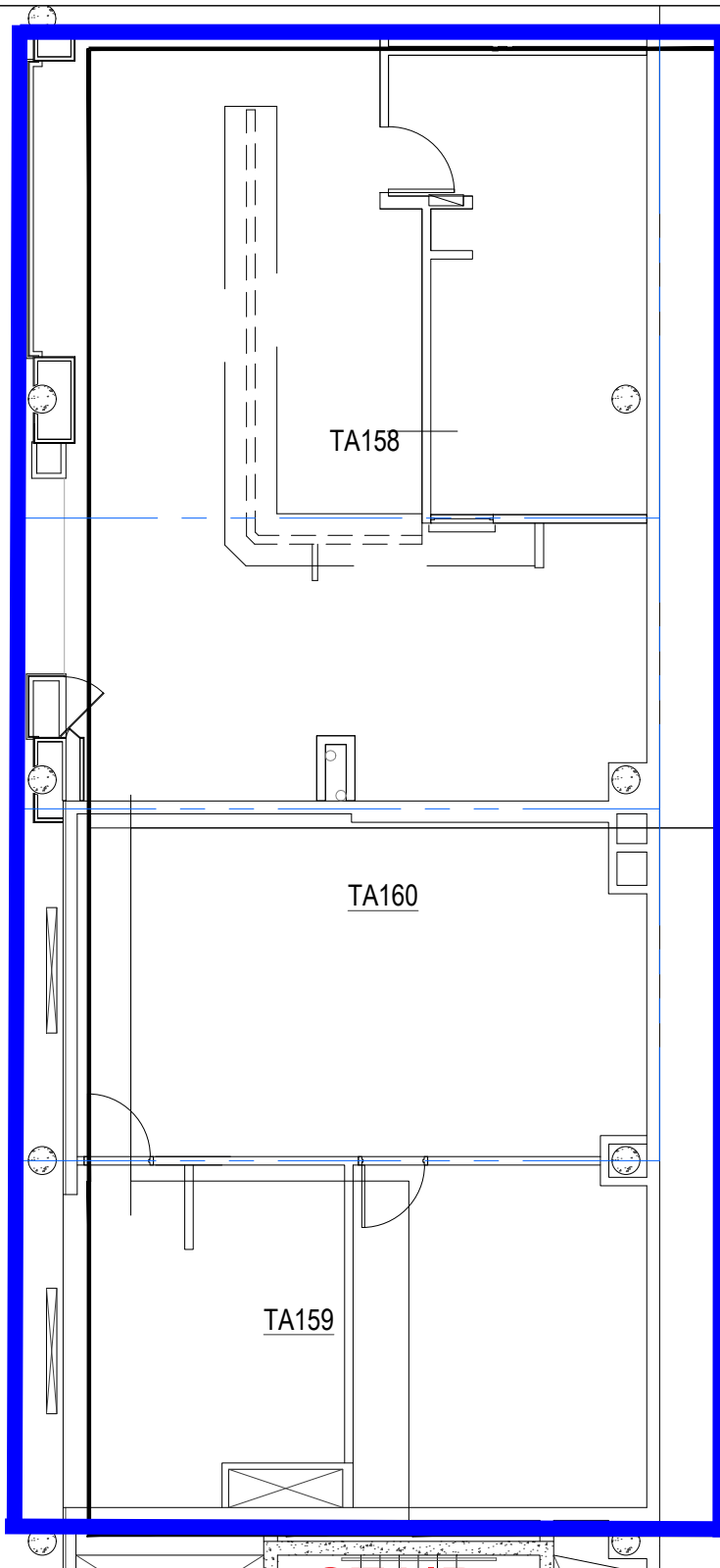
JANUARY 11, 2018

TA116

885 SQ.FT.

PAGE 7 OF 9

**EXHIBIT
A2**



SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL B - DEPARTURE LEVEL
9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

PAGE 8 OF 9

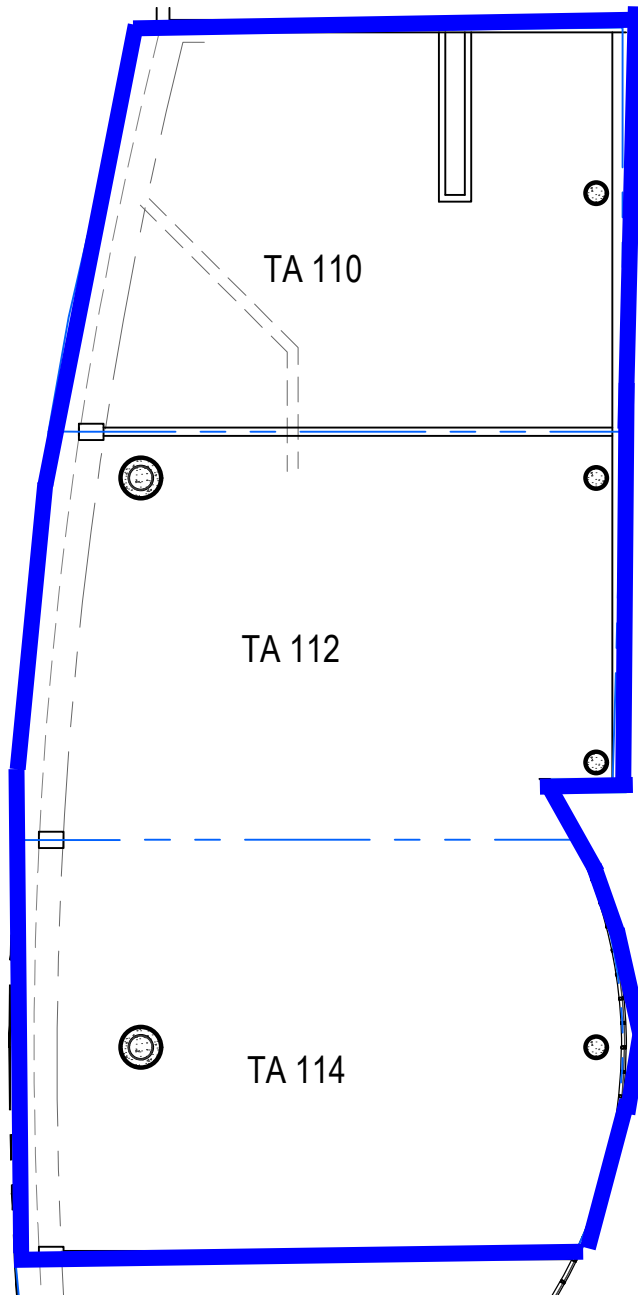
EXHIBIT

TA158, TA160, TA159

2,033 SQ FT

A2





SAN ANTONIO INTERNATIONAL AIRPORT
TERMINAL B- DEPARTURE LEVEL
9800 AIRPORT BLVD., SAN ANTONIO, TX 78216

PAGE 9 OF 9

DEPARTURE LEVEL

Jan 18, 2018

TA110, TA112, TA114

2,665 SQ.FT.

EXHIBIT
A2

EXHIBIT B
CONSTRUCTION PHASE-IN SCHEDULE
& ULTIMATE MAG COMMENCEMENT FOR INDIVIDUAL SPACES

The location Minimum Annual Guarantee (MAG) will be implemented no later than the dates specified below, unless Exhibit is updated pursuant to Section 2.05:

| <u>Location</u> | <u>Date</u> |
|----------------------------------|-----------------|
| TA-188 – Sip Brew Bar and Market | May 1, 2020* |
| TA-110,112,&114 – Smoke Shack | January 1, 2020 |
| TA-116 – Local Coffee | January 1, 2020 |
| TA-132 – Spurs | January 1, 2020 |
| TA-172 – Chick-fil-a | January 1, 2020 |
| TA-162 – iStore | May 1, 2020* |
| TA-162 – Adina’s Market | May 1, 2020* |
| TA-158,159 – The Luxury | May 1, 2020* |
| TA-150 – Boss Bagels & Coffee | May 1, 2020* |
| TA-Baggage Claim – SIP | January 1, 2020 |

*This is also the contemplated date that the 1st Lease Year and overall MAG would begin if all construction and store openings occur according to schedule.

Concessionaire acknowledges and agrees construction with excessive noise and dust will **NOT** be allowed during the hours of 4:30 am till 10:00 pm. Excessive noise caused by jack hammers, chipping guns, excessive hammering, electric chop saws, floor grinder/scrapers, and power actuated tools may only be used between the hours of 10:00 pm and 4:30 am. Concessionaire acknowledges and agrees construction will not interfere with the traveling public.

Any changes to the construction phase-in schedule or the MAG commencement dates must be approved in writing by Director.

See attached pages for the construction phase-in schedule.

CONSTRUCTION PHASING PLAN | ALL SPACES

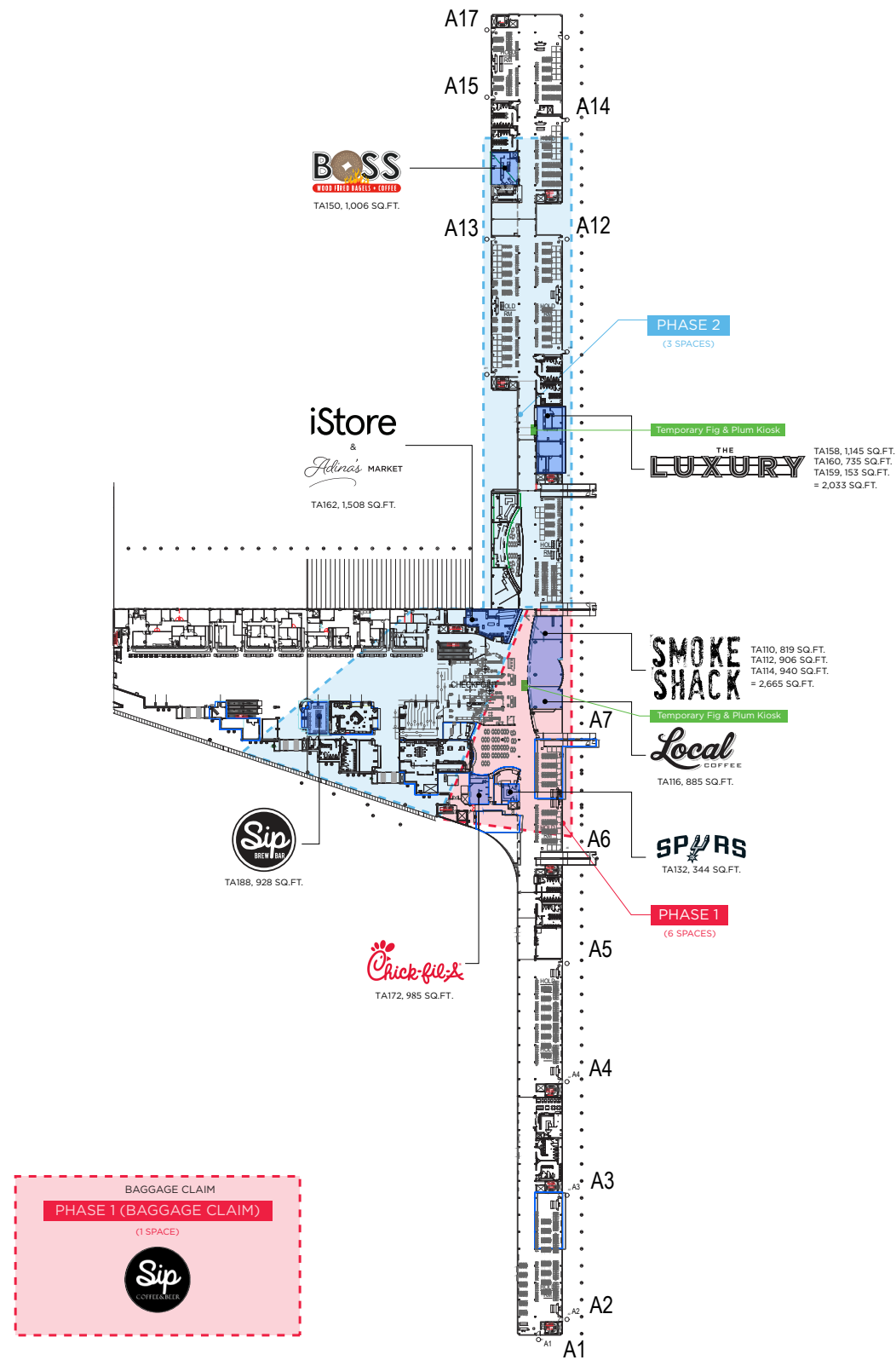


EXHIBIT C

City of San Antonio
9800 Airport Blvd.
San Antonio, Texas 78216
ATTN: Aviation Director

Date: _____

IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

To the Addressee:

At the request of _____ **A** _____, we _____ **B** _____, hereby open this IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____ **C** _____ in your favor up to an aggregate of \$ _____ **D** _____ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all of your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at the office of our Texas Branch, now located at _____ **E** _____, _____ **E** _____ on or before the expiration set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement with respect thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under _____ **B** _____ Letter of Credit No. _____ **C** _____ dated _____, 200_." Partial drawings under this Letter of Credit are permitted.

Drafts must be accompanied by a statement from the City Manager of the City of San Antonio, or his designee, that **A** _____ has not performed certain terms, conditions or covenants contained in Concession Agreement No. _____ by and between the City of San Antonio and _____ **A** _____.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on _____ **F** _____, 200_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.


EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

Bank Officer/Representative

LEGEND:

- A-INSERT APPLICANT NAME, I.E. CONCESSIONAIRE NAME.
- B-INSERT NAME OF ISSUING BANK.
- C-INSERT L/C IDENTIFICATION NUMBER.
- D-INSERT DOLLAR VALUE OF INSTRUMENT.
- E-INSERT EXACT ADDRESS OF LOCAL BANK BRANCH.
- F-INSERT EXPIRATION DATE OF AGREEMENT PLUS SIXTY DAYS.

**EXHIBIT D—SAN ANTONIO AIRPORT SYSTEM DESIGN CRITERIA
MANUAL**



SAN ANTONIO
INTERNATIONAL AIRPORT
STANDARDS AND
SPECIFICATIONS FOR
CONSTRUCTION

San Antonio International Airport Standards and Specifications for Construction

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SECTION 1 – INTRODUCTION

1.1. Introduction

The City of San Antonio (City) is the operator of San Antonio International Airport (SAT). The City is responsible for providing consumer services to the public within the airport and has the right to lease certain areas for the operation of concession facilities within the Terminals as well as for airline, tenant or concession construction processes.

This Specification Manual is to provide guidelines for design and construction at SAT. It is not intended to amend, modify, or supersede any provisions of federal, state, or local law, or any specific contractual agreement of the City with which it may conflict; provided, however, that this Specification Manual shall, insofar as possible, be interpreted such that a conflict shall not exist.

This Specification Manual, together with the lease agreement or concession agreement, any referenced documents herein, and any permits and documents as may be required from time to time by the City shall govern the construction coordination process. Tenant coordination activities will be the responsibility of Properties and Concessions Management.

1.2. Definitions:

1. "Agreement" shall mean the lease agreements and concession agreements between the City of San Antonio and each tenant leasing space and/or operating a concession in the Terminals at SAT.
2. "Tenant" shall mean a person, group, or company to whom a space has been leased (under contract), to operate a subsidiary business or service.
3. "Tenant's Work" shall mean Tenant's total responsibility (or any portion thereof) for the construction and improvement of the Premises. Tenant's Work shall be performed at Tenant's sole cost and expense. Tenant's Work shall include, but not be limited to, all work necessary or required to complete the Premises.
4. "Properties and Concessions Management" shall mean SAT staff or SAT contractor assigned to oversee the program for the Aviation Department.
5. "Specification Manual" shall mean this document: San Antonio International Airport Standards and Specifications for Construction, which was developed for Tenants, their Consultants and Contractors, intending to construct improvements, alterations, and/or new facilities at SAT. It is the intent of the Specification Manual to assist applicants so Tenant Permit Application (CPA) submissions can be complete; time frames for review can be more predictable; and construction and closeout requirements can be understood. The procedures outlined and referenced in this Specification Manual are applicable to all types of construction, alterations,

equipment additions/replacements, and maintenance work performed by a Tenant within their leasehold.

- 6. The term “City's Work” shall mean City's total responsibility for construction of improvements within the Terminal as set forth in the lease Agreement. City's Work shall be of a design, type, size, location, quality and nature as may be selected by City from time to time. Any item of work necessary to complete the Premises, which is not hereinafter specifically included as part of City's Work, shall be considered as part of Tenants Work.

- 7. The term “Tenant’s Requirements” includes, but is not limited to, the following; this Specification Manual, the Agreement, the CPA and its process requirements, and all of the requirements set forth in the most current edition of local codes.

1.3. Abbreviations:

| | |
|---------|---|
| ADA | Americans with Disabilities Act |
| AOA | Airfield Operations Area |
| CADD | Computer Aided Drafting and Design |
| COSA | City of San Antonio |
| CMS | Cable Management System |
| CPA | Concessionaire Permit Application |
| EMT | Electrical Metallic Tubing |
| FBO | Fixed Base Operator |
| GC | General Contractor |
| IDF | Intermediate Distribution Frames |
| IP | Internet protocol |
| ISP | Internet Service Provider |
| IT | Information Technology |
| MACs | Moves, Adds and Changes |
| MDF | Main Distribution Frame |
| MSDS | Material Safety Data Sheets |
| OSHA | Occupational Safety and Health Administration |
| PDS | Perimeter Distribution System |
| Pre-Con | Pre-Construction Meeting |
| SAAS | San Antonio Airport System |
| SAT | San Antonio International Airport |
| TAS | Texas Accessibility Standards |
| TGB | Telecommunications Grounding Busbar |
| TMGB | Telecommunications Main Grounding Busbar |
| TI | Tenant Improvement |
| TSA | Transportation Security Administration |

SECTION 2 – SECURITY, ESCORTS AND DELIVERIES**2.1. Introduction**

This section summarizes some of the rules and regulations that apply to tenants, their consultants and contractors in regards to security, escorts and deliveries. Please refer to the entire San Antonio Airport System Airport Rules & Regulations document online at [www.sanantonio.gov/Portals/0/Files/Aviation/Documents/Airport%20Rules%20and%20Regs%20-%202015%20\(full-size\).pdf](http://www.sanantonio.gov/Portals/0/Files/Aviation/Documents/Airport%20Rules%20and%20Regs%20-%202015%20(full-size).pdf).

2.2. Security Badging Procedure

Due to the volume of construction taking place and the short duration of the Tenant's work, the Tenant under contract to City will be responsible for Tenant's Contractors badges and required background checks. All Contractors and Subcontractors prior to the preconstruction meeting will be required to comply with the security identification badging process as required by Airport Police, if the concession location is post security.

The badging procedure is as follows:

The Tenant, General Contractor and all subcontractors to be employed by the Tenant will arrange a time with the Airport Badging/ID office to complete the necessary forms, stand for the required pictures and schedule a security training class prior to receiving the appropriate security badge. Application forms are available from the Airport Badging/ID Office located west of the Terminals and must be executed by the individual employee, the Contractor and authorized Tenant representative.

All individuals must bring two (2) forms of identification (social security card, military id and valid driver's license or passport) and complete the security badge application at the Badging/ID office for badge processing to begin.

The badging process usually takes from 24 to 72 hours.

White badges will allow an individual to pass through the Security Checkpoint only, and do not allow the individual access to the Airfield or activate secure doors. All white badges must be escorted by an individual with an appropriate yellow or red badge when accessing the airfield or passing through secure doors.

Yellow badges will allow an individual to pass through Security Checkpoints, access to the immediate airfield area surrounding the terminal buildings.

The Tenant will be responsible for collecting and returning all contractor badges to the Airport Police, upon completion and opening of the concession location. The cost associated with any badge not returned will be deducted from the Contractors deposit.

2.3. Security of Existing Facilities and Special Airport Conditions

All materials, equipment, tools, gang boxes, vehicles, supplies and personnel are subject to security inspection at the beginning and end of each work shift. When in the Airport or on Airport property, all personnel will be required to maintain a visible site access badge on their person at all times. Any breach in security or failure to follow mandated rules can result in the removal of both the individual(s) involved as well as the General Contractor.

Contractor shall perform Contractor's Work so as not to: (i) unreasonably interfere with any other construction being performed at the Terminal or (ii) unreasonably impair the use, occupancy or enjoyment at the Terminal and/or the Airport by City, the City, other airlines, (iii) other Tenants.

Tenant shall (i) take all safety measures required to protect the Terminal and/or the Airport from injury or damage caused by or resulting from the performance of Contractor's Work and defend, protect and indemnify' City and the City's (including their respective agents, commissioners, officers, directors and employees), other airlines, other Tenants operating concession facilities or customers of any of them from any and all claims arising from or in connection with the death of or accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person or entity arising out of, in connection with, or as a result of Contractor 's Work; (ii) repair any and all damage to the Terminals and or the Airport as a result of Contractor's Work; and (iii) require all contractors and subcontractors to comply with all of the requirements and Permits for the performance of Contractor's Work.

Terminal A

All materials, equipment, and workers must enter Terminal A through the Loading Dock, off load and transfer all material, equipment and workers via the freight elevator to the concourse level. All materials, equipment and workers will be required to enter the concourse through security doors adjacent to the freight elevator, which will require activation by a yellow or red security badge. All security doors require badges to be swiped through the reader, prior to entering the concourse area. A security checkpoint will be provided either on the loading dock or outside the freight elevator on the concourse level. All deliveries, materials, equipment, tools and workers are subject to search and an inventory will be provided to the Airport Police, an Aviation Department representative or their designee . All personnel entering the concourse will be required to display an SAT security badge; there will be no exceptions. If a General Contractor wishes to use a subcontractor who does not have a badge, that subcontractor must allow adequate time prior to reporting for work for the badging process, no escorts or special permits will be provided. In all cases the General Contractor and ultimately the Tenant are responsible for the actions of all involved with the construction of the space.

Once off-loaded, all vehicles will be relocated to a parking area that is designated by the Aviation Department or Airport Security for the duration of the shift.

In certain circumstances, Contractors will be allowed to off load oversize equipment or supplies curbside on the ticketing level. All requests for curbside delivery will require 48 hours' notice to Properties and Concession Division Consulting and a Police escort for the vehicle and entry through the curbside secure doors.

Terminal B

All materials, equipment, and workers entering Terminal B require entrance through a pre-determined Security Checkpoint. All deliveries, materials, equipment, tool and workers are subject to search prior to entering the airfield operations area. All tools, materials and equipment will be inventoried and the list will be provided to the Airport Police, an Aviation Department representative or their designee upon arrival at the checkpoint. All personnel entering the concourse will be required to display an SAT security badge; there will be no exception.

Construction hard hat, hard soled footwear, safety glasses, and safety vest are required site equipment.

Once offloaded, all vehicles will be relocated to a parking area, designated by the Aviation Department or Airport Security for the duration of the shift.

If any contractor/subcontractor employee wishes to exit the work area during work hours, the employee must store all tools and supplies in the work area job box.

Tenant shall perform Tenant's Work so as not to: (i) unreasonably interfere with any other construction being performed at the Terminals or (ii) unreasonably impair the use, occupancy or enjoyment at the Terminals and/or the Airport by City, the City, other airlines, (iii) other Tenants operating concession facilities (iv) customers of any Tenant or (v) the traveling public.

Tenant shall (i) take all safety measures required to protect the Terminals and/or the Airport from injury or damage caused by or resulting from the performance of Tenant's Work and defend, protect and identify the City (including their respective agents, commissioners, officers, directors and employees), other airlines, other Tenants operating concession facilities or customers of any of them from any and all claims arising from or in connection with the death of or accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person or entity arising out of, in connection with, or as a result of Tenant's Work; (ii) repair any and all damage to the Terminals and/or the Airport as a result of Tenant's Work and (iii) require all contractors and subcontractor to comply with all of the requirements and Permits for the performance of Tenant's Work.

2.4. Escorts across Airfield Operations Area (AOA)

Escorts will be badged and AOA Licensed. All requirements for escort across the AOA will be coordinated with the Properties and Concession's Division. The Properties and Concession's Division will develop a standing schedule for work shift commencement and ending, and notify Airport Operations and the Airport Police for escort availability. Delivery of materials which cannot be accommodated by the contractor's vehicles and requires supplier vehicles to be escorted across the AOA requires 72 hours' notice to the Properties and Concession's Division. All scheduled escorts are subject to priority conditions on the airfield and may not be provided as scheduled. For operation of vehicles within the AOA, refer to Section 3-78 of the Airport Rules & Regulations, which can be found online at the link below:

[www.sanantonio.gov/Portals/0/Files/Aviation/Documents/Airport%20Rules%20and%20Regs%20-%202015%20\(full-size\).pdf](http://www.sanantonio.gov/Portals/0/Files/Aviation/Documents/Airport%20Rules%20and%20Regs%20-%202015%20(full-size).pdf).

2.5. Airport Security and Materials Delivery

Most of the work will take place on the Concourse Level and the security clearance required on this level is the mandatory SAT security badge. After the last flight, the security checkpoint will be closed and only yellow- or red-badged personnel are allowed access to the Concourse through secured doors. The Tenant's General Contractor is required to notify Properties and Concessions Office at least three days in advance of all deliveries so they can coordinate with all parties involved to allow access. Yellow badges may be provided to Tenant Contractor's on limited bases for access through secured doors and all other personal including subcontractors will be provided White badges for identification. The Tenant and Tenant's General Contractor are responsible for ensuring that all individuals follow the rules concerning access to the Terminals. Failure to comply with these rules can lead to the removal of the individual(s) involved as well as the Tenant's General Contractor.

At no time will hard cast steel wheels be allowed to cross facility flooring in Terminals. It is imperative that extreme caution be taken to avoid any damage to the flooring. General Contractors and their subs are subject to repair charges if damages to the terrazzo flooring occur during construction.

2.6. Curb Side Deliveries

For extremely large items and depending on the location of the space, a Curbside delivery may be necessary. Contact the Properties and Concessions office at least five working days prior to delivery. Only soft-wheeled dollies may be used; no forklifts, pallet jacks, debris containers or extremely heavy objects are allowed. General Contractor and their sub's are subject to repair charges if damages to the terrazzo flooring occur during construction. The Terminals floors are constructed and designed primarily for pedestrian usage, therefore the Tenant/Contractor must utilize the necessary floor protection. Since this type of delivery require several departments to be notified, it is imperative to contact the Properties and Concessions Office early in the project.

2.7. Ramp side Deliveries

Larger items may be delivered to the ramp side of the Terminal. These deliveries require an official escort. Contact the Properties and Concession's Office at least 5 working days to arrange for all ramp side deliveries. Delivery drivers will be inspected and enter through Gate 20 and will follow the escort and observe all posted speed limits and signage.

ALL AIRCRAFT HAVE THE RIGHT OF WAY.

2.8. Materials Delivery

- Walk route with Airport Personnel prior to delivery
- Notify the Communications Center of schedule for the arrival of the delivery vehicle Start delivery after 7 p.m. and finish by 5 a.m.
- Use the loading dock freight elevator in Terminal A
- Special deliveries to loading dock ramps require an escort and prior approval

SECTION 3 – DESIGN CRITERIA**3.1. Introduction**

It is the responsibility of the Tenant to field-verify the as-built conditions of each lease space.

Tenant's Work shall be subject to the Aviation Department's and the Development Services Department's prior approval. Such approval shall be determined in their sole discretion, and shall be designed, fabricated, constructed, and installed to comply with all of the Tenant's Requirements.

The design, fabrication, construction, and installation of Tenant's Work must comply with each of the following requirements:

- a. This Specification Manual (to include specifications and procedures)
- b. Current local codes
- c. Tenant's Final Drawings, as approved by the Aviation Department
- d. All applicable laws, ordinances, codes, regulations, and the requirements of all federal, state, and/or local permitting, building, and inspection agencies.
- e. All applicable standards of the American Insurance Association, the American Society of Heating, Refrigeration, and Air Conditioning, Engineer's Guide (latest edition) the City's Insurance Carriers, the local building codes and regulations and all other agencies having jurisdiction.
- f. All provisions for access to the construction site as determined by Aviation Department.
- g. All safety measures, including, but not limited to, safety training classes as required by the Aviation Department, Properties and Concession Management, and the Transportation Security Administration (TSA).
- h. Tenant will be required to comply with standard finishes established by the Aviation Department.

In the event of a conflict between any of the aforementioned items, the most stringent requirement shall govern each increment of Tenant's Work.

All aspects of Tenant's Work shall be performed in a professional, first-class and workmanlike manner and shall be in a good, first-class and usable condition as of the date of completion and maintained in such condition at all times. All materials used in Tenant's Work, Tenant's construction of the Premises, and installations made as a part of Tenant's Work shall be of new, commercial grade, and first-class quality.

After Tenant's initial construction of the Premises, any and all elective remodeling and alterations required of Tenant by the Aviation Department under the applicable provisions of the Agreement shall be performed.

Tenant shall be solely responsible for the investment required for the planning, design, development, construction, fabrication, and installation of all Fixed Improvements and Operating Equipment necessary to complete the premises as required by the Lease Agreement. The Tenant is responsible for all demolition

and preparation of the lease space for new construction. Such investment shall be subject to the detailed review and approval by the Aviation Department as provided elsewhere in the Lease Agreement and in the Tenant's Construction Requirements.

3.2. General Requirements for all Submissions:

Within five (5) calendar days after the effective date of the Agreement and lease date, Tenant shall notify the Properties and Concession Management of the identity of the licensed architect engaged by Tenant for the preparation of the drawings for Tenant Work.

Tenant and/or Tenant's architect shall immediately engage mechanical, electrical, plumbing, and fire protection system engineers and notify the Properties and Concession Management of such, in writing, as soon as possible thereafter.

All architects and engineers, obtained in accordance with the above 2 paragraphs, must be licensed in the state of Texas, as required.

Tenant's architect and engineers shall submit all drawing documentation, in hard copy and electronic versions (AutoCAD and PDF), to the Properties and Concession Management Office. Properties and Concession Management shall distribute drawings for review and reply via email, fax, or mail to Tenant with comments and any applicable illustrations to further convey comments.

The Aviation Department will review the drawings at 30%, 60% and 100% for general compliance with all applicable Design criteria for the Airport facilities.

3.3. Concession Design Elements

The designers of the concession are encouraged to design visually stimulating spaces that incorporate complimentary building finishes. The design elements consist of the following:

- 1) Mainly open store fronts with rolling overhead grilles by Tenant;
- 2) Blade sign (by tenant to Aviation standards);
- 3) Signage (by tenant); mounting, size and material as approved by the Aviation Department;
- 4) Ceilings;
- 5) Remainder of furr down and existing finish out to extend to lease line only, all surfaces within lease line to be finished by tenant including, but not limited to a pier, flooring, walls and ceiling;
- 6) All millwork used within lease spaces must be durable and high-design quality;

3.4. Conceptual Plans Submission:

- 1) Tenant shall prepare five (5) 24"x36" sets of conceptual plans for the Premises in accordance with the provisions of the Standards and Specifications for Construction and current local code and submit them to the Properties and Concessions Management Office for Aviation Department approval, such approval to be determined in its sole discretion. The Conceptual Plans must be submitted to the Properties and Concessions Management Office no later than thirty (30) calendar

days from the effective date of the lease Agreement and lease date or such shorter period of time as may be required for Tenant to open for business as per contract, and shall include at a minimum the following (as applicable to work scope):

- a. Cover Page - To include code information, contact information for complete design team, location/site maps, Table of Contents, address, etc.
 - b. Demolition Plan - To include items proposed to be removed.
 - c. Floor Plan to include overall dimensions, interior finishes, construction components, and location of construction barricades.
 - d. Elevations - To include all interior and storefront elevations of the Premises visible to the public, storefront details illustrating architectural compatibility with surrounding areas.
 - e. Material Board - To include material boards referenced to floor plans and elevations for the Premises illustrating floor, base, wall, millwork, door, trim, ceiling materials, and color selections. Material boards shall include color photos and catalog cuts of furniture and/or fixtures where required; one (1) board for colors and materials for all storefront and interior components. One (1) Color rendering of Tenant's proposed storefront design.
 - f. Reflected Ceiling Plan - To include locations of all lighting fixtures.
 - g. Signage Drawings - To include the shape, size, color, and location of signs (including Blade Sign), and a description of all materials, methods of fabrication, installation, and construction.
 - h. Mechanical, Electrical, Engineering & Plumbing - To include connections to base building system and locations of piping, ductwork, equipment, materials, catalog cut, and/or details for the make, model, and capacity of all new equipment including location and electrical requirements, location of return air systems, incorporation of all applicable design criteria, floor plan and riser diagram for all new plumbing fixtures, show interface with base building smoke control system and building automation system. Floor plans showing outlets, other electrical equipment, location of panel board and switchboards, projected electrical loads, and incorporation of applicable design criteria contained in the electrical requirements. Shall also include special system, such as telephone and data transmission line systems, fire alarm system, airport access control system (if applicable), paging system (if applicable), cable access television system (if applicable), and master clock system (if applicable) .
- 2) The Aviation Department shall have the right to require modifications to the Conceptual Plan and any approval granted by the Aviation Department is subject to the Tenant's incorporation of the required modifications and draft set of Tenant specifications to ensure compliance with the Standards and Specifications for

Construction and the current local codes. In the event the Aviation Department requires any such modifications to the Conceptual Plans, Tenant shall prepare and submit the same for the Aviation Department's review and approval within five (5) calendar days after receipt of the Aviation Department's modifications.

3.5. Final Drawing Submission:

1) Tenant shall prepare and submit five (5) 24" x 36" sets of final construction drawings and specifications ("Final Drawings") which are based on the Aviation Department's approved Conceptual Plans for the Premises as described herein within six (6) weeks from receipt of the approved Conceptual Plans, or earlier as may be required, to open the Premises for business no later than the Latest Rental Commencement Date specified in the Agreement. The Final Drawings shall be prepared and all calculations must be signed and sealed by the registered architect and/or the registered engineer licensed in the State of Texas, at a minimum, to include the following:

a. Drawings

- (i) Cover Page
- (ii) Demolition Plan
- (iii) Floor Plan
- (iv) Elevations
- (v) Sections
- (vi) Details
- (vii) Finish, hardware, door, room, fixture, storefront and window schedules
- (viii) Fixture Plans
- (ix) Reflected Ceiling Plan
- (x) Signage Drawings
- (xi) Temporary Construction Barricade
- (xii) Finish out of or Modifications to Storage Space

b. Applicable Specifications

c. Reflected Ceiling Plans - To include ceiling material, grid, soffits, drops, recesses, coves, etc., ceiling heights for each space, all light fixtures, type of ceiling system with fire rating, any items attached to or coming through the ceiling, if any, Reflected Ceiling Plan to be at 1/4" = 1'-0" scale or larger. Also include details of rolling grille and/or security gate assembly.

d. Structural Drawings - To include structural drawings and calculations of proposed structural elements. Base building structural components shall not be altered.

e. Mechanical Drawings - To include load calculations submitted as required in the Standards and Specifications for Construction and current local code, gas lines, and proposed locations & connections of all equipment.

f. Plumbing Drawings - If applicable, to include location and size of water and supply

lines, drains, vents, grease traps and grease waste lines, and water and sanitary riser diagrams.

- g. Fire Protection & Monitoring Systems - To include fire suppression and monitoring systems, fire alarm, location of connection point to the base building systems, location of addressable initiating devices such as; smoke detectors, duct detectors, and heat detectors as per the Standards and Specifications for Construction, national codes, current local codes, local amendments and all other applicable codes and regulations. If base building systems are not available or fully utilized or do not satisfy current local code requirement, Tenant shall provide make and model numbers and specifications of intended fire suppression and monitoring systems for approval by the Aviation Department. If base building system resources are not available or if such system resources are fully utilized or do not satisfy current local code requirements, the Tenant is required to contract with a private provider of fire alarm monitoring services, which will have the ability to monitor the Tenant's fire alarm system 24 hours per day, 365 days per year and provide immediate notification to the San Antonio Fire Department, the Airport communications center and any other individual or agency required by the Aviation Department from time to time.
 - h. Electrical Plans - To include power and lighting layout with circuits and home runs, electrical load requirements, on panel schedules, service riser diagrams, telephone conduits, and load calculations.
 - i. Special Systems - Such as telephone and data transmission line systems, airport access control system (if applicable), paging system (if applicable), cable access television system (if applicable), and master clock system (if applicable).
 - j. Locking System - Tenant shall install a lock keying system compatible with the City's system on all entrances to the premises and mechanical room entrances located therein for police, security, fire protection, and maintenance reasons.
- 2) Tenant shall submit to the Aviation Department as part of the Conceptual Plans and Final Drawings, drawings (in color) showing storefronts, window displays, signage, and any advertising structures, plus a lighting plan.
 - 3) When Tenant submits any plans and specifications to the Aviation Department it shall include complete sets for each submittal as specified in the Standards and Specifications for Construction and current local codes.
 - 4) Tenant's Work shall include the procurement of all necessary building permits, licenses, variances, and additional utility services required to facilitate Tenant's construction and occupancy of the Premises, and the payment of any fees associated therewith as may be required by the Aviation Department, other public agencies, and utility companies. Within ten (10) calendar days after approval of the Final drawings or such shorter period of time as may be required for Tenant to open the Premise for business no later than the Latest Rental Commencement Date,

Tenant shall make all necessary applications, provide all necessary information, pay all required fees and take all necessary actions to obtain such items and shall endeavor to use due diligence and its best efforts to procure the same as quickly as possible.

- 5) Tenant shall comply in all respects with the Tenant's Construction requirements including, but not limited to, applicable local/state health department requirements, U.S. Department of Labor, Construction Safety, Health Regulation, Part 1926, and this Construction Specification. Tenant shall comply and be liable for all costs associated with adherence to the Texas Accessibility Standards (TAS).
- 6) On all premises, the Tenant shall:
 - a. Obtain the Architect's/Engineer's Texas Seal on two (2) sets of final construction drawings or as may otherwise be specified by the current local code process submitted for a building permit,
 - b. Obtain from the Tenant's contractor(s) a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the premises. Tenant's contractor(s) shall be required by Tenant in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the Aviation Department of the Tenant occupying the Premises, obtain all required manufacturer' guarantees, maintenance manuals and other pertinent documents, and (iv) furnish to the Aviation Department one (1) set of "as-built" drawings (and preferably specifications) and Computer Aided Drafting and Design (AutoCAD) drawings, duly certified by a Texas registered architect or registered engineer, no later than ninety (90) calendar days after opening for business s in the Premises.
- 7) Tenant shall not be permitted to commence any work until all requirements of the Standards and Specifications for Construction and current local codes have been completed.
- 8) Security clearance, safety training, and any other related requirements necessary must be completed as required by the Aviation Department and TSA.
- 9) In its construction plans Tenant must ensure that the Premises have strong visual appeal and are inviting to the customers and that the Premises accommodate customers with luggage and meet all Americans with Di abilities Act (ADA), Texas Accessibility Standard (TAS), and all current local code requirements relating to ingress, egress, access, and other architectural matters, for example, large print price signs for the visually impaired and the ability to communicate with hearing impaired.
- 10) Plans to finish out or modify storage rooms included as part of the Agreement must be submitted with all conceptual drawing and final drawing submissions.

11) When Aviation Department shall determine that the construction drawings and specifications conform to the Preliminary Plans and design/construction requirements, Aviation Department shall cause one (1) copy thereof to be electronically stamped and initialed on behalf of Aviation Department, thereby evidencing the approval thereof by Aviation Department and shall return such counterpart so initialed to Tenant or Tenant's Representative. The construction drawings and specifications or the revised final drawings and specifications shall become and are hereinafter referred to as the Final Construction Drawings.

3.6. Changes After Final Drawing Approval:

- 1) Final Drawings must also be submitted to the Properties and Concessions Management Office, at the address below, for Aviation Department review and approval. Forward five (5) 24"x 36" complete sets (architectural, mechanical, electrical, plumbing, & fire suppression) to that office for review. Upon review and approval Aviation Department, the Tenant will be allowed to apply to the City of San Antonio for its building permit.
- 2) After the Aviation Department's approval of the Final Construction Drawings, no changes shall be made in the final construction drawings by the Tenant, except with prior approval of the Aviation Department. Aviation Department reserves the right to make changes in, on, or about the building as may be required. Tenant shall be notified of such changes and adjust the Final Construction Drawings to accommodate such changes.

3.7. Physical On-Site Inspection:

During all phases of drawing development and prior to bidding documents and/or commencing construction, Tenant shall make a physical on-site inspection of the Demised Premises or cause Tenant's architect and engineers to do so, to verify the as-built location, conditions, and physical dimensions of the Demised Premises and the conformance of the Final Working Drawings thereof. Failure to do so shall be at the risk and sole expense of Tenant. Tenant's architects or Tenant's engineers are required to contact the Properties and Concession Management Office prior to visiting the site. Hard hats and proper footwear are required in the construction zones. All persons visiting the site must abide by the Aviation Department's and TSA's security guidelines.

3.8. Aviation Department Drawing Review and Approval:

No responsibility for proper engineering, safety, and design of facilities or compliance with all applicable governing codes and regulations implied or inferred on the part of Aviation Department by drawing approval. Aviation Department's drawing review and approval is for compliance with this Specification Manual only, and this approval does not relieve Tenant of responsibility for:

- 1) Compliance with Agreement;
- 2) Field verification of dimensions and existing conditions;
- 3) Discrepancies between final drawings and as-built conditions of Tenant's space;
- 4) Coordination with other trades and job conditions; and
- 5) Compliance with all governing codes and regulations applicable to this work.

3.9. Drawings Submittal Address:

At the Tenant's sole expense, all drawings, samples, and related documentation shall be submitted for review and approval to the Properties and Concessions Management Office:

Properties and Concessions Management Office
San Antonio International Airport
9800 Airport Blvd., Suite 2091
San Antonio, Texas 78216

The Properties and Concessions Management Office will then distribute drawings to the Aviation Department for review.

3.10. Construction Requirements and Project Close-Out

See Section 4, CONSTRUCTION CRITERIA, for more specific information regarding items below.

- 1) Terminal A will soon be updating room numbers throughout. It will be required that the Tenant coordinate with Aviation Department staff during. Storefronts as well as any interior rooms will require proper signage that meets Aviation standards and ADA requirements.
- 2) All areas of construction must have a barricade erected prior to the start of construction and the contractor shall use all means necessary to keep dust to a minimum by having dust control. Dust is a major element in construction that needs to be controlled at all times. See Section 3.12, Temporary Construction Barricade Design Criteria, for the specification drawing. The aviation Department Fire Protection Team shall be contacted prior to start of any Demolition work or any activity which will dispense dust or construction particles into the air in order to avoid nuisance and or false fire alarms and Terminal Evacuation.
- 3) Contractor shall be responsible for the repair and/or replacement of any damages caused by Tenant's contractor or his subcontractor to the Facility or surrounding tenants. All damage must be repaired within a twenty-four (24) hour- time period, or Aviation will complete all necessary repairs at the sole cost and expense to the contractor, plus an administrative fee, as defined in the lease agreement.
- 4) Prior to opening, contractor shall deliver to Properties and Concessions Manager office a copy of the Certificate of Occupancy with respect to the premises.

- 5) X-ray or SRP of existing concrete structural members is required if any attachments or penetration is required. Any unused penetrations shall be filled and sealed with appropriate materials
- 6) Cutting and patching on roof must be performed by roofing contractor to ensure warranty, American Roofing is the Terminal A contact and Fifth Wall Roofing is the Terminal B contact. Currently, roof penetrations are not allowed except for kitchen uses. At those times, all penetrations must be coordinated with Properties and Concessions Management office. Only authorized contractors are allowed access to the roof and must be authorized by the Properties and Concession Manager and only City's authorized roofer can be used. The Contractor is to contact the Properties and Concession Manager for information.
- 7) If additional HVAC is required per design to any lease space. Tenant must provide their own Split or package unit. Testing and Balancing report must be submitted upon completion of installation.
- 8) Commercial epoxy, or terrazzo flooring required for all wet areas (kitchen, bar and serving areas). Floor and base of wall to be applied monolithic to avoid seams where possible. Six-hour water test required.
- 9) Grease traps are required at every food and beverage unit with sinks.
- 10) Cutting and patching on roof must be performed by roofing contractor to ensure warranty, American Roofing is the Terminal A contact. Currently, roof penetrations are not allowed except for kitchen uses. At those times, all within 60 days after opening for business in the Premises, Contractor shall:
 - a. Provide a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the Premises. Contractor(s) shall be required in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the City, or the Tenant occupying the Premises;
 - b. Submit all required manufacturers guarantees, maintenance manuals and other pertinent documents; preventative maintenance program details and schedule;
 - c. One (1) set of "as-built" drawings (and preferably specifications) and Computer Aided Drafting and Design (CADD) drawings, on CD duly certified by a Texas registered architect or registered engineer, no later than 60 days after opening for business in the Premises;
 - d. Executed copies of all mechanics lien waivers and/or releases or other lien waivers and/or releases on account of contractors work, notarized and unconditional, in such form as COSA shall have reasonable approved along with an architect's certification that the Premises have been constructed in accordance with the approved Final Drawings and are fully complete in

accordance with all of such requirements specified or reference herein;

- e. Statements of the total construction costs incurred by Contractor which is certified by a responsible officer of Contractor as correct together with copies of all supporting documentation required by the City under the Agreement with the City including copies of paid invoices;

3.11. Tenant IT and Cable Policies

IT SERVICE REQUEST PROCEDURES: SAT recognizes two types of service requests based upon size and scope of the request: (1) Major construction requests are considered Tenant Improvement (TI) Projects; and (2) Non-major requests are referred to as Moves, Adds, and Changes (MACs) and are treated as routine operations. Both types of service requests and their respective processes are documented below:

- 1) TENANT IMPROVEMENT (TI): SAT Properties and Concessions Office is the central point of contact for all Tenant Improvement projects, including IT projects. Tenants will be required to provide necessary submittal documents for TI projects to SAT Properties and Concessions Office at (210) 207-3565. SAT Properties will make a final determination whether the service request constitutes a TI or a MAC. Until specific policies and procedures are established by SAT for the management of TI, all TI requests shall be made to SAT pursuant to the procedures established herein. Projects that are a part of major operations including new construction, demolition, renovation, installation or removal of non-load bearing walls or partitions require TI approval. SAT IT will review Tenant's documented requests for completion and will perform site inspections to verify that installation progress in accordance to SAT technical specifications.
 - a. SUBMITTAL DOCUMENTS - All submittal documents required herein must be provided to SAT Properties and Concessions Office at (210) 207-3565. SAT Properties and Concessions office will then coordinate with all related divisions, including SAT IT, as applicable. This includes two (2) complete sets of documents to SAT IT for review at least ten (10) business days prior to the anticipated project start date. The information submitted for SAT IT review shall include the following:
 - I. Tenant Name & Contact Information
 - II. Type of Services Requested
 - III. Building Floor (Lease Space)
 - IV. Drawing -Physical Cabling Pathways
 - V. Telecommunications bonding and grounding plan
 - b. SAT IT RESPONSE - In response to Tenants request to initiate a TI project, SAT IT will send written review comments and a PDS utilization plan to the Tenant as applicable. This letter will advise Tenant to either forward original drawings or reproducible documents for signature, or revise and resubmit the

documents. The response will also contain a SAT plan for PDS usage showing all termination locations, cross-connect points, and co-location assignments: Approximate time required: **five (5) business days from receipt of submittal.**

- c. SAT AUTHORIZATION - When all review comment have been addressed, SAT IT will approve the Tenant's IT submittal documents and recommend authorization to SAT Properties for coordination with other SAT divisions recommendations.
 - d. RECORD DRAWINGS - Within fifteen (15) business days of completion of construction, Tenant must provide to SAT IT record drawings and Cable Management Documentation which accurately represent all as-built conditions, including the following documentation:
 - I. Submit two (2) hardcopies of full size drawings of the project. The submittal shall include a cover sheet identifying Tenant space occupant, key plan of portion(s) of SAT illustrated in drawing set, installing Contractor and date of submittal.
 - II. Submit one (1) electronic file softcopy of the project drawings saved in AutoCAD format compatible with current AutoCAD version in use at SAT.
 - III. Submit one (1) electronic file softcopy of project schedule spreadsheets saved in a CSV (Comma Separated Value) fo1mat on CD media. Coordinate with SAT for exact format requirements.
- 2) MOVES, ADDS, AND CHANGES (MACs): MACs are non-major telephony and data related improvement operations consisting of single or multiple moves of phone, data, and/or addition of lines and routing or adding cabling. These are minor, non-structural change, leaving walls, floors, ceiling, and fixed equipment in place. For support and coordination on all Tenant MACs, please contact (210) 207-3565 or aviation.support@sanantonio.gov and a SAT IT representative will respond.
- a. SUBMITTAL DOCUMENTS - Tenant will be required to provide necessary submittal documents depending on the requirement. This includes two (2) complete sets of document to SAT IT for review at least two (2) business days prior to the anticipated project start date. The information submitted to SAT IT shall include the following:
 - I. Tenant Name & Contact Information
 - II. Type of Services Requested
 - III. Building Floor (Lease Space)
 - IV. Drawing - Physical Cabling Pathways
 - V. Telecommunications bonding and grounding plan
 - b. SAT IT RESPONSE - In response to MAC requests, SAT IT will send written review comments and a utilization plan to the Tenant. This letter will advise Tenant to either forward original drawings or reproducible documents for signature, or revise and resubmit the documents. Approximate time required: Two (2) business days from receipt of submittal.

- c. SAT AUTHORIZATION - When all review comments have been addressed, SAT will sign the Tenant's submittal documents and issue an authorization letter.
- d. RECORD DRAWINGS - Within fifteen (15) business days of completion of construction, Tenant must provide to SAT IT record drawings and Cable Management Documentation which accurately represent all as-built conditions, including the following documentation:
 - I. Submit one (1) electronic file softcopy of as-built project drawings saved in AutoCAD format compatible with current AutoCAD version in use at SAT.
 - II. Submit one (1) electronic file softcopy of project schedule spreadsheets saved in a CSV (Comma Separated Value) format on CD media. Coordinate with SAT for exact format requirements.

SITE ESCORT SERVICES: Only SAT IT, or its authorized representative, will have permission to access the MDF or IDFs. SAT IT will arrange for escort services as necessary when Tenant representative is need access to the MDF or any IDF. Requests for escort to perform routine maintenance should be submitted at least 72 hours in advance. Site escort services for emergency repairs will be provided according to the service level required at the time.

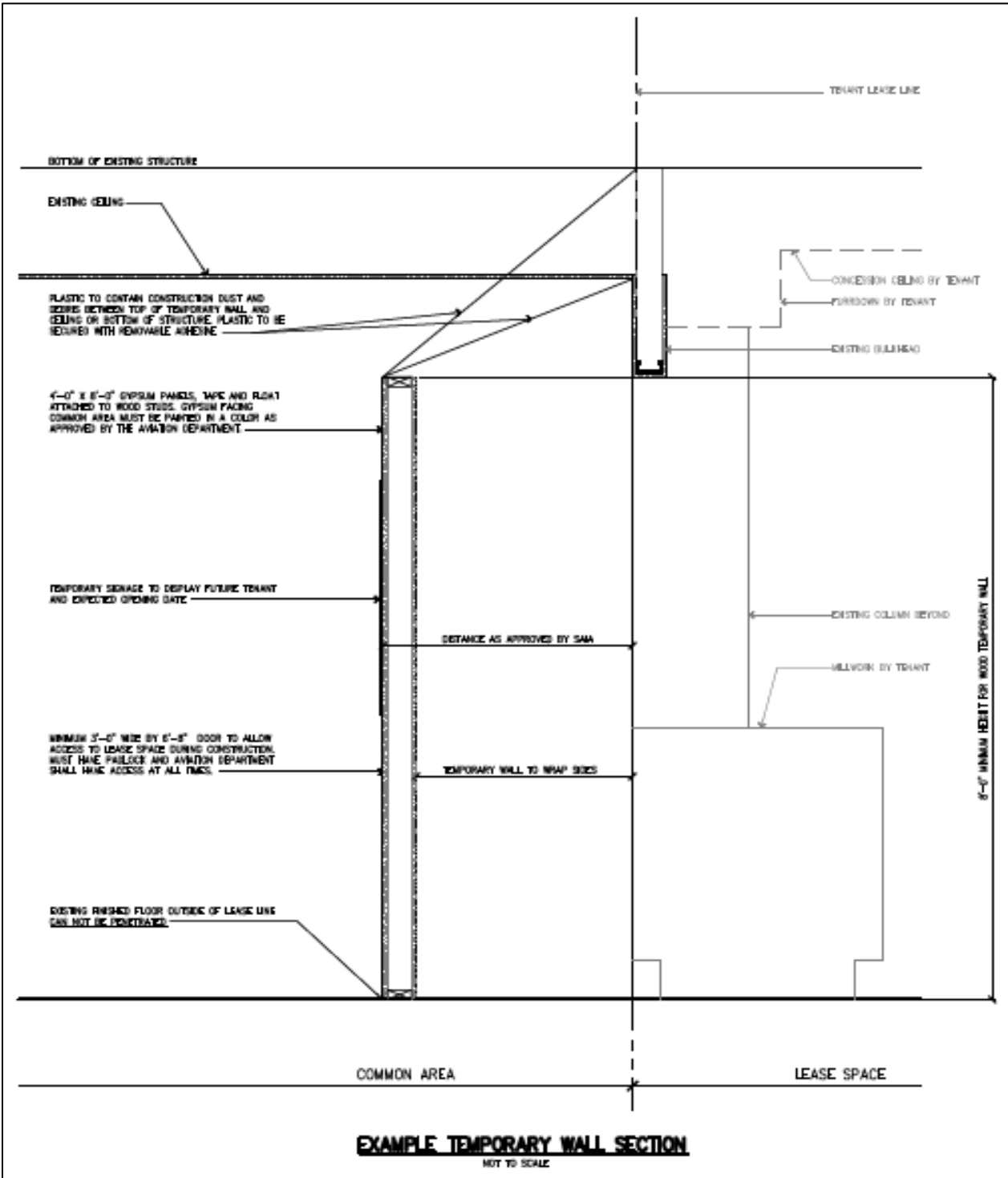
SATELLITE SERVICE REQUIREMENTS: Tenants requiring satellite installation for cable television services shall submit installation requirements and plans including roof penetration and mounting details, to SAT IT utilizing the process described in Section 6.0 of this document, prior to the commencement of installation. The installation of a satellite dish utilizing space on the roof top of Terminal B will require a separate license agreement as prescribed by the San Antonio City Code for the use of City property. Such satellite dish installations shall be performed according to SAT technical specifications.

WIRELESS POLICY: Tenants may install private Wi-Fi hotspots that utilize unlicensed spectrum within their own exclusively leased space. Tenant takes full responsibility of devices; Airport is not responsible for any wireless devices belonging to Tenant. Airport is not responsible for any detriments to the Tenant's Wi-Fi hotspot that occurs as a result of lack of security. Tenant is responsible for monitoring the RF spectrum to prevent any interference with licensed spectrum and Airport wireless equipment and transmissions. In the event of such interference, and subject to reasonable notice, SAT reserves the right to disable the wireless signal in order to protect public safety and welfare.

REQUEST FOR CABLE TELEVISION SERVICE: Although coax cable is not part of the PDS, until specific policies and procedures are established by SAT for the management of coax cable infrastructure in Terminal B, any requests for the installation of cable television service shall be made to SAT pursuant to the procedures established in Section 2.0 of this document, prior to the commencement of in installation.

TO DEVIATE FROM POLICY: Any request to deviate from these policies and procedures shall be requested in writing to SAT IT at aviation.support@sanantonio.gov. No exception will be granted without SAT written authorization.

3.12. Temporary Construction Barricade Design



SECTION 4 – CONSTRUCTION CRITERIA**4.1. Purpose of Construction Criteria**

This criteria has been developed for Tenants, their Consultants and Contractors, intending to construct improvements, alterations, and/or new facilities at SAT. It is the intent of this criteria to assist applicants so Tenant Permit Application (CPA) submissions can be complete; time frames for review can be more predictable; and construction and closeout requirements can be understood. The procedures outlined and referenced are applicable to all types of construction, alterations, equipment additions/replacements, and maintenance work performed by a Tenant within their leasehold.

This Specification Manual, together with the Agreement, including Exhibits and approved design and construction drawings required by Properties and Concession Management and Aviation Construction & Development, comprise the Tenant's Package. Tenants are strongly encouraged to become familiar with the intent and details of these documents prior to the commencement of work, and to become aware of the special characteristics of the terminal buildings and how their architectural elements, finishes, and materials will affect individual concession design solutions. Tenants must comply with the requirements and conditions set forth in the Tenant Package. Should there be any discrepancies between the Standards and Specifications for Construction for Concession improvements and the Agreement, the latter shall govern.

The City's Properties and Concessions Manager Office and Aviation Construction and Development shall have absolute right of review and approval over all aspects of Lease Space Improvements, as well as the discretion to waive any of the Standards and Specifications for Construction so long as the concept, quality, and character of the project are not significantly affected.

4.2. Use of Construction Criteria

Each Tenant their Consultants and Contractors must be familiar with the intent, scope, and detailed requirements of this Specification Manual before the construction process begins. It is the Tenant's, their Consultants and Contractors responsibility to visit the site and verify existing conditions. The Aviation Department and the City of San Antonio Development Services Department must approve each Tenant design and a Permit must be issued as well as other pre-construction requirements which will be described further within before construction is allowed to begin.

4.3. City/Tenant Work

City's Work to be performed or provided at City's sole cost and expense shall be limited to the following: City shall not have any obligation to improve any portion of the Premises unless specified in Lease Agreement. Premises are being delivered by City to Tenant in its then existing, "AS IS," "WHERE LOCATED" condition. City may perform the safe remediation or removal of any pre-existing Hazardous Materials located within the Premises. City may provide additional items of basic building shell or utility conduit services for the Premises as part of City's Work. If applicable, such additional items, if any, shall be provided in accordance with City's specifications.

City's Work shall include all work necessary to demolish any existing improvements located within the Premise, if any, If required to return the Premises to a shell condition (including removal of ceiling grids, finish materials, storefront, light fixtures, partitions (excluding demising partitions) and all existing utility systems and components that will not be reused to serve the Premises.

Tenant's Work shall include all work necessary or required to complete the Premises, except those items of work that are specifically included under City's Work. Tenant's Work shall be subject to City and Properties and Concessions Division and Construction and Development prior approval. Tenant's work shall be designed, fabricated, constructed and installed to comply with all of the requirements set forth in this document and all requirements set forth in the most current edition of Standards and Specifications for Construction.

City personnel shall have access to the Premises/Lease Space to inspect all phases of construction.

The Tenant/general contractor will always assume the responsibility of quality control throughout the duration of the project; however, the City reserves the right to inquire and check randomly select areas as a form of quality assurance throughout all phases of construction.

The design, fabrication, construction and installation of Tenant's Work must comply with each of the following requirements:

- 1) This Specification Manual and the Design Development Drawings.
- 2) The CPA and its process requirements.
- 3) Tenant's Final Drawings, as approved by City of San Antonio's Aviation Construction and Development and Concessions Division.
- 4) All applicable laws, ordinances, codes, regulations and the requirements of all federal, state or local permitting, building and inspection agencies, including the City, State and Federal Codes.
- 5) All applicable standards of the American Insurance Association, The National Electric Code (latest edition), the American Society of Heating, Refrigeration and Air Conditioning Engineer 's Guide (latest edition), the City's and City's insurance carriers, the local building codes and regulations and all other agencies having jurisdiction.

In the event of a conflict between any of the above-referenced items, the most stringent requirement shall govern each increment of Tenant's Work.

All aspects of Tenant's Work shall be performed in a professional, first-class and workmanlike manner and shall be in a good and first-class and usable condition as of the date of completion and maintained in such condition at all times. All materials used in Tenant's Work, Tenant's construction of the Premises and installations made as a part of Tenant's Work shall be of new, commercial grade and first-class quality. After Tenant's initial construction of the Premises, any and all remodeling and alterations shall be performed in accordance with all of the Tenant's Construction Requirements.

All contracts and subcontracts for the performance of Tenant's, Airline and FBOs Work shall require:

- 1) that all contractors and subcontractors provide labor that can work in harmony with other labor employed or to be employed at the Airport in accordance with this Agreement, properly bonded and access grants as dictated by the Base Concession Manager and/or the City;
- 2) Insurance coverage and suretyship as defined by lease agreement to the City for the protection of The City for the protection of the City, its laborers, supplies, contractors, and subcontractors designated management representatives and the general public;
- 3) that all contractors and subcontractors comply strictly with all of the applicable provisions of the Lease Agreement and related Exhibits, Design Handbook, BPA process, all applicable permits, and/or a otherwise required by code;
- 4) in the case of Fixed Improvements, performance and payment bonds from Tenant or its contractor, in form and substance reasonably satisfactory to the City, each of which shall name the City as an additional obligee and aggregation in the penal sum equal to all of Tenant's construction contracts valid through duration of project;

Tenant shall be solely responsible for the investment required for the planning, design, development, construction, fabrication and installation of all Fixed Improvements and other leasehold improvements and Operating Equipment necessary to complete the Premises as required to provide the retail concession services within the Terminal.

4.4. HVAC, Electrical, Plumbing, IT and Fire Protection

- 1) **Inspections and Compliance:** Contractor is responsible for scheduling inspections by the City of San Antonio Development Services and other inspectors as necessary, and for compliance with their requirements. Provide notification of inspection date and time to Properties and Concessions Manager. A copy of all inspection reports and the Certificate of Occupancy must be submitted to Properties and Concessions Office

upon completion of the work. In the event Contractor is notified of any violations of codes by the jurisdictional authorities or by Aviation, Contractor shall correct such violations within seven (7) calendar days from such date of notification. Construction shall comply in all respect with currently applicable federal, state, county and/or local statutes, ordinances, regulations, laws and codes and ordinances. The City of San Antonio is currently under the 2015 *International Codes, 2014 NEC and including the 2015 International Energy Conservation Code*. The list of adopted codes and local amendments for these codes can be found at: New Chapter 10 - Building Related Codes. In addition, coordination and compliance with the following is required:

- City of San Antonio Fire Marshall
 - City of San Antonio Department of Health
 - American with Disabilities Act and Texas Accessibility Standards
- 2) **Licensed Professional Engineer:** A professional engineer licensed in the state of Texas shall prepare all calculations, drawings and specifications in accordance with all applicable codes and recognized engineering practices. The engineer shall be required to be available if any questions or modification to the system is required.
- 3) **Project Review:** The Aviation Department will review the drawings 30%, 60% and 100% for general compliance with the Mechanical Design criteria of the Airport facilities. It is the Contractor's responsibility to submit documents to the City of San Antonio Development Services (www.sanantonio.gov) for review and is issuance of a Building Permit. It is the Contractor's responsibility to ensure that the Contractor's system will perform satisfactorily and is in compliance with all applicable code and regulations. The average permit review time is 2-3 weeks. Development Services does offer an expedited review with associated fee.
- 4) **Submission Requirements:** The Tenant shall submit complete plans and specifications for Mechanical work consisting of the following at a minimum:
- a. HVAC (if applicable), plumbing (if applicable), and fire protection floor plans (if applicable).
 - b. Plumbing riser diagram indicating pipe sizes and connection points. Heating and cooling load calculations.
 - c. HVAC Testing and balancing report submitted upon completion of installation
 - d. Supply air, chilled water (if any) requirements. As-built drawings upon project completion.
 - e. IT and Electrical Plans
 - f. Material Sheets
 - g. Elevations
- 5) **Mechanical and IT Room Access:** Facilities Maintenance will provide access to the mechanical rooms that provide service to the Concession space. Access requests should be submitted to Properties and Concessions Manager for coordination 48 hours in advance.

- 6) **General Requirements:** The Tenant shall furnish and install all mechanical work required for and within the Tenant premises, which is not furnished as part of the Base Building work.
- a. Mechanical system modifications requiring shutdown of other portions of the mechanical systems shall be done upon approval of Aviation Construction and Development and Facilities Maintenance. Notification must be provided to Concessions Division and the City /Airport 48 hours prior to the shutdown requirement.
 - b. Obtain permission from the City through the Properties and Concessions Division and Construction and Development prior to core drilling through floors or roof structure. Any roof penetrations will be performed by a contractor selected by the Aviation Department and billed to Tenant.
 - c. Coring for roof or floor penetrations will require 72-hour notice.
 - d. Cutting and patching to be performed as required, to return all remaining original finishes to their original condition.
 - e. Floor and wall penetrations must be sealed and dampered to maintain occupancy separations where required. All penetrations must be filled with approved Fire Caulking with a Fire Rating of not less than that of the roof, wall and/or floor which was penetrated.
 - f. Welding or torch cutting under the direct supervision and by approval of the Concessions Division and/or Aviation Department personnel. Comply with the Airport's Fire Marshal's regulations and notify them prior to welding or torch cutting.
 - g. As-built drawings are to be maintained by the Tenant mechanical contractor and submitted to the City. Record exact pipe, duct, and equipment routing and location, and sizes of equipment.
- 7) **Identification and Labeling:** Required for all equipment, pipes and ducts within the Tenant space:
- a. Laminated plastic nameplates, black-white-black with engraved characters 1" high for all equipment. Pipe marker, ANSI size, 3/4 letters, pre-printed, mounted on pipe or duct penetrating walls and at 25' intervals.
 - b. Identify pipe fluid or duct air type.
- 8) **HVAC System Criteria**
- a. It is the Tenant's responsibility to add additional VAV boxes, Rooftop or Split Units if required to meet their heating and cooling needs, to be approved by HVAC Department.
 - b. Return air and smoke purge are accomplished through the plenum, and it is the Tenant's responsibility to ensure adequate airflow into and through the plenum.
 - c. All insulation must have a flame spread/smoke developed rating not higher than 25/50.
 - d. All ducts are to be supported from bridging not to exceed ten foot intervals.
 - e. An air balance report must be submitted to the City prior to the final inspection. All changes to existing system must be approved by Airport Facilities HVAC Department. All changes to existing system must be approved by Airport Facilities HVAC

Department.

- f. All changes to existing system must be approved by Airport Facilities HVAC Department.

Existing HVAC System Description

SAT uses a two-pipe chilled water system to provide cooling or heating water to most air handlers or VAV boxes In Terminal A. Some areas have electric heat. All CONRAC and Terminal B have electric heat.

9) Electrical System Criteria

All electric designs must comply with the City of San Antonio current codes. COSA is currently under the 2015 International Codes, 2014 NEC and including the 2015 International Energy Conservation Code. The List of adopted codes and local amendments for these codes can be found at: New Chapter 10 - Building Related Codes.

The City of San Antonio also requires the following:

1. Coordination of all electrical work with the City Airport Electrical Department prior to commencing any work.
2. All conduits must be a minimum 3/4" EMT with compression fittings. In wet areas, all conduits are to be rigid. All wire to be T14HN or TWIHN rated at 105 degrees at 600 volts.
3. No MC or other armored interlock is allowed. "Greenfield" or "Seal Tight" whips are to be a maximum of six feet.
4. All ceiling mounted transformers must be supported from the building structure independent of all other systems and a continuous ceiling must separate the transformer from the plenum.
5. All junction and pull boxes must be labeled with appropriate panel name and circuit numbers.

Food Court Food/Beverage Tenants will also be required to install sub metering for electric. All floor penetrations and floor boxes must be UL rated for a 2-hour fire separation. The Tenant will also be required to label the switch in the MER with the space number and Tenant name as well as label the Tenant's Panel with MER and Switch gear name. Tenant is to receive approval from Properties and Concessions Division and the Airport Electrical Department prior to start of work for all tie-ins and shutdowns.

10) Plumbing Criteria

All Plumbing Designs must comply with the City of San Antonio current codes. COSA is currently under the 2015 International Codes, 2014 NEC and including the 2015 International Energy Conservation Code. The List of adopted codes and local amendments for these codes can be found at: New Chapter 10 - Building Related Codes.

The City of San Antonio also has established the following criteria:

1. PVC piping will not be used above the ground within buildings.
2. Clamps for no-hub piping will be those manufactured by Clamp-all Corp, Huskey SD series 4000 or approved equal.
3. All hubless pipes will be anchored at each side of the hub and at five foot intervals.
4. All trapezes will be supported from bridging or structural beams not from the roof decks.
5. All abandoned pipes will be removed to the source or point of discharge. All openings will be plugged.
6. All valves and pipes will be labeled to identify use; all flows will also be indicated.
7. All cold piping will be insulated using 1" thick Owens Corning Fiberglass "25A5J/SSL".
8. All pipe hangers longer than 12" will be seismic designed.
9. All piping will be hydrostatically tested as per Code.
10. All floor sinks and drains will have flashing to prevent water penetration.
11. Every lease space is required to have a main water supply cut off valve inside lease space.
12. All shut downs and tie-ins must be coordinated through the Properties and Concessions Manager Office and Airport Maintenance. All tie-ins must be approved prior to start of work.

11) Fire Protection Criteria

In general, all Fire Protection Systems must comply with all building, mechanical, electrical and fire protection, and lighting protection to new roof equipment by warranty holder contractor. (National Fire Protection Association (NFPA) Standards).

The design must be submitted to Properties and Concessions Office and Facilities Maintenance during the initial submission for approval prior to the start of construction. All sprinkler shut downs (if required) are to be performed by City's authorized agent, coordinated with the Aviation Departments Fire Protection Team and billed to Tenant. A minimum of 3 days written notice must be given. The Tenant is also responsible to notify the Properties and Concessions office to arrange for a Fire Watch condition. It is the Contractor's responsibility to pay all costs incurred for the shut down. Prior to the Final Inspection, a hydrostatic (controlled inspection) test must be performed and results submitted in writing to the COSA. All Fire Sprinkler installations, additions and/or repairs shall be conducted by a state licensed and/or nationally certified technician/contractor IAW NFPA and IFC Standards.

The Tenant must have all required fire extinguishers installed per IAW, NFPA and IFC Standards prior to the final inspection.

12) Fire Alarm System (If Applicable for Food Service Only)

It is the Tenant's responsibility to purchase all fire alarm devices required per code and install them in the space. All newly installed Fire alarm Equipment shall be compatible with the system it is to be added to and to be of the same make and model as the other system components. It will be the monitor's responsibility to contact the

Communications Center at the Airport in the event of fire or trouble alarm. It will be the Tenant's responsibility to pre-test the system and provide proof prior to the Final Inspection. Pre-testing and testing, of the Fire alarm system, which involves the activation of the Terminal's horns, strobes and voice evacuation appliances shall be conducted between the hours of 10:00 p.m. – 3:30 a.m. All Fire Alarm installations, additions and/or repairs shall be conducted by a state licensed and/or nationally certified technician/contractor IAW NFPA and IFC Standards.

A tie-in to the base building system is provided. The warranty service provider is:

Terminal B:
Simplex Grinnell San Antonio

Terminal A:
Johnson Control

The Tenant must also have all required fire extinguishers installed IAW NFPA and IFC Standards prior to the final inspection.

13) Telephone/Communication Service

All telephone, communication and data line services are the Contractor's responsibility. The Contractor must select a sub-contractor, which will be acceptable to Aviation Department to run the required cable from the main switchboards to the space. It is suggested that the Contractor schedules this service when they open the account for telephone service with AT&T, long distance provider and/or Internet service provider (ISP). All communication wires must be run in EMT conduit and labeled as such. All EMT conduits provided to accommodate telephone and data line service will be responsibility of the Contractor. Contact IT Manager for approval of all wiring in terminals.

Please contact Aviation IT Manager and Concession Manager, to coordinate any cable installations.

4.5. Construction Requirements

All contracts and subcontracts for any portion of Tenant's Work shall require:

1. All contractors and subcontractors provide labor that can work in harmony with other elements of labor employed or to be employed at the Airport.
2. Insurance coverage and suretyship reasonably satisfactory to City and Concessions Division and Construction and Development for the protection of City, suppliers, contractors, subcontractors and the general public.
3. All contractors and subcontractors comply strictly with all of the applicable provisions of the Lease Agreement, this Specification Manual, Tenant's Agreement with the City and the CPA.
4. For all Fixed Improvements and other leasehold improvements to the Premises; Provide performance bonds and payment bonds from the Tenant or its general contractor, in form and substance satisfactory to City and Properties and Concessions

Division and Construction and Development, each of which shall name City and Properties and Concessions Division as an additional insured and which shall be in the penal sum equal to the amount of Tenant's total construction contracts and subcontracts. Further, Tenant shall comply and shall cause all of its contractors and subcontractors to comply with the City of San Antonio's nondiscrimination and affirmative action provisions.

5. During the construction periods at the Terminals, the City, Tenant and their agents, servants, employee and contractors shall be permitted entry and access to the Terminals and to the Premises for the purpose of performing and completing all work necessary to make the Premises and other improvements ready for use, occupancy and rental. During the construction periods, City, Tenant and their respective agents, consultants and employees, contractors and subcontractors shall observe all applicable rules and regulations and applicable directives imposed by the City of San Antonio and the Aviation Department as to the conduct of their work. Tenant and its agents shall be responsible for securing, keeping and maintaining all of their equipment, materials, supplies, tools, work trailers, smoke, fumes/odors, dust and the like within the Tenant's Premises, or with in a defined staging area for the exclusive purpose of supporting the Tenant's Premises construction, subject to City approval. Tenant shall also be responsible for insuring that all construction debris is removed from the construction site daily, and that the site is neat and clean at all times. Tenant shall comply in all respects with procedures for project closeout and acceptance of the space as detailed in this Specification Manual and the CPA.

4.6. Contractors and Subcontractors Insurance

All policies of insurance and bonds required in the Agreement shall be issued for the protection of the City, Tenant in accordance with their respective insurable interest. The terms of the policies and bonds and the insurer or surety shall be subject to the reasonable approval of the City.

Tenant shall provide, maintain and identify the City as an additional insured, with respect to the insurance protection required under the provisions outlined in the Agreement.

Each of Tenant's insurance policies required under the Lease Agreement shall name The City of San Antonio as additionally insured.

4.7. Pre-Construction Meetings and General Procedures

Prior to the commencement of construction, a Pre-Construction meeting must be held. This "Pre-con" takes place after:

Signed and executed Construction Agreement with the City of San Antonio is delivered to all parties and a Building Permit is issued by the City of San Antonio Building Inspection Department.

Properties and Concessions Manager will arrange the Pre-Con when items meet the requirement. The Project Superintendent and General Contractor must attend the Pre-Construction meeting with the Aviation Department. The following documents must be submitted at the Pre Construction meeting:

1. General Contractor's Insurance Certificate
2. List of all Sub Contractors with emergency phone numbers including the GC's
3. Material Safety Data sheets for products to be used. The City reserves the right to refuse the use of any Substance believed may be hazardous when used in the Airport.
4. Overall Project Timeline Summary with preliminary delivery schedules and unloading requirements
5. Signed Lease or Letter of Acceptance for space
6. \$5,000 Security Deposit per location payable to "City of San Antonio"
7. A Building Permit issued the City of San Antonio
8. Performance and Payment Bonds delivered to City of San Antonio (COSA) in the total amount of construction contract costs for "Fixed Improvement" naming the City as additional obligee.
9. Any other documents required by the City of San Antonio
10. Asbestos Report
11. Two (2) sets of sealed and signed drawings
12. Architect's Letter of introduction
13. Copies of Electrical and Plumbing Licenses

Contractor shall not be permitted to commence any work until all requirements of this Specification Manual, the CPA and the Construction Agreement have been completed.

1. Two sets of stamped and signed drawings
2. Architect's Letter or Introduction
3. Copies of Electrical and Plumbing Licenses
4. List of all Sub Contractors with emergency phone numbers including the GC's and the Architect's
5. Schedule

General Procedures: The following documents will be submitted to the On-Site Tenant Coordinator ten business days prior to the start of construction:

1. Approved Insurance Certificate (must be approved by COSA)
2. 24 Hr. Emergency Contact List (includes Corporate mailing address and fax number)
3. List of construction workers with security clearance badges
4. All Material Safety Data Sheets for products which will be used
5. Overall Project Summary (preferably accompanied by Microsoft Project Schedule on disk)
6. Signed Letter of Acceptance for space
7. \$5,000 Security Deposit per location payable to the City of San Antonio (COSA)
8. Performance and Payment Bonds delivered to City of San Antonio (COSA) in the total amount of construction contract costs for "Fixed Improvements" naming the City as additional obligees
9. Any other documents required by the City of San Antonio

4.8. Aviation Properties and Concessions Division

Tenant Coordination activities will be the responsibility of Properties and Concessions Division. Please contact William Idar at (210) 207-3565 phone, or by email at William.idar@sanantonio.gov with any questions concerning coordination, pre-construction meetings, notices to the City, construction inspections or any other questions you may have.

4.9. Progress Meetings

Representatives of City and Tenant shall attend on- site progress meeting with such periods of frequency during the performance of Tenant's Work as may be mutually agreed upon but not less frequently than weekly. City Project Manager will be responsible for scheduling and conducting the progress meetings.

The Contractor will provide at the end of each week the following documents:

1. Three week look ahead schedule
2. All deliveries for following week
3. Storage and escort needs
4. Minimum 24 hour notification of all power, water, mechanical Shut Downs
5. All welding and burning requirements
6. List of Badged construction workers (if there are additions/deletions)
7. Material Safety Data Sheets (additional/revised)
8. 24 Hr. Emergency Contact List (if there are revisions)

4.10. Pre-Construction Documents

Prior to the commencement of construction, a Pre-Construction meeting (Pre-Con) must be held. This Pre-con shall take place after:

1. Signed and executed Construction Agreement with the City of San Antonio is delivered to all parties; and
2. A Building Permit is issued by the City of San Antonio Building Inspection Department;

Properties and Concessions Management Office will arrange the Pre-Con when items meet the requirement. The Project Superintendent and General Contractor must attend. The following documents must be submitted at the Pre-con:

1. General Contractor's Insurance Certificate
2. List of all Sub Contractors with emergency phone numbers including the GC's
3. Material Safety Data sheets for products to be used. The City reserves the right to refuse the use of any substance believed may be hazardous when used in the Airport
4. Overall Project Timeline Summary with preliminary delivery schedules and unloading requirements
5. Signed Lease or Letter of Acceptance for space
6. \$5,000 Security Deposit per location payable to "City of San Antonio"
7. A Building Permit issued the City of San Antonio
8. Performance and Payment Bonds delivered to City of San Antonio (COSA) in the total amount of construction contract costs for "Fixed Improvement" naming the City as additional oblige

9. Any other documents required by the City of San Antonio
10. Asbestos Report

Contractor shall not be permitted to commence any work until all requirements of this Specifications Manual, the CPA and the Agreement have been completed.

4.11. Interruptions to Existing Facilities

At NO time are construction activities to interfere with the normal operations of the Terminal. All deliveries and debris removal must take place between 7:00 p.m. and 5:00 a.m. in the event that there are passengers within the Terminal during these hours due to uncontrolled events (i.e. inclement weather); prudence and common sense must take place. All items and debris are to be kept within the space; nothing is to be left in the Concourse area. All welding, burning, chopping, jack hammering is to take place between 7 p.m. and 5 a.m. There is to be no welding/burning within the confines of the concourse; all work must take place behind the barricade. In the event that construction activities interrupt airport operations, SAAS reserves the right to have the contractor responsible removed from the project. It is imperative that there is no impact to passenger flow.

Barricades must have self-closing hinges and be kept closed at all times and locked during non- working hours. Properties and Concessions Office and Construction and Development must have a key or combination to the barricade and all items stored within the space must be inventoried and declared to Airport Security prior to bringing them into either Terminal. All tools or equipment remaining in the concession space after working hours must be store in a locking job or gang box. It will be the Tenant Contractor's responsibility to maintain the barricades both functionally and aesthetically. The Tenant Contractor will be responsible to legally dispose of the barricade upon completion of the concession build out.

SAAS will require a construction deposit of \$5,000.00 per unit from Tenant's general contractor prior to construction. City will not release the deposit until satisfactory completion of all construction and all requirements of this Specification Manual and the Lease Agreement. The City Building Inspection Department and the Aviation Department must specify that all of Tenant's Work has been completed and acceptable by City, prior to release of the construction deposit. City Personnel shall have access to lease space at all phases of construction.

4.12. Keys and Locks

The Aviation Department has provided standard equipment throughout the facility. All locks must be part of the Sargent Signature Series product line as follows:

Entrance/office; cylindrical level lock (63-10G05-LB Key LL 26D with IC core LB Key Way)
7900 Mortise Lock; 63-8205 LNB US26D 480 Series Inside Thumb Turn Lever (63-10-480-26D; LB Key Way, control #236511)

It is the Tenant Contractor's responsibility to give to the Concession's Division a key or combination to the barricade in the event that SAAS requires access to the space. Contact Mike Castillo - Aviation Department, Access Control - at (210) 207-3537 for assistance.

4.13. Hazardous Material

The Contractor must submit to Concession Manager and Aviation Construction and Development all Material Safety Data Sheets for all materials used in the construction

process. Properties and Concession Management Office and Aviation Construction and Development reserve the right to reject any such materials, which may pose a hazard or potential hazard to the Terminals and its patrons. Under no circumstances will any construction debris be placed into any Terminal refuse containers or dumpsters. The Contractor is responsible for the legal disposal of all debris generated during the build out process.

Currently, as a result of the City's abatement efforts all undeveloped Lease spaces are believed to be asbestos free. An Asbestos Report for each tenant space under construction will be provided to Properties and Concession Management Office and Aviation Construction & Development and must be submitted to the City Building Inspection Department as part of the Building Permit submittal process. In the event that the Contractor is remodeling a space vacated by a previous concession or remodeling a current concession space, an updated asbestos survey is required and will be the sole responsibility and cost of the Contractor.

In the event Contractor encounters any pre-existing Hazardous Materials during the performance of Contractor's Work for the initial construction of the Premises, Contractor shall immediately notify City verbally and in writing and provide all details related thereto. In no event shall Contractor perform any work that will in any way disturb any such Hazardous Materials so encountered until City has determined whether it is necessary to rededicate or remove the same. City shall have the right to perform the safe removal, encapsulation, enclosure or other disposition of asbestos, polychlorinated biphenyls or other hazardous or toxic materials (collectively, "Hazardous Materials") that exist within the Premises as of the date Contractor was delivered possession of the Premises. City shall rededicate or remove (or reimburse reasonable costs incurred by Contractor) any such preexisting Hazardous Materials that City determines, in its discretion, is necessary for Contractor to perform Work.

4.14. Dust Control

Dust is a major element in construction that needs to be controlled at all times. The contractor shall use all means necessary to keep dust to a minimum by:

- a. The Tenant Contractor will use and maintain dust cover over barricade.
- b. Tenant Contractor will insure that there are no holes in the dust cover and that it is securely fastened to the barricade and bulkhead. In the event that there should be rips or tears in the dust cover, Tenant Contractor will replace the dust cover immediately with the exact type of material.
- c. Tenant Contractor will utilize construction methods and equipment that minimizes dust.
- d. Tenant Contractor will provide dust masks and respirators (if necessary) as per OSHA 29 CFR 1910.134 and 29 CFR 1926.103
- e. In the event that excessive dust cannot be avoided, Tenant Contractor will maintain a mist over the area. Tenant Contractor will insure that the wheels of all carts and dollies are clean of dust and dirt so not to track through the Airport common areas. All dollies and cart are to have properly operating rubber wheels. No metal or studded wheels will be permitted.

4.15. Noise Control

During the hours of 5:00 a.m. till 10:00 p.m. a ban on excessive noise will be established. Excessive noise is considered to be jack hammers, chipping guns, excessive hammering, electric chop saws, floor grinders/scrapers, and powder actuated tools; these items may only be used between 10:00 p.m. and 5:00 a.m. This time frame may change due to location of the Concession and the operating flight in the general area. Tools that may be permitted for day usage are hand tools, electric drills, circular saws and reciprocating saws. In the event of a complaint by the City or an Airline, the On-Site Tenant Coordinator will immediately stop the activity that is the cause of the complaint.

The Tenant Contractor will be responsible to issue all workers proper hearing protection as per OSHA 29 CFR 1926.52 and 29 CFR 1926.101

4.16. Welding Notification in the Concession Space

No welding or burning can take place without notification to Concession Manager and approval by Concession Manager. A Welding Request must be submitted to Properties and Concessions Management Office at least 5 days in advance of the work.

Properties and Concessions Office will pursue approval and notify process required. The notice is both site and occurrence specific; each additional requirement for welding or burning will require an additional notice. If a fire watch is required by Aviation Fire Department, fee will be paid by Tenant. In order to be able to field weld, the following criteria must be met and maintained for the duration of all welding procedures:

1. Submit a Welding Application at least five days in advance.
2. Provide all fire watches required and all fire extinguishers and fire blankets
3. Use and maintain all required personal protective equipment.
4. Maintain a fire watch for the duration of the welding
5. Properly secure all gas bottles. Extra gas bottles are not to be stored inside the Terminal.
6. All gas bottle storage, handling, transporting and usage must comply with OSHA 29 CFR 1926.3 50 S.
7. No welding in public view (storefronts included) may take place from 5 a.m. till 11 p.m.
8. All welding procedure are to be in compliance with all COSA and Airport guidelines and OSHA 29 CFR 1926.102(b), .350-.354, 406(c)
9. All arc welding machines are to be approved by Aviation Fire Department/Safety for use prior to welding.
10. Welding or torch cutting under the direct supervision and by approval of Concession Manager.
11. A welding permit must be completed. See Properties and Concessions Manager for copy.
12. Comply with the Airport's Fire Marshal's regulations and notify Properties and Concession Manager prior to welding or torch cutting.

4.17. Barricades

All areas of construction must have a barricade erected prior to the start of construction.

The following criteria must be followed:

1. Height of barricade will extend to the existing ceiling height.

2. Barricade must be painted neutral white with black base molding applied to the concourse side.
3. Barricade must have dust cover consisting ripstop visqueen.
4. Barricade door to be located towards the side not in the center.
5. Barricade not to project out more than 3 feet past the bulkhead.
6. Barricade side return panels are to be 45 degree angles to aid passenger flow.
7. Barricade cannot be bolted, screwed, glued, or shot into any finished floor. Floor protection required.
8. Barricade must be secured to prevent tipping over or shifting during construction.
9. Barricade is subject to City approval; with TSA approval contingent upon public activity.
10. All barricade removal to take place at night when the construction status has been approved by Properties and Concession Manager and Aviation Planning and Development.

Barricades may have signage or graphics approved by the City installed on them. These graphics will be mounted in such a way as not to permanently adhere to the barricade wall. The Tenant Contractor is responsible for any damage to the graphics as a result of careless construction practices.

All barricades must have self-closing hinges and be kept closed at all times and locked during non-working hours. All tools or equipment remaining in the concession space after working hours must be stored in a locking job or gang box. It will be the Contractor's responsibility to maintain the barricades both functionally and aesthetically. The Contractor will be responsible to legally dispose of the barricade upon completion of the concession build out.

Properties and Concession Division, Construction and Development and Security will approve all barricades construction and maintenance.

4.18. Parking

All designated parking for contractor's vehicles, contractor employee's vehicles and delivery trucks will be provided at the Pre-Construction meeting.

4.19. Trash and Debris Removal

The space is to be kept clean at all times, trash accumulation is to be kept to a minimum. A tarp covered dumpster will be allowed on the airside at a location provided by Airport Operations and Airport Security, and the Contractor is responsible for the removal of all trash from the airport property at their expense. Contractor must insure that all debris fit properly into debris bin; no debris may be permitted to lean over the profile of the container. It is imperative that no sharp edges, screws, wire etc. project out in such a way as to injure others or damage common areas. All debris must be stored in the construction area; no debris may be placed anywhere else unless permission is given.

Contractor will be responsible for any debris, dirt, grease, dust left in the common areas. Contractor will immediately clean any debris from the common areas and subject to special cleaning fee, if deemed appropriate by the City representative.

4.20. Floor and Roof Penetrations

Approval for any core drilling must be obtained prior to commencing work. Submit the request with the appropriate background of need to Properties and Concessions Management Office and Aviation Construction and Development.

Floor and wall penetrations must be sealed and dampened to maintain occupancy separations where required.

All floor penetration must maintain the two (2) hour fire rating of the slab and require X-ray confirmation prior to commencing work. A qualified X-ray contractor hired at contractor's expense shall perform all X-rays. Likewise all fireproofing within the Tenant's Space must be restored to its original thickness, properly sealed with expanding foam and filled as applicable per building code(s).

Roofing

Currently, roof penetrations are not allowed except for kitchen uses. There are three (3) Roof penetrations within a provided curb to accommodate the concessions within the food court area. Cutting and patching must be performed by only City's authorized roofing contractor to ensure warranty:

- Terminal A - American Roofing
- Terminal B - Fifth Wall Roofing

The Contractor is to contact Properties and Concessions Management Office for additional information.

4.21. Close-Out Requirements

Properties and Concession Management, Aviation Planning and Development and the Contractor will walk the space a minimum of 2 weeks prior to opening, to determine last remaining items to address. This punch list will be monitored until completed. Punch items to be completed in 30 days.

All such construction shall be completed free and clear of all liens, encumbrances and security instruments. If any mechanic's, material means' or other lien is filed against the Premises, the Terminal, the Airport, the City or any interest in this Lease Agreement as a result of any work or act of Tenant and/or Contractor, Tenant shall fully and completely discharge the lien and have it released from record by payment or posting a bond within 20 days after the filing and subject to consequences as defined in the Lease Agreement.

Prior to opening: Contractor shall also deliver to Properties and Concession Manager a copy of the Certificate of Occupancy with respect to the premises.

Within 60 days after opening for business in the Premises, Contractor shall:

1. From the contractor(s) a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the Premises. Contractor(s) shall be required by Contractor in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the

- City, or the Tenant occupying the Premises;
2. All required manufacturers' guarantees, maintenance manuals and other pertinent documents; preventative maintenance program details and schedule;
 3. One (1) set of "as-built" drawings (and preferably specifications) and Computer Aided Drafting and Design (CADD) drawings, on CD duly certified by a Texas registered architect or registered engineer, no later than 60 days after opening for business in the Premises;
 4. Executed copies of all mechanics lien waivers and/or releases or other lien waivers and/or releases on account of contractors work, notarized and unconditional, in such form as COSA shall have reasonable approved along with an architect's certification that the Premises have been constructed in accordance with the approved Final Drawings and are fully complete in accordance with all of Such requirements specified or reference herein;
 5. Statements of the total construction costs incurred by Contractor which is certified by a responsible officer of Contractor as correct together with copies of all supporting documentation required by the City under the Agreement with the City including copies of paid invoices;
 6. Certified construction cost reports;
 7. All SAT security badges;

4.22. Construction Deposit

A construction deposit of \$5,000.00 will be required from Tenant's general contractor for each space being constructed and shall not be released by COSA until after satisfactory completion of:

1. All requirements of this Specifications Manual;
2. Approval by the COSA's on-site construction supervision personnel or their designee, specifying that all of Contractor's work has been completed and accepted by COSA; and
3. Receipt by COSA of all construction related close-out project documentation required by the Agreement and the CPA process or otherwise required by COSA;

The deposit shall be in the form of a cashier's check made payable to the "City of San Antonio" and due on the day of the pre-construction meeting.

City of San Antonio (COSA) will retain the security deposit until all items are completed and submitted as required by the lease in the "closing documents".

4.23. General Construction Documents and Miscellaneous Items

a. Close Out Documents

The Tenant Contractor must provide the following information to the On-Site Tenant Coordinator within ten business days from the opening of the location. Return of the security deposit will be conditioned upon receipt of the following:

1. As-Builts of the Lease Space - CADD CD
2. Certified Construction Cost Reports
3. Certificate of Occupancy (within 30 Days)
4. Lien Waivers
5. Completed Aviation Punch list
6. All SAT Security Badge Returned
7. Texas Department of Licensing and Regulation (TDLR) inspection

b. General Health & Safety

The Tenant Contractor will at all times conform and comply with all local, state and Federal agencies including but not limited to: OSHA, Federal Aviation Administration, City of San Antonio, and Texas Department of Labor. At no time will any construction related activity jeopardize the safety of any employee, passenger, patron, etc. of SAT. In the event that multiple agencies claim jurisdiction, the most stringent regulations will take precedent.

c. On-Site Health & Safety Station

The Tenant Contractor will establish and maintain an On-Site Health & Safety Station. This station will be mounted on a plywood backing affixed to the barricade framing. This Station will consist of the following:

1. First Aid Kit
2. Eye Wash Station
3. ABC Fire Extinguisher with a current inspection.
4. Emergency Phone Number List
5. Contractor Health & Safety Plan (includes MSDS)
6. Terminal Floor plan showing nearest fire exits.

d. Personal Protective Equipment

Tenant Contractor to provide all personal protective equipment in accordance with OSHA [29 CFR 1926.95, 96,.J 00,.101,.102,.103,.104,.I 05](#)

e. Welding

In order to be able to field weld, the following criteria must be met and maintained for the duration of all welding procedures:

7. Submit to the Concessions Division "Welding Request Notice" at least three days in advance.
8. Submit to Concessions Division all Welding Certificates and Licenses.
9. Submit Fire Sprinkler Shut Down Notice (if applicable) to Concessions Division at least five days in advance.
10. Provide all fire watches required and all fire extinguishers and fire blankets. 5. Use and maintain all required personal protective equipment
11. Maintain a firewatch for the duration of the welding
12. Properly secure all gas bottles. Extra gas bottles are not to be stored inside the Terminal. All gas bottle storage, handling, transporting and usage must comply

with OSHA 29 CFR 1926.350

13. S. No welding in public view (storefronts included) may take place from 5:00 a.m. till 11:00 p.m.
14. All welding procedures are to be in compliance with all City and Airport guidelines and OSHA 29 CFR 1926.102(b), .350-.354,.406(c)
15. All arc welding machines are to be approved for use prior to welding.
16. Notify Airport Communications, Airport Operation and Airport Fire Rescue Captain prior to starting work.

f. Fire Sprinkler Shut Downs (if Applicable)

Due to the large number of agencies that need to be notified of a sprinkler shut down; submit to the Concession Manager a Fire Sprinkler Shut down Notification at least three (3) business days in advance. Contractor is responsible for all fire watches and emergency equipment (fire extinguishers, fire blankets, etc). The Contractor will be charged for any cost associated with a Fire Sprinkler Shut Down as determined by City of San Antonio (COSA).

If the existing Fire Sprinkler System is modified Airport Fire and Safety Division must be notified prior to commencing any work, a hydrostatic test may be required prior to energizing the system. The Tenant Contractor will be informed of the hydrostatic test as required.

g. Mechanical/Electrical Shutdowns

In the event that the Contractor requires a Mechanical/Electrical Shutdown, submit a Mechanical Shutdown Notice form to the Concession Manager at least three (3) business days in advance. If the Contractor needs to access any Operations level Mechanical Room, all workers must have security badges and escort by the Airport Police or an Aviation Department representative.

h. Drug Free Work Place

Airport is a drug free work place. Alcohol is also prohibited while working.

i. Smoking

There is no smoking anywhere inside the Terminals or on the AOA. Designated smoking areas outside the concourse are labeled as such. Anyone violating this rule will be removed from the premises and replaced.

j. Escorts

When an escort is required, the escort is responsible for any and all violations that are caused by those with the escort. Those assigned to an escort must remain with the escort at all times. All escorts will be arranged through the On Site Tenant Coordinator.

k. Gas Powered Equipment

No gas, diesel or propane powered equipment will be permitted,

I. Lasers

All lasers are to be operated in a safe manner by trained tradesmen. At no time will a laser be used in the common areas or in such a manner as the laser emits out to the common area. All signage and personal protective equipment will be required as OSHA 29 CFR 1926.102(b)(2)

m. Powder Actuated Tools

All powder or explosive charge activated tools are to be operated by persons that are properly and currently trained and qualified to operate that particular tool. All tools are to be used and handled as per OSHA 29 CFR 1926.302(e)

Pre-Construction Meeting Agenda

Project: _____

Name of Contractor: _____

Project Manager: _____

On-site Superintendent: _____

Date: _____

1. Introduction
2. Pre-Construction Requirements
 - a. Insurance certificate
 - b. Security Deposit from GC (\$5,000 cashier's check payable to City of San Antonio.)
 - c. Performance & Payment Bond (for total amount of construction contract costs for: fixed improvements: naming the City as additional insured)
 - d. Building Permit and all trade permits
 - e. Emergency Contact List/Medical Locations
 - f. List of Sub Contractors
 - g. Contractors Project Schedule:
 - h. Material Safety Data Sheets (MSDS) for products used
 - i. Electrical, Plumbing & HVAC Licenses
3. Security, Badging and Safety Procedures
 - a. Badging and Safety Access Requirements
 - b. Storage of Tools & Equipment
 - c. Construction Barricade, Keys & locks
 - d. Delivery Procedures
 - e. Contractor/Sub-contractor Parking
 - f. Dumpster location
 - g. Use of PPE, Ladder Safety, Notify Facility Maintenance of Lock out tag out
4. Interruptions to Existing Facilities
 - a. Debris Removal
 - b. Welding (permit required)
 - c. Dust, Noise, Odor control
 - d. Hours of Operation
5. Progress Reports Coordination of Shutdowns & Misc. items
 - a. Progress Reports
 - b. Coordination of Shutdown & Misc. items
 - c. Written Progress Reports
6. Punch List
 - a. Scheduling - Minimum 2 Week before turnover
 - b. Space to be free and clear of construction activity and equipment allowing for full access. Must be in opening day condition
7. Close-out Documents
 - a. Lien wavers, proof of payment
 - b. Cost Certification Sheet
 - c. Deposit return
8. Drug Free Workplace - No Smoking Ordinance
9. Questions?

SECTION 5 – STRUCTURED CABLING INFRASTRUCTURE GUIDELINES**PART 1 - DOCUMENT PURPOSE**

- 1.1 The City of San Antonio Structured Cabling Infrastructure Standard is a guideline for structured cabling infrastructure and the associated spaces to be applied by the design team for new or renovated facilities. Information herein is applicable to the Technology Consultant, Architect, MEP, and contractors, and shall be taken into account for each project by all team members.
 - A. The standards set forth parameters for the technical system in addition to the site and building requirements to facilitate a properly-installed standards-compliant structured cable system, organized as follows ;
 1. Telecommunications Spaces; Architectural, HVAC, Power, Entrance Pathways and Conduits
 2. System Requirements; Cable Management in Telecommunications Spaces, Cable Support in Pathways, Backbone Cabling, Horizontal Cabling, Grounding, Labeling, Testing, and As-Built Documentation.
 3. Telecommunications Diagrams
- 1.2 The standard addresses infrastructure for typical buildings and is not intended for the design of data centers or specialty facilities, of which should be considered on a case-by-case basis.
- 1.3 Designers shall not deviate from this standard without explicit written approval from the City of San Antonio Information Technology Services Department.
- 1.4 Any deviations shall immediately be brought to the attention of the owner's representative in writing for resolution.
- 1.5 Where specific product brands are mentioned, an equivalent will be considered following an official submission of product literature and written acceptance by the City of San Antonio Information Technology Services Department.
- 1.6 Where means, methods, and best practices are mentioned, contractor shall follow the manufacturers' and owner's requirements, industry standards, or code, whichever is most stringent.
- 1.7 Basic contractor qualifications are set forth, but may be made more stringent as applicable to each project based upon size and scope.
- 1.8 A Division 27 specification and T-Series drawings for the Structured Cabling System shall be commissioned and issued by the Architect during the design phases for each facility or project.

PART 2 - DOCUMENT HISTORY

- 2.1 This document supersedes all previous standards which have been fully reevaluated and described herein by the City of San Antonio Information Technology Services Department.
- 2.2 The contents of the standards were derived by the assembly and input from the City of San Antonio Information Technology Services Department.

PART 3 - INDUSTRY STANDARDS

- 3.1. The following industry standards shall be adhered to unless specifically directed otherwise by the City of San Antonio Information Technology Services Department. The list is not all-inclusive and does not alleviate compliance with the latest applicable standards, codes, and best practices:
 - A. TIA-568-C.O Generic Telecommunications Cabling for Customer Premises
 - B. TIA-568-C.1 Commercial Building Telecommunication Cabling Standards - Part 1 General Requirements (2008)
 - C. TIA-568-C .2 Balanced Twisted-Pair Telecommunications Cabling and Components Standard (2009)
 - D. TIA-568-C.3 Optical Fiber Cabling Components Standard (2009)
 - E. TIA-569-B Commercial Building Standard for Telecommunications Pathways and Spaces - (October 2004)
 - F. TIA-598-C Optical Fiber Cable Color Coding - (January 2005)
 - G. TIA/EIA-606-B Administration Standard for Commercial Telecommunications Infrastructure - (May 2012)
 - H. ANSI J-STD-607-8 Commercial Building Grounding and Bonding Requirements for Telecommunications - (October 2011)
 - I. TIA-758-A Customer-Owned Outside Plant Telecommunications Infrastructure Standard - (August 2004)
 - J. TIA-526-7 Measurement of Optical Power Loss of Installed Single-Mode Fiber Cable Plant – OFSTP-7 - (February 2002)
 - K. TIA-526-14-A Optical Power Loss Measurements of Installed Multimode Fiber Cable Plant – OFSTP-14 - (August 1998)
 - L. AIA

M. Local Building Code

N. NEC

O. ISO

P. ANSI

Q. FCC

R. UL

S. OSHA

T. NFPA

U. NEMA

V. IFC

W. IBC

PART 4 - CONTRACTOR QUALIFICATIONS

- 4.1 Contractor and staff shall be a current authorized Panduit Certified Installers and certified by Panduit to provide and furnish a 20-year performance warranty for structured cabling and connectivity components.
- 4.2 Contractor and staff shall possess relevant past-experience and references for a minimum of (5) projects of similar size and scope to that of the City of San Antonio.
- 4.3 Contractor's Project Manager shall be a RCDD in good standing and shall provide Certificate.
- 4.4 Contractor shall have a local office within a 75-mile radius of the project site
- 4.5 Sub-contractors to the primary structured cabling contractor shall meet the same requirements for the primary structured cabling contractor as identified above.

PART 5 - WARRANTY ON PARTS AND LABOR.

- 5.1 The contractor shall furnish a 20-year performance warranty from Panduit for the structured cabling and connectivity components.
- 5.2 All labor and workmanship shall carry a minimum warranty period of (1) year from the date of final system acceptance.

- 5.3 Defects in material or workmanship appearing within this period of time, shall be promptly repaired without cost to the City of San Antonio.

PART 6 - NOMENCLATURE

- 6.1 Main Distribution Frame (MDF) - An environmentally controlled centralized architectural space for housing telecommunications equipment that usually serves as the demarcation point for service providers, and houses the backbone terminations for cross-connection and distribution to Intermediate Distribution Frames.
- 6.2 Intermediate Distribution Frames (IDF) - An environmentally controlled architectural space for housing telecommunications equipment and backbone terminations for cross-connection and distribution to the MDF and end-user workstations.

PART 7 - CITY INFRASTRUCTURE STANDARDS

5.1. Telecommunications Spaces

A. Main Distribution Frame (MDF)

1. Description

- a. The MDF is a telecommunications space that serves a building or multi-building facility or campus. There is only (1) on each campus.
- b. The MDF houses the entrance conduits, terminations, and cross connections for all incoming inter-building backbone cabling from the IDFs in other buildings on the campus and the intra-building backbone cabling from the IDFs in the building in which it resides, and cross-connects to user workstations .
- c. Wall and floor space shall be reserved for service provider demarcation equipment and incoming infrastructure terminations.
- d. Campus distribution network equipment, servers, and other centralized telecommunications related equipment will reside in the MDF.
- e. The MDF may share space with other systems such as security panels, paging systems, and CATV cabling. Space allocation for other systems shall be coordinated with the applicable disciplines after approval from the City of San Antonio Information Technology Service Department. All coordination shall be completed prior to installation.
- f. Fire alarm panels and building control panels shall not be located inside the MDF. Space allocation for these systems needs to occur outside of the MDF.

- g. The MDF shall not be used for storage, serve as a mechanical or electrical distribution space, nor shall it have within its space main electrical feeds, electrical switch gear, transformers, and water or sprinkler main lines.
- h. The layout of cabinets, equipment racks, wall fields, and cable management shall be as indicated on the attached diagrams.

2. Architectural Requirements

- a. The MDF shall be a minimum of 150 square feet with minimum clear lineal walls of at least 10 feet by 15 feet. The size of the MDF shall be coordinated with and approved by the City of San Antonio Information Technology Services Department during the design.
- b. All walls inside the MDF shall go to deck. When walls are drywall they shall be double layered drywall on both sides to help reduce the risk of unauthorized entry.
- c. The MDF Room shall be centrally located.
- d. The floor finish shall be sealed bare concrete or VCT.
- e. The MDF shall not contain windows.
- f. The MDF shall not be located adjacent to or below restrooms or other water-based facilities, or sources of EMI and mechanical vibration.
- g. All walls shall be covered with 4-feet x 8-feet x $\frac{1}{2}$ -inch AC Grade Void Free Fire Retardant Plywood, aligned vertically starting at 12 inches above the finished floor. The plywood shall be installed with the "A" grade side exposed and the "C" grade side against the building or structure. The plywood shall be painted with two coats of fire retardant paint and one stamp from each sheet shall be masked during the painting and uncovered after the paint has dried so the fire rated plywood stamps are visible for inspection.
- h. The minimum ceiling height shall be 9-feet above finished floor with the following preferences of finishes.
 - 1) No ceiling is the preferred finish
 - 2) Hard ceiling is acceptable if leaving open to structure is not possible.
 - 3) The last alternative is a lift-out ceiling. If a lift-out ceiling tile is required this shall be coordinated and approved by the City of San Antonio Information Technology Services Department during the design process. If this option is approved it is recommended the ceiling height inside the MDF room be higher than the ceiling height in the corridor outside the

MDF so the cables entering into the MDF do not have to pass through the lift-out ceiling inside the MDF room.

- i. Entry to the space shall be through a minimum 36-inch by 80-inch clear door opening that swings outward. Door shall be solid core or steel and shall not have any windows. The door shall securely lock and access shall only be by City of San Antonio Information Technology Services Department-approved personnel. The door shall open to an interior hallway or space; it is not recommended the door open to the exterior of the building.
 - j. The MDF door shall be equipped with a minimum of a City of San Antonio Information Technology Services Department approved cipher lock. When an access control security system is available, the entrance to the MDF shall be equipped with a card reader and electrified door hardware.
 - k. Fire suppression for the MDF shall be determined by the specific code requirements for the fire protection scheme of the overall building. If a fire suppression system is designed, it shall be designed to avoid running distribution over the MDF equipment cabinets, racks and equipment.
3. HVAC Requirements
- a. The MDF shall be serviced by a dedicated unit that is part of the building's main system and be equipped with a Split DX system through the wall above the door which cools only when the building HVAC is inadequate or not running. The unit shall maintain a constant 24/7 cooled environment between 68° and 77° F with relative humidity of 40% - 55%.
 - b. Changes in temperature and humidity shall be kept to around 1 percent.
 - c. The minimum HVAC load shall be designed to displace 12KW of power, or 3.5 Tons, and shall be coordinated with the City of San Antonio Information Technology Services Department during the design and designed to load if the known load is greater at the time of design.
 - d. It is recommended the MDF maintain the stated temperature and humidity in the event of building power outages or primary HVAC system failure.
 - e. Air delivery shall be aligned in the front of the equipment rows and returns at the rear of the equipment rows when possible.
 - f. HVAC sensors and controls shall be located in the MDF at 5-ft AFF.
 - g. A hard-wired wall mounted thermostat shall be located inside the MDF Room.
 - h. HVAC systems shall be alarmed for power loss, high and low temperature, high and low humidity, smoke detection, compression failures and water

flooding.

- i. A simplex data drop shall be installed within 12 inches of the unit so it can be incorporated into the Building Automation System (BAS).

4. Lighting Requirements

- a. Florescent light fixtures shall be at least 24 inches above the top of the highest cabinet, rack or cable runway (approximately 84 inches), 36 inches is recommended.
- b. Lighting shall be a minimum of 50 foot candles at 2 feet above the floor in the entire space.
- c. The MDF shall be equipped with emergency lighting to keep the space lit during power outages.

5. Power Requirements

- a. All electrical service outlets shall be labeled with the associated panel and circuit information.
- b. Power shall be in two categories: dedicated and convenience.
- c. Dedicated
 - 1) The MDF shall be equipped with a minimum of (2) dedicated 208 VAC 20 amp electrical circuits terminated in separate J- boxes and (1) dedicated 120 VAC 20 Amp circuit mounted above each equipment cabinet or rack.
 - a) The (2) 208 VAC J-boxes shall be mounted to a uni-strut above the equipment cabinets or racks and shall be provided with a 7-foot "SO Type" cord with a female NEMA L6-20R receptacle on the end.
 - b) The (1) 120 VAC J-box shall be mounted to a uni-strut above the equipment cabinets or racks and shall be provided with a 7-foot "SO Type" cord with a female NEMA 5-20R receptacle on the end.
 - c) The originating electrical panel shall be properly sized for the loads calculated and shall be located in the nearest Electrical Room.
 - 2) Additional power circuits to be allocated to security, paging CATV, and service provider equipment shall be considered and coordinated at the time of building design.
 - 3) Power distribution to the cabinets shall be achieved by installing rack mounted PDUs.

d. Convenience

- 1) The MDF shall be equipped with 120 volt 20 Amp duplex NEMA 5-20R receptacles, with maximum (3) receptacles on each circuit. The originating electrical panel shall be equipped with a 20 Amp breaker per circuit.
- 2) A duplex receptacle shall be spaced at least 1 foot from an adjacent wall and every 6 feet thereafter. A minimum of (1) duplex receptacle shall be placed in each wall and be flush mounted to the finished wall surface at 18 inches above finished floor.

6. Equipment Cabinets / Racks and Cable Management Requirements

- a. The MDF shall be equipped with a minimum (2) equipment cabinets or equipment racks. Coordination with and approval by City of San Antonio Information Technology Services Department during the design is required to determine with equipment cabinets or equipment racks shall be utilized.
- b. The MDF shall be equipped with cable runway encircling the room at 84-86 inches above the finished floor, and crossing the room above the equipment cabinets or racks (1) time.
 - 1) Cable runway shall not be secured to the top of the equipment cabinets.
 - 2) A vertical section of cable runway shall be attached to the wall board to manage backbone and service provider cables as they transition from the entrance conduits to the overhead cable runway.

B. Intermediate Distribution Frame (IDF)

1. Description

- a. An IDF is a telecommunications space that resides in each building that requires more than a single telecommunications space from which to terminate horizontal workstation cables. There may be multiple IDFs in each building as required to maintain horizontal cable distances of 295 feet for the permanent link.
- b. An IDF houses the terminations and cross connections for the intra or inter-building cabling from the MDF and the horizontal user workstation cabling in the area of the building that it serves.
- c. Building workstation access network equipment will reside in the IDF.

- d. The IDF may share space with other systems such as security panels and paging systems. Space allocation for other systems shall be coordinated with the applicable disciplines.
- e. Fire alarm panels and building control panels shall not be located inside the IDF. Space allocation for these systems needs to occur outside of the IDF.
- f. The IDF shall not be used for storage, serve as a mechanical or electrical distribution space, nor shall it have within its space main electrical feeds, electrical switch gear, transformers, water or main sprinkler lines.
- g. The layout of cabinets, equipment racks, wall fields, and cable management shall be as indicated on the attached diagrams.

2. Architectural Requirements

- a. The IDF shall be a minimum of 100 square feet with minimum clear lineal wall lengths of at least 10 feet by 10 feet.
- b. All walls shall go to deck. When walls are drywall they shall be double layered drywall on both sides to help reduce the risk of unauthorized entry.
- c. The floor finish shall be sealed bare concrete or VCT.
- d. The IDF shall not contain windows.
- e. IDFs shall be arranged in a stacked formation in multi-story buildings, and not be located next to or below restrooms or other water-based facilities, or sources of EMI and mechanical vibration.
- f. All walls shall be covered with 4-feet x 8-feet x 5/8-inch AC Grade Void Free Fire Retardant Plywood, aligned vertically starting at 12 inches above the finished floor. The plywood shall be installed with the "A" grade side exposed and the "C" grade side against the building or structure. The plywood shall be painted with two coats of fire retardant paint and one stamp from each sheet shall be masked during the painting and uncovered after the paint has dried so the fire rated plywood stamps are visible for inspection.
- g. The minimum ceiling height shall be 9 feet above finished floor with the following preferences of finishes.
 - 1) No ceiling is the preferred finish
 - 2) Hard ceiling is acceptable if leaving open to structure is not possible.
 - 3) The last alternative is a lift-out ceiling. If a lift-out ceiling tile is required this shall be coordinated and approved by the City of San Antonio Information

Technology Services Department during the design process. If this option is approved it is recommended the ceiling height inside the MDF room be higher than the ceiling height in the corridor outside the MDF so the cables entering into the MDF do not have to pass through the lift-out ceiling inside the MDF room.

- h. Entry to the space shall be through a minimum 36-inch by 80-inch clear door opening that swings outward. Door shall be solid core or steel and shall not have any windows. The door shall securely lock and access shall only be by City of San Antonio Information Technology Services Department-approved personnel. The door shall open to an interior hallway or space; it is not recommended the door open to the exterior of the building.
- i. The IDF door shall be equipped with a minimum of a City of San Antonio Information Technology Services Department approved cipher lock. When an access control security system is available, the entrance to the IDF shall be equipped with a card reader and electrified door hardware.
- j. Fire suppression for the IDF shall be determined by the specific code requirements for the fire protection scheme of the overall building. If a fire suppression system is designed, it shall be designed to avoid running distribution over the IDF equipment cabinets, racks and equipment.

3. HVAC Requirements

- a. The IOF shall be serviced by a dedicated unit that is part of the building's main system and be equipped with Split DX system through the wall above the door which cools only when the building HVAC is inadequate or not running. The unit shall maintain a constant 24/7 cooled environment between 68° and 77° F with relative humidity of 40% - 55%.
- b. Changes in temperature and humidity shall be kept to around 1 percent.
- c. The minimum HVAC load shall be designed to displace 4KW of power, or 1 Ton, and shall be coordinate with the City of San Antonio Information technology Services Department and designed to load if the load is greater and known at the time of design.
- d. It is recommended that the IDF maintain the stated temperature and humidity in the event of building power outages or primary HVAC system failure.
- e. Air delivery shall be aligned in the front of the equipment rows and returns at the rear of the equipment rows.
- f. HVAC sensors and controls shall be located in the IDF at 5-ft AFF.
- g. A hard-wired wall mounted thermostat shall be located inside the IDF Room.

- 3) Power distribution to the cabinets shall be achieved by installing rack mounted PDUs.

d. Convenience

- 1) The IDF shall be equipped with 20 Amp duplex NEMA 5-20R receptacles, with maximum (3) receptacles on each circuit. The originating electrical panel shall be equipped with a 20 Amp breaker per circuit.
- 2) A duplex receptacle shall be spaced at least 1 foot from an adjacent wall and every 6 feet thereafter. A minimum of (1) duplex receptacle shall be placed in each wall and be flush mounted to the finished wall surface at 18 inches above finished

6. Equipment Cabinets / Racks and Cable Management Requirements

- a. The IDF shall be equipped with a minimum (2) equipment cabinets or equipment racks. Coordination with and approval by City of San Antonio Information Technology Services Department during the design is required to determine with equipment cabinets or equipment racks shall be utilized.
- b. The IDF shall be equipped with cable runway encircling the room at 84-86 inches above the finished floor, and crossing the room above the equipment cabinets or racks (1) time.
 - 1) Cable runway shall not attach to the top of the equipment cabinets.
 - 2) A vertical section of cable runway shall be attached to the wall board to manage backbone and service provider cables as they transition from the entrance conduits to the overhead cable runway.

5.2. Entrance Pathways and Conduits

A. Design Principles

1. Pathways and conduits are described herein with regard to capacity, function, and basic design principles and shall be designed by the MEP in accordance with NEC and EIA/TIA-758, Customer-Owned Outside Plant Telecommunications Cabling.
2. Telecommunications Conduit Systems shall:
 - a. Be Schedule 80 when placed under ground.
 - b. Contain a minimum of (3) 3-inch 3-Cell Maxcell fabric innerducts inside each conduit. Coordination with and approval by the City of San Antonio Information Services Technology Department is required to determine the exact quantity and size of the Maxcell innerducts inside each conduit.

- c. Contain no more than the equivalent of (2) 90 degree bends between pull boxes.
- d. Maintain a minimum bend radius of 10 times the diameter of the conduit.
- e. Not exceed 40 percent fill ratio.
- f. Be placed at a minimum depth of 36-inches from the top of the conduit to the finished grade with 3-inches of compacted sand above and below the buried conduit and an orange metallic tracer warning tape stenciled "TELECOMMUNICATIONS" 12 inches below grade throughout the entire pathway.
- g. Be interrupted by an adequately sized manhole or pull box at least every 600 feet for sections containing up to (1) 90 degree of bend, and at least every 350 feet for sections with the equivalent of (2) 90 degree bends.
 - 1) Manholes and pull boxes shall be of adequate depth for conduits to enter from the side of the pull box and not be required to sweep up into the bottom of box.
 - 2) Manholes shall have a minimum size of 12 feet long 6 feet wide and 7 feet high.
 - 3) Pull boxes shall be a minimum of 24 inches wide, 48 inches long and 30 inches tall.
 - 4) All accessories such as racking, grounding and bonding, ladders and ancillary equipment shall be provided
 - 5) All covers shall be stenciled with "COSA COMMUNICATIONS".
 - 6) Manholes and pull boxes shall be designed to ensure proper construction types and load ratings (i.e., traffic bearing) are observed and utilized based on the location of the pull boxes.
- h. Stub up into the MDF and/or IDF at 4-inches above the finished floor, no more than 2 inches from the finished wall and installed parallel to the finished wall.
- i. Contain a marked pulling tape with 1800 lbs tension strength, be fitted with bushings, and sealed appropriately at both ends.

B. Service Provider Conduits

- 1. Minimum of (4) 4-inch conduits shall route underground from the MDF to the edge of the property Right of Way and terminate as required by the service provider(s). Additional conduits shall be added as required.

2. Manholes and pull boxes shall be utilized as required for an ANSI, TIA and BICSI compliant conduit distribution system. The conduit, pull boxes/manholes sizing and construction shall be coordinated with the City of San Antonio Information Technology Service Department and the applicable service provider on a project by project basis.
3. Where the service provider termination location is unidentified at the time of design, the conduits shall route from the MDF to an adequately- sized pull box or manhole at least 30 feet from the building edge.

C. Campus Serving Conduits

1. Minimum of (2) 4-inch conduits shall route underground from the MDF to the IDF on the first floor of each additional building on the campus. Additional conduits shall be added as required if fill capacity exceeds 40 percent.
2. Manholes and pull boxes shall be utilized as required for an ANSI, TIA and BICSI compliant conduit distribution system. The conduit, pull boxes/manholes sizing and construction shall be coordinated with the City of San Antonio Information Technology Service Department and the applicable service provider on a project by project basis.
3. Where only the first building of a campus is being designed, (2) 4-inch conduits for each additional future building shall route from the MDF to an adequately-sized manhole or pull box at least 30 feet from the building edge.

D. Building Entrance for Large Campus

1. For large campuses, the MEP and Structural Engineer shall consider a conduit entrance vault as part of the MDF sub floor.

5.3. Cable Management In Telecommunications Spaces

A. Equipment Cabinets / Equipment Racks

1. Coordination with and approval by City of San Antonio Information Technology Services Department during the design is required to determine with equipment cabinets or equipment racks shall be utilized.
2. Cabinets and racks shall be black aluminum Standard Equipment Cabinets and Racks with EIA 19-inch rails, 84-inch (45 RMU) overall height and rack mount unit markings engraved on the rails.
3. All cabinets and racks shall be equipped with horizontal and vertical cable management as indicated in Exhibit 1.

4. Racks shall be bolted to the concrete floor and to the overhead cable runway utilizing manufacturer-recommended hardware and methods.

B. Overhead Cable Management

1. Overhead Cable Management shall be a Universal Cable Runway made of 3/8" x 1-1/2" x .065" wall rectangular steel tubing with cross members welded at 12-inch intervals.
 - a. MDFs shall be provided with a minimum of 18-inch wide Universal Cable Runway.
 - b. IDFs shall be provided with a minimum of 12-inch wide Universal Cable Runway.
 - c. Universal Cable Runway shall encircle the MDF or IDF room at 84-86 inches above the finished floor, and crossing the room above the equipment cabinets or racks (1) time.
 - d. The appropriate Radius Drop shall be installed over the racks or cabinets to provide the proper support for the cabling leaving the Runway and entering the rack/cabinet.
 - e. Universal Cable Runway shall be installed utilizing appropriate hardware to support, join, or attach sections to structures, and shall be supported at a minimum of 5 foot intervals.
 - f. A vertical section of cable runway shall be attached to the wall board to manage backbone and service provider cables as they transition from the entrance conduits to the overhead cable runway.
 - g. Universal Cable Runway shall not attach to the full sized equipment cabinets.

5.4. Cable Support in Pathways

A. Main Cable Pathway

1. Main cable pathway shall be wire-basket cable tray with the cables exiting the cable tray supported utilizing j-hooks installed a minimum of every 4-5 feet on center. J-hooks shall be installed utilizing appropriate hardware to support, join and attach j-hooks to structures.
2. Cable tray and J-hook sizing and quantity shall be scaled to the application not to exceed 40 percent fill ratio.
3. A separate j-hook shall be provided for each media type:
 - a. Backbone Fiber

- b. Backbone Copper
- c. Horizontal Data
- d. Horizontal Wireless
- e. Horizontal Audio Visual
- f. Horizontal Security

B. Sleeves and Penetrations

1. Sleeves and penetrations are described herein with regard to capacity, function, and basic design principles and shall be designed in accordance with NEC and EIA/TIA-569-B, Commercial Building Standard for Telecommunications Pathways and Spaces.
2. All sleeves shall be equipped with nylon bushings.
3. All sleeves and penetrations shall be properly fire-stopped to meet local code and to return the wall, floor or structure, back to its original rating.
4. Scale the quantity of sleeves to maintain a 40 percent fill ratio in each sleeve.
5. Above MDF and IDFs install minimum of (4) 4-inch EMT sleeves through the partition wall between the MDF and/or IDF overhead space and the main cabling pathway.
6. Between directly aligned vertically stacked MDF and IDFs install minimum of (3) 4" EMT sleeves through the floor of the upper IDF.
7. Between skewed MDF and IDFs on adjacent floors, install minimum of (3) 4" EMT sleeves through the floor of the upper IDF into the accessible ceiling space below and utilize main cabling pathway to route cabling into the IDF or MDF on the lower floor.

C. Workstation Rough-ins and local power (Typ.)

1. At each flush wall-mounted workstation location, install a 4 11/16 inch by 4 11/16 inch by 2-1/8 inch double-gang back box with double-gang mud ring at 18 inches above the finished floor and at appropriate height for wall mounted phones and above-counter and millwork locations.
 - a. Install a minimum of (1) 1-inch conduit from the double-gang box to above accessible ceiling in the room where double-gang box is located. If ceiling is not accessible, install conduit to nearest accessible ceiling.
 - b. Conduit shall not exceed the 40 percent fill ratio.

- c. Terminate the conduit above accessible ceiling and install nylon bushing and pull string.
 - 1) Conduit shall be installed in accordance with EIA/IA-569-B, contain no more than the equivalent of (2) 90 degree bends and/or 98.4 feet between pull boxes, and maintain a bend radius of 6 times the diameter of the conduit.
2. At locations where the workstation outlets cannot be installed flush in the wall, a Panduit Surface Mounted Raceway that is appropriately sized and designed to meet the specific requirements shall be provided.
 - a. When power is provided in the surface mounted raceway a dual- channel surface mounted raceway shall be provided to separate the power from the structured cabling.
 - b. The use of surface mounted raceway shall only be considered when no option is available to install the workstation outlets flush in the wall and shall be approved by the City of San Antonio Information Technology Service Department during the design or prior to installation.
3. At floor-mounted workstation locations, install a floor box or poke-thru specifically designed for the application and environment adequately sized to accommodate the quantity of installed horizontal data cables.
 - a. Install a minimum of a (1) 1-inch conduit for every (6) cables from the floor box to above accessible ceiling.
 - b. Conduit shall not exceed the 40 percent fill ratio.
4. For modular furniture workstations, a rough-in pathway shall be considered and designed according to the furniture type, quantity of cables, and location as required for each furniture system.
 - a. The use of power poles shall be considered only on a case-by-case basis.
5. For ceiling-mounted outlets above accessible ceiling such as Wireless Access Points or IP Cameras, no rough-in is required. The data cable will terminate into a surface-mount box secured to the structure above the accessible ceiling.
6. The electrical engineer shall design at a minimum (1) quad NEMA 5- 15R receptacle within 12" of each workstation outlet location.

5.5. Backbone Cabling

A. Service Provider Demarc

1. The service provider demarc shall be located inside the MDF when feasible.
 - a. For all new construction, the service provider demarc shall be located inside the MDF. The service provider demarc location and requirements shall be coordinated with City of San Antonio Information Technology Services Department.
 - b. For renovation projects where the service provider demarc is not currently located inside the MDF but is required to be relocated because of the renovation, the service provider demarc shall be relocated to the MDF. The service provider demarc location and requirements shall be coordinated with City of San Antonio Information Technology Services Department.
 - c. For renovation projects where the service provider demarc is not currently located inside the MDF and is not required to be relocated because of the renovation, the service provider demarc shall be extended to the MDF via copper and/or fiber as required. The service provider demarc location and requirements shall be coordinated with City of San Antonio Information Technology Services Department.

B. Inter-building Backbone Cabling (Campus)

1. Permanent Structures

a. Copper

- 1) Inter-building Backbone Copper Cabling shall be Category 3 25-pair 24 AWG flooded UTP home run from the MDF to primary IDF in each of the buildings on the campus. Provide a 10-foot service loop at both ends of each cable stored on the wall above or below the cable runway. Provide a 20-foot service loop in each manhole or pull box. Cables shall be secured with Hook-and-loop tie-wraps in the MDF or IDF.
- 2) Inter-building Backbone Copper Cabling shall terminate on UL-listed Category 3 25-pair 110 IDC in/out lightning protection panels equipped with UL-listed Category 3 5-pin solid state quick-acting protector modules. The secondary side of the panel shall be connected to a Category 3 24-Port RJ-45 rack mounted patch panel.

b. Fiber

- 1) Inter-building Backbone Fiber Optic Cabling shall be armored indoor/outdoor 48-Strand single mode home run from the MDF to the primary IDF in each of

the buildings on the campus and dressed with fan-out kits as required. Provide a 10-foot service loop at both ends of each cable stored on the wall above or below the cable runway. Provide a 20-foot service loop in each manhole or pull box. Cables shall be secured with Hook-and-loop tie-wraps in the MDF or IDF.

- 2) All fiber optic terminations shall be fusion spliced to factory provided "pig-tail" LC terminated cables.

C. Intra-building Backbone Cabling

1. Copper

- a. Intra-building Backbone Copper Cabling shall be Category 3 25-pair plenum rated 24 AWG UTP home run from the MDF to each of the IDFs in the building. Provide a 10-foot service loop at both ends of each cable stored on the wall above or below the cable runway. Cables shall be secured with Hook-and-loop tie-wraps in the MDF or IDF.
- b. Intra-building Backbone Copper Cabling shall terminate on a Category 3 24-Port RJ-45 rack mounted patch panel.

2. Fiber

- a. Intra-building Backbone Fiber Optic Cabling shall be armored plenum rated 24-Strand single mode from the MDF to each of the IDFs in the building. Provide a 10-foot service loop at both ends of each cable stored on the wall above or below the cable runway. Cables shall be secured with Hook-and-loop tie-wraps in the MDF or IDF and in the cable runway.
- b. All fiber optic terminations shall be fusion spliced to factory provided "pig-tail" LC terminated cables.

5.6. Horizontal Cabling

A. Workstation Cable

1. Horizontal Data Cabling shall be Category 6 UTP, minimum factory sweep tested to 350 MHz, plenum rated, installed from the patch panel in the MDF or IDF to the workstation location not to exceed 295 feet for the permanent link. Provide a 10' service loop in the MDF or IDF, and 1-foot of slack at the conduit stub-up above the outlet. Cable bundles shall be secured with Hook-and-loop tie-wraps.
2. At the workstation, each Category 6 cable shall be terminated in a Category 6 modular jack insert and snapped into a single or double-gang, faceplate. Jack colors are designated in Exhibit 1. Faceplates shall be equipped with designation windows for labeling and blank inserts in unused ports.

3. Wall phone workstations shall be equipped with a studded wall phone faceplate capable of accepting a modular jack insert.
4. All faceplate colors shall be coordinated with the Architect or owner at the time of installation.
5. In the MDF or IDF, each Category 6 cable shall be terminated on the back of Category 6 rack mounted patch panels which are mounted in the equipment cabinets.
6. Category 6 cable shall be terminated with the T568B sequence.

B. Workstation Configurations

1. Office Workstation

- a. Install (2) yellow Category 6 cables for data into a 6-port double-gang flush faceplate. The yellow cables shall be terminated with ivory category 6 modular jacks and placed in the first and second position in the faceplate.
 - 1) Furnish a minimum of (1) 2-port workstation on each of (2) walls in each office of approximately 100 sq. ft.
 - 2) Offices that are smaller or larger shall be designed with consideration given to the size of the office and number of personnel planned for the office.
 - 3) Modular furniture clusters shall be designed to accommodate the user requirements at the time of construction.

2. Ceiling-Mounted Projector Outlet

- a. Install (1) Purple (or Violet) Category 6 cable with 20-foot slack loop at each ceiling mounted projector location, terminated with a purple category 6 modular jack placed in a surface mounted box and secured to the building structure when mounted above the accessible ceiling.
 - 1) When a Ceiling Mounted Projector outlet is installed above the accessible ceiling, a purple adhesive dot shall be attached to the ceiling grid directly below the outlet location for future identification of the outlet location.
 - 2) When an accessible ceiling is not available, the designer shall coordinate with the audio/visual consultant to termination requirements.
 - 3) The designer shall coordinate with the audio/visual consultant to determine quantities and locations of projectors.

3. Audio Visual Control System (Control Panel)

- a. Install (1) Purple (or Violet) Category 6 cable at each control panel location, terminated with a purple category 6 modular jack placed in a surface mounted box and secured to the building structure when mounted above the accessible ceiling .
 - 1) When an Audio Visual Control System Panel outlet is installed above the accessible ceiling, a purple adhesive dot shall be attached to the ceiling grid directly below the outlet location for future identification of the outlet location.
 - 2) When an accessible ceiling is not available, the designer shall coordinate with the audio/visual consultant to termination requirements.
 - 3) The designer shall coordinate with the audio/visual consultant to determine quantities and locations of projectors.

4. Wireless Access Point Outlet

- a. Install (1) white Category 6 cable with 20-foot slack loop at each wireless access point location, terminated with a white Category 6 modular jack placed in a surface mounted box and secured to the building structure when mounted above the accessible ceiling.
 - 1) When a Wireless Access Point outlet is installed above the accessible ceiling, a white adhesive dot shall be attached to the ceiling grid directly below the outlet location for future identification of the outlet location.
 - 2) When an accessible ceiling is not available, the outlet for the wireless access point shall be terminated in a 2-port single gang flush mounted faceplate located 6-inches below ceiling not to exceed 12-feet above finished floor.
 - 3) The designer shall coordinate with the City of San Antonio Information Technology Services Department to determine quantities and locations of wireless access points.

5. IP Camera Outlet

- a. Install (1) red Category 6 cable with 20-foot slack loop at each IP camera location, terminated on red category 6 modular jack placed in a surface mounted box and secured to the building structure when mounted above the ceiling.
 - 1) When an IP Camera workstation is installed above the accessible ceiling, a red adhesive dot shall be attached to the ceiling grid directly below the outlet location for future identification of the outlet location.

- 2) When an accessible ceiling is not available, the outlet for the IP camera shall be terminated in a 2-port single gang flush mounted faceplate located 6-inches below the ceiling not to exceed 12-feet above finished floor.
- 3) The designer shall coordinate with the City of San Antonio Information technology Services Department to determine quantities and locations of IP Cameras.

C. Patch Cables

1. MDF

a. Fiber Patch Cables – Duplex

- 1) In the MDF furnish to the City of San Antonio Information technology Services Department at the time of substantial completion (1) fiber optic patch cable plus 25 percent spare for each terminated strand.
- 2) Coordinate with City of San Antonio Information technology Services Department for patch cable types, connectors, lengths and colors.

b. Copper Patch Cables

- 1) In the MDF, furnish to the City of San Antonio Information Technology Services Department at the time of final substantial completion (1) 28 AWG Category 6 modular non-booted patch cable plus 25 percent spare for each terminated cable.
- 2) Coordinate with City of San Antonio Information Technology Services Department for lengths of patch cables.
 - a) Category 6 patch cables for each end user workstation outlet terminated shall be black.
 - b) Category 6 patch cable for each audio/visual outlet terminated shall be purple.
 - c) Category 6 patch cable for each wireless access outlet terminated shall be white.
 - d) Category 6 patch cable for each IP camera outlet terminated shall be red.

2. IDF

a. Fiber Patch Cables - Duplex

1. In each IDF furnish to the City of San Antonio Information Technology Services Department owner at the time of substantial completion (1) fiber optic patch cable plus 25 percent for each terminated strand.
2. Coordinate with City of San Antonio Information technology Services Department for patch cable types, connectors, lengths and colors.

b. Copper Patch Cables

- 1) In each IDF, furnish to the owner at the time of substantial completion (1) 28 AWG Category 6 modular non-booted patch cable plus 25 percent for each terminated cable.
- 2) Coordinate with City of San Antonio Information Technology Services Department for lengths of patch cables.
 - a) Category 6 patch cables for each end user workstation outlet terminated shall be black.
 - b) Category 6 patch cables for the active equipment side of each end user workstation outlet terminated shall be yellow.
 - c) Category 6 patch cable for each audio/visual outlet terminated shall be purple.
 - d) Category 6 patch cable for each wireless access outlet terminated shall be white.
 - e) Category 6 patch cable for each IP camera outlet terminated shall be red.

5.7. Grounding

A. Grounding shall be designed and installed in accordance with ANSI-J-STD- 607-8.

1. Install (1) Telecommunications Main Grounding Busbar (TMGB) in the MDF and (1) Telecommunications Grounding Busbar (TGB) in each IDF.
 - a. The TMGB and TGB shall be labeled.
2. Install a Telecommunications Bonding Backbone (TBS), #3/0 AWG stranded green insulated copper conductor in a star topology between the TMGB and each TGB in each building. When IDFs are stacked a single TBB can be daisy-chained between TGBs back to the TMGB.

3. Install an Equipment Bonding Conductor (EBC), #6 AWG green insulated conductor from the TMGB or TGB as applicable to each cable runway system, equipment rack, cabinet, lightning protector, or multi-pair cable with a metallic element.
 - a. Install a #3/0 AWG stranded green insulated copper conductor from the TMGB to the main building electrical service ground in each building.
 - b. In a metal frame (structural steel) building, where the steel framework is readily accessible within or external to the room; each TGB and TMGB shall be bonded to the vertical steel metal frame using a minimum #6 AWG conductor. The connection to building steel does not eliminate the requirement for the TBB or BC to the service ground.
4. Install a Grounding Equalizer Conductor, #3/0 AWG stranded green insulated copper conductor to interconnect multiple TBBs on the top floor and every 3rd floor when required by ANSI J-STD-607-B.
5. When exceeding 13 feet the conductors shall be sized at 2 kcmil per linear foot of conductor length up to a maximum of 3/0 AWG.

5.8. Labeling

1. Coordination with and approval by the City of San Antonio Information Technology Services Department is required on the specific site labeling schema.
2. All labels shall be typed (not handwritten)
3. Verify room numbers and confirm the final room numbering scheme prior to generating labels.
4. Horizontal Cables shall be labeled within 12 inches from the termination point inside the MDF/IDF.
5. Horizontal Cables shall be labeled within 6 inches from the termination point at the workstation end.
6. Backbone Fiber and Copper Cables shall be labeled within 12 inches of the visible end of the jacket.
7. Fiber Innerduct shall be labeled within 12 inches of the point of entry of the fiber optic enclosure.
8. Cables shall be labeled identically at both ends.
9. MDFs and IDFs Room shall be labeled (signage) with the permanent room designations that match the final building signage for cable labeling.

10. Equipment cabinets or racks in each MDF or IDF shall be labeled in sequential numeric order. Labels shall be centered on the top front of the equipment rack.
11. Fiber optic backbone cable labels shall contain the cable origin room number, the cable destination room number, fiber strand numbers, and type (i.e. MDFA150-IDFC126-48SM001-048).
12. Fiber optic enclosures shall be labeled alpha-numeric starting with the 1st fiber optic enclosure in the top of the 1st equipment rack. A label for each terminated strand shall be securely placed inside each fiber optic enclosure.
13. Fiber optic couplers panels in fiber enclosures shall be labeled at each end by strand denoting MDF and/or IDF the cable comes from, and strand number to and from respectively (i.e. 1 DFC126-48SM001-048).
14. Copper backbone cables labels shall contain the cable origin room number, the cable destination room number, and cable pairs (i.e. MDFA150-IDFC126/001-025).
15. Horizontal cables shall be labeled identically at each end with the destination end and origin room number, patch panel number, and port number. (i.e. 1 DFC126-C115-B5).
16. Patch panels in each closet shall be uniquely alphabetically labeled sequentially starting with the first Patch Panel in the top of the first equipment rack (i.e. A, B, C, D, E, etc.). Each MDF or IDF starts with A and shall not repeat a letter.
17. 110-type blocks shall contain the origin room number, destination room number, and pair numbers, under each pair termination. (i.e. MDFA150- IDFC126-PR 1-50). 110-type block labels shall be printed on product- specific label strips and placed into label holders.
18. Workstation Faceplates shall be labeled denoting origin MDF/IDF Room Number, patch panel, and port number (i.e. IDFC126-85).

5.9. Testing

- A. All test results shall be submitted to the owner along with all other final documentation. Test results shall be submitted in both PDF format and the Native Tester format along with the software needed to read the Native Tester Format.
- B. Terminated fiber optic strands shall be tested bi-directionally end to end be and certified in accordance with applicable industry standards and manufacturer certifications requirements with an OTDR field and Light Meter tester that is within their calibration period.
- C. Terminated backbone copper cable links shall be tested in accordance with applicable industry standards and manufacturer certification requirements for attenuation,

continuity, and pin-mapping with approved field tester(s) that are within their calibration period.

- D. Terminated Category 6 UTP cable links shall be tested in accordance with applicable industry standards and manufacturer certification requirements for Category 6 compliance with approved field tester(s) that are within their calibration period.

5.10. As-Built Documentation

- A. Produce drawings depicting the condition of the Structured Cabling System as installed produced in AutoCAD 2010 or higher and provided in hardcopy, electronically in .DWG and .PDF format. Include the exact dimensions and locations of MDF and IDF layouts, wall elevations, equipment cabinet elevations, cable runways, cable tray, sleeves, backbone and horizontal cable pathways, workstation locations, and numbering and labeling scheme.
- B. A half-size hard copy of the as-built drawings for the applicable region served by the MDF and/or IDFs shall be provided in MDF and each IDF for reference.
- C. Produce cable records for the Structured Cabling System as installed to include a list of all horizontal and backbone cables produced in an Excel format and provided in hardcopy and electronic format indicating cable number, unique cable label, cable type, origin and destination, length, termination method, and pass/fail result.
- D. Produce (3) hard copies of all test results for each cable, to include technician's name and date stamp, a list of tested cables, and the individual results for each cable tested. Test results shall be furnished on CD ROM to include native file format and .PDF format.

PART 8 - SUMMARY OF STANDARDS

8.1 Summary

- A. All aspects of this City of San Antonio Structured Cabling Infrastructure Standards shall be applied to the design process for new, leased and renovated facilities.
- B. A Division 27 specification and T-Series drawings for the Structured cabling System shall be commissioned and issued by the Architect during the design phases for each facility or project. Drawings and specifications shall be sealed with a current RCDD stamp.

PART 9 - EXHIBITS

EXHIBIT 1 - ACCEPTABLE MANUFACTURERS / PRODUCTS

- A. The following list of manufacturers / products is provided for reference only and is not all inclusive. All manufacturers / products shall be verified by the designer for each project and confirmed with The City of San Antonio Information Technology Services Department prior to issuing any construction documents.
- B. Where specific manufacturers / products are mentioned, an equivalent will be considered following an official submission of product literature and written acceptance by the City of San Antonio Information Technology Services Department.
- C. Fiber Optic Backbone Cable
1. Indoor
 - a. 9/125 μ m Single-Mode Plenum Rated Armored
 - 1) Panduit
 - 2) Chromatic
 - 3) Commscope
 - 4) Corning
 - 5) Systemax
 2. Outdoor Underground
 - a. 9/125 μ m Indoor/Outdoor Single-Mode Armored
 - 1) Panduit
 - 2) Chromatic
 - 3) Commscope
 - 4) Corning
 - 5) Systemax
 3. Outdoor Aerial
 - a. 9/125 μ m Indoor/Outdoor Single-Mode Armored
 - 1) Panduit

- 2) Chromatic
- 3) Commscope
- 4) Corning
- 5) Systimax

4. Fiber Optic Fabric Innerduct

a. Indoor Plenum Rated

- 1) MaxCell

b. Outdoor

- 1) MaxCell

D. Copper Backbone Cable

1. Indoor

a. Category 3 24 AWG Unshielded Twisted Pair (UTP) Plenum (White Sheath)

- 1) General
- 2) Mohawk
- 3) Superior
- 4) Systimax

2. Outdoor Underground

a. Category 3 24 AWG Unshielded Twisted Pair (UTP) Flooded (PE-89)

- 1) General
- 2) Mohawk
- 3) Superior
- 4) Systimax

3. Outdoor Aerial

a. 24 AWG Unshielded Twisted Pair (UTP) Self-Supported

- 1) General
- 2) Mohawk
- 3) Superior
- 4) Systimax

E. Horizontal Cable

1. Category 6 UTP Plenum (Minimum 350 MHz)

a. Network Access (Yellow Sheath)

- 1) General
- 2) Panduit

b. Wireless Access Points (White Sheath)

- 1) General
- 2) Panduit

c. AV Access (Purple Sheath)

- 1) General
- 2) Panduit

d. IP Security (Red Sheath)

- 1) General
- 2) Panduit

F. Fiber Optic Cable Termination

1. Fiber Enclosure

- a. Panduit Opticom Rack Mount Fiber Enclosure – Part No. FRMEXX

2. 9µm Single-Mode Fiber Coupler Panel

- a. 9µm Panduit Opticom LC Fiber Adapter Panel - Part No. FAP6WBUDLCZ

3. Fiber Blank Panel
 - a. Panduit Opticom Blank Fiber Adapter Panel – Part No. FAPB
4. 9µm Single-Mode LC Pigtails
 - a. Panduit Opti-Core OS1/OS2 Single-Mode Fiber Optic Pigtails (LC to Pigtail) – Part No. F9B10-NM1Y
5. Loose Tube Fiber Fan-Out Kit
 - a. Panduit

G. Copper Cable Termination

1. Building Entrance Terminals
 - a. Primary Copper Protectors
 - 1) Circa 50-Pair 110 Style Lightning Protection Block
 - 2) Solid State Digital Series Surge Protection Modules
2. Backbone Cable Termination Panels
 - a. Rack Mounted Voice Patch Panels
 - 1) Panduit Voice Patch Panel – Part No. VP24382TV25Y
3. Category 6 Horizontal Rack Mounted Patch Panels
 - a. Category 6 48-Port Patch Panels – Panduit Mini-Com Flush Mount Modular Patch Panels - Part No. CPP48FMWBLY
4. Category 6 Modular Jacks
 - a. Network Access
 - 1) Equipment Room/Telecommunications Room End (Black)
 - a) Panduit Mini-com TX6 Plus UTP Jack Modules Part No. CJ688TGBL
 - 2) Field End (Ivory)
 - a) Panduit Mini-Com TX6 Plus UTP Jack Modules Part No. CJ688TGEI

- b. Wireless Access Points
 - 1) Equipment Room/Telecommunications Room End (White)
 - a) Panduit Mini-Com TX6 Plus UTP Jack Modules Part No. CJ688TGWH
 - 2) Field End (White)
 - a. Panduit Mini-Com TX6 Plus UTP Jack Modules Part No. CJ688TGWH
 - c. AV Access (Violet)
 - 1) Equipment Room/Telecommunications Room End (Violet)
 - a) Panduit Mini-Com TX6 Plus UTP Jack Modules Part No. CJ688TGVL
 - 2) Field End (Violet)
 - a) Panduit Mini-Com TX6 Plus UTP Jack Modules Part No. CJ688TGVL
 - d. IP Security
 - 1) Equipment Room Telecommunications Room End (Red)
 - a) Panduit Mini-Com TX6 Plus UTP Jack Modules Part No. CJ688TGRD
 - 2) Field End (Red)
 - a) Panduit Mini-Com TX6 Plus UTP Jack Modules Part No. CJ688TGRD
5. Telecommunications Faceplates with Designation Window
- a. 2-Port Single Gang Flush (Stainless Steel)
 - 1) Panduit Mini-Com Stainless Steel Faceplates with Labels Part No. CFPL2SY
 - b. 4-Port Single Gang Flush (Stainless Steel)
 - 1) Panduit Mini-Com Stainless Steel Faceplates with Labels Part No. CFPL4SY
 - c. 4-Port Double Gang Flush (Stainless Steel)
 - 1) Panduit Mini-Com Stainless Steel Faceplates with Labels Part No. CFPL6S-2GY
6. Wall Phone Faceplate (Stainless Steel)

- a. Panduit Phone Wall Plate Module Part No. KWP6PY
- 7. 2-Port Surface Mount Box (White)
 - a. Panduit Mini-Com Surface Mount Box Part No. CBXJ2HW-A
- 8. Blank Insert (White)
 - a. Panduit Mini-Com Blank Module – Part No. CMBWH-X
- H. Equipment Racks, Cabinets, Wire Management, and Accessories
 - 1. Two-Post Rack - 19" x 84" Open Frame (Black)
 - a. Panduit Part No. CMR19x84NU
 - 2. Four-Post Open Frame Rack - 23 .3" x 84" x 30 .2" (Black)
 - a. Panduit Part No. CMR4P84
 - 3. Equipment Cabinet (Black)
 - a. Chatsworth F-Series TeraFrame Gen 3 Cabinet Part No. FF2J-113B- C22A
 - b. Chatsworth CUBE-iT Wall-Mounted Cabinet 48" H X 24" W X 30" D Black Part No. 11996-748
 - c. Chatsworth Thin-Line II Wall-Mounted Cabinet 36" H X 26" W X 12" D 6U Part No. 13050-723
 - 4. Vertical Wire Managers (Black)
 - a. Patch Runner Double Sided Vertical Cable Management System Panduit - Part No. PRV6
 - b. Patch Runner Vertical Cable Management Door Panduit - Part No. PRD6
 - c. Chatsworth F-Series TeraFrame Gen 3 Finger Cable Manager—Part No. 39112-C14
 - 5. Horizontal Wire Managers (Black)
 - a. Net Manager Double Sided High Capacity Horizontal Cable Mangers Panduit - Part No. NCMH2

I. Cable Runway (Ladder Type)

1. 12" Universal Cable Runway
 - a. Chatsworth - Part No. 10250-712
2. 12" Cable Runway Radius Drop, Cross Member
 - a. Chatsworth - Part No. 12100-712
3. 12" Cable Runway Radius Drop, Stringer
 - a. Chatsworth - Part No. 12101-712
4. 18" Universal Cable Runway
 - a. Chatsworth - Part No. 10250-718
5. 18" Cable Runway Radius Drop, Cross Member
 - a. Chatsworth - Part No. 12100-718
6. 18" Cable Runway Radius Drop, Stringer
 - a. Chatsworth - Part No. 12101-718
7. Cable Runway Butt-Splice Kit
 - a. Chatsworth - Part No. 11301-701
8. Cable Runway Junction-Splice Kit
 - a. Chatsworth - Part No. 11302-701
9. Cable Runway Butt-Swivel Splice Kit
 - a. Chatsworth - Part No. 10487-701
10. Rack-to-Runway Mounting Kit
 - a. Chatsworth - Part No. 10595-712

11. Cable Runway Elevation Kit for Racks
 - a. Chatsworth - Part No. 10506-706
12. Cable Runway Elevation Kit for Cabinets
 - a. Chatsworth - Part No. 10506-716
13. 12" Triangular Support Bracket, Aluminum
 - a. Chatsworth - Part No. 11312-712
14. 12" Wall Angle Support Kit, Cable Runway
 - a. Chatsworth - Part No. 11421-712
15. 18" Triangular Support Bracket, Aluminum
 - a. Chatsworth - Part No. 11312-718
16. 18" Wall Angle Support Kit, Cable Runway
 - a. Chatsworth - Part No. 11421-718
17. 90 Degree Runway-Splice Kit
 - a. Chatsworth - Part No. 11314-701
18. 45 Degree Runway-Splice Kit
 - a. Chatsworth - Part No. 11313-712
19. Foot Kit, Cable Runway
 - a. Chatsworth - Part No. 11309-001
20. Vertical Wall Brackets (pair)
 - a. Chatsworth - Part No. 10608-701
21. Threaded Ceiling Kit, Cable Runway
 - a. Chatsworth - Part No. 11310-001

22. Threaded Rod Cover

- a. Chatsworth - Part No. 11085-001

23. Protective End Caps for Cable Runway

- a. Chatsworth - Part No. 10642-001

24. End Closing Kit, Cable Runway

- a. Chatsworth - Part No. 11700-712

J. Pathway Cable Support

1. Panduit J-Mod Cable Support System
2. Erica – CADDY CAT LINKS J-Hook Series
3. Panduit Plenum Rated Hook & Loop (Black)

K. Grounding and Bonding

1. Grounding Bus Bar, 20

- a. Chatsworth - Part No. 40153-020

2. Grounding Bus Bar, 12"

- a. Chatsworth - Part No. 13622-012

3. Cable Runway Ground Strap Kit

- a. Chatsworth - Part No. 40164-001

4. One Mounting Hole Ground Terminal Block

- a. Chatsworth - Part No. 08009-001

5. Horizontal Rack Ground Bar for Wall Mount Cabinet

- a. Chatsworth - Part No. 10610-019

6. #6 AWG Solid Green Insulation Ground Wire

- a. Superior Essex - Part No. 12-018-04

7. #3/0 Stranded Green Insulation Ground Wire

8. Cable Sheath Bonding Clamp

L. Labeling

1. Permanent Labels for Fiber Optic Cables
 - a. Brady
 - b. Panduit Self Laminating Labels
2. Permanent Labels for Innerduct
 - a. Panduit Dome-Top Ty Marker
3. Permanent Labels for Copper Cables
 - a. Panduit Self-Laminating Labels
4. Permanent Labels for Backbone Fiber Optic Cables
 - a. Panduit Dome-Top Ty Marker
5. Permanent Labels for Patch Panels
 - a. Panduit Component Label
6. Permanent Labels for Faceplates
 - a. Panduit Component Label

M. Fire Stop

1. STI Spec Seal Part No.
2. 3M Products Part No.

N. Plywood

1. 8' H x 4' W x %" Sheets of BC grade fire-rated plywood

O. Fire Retardant Paint (White)

P. Fiber Patch Cables

1. Panduit

2. Corning

Q. Copper Patch Cables

1. Panduit

EXHIBIT 2 – TYPICAL DETAILS

INSERT EXHIBITS HERE

SECTION 6 – CONCESSION SIGNAGE CRITERIA**6.1. Scope**

This signage and graphic design standard incorporates the latest revisions of Operating Instructions to provide Tenants with the criteria and standards for signage.

6.2. Applicability

All Tenants who desire to erect signage of any description on property leased from SAAS will be bound by this signage and graphic design standard.

6.3. Procedure

All requests for all signage will be submitted to Properties and Concession's Manager as a Tenant improvement Project. Sketches and graphic designs must accompany each request.

The precise typeface must be accurately represented, to scale, on elevation drawings of the surface on which the proposed signage to be installed. Exterior elevations must show the entire face of the lease space/building. Signage must remain within predetermined boundaries. All power requirements and installation details must be included. Shop drawings must be submitted illustrating: sign height placement, signage height, thickness, mounting applications, colors, and overall width.

Request for promotional signs and displays will be submitted to the Properties and Concession's Manager using the Signage Concept Proposal Information Sheet. This form must be submitted at least 30 days prior to the requested date for the display.

6.4. General Rules

Except for locations where company name or logo may be displayed, all text Airport Standards

- All Tenant (including sub-tenant) signs must be of an informative nature. "For Sale," "For Lease," or "For Rent" signs are not permitted.
- Signs are not permitted on roof top or to be attached to structural room members
- All signs shall be surface mounted or recessed to a flush condition. Mounting conditions and heights within the Terminal may vary. Appearance of sign mounting locations conditions cannot be altered. Signs painted on any surface of a building are not permitted.
- Flashing, blinking, neon signs are not permitted.
- Altering of portals is not permitted.
- Portable signs are not permitted.
- Signs on doors and windows are not authorized except as permitted by this policy

- Exposed mounting devices, crossovers, conduit or raceways are not permitted
- All signs must meet safety standards. All illuminated signs must bear the Underwriters Laboratories, Inc. label and meet all local code requirements
- Signs of a promotional nature are not permitted except as permitted by this policy
- Handwritten signs are not permitted.
- Signs not covered in this policy are not permitted.

6.5. Promotional Signs

Promotional signs are defined as any sign, banner, flag, or display of any size, configuration, color or method of attachment or installation within the Tenant's leasehold, which is intended to promote a specific product or service for a limited period of time .

Promotional signs requiring electrical power must be submitted to Concession's Manager and Construction and Development division for review and approval 30 days prior to installation. Substitution or replacement in kind of existing previously approved signs requiring electrical power must be approved by the Concession's Manager and Construction and Development division to installation.

All promotional signs intended for display for 30 calendar days or less must be approved by the Concession's Manager prior to installation. The approval will be for a specified length of time. The promotional sign must be removed at the end of the period of approved display, all installation device and fasteners removed, and the surface(s) on which installation occurred restored to their condition prior to the installation. At the discretion of the Concessions Division, up to two (2) extensions may be granted up to a maximum display period of ninety (90) calendar day.

Promotional signage must be maintained in good condition for the duration of display. Any such signage which is not maintained in good condition by the Tenant will be removed by SAAS without prior notice to the Tenant.

Promotional signs must not be at variance with provisions of SAAS advertising Agreements or of any other provisions of this Specification Manual.

6.6. Miscellaneous Signs

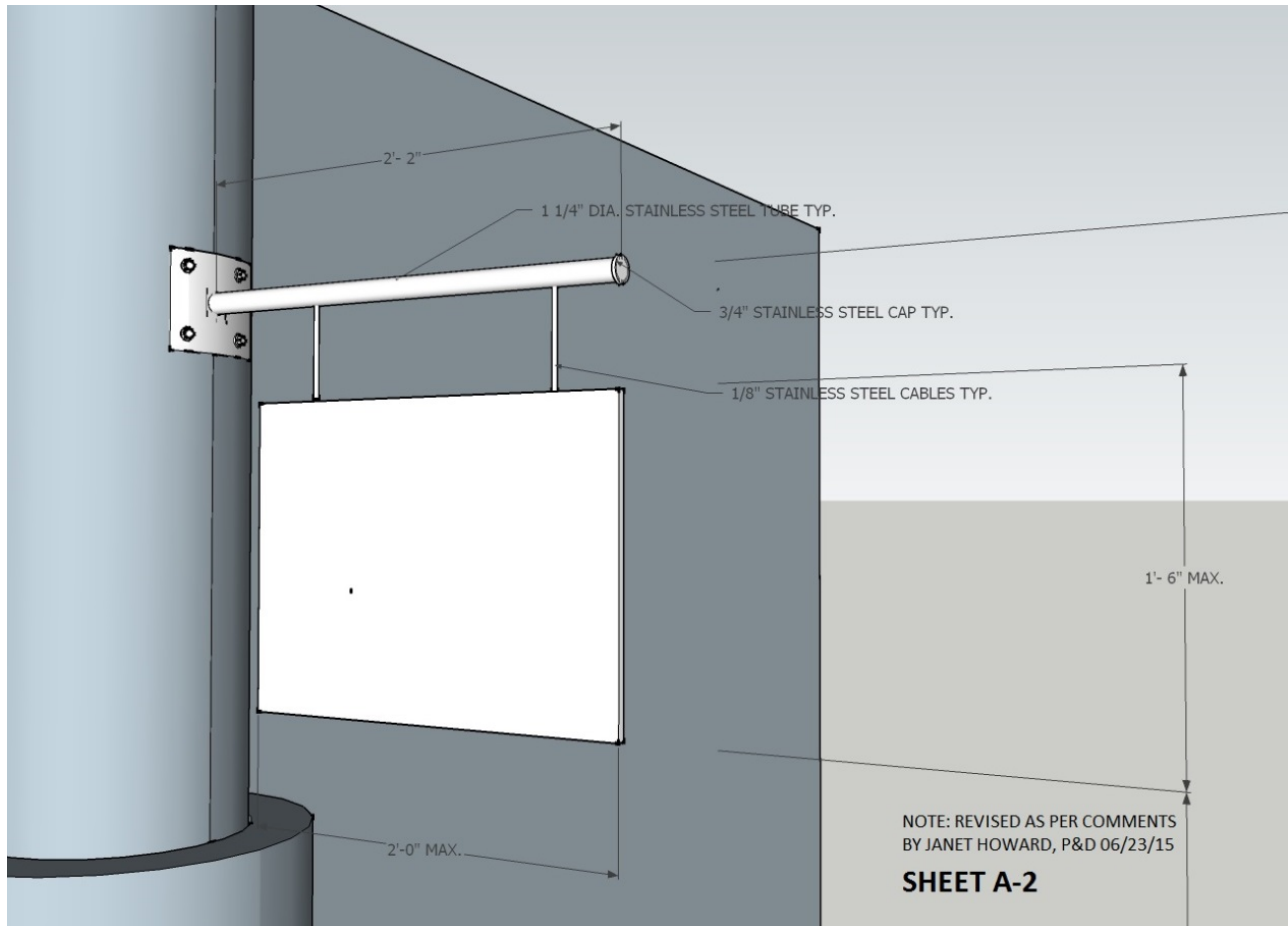
Signage on personnel doors within the Terminals must be approved by the SAAS. Personnel door may be marked as to the function (i.e., "Lost and Found"). These signs shall be installed per ADA requirement Size, color and font to be provided at a later date.

Use of Pedestal signs must be approved by Concession's division. If approved, pedestal signs must remain within the leasing boundaries. Handwritten signs are prohibited.

6.7. Blade Signs

All Tenants located in a location with a blade sign pole on the store front must design and fabricate a blade sign according to the following dimensions:

- 18" maximum height
- 24" maximum wide
- 2" maximum thickness
- 1/8" stainless steel cable to hang the sign
- Maximum 10 lbs.
- 7'-4" walking clearance under sign





GENERAL INFORMATION

SIGNAGE CONCEPT PROPOSAL INFORMATION SHEET

Date: _____

Tenant: _____

Tenant Representative: _____

Address: _____

Phone Number: _____

Fax Number: _____

Email: _____

SIGNAGE AND GRAPHICS

Promotional Materials and Temporary Displays: (attaching drawings and examples is encouraged)

Location: _____

Dates of Display: _____

Description of Display: _____

Description of Promotional Material Content (Color, Size, Etc.) _____

Permanent Signage: (attach drawings and specifications showing materials and locations) Reason and Justification for Signage:

SECTION 7 – CLEANING AND PREVENTATIVE MAINTENANCE REQUIREMENTS

All items must be cleaned, maintained, serviced and must be in top operational condition while at the airport. At a minimum, Tenant shall perform the following maintenance, if applicable:

Daily:

- Sweep and mop floors;
- Clean counters, tables and chairs (does not apply to food court seating);

Weekly:

- Empty and sanitize all ice bins;
- Clean all refrigerated fan guards;
- Clean fryer coils;
- Clean coffee machines form mineral build-up;
- Check all air vents and remove dust build-up;

Monthly:

- Empty cooking oil tallow bins into vat;
- Perform pest control throughout lease space;
- Perform “Liquid Wastewater Treatment” for all drain lines (sinks, mop sinks, floor drains, etc.);
- Clean exhaust goods and remove and power wash all exhaust filters;

Quarterly:

- Service grease traps and intercepts up to the City tie-ins.

Semi-Annually:

- Clean interior of exhaust hood and vents from hood to roof;
- Perform hydro jet and auguring of sewer lines up to the City tie-ins;
- Inspect fire suppression equipment above all grills and stove;
- Inspect annual fire suppression system;

Annually:

- Inspect all fire extinguishers;
- Backflow Prevention Device must be inspected per San Antonio Water Systems requirements;

All items pertaining to sanitation and safety not identified must be cleaned and maintained at all times. All equipment must be serviced by the appropriately certified personnel.

SECTION 8 – WILDLIFE CONCERNS

- a) Any landscape changes must be reviewed and approved by Airport Wildlife Biologist
- b) All trash cans and dumpsters must be covered and emptied regularly
- c) NO feeding of birds/Animals on airport property
- d) NO ponding water

If you have any questions or concerns, please contact the Airport Wildlife Biologist at (210) 207-1663 or marcus.machemehl@sanantonio.gov.

EXHIBIT E

STREET PRICING POLICY AND REQUIREMENTS

1. **Pricing.** Concessionaire acknowledges the Airport's objective to provide passengers and employees high quality merchandise at reasonable prices. Concessionaires shall provide quality food & beverage, specialty retail, newsstand, and gifts at prices that do not exceed ten percent (10%) above the average price charged for the similar or identical products at identical or similar concepts in the San Antonio Metropolitan area for The San Antonio International Airport's approval. For duty free concession vendors, where there are no comparable off- airport operations, the pricing policy requires that the prices of duty free merchandise and products that do not exceed ten percent (10%) above the average price charged in duty free stores other airports in the southwestern U.S.

A. For merchandise with a pre-printed price affixed by the manufacturer or distributor, the selling price at the Airport shall not exceed the pre-printed price;

B. Nationally and locally branded concepts shall be compared to three (3) locations of the same brand located in the San Antonio metro area. Locations found closer to the Airport shall not be left out of comparisons.

1. If there are not three (3) locations of the same brand located in the San Antonio metro area, Concessionaire must benchmark against as many of the same brands locations as possible.

C. For all non-branded, proprietary, or branded concession locations not represented off-Airport in the San Antonio metropolitan area, the price for merchandise at the Airport shall not exceed the average price, by more than ten percent (10%) for the same or similar merchandise (of like size and quality). Three Price Benchmark Establishments must be selected by Concessionaire. Three (3) additional Price Benchmark Establishments may be selected by the Airport, if the Airport believes that the concessionaire has left out comparable locations in favor of locations that maintain a pricing structure that does not provide value to the customer. In such case, the price for merchandise shall not exceed the average price, by more than ten (10%) for the same or similar merchandise at the six (6) locations.

2. **Price Benchmark Establishments.** No less than sixty (60) days prior to the Rental Commencement Date, Concessionaire must submit to the Authorized Representative the names and addresses of at least three (3) locations, the Airport shall submit to Concessionaire its list of three (3) Price Benchmark Establishments.

A. Food & Beverage and specialty retail locations are comparable to food & beverage establishments located in the San Antonio metropolitan area.

B. News and Gift (Convenience) locations are comparable to neighborhood convenience stores such as Walgreens and CVS, as well as national gas stations like Phillips 66 and Valero. At least one (1) neighborhood convenience store or national gas station must be used in Price Benchmark Establishments in reports for News and Gift (Convenience) locations.

C. Amendments to Benchmarks. Once approved by the Airport, the businesses (hereinafter referred to as the Price Benchmark Establishments) will be used as the basis for price comparisons during the remainder of the Term. In the event any of the Price Benchmark Establishments ceases operations or, in the sole discretion of the Airport, alters its concept, branding, service style, merchandise selection or menu so as to no longer be a valid comparison, Concessionaire must propose a substitute Price Benchmark Establishment for approval by the Airport.

3. Price Surveys. No later than sixty (60) days prior to the Rental Commencement Date and prior to the beginning of each year of the Term, Concessionaire shall, at its own expense, prepare a product and price survey of the Price Benchmark Establishments that demonstrates, to the satisfaction of the Airport, Concessionaire's compliance with the pricing standards herein. Concessionaire shall also provide to the Authorized Representative, a price list of each and every item and service to be sold at a concessions location which shall be subject to approval of the Airport. Further, at any time during the Term, Concessionaire shall provide a current product price list to the Authorized Representative within ten (10) days of written request by the Authorized Representative.

4. Price Changes. Throughout the Term, Concessionaire may request changes to pricing no more than twice a year. Requested price changes must be submitted in writing and include such information and data as reasonably requested by the Authorized Representative including, but not limited to, the results of price surveys or other economic justification supporting the requested price change(s). The Airport shall, in its sole discretion, determine which, if any, price changes are consistent with the Pricing Standard and shall notify Concessionaire in writing of its approval or rejection of each requested price change. No later than ten (10) days after any adjustment to prices, the Parties agree to modify the product price list to incorporate said price adjustments. Modification will be confirmed by letter written acknowledgment from, or on behalf of, the Airport without need for formal amendment to the Agreement.

5. Price Conformance. At any time during the Term, the Airport may survey or cause to be surveyed, prices being charged for goods or services offered by Concessionaire. The Airport shall have the right to monitor and test all of Concessionaire's merchandise prices by a shopping service or the Airport's personnel. If the Airport concludes, based on the results of the survey, that any prices being charged by Concessionaire do not comply with the Pricing Standard, the Airport will require Concessionaire to adjust prices to the amounts permitted herein.

6. Price Adjustments. Concessionaire shall, within three (3) days of written notice from the Airport, adjust any prices that the Airport determines, in its sole discretion, to be inconsistent with the pricing standard. Failure to rectify any pricing discrepancies within the aforementioned three (3) business days constitutes a material breach by Concessionaire of this Agreement and will be assessed fines as set forth herein.

7. Deficiency Penalty-Pricing Policy. In addition to performance standards fines which may be assessed upon initial notice of noncompliance, Concessionaire is subject to deficiency penalties for failing to rectify any pricing discrepancies within the aforementioned three (3) business days. The deficiency penalty for failure to comply with the pricing policy shall be \$100 per item per day.

EXHIBIT F
AIRPORT CONCESSIONS
DISADVANTAGED BUSINESS ENTERPRISE,
GOOD FAITH EFFORT PLAN AND APPROVED SUBCONTRACTOR LIST

[to be inserted from Concessionaire's proposal]

RFP ATTACHMENT E

DBE/ACDBE FORMS

SAN ANTONIO INTERNATIONAL AIRPORT
DBE/ACDBE GOOD FAITH EFFORT PLAN
FOR FEDERALLY FUNDED CONTRACTS
(DBE/ACDBE FORM 1)

NAME OF PROJECT: Food, Beverage, and Retail Prime Concessionaire

RESPONDENTS INFORMATION:

Name of Respondent: Paradies Lagardere @ SAT, LLC

Address: 2849 Paces Ferry Road, 4th floor

City: Atlanta State: GA Zip Code: 30339

Contact Person: Gregg Paradies Telephone: 404-344-7905

E-mail Address: gregg.paradies@paradies-na.com

Is your firm certified? Yes No

Type of Certification: DBE/ACDBE MBE WBE AABE SBE

Age of Firm (Number of Years in Business): _____ years

Annual Gross Receipts of the Firm: Less than \$500,000 \$500,000 to \$1 million
 \$1 million to \$2 million \$2 million to \$5 million
 Over \$5 million

1. **List ALL SUBCONTRACTORS/SUPPLIERS that will be utilized on this contract. Submit a Letter of Intent (LOI) (DBE/ACDBE Form 2) for all firms to be utilized on this contract to the Aviation Department's DBE/ACDBE Liaison Officer. If the Aviation Department does not receive completed LOIs, from the Respondent, then the Respondent's Good Faith Effort Plan will not be approved. An approved Good Faith Effort Plan is required prior to award of any contract. List ALL SUBCONTRACTORS/SUPPLIERS that will be utilized on this contract. The apparent successful proposer for professional services contracts shall submit a Letter of Intent (DBE/ACDBE Form 3) for all firms to be utilized on this contract to the Aviation Department's DBE/ACDBE Liaison Officer within seven (7) business days from the date a contract is negotiated. If the Aviation Department does not receive completed copies from the apparent successful proposer within seven (7) business days from the date a contract is negotiated, then apparent successful proposer's Good Faith Effort Plan will not be approved. An approved Good Faith Effort Plan is required prior to award of any contract.**

| Name & Address of Company | Scope of Work/Supplies to be Performed/ Provided by Firm | Estimated Contract or % Level of Participation | If Firm is DBE/ACDBE Certified, Provide Certification Number | Date Written Notice Was Sent and Method (Letter, Fax, E-mail) |
|--|--|---|--|---|
| 1. InMotion SAT, LLC 4801 Executive Park Ct., Suite 100 | iStore Subtenant | 25% ACDBE Participation (Through Joint Venture Partner) | 18-5-14426 | LOI sent 4/19/2018 |
| 2 Jacksonville, FL 32216 (Latrell's Galley, LP ACDBE | | | | |
| 3. Joint Venture Partner) | | | | |
| 4. | | | | |
| 5. | | | | |

(Use Additional Sheets if Necessary) If goal was met, skip to Item 9

2. List all firms you contacted with subcontracting/supply opportunities for this project that will not be utilized for this contract by choice of either the proposer, subcontractor, or supplier. **Written notices to firms contacted by the proposer for specific scopes of work identified for subcontracting/supply opportunities must be provided to subcontractor/supplier not less than five (5) business days prior to bid/proposal due date.** The following information is required for all firms that were contacted for subcontracting/supply opportunities:

| Name & Address of Company | Scope of Work/Supplies to be Performed/ Provided by Firm | Estimated Contract Amount or % Level of Participation | If Firm is DBE/ACDBE Certified, Provide Certification Number | Date Written Notice Was Sent and Method (Letter, Fax, E-mail) | Reason Agreement Was Not Reached |
|---------------------------|--|---|--|---|----------------------------------|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

(Use additional sheets as needed)

In order to verify a proposer's good faith efforts, it may be necessary to provide the City with copies of the written notices to all firms contacted by the proposer for specific scopes of work identified in relation to the subcontracting/supply opportunities in the above named project. If requested by the DBE/ACDBE Liaison, copies of said notices must be provided to the DBE/ACDBE Liaison within five (5) business days of such request. Such notices shall include information on the plans, specifications and scope of work.

3. Did you attend the pre-proposal conference scheduled by the City for this project? Yes No

4. List all DBE/ACDBE listings or directories, contractor associations, and/or any other associations utilized to solicit DBE/ACDBE subcontractors/suppliers:

5. Discuss efforts made to define additional elements of the work proposed to be performed by DBE/ACDBEs in order to increase the likelihood of achieving the goal:

6. Indicate advertisement mediums used for soliciting bids from DBE/ACDBEs. (Please attach a copy of advertisement(s)).

7. Discuss efforts made to assist interested DBE/ACDBEs in obtaining bonding, letters of credit, or insurance:

8. Discuss efforts made to assist interested DBE/ACDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services:

9. Name and phone number of person appointed to coordinate and administer the Federal DBE/ACDBE Good Faith Efforts of your company on this project.

Name: Karen Suttle Title: Sr Vice President

Phone Number: 404-344-7905

10. The Good Faith Effort Plan for Federally Funded Contracts must be approved by the Aviation Department's DBE/ACDBE Liaison Officer prior to award of contract.

11. The Federal DBE/ACDBE Good Faith Efforts Plan is subject to review by the Aviation Department's DBE/ACDBE Liaison, and final approval in determining whether Good Faith Efforts have been made rests with the Aviation Director.

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I FURTHER UNDERSTAND AND AGREE THAT THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

NAME AND TITLE OF AUTHORIZED OFFICIAL: Gregg Paradies, President

SIGNATURE:  DATE: 5/24/2018

FOR SAN ANTONIO INTERNATIONAL AIRPORT USE ONLY:

Plan Reviewed by _____ Date: _____
Signature of DBE/ACDBE Liaison

Recommendation: Approval: _____ Denial: _____

Action Taken: Approved: _____ Denied: _____

DBE/ACDBE LLC/Joint Venture Information
(DBE/ACDBE LLC JV FORM ~~DBE/ACDBE FORM 2~~)
 (to be submitted with LLC/JV agreement for review)

Please complete the following with regard to the proposed LLC/JV. For items 4 through 13 please reference the applicable section and page of the LLC/JV agreement at the end of the response.

1. Name of LLC/JV: **Paradies Lagardère @ SAT, LLC**
2. Name, address, and phone number of LLC/JV contact person:
Gregg Paradies, 2849 Paces Ferry Rd, 4th fl., Atlanta, GA 30339 / 404-344-7905
3. Firms participating in LLC/JV (use additional pages if necessary): **See Section 3 of the attached Model ACDBE Joint Venture Information Statement which identifies all four firms participating in the LLC/JV.**

| |
|---|
| Name of Firm: Paradies Lagardère @ SAT, LLC |
| Address: 2849 Paces Ferry Road, 4 th floor, Atlanta, GA 30339; |
| Phone Number: 404-344-7905 |
| Contact Name/Phone Number: 404-344-7905 |
| Percent Ownership: 75_ % |
| ACDBE: Yes__ No X Certifying Agency: |
| Type of Work for which Certification was Granted: |

4. ACDBE Initial Capital Contributions \$ **See Section 4 of the attached Model ACDBE Joint Venture Information Statement which presents the initial capital contributions by member**
5. Future Capital contributions (explain requirements): **See Section 5 of the attached Model ACDBE Joint Venture Information Statement which describes the capital call provisions of the Operating Agreement applicable to this LLC.**
6. Source of funds for the ACDBE capital contribution: **Cash Reserves** (If capital contribution is through a loan or loans from the non-ACDBE partner, promissory note or loan agreement must be submitted.)
7. Describe the portion of work or elements of the business controlled by the ACDBE. **See Section 7 of the attached Model ACDBE Joint Venture Information Statement which describes the work performed by the three ACDBE members.**
8. Describe the portion of work or elements of the business controlled by the non-ACDBE. **See Section 8 of the attached Model ACDBE Joint Venture Information Statement which describes the work performed by the non-ACDBE member.**
9. Describe the ACDBE's involvement in the overall management of the LLC/JV (e.g. participation on a management committee or managing board, voting rights, etc.). **See Section 9 of the attached Model ACDBE Joint Venture Information Statement which describes the management provisions of the Operating Agreement applicable to this LLC.**
10. Describe the ACDBE's share on the profits of the LLC/JV. **See Section 10 of the attached Model ACDBE Joint Venture Information Statement which describes the profit and loss allocation provisions of the Operating Agreement applicable to this LLC.**

11. Describe the ACDBE's share in the risks of the LLC/JV. **See Section 11 of the attached Model ACDBE Joint Venture Information Statement.**
12. Describe the roles and responsibilities of each LLC/JV participant with respect to managing the LLC/JV (use additional sheets if necessary): **See responses to Sections 7-10 above.**
 - a. ACDBE joint venture participant
 - b. Non-ACDBE LLC/JV participant
13. Describe the roles and responsibilities of each LLC/JV participant with respect to operation of the LLC/JV (use additional sheets if necessary): **See responses to Sections 7-10 above.**
 - a. ACDBE joint venture participant
 - b. Non-ACDBE LLC/JV participant
14. Which firm will be responsible for accounting functions relative to the LLC/JV's business?
The Paradies Shops
15. 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? **See Section 15 of the attached Model ACDBE Joint Venture Information Statement.**
16. 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 LLC/JV.

| | Non-ACDBE Firm | ACDBE Firm | LLC/JV |
|------------------|----------------|------------|--------|
| Management | 4 | 3 | 1 |
| Administrative | | | |
| Support | | | |
| Hourly Employees | | | 51 |

17. Please provide the name of the person who will be responsible for hiring employees for the LLC/JV. Who will they be employed by? **See Section 17 of the attached Model ACDBE Joint Venture Information Statement**
18. Are any of the proposed LLC/JV employees currently employees of any of the LLC/JV partners? Yes No

If yes, please list the number and positions and indicate which firm currently employs the individual(s).
19. Attach a copy of the proposed LLC/JV agreement, Promissory note or loan agreement (if applicable), and any and all written agreements between the LLC/JV partners. **The following documents are provided herewith: (i) Operating Agreement of Paradies Lagardere @ SAT, LLC, effective as of April 27, 2018 and (ii) separate Continuing Guaranty agreements executed by the three ACDBE Members and Paradies Lagardere @ SAT, LLC; and (iii) form of Line of Credit Promissory Note to be executed by Paradies and Paradies Lagardere @ SAT, LLC.**

Model ACDBE Joint Venture Information

1. **Name of Joint Venture:** *Paradies Lagardere @ SAT, LLC, a Texas limited liability company*
2. **Name, address and phone number of joint venture contact person:**

*Gregg S. Paradies, President
Paradies Lagardere @ SAT, LLC
2849 Paces Ferry Road, Overlook I, Suite 400
Atlanta, Georgia 30339
Gregg.paradies@paradies-na.com
(404) 344-7905*

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

Name of Firm: *The Paradies Shops, LLC, a Georgia limited liability company*
Address: *2849 Paces Ferry Road, Overlook I, Suite 400, Atlanta Georgia 30339*
Phone Number: *(404) 344-7905*
Contact name/phone number: *Gregg S. Paradies (404) 344-7905*
% ownership: 75%

ACDBE: yes no

Date of Certification:

Type of work for which certification was granted:

Name of Firm: *Bold Bites LLC*
Address: *800 Dolorosa, Suite 204, San Antonio TX 78207*
Contact name/phone number: *Carino Cortez-Haas / (210) 860-3565*
% ownership: 11.5%

ACDBE: yes no

Certifying Entity: *South Central Texas Regional Certification Agency*

Type of work for which certification was granted:

NAICS 541611 (Business management consulting services)
NAICS 541611 (Strategic planning consulting services)
NAICS 541613 (Marketing management consulting services)
NAICS 541614 (Customs consulting services)

Name of Firm: *Chelsea's Catering & Bar Service LLC*
Address: *217 Cactus, San Antonio TX 78203*
Contact name/phone number: *Tony Gradney / (210) 384-0808*
% ownership: 11.0%

ACDBE: yes no

Certifying Entity: *South Central Texas Regional Certification Agency*

Type of work for which certification was granted:

NAICS 722310 (Food concession contractors)
NAICS 722320 (Catering services)

Name of Firm: *Adelaide Services LLC*
 Address: *1325 N Flores #116, San Antonio TX 78212*
 Contact name/phone number: *Selena Aleman*
 % ownership: 2.5%

ACDBE: yes no

Certifying Entity: South Central Texas Regional Certification Agency
 Type of work for which certification was granted:

NAICS 453220 (Gift, Novelty and Souvenir Stores)
 NAICS 561720 (Janitorial Services)
 NAICS 722320 (Caterers)
 NAICS 722515 (Snack and Nonalcoholic Beverage Bars)

4. **ACDBE initial capital contribution** (highlighted in yellow – all are commensurate with ownership percentages):

| Member | Percentage Interest | Initial Capital Contribution * |
|--|---------------------|--------------------------------|
| <u>Paradies Member:</u> The Paradies Shops, LLC | 75.0% | \$798,750 |
| <u>ACDBE Member:</u> Bold Bites LLC | 11.5% | \$122,475 |
| Chelsea's Catering & Bar Service LLC | 11.0% | \$117,150 |
| Adelaide Services, LLC | 2.5% | \$26,625 |
| TOTAL | 100% | 1,065,000 |

5. **Future capital contributions** (explain requirements) *See Section 5.2 of the Operating Agreement for Paradies Lagardere @ SAT, LLC. ("JV Agreement"). This provision states that, if the Company's (JV) business requires additional funding, and the funding is not reasonably available from other sources (e.g., outside lenders), the Company can make a capital call on its four Members in which case each Member would be obligated to contribute its pro rata portion to bring in the amount determined necessary for the capital contribution. If a Member is unable to fund its portion (Defaulting Member), the other Members (Non-Defaulting Members) can make the capital contribution on behalf of the Defaulting Member (a Contribution Loan). The Contribution Loan will carry interest at Prime plus 2%, and is to be repaid from the Defaulting Member's distributions. If the Defaulting Member is an ACDBE, it must fund at least 15% of the capital contribution required and any Contribution Loan cannot exceed 85% of the capital contribution required of that Member. The Defaulting Member must also deliver to the lender a full recourse promissory note and either a personal guaranty or pledge/security agreement.*
6. **Source of funds for the ACDBE capital contribution:** *Cash reserves*
7. **Describe the portion of the work or elements of the business controlled by the ACDBE:**

Bold Bites: *Restaurant Operations.* Responsible for directing, overseeing and approving the following facets of the Company's operation of the Local Coffee operations, including: Menu planning and design; Product knowledge, including training of Associates on various menu features, keeping staff regularly informed as to new items, delivery schedules and promotions, customer service; Ensuring compliance with quality control standards and other obligations under the Local Coffee License Agreement.

Chelsea's: *Restaurant Operations.* Responsible for directing, overseeing and approving the following facets of the Company's operation of the Boss Bagels and Sip Brew Bar and Market operations, including: Menu planning and design; Product knowledge, including training of Associates on various menu features, keeping staff regularly informed as to new items, delivery schedules and promotions, customer service; Ensuring compliance with quality control standards and other obligations under the Boss Bagels and Sip Brew Bar License Agreements.

Adelaide: *Local/Regional Gifts and Souvenirs Merchandising.* Responsible for directing, overseeing and approving the following facets of the Company's merchandising of local and regional gifts and souvenirs, including: Inventory management, identification of re-ordering needs, Product knowledge, including keeping staff regularly informed as to new items, delivery schedules and promotions; Competitive shopping and price surveys, including conducting quarterly and multi-day, onsite physical surveys of competitor stores to locate new items, new vendors and monitor pricing

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

Paradies: Responsible for: *Back Office* (accounting, receiving, loss prevention); *Human Resources* (staffing, employee benefits administration, etc.); *Other Restaurant Operations* (commissary items, licensed brands other than those performed by ACDBE members, food safety and TiPS training, etc.); *Merchandising* (other than with respect to local/regional gifts and souvenirs), including with respect to sundries, luggage, jewelry, toys, eyewear, branded merchandise, etc.

9. 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.) *The Company is a "manager-managed" limited liability company which means that overall management is conducted through a board of directors, with certain actions requiring approval at the Member level. The Company has a seven-person board of directors, with Paradies designating four of the board members and each ACDBE Member designating one board member. In order to ensure that overall management and control attributes some level of control attributable to the ACDBE Members, the JV Agreement identifies numerous "major decisions" that require approval of a "Supermajority Vote of the Directors", which specifically require the approval of at least one ACDBE Director. Those major decisions (see Section 4.3.2) are: (i) mortgaging, selling, exchange pledging or transferring Company assets other than in the ordinary course of business; (ii) refinancing any Company indebtedness; (iii) borrowing funds, incurring debt or making capital expenditures in excess of \$500,000 during any year (except during initial construction of stores which was pre-approved by all Members at the time they entered into the JV agreement), (iv) the making of any loans by the Company and (v) expansion of the Company's current business.*

Of those major decisions that require specific Member-action, these, too, specifically require the approval of at least one ACDBE Member as follows: (i) merger of the Company or sale of

substantially all of the Company's assets; (ii) changing the number of directors constituting the board of directors; (iii) any act in contravention of the JV agreement or the Company articles and bylaws; (iv) any act making it impossible to carry on the Company's business; (v) using or assigning any rights to Company property for any non-Company purpose; (vi) any act that would increase a Member's liability for the debts and liabilities of the Company; (vii) dissolution; (viii) removing the President; and (ix) filling vacancies on the board of directors. The ACDBE Members' approval is also needed in order for a Member to transfer its interest in the Company and future amendments to the JV Agreement.

10. **Describe the ACDBE's share in the profits of the joint venture:** *See Sections 6.1(a) and (b) of the Operating Agreement. These provisions state that "net profits" and "net losses" of the Company are to be allocated among the Members pro rata in accordance with their respective ownership percentages. Section 7.1 of the Operating Agreement also provides for monthly distributions to the Members. These monthly distributions will aggregate four percent (4.0%) of the Company's monthly gross receipts and are distributed to the Members in accordance with the respective percentage interests (e.g., 75% to Paradies; 11.5% to Bold Bites; 11.0% to Chelsea's; 2.5% to Adelaide Services.) Section 7.2 of the Operating Agreement requires the Company to, at least annually, balance accounts and distribute the "Distributable Cash" in the following order: "(a)...An amount equal to the accrued but unpaid interest, and then the unpaid principal balance, of any outstanding indebtedness owed by the Company . . . shall be distributed to such third party in repayment of such loan(s) or other indebtedness"; and "(b) . . .The remaining Distributable Cash shall be distributed among the Members pro rata based on their respective Percentage Interests as follows: 75% to Paradies; 11.5% to Bold Bites; 11.0% to Chelsea's; 2.5% to Adelaide Services. The Company is also obligated to use best efforts to make annual tax distributions. The term "Distributable Cash" is defined to mean the excess, if any, of the Company aggregate cash receipts over the Company's expenditures from such cash receipts (including capital expenditures, debt service and debt reduction) and such amounts as the Directors determine are reasonable to retain for business purposes.*
11. **Describe the ACDBE's share in the risks of the joint venture:** *Each of the Members will put a proportionate share of its own capital at risk in the form of the required initial capital contributions (See Section 5.1 and Schedule B of the enclosed Operating Agreement as well as Section 4 above. Should the Company require additional capital contributions, all Members (including all three ACDBE members) must contribute a portion of the required capital contributions in accordance with their ownership percentages. We expect that remaining capital needed to fund construction build-out will be financed through a Paradies loan. The ACDBE Members will each guarantee (to the extent of its ownership percentage) in writing the payment of these loans to the extent the Company cannot pay the owed amounts in full.*
12. **Describe the roles and responsibilities of each joint venture participant with respect to managing the joint venture (use additional sheets if necessary):** *See responses to questions 7 through 10 above.*
 - a. ACDBE joint venture participant
 - b. Non-ACDBE joint venture participant
13. **Describe the roles and responsibilities of each joint venture participant with respect to operation of the joint venture (use additional sheets if necessary):** *See responses to questions 7 through 10 above.*

- a. ACDBE joint venture participant
- b. Non-ACDBE joint venture participant

14. Which firm will be responsible for accounting functions relative to the joint venture's business? *Paradies*
15. 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? *The Company's president (Gregg Paradies) has general authority by virtue of his position to obtain insurance, performance bonds, engage accountants and legal counsel.*
16. 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.

| | <i>Non-ACDBE Firm</i> | <i>ACDBE Firm</i> | <i>Joint Venture</i> |
|-------------------------|-----------------------|-------------------|------------------------|
| <i>Management</i> | 4 | 3 | 1 (GM) |
| <i>Hourly Employees</i> | | | 51 (hourly associates) |

17. Please provide the name of the person who will be responsible for hiring employees for the joint venture. Who will they be employed by? *The General Manager's employment, annual review, salary adjustments, etc. is a shared responsibility between Paradies and the three ACDBE members. The General Manager will make final decisions on hiring for the joint venture (including senior team leaders and hourly associates) with input from Paradies and the three ACDBE members. Four of the joint venture's executive officers are employees of Paradies (Gregg Paradies, Chuck Kersey, Bill Casey and Karen Suttle); one executive officer is Carino Cortez-Haas (Bold Bites); one executive officer is Tony Gradney (Chelsea's); and one executive officer is Selena Aleman (Adelaide Services)*

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

If yes, please list the number and positions and indicate which firm currently employs the individual(s).

19. Attach a copy of the proposed joint venture agreement, promissory note or loan agreement (if applicable), and any and all written agreements between the joint venture partners. *The following documents are provided herewith: (i) Operating Agreement of Paradies Lagardere @ SAT, LLC, effective as of April 27, 2018 and (ii) separate Continuing Guaranty agreements executed by the three ACDBE Members and Paradies Lagardere @ SAT, LLC; and (iii) form of Line of Credit Promissory Note to be executed by Paradies and Paradies Lagardere @ SAT, LLC.*

Schedule "A"

List of Members and Addresses of Record

The Members of the Company, set forth by Member Group, and their respective addresses of record with the Company are as follows:

Paradies: The Paradies Shops, LLC
2849 Paces Ferry Road, Overlook I, Suite 400
Atlanta, Georgia 30339
Attn: Gregg S. Paradies
Facsimile (404) 349-3226

ACDBE Members:

Adelaide: 1325 N. Flores, Suite 116
San Antonio, TX 78212
Attn: Selena Aleman
Facsimile (210) 855-0562
selena@adelaideservicesllc.com

Bold Bites: 800 Dolorosa, Suite 204
San Antonio, TX 78207
Attn: Carino Cortez-Haas
Carino.cortez@gmail.com

Chelsea's: 217 Cactus
San Antonio, TX 78203
Attn: Tony Gradney
Facsimile (210) 384-0811
tgradney@aol.com

SCHEDULE "B"

Member Company Percentages and Payment

The individual Members have previously purchased the following Interests in exchange for the following values and payments:

| Member | Percentage Interest | Initial Capital Contribution * |
|--|---------------------|--------------------------------|
| <u>Paradies Member:</u> The Paradies Shops, LLC | 75.0% | \$798,750 |
| <u>ACDBE Member:</u> Bold Bites LLC | 11.5% | \$122,475 |
| Chelsea's Catering & Bar Service LLC | 11.0% | \$117,150 |
| Adelaide Services, LLC | 2.5% | \$26,625 |
| TOTAL | 100% | 1,065,000 |

**Will be no less than 150% of the start up costs reflected in the Proposal including construction, engineering & design, initial inventory, furnishings, fixtures and equipment and working capital*

Package Cap-x (Single, hybrid Package of 7 F&B units and 3 Retail units in Terminal A):
\$ 7,100,000

SCHEDULE "C"

Formula for Periodic ("Excess Profit") Distributions

| | |
|--|----------|
| Cash Balance @: | \$ _____ |
| Less: | |
| 1. Estimated Income Taxes | (_____) |
| 2. Future Capital Expenditures Reserve | (_____) |
| 3. Balance Due on Company Indebtedness | (_____) |
| 4. Other Reserves | (_____) |
| 5. Retainage – Operating Capital | (_____) |
| Balance Available for Distribution | \$ _____ |
| Less: Distributions Previously Made | (_____) |
| FY Distribution | \$ _____ |

SCHEDULE "C-1"

Financial Criteria Applicable to All Distributions

Each of the following criteria must be met to make any distribution (e.g. monthly, tax and periodic distributions under Sections 7.1, 7.2 and 7.3 hereof)

- Solvency: Company must not have "negative" equity
- Retained earnings: Company must have accumulated profits to make a profit distribution (to avoid unintended distribution of capital triggering capital gain)
- Cash position: Company must have sufficient cash to pay the distribution to all Members – in no event shall the Company borrow money (including from any Member) to pay a distribution

SCHEDULE "D"

Roles and Responsibilities

ACDBE Members:

In addition to complying with all ACDBE reporting obligations and maintaining its ACDBE certification, the ACDBE Members' duties hereunder shall include, without limitation:

Bold Bites:

- *Restaurant Operations.* Responsible for directing, overseeing and approving the following facets of the Company's operation of the Local Coffee operations, including:
 - Menu planning and design;
 - Product knowledge, including training of Associates on various menu features, keeping staff regularly informed as to new items, delivery schedules and promotions, customer service;
 - Ensuring compliance with quality control standards and other obligations under the Local Coffee License Agreement.

Chelsea's:

- *Restaurant Operations.* Responsible for directing, overseeing and approving the following facets of the Company's operation of the Boss Bagels and Sip Brew Bar and Market operations, including:
 - Menu planning and design;
 - Product knowledge, including training of Associates on various menu features, keeping staff regularly informed as to new items, delivery schedules and promotions, customer service;
 - Ensuring compliance with quality control standards and other obligations under the Boss Bagels and Sip Brew Bar License Agreements.

Adelaide:

- *Local/Regional Gifts and Souvenirs Merchandising.* Responsible for directing, overseeing and approving the following facets of the Company's merchandising of local and regional gifts and souvenirs, including:
 - Inventory management, including generation of weekly reports, identification of re-ordering needs and slow moving inventory, directing pricing changes and flow of goods, monitoring and responding to monthly open-to-buy reports;
 - Specific store merchandising, including implementing all "hot market" events, directing daily merchandise maintenance including signage and visual standards;

- Product knowledge, including keeping staff regularly informed as to new items, delivery schedules and promotions;
- Competitive shopping and price surveys, including conducting quarterly and multi-day, onsite physical surveys of competitor stores to locate new items, new vendors and monitor pricing

All ACDBE Members:

- * *On-Airport Community Relationships and Partnerships.* Responsible for building and dictating the Company's affiliation with other parties at the Airport for purposes of promoting specific events as well as the Company's participation in Airport-sponsored community initiatives, holiday events and similar programs and events as requested by the Airport from time to time.
- * *Off-Airport Community Relationships and Partnerships.* Responsible for building and dictating the Company's affiliation with other parties outside of the Airport community for purposes of promoting specific events as well as the Company's participation in local (non-Airport) community-focused or charitable organizations. Responsible for determining and allocating the use of funds approved by the Board of Directors for charitable purposes.
- * *Participation in Trade Associations and Other Company Sponsored Events:* Responsible for participation in Airport Minority Advisory Council annual meetings (expenses to be reimbursed by the Company) as well as all annual partners' meetings and periodic training events sponsored by Paradies for the benefit of its joint venture partners nationwide (expenses to be reimbursed by the Company). The Company shall pay the expenses for one ACDBE Member to attend each AMAC annual meeting (on a rotating basis so that each ACDBE Member is able to attend once every three years).

Each ACDBE Member shall maintain, and make available to the Company and the other Members for inspection from time to time, all correspondence, reports, and other records relating to the performance of its duties required under this Schedule D.

Paradies:

Paradies' duties hereunder shall include, without limitation:

Back Office

- *Accounting Services.* Responsible for all accounting, bookkeeping and back office administration aspects of the Company including:
 - Accounting and record keeping services, including preparation of monthly profit/loss statement, balance sheets, and payroll functions;
 - Cash flow control and cash handling; banking procedures and reconciliation of bank accounts;
 - Insurance program administration and review;
 - Tax administration services, including timely preparation and delivering of all tax returns on behalf of the Joint Venture; and
 - Audit services, including staff audits at the Airport.
- *Receiving and Replenishment.* Responsible for all merchandise shipping and receiving (other than publications), product verification and ticketing, and distribution to the Company's stores on a daily basis.
- *Loss Prevention.* Responsible for all aspects of loss prevention, including the direction and training of Associates as to loss prevention policies, conducting of monthly audits, security programs and incident investigation services (including cooperation with local law enforcement as needed).
- *Budget.* Responsible for preparing a projected preliminary budget for each fiscal year at least forty-five (45) days before the start of such fiscal year.

Restaurant Related

- *Restaurant Operations.* Responsible for directing, overseeing and approving all other facets of the Company's food and beverage operations, including:
 - Sourcing and selection of commissary items, including meetings with local and national vendors, attendance at trade shows, product ordering;
 - Pricing and purchasing, including negotiation with vendors on cost, determining appropriate retail value, directing initial order quantities and delivery schedules;
 - Inventory management, including generation of weekly reports, identification of re-ordering needs and slow moving inventory, directing

pricing changes and flow of goods, monitoring and responding to monthly open-to-buy reports;

- Productivity analysis, including generating and reviewing weekly item reports;
 - Product knowledge, including training of Associates on various menu features, keeping staff regularly informed as to new items, delivery schedules and promotions, customer service;
 - Ensuring compliance with quality control standards and other obligations under other applicable franchise agreements.
- *Food Safety* - Train and administer ServSafe (Certified Food Safety Manager) and TiPS (responsible alcohol service training) for all associates including kitchen preparation, bartenders and waitstaff. +

Retail Related

- *Merchandising*. Responsible for directing, overseeing and approving all other facets of the Company's merchandising operations (other than with respect to local/regional gifts and souvenirs), including with respect to sundries, luggage, jewelry, toys, eyewear, branded merchandise including:
 - Sourcing and selection of merchandise, including meetings with local and national vendors, attendance at gift shows, determining merchandise artwork and design, product ordering;
 - Pricing and purchasing, including negotiation with vendors on cost, determining appropriate retail value, directing initial order quantities and delivery schedules; determining placement in stores, working with sales representatives on vendor replenished items;
 - Inventory management, including generation of weekly reports, identification of re-ordering needs and slow moving inventory, directing pricing changes and flow of goods, monitoring and responding to monthly open-to-buy reports;
 - Specific store merchandising, including directing all seasonal transition sets and product movement between stores, implementing all "hot market" events, directing daily merchandise maintenance including signage and visual standards, ensuring implementation of all brand store guidelines and standards

HR Related

- *Staffing*. Responsible for directing, overseeing and approving all facets of the Company's staffing needs including:
 - Recruiting, interviewing, training, counseling and supervising Associates and team leaders;
 - Training, including formulating and directing new hire training which includes badging, fingerprinting, parking, airport tour, register

training, loss prevention training and familiarization with employee handbook;

- Scheduling, including coordinating and preparing weekly work schedules for all Associates in the location to ensure proper staffing levels.
- *Benefits Administration.* Responsible for directing, overseeing and approving all facets of the Company's employee benefits programs including enrollment, monitoring and facilitating special requests, communication of enhancements or benefit changes.

Paradies shall maintain, and make available to the Company and the other Members for inspection from time to time, all correspondence, reports and other records relating to the performance of its duties required under this Schedule D.

Shared Responsibilities:

Each of the Members shall have shared authority over the additional roles and responsibilities set forth below:

- *Maintaining Airport Relationships.* Each of the Members shall take such steps as are reasonably necessary to stay well informed as to Airport related initiatives and to otherwise maintain strong relationships within the Airport community. Such steps shall include the following:
 - Regular attendance at monthly aviation advisory board meetings and sub-committee meetings as needed;
 - Regular attendance at quarterly tenant meetings;
 - Quarterly meetings with the Airport Business and Property Manager to discuss business opportunities;
 - Annual meetings with the Airport Executive Staff to outline the Company's business plan.
- *Monitoring Financial Condition.* Each of the Members shall take such steps as are reasonably necessary to stay well informed as to the Company's financial condition. Such steps shall include (i) the receipt and review of all monthly and other periodic financial statements delivered, (ii) the prompt delivery (and in any event no more than 15 days after receipt) of written notice to the other Member as to any disagreements, questions and/or requests for supplemental information such Member may have with respect to any matter reflected thereon and (iii) active participation in any discussions and/or approvals regarding such financial statements or their inclusion in any reports submitted to the Airport.
- *Participating in Management Staffing Matters.* Each of the Members shall take such steps as are reasonably necessary to ensure that the Company is managed by competent and experienced management

personnel. Such steps shall include (i) actively recruiting and interviewing potential management candidates, (ii) participating in decisions regarding initial hiring, counseling, promoting and/or terminating management personnel and (iii) administering periodic management reviews with the Regional Director.

**SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)
LETTER OF INTENT
FOR FEDERALLY FUNDED CONTRACTS
(DBE/ACDBE FORM 2)**

The requirements of 49 CFR Part 26 (Section 26.53), of the U.S. Department of Transportation, requires that all bidders/proposers comply with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/proposers to submit the following information from each Subcontractor/Supplier for this contract], and/or change or addition of subcontractors/suppliers on federally funded contracts (ACDBE Form 3)

NAME OF PROJECT: SAT RFP 18-014 Space TA 152 iStore by InMotion SAT, LLC

Name of bidder/proposer's firm: _INMOTION SAT,LLC

Address: 4801 EXECUTIVE PARK CT. ,SUITE100 Phone No.:904 332-0450

City: _JACKSONVILLE State: FL Zip:32216

Contact Person: _JEREMY SMITH Telephone: _904 332-0450 EXT.226

Name of Sub consultant/Supplier: LATRELLE'S GALLEY, LP

Address: 2131 GREEN OAK DR

City: HOUSTON State: TX Zip: 77339

Telephone: 281-359-9959 Contact Person: _CHRIS JAMES

Is the above firm Certified: Yes No If certified, Certification No: 18-5-11426

Type of Certification: ACDBE MBE WBE AABE SBE

If firm is certified, please attach a copy of the Certification Affidavit with this form.

Age of Firm (Number of Years in Business: _25 Years

Annual Gross Receipts of the Firm: Less than \$500,000 \$500,000 to \$1 million
 \$1 million to \$2 million \$2 million to \$5 million
 Over \$5 million

NAICS Code and/or Description of work to be performed by firm:

OWNERSHIP AND MANAGEMENT OF ELECTRONICS STORE

The bidder/proposer is committed to utilizing the above-named firm for the work described above. The estimated dollar value of this work is \$ 4,585,552 OVER THE TERM OF THE CONTRACT

Affirmation

The above named firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: [Signature]
Signature of Firm's Representative

5-23-18
Date

Title: Asst

NAME OF PROJECT: SAT RFP 18-014 Space TA 152 iStore by InMotion SAT, LLC

DECLARATION OF PRIME CONSULTANT:

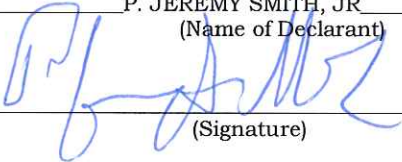
I hereby declare and affirm that I am the ___PRESIDENT
(Title of Declarant)

and a duly authorized representative of INMOTION SAT, LLC AND INMOTION ENTERTAINMENT GROUP, LLC
(Name of Prime Consultant)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the firm signed this form in the place indicated, and no material facts have been omitted.

The undersigned intends to enter into a formal agreement with the listed firm for work as indicated by this form and will, if requested, provide the Airport's DBE Liaison with a copy of that agreement within three (3) business days of execution.

P. JEREMY SMITH, JR
(Name of Declarant)


(Signature)

5/24/18
(Date)

SUBMIT THIS PAGE FOR EACH SUBCONSULTANT/SUPPLIER FOR THIS CONTRACT, AS LISTED ON ITEM 1 OF DBE GOOD FAITH EFFORT PLAN FOR FEDERALLY FUNDED CONTRACTS [DBE FORM 1] AND/OR CHANGE OR ADDITION OF SUBCONTRACTORS/SUPPLIERS ON FEDERALLY FUNDED CONTRACTS (DBE FORM 3)

IF THE BIDDER/OFFEROR DOES NOT RECEIVE AWARD OF THE PRIME CONTRACT, ANY AND ALL REPRESENTATIONS IN THIS LETTER OF INTENT AND AFFIRMATION SHALL BE NULL AND VOID.

April 19, 2018

InMotion Entertainment Group, LLC
4801 Executive Park Court
Suite 100
Jacksonville, Florida 32216
Attention: Jeremy Smith, President

Re: Letter of Authorization issued by **Inmotion Entertainment Group d/b/a iStore** to **The Paradies Shops, LLC d/b/a Paradies Lagardère Travel Retail** ("Paradies") for San Antonio International Airport

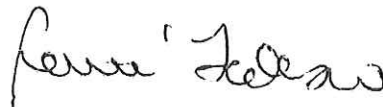
Dear Mr. Smith:

It gives us great pleasure to provide this letter of authorization (the "LOA") for your signature, whereby you authorize Paradies (and any affiliate formed for the purpose of submitting a proposal) to use the names and logos of the iStore concept, together with all related trademarks, logos, insignias and other indicia (the "Marks") in the development and operation of a specialty retail electronics concession to be operated by you, through a joint venture providing no less than twenty five percent (25%) Airport Concessions Disadvantaged Business Enterprises ("ACDBE") countable participation, as a sublessee to Paradies at the San Antonio International Airport (the "Airport"), assuming we are awarded both the new contract and the concession space where we intend to have you offer the iStore brand and associated products in accordance with the request for proposal issued on behalf of the Airport. You authorize us to use the Marks in our proposals to the Airport's administrative staff and government officials, and you agree not to allow the Marks to appear in any proposals other than Paradies.

Assuming you agree with the terms of this LOA, please sign it on behalf of InMotion Entertainment Group and return one copy to Paradies.

Sincerely,

The Paradies Shops, LLC



By: Renee Tedesco
Title: Vice President
Business Development

Accepted and Agreed to as of 4/30, 2018

InMotion Entertainment Group, LLC



By:
Title:

Experience new horizons, every day.

EXHIBIT A

Members

| <u>Name</u> | <u>Address</u> | <u>Initial Capital Contribution</u> | <u>% Interest</u> |
|-----------------------------------|---|--|--------------------------|
| InMotion Entertainment Group, LLC | 4801 Executive Park Court Suite 100 Jacksonville, Florida 32216 | \$45,000 | 75% |
| LaTrelle's Galley, LP | 2131 Green Oak Drive, Kingwood, Texas 77339 | \$15,000 | 25% |
| | | \$60,000 | 100% |

EXHIBIT B

ACDBE Assistant Store Manager

Job Description

[attached]

INMOTION ENTERTAINMENT JOB DESCRIPTION

Assistant Store Manager

OVERVIEW:

The Assistant Store Manager co-Manages, guides and audits the day-to-day activities of the store. This position maintains and enforces company standards in regards to sales, inventory control, merchandising and operational activities. This position ensures that all InMotion policies and procedures are enforced:

RESPONSIBILITIES:

1. Customer Services/Sales
2. Merchandise processing, presentation and control
3. Staffing and Training
4. Human Resources
5. Daily Store Operations
6. Store Maintenance
7. Loss Prevention

DUTIES AND RESPONSIBILITIES

1. Customer Service/Sales

- Sets a lead example in practicing InMotion's customer service standard and achieving the highest level of personal sales (UPT / ADT).
- Ensures that all staff is trained in InMotion's customer service standard and are achieving the store's goals as well as their personal bonuses.

2. Merchandise Processing, Presentation and Control

- Ensures that all merchandise is received and shipped according to InMotion policy. Maintains a tight control of these procedures to insure accurate inventory control.
- Trains and manage all associates in regard to company policies regarding customer returns and damages.
- Control under stock and stockroom inventory by minimizing, organizing and ensuring all stock is represented for sale.
- Utilizes current promotions, charts, new releases, etc.
- Communicates merchandise needs and issues to Store Manager.
- Ensures all promotions, charts, new releases are properly merchandised, priced and signage is according to company policy.
- Ensures all displays are clearly identified as to product and correct pricing.

3. **Staffing and Training**

- Determines in conjunction with Management Committee store's staffing needs. Interview on an ongoing basis to insure a resource of potential employees. Hires in accordance with company policy. Communicates with Store Manager as necessary.
- Train new associates on all policy and procedures, request aid from Store Manager when necessary.
- Manages regular sales training and assures training is given on merchandising, inventory control, loss prevention and all InMotion Policies and Procedures. This includes the reading of all memos by staffing members and conducting regular store meetings on a monthly basis.
- Utilizes proper floor coverage, scheduling guidelines and training programs to achieve sales goals and maintain payroll budget established by the company.

4. **Human Resources**

- Ensures that all employee records are kept up to date.
- Ensures that payroll reports are accurate including overtime hours, holiday pay, paid time off, etc.
- Ensures that new hire paperwork is complete including appropriate additional documentation and signatures. All new-hire paperwork must be submitted to the Human Resource Department within prescribed timelines. And 100% compliant with Federal and State requirements.
- Effectively works with the store management on handling employee relations' issues in a timely and professional manner, including Human Resources as appropriate. Accurately track all coaching conversations, and involving the Store Manager and Human Resources when escalating to a documented verbal or written warning.
- Ensures professionalism at all times by all employees.
- Ensures that federal, state, local, and company policy and laws regarding employment are abided by.

5. **Staff / Self Development**

- Evaluates employee strengths, areas of needed improvement and goal performance. Works with each to develop skills and achieve a "team" environment.
- Receives direction, guidance and training for the Area Manager and Store Manager.

6. **Daily Store Operations**

- Assures the accuracy of daily register reports.
- Ensures all bank deposits are made within company guidelines.
- Monitors and controls all charge card transactions and travelers checks.
- Trains and manages all staff members regarding all cash register procedures.
- Ensures on a day-to-day basis that all paperwork, logs and responsibilities are carried within prescribed company timelines.
- Ensures all Company Policies and Procedures are complied with.
- Ensures that store is managed efficiently and professionally at all times.
- Ensures accuracy in the processing of inventory reconciliations.
- Ensures that the store is opened and closed per the established store operations schedule.

- Trains and manages all staff members regarding all cash register procedures.
- Ensures proper cash handling.

7. **Store Maintenance**

- Maintains InMotion housekeeping standards on a daily basis.
- Informs the Store Manager of all needed repairs.
- Reviews plans and, in conjunction with the Store Manager, assures completion of all approved repair work.

8. **Loss Prevention**

- In conjunction with the Store Manager, takes appropriate action to reduce shrink.
- Ensures that alarm system is in good working condition and that all security codes remain strictly confidential.
- Trains all staff in shoplifting control techniques.
- Enforces bag checks upon all employees exiting the store.
- Reviews on a daily basis all void, post void, return, employee discount logs and all associates Reports.
- Reports all incidents by following the Critical Incident Procedure.
- Ensures that proper lifting techniques are followed; use caution when on ladders, using box cutters, etc. resulting in a safe workplace. Report all incidents to Human Resources. Document the facts and seek medical assistance when appropriate.

WORKING RELATIONSHIPS

Reports to and is hired by the Management Committee. Works with the Store Manager to co-Manage Team Leads and Sales Associates.

BEHAVIORS

The following behaviors are expected at the Store Manager level.

- Strong Leadership Skills
- High level of Professionalism
- Excellent customer Service Skills
- Excellent Sales Skills
- Excellent Communication – both verbal and written
- Team Player
- Excellent Attendance
- A Positive Attitude
- Strong Commitment

REQUIREMENTS

Experience: Retail, Sales, Management and Computer Experience

Education: High School Diploma or equivalent

Physical: Must be able to lift up to 40 pounds, stand all day, bend, etc.

EXHIBIT 3.10A

Promissory Note
with Amortization Schedule

[attached]

**DBE/ACDBE LLC/Joint Venture Information
(DBE/ACDBE LLC JV FORM)
(to be submitted with LLC/JV agreement for review)**

Please complete the following with regard to the proposed LLC/JV. For items 4 through 13, please reference the applicable section and page of the LLC/JV agreement at the end of the response.

1. Name of LLC/JV: **INMOTION SAT, LLC**
2. Name, address, and phone number of LLC/JV contact person: **JEREMY SMITH 904 3320450 EXT 226
4801 EXECUTIVE PARK CT, SUITE 100, JACKSONVILLE, FL 32216**

3. Firms participating in LLC/JV (use additional pages if necessary):

| |
|---|
| Name of Firm: LATRELLE'S GALLERY, LP |
| Address: 2131 GREEN OAK DRIVE, KINGWOOD, TX 77339 |
| Phone Number: 281-359-9959 |
| Contact Name/Phone Number: KENNETH JAMES @ 281-359-9959 |
| Percent Ownership: 25% |
| ACDBE: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Certifying Agency: CITY OF HOUSTON TUCP |
| Type of Work for which Certification was Granted: NAICS CODES 44311 AND 443142 (ELECTRONICS STORES) |

4. ACDBE Initial Capital Contributions: **\$15,000 (25% OF INITIAL CAPITAL CONTRIBUTION). See OA PAGE 5 SECTION 3.5 AND PAGE 6 SECTION 3.10**
5. Future Capital contributions (explain requirements): **OA PAGE 6 SECTION 3.6.**
6. Source of funds for the ACDBE capital contribution: (If capital contribution is through a loan or loans from the non-ACDBE partner, promissory note or loan agreement must be submitted.) **10% of ACDBE capital contribution will come from ACDBE cash reserves and 90% of the ACDBE capital contribution will be loaned to LaTrelle's Gallery, LP from InMotion Entertainment Group, LLC. SEE PAGE 6 SECTION 3.10 AND EXHIBIT A. A signed Promissory Note has been included in Exhibit 3.10B.**
7. Describe the portion of work or elements of the business controlled by the ACDBE. **OA PAGE 13 SECTION 5.1**
8. Describe the portion of work or elements of the business controlled by the non-ACDBE. **OA PAGE 14 SECTION 5.2**
9. Describe the ACDBE's involvement in the overall management of the LLC/JV (e.g. participation on a management committee or managing board, voting rights, etc.). **OA PAGE 7 -13 SECTION 4**
10. Describe the ACDBE's share on the profits of the LLC/JV. **OA PAGE 16 SECTION 7.1**
11. Describe the ACDBE's share in the risks of the LLC/JV. **OA PAGE 16 SECTION 7.1**
12. Describe the roles and responsibilities of each LLC/JV participant with respect to managing the LLC/JV (use additional sheets if necessary):
 - a. ACDBE joint venture participant **PAGE 7- 13 SECTION 4**
 - b. Non-ACDBE LLC/JV participant **PAGE 7 - 13 SECTION 4**
13. Describe the roles and responsibilities of each LLC/JV participant with respect to operation of the LLC/JV (use additional sheets if necessary):
 - a. ACDBE joint venture participant **PAGE 13-14 SECTION 5.1**
 - b. Non-ACDBE LLC/JV participant **PAGE 14 - 15 SECTION 5.2**
14. Which firm will be responsible for accounting functions relative to the LLC/JV's business? **INMOTION IN ACCORDANCE WITH SECTION 5.2A**

15. 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? **NONE SEE SECTION 4.**
16. 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 LLC/JV.

| | Non-ACDBE Firm | ACDBE Firm | LLC/JV |
|------------------|-----------------------|-----------------------|------------------|
| Management | 2 ¹ | 2 ¹ | 0 |
| Administrative | Variable ² | Variable ² | 0 |
| Support | Variable ² | Variable ² | 0 |
| Hourly Employees | 0 | 0 | 4-6 ³ |

Footnotes in Chart: 1 Management Committee

2 The ACDBE firm and the non-ACDBE firm each employ numerous support staff who assist with both the operation of the joint venture as well as with the operation of each firm's independent business operations.

3 The hourly employees are hired by and work for the JV but are W-2 employees of the non-ACDBE firm because the non-ACDBE firm is able to provide better employee benefits than the JV.

17. Please provide the name of the person who will be responsible for hiring employees for the LLC/JV. Who will they be employed by? **The Management Committee will select the Store Manager and the Assistant Store Manager (who is nominated by the ACDBE Firm). The Store Manager and Assistant Store Manager both hire hourly employees for the store. All employees are employed by the JV. See Section 4.2 (a) and (b) and Exhibit B ACDBE Assistant Store Manager Job Description.**
18. Are any of the proposed LLC/JV employees currently employees of any of the LLC/JV partners? Yes No
INMOTION WILL TRY TO RETAIN THE EXPERIENCED STAFF OF THE EXISTING INMOTION STORE.
 If yes, please list the number and positions and indicate which firm currently employs the individual(s).
APPROXIMATELY 6 EMPLOYEES OF INMOTION ARE EMPLOYED IN INMOTION'S CURRENT STORE IN THIS TERMNAL.
19. Attach a copy of the proposed LLC/JV agreement, Promissory note or loan agreement (if applicable), and any and all written agreements between the LLC/JV partners.
ATTACHED

**DBE/ACDBE LLC/Joint Venture Information
(DBE/ACDBE LLC JV FORM)
(to be submitted with LLC/JV agreement for review)**

Please complete the following with regard to the proposed LLC/JV. For items 4 through 13, please reference the applicable section and page of the LLC/JV agreement at the end of the response.

1. Name of LLC/JV: **INMOTION SAT, LLC**
2. Name, address, and phone number of LLC/JV contact person: **JEREMY SMITH 904 3320450 EXT 226 4801 EXECUTIVE PARK CT, SUITE 100, JACKSONVILLE, FL 32216**

3. Firms participating in LLC/JV (use additional pages if necessary):

| | | |
|--|------|--------------------|
| Name of Firm: InMotion Entertainment Group, LLC | | |
| Address: 4801 Executive Park Ct. Suite 100, Jacksonville, FL 32216 | | |
| Phone Number: 904 332-0450 | | |
| Contact Name/Phone Number: Jeremy Smith 9040332-0450 x 226 | | |
| Percent Ownership: 75% | | |
| ACDBE: Yes | No X | Certifying Agency: |
| Type of Work <input checked="" type="checkbox"/> for which <input type="checkbox"/> Certification was Granted: | | |

4. ACDBE Initial Capital Contributions: **\$15,000 (25% OF INITIAL CAPITAL CONTRIBUTION). See OA PAGE 5 SECTION 3.5 AND PAGE 6 SECTION 3.10**
5. Future Capital contributions (explain requirements): **OA PAGE 6 SECTION 3.6. Should additional Capital be determined necessary by unanimous vote of the Management Committee, each Member shall contribute it's proportionate share(in proportion to it's then ownership of Member Interests in the Company.)**

6. Source of funds for the ACDBE capital contribution: (If capital contribution is through a loan or loans from the non-ACDBE partner, promissory note or loan agreement must be submitted.) **The initial Capital Contribution described in Section 3.5 of the OA (of approximately 10% of the amount needed to finance the construction, inventory, and initial operation of the store) will be contributed by each Member in proportion to their ownership share. Because LaTrelle's has certified to InMotion that it is unable to fund the balance of its proportionate share of the initial capital required, InMotion has agreed to loan the Company, InMotion SAT, LLC, all remaining amounts necessary as the "START UP LOAN". LaTrelle's shall guarantee the repayment by the Company of a portion of the START UP LOAN based on LaTrelle's percentage Membership Interest in the Company.**

The anticipated form of the Promissory Note is attached to the OA as Exhibit 3.10A. The anticipated Guaranty of LaTrelle's to InMotion is attached to the OA as Exhibit 3.10 B.

7. Describe the portion of work or elements of the business controlled by the ACDBE. **OA PAGE 13 SECTION 5.1**
In addition to participation in the Management Committee, LaTrelle's Galley shall be responsible for the distinct, clearly defined portions of the services of the company and shall provide a written summary of its services as set forth in section 5.1. and produce the ACDBE reports and related materials required for submission to Paradies as required pursuant to the Sublease.
In Fulfillment of its responsibilities, LaTrelle's shall:

(i) Act as a contact with the Airport and other concession operators in order to promote good tenant-landlord and inter-tenant relationships and provide written status reports to the Management Committee on a quarterly basis.

(ii) Conduct a tour of the Stores, as directed by the Management Committee, together with representatives of Paradies to determine what, if any, routine refurbishment is required, in accordance with the Sublease.

(iii) Review reports regarding sales personnel and review and consult regarding all hiring, discipline and, as necessary, firing of sales personnel.

(iv) Review Store sales data on a regular basis to determine trends in consumer spending and provide quarterly reports to the Store Manager, Management Committee and other designees of the Management Committee with strategies for improving operations and increasing revenue.

(v) Review third-party "secret shopper" inspections of store operations, and summarize findings to the Management Committee and other designees of the Management Committee, and work to resolve issues in conjunction with the Store Manager and the Management Committee.

(vi) Monthly Store walk-through to analyze and evaluate product sales, selection, pricing, supply, new product opportunities, merchandising, signage and facilities maintenance and utilization and to address customer issues. Produce Store Visit Report and meet with members of the Management Committee to review the evaluation and provide consulting services on improving operations and increasing productivity.

(vii) Address customer feedback by following up with Management Committee and customer, as appropriate.

(viii) Attend Airport concessions meetings and provide a summary report to each Store Manager and a detailed report, as required, to the Management Committee and, at InMotion's request and direction, assist in airport negotiations and relations.

(ix) Act as a liaison between construction contractors and Paradies and assist InMotion's Director of Construction as needed during the initial Store construction phase and any refurbishments.

(x) Conduct quarterly safety audit and present findings to Management Committee in written report, including action plan if appropriate.

(xi) Ensure, on an ongoing basis, that the Store has proper tools for all routine maintenance.

(xii) Coordinate on safety and/or loss prevention programs currently in place or established in the future.

(xiii) Ensure that the Store is maintained in a clean, presentable and sanitary condition.

8. Describe the portion of work or elements of the business controlled by the non-ACDBE. [OA PAGE 14 SECTION 5.2](#)

In addition to participating in the Management Committee, InMotion shall be responsible for initial Store development and construction and shall keep the Management Committee informed of all related actions. InMotion shall supervise and operate the Store, through its employees and principals (in addition to any employees or agents engaged by the Company directly), subject to the direction of the Management Committee. In developing, constructing and operating the Store, InMotion shall provide various support and management services to the Company through its principals and employees as follows: loss prevention, information technology, tax compliance and planning, human resources and payroll, accounting, customer service, legal counseling, budgeting assistance and business planning, advertising/promotions, design and construction consultation.

9. Describe the ACDBE's involvement in the overall management of the LLC/JV (e.g. participation on a management committee or managing board, voting rights, etc.). [OA PAGE 7 -13 SECTION 4](#)

The Company is a "member managed" limited liability company that will be managed, controlled and directed by the Management Committee. LaTrelle's will appoint 2 members of the 4 member committee. The Management Committee shall:

- a) Select a Store Manager for executing the decisions of the Management Committee and for conducting the ordinary business affairs of the Company at the store.
- b) LaTrelle's shall nominate an "ACDBE Assistant Manager" for the store. In accordance with the provisions of the OA, the Management Committee shall select the ACDBE Assistant Manager who shall have managerial authority over the store sales associates and shall be present in the store daily.

As a part of the Management Committee, LaTrelle's shall work as required, to act , by majority vote upon matters pertaining to the ordinary and usual business affairs of the Company including operations, personnel management, budgeting, accounting, and maintenance of the Company's physical assets and facilities. (See section 4.3 of the OA.)

LaTrelle's shall as a part of the Management Committee vote on all Major Decisions (detailed in section 4.4) which require a unanimous vote of the Management Committee.

10. Describe the ACDBE's share on the profits of the LLC/JV. [OA PAGE 16 SECTION 7.1](#)

Profits shall be allocated first to the Members in proportion to, and to the extent of, any losses previously allocated to them and not previously offset by allocations pursuant to Section 7.1(a);

Next, profits shall be allocated next to the Members in proportion to their respective Membership Interests, as the same may be adjusted in accordance with the provisions hereof.

11. Describe the ACDBE's share in the risks of the LLC/JV. [OA PAGE 16 SECTION 7.1](#)

Losses shall be allocated to the Members in proportion to the manner in which the Member or Members bear such Economic Risk of Loss and if no Member bears the Economic Risk of Loss, in proportion to their respective Membership Interests, as the same may be adjusted in accordance with the provisions hereof.

12. Describe the roles and responsibilities of each LLC/JV participant with respect to managing the LLC/JV (use additional sheets if necessary):

[Please see the response to questions 7 – 10 above. For more detail please refer to the OA](#)

- a. ACDBE joint venture participant [PAGE 7- 13 SECTION 4](#)
- b. Non-ACDBE LLC/JV participant [PAGE 7 - 13 SECTION 4](#)

13. Describe the roles and responsibilities of each LLC/JV participant with respect to operation of the LLC/JV (use additional sheets if necessary):

[Please see the response to questions 7 – 10 above For greater detail please see these sections of the OA](#)

- a. ACDBE joint venture participant [PAGE 13-14 SECTION 5.1](#)
- b. Non-ACDBE LLC/JV participant [PAGE 14 - 15 SECTION 5.2](#)

14. Which firm will be responsible for accounting functions relative to the LLC/JV's business?
[INMOTION IN ACCORDANCE WITH SECTION 5.2A](#)

15. 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? **NONE SEE SECTION 4.6**

Upon approval of any action to be taken by the Company in accordance with this Agreement, the President of the Company shall have the full power to execute, for and on behalf of the Company, any and all documents and instruments that, in the reasonable judgement of the President, may be appropriate or necessary in connection with such action and with the general business of the Company, including, without limitation, the Sublease, any financing documents and any other contracts relating to the Company's business operations at the Airport. No person dealing with the Company need inquire into the validity or propriety of any document or instrument executed in the name of the Company by the President, or as to the authority of such person in executing the same.

16. 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 LLC/JV.

| | Non-ACDBE Firm | ACDBE Firm | LLC/JV |
|------------------|-----------------------|-----------------------|------------------|
| Management | 2 ¹ | 2 ¹ | 0 |
| Administrative | Variable ² | Variable ² | 0 |
| Support | Variable ² | Variable ² | 0 |
| Hourly Employees | 0 | 0 | 4-6 ³ |

Footnotes in Chart: 1 Management Committee

2 The ACDBE firm and the non-ACDBE firm each employ numerous support staff who assist with both the operation of the joint venture as well as with the operation of each firm's independent business operations.

3 The hourly employees are hired by and work for the JV but are W-2 employees of the non-ACDBE firm because the non-ACDBE firm is able to provide better employee benefits than the JV.

17. Please provide the name of the person who will be responsible for hiring employees for the LLC/JV. Who will they be employed by? **The Management Committee will select the Store Manager and the Assistant Store Manager (who is nominated by the ACDBE Firm). The Store Manager and Assistant Store Manager both hire hourly employees for the store. All employees are employed by the JV. See Section 4.2 (a) and (b) and Exhibit B ACDBE Assistant Store Manager Job Description.**
18. Are any of the proposed LLC/JV employees currently employees of any of the LLC/JV partners? Yes No
INMOTION WILL TRY TO RETAIN THE EXPERIENCED STAFF OF THE EXISTING INMOTION STORE.
 If yes, please list the number and positions and indicate which firm currently employs the individual(s).
APPROXIMATELY 6 EMPLOYEES OF INMOTION ARE EMPLOYED IN INMOTION'S CURRENT STORE IN THIS TERMNAL.
19. Attach a copy of the proposed LLC/JV agreement, Promissory note or loan agreement (if applicable), and any and all written agreements between the LLC/JV partners.
ATTACHED



January 9, 2019

Renee Tedesco
Vice President of Business Development
2849 Paces Ferry Road, Overlook I, 4th Floor
Atlanta, GA 30339

Re: Airport Concession Disadvantaged Business Enterprise (ACDBE) Program – Joint Venture Conditional Approval

Dear Ms. Tedesco,

In accordance with 49 CFR Part 23, the FAA's Joint Venture Guidance and the City of San Antonio, Aviation Department's ACDBE Program, the Aviation Department has reviewed the following proposed Joint Venture Agreements between:

- The Paradies Shops, LLC dba Paradies Lagardère Travel Retail ("Paradies"), Bold Bites LLC ("Bold Bites") Chelsea's Catering & Bar Service LLC (Chelsea's), Adelaide Services, LLC (Adelaide) and Paradies Lagardère @SAT, LLC
- InMotion Entertainment Group, LLC ("InMotion") and LaTrelle's Gallery, LLP ("Latrelle's")

Based upon completion of this review and subject to the conditions set forth below, we have determined that the following joint venture participation of:

- Bold Bites as described in the Operating Agreement may be counted as ACDBE participation at **11.5 %**.
- Chelses's as described in the Operating Agreement may be counted as ACDBE participation at **11 %**.
- Adelaide as described in the Operating Agreement may be counted as ACDBE participation at **2.5 %**.
- LaTrelle's as described in the Operating Agreement may be counted as ACDBE participation at **25 %**.

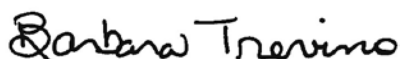
The approval is conditioned upon all the JVs listed above remaining in compliance with the following requirements and demonstrating continued compliance with 49 CFR Part 23 and the FAA's Joint Venture Guidance during the Lease term:

- 1) Submittal of a copy of the fully executed JVs listed on page 1 in the form submitted to the Aviation Dept. for approval.
- 2) Quarterly submittal of an advance schedule of management committee meetings and minutes of such management committee meetings of the JVs listed on page 1.
- 3) Quarterly submittal of statements of profits and losses upon which distributions were determined and evidence of payment of distributions of the JVs listed on page 1.
- 4) Quarterly submittal of joint venture activity reports by the ACDBE partner and acknowledged by the non-ACDBE partner detailing the activity of the ACDBE partner in relation to its assigned role in the operation and a detailed summary of its activities for the preceding quarter within 30 days of the end of each quarter. Please include in the activity reports any activity with regard to capital contributions, loans not already submitted for approval, loan repayments, etc.
- 5) Documentation of all capital contributions made by the JVs listed on page 1 (the ACDBE joint venture partner and non-ACDBE joint venture partner) including any promissory notes. The joint venture partners shall be responsible for submitting these promptly as they occur for review by the Aviation Dept.
- 6) Submittal of any proposed amendments to the Joint Venture Agreement to the Aviation Department for review and approval prior to its effective date.
- 7) Submittal of changes to roles and responsibilities of the joint venture partners prior to their effective date
- 8) Annual submittal of reconciliation of Administrative or Management Fees (if any) by both parties and verification and documentation evidencing that such fees represent a recovery of costs to the provider.
- 9) Annual submittal of the tax returns, including K1s, filed by the Joint Ventures listed on Page 1.
- 10) Annual submittal of capital account activity and balances for each partner in the Joint Venture.
- 11) Submittal of additional information related to the above in order to demonstrate compliance with 49 CFR Part 23 and the FAA's Joint Venture Guidance as may be requested by the Aviation Dept. from time to time.

Please note that the above shall be in addition to the monthly and annual certified statements of gross receipts required to be submitted in accordance with the Lease. Continued counting as ACDBE participation shall be subject to certification verification of the ACDBE partner annually in accordance with 49 CFR Part 23 and compliance in all other respects with 49 CFR Part 23. The Airport shall perform periodic on-site reviews of the joint venture in accordance with 49 CFR part 23 and the Airport's ACDBE Program.

Thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Barbara Trevino". The signature is written in a cursive, slightly slanted style.

Barbara Trevino
Airport Concession Disadvantaged Business Enterprise Liaison Officer (ACDBELO)
City of San Antonio, Aviation Department

Attachment: Sample of Joint Venture Monitoring Checklist



SAN ANTONIO INTERNATIONAL AIRPORT (SAIA) Joint Venture Monitoring Checklist

Name of JV: _____

Date Submitted: _____

Quarter/Year: _____

Submitted by: _____

- | | | | |
|------------------------------|-----------------------------|------------------------------|---------------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Capital Contributions |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Loan Activity (payments, new loans) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Management Committee Meeting Schedule |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Management Committee Minutes |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | ACDBE Activity Reports |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Loan Activity (payments, new loans) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Distributions |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Reserves Withheld |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Operating Statements |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Tax Returns, including K1s |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Fee Reconciliation |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Amendments to the JV Agreement |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | Changes in Roles/Responsibilities |

Other information submitted: _____

EXHIBIT G

[CONCESSIONAIRE MONTHLY AND ANNUAL STATEMENT CERTIFICATE FORMS].



SAN ANTONIO INTERNATIONAL AIRPORT MONTHLY CONCESSION CERTIFIED STATEMENT

Month: _____ **Year:** _____

Concession Name: _____

D/B/A or Trade Name: _____

Concession Type: _____

Lease Number: _____ Space Number: _____ Lease Date: _____

| Location Description | Food Category A | | Alcohol Category B | | Retail Category C | | Total Gross Receipts |
|---|--------------------|----------------|-----------------------|---------------------------------------|----------------------|----------------|----------------------|
| | Sales | Less Sales Tax | Sales | Less Sales Tax or Mix Beverage Tax | Sales | Less Sales Tax | |
| Store 1 | | | | | | | \$0.00 |
| Store 2 | | | | | | | \$0.00 |
| Store 3 | | | | | | | \$0.00 |
| Store 4 | | | | | | | \$0.00 |
| Store 5 | | | | | | | \$0.00 |
| Store 6 | | | | | | | \$0.00 |
| Store 7 | | | | | | | \$0.00 |
| Store 8 | | | | | | | \$0.00 |
| Store 9 | | | | | | | \$0.00 |
| Store 10 | | | | | | | \$0.00 |
| Total: | | | | | | | \$0.00 |
| Previous Gross Receipts LY to Date Total: | | | | | | | \$0.00 |
| Total Gross Receipts Received YTD Total: | | | | | | | \$0.00 |

| | Gross Receipts | Percentage Due | Percentage Rent Due |
|---|----------------|--|---------------------|
| Gross Receipts - Food - (Category A) | | | |
| Gross Receipts - Alcohol - (Category B) | | | |
| Gross Receipts - Retail - (Category C) | | | |
| Total Gross Receipts (A) | \$0.00 | Total Percentage Rent Due (B) | \$0.00 |

| MONTHLY PAYMENTS | | |
|-------------------|--|---------------|
| (A) | Total Gross Receipts Lease Year to Date | \$0.00 |
| (B) | Total Percent Rent Lease Year to Date @ ?% | \$0.00 |
| (C) | Total MAG thru Current Month | \$0.00 |
| (D) | Total % Rent Billed Lease Year to Date | \$0.00 |
| (E) = B - C - D | Total Monthly Percentage Rent Due: | \$0.00 |
| (F) | Logistic Support Reimbursement Charge: _____ /sq.ft. | |
| (G) = E + F | Total Payment Due: | \$0.00 |

I hereby certify to the City of San Antonio that this is true and accurate statement of Gross Receipts and all payments shown above and that each of the foregoing is in accordance with the provisions of the Concession Agreement.

Signature _____ Title _____ Date _____

THIS MONTHLY STATEMENT IS DUE NO LATER THAN THE 15TH DAY OF EACH MONTH.

SUBMIT TO: ConcessionsSalesReports@sanantonio.gov



SAN ANTONIO INTERNATIONAL AIRPORT ANNUAL CONCESSION CERTIFIED STATEMENT

Lease Year

Concession Name: _____
 D/B/A or Trade Name: _____
 Concession Type: _____
 Lease Number _____ Space Number: _____ Lease Date _____

| Month | Total Gross Receipts | Total Gross Receipts | Total Gross Receipts | Total ANNUAL Gross |
|-----------|----------------------|----------------------|----------------------|--------------------|
| | Food - Category A | Alcohol - Category B | Retail - Category C | |
| January | | | | |
| February | | | | |
| March | | | | |
| April | | | | |
| May | | | | |
| June | | | | |
| July | | | | |
| August | | | | |
| September | | | | |
| October | | | | |
| November | | | | |
| December | | | | |

| | | | | |
|---------------|--|--|--|--|
| Total: | | | | |
|---------------|--|--|--|--|

| | Gross Receipts | Percentage Due | Percentage Rent Due |
|---|----------------|----------------|---------------------|
| Total Gross Receipts (Category A) - Food | | ? % | |
| Total Gross Receipts (Category B) - Alcohol | | ? % | |
| Total Gross Receipts (Category C) - Retail | | ? % | |

ANNUAL PAYMENTS

| | |
|---|---------|
| Annual Gross Receipts | |
| Annual Percentage Rent | |
| Annual MAG | |
| The Greater of Annual MAG or Annual Percentage Rent | |
| Logistic Support Reimbursement Charge: | /sq.ft. |
| MAG Paid LYD | |
| Percentage Rent Paid LYD | |
| Total Payments Received LYD | |
| Total Annual Payment Due (if any): | |

Please provide an explanation on any variance found by month and please include supporting documents, if available.

I hereby certify to the City of San Antonio that this is true and accurate statement of Gross Receipts and all payments shown above and that each of the foregoing is in accordance with the provisions of the Concession Agreement all statements were prepared in accordance with GAAP. **This annual statement must be accompanied by a report and opinion from an independent certified public accountant.**

Signature _____ Title _____ Date _____

EXHIBIT H--MANDATORY CONTRACT CLAUSES

As used in this Exhibit, the terms “contractor” or “Contractor” shall refer to “Concessionaire”.

I. GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

II. TITLE VI CLAUSES COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will

so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

III. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the

Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

IV. FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

V. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The contractor retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

