AGREEMENT FOR THE LEASE AND OPERATION OF RETAIL, FOOD AND BEVERAGE CONCESSION BETWEEN

TAILWIND AGS LLC.
AND
THE CITY OF AUGUSTA

FOR

AUGUSTA REGIONAL AIRPORT AUGUSTA, GEORGIA

MASTER CONCESSIONS AGREEMENT AT AUGUSTA AIRPORT

This Concessions Agreement (the "Agreement") is entered into effective this 3rd day of June, 2023 (the "Effective Date"), between Augusta-Richmond County, Ga., (the "County") for the Augusta Regional Airport (Airport) and Tailwind AGS LLC. ("Concessionaire") who agree as follows:

WHEREAS, on October 17, 2022, the County received proposals in response to its Request for Proposals ("RFP") for Concessions for Food & Beverage and Merchandise/Gifts at the Airport. The County included in the RFP various innovative measures to maximize competition and quality and to enhance the overall customer experience at the Airport; and

	WH	EREAS, the	he Air	rpor	t evaluat	ion team	recommended	award	to	Tailwi	ind	AGS LLC.	, wl	nich
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WHEREAS, the Parties have negotiated a final Agreement for the provision of Concessions services at the Airport.

The Parties hereby agree as follows:

BACKGROUND

The Airport is located in Augusta, Georgia and is operated by the Augusta Aviation Commission for the County. The Airport is a full-service commercial airport, as well as, a Fixed Based Operator and general aviation facility. The Airport is a non-smoking facility with the exception of the northern outdoor patio area adjacent to the passenger boarding area.

1. PREMISES:

1.1 Description of Premises:

The Concessions' areas are located in both the secure and non-secure portions of the terminal. The primary food/beverage concession area contains 3,353 square feet, the pre-security food area, 414 square feet and the retail/secondary food space contains 539 square feet of space. Additional locations may be added at the discretion of the Airport Director.

Concessionaire shall be entitled to occupy and use, for the purposes set forth herein, the following premises (collectively referred to as the "Premises") identified in Exhibit A. No easement for light, air or view is granted, given or implied in this Agreement. If, upon completion of any construction contemplated by Section 7 entitled "Premises and Improvements", Concessionaire shall submit to the Airport a current, more detailed description based on final, as-built drawings, which will be incorporated by reference into this Agreement as a replacement for Exhibit A without the need for the parties to formally amend this Agreement.

1.2 Relocation

Airport's or Federal Government's Right to Require relocation: The Airport or the Federal Government may require that Concessionaire relocate all or part of the Premises within the Airport, or expand or contract the size of the Premises. Concessionaire must accomplish any such relocation, expansion or contraction expeditiously upon a timetable approved or directed by the Airport Director.

2. TERM:

- 2.1 The term ("Term") of this Agreement is five (5) years from the Commencement Date at the end of which the Agreement will immediately and automatically terminate, unless renewed by the County pursuant to the Clause entitled "Renewals". In the event the Agreement is renewed, the Term shall include the renewal period.
- **Renewals:** This Agreement is subject to a five (5) year renewal at the sole discretion of the Airport. Notice of the Airport's intention to renew the Agreement will be provided to Concessionaire within one hundred eighty (180) days of the end of the Term.
- 2.3 Holding Over: If Concessionaire remains in possession of the Premises after the expiration of the Term, or any renewals, without written permission from the County, such holding over will not be deemed to operate as a renewal or extension of this Agreement, nor will it create a tenancy at will. During such month-to-month tenancy, the terms of this Agreement will continue to govern the relationship of the Parties

3. USE:

- 3.1 Non Exclusive: Concessionaire will have the non-exclusive rights to provide food, beverage and merchandise service on the Premises as described herein.
- 3.2 Use of Premises: Concessionaire shall use the Premises to provide the goods, items, services or commodities appropriate for the location and concept described in the section of this Agreement titled "Premises" or otherwise as approved by the Airport Director from time to time. The Concessionaire's proposal is incorporated herein by reference as if fully set forth herein. The Airport Director shall have the right, at any time, to require Concessionaire to revise or replace the concept at any location and may prohibit the sale of any particular goods, items, services or commodities or categories of goods, items, services or commodities or categories or the use of the Premises for any purpose. In the event Concessionaire revises or replaces the concept at any location, percentage rent for such location may be adjusted commensurately in the discretion of the Airport Director.
- 3.4 Pricing: Concessionaire must submit all of its proposed prices to the Airport Director for review at least thirty (30) days prior to Concessionaire offering its services to the public. Concessionaire must submit any across the board proposed price changes to the Airport Director for approval prior to implementation.
 - 3.4.1 Same Store Pricing: For any operations where Concessionaire currently operates the same or similar facility in the Metropolitan Augusta area, Concessionaire may not charge higher

prices at the Airport for like or similar items. The Airport Director has the right to survey prices at those stores and to use these prices for same or similar items as the primary basis for pricing in the Premises.

- 3.4.2 Street Plus Pricing: The Airport Director may, at any time, conduct a Pricing Survey. This survey shall consist of selecting four (4) restaurants or similar store locations where residents, travelers or visitors normally shop. Concessionaire's price on any specific item may not exceed the average price of those locations remaining after eliminating the two (2) lowest priced-locations for that particular item, plus an additional 15 percent. If fewer than four (4) locations carry a specific item, the maximum permissible price shall not exceed the average price of the three (3) highest locations carrying that specific item, plus an additional 15 percent. If no other location carries the item, Concessionaire shall charge a reasonable price. The Airport Director has the sole discretion to determine whether a price is reasonable. Any item offered for sale with preprinted pricing shall not be charged more than the preprinted price.
- 3.5 Hours of Operation: All stores within the Premises must be opened 365 days a year at least one (1) hour before the time of the first scheduled airline departure and shall provide uninterrupted service until the last scheduled departure unless otherwise specified by the Airport Director.
 - **3.5.1** Concessionaire may be required to keep its store open for additional hours, including around the clock during emergency operations, with very limited notice, at the direction of the Airport Director under circumstances warranting such additional operating hours, as determined by the Airport Director in his discretion.

3.6 Customer Service:

- **3.6.1** The Airport Director shall have the right to make reasonable objections to the quality of articles sold, the character of the service rendered to the public, the prices charged and the appearance and condition of the Premises. Concessionaire agrees to promptly discontinue or remedy any objectionable practice. Concessionaire must also comply with any standards established by the Airport Director.
- **3.6.2** Concessionaire agrees to keep the Premises and all fixtures and equipment, clean, neat, safe, sanitary and in good order and condition at all times. Concessionaire agrees to respond to customer complaints in an expeditious manner.
- 3.6.3 Customer Service and Quality Assurance Standards: The Airport Director reserves the right to conduct quality assurance audits in order to ensure optimal customer service performance. Basic standards of customer service include and are not limited to the following: promptly greeting the customer; making eye contact when possible; being friendly and knowledgeable about the Airport; listening and responding politely; presenting a receipt and the correct change to the customer; and thanking the customer. In addition, the Concessionaire must understand and agree that its operation at the Airport necessitates the rendering of the following passenger services: making reasonable change; offering passenger directions and assistance; and accepting four (4) major credit cards (Visa, MasterCard, Discover, and American Express) as payment for any debit or

- credit transaction. Further, the Airport highly encourages and may ultimately require the implementation of expedited payment options, which may include but is not limited to MasterCard PayPass®, Apple Pay, on-line or kiosk ordering and self checkout stations.
- 3.6.4 Concessionaire shall maintain adequately trained staff (at a minimum of 1 employee per location), and adequate supervision on duty, during operational hours.
- 3.6.5 The Airport believes that a high quality and stable work force is key to providing outstanding customer service. Concessionaire is expected to maintain a positive work environment that encourages the development and growth of all employees.
- 3.6.6 Concessionaire's staff must be aware of the time sensitive nature of Airport patrons. All of Concessionaire's employees shall be courteous and helpful to the public.
- 3.6.7 Concessionaire shall conduct its operation in a businesslike manner. A sufficient quantity of inventory must be carried to ensure that the premises will be fully stocked and available to passengers at all times. All inventories must be top quality and displayed in an "opening day fresh" manner. In addition a dress code should be strictly adhered to for all operating staff.
- 3.6.8 Concessionaire agrees to offer plastic or coated paper gusseted bags with handles to enable customers to more easily transport items through the Airport. Innovative packaging or transportation devices that facilitate travel are highly encouraged.
- 3.7 Continuous Operation of Premises: Concessionaire must operate the Premises uninterrupted, throughout the Term, including renewals, and provide all required services and maintains all necessary permits and licenses.
 - 3.7.1 Concessionaire agrees and understands that it shall operate the facilities in a First Class manner for the duration of the Agreement. If, as determined at the sole discretion of the Airport Director, the Concessionaire fails to meet this obligation, then the Airport Director shall have the right to make reasonable objection to Concessionaire's failure to create, maintain, repair, use and operate a First Class facility and that failure to create, repair, maintain, operate, and use its business in a satisfactory manner will result in a issuance of written notice so described herein and as an event of default and allowing exercise of the remedies permitted by this Agreement.
 - 3.7.1.1 Should Concessionaire have an operational deficiency, the Airport Director shall send Concessionaire a notice to correct the problem without declaring it an event of default ("First Notice"). The First Notice will contain a correction period of not less than ten (10) days (the "Correction Period") within which to correct the problem. In the event that the operational deficiency concerns a matter of health or safety, or the threat of imminent damage to the airport facility, the ten day cure time will not apply and the Deficiency must be addressed immediately. Except for matters affecting health or safety or potential facility damage, any notice to Concessionaire required or permitted under this Section shall be in writing and delivered to Concessionaire's on-site management via letter, email, or by some other written

form as may be adopted from time to time by the Airport. In addition to the foregoing, in the event that the issue is not fixed within the required time, then a copy of the Second Notice, if applicable, shall be sent to Concessionaire at the notice address for Concessionaire specified in this Agreement, as well as delivered to on-site management.

3.7.1.2 If Concessionaire reasonably believes that the issue cannot be rectified within the Correction Period, prior to the expiration of the Correction Period, Concessionaire shall submit to the Airport a written plan for the correction of the problem ("Remediation Plan"). The Remediation Plan shall include a detailed description of the steps Concessionaire will take to correct the problem and the deadlines for completion of such steps. If a Remediation Plan is approved by the Airport Director in his reasonable discretion, and for so long as Concessionaire complies with the approved plan, any liquidated damages shall not be imposed. If Concessionaire fails to: (i) correct a problem prior to the expiration of the Correction Period, and (ii) timely submit a Remediation Plan, or (iii) comply with any portion of the approved Remediation Plan, then the Airport Director shall have the right to assess the liquidated damages described below.

3.7.1.3 If Concessionaire fails to: (i) correct a problem prior to the expiration of the Correction Period, and (ii) timely submit a Remediation Plan, or (iii) correct a problem prior to the expiration of the Correction Period stated in an Airport approved Remediation Plan, or (iv) comply with any portion of the approved Remediation Plan, then the Airport Director may, in the Second Notice, send Concessionaire notice assessing liquidated damages or it may proceed to remedy the failure in accordance with this Agreement. Such liquidated damages shall begin to accrue immediately, unless a later date is indicated in the notice.

The Parties agree that damages sustained by the Airport for operational deficiencies could be significant but may be impossible or very difficult to accurately estimate. The Parties agree that under the circumstances a reasonable estimate of damages for operational deficiencies that is ultimately corrected is: Five Hundred Dollars (\$500) per day per infraction for each whole or partial day until the problem is corrected. The parties agree that these liquidated damages constitute a reasonable estimate of the anticipated or actual harm that might arise from operational deficiencies. The parties intend that the liquidated damages constitute compensation, and not a penalty. Liquidated damage amounts shall be due and payable upon demand by the Airport.

- 3.7.1.4 If Concessionaire fails to correct the problem within thirty (30) days after receiving the Second Notice, the Airport Director shall have the right to treat the operational deficiency as an event of default by sending Concessionaire a formal notice of default under Section 11 concerning the operational deficiency. The liquidated damages related to such default shall stop accruing as of the expiration of the thirty (30) day cure period provided in Section 11 and the Airport shall thereafter have the right to seek any other remedy available to the Airport under this Agreement.
- 3.8 Prohibition of Solicitation: Concessionaire is strictly prohibited from engaging in any activities outside the Premises within the Airport for the recruitment or solicitation of business. Concessionaire may not place or install any carts, kiosks, inline store, racks, stands, display

merchandise or trade fixtures outside the boundaries of the Premises without the express written consent of the Airport Director.

- 3.9 Representative of Concessionaire: Concessionaire must at all reasonable times retain in the Airport at least one (1) qualified representative, authorized to represent and act for it in matters pertaining to this Agreement and its operations at the Airport and must keep the Airport Director informed in writing of the identity of each such person.
- 3.10 Ingress and Egress; Security Regulations: Concessionaire possesses the right of ingress to and egress from the Airport as may be necessary to fulfill its obligations under this Agreement, subject to Airport rules and regulations, and agrees that the exercise of such right must not impede or interfere unduly with the operation of the Airport by County, its tenants, contractors, airline passengers, the public or other authorized occupants. Concessionaire agrees that its rights under this Agreement are subject to all security regulations or restrictions that may exist or come into existence and be imposed by any governmental entity, including, but not limited to the FAA and TSA, having jurisdiction over the Airport and security matters pertaining to it. Concessionaire will have no claim for relief of rent or other remedies as a result of the imposition of such security regulations.

3.11 Reservations by Airport:

Airport has the right, without any obligation to do so, at any reasonable time and as often as it considers necessary:

- **3.11.1** to inspect any portion of the Premises;
- 3.11.2 to enter the Premises and make ordinary repairs;
- **3.11.3** to take such action in the event of an emergency concerning the Premises as may be required for the protection of persons or property. In the event the need to take such emergency action is caused by acts or omissions of Concessionaire, Concessionaire will reimburse the Airport for the costs associated with such emergency actions. Further, Concessionaire must assure emergency access to the Premises by providing emergency telephone numbers at which Concessionaire's representative(s) may be reached on 24-hour basis.

3.12 Compliance with Laws and Regulations; Licenses and Permits:

- **3.12.1** Concessionaire must at all times during the Term comply with all the applicable federal and state laws, local ordinances, codes, rules and regulations respecting Concessionaire's use and occupation of the Premises issued by any governmental entity having jurisdiction over the Airport, including, but not limited to the County and the Airport Director.
- **3.12.2** Concessionaire shall be solely responsible for the cost of obtaining and maintaining all licenses and permits necessary to operate at the Airport and perform all required services.

- 3.13 Prohibited Uses: The Premises may not be used except for the purposes specified in the Clause entitled "Use". Concessionaire may not do, or cause or permit anything to be done in or about the Premises, or bring or keep anything on the Premises:
 - **3.13.1** increasing in any way the rate of fire insurance or other insurance applicable to the Airport or its concourses, or any of its contents; or
 - 3.13.2 creating a nuisance; or
 - **3.13.3** in any way obstructing or interfering with the rights of others in the Airport, or injuring or annoying them; or
 - 3.13.4 allowing any sale by auction on the Premises; or
 - 3.13.5 committing any waste upon the Premises; or
 - 3.13.6 using or allowing the Premises to be used for any improper, immoral, unlawful or objectionable purpose; or
 - 3.13.7 placing any loads upon the floor, walls or ceiling which compromise the structure; or
 - **3.13.8** obstructing the sidewalk, passageways, stairways in front of, within or adjacent to the Airport, its concourses or other facilities; or
 - **3.13.9** doing or permitting to be done anything in any way tending to injure the reputation of County or the appearance of the Airport, its concourses or other facilities.
- 3.14 Trash Removal: All waste matter must be stored and disposed of in a manner satisfactory to the Airport Director, and Concessionaire agrees to arrange for the timely disposal, at its own expense, of all waste material. Concessionaire will be responsible for the removal of Concessionaire's trash from the Premises and transfer to designated waste receptacles.

4. ASSIGNMENT OR SUBLETTING:

- 4.1 Concessionaire may not assign, transfer or encumber its interest in this Agreement or any other right, privilege or license conferred by this Agreement, either in whole or in part, without the prior written consent of County. Furthermore, Concessionaire may not sublet or encumber the Premises, or any part of it, without the prior written consent of Airport Director. Any attempted assignment, transfer, encumbrance or sublease without the prior written consent of County is voidable at County's election.
- 4.2 If Concessionaire is a partnership or joint venture, a withdrawal or change (whether voluntary, involuntary or by operation of law) of the partner/joint venturer or partners/joint venturers owning more than 50% (as measured by interests in capital, profits or such other measurement as County may reasonably designate) of the partnership/joint venture, or the dissolution of the partnership/joint venture, will be deemed an assignment subject to this Clause.

4.3 If Concessionaire is a corporation, any dissolution, merger, consolidation or other reorganization of Concessionaire, or the sale or other transfer of a controlling percentage of the capital stock of Concessionaire, or the sale of more than 50% of the value of the assets of Concessionaire, will be deemed an assignment subject to this Clause. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing more than 50% of the total combined voting power of all classes of Concessionaire's capital stock issued, outstanding and entitled to vote for the election of directors. This paragraph will not apply to corporations the stock of which is traded through an exchange or over the counter.

5. RENTAL PAYMENTS/FEES:

5.1 Rental Payments/Fees:

The Concessionaire agrees to pay the greater of a Minimum Annual Guarantee (MAG) of \$180,000 in the first year of operations or a percentage of gross revenues as identified below:

Food and Beverage Concessions:

The sum of food and non-alcoholic beverage sales is multiplied by 14%

- Plus, alcoholic beverage sales multiplied by 20%
- Plus, vending sales multiplied by 25%

Merchandise/Gifts Concessions:

Plus, retail sales multiplied by 15%

MAG will have an annual true-up and will be adjusted following the end of each lease year to 85% of the previous year.

- **5.1.1** The term "Gross Receipts" shall include all monies paid or payable to Concessionaire or concessionaire's subtenants for sales made or services rendered at or from the Airport, regardless of when, where, or whether the business transaction occurs on or off of the Airport property as well as any other revenues of any type arising out of or in connection with Concessionaire's operations at the Airport, provided, however, that any taxes imposed by law which are separately stated to and paid by the customer and directly payable to the taxing authority by Concessionaire shall be excluded.
- **5.1.2** Within fifteen (15) days after the end of each month of the Agreement, Concessionaire shall provide to Airport an accounting of its Gross Revenues for the previous month. Concessionaire will submit a report, in a form provided by the Commission, of actual Gross Receipts received during the previous month and a check for the same.
- **5.1.3** Payments shall be made in lawful money of the United States, free from all claims, demands, set-offs or counterclaims of any kind against County. All rental payments shall be payable at:

Augusta Regional Airport 1501 Aviation Way Augusta, Georgia 30906

Attn: Director of Finance

- **5.1.4** The Airport may require payment at such other place as the Airport Director may from time to time designate to Concessionaire in writing.
- **5.1.5** No payment by Concessionaire or receipt by Airport of a lesser amount than the correct fee/MAG shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction. Airport may accept such check or payment without prejudice to County's right to recover the balance or to pursue any other remedy in this Agreement or otherwise provided by applicable law or equity.
- **5.1.6** Within ninety (90) days after the end of each Lease Year, Concessionaire shall prepare and submit to the Airport a statement with respect to its total Gross Revenues for such Lease Year. If the total concession fees paid by Concessionaire for each month of such Lease Year exceed the greater of (1) the Minimum Monthly Guarantee; or (2) the amount of Percentage Fees computed on such Gross Revenues for each month of the Lease Year, such excess shall be credited by the Airport to the future Concession Fees on the next monthly payment due from Concessionaire or shall be paid to the Concessionaire if the Agreement shall have expired. If the total concession fees paid by the Concessionaire for such Lease Year is less than the greater of: (1) the Minimum Monthly Guarantee; or, (2) the amount of Percentage Fees computed on such Gross Revenues for each month of the Lease Year, then Concessionaire will remit the deficiency to the Airport with the statement.

5.2 Books and Records:

- **5.2.1** Concessionaire must maintain throughout the Term of this Agreement and for a three year (3) period after the Term, including renewals, or, in the event of a claim by County, until such claim of County for payments hereunder shall have been fully ascertained, fixed and paid, separate and accurate daily records of Gross Revenues from all activity conducted under this Agreement in accordance with generally accepted accounting principles, showing in detail all business on or transacted in, about, from or pertaining to the Premises, and Concessionaire must enter all receipts arising from such business in regular books of account, and all entries in any such records shall be made at or about the time the transactions occur.
- **5.2.2** In addition, Concessionaire shall maintain weekly, monthly and annual reports of Gross Revenues and transactions derived from its operations under this Agreement, using a form and method as directed by the Airport Director. Upon the Airport Director's written request, Concessionaire must make available immediately at the Airport, for inspection and copying by the Airport Director or his or her designated representative, any and all books, records and accounts pertaining to its operations or performance of its obligations under this Agreement. The intent and purpose of the provisions of this Section are that Concessionaire must keep and maintain records which will enable County to ascertain, determine and audits, if so desired by County, clearly and accurately, with its obligation under this Agreement and the share of Gross Revenues received by Airport, and that the form and method of Concessionaire's reporting of

Gross Revenue will be adequate to provide a control and test check of all Gross Revenue derived by Concessionaire under this Agreement.

- 5.2.3 Should any examination, inspection or audit of Concessionaire's books and records by Airport disclose an underpayment by Concessionaire in excess of 2% of the total annual consideration due, Concessionaire must promptly pay Airport the amount of such underpayment, plus interest thereon at the rate of 1.5% per month, from the date due until the date collected, and shall reimburse Airport for all costs incurred in the conduct of such examination, inspection, or audit. If Airport deems it necessary to utilize the services of legal counsel in connection with collecting the reimbursement for such examination, inspection or audit, then Concessionaire must reimburse Airport for reasonable attorneys' fees and litigation expenses as part of the costs incurred.
- 5.2.4 Not later than ninety (90) days after each anniversary of the Commencement Date, Concessionaire must furnish to the Airport Director an unqualified report, certified by a Certified Public Accountant of the Gross Revenues. Concessionaire must also furnish the Airport Director with such other financial or statistical reports as the Airport Director from time to time may request.
- 5.2.5 Upon request by the Airport Director, Concessionaire must furnish to Airport copies of its quarterly State of Georgia sales and use tax returns covering the Premises as well as Concessionaire's Georgia and federal income tax returns at the time of filing, and any amendments. All copies of such returns must be certified as exact copies of the original documents by a Certified Public Accountant. Concessionaire shall also promptly notify the Airport Director of and furnish to the Airport copies of any audit reports covering the Premises conducted by the Department of Revenue of the State of Georgia or the Internal Revenue Service. All of the books, records and accounts required by this Section to be maintained by Concessionaire, or true and complete copies of them, shall be maintained by Concessionaire.

5.3 Revenue Control:

5.3.1 All business transactions, which occur in the Premises, must be completed by a register transaction and a receipt must be offered to each customer. The Concessionaire must implement a computerized point of sale system ("POS") and to further modify the system from time to time.

All cash registers used in the operation of businesses within the Premises must have, at a minimum, the features outlined below:

- 5.3.2.1 Segregated charge categories;
- **5.3.2.2** The input device may either be a keyboard, scanner, touch screen or any combination of the three;
- 5.3.2.3 The register or control processor(s) shall be capable of data transmission and

- **5.3.2.4** The register or data collection device shall have a secure transaction audit tape or transaction file.
- 6. TAXES AND LIENS: Concessionaire is liable for all taxes levied or assessed against any interest of Concessionaire or its subtenants in the Premises and any personal property, furniture or fixtures placed by Concessionaire in the Premises. Concessionaire agrees not to permit or suffer any liens to be imposed upon the Premises, the Airport or any other part of them as a result of its activities without promptly discharging them, provided, however, that Concessionaire may, if Concessionaire so desires, contest the legality of any such liens. In the event of a contest, Concessionaire must provide a bond in an amount and form acceptable to County in order to clear the record of any such liens.

7. PREMISES AND IMPROVEMENTS:

7.1 Premises, including plumbing and electrical, will be provided to Concessionaire in working order at commencement of executed Agreement. Concessionaire must, at its sole cost and expense, design, erect, construct and install all fixtures, furnishings, carpeting, decorations, finishings, equipment, counters, and all other improvements for the operation of business within the Premises. Airport agrees to repair the drop down security gate and install a commercial restaurant hood in the pre-security concession area, pursuant to this Agreement.

7.2 Utilities:

- 7.2.1 Airport shall provide the Leased Premises, identified in Exhibit A attached hereto, with ordinary amounts of heat and air conditioning, electricity, water and sewer, and natural gas for the conduct of Concessionaire's activities, subject to unexpected breakdowns or interruptions. Any modifications to the duct work or lines provided, required by Concessionaire as a result of its improvements shall be provided and paid for by Concessionaire.
- 7.2.2 Any and all costs of installing, relocating and/or expanding phone(s), data, and other cable/wiring and service shall be the sole responsibility of Concessionaire. In all instances of any damage to any utility service or service line caused by Concessionaire, its employees, contractors, suppliers, agents, or invitees, Concessionaire shall be responsible for and pay for the cost of repairs.

Should the installation of any equipment or improvements by Concessionaire require a modification to the building's electrical, heating or cooling systems, or the relocation or installation of an electrical outlet, or the use of electrical power other than that provided through the standard terminal electrical outlets, or modifications to the natural gas, plumbing, water or sewer system within the premises, all costs of construction and subsequent maintenance and related expenses of such modification, installation, or relocation, shall be borne entirely by Concessionaire, after approval of such proposed improvements by the Airport Director.

7.3 Waiver of Damage: Concessionaire expressly waives all claims for damages arising out of or resulting from failures or interruptions of utility services furnished by Airport including, but not

limited to, electricity, water, plumbing, sewage, telephone, communications, heat, ventilation, air conditioning, or for the failure or interruption of any public or passenger conveniences.

7.4 Maintenance and Repair: Concessionaire shall be obligated, without cost to the Airport, to maintain the Leased Premises and every part thereof and all improvements installed by Concessionaire, together with all fixtures, plate and mirror glass, walls, ceilings, lighting, floors, equipment, and personal property therein, in good repair, safe condition, and in a clean and orderly condition and appearance. Concessionaire shall keep the areas immediately adjacent to the exits and entrances of the Leased Premises clean, safe and orderly and free of displays, imperfections and obstructions, and shall promptly notify Airport of any safety hazards it observes near such exits/entrances on surfaces that are the responsibility of the Airport to maintain. Maintenance of the Leased Premises shall include, without limitation: (a) the cleaning of all doors, entrances, gates and interior glass surfaces, counters, interior walls, ceilings, lighting, floors and floor coverings, decor, speakers, signage and equipment; (b) repair of electrical lighting fixtures and receptacles within the Premises; (c) all maintenance and repair of any cooling or smoke removal (or neutralizing) units installed by Concessionaire; (d) routine repair and maintenance, including cleaning of all drains, pipes, exhaust hoods, and ventilation fans; (e) maintenance and repair of all plumbing fixtures, pipes and drains located in the Leased Premises; (f) repair of equipment, furniture and fixtures. The specific maintenance, replacement and repair responsibilities of Concessionaire and Airport are more particularly listed in Exhibit D attached hereto and incorporated herein.

The Airport shall be the sole judge of the quality and timeliness of maintenance. The Airport may at any reasonable time, without notice, enter the Leased Premises to determine if satisfactory maintenance is being performed. If Airport determines that maintenance is not satisfactory, Airport shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire within ten (10) calendar days after receipt of written notice, or such longer time as may be contained in the written notice, then Airport or its agents shall have the right to enter upon the Leased Premises and perform the maintenance therefor and Concessionaire agrees to promptly reimburse Airport for the direct costs thereof or the Airport may proceed with a Second Notice Provision.

Notwithstanding the above provision, any hazardous or potentially hazardous condition shall be corrected immediately upon receipt by Concessionaire of verbal notice given by Airport. At the direction of the Airport or other proper authorities, Concessionaire shall close the Leased Premises until such hazardous or potentially hazardous condition is corrected. During the period of such closure, there shall be no abatement of the Minimum Guarantee unless the reason for closure was completely beyond the control of Concessionaire, and Concessionaire takes all necessary actions to abate the hazard as quickly as possible.

If it becomes reasonably necessary during the Term of this Agreement, as determined by the Airport Director, Concessionaire will, at its own expense, redecorate and paint fixtures and the interior of the Premises and improvements, and replace fixtures, worn carpeting, curtains, blinds, drapes, or other furnishings.

- **7.4.1 Janitorial Service:** Concessionaire will provide sufficient janitorial services to ensure that the Premises are at all times maintained in a clean attractive and sanitary manner including, but not limited to, equipment, utensils, fixtures, grease traps, service counters and display units.
- 7.4.2 Pest Control: At any time during the Term of this Agreement, the Airport Director may require Concessionaire to use the pest-exterminating contractor engaged by the Airport to implement a comprehensive, ongoing pest control program. In such case, Concessionaire shall be required to provide the County with reports indicating compliance with pest control standards, in such form as the Airport Director may direct from time to time and shall be required to maintain manifest reports on file at each store, at all times.
- 7.5 Advertising: Concessionaire may, at its own expense, install and operate necessary and appropriate identification signs on the Premises, subject to the approval of the Airport Director as to the number, size, height, location, color and the general type and design. Such approval shall be subject to revocation by the Airport Director at any time. Without express written consent of the Airport Director, Concessionaire may not display any advertising, promotional or informational pamphlets, circulars, brochures or similar materials.

8. LIABILITY AND INDEMNITY:

- 8.1 County's Liabilities: Neither the Airport or the County will be liable or responsible to Concessionaire for any loss(es), damage(s) or expense(s) that Concessionaire may sustain or incur if either the quantity or character of any services to be provided by Airport is changed or is no longer available or is no longer suitable for Concessionaire's requirements. County will not be liable or responsible to Concessionaire for any loss(es), damage(s) or expense(s) arising out of, resulting from, relating to or concerning, directly or indirectly, acts of terrorism, including, but not limited to, loss(es), damage(s) or expense(s) sustained or incurred by Concessionaire as a result of:
 - **8.1.1** a change in the Airport's or Concessionaire's business resulting from such terrorist acts;
 - **8.1.2** the enactment of laws responding to or concerning such terrorist acts; or
 - **8.1.3** any other detrimental effect upon Concessionaire or its business resulting from such terrorist acts.
- **8.2** Indemnity and Hold Harmless: Concessionaire agrees to defend, indemnify and hold harmless the Mayor, the County, the Aviation Commission, the Board of Commissioners, its officers, agents, officials and employees (collectively, "Indemnified Parties") from and against:
 - **8.2.1** all liability for injuries to or deaths of persons or damage to property arising from Concessionaire's activities under this Agreement or in or about the Premises; and
 - 8.2.2 all loss(es), expens(es), demand(s), suit(s) and claim(s) against the Indemnified Parties sustained or alleged to have been sustained arising out of or relating to the negligence or willful

misconduct of Concessionaire or any other individual or entity under Concessionaire's control (contractual or otherwise) and their officers, agents or employees; and

- **8.2.3** all loss(es), expens(es), demand(s), suit(s) and claim(s) against the Indemnified Parties sustained or alleged to have been sustained arising out of or relating to any liens and charges of any kind that may at any time be established against the Premises or this Agreement, or any part of it, as a consequence of any act or omission of Concessionaire or as a consequence of the existence of Concessionaire's interest under this Agreement; and
- **8.2.4** all loss(es), expens(es), demand(s), suit(s) and claim(s) against the Indemnified Parties sustained or alleged to have been sustained arising out of or relating to Concessionaire's violation or alleged violation of the section entitled "Hazardous Materials". This indemnification obligation includes, but is not limited to fines assessed against Concessionaire, County, or others for whom County may be responsible, diminution in value of the Airport, damages for the loss of use of rentable or usable space or of any amenity of the Airport, damages arising from any adverse impact on marketing of space in the Airport, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees which arise during or after the Term of this Agreement, including any renewals, as a result of such violation. This indemnification of County by Concessionaire also includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal, or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Airport which results from such a violation; and
- **8.2.5** any and all loss(es), claim(s), damage(s), action(s) and suit(s) alleging that any good and/or service sold by Concessionaire infringes upon one or more United States Patent(s), copyright(s) or trademark(s) owned by anyone other than Concessionaire, or violates any provision of the Lanham Act.
- **8.3** Indemnity Not Limited By Applicable Insurance: Concessionaire further agrees that this agreement to indemnify and hold harmless the Indemnified Parties will not be limited to the limits or terms of the liability insurance, if any, required under this Agreement.
- **8.4** Survival: The clause entitled "Indemnity and Hold Harmless" shall survive any termination or expiration of this Agreement.

9. INSURANCE, BONDING and PERFORMANCE GUARANTEE:

- 9.1 Insurance. Insurance requirements are specified in Exhibit B.
- 9.2 <u>Performance Guarantee.</u> Amount of Performance Guarantee. Concessionaire shall provide, file, and maintain during the Term, a performance guarantee satisfactory to the Airport in its reasonable discretion. The performance guarantee during the Initial and Secondary Term shall be equal to the amount of the Minimum Guarantee per year for both food/beverage and retail being provided by Concessionaire.

The Concessionaire must ensure that the performance guarantee is maintained at all times in the proper amount throughout the period of the Agreement.

- **9.3** Form of Guarantee. The performance guarantee, at the option of the Concessionaire, may be an irrevocable letter of credit from a bank which is located in the Augusta area or which will accept a demand for payment by mail, the form of which has been approved by Airport's General Counsel; or it may be a performance bond, issued by an insurance company acceptable to the Airport.
- **9.4** Certificate of Renewal. At least forty-five (45) days prior to the expiration date on which any such surety guarantee expires, Concessionaire shall provide and file with the Airport Director a renewal or replacement guarantee.
- **9.5** Maintenance of Guarantee. If the Concessionaire fails to provide or maintain the performance guarantee in effect at any time during the period of the Agreement, the Concessionaire shall be in default and the Agreement may be terminated by the County.
- 9.6 Construction Insurance. Prior to the Airport Director granting authority to proceed with construction of any leasehold improvement or alteration, Concessionaire or its contractor shall take out and maintain during the construction period Workers' Compensation and Contractor's comprehensive general public liability insurance, wherein the Airport, its officers, agents and employees are named as additional insureds. Coverage shall protect the contractor and any subcontractor performing work from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operations during the construction, whether such operations be by the contractor or by any subcontractor or by anyone directly or indirectly employed by them. Such policy or policies shall not exclude the "Explosion Hazard" nor the "Collapse Hazard" and shall be in an amount not less than a combined single limit of five million dollars (\$5,000,000.00) for bodily injury and property damage per occurrence.

This insurance shall include coverage for damage of property of any nature in care, custody, or control of the contractor, or any property over which the contractor is directly or indirectly exercising physical control by reasons of the work to be performed.

The contractor shall also obtain Builder's Risk insurance covering all work incorporated in the Leased Premises and all material for the same in, on or about the Airport.

10. DAMAGE OR DESTRUCTION:

10.1 Partial Destruction of the Premises:

10.1.1 Insured Damage: If the Premises are damaged by any casualty which is insurable under an insurance policy of the type required to be maintained by Concessionaire pursuant to this Agreement, regardless of whether the Premises is tenantable or practically usable for the purpose for which it was formerly used, then Concessionaire must repair such damage as soon as reasonably possible and this Agreement will continue in full force and effect.

- 10.1.2 Uninsured Damage: If the Premises are damaged by any casualty not insurable under an insurance policy of the type required to be maintained pursuant to this Agreement, and such casualty is not caused by an act or omission of Concessionaire, its agents, servants or employees, then Airport's options are, either:
- 10.1.2.1 repair such damage as soon as reasonably possible at Airport's expense, in which event this Agreement will continue in full force and effect; or give written notice to Concessionaire within thirty (30) days after the date of occurrence of such damage of Airport's intention to terminate this Agreement effective as of the date of the occurrence of the damage. If Airport elects to terminate this Agreement, Concessionaire will have the right, within ten (10) days of the date of the Airport's notice to notify, Airport in writing of Concessionaire's intention to repair such damage. If Concessionaire fails to repair the damage to Airport's satisfaction within a reasonable period of time, this Agreement will automatically terminate effective as of the date of the occurrence of such damage.
- 10.1.3 In no event shall Airport be required to repair any injury or damage of fire or other cause, or to make any restoration or replacement of any paneling, decorations, office fixtures, partitions, railings, ceilings, floor covering, equipment, machinery or fixtures or any other improvements or property installed in the Premises by Concessionaire or at the direct or indirect expense of Concessionaire, Concessionaire must restore or replace the same in the event of damage provided that this Agreement is not terminated pursuant to this Section.
- 10.1.4 If the Premises are damaged by any casualty not insurable under an insurance policy of the type required to be maintained pursuant to this Agreement, and such casualty is caused by an act or omission of Concessionaire, its agents, servants or employees, then Concessionaire must repair the damage to the Airport's satisfaction within a reasonable period of time, in which event this Agreement will continue in full force and effect.
- 10.2 Total Destruction of Premises: If the Premises is totally destroyed during the Term from any cause whether or not covered by the insurance required under this Agreement (including any destruction required by any authorized public authority), this Agreement will automatically terminate, effective as of the date of such total destruction.
- 10.3 Damage During Last Year of Term or Renewal Period: If during the last year of the Term, including any renewal term, the Premises are partially destroyed or damaged and are not covered under an insurance policy required to be maintained pursuant to this Agreement, Airport may terminate this Agreement, effective as of the date of occurrence of such damage, by giving written notice to Concessionaire within thirty (30) days after the date of occurrence of such damage. If Airport elects to terminate this Agreement, Concessionaire will have the right, within ten (10) days of the date of the Airport notice, to notify Airport in writing of Concessionaire's intention to repair such damage at Concessionaire's expense, without reimbursement from Airport, in which event this Agreement shall continue in full force and effect and Concessionaire must proceed to make such repairs as soon as reasonably possible.

10.4 Reduction of Rent: Concessionaire's Remedies:

- 10.4.1 If the Premises are partially destroyed or damaged physically and the Airport is obligated to repair the Premises pursuant to this Agreement, the rent attributable to such partially destroyed or damaged Premises and payable for the period during which such damage and repair continues will be reduced in proportion to the extent to which Concessionaire's use of the Premises is impaired, calculated on a square foot basis, in accordance with the discretion and determinations of the Airport Director. For example, if one-half of the Premises are unusable by Concessionaire as a result of such physical damage or destruction, then the rent payable for each month during which it exists and is being repaired will be reduced by one-half. Except for a reduction rent (if any), Concessionaire shall have no claim against the Airport for any damage suffered by reason of any such damage, destruction or repair.
- 10.4.2 If the Airport shall be obligated to repair the Premises under this Section and shall not commence such repair or restoration within 45 days after such obligation shall accrue, Concessionaire at Concessionaire's option may cancel and terminate this Agreement by written notice to the Airport at any time prior to the commencement of such repair. In such event this Agreement shall terminate as of the date of such notice.

11. DEFAULT BY TENANT:

- 11.1 Events of Default: Concessionaire will be in default under this Agreement if:
 - 11.1.1 Concessionaire fails to pay MAG or any other payment required under this Agreement when due to Airport, and that failure continues for a period of thirty (30) days after such MAG or other payment is due whether or not the Airport has invoiced or provided Concessionaire with notice of any amount due or overdue.; or
 - 11.1.2 Concessionaire:
 - 11.1.2.1 becomes insolvent, or seeks the benefit of any present or future insolvency statute; or
 - 11.1.2.2 makes a general assignment for the benefit of creditors; or
 - 11.1.2.3 files a voluntary petition in bankruptcy; or
 - 11.1.2.4 files a petition or answer seeking an arrangement for its 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 other State; or
 - 11.1.2.5 consents to the appointment of a receiver, trustee, or liquidator of any of its property; or
 - 11.1.2.6 files a petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, is involuntarily filed against Concessionaire and not dismissed within sixty (60) days after the filing; or

- 11.1.2.7 transfers its interest under this Agreement, without the prior written approval of Airport, by reason of death, operation of law, assignment, sublease agreement or otherwise, to any other person, firm or corporation; or
- 11.1.2.8 abandons, deserts or vacates the Premises, including, but not limited to, ceasing to provide its services at the Premises for thirty (30) days or more; or
- 11.1.2.9 files any lien against the Premises because of any act or omission of Concessionaire, and is not discharged by Concessionaire by payment, bond or otherwise within twenty (20) days after receipt of notice of the lien by Concessionaire; or
- 11.1.2.10 fails to comply with the requirements set forth in the Insurance and Bonding Requirements; or
- 11.1.2.11 fails to keep, perform or observe any term, covenant or condition of this Agreement; or
- 11.1.2.12 uses or gives its permission to any person to use any portion of Premises for any illegal purpose or purpose in violation of this Agreement; or
- 11.1.2.13 (including any venture partner of Concessionaire), or any of their respective officers, directors, principal shareholder(s) or affiliates, is convicted of or pleads guilty to any crime in any way related to the operation of the Premises or the Airport or a public sector, governmental or quasi-governmental project or contract or related to the safety and/or security of any Airport, governmental entity or its citizens. For purposes of this Agreement:
- 11.1.2.13.1 "principal shareholder" means an owner of shares (or equity interest, if other than a corporation) representing 10% of the voting control and/or participation (through dividends or other distributions) in the profits of an entity:
- 11.1.2.13.2 "affiliate" means any person or entity which directly or indirectly controls or is controlled by, or is under common control with an entity; and
- 11.1.2.13.3 "control" or "controlling" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity whether through the ownership of voting securities, by contract or otherwise; or
 - 11.1.2.14 intentionally or willfully misrepresents to Airport any material fact; or
 - 11.1.2.15 made any material misrepresentation or failed to make full and accurate disclosure to Airport in the documents, questionnaires and other materials submitted by Concessionaire with its Proposal pursuant to which this Agreement was awarded to Concessionaire, or failed to comply with all requirements, including without limitation, the ethical standards policy, set forth in the County's Code of Ordinances; or

- 11.1.2.16 acts or fails to act results in the suspension or revocation of, for a period of more than thirty (30) days, of any rights, powers, licenses, permits or authorities necessary for the operation of its business at the Premises; or
- 11.1.2.17 fails to pay any lawful tax or assessments required to be paid under this Agreement.
- 11.1.3 the service offered by Concessionaire deteriorates for a period which in the sole, reasonably arrived at opinion of Airport Director, materially and adversely affects Concessionaire's Gross Revenues and materially falls below the level of service required to be performed and offered by Concessionaire, provided that Concessionaire shall be permitted thirty (30) days within which to restore service satisfactory to the Airport.
- 11.2 Airport's Remedies: If Concessionaire is in default, Airport will notify Concessionaire in writing of the nature of the default. If Concessionaire, where a specific time period for the cure is provided in the applicable subsection of this Agreement, does not cure the default within that period or, where a time period for the cure is not specifically provided in the applicable subsection, does not cure the default within fourteen (14) days from receipt of notice from Airport, Airport may, without notice to Concessionaire's sureties, if any, elect to exercise any of the following remedies:
 - 11.2.1 Allow this Agreement to continue in full force and effect and to enforce all of Airport's rights and remedies under it, including, without limitation, the right to assess fines and the right to collect MAG as it becomes due together with interest at the rate of one and 1.5% per month.
 - 11.2.2 Continue this Agreement in full force and effect and enter the Premises and relet all or any portion of it to other parties for Concessionaire's account. Concessionaire must pay to Airport on demand all costs Airport incurs in entering the Premises and reletting it, including, without limitation, brokers' commissions, expenses for repairs and remodeling, attorneys' fees and all other actual costs. Reletting may be for a period shorter or longer than the remaining Term. During the term of any reletting, Concessionaire must pay to Airport the MAG due under this Agreement on the date due, less any net rents/fees Airport receives from any reletting.
 - 11.2.3 Terminate Concessionaire's rights under this Agreement at any time and recover from Concessionaire all costs, expenses, losses and damages recoverable under this Agreement or applicable law as a result of Concessionaire's default and the termination.
 - 11.2.4 Cure any default at Concessionaire's cost. If Airport at any time, by reason of Concessionaire's default, pays any sum to cure any default, the sum paid by Airport shall be immediately due from Concessionaire to Airport on demand, and shall bear interest at the rate of one and 1.5% per month from the date paid by Airport until the date Airport is fully reimbursed by Concessionaire.
 - 11.2.5 Exercise any and all other rights or remedies available under this Agreement or at law or in equity.

11.3 Concessionaire Not in Default: If, after termination for default, it is determined for any reason that Concessionaire was not in default, the rights and obligations of the parties will be the same as if the Agreement had been terminated pursuant to the Section entitled "Termination for Convenience.".

11.4 Security Interest:

- 11.4.1 In addition to the statutory landlord's lien, Concessionaire grants to Airport a valid security interest in all goods, wares, equipment, fixtures, furniture, improvements and other personal property, owned by Concessionaire, located now or in the future within the Premises, including the proceeds of such items, to secure payment of all MAG and other sums of money becoming due from Concessionaire under this Agreement, and to secure payment of any damages or losses that Airport may suffer by reason of the breach by Concessionaire of this Agreement. Concessionaire may not remove such goods, wares, equipment, fixtures, furniture, improvements and other personal property located now or in the future within the Premises from the Premises without the written consent of Airport until all arrearages in MAG, as well as any other sums of money then due to Airport under this Agreement, have been paid and discharged and all the covenants, agreements and conditions of this Agreement have been fully complied with and performed by Concessionaire.
- 11.4.2 Upon the occurrence of an event of default by Concessionaire, Airport may, in addition to any other remedies provided in this Agreement, enter upon the Premises and take possession of any goods, wares, equipment, fixtures, furniture, improvements and other personal property of Concessionaire situated on the Premises, without liability for trespass or conversion, and sell them at public or private sale, with or without having such property at the sale, after giving Concessionaire reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, at which sale County or its assigns may purchase the property unless otherwise prohibited by law. The requirement of reasonable notice to Concessionaire will be met if such notice is given in the manner prescribed in the Section entitled "Notices", at least five (5) days before the date of the sale.
- 11.4.3 The proceeds from any such sale, less any expenses of the Airport connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and other expenses), will be applied as a credit against the debts payable by Concessionaire, or as otherwise required by law; and Concessionaire will pay any deficiencies immediately.
- 11.4.4 Upon request by Airport, Concessionaire agrees to execute and deliver to Airport a financing statement in a form sufficient to perfect the security interest of the Airport in the property and the proceeds under the provisions of the Uniform Commercial Code in force in the State of Georgia. By accepting a grant of the security interest set forth in this provisions, the parties agree that the Airport is not waiving its rights under any statutory lien for the payment of MAG granted under this Agreement or applicable law.

12. TERMINATION FOR CONVENIENCE:

- 12.1 Either Party shall have the right to terminate the Contract without cause at any time during the Term by giving written notice to the other Party at least thirty (30) days prior to the date such termination is to be effective. Should the Airport terminate the Contract prior to its expiration, the Airport shall reimburse the Concessionaire for the reasonable and proper unamortized costs of the capital Improvements, made by or at the cost of the Concessionaire, and approved in writing by the Airport Director. Concessionaire must document the costs of any and all capital Improvements in a form and detail satisfactory to the Airport Director and submit same within thirty (30) calendar days following completion of the work for review and approval, for the purpose of establishing the unamortized costs of the Improvements. The capital costs of the Improvements shall be amortized based upon a straight-line depreciation schedule over the initial Term of the Contract, with zero salvage value.
- 13. UNAUTHORIZED ACCESS: Concessionaire is responsible for preventing unauthorized persons from gaining access to restricted areas of the Airport or any other part of the Airport through the Premises or any door under Concessionaire's control. If federal security regulations are violated as a result of trespass by unauthorized persons into restricted areas of the Airport or any other part of the Airport through the Premises or any door under Concessionaire's control, or if such door is left unsecured in violation of federal security regulations, and Airport is subjected to any liability, including, but not limited to, a fine(s) by the Transportation Security Administration, Concessionaire must reimburse Airport for the full amount of such fines promptly upon receipt of an invoice from Airport and pay for any liability assessed against Airport as a result of such unauthorized access.

14. SURRENDER OF PREMISES:

- 14.1 Concessionaire must yield and deliver peaceably to Airport possession of the Premises and all Concessionaire improvements in good condition, reasonable wear and tear excepted, upon the expiration or earlier termination of this Agreement.
- 14.2 Concessionaire must remove Concessionaire's signs and trade fixtures from the Premises and must surrender the Premises in clean and presentable condition. Airport will retain Concessionaire's Performance and Payment Bond(s) or other securities required under Section 9 until such time as all conditions of this Agreement have been satisfied, all keys to the Premises are delivered to the Airport Director by Concessionaire, the Airport Director determines that the Premises are clean and in good repair and the applicable period for filing liens or other claims has passed. Concessionaire will be liable to Airport for Airport's costs for storing, removing and disposing of any alterations or Concessionaire's personal property, and of restoration of the Premises.

15. OWNERSHIP OF INFORMATION; CONFIDENTIALITY

15.1 All reports, information, data or other documents given to, prepared by or assembled by Concessionaire arising out of the work performed under this Agreement are the exclusive property of Airport and will be kept confidential and may not be made available to any individual or organization by Concessionaire without the prior written approval of Airport, provided however that these provisions shall not apply to data that is in the public domain; was

previously known to Concessionaire; or was independently acquired by Concessionaire from third parties who are under no obligation to Airport to keep said data and information confidential. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of Concessionaire, nor shall they be interpreted in any way to restrict Concessionaire from complying with a legally enforceable court order to provide information or data; provided, however, Concessionaire shall immediately place Airport on notice of such court order to permit Airport the opportunity to determine whether a protective order shall be filed. This restriction includes, but is not limited to, press releases, presentations, promotional materials and other public disclosures.

16. HAZARDOUS MATERIALS:

- 16.1 Concessionaire shall not cause or permit any Hazardous Material to be brought, kept or used in or about the Premises or the Airport by Concessionaire, its agents, employees, contractors, or invitees. Without limiting the foregoing, if the presence of any Hazardous Material in the Airport caused or permitted by Concessionaire results in any contamination of the Airport, Concessionaire shall promptly take all actions at its sole expense as are necessary to return the Airport to the conditions existing prior to the introduction of such Hazardous Material to the Airport; provided that Airport's approval of such actions, and the contractors to be used by Concessionaire in connection therewith, shall first be obtained.
- The term "Hazardous Material" means any hazardous or toxic substance, material, or waste, which is or becomes regulated by any local governmental authority or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" or similar term under any laws now or hereafter enacted by the United States or the State of Georgia or any political subdivision thereof, or (ii) designated a "hazardous substance" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317, or (iii) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or (iv) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.
- 16.3 In addition to, and independent of any other right of entry provided herein, Airport and its employees, representatives and agents shall have access to the Premises during reasonable hours and upon reasonable notice to Concessionaire in order to conduct periodic environmental inspections and tests of Hazardous Material contamination in the Premises.
- 17. AIRPORT SECURITY REQUIREMENTS: Concessionaire shall comply, at its own expense, with the TSA and the Airport's security requirements for the Airport including, but not limited to employee training and badging. Concessionaire shall cooperate with the TSA and the Airport on all security matters and shall promptly comply with any project security arrangements established by the Airport. Compliance with such security requirements shall not relieve Concessionaire of its responsibility for maintaining proper security for the above-noted items, nor shall it be construed as

limiting in any manner Concessionaire's obligation with respect to all applicable federal, state and local laws and regulations and its duty to undertake reasonable action to establish and maintain secure conditions at and around the Premises and throughout the Airport. All employees shall be properly badged and comply with all Airport safety and security rules.

- 18. COUNTY POLICIES; FEDERAL DBE BUSINESS PARTICIPATION AND NON-DISCRIMINATION PROVISIONS:
- 18.1 County's Required Policies: Concessionaire acknowledges that Concessionaire has reviewed, is familiar with and agrees to comply with:
 - 18.1.1 County's Business Non-Discrimination Policy
 - **18.1.2** County's Ethics in Public Contracting Policy
 - 18.1.3 County's Conflicts of Interest Policy
 - **18.1.4** FAA's Non-Discrimination Policy
 - 18.1.5 Federal Concessions DBE Policies
- **18.2** Non-discrimination Certificates: By the execution of this Agreement, Concessionaire certifies as follows:

The services covered by this Agreement will not discriminate in any way in connection with this Agreement against any employee or applicant for employment because of race, color, religion, sex, national original or physical handicap, and Concessionaire will take affirmative action to insure that applicants are employed, and those employees are treated during employment without regard to their race, color, religion, sex, national origin or physical handicap. Concessionaire shall state in all advertisements and solicitations that it is an equal employment opportunity employer.

18.3 USDOT Non-discrimination Ordinance: This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, religion, national origin, sex or physical handicap in connection with the award or performance of any agreement covered by 49 CFR part 23, subpart F. Concessionaire agrees to include the above statements in any subcontracts or subsequent agreements that it enters into and cause those businesses to similarly include the statements in subsequent agreements.

18.4 Public Use and Federal Grants:

18.4.1 To the best of Concessionaire's knowledge, the Premises are subject to the terms of those certain sponsor's assurances made to guarantee the public use of the Airport as incidental to grant agreements between the County and the United States of America, as amended. The

Airport and Concessionaire represent that none of the provisions of this Agreement violates any of the provisions of the Sponsor's Assurance Agreement.

- **18.4.2** It is further covenanted and agreed that nothing contained in this Agreement shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.
- 18.4.3 Concessionaire for itself, its subtenants, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities; (2) in the construction of any improvements on, over, or under the Premises and the furnishings of services thereon, no person on the grounds of race, color, or national original shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) Concessionaire shall use the Premises in compliance with all other requirements imposed by or pursuant to the Code of Federal Regulations for the Department of Transportation at Title 49, Subtitle A, Office of the Secretary of Transportation, Part 21, titled "Nondiscrimination in Federally Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964", and as said regulations may be amended; and (4) in the event of breach of any of the above nondiscrimination covenants, County shall have the right to terminate this Agreement thereon, and hold the same as if this Agreement had never been made or issued. Provision (4) shall not be effective until the procedures of 49 CFR Subtitle A, Part 21 are followed and completed, including the exercise or expiration of appeal rights.

19.4 Georgia Security and Immigration Compliance Act: Concessionaire shall complete the required submittals and shall otherwise comply in all respects with the Georgia Security and Immigration Compliance Act, O.C.G.A.. § 13-10-90, et seq.

20. Delivery and Restocking.

- 20.1 Delivery and restocking hours must be coordinated with the Airport so as not to conflict with peak traffic times. Concessionaire shall develop logistics programs within the parameters of Airport regulations while maintaining sufficient inventory.
- 20.2 All products being delivered to the secured area shall be inspected and screened at the designated locations.

21. MISCELLANEOUS PROVISIONS:

21.1 Award and Execution of Agreement: The award and execution of this Agreement by
County is authorized by Resolution No adopted by County's Council on, and
approved by County's Mayor on, , attached to this Agreement as Exhibit C. This
Agreement will not become binding on County and County will incur no liability under it until it
has been duly executed by Concessionaire, returned to Airport with all required submittals,
including insurance and bonding, executed by the Mayor, attested to by the Municipal Clerk,
approved by County Attorney as to form and delivered to Concessionaire.

- 21.2 Identity of Owner and Manager: The owner of record of the property of which the Premises is a part is the County. The person authorized to manage the property, which includes the Premises, is the Airport Director, appointed by the Augusta Aviation Commission.
- 21.3 Delegation of Authority: Any act(s), whether discretionary or ministerial, that the Airport Director is authorized or required to perform under this Agreement may be performed by such person(s) as the Airport Director shall designate in writing to perform such act(s).
- 21.4 No Contractual Relationship; No Partnership or Joint Venture: Concessionaire will perform under this Agreement as an independent entity and not as an agent or employee of Airport. No contractual relationship between Airport and any subtenant, subcontractor, or sub consultant is created by an approval of Airport for use under this Agreement. Airport and Concessionaire are not and shall not be deemed to be, for any purpose, partners or joint venturers with each other.
- 21.5 Usufruct: The rights of Concessionaire hereunder constitute a usufruct, which is not subject to levy or sale. No estate shall pass out of County.
- 21.6 Recording Prohibited: Neither County nor Concessionaire shall be entitled to record this Agreement, any memorandum or short form of this Agreement or any affidavit with respect to this Agreement.
- 21.7 Attorneys' Fees: If Airport should bring any action under this Agreement or consult or place this Agreement, or any amount payable to Concessionaire pursuant to this Agreement, with an attorney concerning or for enforcement of any of Airport's rights hereunder, then Concessionaire agrees in each and any such case to pay to Airport all costs, including, but not limited to, court costs and reasonable attorneys' fees, incurred by Airport in connection therewith.
- 21.8 Severability: If any provision of this Agreement or the application thereof to any person or circumstances shall become invalid or unenforceable to any extent, such provision shall be struck and severed and the remainder of this Agreement shall not be affected and shall continue to be enforceable to the greatest extent of the law. Each covenant and agreement contained in this Agreement shall be construed to be a separate and independent covenant and agreement and the breach of any such covenant or agreement by Airport shall not discharge or relieve Concessionaire from Concessionaire's obligation to perform each and every covenant and agreement of this Agreement to be performed by Concessionaire.
- 21.9 Gender: Words of any gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- 21.10 Time of the Essence: Time is of the essence with regard to each provision of this Agreement.

- **21.11 Evidence of Authority:** If Concessionaire is other than a natural person, Concessionaire shall deliver to Airport such legal documentation as Airport may request to evidence the authority of those signing this Agreement to bind Concessionaire.
- **21.12 Drug-Free Workplace Policy:** Concessionaire acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on County's Premises.
- **21.13 Successors and Assigns:** Each and all of the conditions and covenants of this Agreement shall extend to and bind and inure to the benefit of County and Concessionaire, and the legal representatives, successors and assigns of either or both of them.
- 21.14 Notices: All notices required to be given to Airport hereunder shall be in writing and given by postage prepaid registered or certified mail, return receipt requested, addressed to the Airport Director of the Airport, Office of the General Manager, No notices shall be effective if transmitted by telex, fax or other electronic delivery. All notices required to be given to hereunder shall be sent to the following addresses:

Augusta Regional Airport 1501 Aviation Way Augusta, Georgia 30906 Fax: (706) 798-1551 Attn: Airport Director

With a copy to:

City of Augusta 501 Greene St. Ste. 302

Augusta, Georgia 30901 Attn: General Counsel Fax: (706) 842-5556

Concessionaire:

Tailwind AGS LLC. 408 Landmark Drive Wilmington, NC 28412

- 21.15 Interpretation: The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either County, Airport or Concessionaire. This Agreement shall be construed and performed according to the laws of the State of Georgia. In the event of a dispute with regard to interpretation of any provision of this Agreement, the parties agree to bring suit and be subject to the jurisdiction of the Richmond County Superior Court.
- **21.16 Section Headings:** The section headings contained herein are for the convenience of Airport and Concessionaire and are not to be used to construe the intent of this Agreement or any part thereof, nor to modify, amplify, or aid in the interpretation or construction of any of the provisions thereof.

- **21.17** Reference to Clause or Section Entitled "____": When reference in this Agreement is made to a specific clause with a specific title set forth in a section heading or section number, such reference will include all sections and subsections of such clause.
- 21.18 Integrated Agreement, Modification: This Agreement contains all the agreements of the parties and cannot be further amended or modified except by written agreement. If the parties hereto previously have entered into or do enter into any other lease, license, permit or agreement covering Premises or facilities at the Airport, this Agreement and the terms, conditions, provisions and covenants hereof shall apply only to the Premises herein particularly described, and this Agreement or any of the terms, conditions, provisions or covenants hereof shall not in any way or in any respect change, amend, modify, alter, enlarge, impair or prejudice any of the rights, privileges, duties or obligations of either of the parties hereto under or by reason of any other said lease, permit, license or other agreement between said parties.
- 21.19 Force Majeure: Neither party shall be deemed to be in breach of this Agreement by reason of a failure to perform any of its obligations hereunder to the extent that such failure is caused by strike or labor troubles, unavailability of materials or utilities, riots, rebellion, terrorist attack, insurrection, invasion, war, action or interference of governmental authorities, acts of God, or any other cause whether similar or dissimilar to the foregoing which is reasonably beyond the control of the parties (collectively "Force Majeure Event"). If either party claims the occurrence of a Force Majeure Event, such party must promptly give notice to the other of the existence of such Force Majeure Event, the nature and extent thereof, the obligation hereunder affected thereby and the actions to be taken to abate or terminate such event. Notwithstanding the existence of any Force Majeure Event, this Clause shall not apply to and Concessionaire shall not be relieved of its obligation to pay rent or other sums due hereunder, such obligation being absolute and unconditional.
- 21.20 Incorporation by Reference: All exhibits, appendices, attachments, riders and addenda referred to in this Agreement are incorporated into this Agreement and made a part hereof for all intents and purposes. Additionally, the proposal submitted by Concessionaire in response to the RFP (the "Proposal") is incorporated into this Agreement into this Agreement and made a part hereof for all intents and purposes. Concessionaire shall perform all of its obligations under this Agreement as provided herein and as described by Concessionaire in the Proposals. In the event of any inconsistency between this Agreement and such proposals, this Agreement shall control.

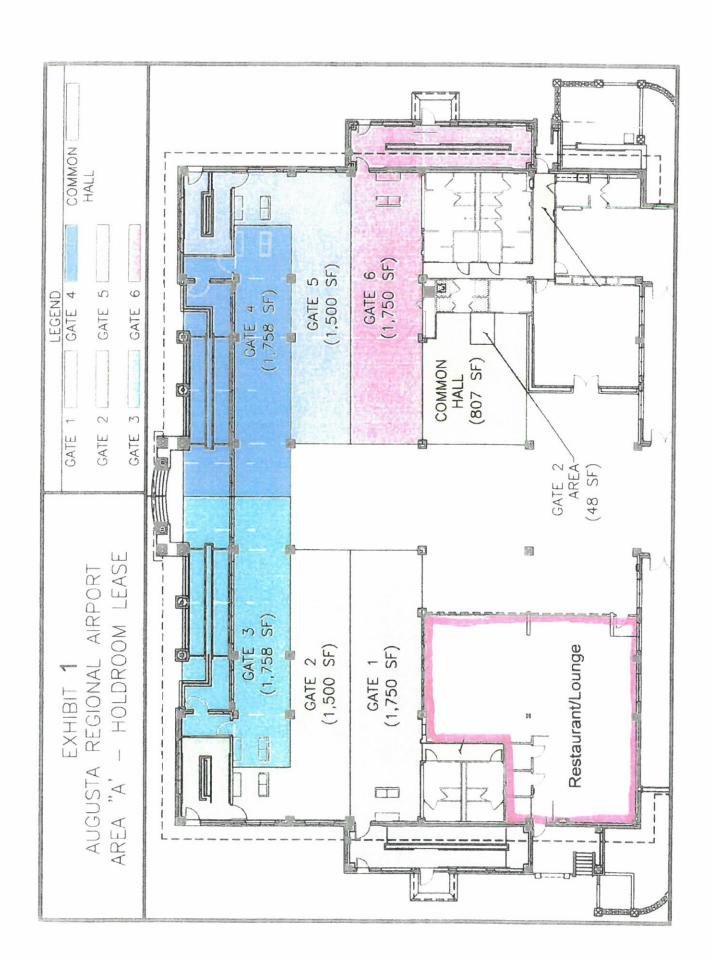
[SIGNATURES ON FOLLOWING PAGE]

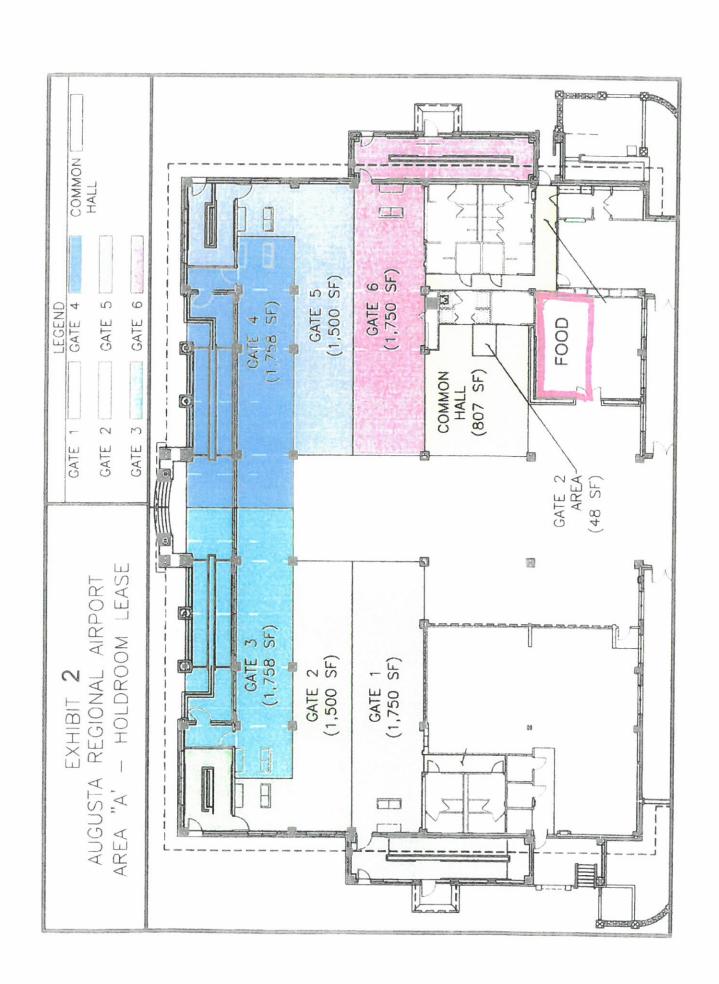
CONCESSIONAIRE:	COUNTY:					
By: Name: Je Rogy Switze Title: CEO & Presiding to	Mayor Attest:	Date				
Attest:						
luh M	Clerk (Seal)					
Corporate Secretary/Assistant Secretary (Seal)	Approved:					
, , ,						
	Chairman, Aviation Commission	Date				
	Approved As To Form:					
	County Attorney	Date				

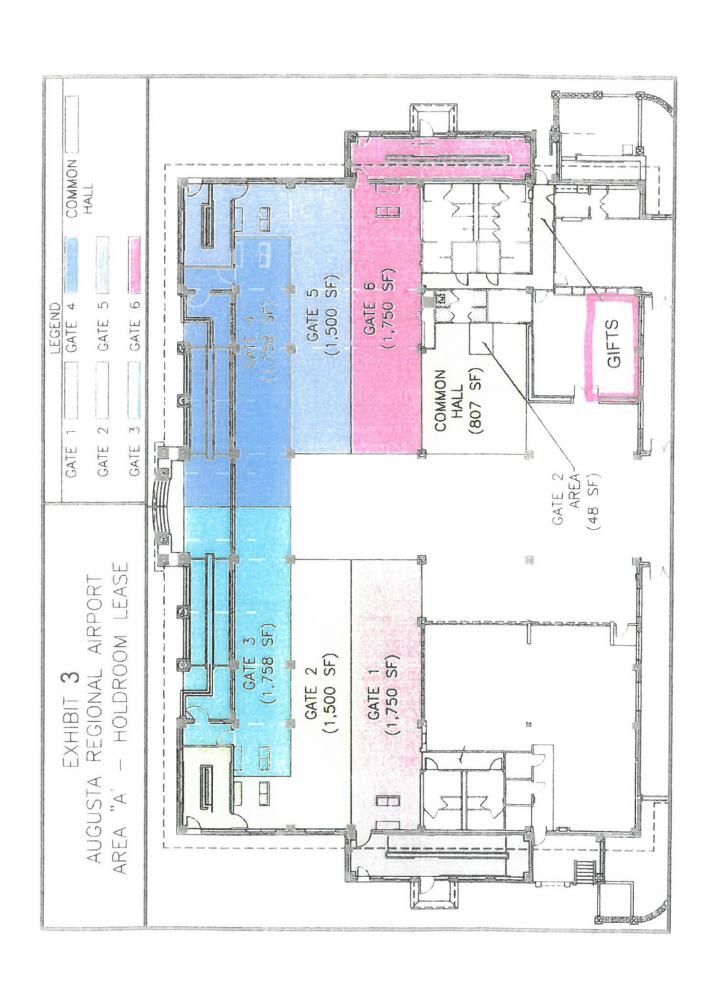
Exhibits

Exhibits A	Description/Map of Premises location
Exhibit B	Insurance Requirements
Exhibit C	County Board of Commission Resolution
Exhibit D	Maintenance and Repair Responsibilities

Exhibit A Map of Premises







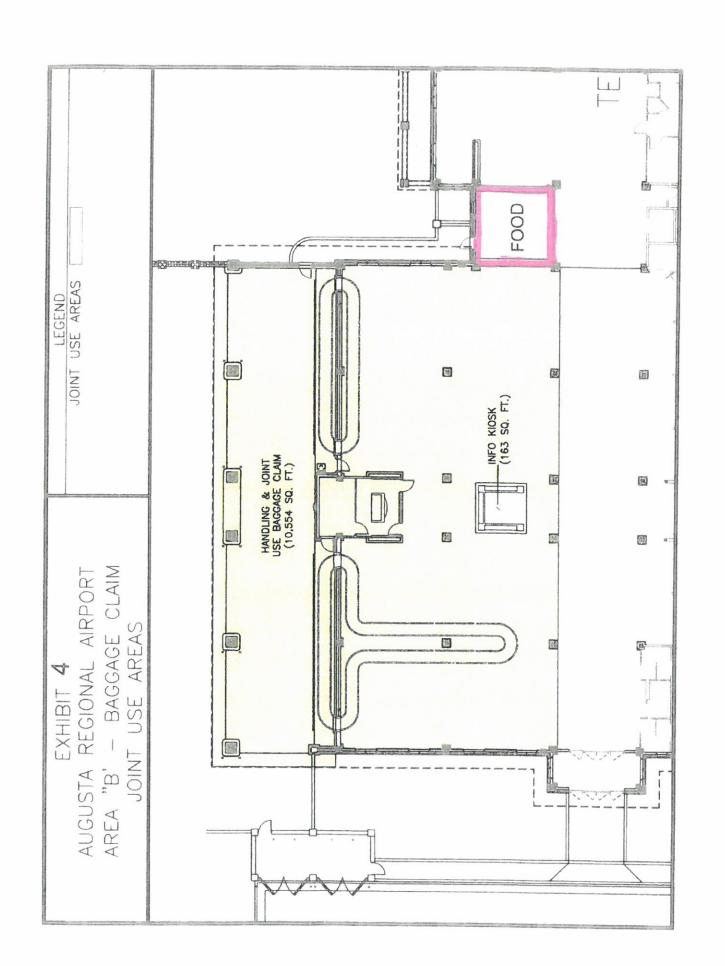


Exhibit B Insurance

EXHIBIT B

Insurance Requirements

Vendors operating concessions on the Augusta Regional Airport property are required to procure and maintain, for the duration of their contract with the Airport, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the Vendor's operators, its agents, representatives, employees, or subcontractors. The cost of such insurance shall be the responsibility of the Vendor.

- 1. The Vendor shall carry liability insurance with a reliable company licensed to do business in the State of Georgia.
- 2. The Vendor shall carry workers' compensation and employer's liability insurance (including applicable occupation disease provisions and all state endorsements) as required by the State of Georgia.
- 3. All Risk (except for those items specifically excluded) Coverage, and Flood (if required by the Airport) Insurance and such other coverages as the Airport may reasonably elect to require in an amount adequate to cover the replacement cost of all personal property, decorations, trade fixtures, furnishings, equipment, and all contents therein. Business Interruption Insurance covering these risks in an amount equal to all Minimum Annual Rent and other sums payable under the Lease for a period of twelve (12) months commencing with the date of loss.
- 4. The Vendor shall maintain limits no less than the following:
- a. GENERAL LIABILITY: \$5,000,000 combined single limit per occurrence for bodily injury, property damage, and personal injury with a \$5,000,000 general aggregate limit including products and completed operations coverage.
- b. AUTOMOBILE LIABILITY: \$1,000,000 combined single limit per accident for bodily injury and property damage including hired and non-owned liability. This coverage requirement will increase to \$5,000,000 if any vehicles are driven on the Airport Operations Area (AOA).
- c. WORKER'S COMPENSATION: Statutory limits as required by Georgia state law and employer's liability limits of \$1,000,000 per accident. Waiver of subrogation shall be in favor of the Airport.
- d. MACHINERY (Mechanicals): covering all pressure vessels; boilers; heating, ventilating, and air conditioning equipment; or similar equipment, if any, in, on, adjoining, above, or beneath the Leased Premises which serve the Leased Premises, in a minimum amount of \$1,000,000; provided, however, Vendor shall not be required to maintain separate coverage if the risks contemplated herein are adequately covered by the Airport's insurance.
- e. LIQUOR LEGAL LIABILITY: in such amounts as the Airport may from time to time require, but in no event initially less than \$5,000,000. Vendor must include the Airport as an additional insured under the Liquor Liability Insurance policy.
- f. Umbrella Liability may be used to achieve the above limits. Umbrella must be a follow form and indicate that it would pick up the additional insured, waivers, Primary & Non-Contributory, with Notice of Cancels.

- 5. All Insurance described herein shall be maintained by the Vendor for the full period of the contract and in no event will be terminated or otherwise allowed to lapse during the contract period without providing 10 days notice of cancellation or non-renewal to the Airport. Each insurance policy shall be endorsed to the Airport. Further, Vendor shall notify the Airport immediately upon receipt of any suspension, cancellation, non-renewal or reduction of coverage of any policy.
- 6. The Airport shall be named as an additional insured under the Vendor's general liability and automobile liability policies by attaching Insurance Services Office Commercial General Liability Endorsement CG2009 (Additional Insured-Owners, Lessees, or Vendors-Form A) or its equivalent. The Vendor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all requirements stated herein. The foregoing insurance shall be endorsed to state that it will be primary to the Aviation Commission's insurance and that the carrier waives its right of subrogation against Augusta-Richmond County, the Aviation Commission, the Airport, and their officers, agents, elected and appointed officials, representatives, volunteers, and employees.
- 7. The Vendor shall furnish the Airport with certificates of insurance with endorsements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- 8. All certificates and endorsements are to be received and approved by the Airport before operations commence and Vendor shall deliver 5 days prior to the expiration of any policy and a certificate of insurance satisfactory to the Airport. The Airport reserves the right to require complete certified copies of all required policies, at any time.
- 9. Required certificates and endorsements should be submitted to:

Augusta Regional Airport

Attn: Contracts Administrator

1501 Aviation Way

Augusta, Georgia 30906

- 10. Before undertaking any alterations, additions, improvements, or construction, Vendor shall obtain at its expense a commercial general liability insurance policy insuring Vendor and the Airport against any liability which may arise on account of such proposed alterations, additions, improvements, or construction on an occurrence basis with the minimum limits set forth in Item #4 above.
- 11. If Vendor, engages in the preparation of food or packaged foods or engages in the use, sale, or storage of inflammable or combustible material, Vendor shall install chemical extinguishing devices (such as ansul) approved by the Fire Insurance Rating Organization and shall keep such devices under service as required by such organization.
- 12. Waiver of Subrogation: The Airport shall not be liable for any damage by fire or other peril includable in the coverage afforded by an All Risk (except for those items specifically excluded) Insurance policy, (whether or not such coverage is in effect), no matter how caused, it being understood that the Vendor will look solely to its insurer for reimbursement.

- 13. Fire Insurance Rate and Requirements: Vendor agrees, at its own cost and expense, to comply with all of the rules and regulations of the Fire Insurance Rating Organization having jurisdiction and any similar body. If, at any time and from time to time, as a result of or in connection with any failure by Vendor to comply with the foregoing sentence or any act of omission or commission by Vendor, its employees, agents, contractors, or licensees, or as a result of or in connection with the use to which the Leased Premises are put (notwithstanding that such use may be for the purposes hereinbefore permitted or that such use may have been consented to by the Airport), the hazard insurance rate(s) applicable to the Leased Premises, or the building in which same are located, or to any other premises in said building, or to any adjacent property owned or controlled by the Airport, or an affiliate of the Airport and/or to the contents in any or all of the aforesaid properties (including rent insurance relating thereto) shall be higher than that which would be applicable for the least hazardous type of occupancy legally permitted therein, Vendor agrees that it will pay the Airport, on demand, as additional rent, such portion of the premiums for all hazard insurance policies in force with respect to the aforesaid properties (including rent insurance relating thereto) and the contents of any occupant thereof as shall be attributable to such higher rate(s). If Vendor installs any electrical equipment that overloads the lines in the Leased Premises or the building in which the Leased Premises are located, Vendor shall, at its own cost and expense, promptly make whatever changes are necessary to remedy such condition and to comply with all requirements of the Airport and the Fire Insurance Rating Organization and any similar body and any governmental authority having jurisdiction thereof.
- 14. All of the aforesaid insurance shall be written by one or more A.M. Best's rated A-VII or better insurance companies.

EXHIBIT C Resolution

Exhibit D Maintenance and Repair Responsibilities

EXHIBIT D MAINTENANCE AND OPERATING RESPONSIBILITIES REGARDING CONCESSION FACILITIES

Task

Responsible Party

1.	Building	and	Facility	Mainte	enance
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A. Structural and Exterior Items – Including roof; foundation; exterior walls; exterior trim, window systems and frames; exterior doors and frames; and except as otherwise specified below, utility systems and mechanical equipment.

Airport

B. Leased Premises Interior maintenance and repairs other than structural:

A			
1. Fire extinguishers/hoses	Airport		
2. Fire alarm and sprinkler system	Airport		
3. Flooring	Lessee		
4. Carpeting	Lessee		
5. Ceiling	Lessee		
6. Interior walls	Lessee		
7. Interior column surface	Lessee		
8. Window glass breakage	Lessee		
9. Doors, door jambs	Lessee		
10. Overhead door/gate and operating systems	Lessee		
11. Door handles	Lessee		
12. Airport installed locks and keys	Airport		
13. Lessee installed locks, keys and cipher locks	Lessee		
14. Plumbing fixtures (sinks, toilets, drains,	Lessee		
grease traps, pipes, and faucets)			
15. Window Treatments and Window Blinds	Lessee		
16. Painting/wall covering	Lessee		
17. Alterations & improvements (See note #1	Lessee		
below)			
C. Computerized Access Security System	Airport		
D. Multiple User FIDS and MUFIDS	Airport		
E. Terminal Intercom System – General Public	Airport		
Areas			
F. Leased premises speakers and intercom	Lessee		
system (if installed)			
G. Janitorial services within Leased Premises	Lessee		
H. Refuse removal from leased premises to	Lessee		
Airport bins			
I. Terminal wireless communications system	Airport		

K. New or replacement concession s L. Cabinetry, furniture, fixtures, food preparation and storage equipment, other such equipment, trade fixtures appliances used by Lessee and gener described in this Lease and Concession Agreement, whether owned by Auth Lessee	l and s and rally on	Lessee Lessee
O. Pest control		Airport
P. Smoke removal neutralizing units	if	Lessee
installed by Lessee		
Q. Semi-annual inspection of fire sup	pression	Airport
system-restaurant		
R. Installation, repair and recharging	of fire	Airport
suppression system		
S. Inspection of automatic shut offs i	or gas	Lessee
and water		
II GAS		
A. Gas lines and automatic shut off in	side the	Lessee
leased premises		
B. System expansion or modification	for	Lessee
benefit of Lessee		
III ELECTRICAL		
A. Bulb and tube replacement		Airport
B. Outlet and receptacles		Lessee
C. Consumption – in line meters		Airport
D. System maintenance – including fix	ktures,	Airport
ballasts, wiring inside the leased pren	nises	
E. Fire exit signs/ fixtures inside prem	ises	Airport
F. System expansion or modification f	or benefit	Lessee
of Lessee		
IV WATER		
A. Supply to Leased Premises	Airport	
B. System maintenance to the Leased Premises	Airport	
C. Lines within Leased premises	Lessee	
D. Modifications or expansion to	Lessee	
benefit Lessee	LC33CC	
V SEWER		
A. Sanitary within leased premises	Lessee	
B. Sanitary beyond leased premises	Airport	
C. Storm drain	Airport	
VI Telephone and Communications S		
A. Phones	Lessee	

B. Existing phone service lines from	Airport
outside to mechanical room	
C. New phone service lines from	Lessee
outside to mechanical room	
installed for benefit of Lessee	
D. Phone lines from mechanical	Lessee
room to leased premises	
E. Lessee's internal/corporate	Lessee
communications lines	
F. Cable and/or internet service	Lessee
G. Modifications or expansion to	Lessee
benefit Lessee	
VII Air Condition and/or Ventilation	System
A. System Maintenance	Airport
B. System Operations	Airport
C. Cleaning of air vents and	Lessee
returns.	
D. Exhaust hoods and ventilation	Lessee
fans	
E. Modifications or expansion to	Lessee
benefit Lessee	
VIII Heating System	
A. System Maintenance	Airport
B. System Operations	Airport
C. Modifications or expansion to	Lessee
benefit Lessee	

- Any alterations or improvements shall first be approved by Airport, who shall consider the ongoing maintenance costs, if any, when making its decision.
- Lessee shall be responsible for keeping all grease traps cleaned and plumbing free of debris, grease and other obstructions. In the event that Lessee shall fail to adequately provide such maintenance, and lines within and/or beyond Lessee's premises become clogged and/or water damage occurs, then Lessee shall be responsible for the full cost of necessary clean up and damage repair.
- M & O will be performed to the extent applicable to the HVAC equipment installed in the Lessee's premises.
- The above chart is intended to identify the maintenance tasks and responsibilities for systems as
 they currently exist. The costs to modify, replace, or expand systems and equipment for the
 benefit of Lessee shall be the responsibility of the Lessee and may include the costs of
 maintenance thereafter.

Exhibit E Tailwind AGS LLC Operational Plan & Fee Proposal



RFP 22-279 Concessions for Merchandise/Gifts & Food/Beverages

REVENUE/FEE PROPOSAL

Woll Wyseyes

Provide desired method to be used to compute fees or minimum guarantee Proposer is willing to pay to Airport on a monthly basis. Please provide additional pages for detail on proposed revenue pricing.

Tailwind's method for paying rent:

1) Food and Beverage Concessions:

The sum of food and non-alcoholic beverage sales is multiplied by 14%

- Plus, alcoholic beverage sales multiplied by 20%
- Plus, vending sales multiplied by 25%
- 2) Merchandise/Gifts Concessions:
 - Plus, retail sales multiplied by 15%

Averages to 14.62% on the proforma

First year MAG will be \$180,000 with an annual true-up.

MAG will be adjusted following the end of each lease year to 85% of the previous year.

SUBMITTED BY:

NAME:Jeffrey Switzer
COMPANY: _Tailwind Hospitality, Inc
ADDRESS:408 Landmark Drive
CITY/STATE: _Wilmington, NC 28412
TELEPHONE NO.: 910-401-1174
EMAIL: switzer@tailwindconcessions.com

SUBMIT THIS PAGE IN A SEPARATE SEALED ENVELOPE LABELED RFP 22-279 CONCESSIONS FOR MERCHANDISE/GIFTS & FOOD BEVERAGE



SECTION IV - CONCEPT AND OPERATIONAL PLANS

1) The services Tailwind intends to offer for all the concession spaces

Tailwind will provide food, beverage, and retail concessions in post-security. In the pre-security concession spaces, food and gifts are proposed. Specifically, the concepts are outlined as follows:

- AGS Green Jacket Grill and Patio Bar: Space #1 Post Security
 - -Full Service Hooded Restaurant and Bar.
 - -Full Copilot Coffee Gourmet Coffee Bar
 - -Full Grab and Go Selections
 - -Full Liquor Beer and Wine Bar
 - -Patio Wine and Beer Bar Service with appetizers
- Mulligans Marketplace: Spaces #2 and #3-Post Security
 - -Combination of a Gift Shop and Quick Serve Food and Coffee Café
 - -RMU's Retail Units, Coffee Cart, Pepsi Coolers.
 - -Take on Board Express: Mulligan's quick serve cooler
- The 20th Hole Bistro: Space #4, Pre-Security
 - -Small counter for coffee and grab and go
 - -Once hood is installed there will be hot and cold menu offerings (burgers, sandwiches, appetizers) and **Take on Board Express**
 - -RMU's along the wall for a small retail presence
- Around the Clock Vending: Pre- and Post-Security locations

2) Description of the products to be sold

AGS Green Jacket Grill and Patio Bar

Our breakfast, lunch and dinner menu is designed to meet the preferences of the local and international travelers who may come through the airport. These include special foods, such as low calorie, gluten-free and vegetarian options.

We serve tasty, memorable meals using high-quality, fresh ingredients. We think this will be a popular gathering place. Attached is a sample menu of our concepts in the Appendix. To follow are several highlights from our menu.



Something light, something comforting and a turkey/bacon sandwich.







* Note: All pictures of food, snacks, beverages, and retail items throughout this proposal are from our own locations around the country.

We offer a varied selection of **Take on Board** healthy snacks, as well as baked goods. These include special diet options, such as gluten-free and vegetarian options.







We offer a full variety of non-alcoholic and alcoholic beverages. Our unique and well-presented alcoholic beverages include regional and local craft draft beers, domestic and imported draft beers and wine. We think the Patio Bar will quickly become a favorite spot for travelers waiting for their flights.









CATERING

Tailwind has the capacity to offer extended catering menu services for meetings held at the airport and to fixed-base operators that serve private planes and corporate jets. If it will not interfere with serving the traveling public, we welcome opportunities to cater public and private events at the airport. We can also serve the catering needs of group meetings and other special occasions held by the airport. Please ask us to show you the menu.

2) Retail Products to be Sold

Below is a brief listing of our typical departments and some of the regular items we carry. Each location has retail items that are distinctively themed for the airport's location, geography, history and landmarks.

	othing Examples: available in en, Women and Children's sizes T-Shirts - \$10-\$29 Hooded sweatshirts \$20-\$49 Hat-and-Tee combo's custom created with site-specific themes		ys and Games \$6 and up Stuffed animals Movies Coloring books Games and puzzles Short stories
Tra	avel Accessories \$13 and up Pillows Blankets		cal Landmark//History/Golf + her sports, as examples \$3-\$30 Mugs Shot glasses
Lo	cal favorite gifts \$9-\$40		Plates
	Local honey		Other Capital Region favorites
	Pride of Georgia products		
	Packaged food gifts	Pro	e-priced reading material: Popular magazines (national top-sellers)
Tra	avel Accessories \$12 and up		Books (national top-sellers)
	Pillows, Blankets		Kid's books
	Neck rests		Maps
Tr	ending Electronics \$11 and up		cal and national papers and the
	Headphones/ear buds	fol	lowing
	•		Newspapers (Local, Regional, USA
	Travel outlet adaptors		Today, The NYT and The Wall Street Journal)
Tra	avel Essential \$2-and up		Greeting cards
	Tylenol, toothpaste, band aids		
	Makeup, hair accessories		



No two gift shops are the same. Each Tailwind gift shop reaches out to meet the needs of the travelers at that specific location.

3) Food Service Concepts

The overall theme is a "**Sense of Place**" which we are branding with very Americanstyle concepts for all the spaces offered at the Augusta Regional Airport as follows.

In post security we propose the name **AGS Green Jacket Grill and Patio Bar** with a full-service restaurant bar and seasonal outdoor **patio wine/beer bar**. This is the gathering place as the world comes to Agusta for the Master's Golf tournament or the



secret quiet spot once they have all gone home. The All-American menu will offer breakfast, lunch and dinner menus which include appetizers, soups, salads, sandwiches, wraps, panini's, cheesesteaks, turkey avocado and bacon wrap. You will find such American

favorites as a classic cheeseburger, chicken wraps, and hot sandwiches. This restaurant will have a children's menu and special dietary food offerings for gluten free, vegetarian and low-calorie foods for travelers. You do not have to be a golfer to enjoy any of our delicious meals selections. A sample menu is in the Appendix.

The Patio Bar will have a walk-up bar with as much full service as possible. Seating and other factors may influence how much food is served on the patio. We are suggesting we start with appetizers and see how that works.

Space #2 and Space #3 are combined to form Mulligan's Marketplace in post



security. As a marketplace there will be retail shopping and quick serve foods offered in our easy-to-see coolers. Choices go from nuts to sandwiches and there will be packaged healthy snacks, candies and chips. Below is a sample of our cooler selections which we named **Take**

On Board

Muffins, Pastries	Yogurt	Cold Wraps
Bagels	Fruit Cups	Cold Sandwiches
Cereal	Health Bars/Nuts	Hard Boiled Eggs
Snacks	Salads	Fruit Parfaits
Fresh Fruit Smoothie	Juices	Sides
Soft Drinks	Espresso Bar	Bottled Water

We envision introducing a TurboChef breakfast, lunch and dinner menu plus an espresso coffee shop. The marketplace will also have the most popular retail items



per the data from SpotOn POS system gathered from around the country.

Space #4, The 20th Hole Bistro is a delightful pre-security quick service for



breakfast and lunch meals. If the 19th hole is at the golf clubhouse, then why not stop at the 20th hole at the airport on your way home? There will be counter service offering hot and cold meals once the hood is installed, a bake shop and coffee cart. A sample menu is enclosed in the Appendix.

Our plans use RMUs to display some of the most popular retail items. Staffing this concession will be based on one shift but depending on the frequency of flight schedules.

Take on Board is a concept that reminds passengers that most regional flights do not offer food. The cooler and POS stand have snacks which can run the gamut from gum to gummies, to yogurts, sandwiches, and salads.



Snacks are among our most popular merchandise according to our data tracking software. That means travelers at Augusta Regional Airport will probably enjoy a wide variety of snack choices to either take on board or give as a gift.

A nice way to pass the flight time is with one of your favorite sandwiches with fresh fruit or other choices from our **Take on Board** cooler.

Copilot Coffee Bar will be offered at the pre- and post-security concessions. It our



own branded logo travelers across the country have come to recognize. Besides hot and cold coffee and specialty coffee beverages, there will also be fresh fruit smoothies. It is a favorite at all our locations. At each location we want to "feel" to be of a café or bistro – casual, relaxing, enjoyable.

While selections may vary, we offer Round the Clock Vending for traveler convenience and perhaps the late-night airport personnel will find these useful.



Tailwind has a concept for vending services that will work well in several spaces identified in Addendum 1. We will provide vending machines that serve snacks, soft drinks, and water in vending areas. Because this is round-the-clock vending, we will keep it well stocked with a variety of beverages for late night and after hour patrons.



4) Daily Service and Product Shifts

Our concessions are open seven days per week, 365 days a year. We work closely with the airport to establish regular hours at our concessions. Generally, our business day and staffing start about an hour before the first scheduled flight.

At most locations we serve breakfast at 11 o'clock then we switch to the lunch and dinner menus. If practical, we will allow after hour breakfast orders. We will begin as soon as permissible by law. We anticipate that we will have a steady retail offering throughout the year. At the pre-security concession we are planning on serving breakfast and lunch then closing the concession at the end of one shift.



5) Pricing

Our goal is to offer value to the traveling public, so we base our pricing on a proprietary formula that includes the vendor's costs and an appropriate industry mark-up. As a check, we use 'street' pricing to be sure our prices are in-line with what people would expect to pay at similar stores and restaurants where tourists/travelers congregate in the community area the airport serves.

6) Describe how Proposer will provide service to customers in a quick and efficient manner.

We meet customer needs and provide quality services by cross training our staff for pre- and post-security concessions. There are always differences in the way food is ordered, picked up, prepared for serving and cleaned up. The same is true for bar and retail services. During busy periods, we move staff to meet the peak demands. The already established AGS layout offers nearby kitchen and prep facilities in post-security. Once the hood system is installed in the pre-security area, travelers will have a wide variety of hot and cold food readily available.

7) Describe marketing and customer service plans

At Tailwind, we know we can never become complacent about our marketing promotions. Two of our most effective ways to monitor customer satisfaction with our concepts, brands, menus and product lines are (1) continual analysis of our menu product mixes and (2) tracking of our revenue per enplaned passenger. On a monthly basis, our food and beverage team pull local product mix reports to help us better understand what items are selling and what items are not enticing to the customer and need to be removed from the menu. They also use product mixes from other locations to pinpoint popular items that can be added to menus.



Our SpotOn POS software tells us in real time what is selling at each terminal at each location. We constantly monitor our data nationally and regionally to see what's selling and what's not. We adapt menus and change merchandise accordingly.

When awarded a new contract, we stock and plan our marketing according to what we know is happening in the state, regional and national locations. Then, we monitor actual sales at the new locations and react appropriately. This same data system provides us with the required transactional reports and service/rent fees.

But that's not all, of course. When have sales in our retail departments, signage to announce food and beverage specials and video menu boards to promote specials and sales. During the year Tailwind features a "Welcome to Agusta" program which offers all arriving passengers and their greeting party a 10% discount at our restaurants when they present a boarding pass from their departure airport on the day of arrival. All employees of the airport, including Tailwind staff, receive a 20% discount on food and retail merchandise.

We also promote programs during the year that support our marketing efforts. For example, we have participated in the Breast Cancer Awareness Campaign with pink drink specials with all proceeds going to the Susan G. Komen Foundation.

Tailwind offers our Treat Our Troops program that allows customers to give back to our troops by purchasing a gift card. Once the gift card is purchased, our cashier gives the next uniformed soldier in line the anonymous gift.

We need to inform new travelers about what is waiting for them in our restaurants. At the same time, we need to reach out to the frequent travelers to tell them what is new. Here is how we do it.

Something as simple as the smell of freshly brewed coffee drifting through the air at 4 o'clock in the afternoon may increase coffee sales and also sales of the snacks that go with it. We will fill the air at different times during the day with wonderful reminders that there are good food choices nearby.

Perhaps our most effective marketing tools are to provide high-quality, first-rate products and services support by the philosophy, "The customer always comes first. What else is there?" It's working. All our locations are profitable and growing!

Area-Specific Proposed themes

In developing a marketing plan for our concepts we started with a "Sense of Place"



theme by branding the concessions with area-specific references. We then work with the airport to finalize names and signage, so we brand with a blend of community while maintaining an airport identity.

We also have what we call our continuous marketing program. We divided the key everyday elements into five categories of important information:

- 1. Concession Signage: First Thing People See
- 2. Restaurant Design: Says, "Come on in!"
- 3. Digital Menu Boards: Seeing Is Lip-Smacking
- 4. The food: "See you again!"
- 5. The Servers: The Face of Tailwind and AGS

Our design concepts are focused on warm colors, open entryways, comfortable seating and appealing décor featuring location merchandise. It is all about a "Sense of Place". This proposal requires brevity. We welcome the opportunity to discuss this with you.

8) Improvements and Capital Investments

Mulligans marketplace is a combination of two concepts: food and retail. We are



adding a coffee shop concept to the area and making it flow together as one concession marketplace. This rendering shows our ideas

for lining the wall with retail items and using tiered display tables around the center of the floor. At the back of the store will be quick serve food and drinks. Along the right wall drink cooler and our **Take on Board** display cooler. We want this to be a "easy to enter" concession where travelers feel free to roam around, look, smell, touch, buy.



Also post security is the AGS Green Jacket Grill and Patio Bar. At the start we will clean it up to our standard business practices. We will add video menu boards and other necessary equipment for our menus. We need to assess what is there. We will make improvements as necessary to covert the operations to "us."

The Patio Bar has so much potential for nice weather. We can think travelers will welcome the opportunity to enjoy fresh air and a lively drink as opposed to sitting inside while waiting to board their flight. We have two possible layouts to discuss for the portable walk-up bar we are proposing. One is long and narrow following the



corridor of the patio. The second layout (shown here) is at the end of the corridor and, while shorter in length, space allows for a nice display behind the bar. Both



bars have a self-contained sink with portable water tanks. We would like to talk to you about the different possibilities here.

There are opportunities for bistro tables and seating. We have even talked about a ceiling swing if that would be safe. What about rocking chairs? So much to discuss.

Pre-security concession space will be such a nice feature for who want hot or cold breakfast or lunch meals. Once the hood is installed and we clean up

the façade, we will evaluate with the airport what equipment is needed to finish it properly. We are excited about this space. It has so much potential to become a highly successful concession.

Capital Investme	nt
Improvements	Cost
Post-Security Equipment	\$25,000
RMU's, Floor Units, Counters,	80,000
etc.	100
POS	10,000
Paint and Minor Refurb	15,000
Signage	5,000
Outside Bar	25,000
Video Menus Boards	5,000
For Refurb Main Kitchen	20,000
Pre-security Equipment	10,000
Seating	10,000
Overage	20,000
Total:	\$225,000



9) Timing

9) Date preparations can be completed, and business opened.

The Augusta Regional Airport (AGS) has historically had only one food and beverage venue within the post security or boarding area. However, due to customer feedback and growth, this request for proposal (RFP) will include the establishment of a secondary post security food and beverage option and a food and beverage option for the pre-security area (general public access).

We know how to minimize any disruption to services and airport operations during transitions and startup. We move our operations in at mid-night to maintain continuity of services to passengers and airport personnel by early morning. We schedule renovations, buildouts, and construction activities in a manner that will least affect airport travelers. We coordinate all deliveries services per the airport preference and TSA rules.

For example, at the **Tallahassee International Airport (TLH)**, several construction activities were underway when Tailwind first began operations at the airport in 2015, yet we plunged right in and provided full retail services in pre-security, with limited food, beverage, and retail in post-security until we could fill out the new spaces and offer full-service concessions.

LOCAL APPROACH

From the time the contract is awarded, Tailwind becomes a local business and part of the fabric of the community. Operations begin by opening a bank account, obtaining licenses and permits, hiring local staff and setting up payroll. Next, we seek out local vendors for fresh food and favorite drinks to offer at the bars.

We will approach local beer crafters and microbreweries to arrange ways we can sell their products on tap or in a cooler. We will look for local and/or favorite wines to sell. We often looked baked goods to offer in our Take on Board Express. In our gift shop will offer travelers a taste of Georgia to take home or give as a gift.

