

THIS AGREEMENT (Agreement) made this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between Augusta, Georgia (Augusta), a political subdivision of the State of Georgia, by and through the Augusta Aviation Commission (Commission) and Departure Media, Inc.,(Concessionaire), a corporation existing under the laws of North Carolina authorized to do business in the State of Georgia, whose principal address is 180 Meeting Street, Suite 350, Charleston, South Carolina, 29401.

**WITNESSETH:**

**WHEREAS**, the Augusta Regional Airport (Airport) is owned by Augusta, Georgia and operated by the Commission; and

**WHEREAS**, the Commission has the right to grant the privilege of concession agreements in accordance with applicable Augusta ordinances and subject to the terms and conditions hereinafter set forth; and

**WHEREAS**, Concessionaire is a corporation primarily engaged in the business of advertising; and

**WHEREAS**, both Commission and Concessionaire desire to enter into this Agreement to provide advertising space for persons desiring to place advertising in the Airport terminal; and

**NOW THEREFORE**, in consideration of the mutual covenants and considerations herein contained, Commission and Concessionaire hereby agree as follows:

**SECTION 1**  
**DEFINITIONS; CONSTRUCTION**

**Definitions.** Certain capitalized words and terms used in this Agreement are defined in the text herein. The following words and terms are defined terms under this Agreement:

1.1 “Advertiser” shall mean any company, corporation or person purchasing advertising space at Airport.

1.2 “Airport” shall mean the lands and facilities owned by Augusta and operated by the Commission known collectively as Augusta Regional Airport, as it now exists and as it may change from time to time.

1.3 “Airport Concession Disadvantaged Business Enterprise” or “ACDBE” shall mean, a business, whether it is a corporation, sole proprietorship, partnership or joint venture certified as an ACDBE by the Airport, or State of Georgia, of which at least fifty-one percent (51%) of the interest is owned and controlled by one or more socially and economically

disadvantaged individuals as defined in the Airport and Airways Safety and Capacity Expansion Act of 1987 and the regulation promulgated pursuant to 49 CFR Part 23.

1.4 “Assigned Areas” shall mean those areas of the Airport provided to Concessionaire for advertising displays.

1.5 “Augusta” shall mean the governing authority of Augusta-Richmond County, Georgia.

1.6 “Best Management Practices” shall include those environmental or operational standards or guidelines specifying common and accepted practices appropriate for the types of businesses Concessionaire, its contractors, agents or vendors engage in on the Airport or such standards or guidelines as have been articulated by pertinent trade associations, professional associations or regulatory agencies, including (but not limited to) Best Management Practices developed by the Airport with its tenants, including Concessionaire. Best Management Practices shall be subject to approval by the Executive Director.

1.7 “Commission” shall mean the Augusta Aviation Commissioners tasked with the overall administration of the Airport.

1.8 “Common Use Area” shall mean and refer to those portions of the Airport shared equally by all tenants.

1.9 “Concessionaire” shall mean and refer to Departure Media, Inc.

1.10 “Executive Director” shall mean the Executive Director of Augusta Regional Airport, or his/her designee, to exercise functions with respect to the rights and obligations of the Commission under this Agreement.

1.11 “FAA” shall mean the Federal Aviation Administration of the U.S. Government or any federal agencies succeeding to its jurisdiction.

1.12 “Gross Advertising Sales Revenue” shall mean the amount received by Concessionaire from advertisers or their agencies for the use of advertising facilities under this Agreement and as further defined in Section 10.5.

1.13 “Public Areas” shall mean those areas of the Airport not leased to any person, company, or corporation that are open to use by the general public.

1.14 “Rules and Regulations” shall mean those rules, regulations, and ordinances promulgated by the Commission or operating directives issued by the Executive Director, as the same may be amended, modified, or supplemented from time to time

1.15 “TSA” shall mean the Office of Homeland Security and Transportation Security Administration, or their authorized successor(s).

1.16 “Uncollectibles” shall mean any invoice, which, after commercially reasonable efforts on the part of Concessionaire, remains uncollectible one year after delivery of invoice to Advertiser.

## **SECTION 2**

### **REPRESENTATIONS AND UNDERTAKINGS**

It is understood and agreed under this Agreement that the Commission is the operator of the Airport for the use and benefit of the public; that Augusta is the owner of the Airport and that Concessionaire may use only the Assigned Areas of the Airport herein described with only the privileges provided for in this Agreement.

2.1 **Representations by Augusta.** Augusta makes the following representations and warranties as the basis for the undertakings on its part herein contained:

2.1.1 **Creation and Authority.** Augusta is a public body corporate and politic, duly created and validly existing under the laws of the State of Georgia.

2.1.2 Augusta is the owner of the Airport, has all requisite power and authority under the laws of the State of Georgia to authorize the Commission to (i) grant a concession to the Concessionaire, and (ii) to enter into, perform its obligations under this Agreement and (iii) to exercise its rights under this Agreement.

2.2 **Representations by the Concessionaire.** The Concessionaire makes the following representations and warranties as the basis for the undertakings on its part herein contained:

2.2.1 **Organization and Power.** The Concessionaire is a corporation duly organized, validly existing, and in good standing under and by virtue of the laws of the State of North Carolina, is authorized to do business in the State of Georgia, and has all requisite power and authority to enter into this Agreement and perform its obligations and exercise its rights under the same.

## **SECTION 3**

### **GENERAL**

3.1 That for and in consideration of the payments and agreements hereinafter mentioned to be made by Concessionaire, Commission does hereby grant to Concessionaire the

right to serve as the national, regional and local sales representative for all advertising displays within Assigned Areas at the Airport and to solicit and make contracts for advertising and exhibit material to be displayed therein.

3.2 The approximate number, types and sizes of advertising and exhibit spaces, and their locations, as well as additional locations as may be authorized from time to time by the Executive Director as being available to Concessionaire, are at the sole discretion of the Executive Director.

3.3 Concessionaire shall provide a comprehensive, contemporary and innovative advertising program unique to the Airport that utilizes state-of-the art technology and optimizes advertising effectiveness while minimizing visual clutter.

3.4 Concessionaire shall provide advertising that creatively reflects the character of the Airport and the culture and quality of life in Augusta and the Central Savannah River Area (CSRA).

3.5 Concessionaire shall provide displays that are aesthetically consistent with the Airport's design and architecture and compatible with Airport operational efficiencies. Concessionaire may procure and install static displays in place of digital displays at the approval of the Executive Director.

3.6 Concessionaire shall provide timely and effective ongoing and emergency maintenance of all displays.

3.7 Concessionaire shall provide a program and hiring policy that provides opportunities for qualified disadvantaged businesses.

3.8 Concessionaire shall provide a business plan that effectively serves advertisers while providing optimum revenues for the Commission.

3.9 Concessionaire shall adhere to the following operational standards:

3.9.1 Shall focus on procuring advertising from local and regional advertisers.

3.9.2 Provide architect approved engineering drawings for digital displays.

3.9.3 Provide maintenance staff with on site availability within twenty-four (24) hours upon Executive Director or Advertiser request.

3.9.4 Provide graphic guidance to advertisers and obtain written approval from the Executive Director for all graphic designs prior to installation.



3.10 Except as otherwise provided herein, all work shall be at Concessionaire's sole cost and expense and Concessionaire shall provide all necessary labor, supervision, materials, supplies and transportation.

3.11 All improvements and displays installed by the Concessionaire shall be of high quality, safe, fire resistant materials and shall be aesthetically compatible with Airport design.

3.12 Concessionaire shall upload digital advertisements to monitors and maintain display inventory in a first-class manner during the entire term of the Agreement.

3.13 Concessionaire shall ensure all advertising material is installed in a timely manner and consistent with the advertising contract dates.

3.14 Concessionaire shall supervise the installation of all inventory and advertising displays.

3.15 Concessionaire shall supervise repairs of all inventory and advertising displays as required.

3.16 Concessionaire shall hire maintenance personnel to service the advertising displays and install and remove advertising artwork; provided, however, all communication regarding repairs and requests are to be made directly to Concessionaire operations manager not to the Airport's maintenance personnel. The Executive Director must be notified prior to installations and/or maintenance being done at Airport.

3.17 Concessionaire shall continuously promote the concept of Airport advertising and conscientiously solicit and endeavor to sell international, local, national and regional advertisers and advertising agencies on the use of advertising facilities located at the Airport while maintaining and expanding the customer base.

3.18 Concessionaire will act as an advertising consultant to the Executive Director, rendering advice and information regarding the management of advertising displays and sales of advertising. If the Commission is considering additional types of advertising, it shall consult with Concessionaire in order to give Concessionaire a reasonable opportunity to determine if direct competition with concession program is forthcoming.

3.19 Concessionaire shall correctly invoice Advertisers in a prompt, conscientious and professional manner. All checks will be made payable to Concessionaire.

3.20 Concessionaire shall follow up with Advertisers to assist with collection of any advertising fees owed.

3.21 Concessionaire shall provide Executive Director with copies of current advertising contracts, monthly statements showing Advertisers and applicable revenues for the previous month.

3.22 The Concessionaire may install and maintain appropriate informational signs in the Assigned Areas for advertising, provided however, that the design, installation and maintenance of such signs shall be consistent with the graphic standards and policies of the Commission. All such signage shall be subject to written approval of the Executive Director prior to installation.

3.23 All advertisement, advertising copy, advertising materials and manners of commercial presentation shall be subject to the reasonable approval of the Executive Director. The Executive Director shall provide written notice of approval or disapproval of proposal to Concessionaire within five (5) days of submission of graphics sample by Concessionaire. Concessionaire shall not display any advertisements reasonably disapproved by the Executive Director. Concessionaire shall immediately remove from the Airport, within twenty-four hours upon written demand, any offensive advertisements.

3.24 Concessionaire shall provide a dedicated and qualified Sales Team, Customer Service Manager, and Maintenance Manager as part of this Agreement.

3.25 Concessionaire shall conduct regular research studies to define the lifestyles and psychographics of the Airport's travelers.

3.26 Concessionaire shall work closely with the Executive Director and his staff and shall provide:

- 3.26.1 Monthly sales reports
- 3.26.2 Records of maintenance requests
- 3.26.3 Project Management
- 3.26.4 Equipment Management
- 3.26.5 Concept Approval
- 3.26.6 Recommendations on the best use of space
- 3.26.7 Reports related to construction, relocation and/or expansion projects.

3.27 Concessionaire shall develop relationships with the local Chambers of Commerce, Convention and Visitors' Bureaus and other community based organizations to increase awareness of advertising opportunities at the Airport.

3.28 Nothing herein contained shall be deemed to grant the Concessionaire any exclusive right or privilege within the meaning of Title 49 USC 40103 of the United States Code (the Act). Without derogation to the Act and subject to the terms and provisions hereof, the Concessionaire shall have the sole right to use the Assigned Areas for advertising purposes under the provisions of this Agreement.

#### **SECTION 4** **TERM**

**Effective Date; Term.** This Agreement shall become effective on the date written above and shall be for a period of five (5) years. This Agreement shall comply with O.C.G.A. §36-60-13, as amended, regarding multi-year agreements.

#### **SECTION 5** **AIRPORT PREMISES**

5.1 Advertising displays may be located throughout the public areas of the Airport as the Concessionaire deems effective and as approved by the Executive Director.

5.2 All locations and advertising display units are subject to approval by the Executive Director. Concessionaire may modify advertising display types, locations and quantities only with the Executive Director's written approval.

5.3 Concessionaire shall use the Assigned Areas designated for advertising displays.

5.4 Commission reserves the right to enter upon the Assigned Areas at any time for the purpose of further developing and improving said Assigned Areas as it sees fit, regardless of the desires of Concessionaire, and without interference or hindrance, and at Commission's sole cost and expense.

5.5 Concessionaire shall not attach any additional posters, pictures, advertisement, signs, or the like on the walls or the counters located in the Airport, without the prior written consent of the Executive Director.

#### **SECTION 6** **MAINTENANCE AND REPAIR**

6.1 Concessionaire accepts the Assigned Areas in their present condition and agrees to maintain the displays in the Assigned Areas in good state of repair at all times during the life of this Agreement.

6.2 Concessionaire warrants it has inspected the Assigned Areas and accepts possession of the Assigned Areas and any improvements thereon “as is” in its present condition, and subject to all limitations imposed upon the use thereof by the rules and regulations of the FAA, TSA, ordinances of Augusta and the Airport’s Rules and Regulations as amended from time to time, or any regulation of any other governmental entity having jurisdiction over the Airport. Concessionaire agrees that the Assigned Areas are suitable and sufficient for the uses permitted hereunder. Except as may otherwise be provided for herein, Commission shall not be required to maintain nor to make any improvements, repairs restorations upon or to the Assigned Areas or to any of the improvements presently located thereon. Commission shall never have any obligation to repair, maintain or restore, during the term of this Agreement, any improvements placed upon the Assigned Areas by Concessionaire, its successors and assigns.

6.3 Concessionaire, without limiting the generality hereof, shall:

6.3.1 Keep at all times, in a clean and orderly condition and appearance, the Assigned Areas, all improvements thereon and all of the Concessionaire’s fixtures, equipment and personal property which are located on any part of the Premises;

6.3.2 Repair any damage caused by Concessionaire or its employees and/ or contractors.

## **SECTION 7**

### **APPROVAL OF ADVERTISING MATERIALS; PLACEHOLDERS**

7.1 All advertising material and exhibit material, advertisements, location and manner of presentation shall be subject to approval by the Executive Director.

7.2 Concessionaire will immediately remove from the Airport, at its sole cost and expense, upon written demand of the Executive Director, advertising material that may be considered offensive to the general public. In the event that such material is not removed immediately upon receipt of written demand, the Executive Director may remove said material or display and Concessionaire will pay any warehouse or storage rental or other costs incurred by this action.

7.3 Neither the Commission nor its authorized representatives shall be held responsible or liable for any damage to the equipment or materials so removed.

## **SECTION 8** **USE OF AIRPORT**

8.1 Concessionaire shall not use or occupy or permit the Assigned Areas or any part thereof to be used or occupied, nor do or permit anything to be done in or on the Assigned Areas, in whole or in part, in a manner which would in any way (i) violate any then-applicable legal requirements, or (ii) violate any of the covenants, agreements, provisions and conditions of this Agreement (iii) violate the certificate of occupancy then in force with respect thereto, or (iv) may make it difficult for the Commission to obtain fire or other insurance required hereunder, or (v) as will constitute a public or private nuisance.

8.2 Concessionaire shall not use or occupy or permit the Assigned Areas or any part thereof to be used or occupied, in whole or in part, in a manner which would in any way, in the Executive Director's reasonable judgment, may or tend to, impair or interfere with (i) the character, reputation or appearance of the Assigned Areas or the Airport.

8.3 Concessionaire shall not do or permit or suffer any waste, damages, disfigurement or injury to or upon the Assigned Areas or any part thereof.

8.4 In connection with the exercise of its privileges under this Agreement, Concessionaire shall not:

8.4.1 Do or permit its agents, employees, directors, or officers to do anything on or about the Airport that may interfere with the effectiveness or accessibility of the drainage and sewage system, electrical system, air conditioning system, fire protection system, sprinkler system, alarm system, and fire hydrants and hoses, if any, installed or located on or within the Airport.

8.4.2 Bring, keep or store, at any time, flammable or combustible liquids on the premises, except in storage containers especially constructed for such purposes in accordance with federal, state, and county laws, including the Uniform Fire Code and the Uniform Building Code. For the purposes of this Agreement, flammable or combustible liquids shall have the same definitions as set forth in the most recent Uniform Fire Code.

8.4.3 Do or permit its agents, employees, directors, or officers to do any act or thing upon the Airport that will invalidate or conflict with any fire or other casualty insurance policies covering the Airport or any part thereof.

8.4.4 Do or permit its agents, employees, directors, or officers to do any act or thing upon the Airport that will jeopardize the Airport's Operating Certificate.

8.4.5 Do or permit its agents, employees, directors, or officers to do any act or thing in conflict with the Airport's Security Plan.

8.4.6 Use the Premises for any illegal purposes, or in violation of the rules and regulations of the FAA, TSA, ordinances of Augusta and/or the Airport's Rules or Regulations, as amended from time to time, or any regulation of any other governmental entity having jurisdiction over the Airport.

8.4.7 Use of the Airport in any manner that will create any nuisance or trespass with respect to other tenants; constitute any unreasonable annoyances, obstruction or interference with operations; or in any manner interfere with, obstruct, block or violate in any manner, the navigable airspace above the Airport in compliance with 14 C.F.R. § 77.5 and/or other regulations as implemented by the Commission, the FAA or as may be implemented by the TSA.

8.4.8 Cause or permit any hazardous materials to be placed, stored, generated, used, or disposed of in, on, under, about, or transported from anywhere on the Airport by Concessionaire, its agents, employees, contractors, or other person unless it has complied with the following: with respect to hazardous materials other than cleaning products and/or substances reasonably necessary in connection with Concessionaire's advertising activities, the prior written consent of the Executive Director shall be required, which shall not be withheld unreasonably. Augusta may impose, however, as a condition of such consent, such requirements as the Executive Director in his/her sole discretion may deem reasonable or desirable, including, without limiting the generality of the foregoing, requirements as to the manner in which, the time at which, and the contractor by whom such work shall be done, and Concessionaire must comply with all environmental laws and regulations (including compliance with all Environmental Protection Agency requirements concerning clean-up) , and with prudent business practices, with respect to such hazardous materials, and the presence of hazardous materials must be reasonably necessary for the operation of Concessionaire's business. "Hazardous Material" shall mean: (1) any oil petroleum products, flammable substances, explosives, radioactive materials, hazardous



wastes or substances, toxic wastes or substances, or any other wastes, materials, or pollutants that pose a hazard to the Airport or surrounding property; or to the safety and/or health of persons on or about the Airport and surrounding property and/or cause Concessionaire to be in violation of any federal, state, or local laws governing or regulating hazardous materials; (2) asbestos in any form, urea formaldehyde foam insulation, transformers, or other equipment that contains dielectric fluid containing regulated levels of polychlorinated biphenyls, or radon gas; (3) any chemical, material, or substance defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous material”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substance”, or similar words under any applicable local, state, or federal laws, or any regulations promulgated pursuant thereto, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. §§9601, et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §§1801, et seq.; the Federal Water Pollution Control Act (Clean Water Act, or CWA), as amended, 33 U.S.C §§1251 et seq.; the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. §§6901, et seq.; the Toxic Substances Control Act (TSCA), as amended, 15 U.S.C. §§ 2601, et seq.; (4) any other chemical, material, or substance exposure that is prohibited, limited, or regulated by any government authority, and that may or could pose a hazard to the health and safety of occupants of the Airport, or to any person entering upon the Airport or adjacent property; and/or (5) any other chemical, material, or substance that may or could pose a hazard to the environment or a person.

8.5 Concessionaire shall use the Assigned Areas in accordance with published Airport Rules and Regulations. Concessionaire specifically agrees to comply with all present or future Rules and Regulations of Airport that are promulgated for the general safety and convenience of the Airport, its various tenants, invitees, licensees and the general public and which do not materially affect the use and enjoyment of the Assigned Areas for the purposes for which they are intended under this Agreement. Said Rules and Regulations may be examined by Concessionaire at the Airport Administrative Offices or viewed on the Airport’s website.

8.6 Concessionaire shall have rights of ingress and egress to and from the Assigned Areas, included but not limited to common use roadways, subject to any Rules or Regulations which may have been established or shall be established in the future by the Commission. Such



rights of ingress and egress shall apply to the Concessionaire's employees, customers, agents, contractors, suppliers, and other authorized individuals.

8.7 Employees, agents and contractors of Concessionaire shall be permitted to park at the Airport under the same terms and conditions as employees of other concessionaires at the Airport. Visiting service personnel shall be permitted to park in areas designated for temporary vendor parking.

## **SECTION 9** **FACILITIES AND SERVICES TO BE PROVIDED BY AUGUSTA**

Commission shall, without cost to Concessionaire:

9.1 Furnish all wall spaces and/or other areas in the condition required to accept video monitors and exhibits in the approximate number, type, standard industry sizes and locations, as well as additional locations, as may from time to time be approved by the Executive Director.

9.2 Supply electrical outlets at each approved location and any additional approved locations if equipment type should require electricity and provide CAT 5 cable or wireless access to the Airport's internet portal for video monitors at the Concessionaires' expense.

9.3 Provide electrical current in reasonable amounts for the operation of video monitors.

9.4 Without incurring any liability for property damage, provide normal police surveillance and protection of the displays against vandalism or trespass and will report to Concessionaire the discovery of any damage or unsightly appearance so client(s) may be notified of any interruption in service and repair(s) can begin.

## **SECTION 10** **CONCESSION FEES**

10.1 For the privileges herein provided, Concessionaire shall pay the Commission thirty-five percent (35%) of the Gross Advertising Sales Revenue or the minimum annual guarantee (MAG), whichever is higher, from advertising opportunities sold by Concessionaire for placement at the Airport for each of the years the Agreement is in effect. In the event Concessionaire upgrades the monitors to NanoLumens equipment, the percentage share of digital revenue from this exposure will be ten percent (10%). The Percentage Fee due each month shall be calculated by multiplying the Applicable Percentage set forth as outlined below by

Concessionaire's Gross Advertising Sales Revenue for the immediately preceding calendar month or the MAG, whichever is higher.

10.2 The Percentage Fee Payment of the Gross Advertising Sales Revenue shall be subject to proportional percentage reduction equal to actual and prospective advertising revenues lost and unearnable from removed advertising locations where ten percent (10%) or more (as a percent of potential advertising revenues based on Concessionaire's current rate card) of the Assigned Areas are deleted at the request of Augusta without the option of replacement locations of at least equal passenger exposure and value. The specified percentage of the Gross Advertising Sales Revenue payment to the Commission shall be subject to temporary pro rata reduction equal to Advertiser payments refunded to or withheld by affected advertisers where a display case or other display advertisement in the Assigned Areas was visually obstructed or subject to electric supply failure for more than three days without default to Concessionaire.

10.3 Capital investment will be determined by (i) the number of approved locations, (ii) Advertisers' demand for new advertising options pursuant to executed contracts and (iii) the term of the Agreement.

10.4 The term "Gross Advertising Sales Revenue" as used herein shall be defined as the amount received by Concessionaire from advertisers or their agencies for the use of advertising facilities under this Agreement.

It is further understood that such Gross Advertising Sales receipts (Gross Receipts) shall not include:

10.4.1 Standard fifteen percent (15%) commissions paid to advertisers' recognized advertising agencies;

10.4.2 Uncollectibles at year-end;

10.4.3 Any taxes imposed by law which are separately stated to and paid by a customer and directly payable to Augusta;

10.4.4 Expensible charges and fees including but not limited to phone charges, rental fees, maintenance fees, brochure stocking fees, credit card fees, technology fees (i.e., content management including programming and maintenance charges for computer-operated, video, interactive or motion displays, equipment repair or replacement, IT support), production, installation and removal charges; or

10.4.5 Commissions received from vendors for production and fabrication work.

10.5 In the event Concessionaire is unable to collect amounts due from Advertisers upon which Concessionaire had previously based Percentage Fee payments after diligent efforts, such “uncollectible amounts” shall be deemed uncollectible and an appropriate adjustment shall be made in Concessionaire’s subsequent statements and Percentage Fee submissions. If any “uncollectible amounts” are collected by Concessionaire after adjustment, then appropriate upward adjustment shall be made to a subsequent revenue statement and Percentage Fee submission, excluding collection costs.

10.6 All Percentage Fee Payments shall be made on or before the twentieth (20th) day of the calendar month following the calendar month during which the Gross Advertising Sales Revenue hereinabove described has been realized. Any and all local taxes, including use, receipts, or similar taxes imposed by law and levied and assessed to Concessionaire as a result of its activities hereunder shall be excluded from the Percentage Fee Payment.

## **SECTION 11** **CONCESSION REQUIREMENTS**

The granting of the authority to the Concessionaire to operate at the Airport set forth in this Agreement will be on the following terms and conditions:

11.1 Concessionaire shall provide the highest degree and standards of quality advertising services to the passengers and patrons of the Airport.

11.2 Concessionaire shall furnish prompt, efficient, first class service that is adequate to meet all responsible demands for advertising services.

11.3 Concessionaire shall abide by the rules and regulations of the FAA, TSA, ordinances of Augusta, and the Augusta Regional Airport’s Rules and Regulations as amended from time to time, or any regulation of any other governmental entity having jurisdiction over the Augusta Regional Airport.

## **SECTION 12** **EMPLOYEES OF CONCESSIONAIRE**

12.1 Concessionaire shall require all of its employees, subcontractors and/or independent contractors hired by Concessionaire working in view of the public, and about the Airport, to wear clean and neat attire and to display appropriate identification.

12.2 One of the Concessionaire's employees shall be designated to obtain an identification badge from the Airport. Concessionaire will be responsible for paying for the cost of TSA required employee background checks and badging.

### **SECTION 13** **INTEREST ON OVERDUE PAYMENTS**

Payments not received when due shall accrue interest from the due date until paid in full. After the due date, there shall be added to all unpaid sums due the Commission an interest charge of one and one-half percent (1.5%) per month on the principal sum, computed as simple interest; at no time will the interest actually charged exceed the highest applicable interest rate permitted under Georgia law.

### **SECTION 14** **ACCOUNTING PROCEDURES; AUDIT**

14.1 **Accounting Procedures.** Concessionaire covenants and agrees that it shall establish and maintain an accounting system (specifically including all books of account and records customarily used in the type of operation permitted by this Agreement) in full and complete accordance with generally accepted accounting principles and otherwise reasonably satisfactory to the Commission for the determination of any revenue computations, which may be necessary or essential in carrying out the terms of this Agreement. Concessionaire shall maintain its records relating to the operation permitted by this Agreement for a period of at least three (3) years after the end of each Agreement year (or until the close of any ongoing audit thereof being conducted by, or on behalf of Augusta); provided, however, that Augusta may (prior to the expiration of the relevant retention period) request that any such records be retained for a longer period of time, in which case Concessionaire, at its option, may deliver such records into the custody of Augusta.

14.2 **Audit.** Representative(s) designated by the Executive Director shall be allowed to inspect and audit Concessionaire's books of accounts and records with reference to the determination of any matters relevant to this Agreement at all reasonable times. Commission's representative shall specifically be entitled to inspect and audit any records necessary, in the auditor's professional discretion, to complete the audit in a manner consistent with Generally Accepted Auditing Standards. The costs of such audit shall be borne by the Commission unless

the results of such audit reveal a discrepancy of more than three percent (3%) for any other amount for any twelve (12) month audit period. In the event of such discrepancy, the full cost of the audit shall be borne by the Concessionaire, and Concessionaire shall promptly pay all additional fees owing to the Commission together with interest on such sums from the date originally due until the date paid.

14.3 In the event that Concessionaire's books or accounts are not maintained in Augusta, they shall be made available for audit digitally within twenty (20) business days of a request by the Commission, or Concessionaire shall pay in full any travel and related expenses of the Commission's representative(s) to travel to the location outside Augusta.

14.4 In those situations where Concessionaire's records have been generated from computerized data (whether mainframe, minicomputer, or PC-based computer systems), Concessionaire agrees to provide the Commission's representative with extracts of data files in a computer readable format, electronic mail with attached files or suitable alternative computer data exchange formats. Concessionaire agrees to provide appropriate workspace to conduct the audit and free access to copiers; number to Concessionaire's accounting manager or the like who have a thorough knowledge of the accounting system as it pertains to this Agreement and who will assist Commission with its audit. Concessionaire will also allow interviews of past and present employees who were or are involved in the financial or operational activities of Concessionaire.

## **SECTION 15**

### **RECORDS TO BE MAINTAINED BY CONCESSIONAIRE**

15.1 Concessionaire shall maintain a complete and accurate set of books and records on the business conducted for this Agreement and same shall be open to inspection by the Commission or its representative at any reasonable time so as to ascertain the true amount of Concessionaire's Gross Advertising Sales Revenue from its operation on the Airport.

15.2 Concessionaire shall provide a statement verifying monthly Gross Advertising Sales Revenues, as previously reported by Concessionaire to Commission. Said verification is to be compiled by a competent accountant.

## **SECTION 16**

### **COMPLIANCE WITH LAW**

Concessionaire agrees that its operation at the Airport shall be conducted in conformity with all local, State, and federal laws and all published Airport Rules and Regulations. It is further agreed that the Executive Director, acting on behalf of the Commission, shall be, at all times, in full and complete charge of the Airport in its entirety and his directions as to policy and procedures shall be final and conclusive as regarding Concessionaire. Concessionaire understands that all operations, uses and occupancy of the Assigned Areas must be in strict compliance with all rules and regulations of the FAA, TSA, ordinances of Augusta, and the Augusta Regional Airport's Rules and Regulations as amended from time to time, or any regulation of any other governmental entity having jurisdiction over the Airport., grant requirements, and related provisions for Airport use and operations without restrictions or limitations. Concessionaire further agrees that, in the event there is a question of interpretation, it will comply with the Commission's interpretation of such requirements, rules, laws and regulations. This provision supersedes any other provision of this Agreement, which may be in conflict therewith. Any default by Concessionaire shall permit the Commission to immediately terminate the Agreement as a non-exclusive remedy.

## **SECTION 17**

### **DEFAULT AND TERMINATION**

17.1 The Commission may terminate this Agreement for any Event of Default or as set forth below:

17.2 Events of Default: The following shall be "Events of Default" under this Agreement constituting a material breach of the Agreement and the terms "Events of Default" and "default" shall mean any one of the following events:

17.2.1 If the Assigned Areas are vacated, not utilized or abandoned by the Concessionaire for a period of thirty (30) days or more.

17.2.2 If Concessionaire uses the Assigned Areas for unlawful or unauthorized purposes and/or fails to comply with or observe any statute, law, ordinance, rule, regulation, standard or requirement of Augusta, any federal, state or local governmental entity with respect to Concessionaire's occupancy and/or use of the Assigned Areas.

17.2.3 If Concessionaire fails to obtain, pay for, and maintain in full force and effect at all times during the life of this Agreement, without any lapse in coverage, such insurance as is required of Concessionaire herein.

17.2.4 If Concessionaire fails to make payments when due hereunder, where such failure shall continue for a period of seven (7) days following service of notice thereof upon Concessionaire by the Commission.

17.2.5 If Concessionaire uses, or permits the use of, the Premises at any time for any purpose which at that time is not authorized by this Agreement. Upon the occurrence of any material default and breach of this Agreement by Concessionaire, Commission may then immediately, or at any time thereafter, terminate this Agreement by service of a ten (10) days advance written notice to such effect upon Concessionaire and this Agreement shall terminate at 11:59:59 p.m. on the termination date specified within such notice.

17.2.6 The failure by Concessionaire to observe or perform any covenant, condition, or agreement to be observed or performed by Concessionaire in this Agreement.

17.2.7 The filing by Concessionaire of a petition in bankruptcy, Concessionaire being adjudged bankrupt or insolvent by any court, a receiver of the property of Concessionaire being appointed in any proceeding brought by or against Concessionaire, Concessionaire making an assignment for the benefit of creditors, or any proceeding being commenced to foreclose any mortgage or other lien on Concessionaire's interest in the Assigned Areas or on any personal property kept or maintained on the Airport by Concessionaire.

## **SECTION 18** **REMEDIES**

18.1 In addition to, and not in lieu or to the exclusion of, any other remedies provided in the Agreement or to any other remedies available to the Commission at law or in equity, whenever any "Events of Default" (other than a default under Section 17, above, upon which termination of this Agreement shall, at the Commission's option, be effective immediately without further notice) continues to be un-remedied in whole or in part for thirty (30) days after Notice of Default is provided by the Commission to Concessionaire (or for fifteen (15) days after Notice of Default in the case of default for failure to pay any fees or other required payment under when due). This Agreement and all of Concessionaire's rights under it will automatically



terminate if the Notice of Default so provides. Upon termination, Commission may reenter the Assigned Areas using such force as may be necessary and remove all persons and property from the Airport. Commission will be entitled to recover from Concessionaire all Concession fees and other sum or charge otherwise payable by Concessionaire, or any other payments and damages incurred because of Concessionaire's "Events of Default".

## **SECTION 19** **NON-WAIVER OF RIGHTS**

Should Concessionaire breach any of its obligations hereunder, Commission may thereafter accept from Concessionaire any payment or payments due hereunder, and continue this Agreement in effect, without in any way waiving the Commission's right to exercise its default rights hereunder, or any other remedies provided by law, for said breach. In addition, any waiver by the Commission of any default, breach, or omission of Concessionaire under this Agreement shall not be construed as a Waiver of any subsequent or different default, breach, or omission.

## **SECTION 20** **ASSIGNMENT**

20.1 Concessionaire may not, without the prior written consent of the Commission endorsed hereon, assign this Agreement. Such consent shall not be unreasonably withheld.

20.2 Assignees shall become liable directly to the Commission for all obligations of Concessionaire hereunto, without relieving Concessionaire's liability.

20.3 It is expressly understood that Concessionaire shall not sell or otherwise change ownership of its advertising business or permit representation by any person or persons other than Concessionaire without the prior written approval of the Commission.

## **SECTION 21** **DAMAGE OR DESTRUCTION OF DEMISED PREMISES**

If the Assigned Areas are totally destroyed (or so substantially damaged as to be untenable) by storm, fire, earthquake, or other casualty, this Agreement shall terminate as of the

date of such destruction or substantial damage, and all concession fees shall be considered accounted for as between the parties hereunto as of that date.

## **SECTION 22** **INSURANCE**

22.1 Concessionaire agrees to carry and maintain in force at all times during the Term of this Agreement, at Concessionaire's sole expense, the insurance described herein.

22.2 Concessionaire acknowledges that the Commission has and reserves, the right to amend the insurance requirements imposed by this Agreement at any time, provided that any such amendment is not unreasonable.

22.3 Concessionaire understands and agrees that the minimum limits of the insurance required herein may become inadequate during the term of this Agreement and that, if it in any way, directly or indirectly, contingently or otherwise, affects or might affect the Airport or the Commission, as determined in the sole but reasonable discretion of the Executive Director, Concessionaire will increase such minimum limits by reasonable amounts on written request of the Executive Director. No such amendment shall reduce the coverage amounts lower than as stated in this Agreement.

22.4 Within (30) days of the publication by the Airport of any such modifications to the foregoing insurance requirements, Concessionaire shall deliver to the Commission insurance certificates certifying compliance with such modified coverage(s).

22.5 No written amendment of this Agreement shall be required to effectuate said increases in minimum limits.

22.6 All insurance required hereunder shall be by companies holding a "General Policyholders Rating" of A or better as set forth in the most current issue of "Best's Insurance Guide" and shall be issued a company licensed, qualified and authorized to transact business in the State of Georgia.

22.7 Any self-insured retention or deductible on any insurance coverage required shall be declared by Concessionaire and approved by the Commission.

22.8 Concessionaire acknowledges that the Commission is not responsible for the costs of its insurance premiums.

22.9 The insurance policies for coverage listed in this Section shall contain a provision that written notice of cancellation or any material change in policy by the insurer shall be delivered to the Commission no less than thirty (30) days prior to cancellation or change.

22.10 **Proof of Insurance.** Concessionaire shall provide the Commission with an annual Certificate of Insurance on all required insurance prior to Concessionaire's exercise of any privileges provided by this Agreement and annually upon the effective date thereafter within thirty (30) days of execution of this Agreement. Concessionaire shall furnish additional Certificates of Insurance, from time to time, upon specific request of the Commission.

22.11 The Augusta-Richmond County, Georgia Board of Commissioners, the Commission, Augusta Regional Airport, and their officers, agents, elected and appointed officials, representatives, volunteers, employees, guests, licensees, invitees, and successors in office shall be named as "Additional Insureds" on all required coverage and also shown on the certificate as such.

22.12 **General Liability Insurance.** General liability insurance with a combined single limit of not less than One Million Dollars (\$ 1,000,000) covering Concessionaire's operations on Airport. The foregoing insurance shall be endorsed to state that it will be primary to the Commission's insurance and that the Concessionaire waives its right of subrogation against the Augusta- Richmond County, Georgia Board of Commissioners, the Commission, Augusta Regional Airport, and their officers, agents, elected and appointed officials, representatives, volunteers, employees, guests, licensees, invitees, and successors in office. the Augusta-Richmond County, Georgia Board of Commissioners, the Commission, Augusta Regional Airport, and their officers, agents, elected and appointed officials, representatives, volunteers, employees, guests, licensees, invitees, and successors in office shall be added as additional insureds on said policies. Said policy shall contain Severability of Interest Clause and Contractual Liability coverage at least as broad as that given in the most current CG 00 01 ISO form.

22.13 **Workers' Compensation Insurance.** Concessionaire shall provide Workers' Compensation insurance with statutory limits and employers liability with a limit of One Million Dollars (\$1,000,000) for employees and subcontractors with limits of liability of not less than One Million Dollars (\$1,000,000.00) for each accident/disease. Such policy (ies) shall be endorsed to state that the Workers' Compensation carrier waives its right of subrogation against

the Commission, Augusta-Richmond County, and their officers, agents, elected and appointed officials, representatives, volunteers, and employees.

**22.14 Property Insurance.** To insure Concessionaire against loss or damage to the existing structure and any improvements due to fire, lightning and all other perils included in standard extended coverage policies, plus vandalism and malicious mischief coverage, all in amounts of not less than ninety percent (90%) of replacement value. Upon request by the Commission, such replacement value shall be determined by a qualified appraiser, a copy of whose findings shall be submitted to the Executive Director, and thereafter, proper adjustment in the limits of insurance coverage shall be effected. Said property need not be maintained by Concessionaire, if Concessionaire is renting or leasing improvement and Concessionaire maintains the required insurance. The foregoing insurance shall be endorsed to state that the carrier waives its right of subrogation against the Augusta-Richmond County, Georgia Board of Commissioners, the Commission, Augusta Regional Airport, and their officers, agents, elected and appointed officials, representatives, volunteers, employees, guests, licensees, invitees, and successors in office. Augusta and the Commission shall be named as loss payees on any Property coverage. Said policy shall contain a Severability of Interest clause.

**22.15** An insurance binder letter or a Certificate of Insurance must be sent to:

Executive Director  
Augusta Regional Airport  
1501 Aviation Way  
Augusta, Georgia 30906-9620

**22.18 Loss Control and Safety.** Concessionaire shall retain control over its employees, agents, servants and subcontractors, as well as control over its invitees, and its activities on and about the Airport and the manner in which such activities shall be undertaken and to that end, Concessionaire shall not be deemed to be an agent of the Commission or Augusta. Precaution shall be exercised at all times by Concessionaire for the protection of all persons, including employees and property. Concessionaire shall make special effort to detect hazards and shall take prompt action where loss control/safety measure should reasonably be expected.

### **SECTION 23** **FEDERAL GOVERNMENT'S EMERGENCY CLAUSE**

It is understood that, during time of war or national emergency, the Commission shall have the right to lease any and all of the herein described Assigned Areas to the United States Government for military use, and if any such lease is executed, the provisions of this instrument insofar as they are inconsistent with the lease of the Government shall be suspended.

#### **SECTION 24** **INDEMNIFICATION AND HOLD HARMLESS**

24.1 Concessionaire shall indemnify and hold harmless the Augusta-Richmond County, Georgia Board of Commissioners, the Commission, and their officers, agents, elected and appointed officials, representatives, volunteers, employees, guests, licensees, invitees, and successors in office against all claims, damages, losses and expenses, including but not limited to attorney's fees, and expenses of litigation incurred by the Commission in connection therewith related to or arising out of any damage or injury to property or persons, occurring or allegedly occurring in, on or about the Airport caused by any negligent act or omission of Concessionaire or which arise out of any failure of Concessionaire to perform its obligations hereunder during the period from the date of this Agreement to the end of the Agreement Term or Concessionaire's operations under this Agreement.

24.2 Concessionaire shall keep, defend and hold harmless the Augusta-Richmond County, Georgia Board of Commissioners, the Commission, and their officers, agents, elected and appointed officials, representatives, volunteers, employees, guests, licensees, invitees, and successors in office, from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Concessionaire, by reason of death or injury to persons or loss or damage to property, resulting from Concessionaire's operations or activities on the Airport, or anything done or omitted by Concessionaire under this Agreement except to the extent that such claims, demands, suits, judgment, costs and expenses may be directly attributed to the sole negligence of the Airport or its agents, employees, directors, or officers.

24.3 In the event of a conflict between the provisions of the Augusta Georgia Code and this Agreement the more stringent requirements shall govern.

#### **SECTION 25** **SECURITY**

Concessionaire, its officers, employees, agents, and those under its control, shall comply with security measures required of Augusta, the Commission, the FAA, the TSA, or the U. S. Department of Transportation, or contained in any Airport Master Security Plan approved by the TSA, to include an Airport Tenant Security Program as outlined in 49 CFR Part 1542 regarding Concessionaire's Agreement. If Concessionaire, its officers, employees, agents, or those under its control shall fail or refuse to comply with said measures and such noncompliance results in a monetary penalty being assessed against the Commission, then Concessionaire shall be responsible and shall reimburse the Commission in the full amount of any such monetary penalty or other damages, including attorney's fees and other costs to defend Augusta and the Commission against such claims.

#### **SECTION 26** **DAMAGE TO AIRPORT**

Concessionaire shall be liable for any damage to the Airport caused by Concessionaire's officers, agents, employees, contractors, subcontractors, or anyone acting under its direction and control, ordinary wear and tear excepted. All repairs for which Concessionaire is liable shall be made by the Commission at Concessionaire's expense.

#### **SECTION 27** **NON-DISCRIMINATION**

27.1 Concessionaire shall furnish its services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable, and non-discriminatory prices for each unit or service, provided that Concessionaire may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

27.2 Concessionaire shall make its services available to the public on fair and reasonable terms without discrimination on the basis of race, creed, color, sex, sexual orientation, age, national origin, or disability.

27.3 Non-compliance with the above paragraphs, after written findings, shall constitute a material breach thereof and in the event of such non-compliance, the Commission shall have the right to terminate this Agreement or at the election of Augusta and/or the Commission or the



United States, either or both said governments shall have the right to judicially enforce the above paragraphs.

27.4 Concessionaire assures that it will undertake an affirmative action program to ensure that no person shall on the grounds of race, creed, color, national origin, sex, or disability be excluded from participating in any employment activities covered in 49 C.F.R. Part 29, Subpart E, and/or 29 C.F.R. Part 21. Concessionaire assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Concessionaire assures that it will require that its covered sub-organization provide assurances to Concessionaire that they similarly will undertake affirmative action programs and they will require assurances from their sub-organizations, as required by the aforesaid regulations, to the same effect.

27.5 Concessionaire will maintain open hiring and employment practices and will accept applications for employment in all positions from all qualified individuals.

27.6 Concessionaire will provide to the Commission any information needed in the preparation of reports or documents and other data relative to equal employment.

27.7 Concessionaire shall include similar clauses in any subcontracts and shall cause such subcontractors to include these clauses in any contract related to the provision of services.

## **SECTION 28**

### **AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES**

28.1 **Certification Required.** Augusta and the Commission do not operate a DBE, MBE or WBE Program for Augusta-Richmond County, Georgia funded projects, as a Federal Court has entered an Order enjoining the Race-Based portion of Augusta's DBE Program. Instead, Augusta operates a Local Small Business Opportunity Program. However, for various projects utilizing the expenditure of State or Federal funds, Augusta enforces DBE requirements and/or DBE goals set by the Federal and/or State Agencies in accordance with State and Federal laws. It is the policy of Augusta to support participation in the Airport Concession Disadvantaged Business Enterprises (ACDBE), as defined in 49 CFR Part 23, in concession activities at the Airport. This Agreement is subject to the provisions of 49 CFR Part 23 as applicable.

28.2 **Program.** The Commission has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of



Transportation (DOT), 49 CFR Part 23. The Commission and Augusta Regional Airport is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code); and has executed airport grant assurances that it will comply with 49 CFR Part 23. It is the policy of the Commission to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

28.2.1 To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;

28.2.2 To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;

28.2.3 To ensure that our ACDBE program is narrowly tailored in accordance with applicable law;

28.2.4 To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at our airport(s);

28.2.5 To help remove barriers to the participation of ACDBEs in opportunities for concessions at the Airport; and

28.2.6 To provide appropriate flexibility to our Airport in establishing and providing opportunities for ACDBEs.

28.3 **Contact.** The Commission, on behalf of the Augusta Regional Airport, has appointed Risa Bingham, Augusta Regional Airport, 1501 Aviation Way, Augusta Georgia 30906 Telephone: (706) 798-3236; E-mail: [rbingham@augustaga.gov](mailto:rbingham@augustaga.gov) as the Airport Concessionaires DBE Liaison Officer (ACDBELO). In that capacity, Ms. Bingham is responsible for implementing all aspects of the DBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Commission and Airport in its financial assistance agreements with the Department of Transportation.

28.4 **Opportunities for Participation.** It is the policy of Commission and Airport to ensure that ACDBE, as defined in 49 CFR Part 23 and other small businesses have an equal opportunity to receive and participate in Department of Transportation (DOT) assisted contracts. Commission and Airport encourages the Concessionaire to make every reasonable effort to maximize contracting opportunities for ACDBE and other small businesses in any construction

or architectural changes to the premises and in the procurement of goods and services necessary for the operation of the Concession at this Airport.

28.5 **Reports.** Concessionaire shall submit ACDBE participation reports to the Commission as required for the purpose of demonstrating the Airport's compliance with 49 CFR Part 23. The ACDBE concession specific goal for this Agreement is 9.68%. The Airport is required to track the usage of ACDBE's for all concession contracts. The Concessionaire will be required to submit the following information:

28.5.1 Names and addresses of ACDBE firms and suppliers that will participate in the concession;

28.5.2 A description of the work that each ACDBE will perform;

28.5.3 The dollar amount of the participation of each ACDBE firm participating;

28.5.4 Written and signed documentation of the use of an ACDBE.

28.6 **Non-Discrimination in Contracts.** Commission and Airport encourage Concessionaire to create and maintain a diverse workforce, contractor and supplier base. The Concessionaire shall not create barriers to open and fair opportunities for minority business enterprises (MBE), women's business enterprises (WBE), small business enterprises (SBE) and disadvantaged business enterprises (DBE) to participate in all contracts at Augusta and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with contractors and suppliers, the Concessionaire shall not discriminate on the basis of race, color, creed, religion, sex, age, disability, nationality, marital status, sexual orientation or disability. These requirements apply to all concessions firms and suppliers, including those who qualify as an Airport Concessions Disadvantaged Business Enterprise (ACDBE).

## **SECTION 29** **NOTICES**

All notices by either party to the other shall be made by depositing such notice in the registered or certified mail, of the United States of America, postage prepaid, and such notice

shall be deemed to have been delivered and received on the date of such depositing correctly addressed in the registered or certified mail.

All notices to the Commission shall be mailed to:

Augusta Aviation Commission  
Attn: Executive Director  
1501 Aviation Way  
Augusta, GA 30906

With a copy to: Augusta Law Department  
535 Telfair St.  
Building 3000  
Augusta, GA 30901

All notices to Concessionaire shall be mailed to:

Departure Media, Inc.  
180 Meeting Street, Suite 350  
Charleston, South Carolina 29401  
Attn: Leslie Bensen

Either party may change the address and name of addressee to which subsequent notices are to be sent by notice to the other given as aforesaid.

### **SECTION 30** **LIENS**

Concessionaire shall cause to be removed promptly any and all liens of any nature arising out of or because of any construction performed by Concessionaire or any of its contractors or subcontractors upon the Airport or arising out of or because of the performance of any work or labor by or for it or them at said premises, reserving the right to contest in court the validity of any such liens. Concessionaire shall have the right to post an appropriate bond to cover its obligations pursuant to this Section. If any person or corporation attempts to assert a Mechanic's Lien against Augusta for improvements made by Concessionaire, Concessionaire shall hold Augusta harmless from such claim, including the cost of defense.

### **SECTION 31** **SURVIVAL**

Concessionaire's obligations under this Article shall survive the expiration or earlier termination of this Agreement. No modification, termination or surrender to the Commission of

this Agreement or surrender of the Assigned Areas or any part thereof, or of any interest therein by Concessionaire, shall be valid or effective unless agreed to and accepted in writing by the Commission, and no act by any representative or agent of the Commission, other than such written agreement and acceptance, shall constitute an acceptance thereof.

### **SECTION 32** **RULES AND REGULATIONS**

32.1 Concessionaire shall comply with and shall require its officers and employees and any other persons over whom it has direct control to comply with such Rules and Regulations governing the use of Airport facilities and the access to said facilities pursuant to this Agreement and Augusta's ordinances which may govern said use and access of the Airport, as may be amended from time to time by the Commission.

32.2 Concessionaire shall not use or permit to be used any Airport facilities for any purposes or uses other than those specifically authorized by this Agreement, and such other purposes or uses as may be mutually agreed upon in writing.

32.3 Concessionaire shall comply with and shall require its officers and employees and any other persons over whom it has control to comply with such reasonable and nondiscriminatory Rules and Regulations governing the use of Airport facilities pursuant to this Agreement as may from time to time be adopted and promulgated by Augusta or the Commission, including, but not limited to, security, health, safety, environmental concern, sanitation, and good order, and with such amendments, revisions, or extensions thereof as may from time to time be adopted and promulgated by the Commission. The Executive Director will direct Concessionaire to the Airport website location of the initial Rules and Regulations, which may be viewed currently at <http://www.flyags.com/Resources/1316.pdf>.

32.4 Concessionaire's right of access to the Airport shall be subject to security considerations and all federal, state, and local laws or regulations and all Airport rules, regulations, and ordinances now in effect or hereinafter adopted or promulgated.

32.5 Concessionaire shall, at all times, comply with any and all present and future laws, ordinances, and general rules or regulations of any public or governmental entity pertaining to its operations at the Airport now or at any time during the term that this Agreement is in force.

### **SECTION 33** **ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the parties and no representation, inducements, promises, or agreement, oral or otherwise, between the parties not embodied herein shall be of any force or effect. No failure of the Commission to exercise any power at variance with the terms hereof shall constitute a waiver of The Commission's right to demand exact compliance with the terms hereof.

#### **SECTION 34** **GOVERNING LAW**

This Agreement and all disputes arising hereunder shall be governed by the laws of the State of Georgia.

#### **SECTION 35** **VENUE**

All claims, disputes, and other matters in question between the Commission and Concessionaire arising out of or relating to this Agreement, or the breach hereof, shall be decided in the Superior Court of Richmond County, Georgia. Concessionaire, by executing this Agreement, specifically consents to jurisdiction and venue in Augusta-Richmond County and waives any right to contest jurisdiction and venue in the Superior Court of Richmond County, Georgia or the United States District Court for the Southern District of Georgia, Augusta Division.

#### **SECTION 36** **ATTORNEY'S FEES**

If the Commission is reasonably required to obtain counsel to enforce any of its rights under this Agreement or to collect its fees and charges, the Commission shall be entitled to recover from Concessionaire reasonable attorney's fees and expenses incurred by it in connection with such proceedings.

#### **SECTION 37** **MISCELLANEOUS PROVISIONS**

37.1 No purported or alleged waiver of any of the provisions of this Agreement shall be valid or effective unless in writing signed by the party against whom it is sought to be enforced.

37.2 Captions herein are for convenience or reference only and in no way define, limit or expand the scope or intent of this Agreement. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female, and vice versa.

37.3 **Counterparts.** This Agreement may be executed in two or more counterparts, all of which together shall constitute but one and the same Agreement. In the event that one or more of the provisions hereof shall be held to be illegal, invalid or enforceable, such provisions shall be deemed severable and the remaining provisions hereof shall continue in full force and effect.

37.4 Nothing contained in this Agreement shall be construed to be a waiver of Augusta-Richmond County, Georgia or the Commission's sovereign immunity.

37.5 It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of this Agreement to create in the public or any member thereof, third party beneficiary status in connection with the performance of the obligations herein.

37.6 Nothing contained in this Agreement shall be construed to be a waiver of any individual's qualified good faith immunity.

37.7. **Covenants Bind and Benefit Successors and Assigns.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided, however, that no one shall have any benefit or acquire any rights under this Agreement pursuant to any conveyance, transfer, or assignment in violation of any of its provisions.

37.8 **Open Records.** The Concessionaire acknowledges that all records relating to this Agreement and the services to be provided under this Agreement may be a public record subject to Georgia's Open Records Act (O.C.G.A. § 50-18-70, et seq.). Concessionaire shall cooperate fully in responding to such request and making all records, not exempt, available for inspection and copying as provided by law. Concessionaire shall notify the Commission immediately of any request made under the Open Records Act and shall furnish Augusta and the Commission with a copy of the request and the response to such request.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

Augusta- Richmond County, Georgia

Augusta Aviation Commission:

By: \_\_\_\_\_  
Garnett L.Johnson Mayor

By: \_\_\_\_\_  
\_\_\_\_\_, Chairman

Attest:

\_\_\_\_\_  
Lena Bonner, City Clerk

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

Signed this \_\_\_\_ day of \_\_\_\_\_, 2023 in the presence of:

**DEPARTURE MEDIA, INC.**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Leslie Bensen, President and Chief  
Executive Officer

Approved as to content:

Approved as to form:

By: \_\_\_\_\_  
Rachel Mack, General Counsel

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



**EXHIBIT A**  
**OPERATIONAL PLAN**

# Concept and Operational Plans

## Design Plan/Schedule

In order to develop an impressive display program that commands maximum revenues, our design plan is scheduled in phases. Concepts are created for your approval, then marketed to prospective customers until an advertiser is secured; the display is then fabricated and installed. This process creates a demand for unique displays and minimizes clutter.

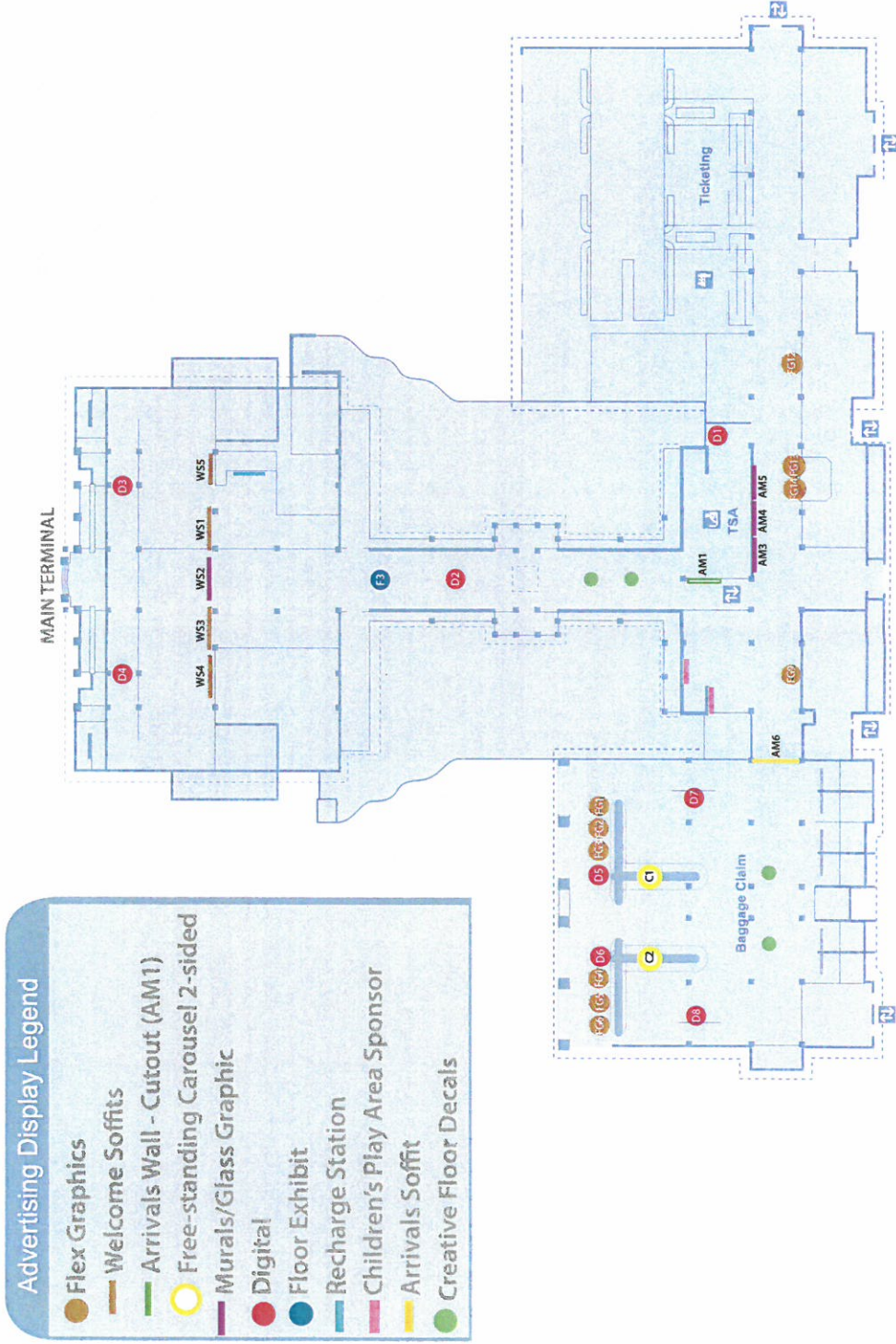
### Augusta Regional Airport - Advertising Program Schedule

Display Type	Display Type Description - Main Terminal	Timing
Sponsorship	Children's Play Area *with glass graphic and nonlit flexgraphic	30 days from advertising contract execution
Tension Fabric Displays - Nonlit	Standard Nonlit Flexgraphic - 6x6 in Main Terminal Arrivals Baggage Claim	30 days from advertising contract execution
Tension Fabric Displays - Nonlit	Arrivals Soffit (AM6)	execution
Tension Fabric Displays - Nonlit	Gatehold Recharge Station 4'x7'	execution
Tension Fabric Displays - Nonlit	Baggage Claim Circle Graphics	AGS to determine - 30-60 days after approval
Main Terminal Digital	TSA, Gatehold and Arrivals Digital Monitor Upgrades	AGS to determine - 30-60 days after approval
Recharge Station	Baggage Waiting Area Recharge Station (without seating)	execution
Murals	Arrivals Hallway and Baggage Floor Decals	execution
Murals	Interior JetBridges	execution
Tension Fabric Displays - Nonlit	Freestanding Carousel Double-sided TFD	30 days from advertising contract
Display Type	Display Type Description - Private Terminal (FBO)	Timing
Digital	Private Terminal Digital Monitor Upgrade	30 days from advertising contract

While the majority of displays will be purchased when sold to an advertiser, it usually takes about 30 days to install from contract execution.

# AUGUSTA REGIONAL AIRPORT - (AGS)

Augusta, Georgia





A. Children's Play Area Sponsorship

Tension fabric and Glass Graphic Combination Display



DEPARTURE MEDIA  
AIRPORT ADVERTISING

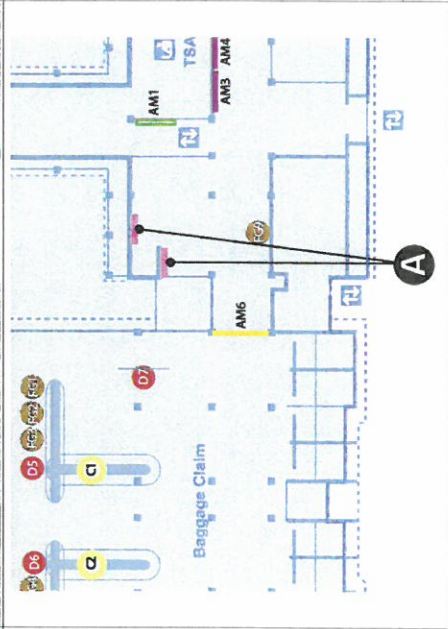
CLIENT	
JOB #	
PROJECT	
DESIGNER	
CONCEPT	
VERSION	
DATE	

NOTES  
Display dimensions are based on location and will be purchased based on advertiser demand.

\* SIZES ARE FOR REFERENCE ONLY. ALL SIZES SUSPECT TO CHANGE BASED ON FINAL AIRPORT APPROVAL

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FAST SIGNS®

B. Recharge Station Sponsorship

Tension fabric frame above gatehold recharge station  
Proposed Advertiser: Georgia Power



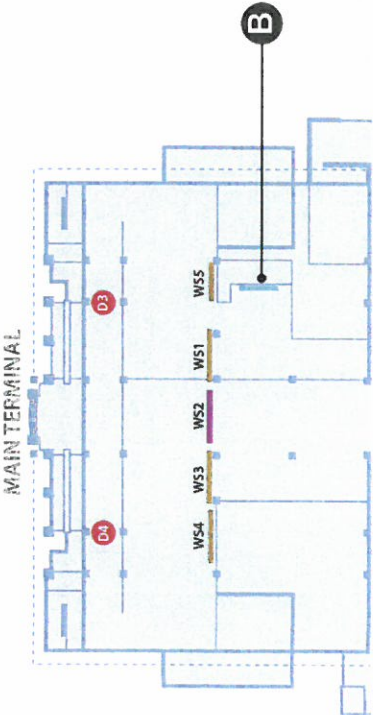
DEPARTURE MEDIA	
CLIENT	
JOB #	
PROJECT	
DESIGNER	
CONCEPT	
VERSION	
DATE	

NOTES

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C. Baggage Specialty Graphics - Circle Shape

Tension fabric  
Approx. 6' Diameter  
-Accommodates existing and new advertisers



DEPARTURE MEDIA <small>AIRPORT ADVERTISING</small>	
CLIENT	
JOB #	
PROJECT	
DESIGNER	
CONCEPT	
VERSION	
DATE	

NOTES  
Display dimensions are based on location and will be purchased based on advertiser demand.

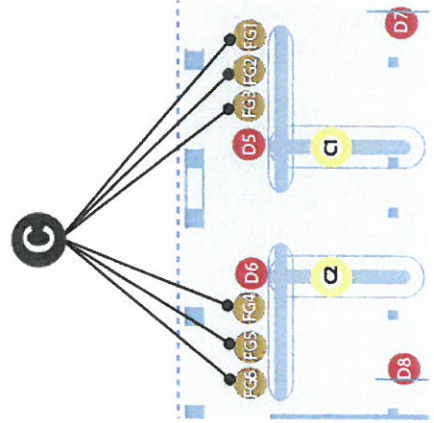
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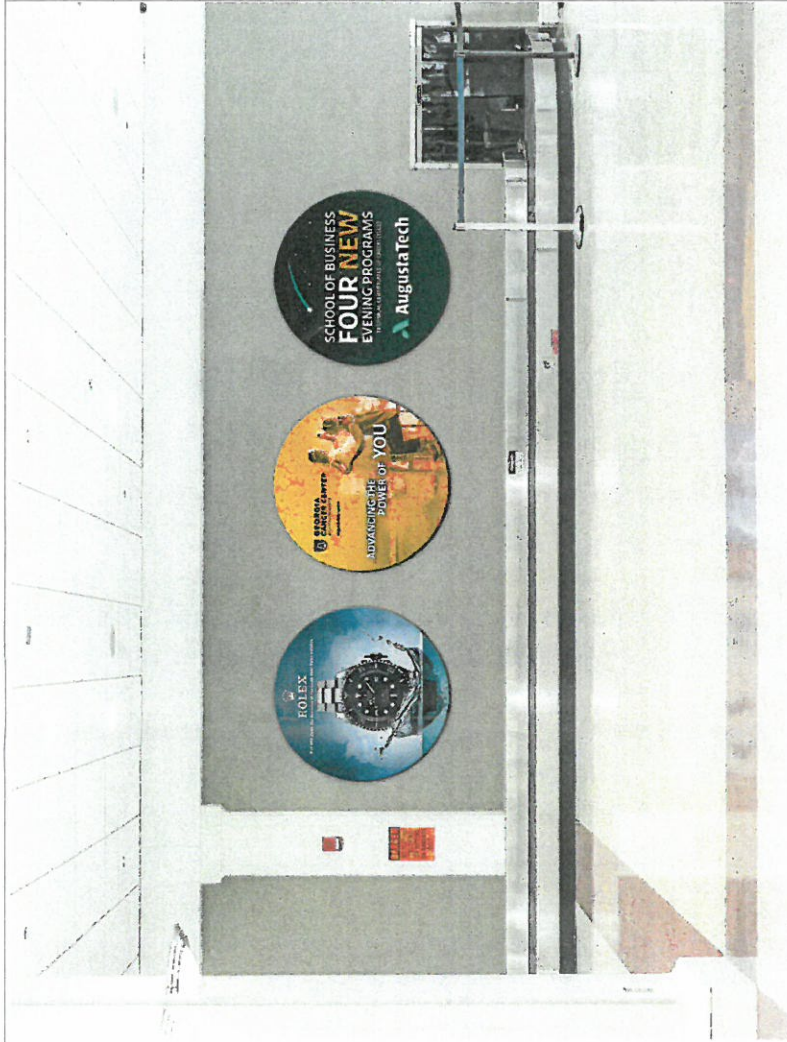


FASTSIGNS®

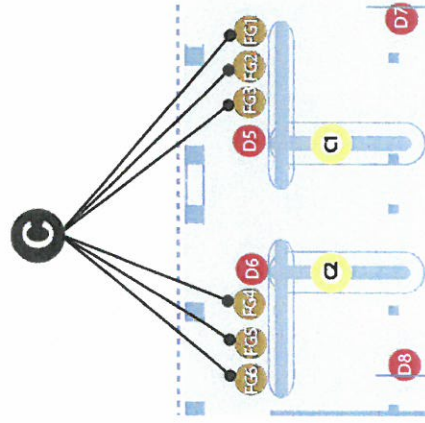


C. Baggage Specialty Graphics - Circle Shape

Tension fabric  
Approx. 6' Diameter  
-Accommodates existing and new advertisers



**FAST SIGNS®**



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DEPARTURE MEDIA  
AIRPORT GRAPHICS

CLIENT

JOB #

PROJECT

DESIGNER

CONCEPT

VERSION

DATE

NOTES

Display dimensions are based on  
location and will be purchased  
based on advertiser demand.



D. Baggage Digital Upgrades

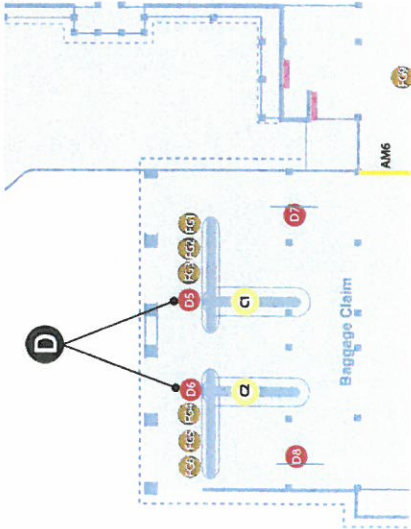
Baggage back wall upgraded to two 85" digital monitors  
**New Monitor Specs:** Samsung QM85R-b Commercial 4k Display  
**Upgrade Date:** September 15, 2022



Before 2022 Upgrades



After 2022 Upgrades



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Displays will be capitalized and installed in phases based on demand for advertising devices. All costs are estimates and subject to increase or decrease. We anticipate several phases to accommodate existing and new advertisers. Some units include production which is paid by advertiser. Installation costs are not included and are additional. AGS receives 10% of digital gross advertising revenues and 35% of static gross advertising revenues.

a report advertising

## **REVENUE SHARING PROPOSAL**



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Augusta Regional Airport  
Projected Advertising Revenues and Proposed Percentage Share  
2017-2022

Gross Annual Advertising Revenue Projections - AGS  
2022-2027

	Year 1	Year 2	Year 3	Year 4	Year 5	Totals
Annual Gross Revenue Projections \$	78,500	\$ 82,425	\$ 86,546	\$ 90,874	\$ 95,417	\$ 433,762
Masters Annual Gross Revenue Projections \$	155,000	\$ 162,750	\$ 170,888	\$ 179,432	\$ 188,403	\$ 197,824
<b>Total Gross Annual Revenue Projections \$</b>	<b>233,500</b>	<b>\$ 245,175</b>	<b>\$ 257,434</b>	<b>\$ 270,305</b>	<b>\$ 283,821</b>	<b>\$ 1,290,235</b>
<b>Total Gross Revenue to AGS (35%) \$</b>	<b>81,725</b>	<b>\$ 85,811</b>	<b>\$ 90,102</b>	<b>\$ 94,607</b>	<b>\$ 99,337</b>	<b>\$ 451,582</b>

These are projected gross revenues largely contingent upon Departure Media's aggressive sales efforts and the health of local, national and regional economies. Our goal continues to be focused on building long term local relationships and revenues as the basis for annual recurring revenue. A concentration on National and Regional accounts will be inserted during annual events. A combination of static and digital display devices will maximize opportunities and minimize clutter. For your consideration, the Estimated Capital Plan outlines - financially and conceptually - several options to upgrade the digital program. Similar to the last term, we are requesting the same plan for the program when Departure Media purchases new digital assets the percentage share of revenue from digital ads will be 10%.

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