LEASE AND CONTRACT NO. SC-22-XXXX

BETWEEN

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

AND

FOR A

FIXED BASE OPERATOR AT

WASHINGTON DULLES INTERNATIONAL AIRPORT

November 1, 2022
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LEASE AND CONTRACT FOR THE OPERATION AND MANAGEMENT
OF A FIXED BASE OPERATOR (FBO)
AT
WASHINGTON DULLES INTERNATIONAL AIRPORT

LEASE AND CONTRACT NO. SC-22-XXXX

This Lease and Contract (hereinafter referred to as “Contract”), by and between the Metropolitan Washington Airports Authority, a public body corporate and politic (“the Airports Authority”) and ________________, (the “Contractor”) (collectively “the Parties”);

W I T N E S S E T H:

WHEREAS, The Airports Authority desires to provide for the operation and management of a Fixed Base Operator (“FBO”) on the Airport to service air transportation at the Airport and the General Aviation needs of the traveling public; and,

WHEREAS, The Contractor’s proposal submitted in response to the Airports Authority’s public solicitation, Request for Proposals No. RFP-21-26914, has been selected, and the Board of Directors of the Airports Authority, on ________________, directed the Airports Authority’s President and Chief Executive Officer to enter into a Contract with the Contractor for the operation and management of a FBO based on the terms and conditions herein set forth; and,

WHEREAS, The Contractor is engaged in the FBO business and warrants to the Airports Authority that it is qualified, ready and able to conduct the business and meet the obligations hereinafter stated; and

WHEREAS, The Contractor will equip, operate, manage, maintain, and construct certain facilities for the Airports Authority in accordance with the terms and conditions hereinafter contained;

NOW, THEREFORE, For and in consideration of the premises, and of the terms, conditions, and agreements contained herein, the Airports Authority and Contractor hereby agree as follows:

ARTICLE 1 - CONTRACT TERM

Section 1.01 Contract Term

The term of the Contract (the “Contract Term”) shall commence on November 1, 2022 (“Contract Commencement Date”), and continue until October 31, 2042, subject to such earlier termination as provided herein.

Section 1.02 Transition

A. Transition In

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The Contractor understands and acknowledges that there will be a period of transition required between the incumbent contractor and the Contractor regarding operation of the Premises, as herein defined in Article 2. The Contractor understands and acknowledges that the incumbent contractor needs to maintain regular service to FBO customers during any such transition period before the Contract Commencement Date. The Contractor agrees that any inconvenience caused by such transition shall neither affect the Contract Commencement Date nor any other provision of this Contract, unless otherwise agreed by the Airports Authority.

B. Transition Out

Upon the expiration of the Contract Term or any extension thereof or the termination of this Contract, the Contractor shall cooperate and work in good faith to ensure any transition of services with a new contractor, if applicable.

Section 1.03 Contract Year

For the purpose of this Contract, “Contract Year” shall mean the period beginning on November 1 of each year and ending October 31 of the next year.

Section 1.04 Option Periods

The Contract shall have two (2), five (5) year option periods effective November 1, 2042 and November 1, 2047 (the “Option Periods”). The Option Periods will automatically commence unless the Airports Authority provides written notice to the Contractor prior to November 1, 2041 (initial 5-year Option Period) or November 1, 2046 (second 5-year Option Period).

Section 1.05 Contract Extension Beyond Option Periods

The Authority may require continued performance within the limits and at the rates specified in Contract Year Thirty (30) in the Financial Offer Form or as otherwise agreed to between the Parties. This extension provision may be exercised more than once, but the total extension hereunder shall not exceed twelve (12) months. The Contracting Officer may exercise continued performance by providing written notice to the Contractor within thirty (30) calendar days (“Days”) of Contract expiration.

Section 1.06 Incorporation of Exhibits

A. This Contract contains the following exhibits, which are incorporated herein by this reference:

   2-A. Premises
   2-B. Expansion Premises
ARTICLE 2 - PREMISES

Section 2.01 Premises

A. Total Premises

The Contractor shall be assigned the land and facilities totaling approximately 1,313,460 square feet in “as is” condition for the Contractor’s use in the operation of the FBO. The land and facilities assigned herein are as shown on Exhibit 2-A and collectively referred to as the "Premises". [The definition of Premises shall also include any Expansion Premises, as detailed in Exhibit 2-B, upon the expiration of the Contractor’s sixty (60) day written notice outlined in Section 7.02(C).]

B. Premises Detail

1. The Contractor shall be assigned the land and facilities totaling approximately 1,313,460 square feet in “as is” condition for the Contractor’s use in the operation of the FBO. The land and facilities assigned herein are as shown on Exhibit 2-A and collectively referred to as the "Premises". [The definition of Premises shall also include any Expansion Premises, as detailed in Exhibit 2-B.] Specifically the Premises consist of:

   a. A general aviation hangar and terminal which were constructed in 1990, with three (3) common use hangars (Hangar 1, Hangar 2, Hangar 3) and a two-story office space and garage added in 2000. The main lobby of the original general aviation terminal was refurbished in 2008 and again in 2017.

   b. One (1) Common Use Hangar (Hangar B) with office and shop space.

   c. Two (2) exclusive use Corporate Hangars (Hangar A and Hangar C) with office and shop space which have recently reverted to the Airports Authority from certain tenants to be assigned to the Contractor.
d. Approximately 705,675 square feet of unutilized area previously used for vehicle parking for optional development by the Contractor for Leasehold #2.

C. First Right of Refusal

The Contractor shall extend to all existing tenants of the exclusive use Corporate Hangars first right of refusal in executing a new sublease for these Corporate Hangars assigned under the Contract.

ARTICLE 3 - RIGHTS AND OBLIGATIONS OF THE CONTRACTOR

Section 3.01 Rights and Obligations of the Contractor

A. Rights and Obligations

The Airports Authority grants to the Contractor the right and privilege to occupy the Premises, together with the necessary rights of ingress thereto and egress therefrom. The Contractor agrees to only use the Premises for the conduct of the rights expressly granted under this Contract, any other use shall require the prior written approval of the Airports Authority. At a minimum, the Contractor shall meet the standards outlined in Exhibit 2-C, Minimum Standards for Fixed Based Operator at Washington Dulles International Airport (“Minimum Standards”) to render services at the Airport.

B. Rates, Fees, and Charges

The Contractor’s rates, fees and charges shall be fair, equitable, and not unjustly discriminatory. The Contractor shall furnish a schedule of all rates, fees and charges to the Airports Authority upon request.

Section 3.02 Non-Exclusive Rights and Obligations

The rights and privileges granted under this Contract are non-exclusive. By entering into this Contract, the Contractor acknowledges that the Airports Authority may enter into separate agreements for similar aeronautical support services on the Airport under similar terms, and that this Contract is, as of the Contract Commencement Date, for the management and operation of one FBO at the Airport. The Airports Authority, at its sole discretion shall determine the number of FBO operations at the Airport.

Section 3.03 Other Services

A. Required Services

The Contractor shall, in a fair, equal, and non-discriminatory manner, offer the services outlined in the Minimum Standards to General Aviation, military, and non-scheduled
charter operators (“Operators”). The Contractor shall provide services for Operators utilizing aircraft up to and including Airplane Design Group VI. The Contractor shall coordinate with the Airports Authority for aircraft serviced by the Contractor which must be parked outside of the Premises on the Airport’s cargo ramps or jet apron areas, as designated by the Airports Authority. In addition to providing the services outlined in the Minimum Standards, the Contractor shall provide the following services:

1. Assistance to Disabled Aircraft

   The Contractor shall have the ability to remove disabled aircraft from all operational areas of the Airport within two (2) hours from the receipt of notice from the Airports Authority and approval of the Federal Aviation Administration (“FAA”) provided that the Contractor may request and may be granted additional time for such removal in scenarios where the aircraft type or the disability is such as to require additional time for the removal. If the Contractor fails to remove a disabled aircraft within two (2) hours from the receipt of notice from the Airports Authority and approval of the FAA or by the time previously agreed to by the Airports Authority, the Airports Authority may assess liquidated damages as detailed in Article 15 hereunder. The Contractor shall maintain sufficient equipment as provided in the Minimum Standards to remove disabled aircraft, including at a minimum, facilities and equipment for removing all aircraft that are handled by the Contractor.

2. Aircraft Maintenance

   The Contractor shall provide routine maintenance and repair of aircraft engines, airframe, aircraft accessories and electronic accessories and avionics. The Contractor shall employ or provide under contract, on a full-time basis, at least one FAA Licensed Airframe and Powerplant Mechanic. The Contractor is authorized to sell parts to Operators utilizing the Premises or the Contractor’s services.

3. Ground Transportation

   The Contractor shall, as requested, provide courtesy ground transportation for its customers between various points on the Airport and immediate surrounding Airport areas, utilizing a suitably equipped fleet of vehicles. The Contractor shall assist its customers in coordinating and arranging off-Airport ground transportation utilizing service providers authorized and permitted by the Airports Authority to conduct business on the Airport, including chauffeured services and rental cars.

4. Collection of Airport Fees

   The Contractor shall be an agent for the Airports Authority to monitor and record with its own personnel, all aircraft landings, and aircraft parking, further defined in Section 5.01, on the Premises or adjacent runway, taxiway and apron areas. The
Contractor agrees to collect such fees for aircraft utilizing the Contractor’s Premises or the Contractor’s ground handling services in accordance with the written directives of the Airports Authority that will be provided to the Contractor on an annual basis.

5. Air to Ground Communications

The Contractor shall maintain an air to ground radio communications service and its own frequency for customer service. The Contractor shall maintain a Federal Communications Commission (“FCC”) license for its own frequency, and the Contractor shall be responsible for the connection to the Airport’s equipment and the Contractor’s equipment.

6. Other Aeronautical Services

The Contractor may provide other aeronautical support services as identified in its proposal (“Contractor’s Proposal”), Exhibit 2-D, and approved by the Airports Authority, including aircraft management, ground handling and fueling of non-signatory, non-scheduled air carriers and domestic and international diversions. Prior to providing additional commercial support services, the Contractor must provide a written request to the Airports Authority of the services to be provided and the date on which they will commence, pending the Airports Authority’s approval. The Contractor shall provide such notification continually throughout the Contract Term as the services it provides change.

7. Commercial Use Space

The Contractor may provide and charge fees for space within the Premises for commercial use; provided, however, the Contractor shall not conduct or permit others to conduct any commercial use from its Premises not specifically provided for in this Contract without the advance written approval of the Airports Authority. The Airports Authority reserves the right to prohibit any activity conducted from the Premises, other than the rights and services expressly granted and permitted herein.

8. Authority Requested Services

The Airports Authority may, from time to time during the Contract Term, request the Contractor establish additional services which are required or desired at the Airport and which will not adversely affect the economic viability of the Contractor’s operation. The services provided under this Contract are intended for the use of Operators and their passengers and other Airport users. The Airports Authority may restrict the Contractor’s provision of services to others.

B. Review of Services Contractor May Offer
In the event any question or dispute arises as to whether the Contractor may offer any specific service or category of services on the Premises, the Contractor may submit a request in writing to the Contracting Officer asking that the matter be reviewed. The Airports Authority will review the matter and issue a written decision within (10) business days and such determination shall be considered final in the matter. The Contractor shall not offer the service or category of services during the time the Airports Authority is reviewing the matter without the express approval of the Contracting Officer. The Contractor shall abide by and conform to the decision of the Airports Authority.

C. Rights Reserved to the Airports Authority

All rights and privileges not specifically granted to the Contractor in this Contract shall be reserved to the Airports Authority.

Section 3.04 Exterior Signs

A. Sign Installation

The Contractor shall have the right to install and maintain appropriate graphics and identifying signs on the Premises, provided that the type, size, design, content, color, location, installation, and operation of such exterior graphics and signs shall be consistent with the graphic and sign standards of the Airports Authority’s Design Manual (“Design Manual”) and that the Contractor obtains the prior written approval of the Airports Authority before installation. Such approval by the Airports Authority shall not be unreasonably withheld or delayed. The Design Manual is available at: https://www.mwaa.com/business/airports-authority-design-manual.

B. Sign Removal

Upon notice from the Airports Authority, the Contractor shall promptly and permanently remove any sign or other item on the Premises which the Airports Authority deems to be offensive to the public.

Section 3.05 Prohibited Activities

A. General

The Contractor shall not conduct or permit the conduct of the following business activities on or from the Premises:

1. Automobile parking services, except parking for the Contractor’s customers and employees in areas designated for such by the Airports Authority.

2. Air freight services, except for a very limited small-package service which is
incidental to air taxi and air charter operations. Under no circumstances shall the Contractor or any of its subcontractors or customers engage in the consolidating of air freight on the Premises.

3. Scheduled air carrier operations.

4. Provision of any for-hire ground transportation services, including taxicab/limousine/transportation network companies/off-Airport shuttle services, except as arranged in advance for General Aviation customers.

5. Food and beverage services, except as provided for herein.

6. Flight training of any kind, except when performed as a part of the sale or rental of aircraft as provided for herein.

Section 3.06 Subleasing

A. General

The Contractor may not assign the right to conduct any of the activities listed in Section 3.03 herein or in the Minimum Standards, nor may the Contractor sublet space for the conduct of any other commercial activity on the Airport unless:

1. The assignee or sublessee is competent, in the reasonable judgment of the Airports Authority to provide the proposed service with a high degree of skill and competence;

2. The assignee or sublessee will pay the pass-through fees to the Airports Authority through the Contractor as required under this Contract for the activities conducted;

3. The assignment or sublease is, in the sole judgment of the Airports Authority, in the best interests of the Airports Authority;

4. The assignment or sublease contains the following provision: “This Agreement and all rights, privileges, and obligations hereunder shall be terminated upon the termination of the Agreement between the (name of the sublessee or assignee) and the Contractor.”; and

5. The Airports Authority has provided its prior written approval of the assignment or sublease.

B. Void Assignment or Sublease

Any attempted assignment or sublease by the Contractor which does not comply fully with
the requirements of this subsection shall be void and of no effect. Assignments and subleases which comply with this subsection shall not relieve the Contractor of any obligation or liability hereunder.

Section 3.07 Definition of General Aviation Operations

General Aviation Operations include any operations utilizing privately and corporately-owned aircraft not engaged in the common carriage of passengers, cargo, or freight; aircraft of non-scheduled air taxi, airline, and charter operators; aircraft owned by the United States and foreign military or governmental entities (other than nationalized aircraft which are publicly owned, but engaged in the common carriage of passengers, cargo or freight) not authorized by the Airports Authority to provide their own personnel and facilities for fueling and handling services; and any other operations that may be mutually agreed upon, in writing, by the Airports Authority and the Contractor.

Section 3.08 Operations, Security, and Safety Requirements

A. Personnel

The Contractor shall provide personnel in sufficient number and with such qualifications necessary to efficiently serve the public. The Contractor shall be responsible for its employees. The Airports Authority will not supervise the Contractor’s employees, directly or indirectly.

1. Training records of personnel shall be available to the Airports Authority for review and inspection upon request. Such personnel shall be familiar with the Contractor’s business so as to be courteous, informative, and helpful to the public.

2. The Contracting Officer may, at any time under this Contract, require an investigation of Contractor personnel. When notified of such a requirement, the Contractor shall have completed on each employee who would have a requirement to visit and/or work on the Premises or at an Airports Authority facility, such investigative forms as are furnished by the Contracting Officer.

B. Security and Safety Requirements

1. The Contractor shall abide by all airfield and other security related requirements established by the Transportation Security Administration (“TSA”) and/or the Airports Authority which apply to the Contractor and its employees, service personnel, guests, visitors, contractors, patrons, and invitees. The Airports Authority is required by Transportation Security Regulations, 49 CFR Parts 1540 and 1542, to adopt and put into use facilities and procedures to prevent and deter persons and vehicles from unauthorized access to the Air Operations Area (“AOA”). In accordance with the foregoing, the Airports Authority has developed
security requirements for the Airport, and the operations of the Contractor at the Airport shall not conflict with the security standards set forth in said requirements. The Contractor shall request documentation explaining the security requirements determined by the Airports Authority to be applicable to the Contractor.

2. All individuals who apply for access to a restricted area of the Airport must attend a TSA required training session prior to receipt of an Airports Authority-issued identification badge and vehicle operator’s permit. Submission of fraudulent or intentional false statements may lead to legal enforcement action by the TSA.

3. The Contractor shall abide by its Airports Authority-approved plans and procedures to prevent and deter persons and vehicles from unauthorized access to the AOA from and through the Contractor’s Premises in accordance with the provisions of the Transportation Security Regulation, 49 CFR Parts 1540 and 1542, and the security requirements for the Airport.

4. The Contractor shall install equipment required by the Airports Authority to prevent unauthorized access to the AOA, as defined in the Airports Authority’s security requirements for the Airport, including but not limited to fencing, cameras, automated access control system (i.e. electronic locks and card readers). Upon acceptance, the Airports Authority will maintain such equipment.

5. The Contractor is subject to additional security requirements as set forth in Transportation Security Regulation, 49 CFR Part 1540, 1542, and 1544. To meet these requirements, the Contractor’s security procedures and facilities at the Premises shall ensure positive control which shall prevent the entrance of unauthorized persons and vehicles onto the AOA of the Airport and shall include but not be limited to:

a. Fencing and locked gates;

b. Specific measures for controlling entry to the AOA, including but not limited to the use of the Airports Authority Automated Access Control System where required;

c. Visual identification of persons authorized to enter and be present within the AOA;

d. Specific measures for escorting persons and vehicles into and within the AOA; and

e. Other facilities and procedures as may be reasonably required.
6. The Contractor’s company vehicles and equipment must be registered with the Airport Operations Department. Vehicles utilized in restricted areas must meet requirements set forth in the applicable Orders and Instructions for the airport. Personnel shall be licensed by the Authority prior to vehicle operation on the AOA. Vehicle registration, vehicle operator’s permits, security requirements, procedures, associated costs and applicable forms are as specified by the Contracting Officer’s Technical Representative and in accordance with the Airports Authority’s Orders and Instructions, available at https://www.mwaa.com/business/contracting-manuals-forms-and-other-resources.

7. There must be at least one person with an Authority-issued identification badge with all Contractor crews performing work at the Airport. Any Contractor employee who works unescorted in a restricted area of the Airport must have an Airports Authority-issued identification badge.

8. If the Contractor fails or refuses to promptly comply with the security and safety requirements, the Airports Authority may issue an order stopping all or part of the work until the Contractor has taken satisfactory corrective action.

C. Fuel Quality

The Contractor in all its aircraft fueling activities at the Airport shall perform comprehensive fuel quality control procedures which will assure compliance with all federal and state regulations, and the Contractor shall perform the aviation fuel quality controls in accordance with its then-written aircraft fueling and quality control procedures. The Contractor shall provide a copy of its aviation fuel quality control procedures, and all revisions thereto, upon the request of the Airports Authority.

D. Accident or Incident on Premises

The Contractor shall immediately notify Airport Operations and the Contracting Officer’s Technical Representative (“COTR”) regarding any accident or incident resulting in damage to the Premises, Airports Authority, or private property, significant damage to an aircraft, or a personal injury requiring immediate medical attention by Airports Authority Police, Fire, or Emergency Medical Services, or any report, discovery, or investigation of any fraud or theft. The Contractor shall also submit a written report to the Airports Authority detailing the incident or accident within seventy-two (72) hours.

E. Damage Reports

In all instances where Authority property and/or equipment is damaged by the Contractor or subcontractors, the Contractor shall submit a full report of the fact and extent of such damage, in writing, to the COTR within 24 hours of the occurrence.
Section 3.09 Maintenance of the Premises, Utilities, and Correction of Deficiencies

A. General

The Contractor shall at its own expense provide the necessary management and labor to perform, complete general and structural maintenance service upon structures, aprons, paving, utilities, grounds, and facilities located upon the Premises during the Contract Term, as summarized in Exhibit 2-E, Operations and Maintenance Responsibilities Matrix, and in particular:

1. The Contractor shall perform all servicing, inspection, maintenance and repair, including structural repair, on a continuous basis throughout the Contract Term, of all Capital Investments and Fixed Improvements and Operating Facilities on the Premises including the exterior and interior of the FBO terminal and hangars including the hangar doors and all mechanical equipment associated therewith; all heating, air conditioning, ventilation and exhaust systems; fire suppression systems, fire alarm systems, and water distribution systems; door locks; furnishings; all glass, flooring, partitions, interior walls and tenant installed security and alarm systems, public address and CCTV systems; elevators and associated equipment; all electrical equipment and systems to include switchgear, transformers, primary switches, and exterior and interior lighting; quarterly cleaning of oil/water separators, all utility systems up to the Airports Authority distribution/collection interface point; pavement and concrete and concrete markings; aircraft grounding rods and tie-down devices, and fencing; all entry gates and equipment (electrical and/or mechanical) associated with fencing. In addition, the Contractor shall provide all custodial, trash removal, and snow/ice removal services, grass cutting, landscaping, and maintenance service, equipment maintenance service, and building and parking area upkeep to maintain the Premises in good condition and appearance. The Contractor shall perform such maintenance at its sole expense and will be subject to monitoring by the Airports Authority to ensure a continuing high quality of appearance and structural condition. The Contractor shall maintain all ramps, driveways, entrances and exits roadways out to Autopilot Drive. The maintenance of the driveways, entrances and exit roadways to Autopilot Drive shall include, but not be limited to, landscaping, snow/ice removal, and trash removal services in these areas. The Contractor shall maintain all necessary fences and controlled access points to the AOA which are located upon the Premises. The Contractor shall perform all maintenance in accordance with industry standards and by using qualified vendors.

2. Contractor shall remove all stones, fuel, oil, grease, debris and all other foreign matter from the Premises.

B. Prohibition Against Systems Interference

The Contractor shall not do or permit anything to be done that may interfere with the
effectiveness or accessibility of the drainage and sewage systems, fire hydrants and hoses, heat, air-conditioning, electrical systems, and plumbing installed or located within the Premises or on the Airport.

C. Addressing FBO Conditions and Deficiencies

At Contract commencement, and thereafter, every fifth (5th) year of the Contract Term, the Airports Authority will provide the Contractor an assessment of the Premises highlighting the current conditions and any deficiencies therein (Facility Assessment). The 2022 Facility Assessment is attached hereto as Exhibit 2-F. The Airports Authority will create the Facility Assessment at its sole cost. The Contractor shall address, at its own expense and cost, any conditions or deficiencies outlined in the Facility Assessment. The Contractor shall address the deficiencies in the order of priority and by the completion dates outlined in the Facility Assessment. No completion date shall be later than the date of the ensuing Facility Assessment. The Contractor may request, in writing, an extension of any completion date in the Facility Assessment. The approval of any such extension will be at the sole discretion of the Airports Authority. The Airports Authority will provide the Contractor with a current Facility Assessment no later than the Contract Commencement Date.

D. Utility Equipment

At its sole expense, the Contractor shall keep and maintain the exterior and interior of the all utility systems on the Premises (to the point of connection to the Airports Authority’s utility distribution lines; including any transformers, pressure reduction valves or other points of connection installed by the Contractor), fuel storage and dispensing system (above ground storage tanks for fuel, submersible pumps, piping, fuel dispensers, and hoses), drains and appurtenances, in a clean, orderly and safe condition and make all repairs, renewals, and replacements to the same when necessary. The Contractor shall provide at any changeover or extension of utilities or extension of new utilities, a service disconnect means (e.g. water valves, gas valve, or electrical disconnect switch) and also public service/utility company grade revenue meters to record the consumption of each type of utility. The Contractor shall notify the Airports Authority of fuel storage and dispensing system repairs and maintenance. In any event, where damage to any utility service lines is caused by the Contractor, its employees, contractors, suppliers, agents, or invites, the Contractor shall be responsible for the cost of necessary repairs. The Contractor shall respond immediately to correct any and all problems with the utility systems so as to prevent loss and damage to the Premises and Airports Authority property; the Contractor shall restore essential services that have been disrupted by a breakdown of systems; and the Contractor shall eliminate hazards to personnel and equipment.

E. Landscaped Areas

The Contractor shall maintain and keep in good order and state or repair all curbs, areaways, and landscaped areas of the Premises; make all repairs, renewals and replacements to the same as and when necessary; and keep the same free of unlawful
obstructions and safety hazards. The Contractor shall maintain landscaped areas with a professional nursery or landscaping service, or by the Contractor’s own staff, providing mulching and replacing shrubs and trees as necessary to maintain the attractiveness of the Premises. The Contractor shall keep all papers and debris picked up from the Premises and sweep the pavements and provide for the removal of all grease and oil residue from pavement surfaces thereon as often as necessary to keep them clean, and to keep all grass mowed, and shrubbery and other plantings pruned, trimmed, and maintained to high standards.

F. **Sanitary Handling and Disposal**

The Contractor shall provide for a complete, proper and adequate sanitary handling and disposal away from the Airport, of all garbage, trash, debris, and waste materials toxic or otherwise, generated through operation of the Premises; and provide suitable covered metal receptacles, approved by the Airports Authority for all garbage, trash, refuse and waste materials on or about the Premises. The Contractor shall be responsible for providing dumpsters, trash removal service and keeping the area surrounding the dumpsters clean. The Contractor shall be responsible for providing janitorial and custodial services within the Premises. The Contractor shall not: store boxes, cartons, crates, drums or the like on the outside of the building or the hangar; dump any solid or liquid waste matter of any nature on the Premises; permit any solid or liquid waste matter of any nature on the Premises; or permit contamination on the sewers or the Airports drainage control systems. The Contractor must handle, store, transport, and dispose of Hazardous Materials, further defined in Article 10 herein, in accordance with any applicable Federal, state and local statutes, ordinances, and regulations. The Contractor shall not use the Premises for the storage of any broken or unserviceable equipment, vehicles, or aircraft. Upon the Airports Authority’s request, the Contractor shall remove from the Premises, any such equipment, unsightly vehicles or aircraft not required to be held by the Contractor pending completion of an accident investigation or legal proceeding.

G. **Pest Control**

The Contractor shall be responsible for rodent, bird and insect control within the Premises. Upon the Airports Authority’s request, the Contractor shall provide the Airports Authority with a copy of a fully executed contract with a professional pest control service subcontractor.

H. **Contractor Fuel Tanks and Fuel Facilities**

The Contractor shall be responsible, at its own cost and expense, for maintaining and repairing during the Contract Term, all fuel tanks, loading and unloading modules, fuel spill containment devices, and oil/water separators located on the Premises and shall comply with the requirements set forth in Article 10. The Contractor shall also be responsible at its own cost and expense for the maintenance of the fuel storage and dispensing system (above ground storage tanks for fuel, submersible pumps, piping, fuel
dispensers and hoses).

The Airports Authority will be responsible for the maintenance, upgrade, repair or replacement of any underground fuel line and components upstream of the first on-premises Multiple Orifice Valve (“MOV”) outlet flange as determined by normal flow conditions, as referenced in Exhibit 2-E.

I. Impact of Construction Activities

The Contractor recognizes that from time to time during the Contract Term, it will be necessary for the Airports Authority to initiate and carry forward extensive programs of construction, reconstruction, expansion, relocation, maintenance and repair on the Airport, and that such construction, reconstruction, expansion, relocation, maintenance and repair may inconvenience or impair the Contractor in its operation at the Airport. The Contractor agrees that no liability shall attach to the Airports Authority, its officers, agents, employees, contractors, subcontractors and representatives by way of such inconveniences or impairment, and the Contractor waives any right to claim damages or other consideration for such inconveniences or impairment.

Section 3.10 Compliance with Laws; Taxes; Licenses and Building Permit

A. Laws

The Contractor shall comply with all applicable local, state, and federal laws, ordinances, and regulations, as well as all Airports Authority regulations, policies, codes, manuals, and orders governing or regulating the Airport and the Premises, its use by the Contractor, and Contractor’s operation under this Contract now or hereafter enacted. The Contractor agrees to take any action necessary to provide for its or the Airports Authority’s compliance with the same.

B. Licenses and Permits

The Contractor shall, at its own cost and expense, procure and keep in force during the Contract Term, any and all necessary licenses, registrations, certificates, and permits.

C. Safety and Fire Regulations

The Contractor shall conduct its operations and activities under this Contract in compliance with all safety regulations and directives of the Airports Authority and applicable Federal, state, and local laws. The Contractor shall procure and maintain such fire prevention and extinguishing devices as required by the Airports Authority and shall at all times be familiar with and comply with the fire regulations and orders of the Airports Authority.

D. Airports Authority Issuance of Rules and Regulations
The Airports Authority shall have the right to prescribe, in its sole discretion, such reasonable rules and regulations that in the Airports Authority’s reasonable judgment are necessary or appropriate for the general well-being, safety, security, care, and cleanliness of the Airport.

E. Compliance by Tenants and Others

The Airports Authority shall, whenever possible, make reasonable efforts to obtain uniform compliance with the Airports Authority’s rules and regulations; however, the Airports Authority shall not be liable to the Contractor for any violation or non-observance of such rules and regulations by any user, tenant, concessionaire, invitee, licensee, or trespasser at the Airport nor shall such violation or non-observance by a user, tenant, concessionaire, invitee, licensee, or trespasser at the Airport constitute a waiver of the Contractor’s obligation to comply with Airports Authority rules and regulations.

F. Taxes and Fees

The Contractor shall pay all taxes, including any sales or use taxes, license, certification, permit or examination fees and excises which may be assessed, levied, exacted or imposed by any governmental authorities having jurisdiction, on the Contractor’s personal property, operations, Gross Receipts, income, Premises or any Capital Investments and Fixed Improvements to the Premises or on this Contract and the fees payable hereunder, or on the rights or privileges granted to the Contractor. The Contractor shall make and file all applications, reports and returns required in connection with any such taxes or fees. The Contractor shall have the right to protest such taxes in accordance with the procedures of the applicable jurisdiction.

G. Traffic Violation Notices

The Contractor shall be responsible for payment of all traffic violation notices issued by Airports Authority Police to the Contractor’s vehicles while such vehicles are under the control or operation of the Contractor’s employees.

Section 3.11 Conditions Affecting Work Site and Property

A. Preservation and Protection of Site

The Contractor shall be responsible for taking steps reasonably necessary to preserve and protect conditions which can affect the site on or adjacent to the location at which the work is to be performed (Site). Site includes, but is not limited to, structures, vegetation, utilities, and property. The Contractor shall be responsible for restoring the Site to conditions in accordance with the specifications/scope of work and local and Federal regulations, as applicable. Any failure by the Contractor to do so or to repair damages caused by the
Contractor will not relieve the Contractor from the responsibility for successfully performing the work at no additional expense to the Authority. The Authority assumes no responsibility for any understanding or representations concerning conditions made by any of its personnel or agents prior to the execution of the Contract unless such understanding or representations are expressly stated in the Contract.

B. Site Cleanliness

The Contractor shall keep the Site clean and free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the premises any waste, equipment, and materials that are not the property of the Authority. Upon completion of the work, the Contractor shall leave the Site in a condition satisfactory to the Authority.

Section 3.12 Damage or Loss of Contractor’s Property

The Contractor is responsible for taking action necessary to protect its supplies, materials, and equipment and the personal property of its employees from loss, damage, or theft.

Section 3.13 Correction of Violations or Hazardous Conditions

A. Inspection of Premises

The Airports Authority shall have the right to inspect the Premises as required to ascertain that the facility is in acceptable working order in accordance with the provisions of this Contract. If the Airports Authority reasonably determines that a condition on the Premises is hazardous or potentially hazardous to persons or property it may, either in writing or orally, direct the Contractor to correct the condition, and the Contractor shall, at its own cost and expense, immediately comply with such directive.

B. Cure Period

Contractor shall have a cure period of thirty (30) Days from the date of receipt of written or oral notice from the Airports Authority to correct a violation of the provisions of this Article 3. The Contractor may request that the Airports Authority approve a longer cure period if the Contractor demonstrates that an extension is necessary. If the Contractor does not correct the violation within thirty (30) Days, the Airports Authority may, itself, perform or facilitate through a third party such corrections at the Contractor’s expense, and the Contractor shall pay the Airports Authority’s associated costs with such corrections, plus a fifteen percent (15%) overhead charge immediately upon receipt of an invoice from the Airports Authority.
Section 3.14 Quality of Work

The Contractor shall perform all work under this Contract in a skillful and workmanlike manner. The Contracting Officer may, in writing, require the Contractor to remove any employee from work that the Contracting Officer deems incompetent or careless.

Section 3.15 Inspection of Work

A. Inspection System

The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the work under this Contract. The Contractor shall maintain and make available to the Authority complete records of all inspections and tests performed by the Contractor during Contract performance and for as long as the Contract requires.

B. Airports Authority Right to Inspect

The Airports Authority has the right to inspect the work performed under this Contract, to the extent practicable, at all times and places during the term of the Contract. Any inspection by the Authority does not relieve the Contractor from any responsibility regarding defects or other failures to meet the Contract requirements. The Authority shall perform inspections and tests in a manner that will not unduly delay the work.

C. Reperformance of Work

If any of the work does not conform with Contract requirements, the Airports Authority may require the Contractor to perform the work again in conformity with Contract requirements at no increase in Contract amount. When the defects in work cannot be corrected by reperformance, the Airports Authority may require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements.

D. Failure to Reperform

If the Contractor fails to promptly perform the work again or to take the necessary action to ensure future performance in conformity with Contract requirements, the Authority may: (1) by Contract or otherwise, perform the work and charge to the Contractor any cost incurred by the Authority that is directly related to the performance of such work or (2) terminate the Contract for default.

Section 3.16 Local Disadvantaged Business Enterprise Compliance

A. LDBE Definition
A Local Disadvantaged Business Enterprise (‘‘LDBE’’) is defined as a small business concern that is organized for profit and is located within a 100-mile radius of the District of Columbia’s zero-mile marker. Located means that as of the date of its LDBE application, the business entity has an established office or place of business within a city, county, or town within the 100-mile radius referenced above. A small business is defined, for LDBE purposes, as a firm that is not dominant in its field, and that meets the U.S. Small Business Administration’s (‘‘SBA’’) small business size standards for the goods or services it will be providing in response to a specific solicitation. Additional information is available at https://mwaa.diversitycompliance.com.

B. **LDBE Requirements**

The LDBE requirements for this Contract are as follows:

1. Twenty-five percent (25%) LDBE participation requirement applicable to the total costs incurred for the design and construction of Capital Investments and Fixed Improvements undertaken during the Contract Term, including any potential option periods.

2. Twenty percent (20%) LDBE participation requirement applicable to the total costs incurred in the ongoing management and operation of the FBO, excluding the purchase of aviation fuel, during the Contract Term, including any potential option periods.

C. **LDBE Implementation Guide**

The Contractor is responsible for complying with the Airports Authority’s LDBE Program Implementation Guide, available at: https://www.mwaa.com/business/contracting-manuals-forms-and-other-resources, when utilizing an LDBE in the performance of this Contract.

D. **Supplier Diversity Management System**

The Airports Authority utilizes a Supplier Diversity Management System (‘‘SDMS’’), accessible at: https://mwaa.diversitycompliance.com for monitoring compliance with the Contract’s LDBE requirements.

E. **LDBE Waiver Request**

If the Contractor is unable to achieve all or any part of the requirement for LDBE participation enumerated above, it must submit a request for a waiver with documentation that clearly shows the Contractor has made a good faith effort to meet the LDBE requirement.
Section 3.17 Subcontractor Utilization and Subcontractor Payment

A. Subcontractor Utilization

The Contractor shall not subcontract any portion of this Contract without the prior written consent of the Airports Authority. The Contractor shall remain fully liable and responsible for the performance of its subcontractor(s) and shall ensure subcontractor compliance with all applicable requirements of this Contract.

The Contractor must obtain permission from the Contracting Officer prior to substituting or adding any subcontractor listed in its approved Subcontractor Utilization Plans.

B. Subcontractor Payments

The Contractor shall pay subcontractors for satisfactory performance no later than thirty (30) days after receipt of a subcontractor invoice. Within five (5) days of Contractor’s payment to the subcontractor, the Contractor shall report all payments, including release of retainage, made to subcontractors in the Airports Authority’s SDMS. The Contractor shall ensure all subcontractors confirm receipt of payment in the Authority’s SDMS. Training is available in the Airports Authority’s SDMS.

Section 3.18 Sustainability Plan

The Contractor shall adhere to the measurable goals and milestones outlined in its Sustainability Plan, which it submitted as part of its proposal and is attached hereto as Exhibit 2-D. With the Contracting Officer’s written approval, the Contractor may amend its Sustainability Plan.

During the Contract Term, the Contractor may be required to provide a detailed update on the goals and milestones outlined in its Sustainability Plan. The Contractor shall provide such an update to the Airports Authority upon request.

ARTICLE 4 - RIGHTS AND OBLIGATIONS OF THE AIRPORTS AUTHORITY

Section 4.01 Airports Authority’s Maintenance Obligation

A. AOA

The Airports Authority agrees to perform all necessary structural maintenance and repairs to the AOA outside of the Premises at its own expense; provided, however, that for purposes of this Contract such structural maintenance and repairs shall not include repairs to any Premises developed or operated by the Contractor.

B. Building Elements
The Airports Authority will maintain in good repair the building elements listed as “MWAA” on Exhibit 2-E, Operations and Maintenance Responsibilities Matrix. The Contractor must provide the Airports Authority with reasonable notice and an opportunity to cure in the event the Contractor believes that the Airports Authority has failed to comply with this paragraph before the Airports Authority may be considered to be in default. The Airports Authority shall not be required to undertake any maintenance or repair required by reason of any act or omission of the Contractor, or caused by any alteration, addition, construction, or improvement by the Contractor.

C. Right to Maintain and Repair

Notwithstanding any other provision contained in this Contract, the Airports Authority, or its designated agent, shall have the absolute right to maintain and to make any repairs, alterations or additions to the Premises as well as the right to enter the Premises for the purpose of doing so, free from any and all liability to the Contractor for any loss of business or revenues sustained by the Contractor as a result of the Airports Authority making any such repairs, alterations or additions. If the Airports Authority negligently or intentionally damages the Contractor’s Premises while making any repairs, alterations, or additions, the Airports Authority shall repair or compensate the Contractor for such damage. The Airports Authority shall endeavor to provide advance notice to the Contractor of such repairs, alterations, or additions.

D. Utility Services

The Airports Authority reserves the right to interrupt temporarily the utility services, including the heating, air conditioning, steam, plumbing, and electrical services when necessary to make repairs, alterations, replacements, or improvements to the utility systems. The Airports Authority shall have no responsibility or liability for failure to supply utility services during any such period, or when prevented from doing so by laws, orders, or regulations of any federal, state, or local agency, as a result of strikes, accidents, or by any other cause whatsoever beyond the Airports Authority’s control. The Airports Authority shall endeavor to provide advance notice to the Contractor of such interruptions of utility services, if possible.

ARTICLE 5 - FINANCIAL CONSIDERATION

Section 5.01 Rents, Fees, and Utilities

A. Minimum Annual Guarantee or Percentage of Gross Receipts Fee

In consideration of the rights and privileges to be granted to the Contractor by the Airports Authority, the Contractor shall pay to the Airports Authority as compensation therefor, during each Contract Year of the Contract, the following rentals and fees. The Contractor shall, during the Contract Term specified in Section 1.01 herein, pay annually to the
Airports Authority either the Minimum Annual Guarantee (“MAG”) as outlined in the Contractor’s Financial Offer Form in Exhibit 2-G or a Percentage of Gross Receipts Fee, as defined in Section 5.01 A.2., from its FBO operation at the Airport, whichever is greater on a Contract Year basis. In addition, the Contractor shall also pay to the Airports Authority a percentage of all other Gross Receipts, as defined in Section 5.01 A.3; Annual Facility Rent, as defined in Section 5.01 A.4.; [Annual Ground Rent, as defined in Section 5.01 A.5.]; Airport Fees, as defined in Section 5.01 A.6.; and Utilities Payments, as defined in Section 5.01 A.7. herein. The fees described herein shall be paid to the Airports Authority in lawful currency of the United States of America.

1. **MAG**

   The Contractor shall pay one-twelfth (1/12) of the MAG in advance and without demand or invoice on the first Day of each calendar month. For any period of less than one (1) calendar month during the Contract Term, the MAG shall be prorated. The MAG shall be deemed delinquent if payment is not received by the tenth (10th) Day of the month. Payment of the MAG shall commence upon the Contract Commencement Date.

2. **Percentage of Gross Receipts Fee**

   The Percentage of Gross Receipts Fee payable by Contractor to the Airports Authority during the Contract Term shall include the following:

   a. **Sale of "Put-Thru" Aviation Fuel**

      The Contractor shall pay the Airports Authority seventeen cents ($0.17) for each gallon reported as “Put-Thru” aviation fuel. “Put-Thru” shall be strictly defined as fuel dispensed by Contractor into an aircraft when said fuel has:

      i. Been purchased by the aircraft operator or owner from a third party and not directly or indirectly from Contractor; and

      ii. The fuel is part of the consigned fuel inventory maintained at the Airport fuel farm in the name of the aircraft owner or operator.

      In such cases, Contractor shall provide a fuel handling service only and collect only a “Put-Thru” or handling service fee for its services directly from the aircraft owner or operator for such into-plane fuel delivery. All other fuel transactions, including an aircraft owner or operator’s purchase of fuel from a third party, such as a fuel broker, where the owner or operator of the aircraft does not maintain
consigned inventory at the Airport shall not be classified as “Put-Thru” Aviation Fuel, and the Contractor shall report it as Retail Sale of Aviation Fuel. Contractor shall thoroughly document and report its receipts from the delivery of “Put-Thru” Aviation Fuel to the satisfaction of the Airports Authority.

b. Retail Sale of Aviation Fuel

For all retail aviation fuel sales, Contractor shall pay the Airports Authority a fee of seventeen percent (17%) of all Contractor’s revenues from the retail sale of aviation fuel. This fee shall apply to all fuel transactions which are not included within the definition of “Put-Thru” Aviation Fuel in subparagraph a. above. If the Contractor provides only a fuel handling service for into-plane fuel delivery, which is not part of a consigned fuel inventory maintained at the Airport by the aircraft owner or operator, and collects only a handling fee for its into-plane fueling services, the Contractor shall report such fuel sales as retail sales and shall use the full retail price of fuel, without discount, to calculate and pay the applicable fee due to the Airports Authority.

c. Aircraft Charter

The Contractor shall pay the Airports Authority eight percent (8%) of all Gross Receipts from the charter or rental of aircraft.

d. Major Equipment Sales

The Contractor shall pay the Airports Authority eight percent (8%) of all Gross Receipts from the sale of major equipment components including aircraft engines and major avionics components.

e. Wholesale Parts Sales

The Contractor shall pay the Airports Authority eight percent (8%) of all Gross Receipts derived from the sale of wholesale of parts and supplies to all off and on-Airport dealers, fleet owners, distributors, and FBOs.

f. Subcontractor Income (Commissions)

The Contractor shall pay the Airports Authority eight percent (8%) of all commissions from all subcontractors, including for engine and major component overhaul.
g. **Aircraft Parking Fees**

The Contractor shall pay the Airports Authority forty percent (40%) of all Gross Receipts received from aircraft parking and tie-down on the Premises. The Contractor shall separately report on the Itemized Certified Statement any aircraft handled by the Contractor which are parked outside of the Premises on the Airport’s cargo ramp or jet apron areas designated by the Airports Authority. For such aircraft, Contractor shall pay forty percent (40%) of all Gross Receipts received from each aircraft parking, or the current Jet Apron Fee established by the Airports Authority, whichever is greater.

3. **All Other Gross Receipts**

The Contractor shall pay the Airports Authority eight percent (8%) of all other Gross Receipts. Gross Receipts under this category include but are not limited to receipts from other services Contractor rendered, assessed commercial fees as stated under Section 3.03, and other merchandise and display advertising, including subcontracted work under the provisions of this Contract, other than those Gross Receipts or revenues listed in Section 5.01 A.2. herein.

The term "Gross Receipts" is defined in Section 5.02 herein. By no later than the twentieth (20th) Day after the beginning of each calendar month during the Contract Term, the Contractor shall pay to the Airports Authority, without demand or invoice by the Airports Authority, a sum of money equivalent to the amount by which the Percentage Gross Receipts Fee exceeds the MAG for the previous month. If applicable, the Contractor’s payment to the Airports Authority of the last month of Percentage of Gross Receipts shall be due no later than the twentieth (20th) Day. In the event the Percentage Gross Receipts Fee for the month does not exceed the monthly MAG paid for that month, then no Percentage Gross Receipts Fee shall be due for such month. Percentage Gross Receipts Fee payments, if due, shall be deemed delinquent if not received by the twentieth (20th) Day of the month.

4. **Annual Facility Rent**

a. **Rent and Cost Approach**

The Contractor shall pay an Annual Facility Rent to the Airports Authority. This Annual Facility Rent is determined by using a Cost Approach appraisal. The most recent appraisal is attached hereto as **Exhibit 2-H**. The Cost Approach shall combine the estimated worth of the land (Cost Value) assigned to the Contract with the reproduction Cost Value of new improvements thereon less depreciation and obsolescence. An 8 percent (8%) rate of return shall be applied to the total estimated value of the land and the depreciated improvements to determine the...
Annual Facility Rent. For the initial five (5) years of the Contract Term, the Annual Facility Rent is established as follows:

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<th>Monthly Payment</th>
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<td>November 1, 2027</td>
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b. Payment

Effective on the Contract Commencement Date, the Contractor shall pay one-twelfth (1/12) of the Annual Facility Rent in advance and without demand or invoice on the first Day of each calendar month. The Annual Facility Rent shall be deemed delinquent if payment is not received by the tenth (10th) Day of the month.

c. Reappraisal

The Premises shall be reappraised in five (5) Contract Year increments to determine the adjustment of the Annual Facility Rent. The next appraisal shall be completed in 2027. The new Annual Facility Rent amount shall become effective and due at the commencement of every sixth (6th) Contract Year. Notwithstanding the foregoing, however, the Annual Facility Rent may not be increased by more than 20 percent (20%) above the prior Contract Year’s Annual Facility Rent. In this regard, the Premises shall be reappraised within six (6) months prior to the date of each such scheduled five (5) Contract Year increment Annual Facility Rent adjustment.

d. Appraised Value

The Cost Value amount of the Premises to be used as the basis for adjustment of the Annual Facility Rent shall be determined by the Authority based on appraisal made by two (2) commercial real estate appraisers who are members of The Appraisal Institute, with the MAI designation. The Authority shall select one (1) such appraiser and the Contractor shall select the other, with the understanding that the Authority and the Contractor shall each pay the fee due and payable to the appraiser it selected. The appraisers shall use the Cost Approach as provided in this Section 5.01. The appraised value shall be set at the arithmetic average of the two (2) appraisals; provided, however, that if the two (2) appraisals differ by more than 20 percent (20%) of the lower appraised value, the appraisers selected by the
Authority and Contractor shall select a third appraiser who shall complete an appraisal of the Premises. In the latter situation, the Cost Value shall be computed by selecting the two (2) appraisals which are closest in value, be they the two (2) highest or two (2) lowest appraisals, discarding the third, and thereafter taking the arithmetic average of the two (2) remaining appraisals. The fee of the third appraiser shall be borne equally by the Authority and the Contractor.

5. [Annual Ground Rent.

a. Definition

An annual rent for the land identified on the Premises as Expansion Premises shall be assessed for each Contract Year (“Annual Ground Rent”).

b. Payment

The Contractor shall pay one-twelfth (1/12) of the Annual Ground Rent monthly in advance without demand or invoice on the first Day of each calendar month beginning on the Date of Substantial Completion of any Capital Investments and Fixed Improvements to include, but not be limited to hangars, office space, ramp space, shops/storage buildings, roadways, parking lots, aircraft parking apron or other common use areas; provided however, no Annual Ground Rent shall be assessed for the entry and exit taxi lanes. For any period less than one (1) calendar month during the Contract Term, the Annual Ground Rental shall be prorated. The Annual Ground Rent shall be deemed delinquent if payment is not received by the tenth (10th) Day of the month. The Annual Ground Rent is subject to periodic adjustments as provided herein until the expiration of this Contract. For reference purposes, the current appraisal for the Expansion Premises is attached hereto as **Exhibit 2-I**.

c. Definition of Substantial Completion

“Substantial Completion” is defined as the date upon which any Capital Investments and Fixed Improvements, or any portion of such Capital Investments and Fixed Improvements, constructed on the Expansion Premises is fit for its intended use.

d. Notice of Substantial Completion

The Contractor shall: (1) provide the Airports Authority with notice of the scheduled date of Substantial Completion as soon as possible during the development and construction process; (2) update or revise, as necessary, the scheduled date of Substantial Completion throughout the construction
process; and (3) provide written notice of the actual date of Substantial Completion no later than thirty (30) Days following Substantial Completion.

e. Initial Annual Ground Rent

The initial Annual Ground Rent during the first five (5) years, effective on the date of Substantial Completion of any Capital Investments and Fixed Improvements on the Expansion Premises, will be based on the establishment of the fair market value from the appraisal process set forth in paragraph f. below. Annual Ground Rent shall be calculated as follows: the market value of the land per square foot shall be multiplied by the interest factor of seven percent (7%) and that product multiplied by the total land area on in the Expansion Premises to which the Annual Ground Rent is to be applied.; provided however, the amount of the Annual Ground Rent per square foot shall not be increased by more than forty-five (45%) over the prior year Annual Ground Rent per square foot rate. The land of the Expansion Premises shall be appraised within ninety (90) Days after the Date of Substantial Completion and the appraisal rate shall be applied retroactively, to be effective on the Date of Substantial Completion.

f. Reappraisal

The Expansion Premises shall be reappraised in five (5) Contract Year increments to determine the adjustment of the Annual Ground Rent. The new Annual Ground Rent amount shall become effective and due at the commencement of every sixth (6th) Contract Year. Notwithstanding the foregoing, however, the Annual Ground Rent may not be increased by more than forty-five percent (45%) above the prior Contract Year’s Annual Ground Rent. In this regard, the Expansion Premises shall be reappraised within six (6) months prior to the date of each such scheduled five (5) Contract Year increment Annual Ground Rent adjustment.

g. Appraised Value

The adjustment of the Annual Ground Rent shall be determined by the Authority based on appraisal made by two (2) commercial real estate appraisers who are members of The Appraisal Institute, with the MAI designation. The Authority shall select one (1) such appraiser and the Contractor shall select the other, with the understanding that the Authority and the Contractor shall each pay the fee due and payable to the appraiser it selected. For purposes of the first appraisal only, the Expansion Premises shall be considered as unimproved land but with roadway, taxiway, and utility access infrastructure in place for the purpose of these appraisals. The appraised value shall be set at the arithmetic average of the two (2)
appraisals; provided, however, that if the two (2) appraisals differ by more than 20 percent (20%) of the lower appraised value, the appraisers selected by the Authority and Contractor shall select a third appraiser who shall complete an appraisal of the Expansion Premises. In the latter situation, the appraised value shall be computed by selecting the two (2) appraisals which are closest in value, be they the two (2) highest or two (2) lowest appraisals, discarding the third, and thereafter taking the arithmetic average of the two (2) remaining appraisals. The fee of the third appraiser shall be borne equally by the Authority and the Contractor.

h. Reappraisal for Contractor’s Assignment

Notwithstanding the cap on the adjustment of the Annual Ground Rent for each five-year (“5-year”) reappraisal interval provided for by paragraph f. above, the Authority shall have the right to reappraise Expansion Premises should the Contractor assign its leasehold interest therein, in whole or in part, and to increase the Annual Ground Rent for the portion of the Expansion Premises subject to an assignment, without regard to the cap. The appraisal process provided for by paragraph g. above shall be used for such reappraisal and the Annual Ground Rent shall be adjusted on the effective date of the assignment of the Contractor’s leasehold interest. The adjusted rent shall only apply to the portion of the Expansion Premises subject to assignment by the Contractor. After the initial adjustment of the Annual Ground Rent as described herein, the forty-five percent (45%) cap shall be applicable when calculating the assignee Contractor’s rent for each of the subsequent five-year (5-year) adjustment periods when and as the 5-year adjustment periods occur as scheduled herein; as well, the dates for the 5-year adjustment periods will not change, only the recalculated initial Annual Ground Rent for that portion of the Expansion Premises subject to the assignment. The Airports Authority shall have the right to reappraise and adjust the Annual Ground Rent, as above, for any subsequent assignment by an assignee Contractor of its leasehold interest in the Expansion Premises. Any such reappraisal shall be at the Contractor’s expense.]

6. Airport Fees

The Contractor shall collect, on behalf of the Airports Authority, rates, fees, and charges established by the Airports Authority for the use of the AOA (“Airport Fees”) from all Operators or other users of the Airport either requesting services from the Contractor on the Airport or entering upon the Premises of Contractor. The Contractor shall not collect Airport Fees from any commercial airlines it services that are Signatory Airlines to the Airport Use Agreement and Premises Lease but shall notify the Signatory Airline to report its activity and remit applicable Airport Fees in accordance with the Signatory Airline’s agreement with
the Airports Authority. The Contractor shall report the servicing of Signatory Airlines aircraft to the Airports Authority and shall include sufficient information for the Airports Authority to verify the Signatory Airline reports and pays the appropriate Airport Fees. All Airport Fees collected by Contractor on behalf of the Airports Authority shall be collected and paid to the Airports Authority.

a. Landing Fees & Reports

A per landing charge for use of the Airports landing area shall be collected by the Contractor on behalf of the Airports Authority ("Landing Fee"). The Landing Fee shall be determined as the product of the maximum gross landed weight of the aircraft multiplied by the Airport Landing Fee rate for the Rate Period. The Contractor shall pay the Airports Authority at a fixed rate of ninety percent (90%) of all Landing Fees collected for each month of the Contract Term. The Contractor shall receive and retain a ten percent (10%) payment for acting as agent of the Airports Authority in the collection of Landing Fees. It shall be the responsibility of the Contractor to obtain a cash or electronic payment or to render billing, if necessary, to collect such Landing Fees and other fees from individual aircraft owners or operators. The Contractor shall monitor and record with its own personnel those landings for aircraft handled or serviced by the Contractor and collect the applicable General Aviation or Non-Signatory Airline Landing Fee for the class, type, and weight of aircraft, and shall coordinate its procedures for monitoring landings with the Airports Authority’s procedures. The Contractor shall provide a monthly Landing Report to the Airports Authority that lists the total number of aircraft, their registration numbers, and landed weights. The Contractor shall obtain cash payment or render billing, if necessary, to collect all fees from Operators.

b. Airports Authority Mobile Lounge Fees

The Contractor shall collect a Mobile Lounge Fee for each one-way Revenue Trip made by an Airports Authority mobile lounge operated in either direction for an aircraft being serviced by the Contractor and the Contractor pay one hundred percent (100%) of such fee to the Airport’s Authority. A “Revenue Trip” shall mean only trips for the purposes of transporting persons but shall not include any one-way trip which is not scheduled to carry persons.

c. Airports Authority Federal Inspection Services Area Fees; Other Airport Passenger Fees

The Airports Authority will assess International Arrivals Building and Federal Inspection Services ("FIS") Fees and may establish security and other such fees. The Contractor shall be responsible for collecting such
fees, on behalf of the Airports Authority, from the General Aviation and Non-Signatory Air Carrier users. The Contractor shall pay one hundred percent (100%) of such Airports Authority imposed fees monthly to the Airports Authority. The Contractor shall report such activity on the monthly certified statement as provided for herein, or as directed by the Airports Authority.

7. **Utilities Payments**

The Contractor shall pay the cost of all utilities (e.g. electrical, gas and water/sewer) used or consumed on the Premises. The Contractor shall calculate such charges in accordance with the rates established, from time to time, by the Airports Authority for all Airport tenants and concessionaires. The Contractor shall pay to the Airports Authority any such charges for utilities within thirty (30) Days of the date of such invoice.

8. **Reconciliation of MAG and Percentage Gross Receipts Fee**

Within ninety (90) Days following the end of each Contract Year, the Contractor shall determine, based upon the total Percentage Gross Receipts Fee for the Contract Year, whether the MAG or the Percentage of Gross Receipts Fee for that year is greater. The Contractor shall then determine whether the actual monthly payments of MAG and Percentage Gross Receipts Fee equal the amount owed by the Contractor for that Contract Year. If the Contractor has underpaid, it shall submit the balance in accordance with Section 5.03 B. If there has been an overpayment, the Contractor shall report said overpayment in the Annual Certified Statement and said overpayment will be handled in accordance with Section 5.03 herein.

9. **Itemized Certified Statement.**

Along with its monthly payment of the Percentage Gross Receipts Fee, the Contractor shall submit an Itemized Certified Statement to the Airports Authority, attached as **Exhibit 2-K**, which: (1) sets forth the Contractor’s entire Gross Receipts for the prior calendar month; (2) separately identifies by category all receipts derived by the Contractor which have been excluded from the computation of Gross Receipts; (3) lists any adjustments to Gross Receipts; (4) lists the number of fixed fee transactions occurring during the calendar month; (5) lists the total number of aircraft, their registration numbers, the amount of Landing Fees collected, the amount of Airports Authority Mobile Lounge Fees collected, the amount of Federal Inspection Fees collected, and any other Airports Authority rates, fees, and charges collected; (6) lists capital and operating expenditures, including those incurred for Capital Investments and Fixed Improvements and Operating Equipment, and indicating all expenditures which were paid to LDBEs.
in a manner sufficient to demonstrate achievement or shortfall against the LDBE participation requirements; and (7) is signed by an authorized financial official of the Contractor. The Airports Authority may change the format of the Itemized Certified Statement during the Contract Term. The Contractor shall not change the format of the Itemized Certified Statement without approval by the Airports Authority. The Contractor shall submit the Itemized Certified Statement to the Contracting Officer’s Technical Representative and the Accounts Receivable Department. The Contractor shall submit the Itemized Certified Statement for each calendar month by the 20th Day of the following calendar month even if no Percentage Gross Receipts Fee is due for the preceding month.

B. Remittances

All remittances shall be payable to the address below or such address as the Airports Authority may designate in writing:

Payee: Metropolitan Washington Airports Authority
Postal mailing address: MWAA AVI Receipts
P.O. Box 22491
New York, NY 10087-2491

Overnight packages: Metropolitan Washington Airports Authority
Attention: MWAA AVI Receipts Box
22491
4 Chase Metrotech Center
7th Floor
East Brooklyn, NY 11245

Payment may also be made by Automated Clearing House Debit or by bank wire transfer.

All payments must include details regarding the purpose and the period for which payment is being made.

C. Interest, Penalties, and Late Charges

1. Without waiving any other right of action available to the Airports Authority in the event of default in payment of charges and fees hereunder, if the Contractor fails to make a payment when due and said failure continues for a consecutive period of thirty (30) Days, the Airports Authority will assess late charges. Late charges may consist of interest and penalties. Thereafter, late charges will be assessed for each additional 30-Day period or portion thereof that the payment is late.
2. The interest rate shall be at the rate per annum which is four percent (4%) higher than the prime rate as published in The Wall Street Journal on the date such payment was due.

3. In addition to interest, monthly late penalty charges at the rate of six percent (6%) per annum (or as established periodically) of the amount due will be assessed on the unpaid portion of accounts more than ninety (90) Days past due.

D. Waiver of Minimum Annual Guarantee

During the Contract Term, the Contractor may request that the Airports Authority waive the MAG, if: (1) for any reason, the total number of General Aviation flights at the Airport during any contract year is less than seventy-five percent (75%) of the total number of such General Aviation flights (in accordance with such traffic records as are maintained by the Airports Authority) in the preceding contract year, or (2) in the reasonable opinion of the Airports Authority, the Contractor satisfactorily demonstrates that, through no fault of its own, the operation of the Contractor’s FBO operation at the Airport has been affected by shortages or other disruption in the supply of aviation fuel, or other goods necessary thereto, and said shortages or other disruption have resulted in the material diminution in the Contractor’s Gross Receipts herein for a period of at least sixty (60) Days, and said shortage or other disruption has not been caused by labor dispute with the Contractor, such diminution to be satisfactorily demonstrated by the Contractor to the Airports Authority, then, the MAG in Section 5.01 A. herein may be waived by the Airports Authority for the period of time such condition continues to exist. During said period of time, the Contractor shall continue to pay to the Airports Authority the monthly Percentage Gross Receipts Fees, Airport Reimbursable and other fees due under the Contract. The Airports Authority reserves the sole right to determine if and when the applicable MAG requirement shall be waived and reinstated.

Section 5.02 Definition of Gross Receipts

A. Definition

The term "Gross Receipts" as used herein shall mean the total amount actually charged to or realized by, or accruing to, the Contractor from all sales for cash or credit, of services, products, materials, or other merchandise made under or pursuant to the privileges authorized by this Contract including services contracted for, provided, or rendered to the customer by the Contractor at the Airport, regardless of where or by whom the payment is made including any sums received from the customer. The Contractor shall not allocate receipts to any other of its locations.

B. Exclusions
The term "Gross Receipts" shall not include:

1. Amounts of any federal, state, or municipal sales or similar taxes which are separately stated and collected from customers of the Contractor; provided however, such taxes shall not include the Airports Authority’s Percentage Gross Receipts Fee payment;

2. Sums received by the Contractor for damage to the Airports Authority’s or Contractor’s property or Premises;

3. Amounts for credits and refunds to customers for sales made on the Premises;

4. All service fees directly assessed to Operators for vehicular transportation service on the Premises, removal of all types of disabled aircraft from the operational areas of the Airport, and services of the Contractor to move aircraft from one location to another on the Airport;

5. The portion of Airport Fees paid to the Airports Authority that are collected by the Contractor, acting as agent for the Airports Authority.

C. Deductions

No deductions from Gross Receipts shall be allowed for such items as the payment of franchise taxes or taxes levied on Contractor’s activities, facilities, equipment or real or personal property of the Contractor.

D. Credit Basis

The Contractor shall have the right to conduct all or a part of its business on a credit basis; provided, however, that the risk of such operation, including but not limited to bad debts or loss from theft, shall be borne solely by the Contractor, and the Contractor shall include any charge the Contractor customarily makes for goods and services even though the Contractor fails to collect such a charge.

E. Taxes

The Contractor shall be solely responsible for the payment of all sales, use or other taxes whether in effect at the time of the execution of this Contract or thereafter enacted that are levied upon the fees and charges or Percentage of Gross Receipts Fees payable by the Contractor to the applicable governmental jurisdictions.

Section 5.03 Annual Audited Statement
A. **Annual Audited Statement**

Within ninety (90) Days following the end of each Contract Year, the Contractor, at its own cost and expense, shall provide to the Airports Authority the schedules showing Gross Receipts from its Airport operation, Percentage of Gross Receipts Fees paid, and the total number of gallons of Aviation Fuel and revenue paid for the Contract Year. The Contractor’s Annual Audited Statement shall also include an examination and certification of such schedules by an independent certified public accountant and a statement from that accountant that, in its opinion, such receipts and fees have been prepared in accordance with Generally Accepted Accounting Principles (“GAAP”) and under the terms and conditions of this Contract including, without limitation, the definition of Gross Receipts set forth in Section 5.02 herein. Such statements shall also contain a list of the Gross Receipts, by month, as shown on the books and records of the period covered by the Annual Audited Statement. The Airports Authority reserves the right to reject the Contractor’s choice of independent CPA if said independent CPA does not, in the Airports Authority’s view, have the appropriate standing and reputation.

B. **Additional Payment if Fees Underpaid**

If the schedules provided by the Contractor to the Airports Authority pursuant to Section 5.03 A. herein with respect to any Contract Year indicate that the amount of Percentage Gross Receipt Fee which the Contractor actually paid to the Airports Authority with respect to such Contract Year was less than the amount of Percentage Gross Receipt Fee due and owing for such Contract Year under the terms of this Contract, then the Contractor shall pay the difference to the Airports Authority at the same time it provides the Annual Statement to the Airports Authority, together with interest on the amount of such difference at the rate specified in Section 5.01 C. herein.

C. **Credit if Fees Overpaid**

If the schedules provided by the Contractor to the Airports Authority pursuant to Section 5.03 A. with respect to any Contract Year indicate that the amount of Percentage Gross Receipt Fee which the Contractor actually paid to the Airports Authority with respect to such Contract Year was greater than the amount of the Percentage Gross Receipt Fees due and owing for that Contract Year under the terms of this Contract, then the amount of such excess shall, at the option of the Airports Authority, either be paid in lump sum within a ninety (90) Day period or credited to the Percentage Gross Receipt Fee next due and owing from the Contractor to the Airports Authority, unless the period of the Contract has expired,
in which event the Airports Authority will promptly refund such amount to the Contractor.

Section 5.04 Loss of Business

The Airports Authority shall not be liable to the Contractor for any loss of business or revenues sustained by the Contractor as a result of any change in the operation or configuration of, or any change in any procedure governing the use of, the aeronautical areas, terminal buildings or the Airport.

Section 5.05 Books and Records Maintained by the Contractor

A. Required Record Keeping Practices

The Contractor shall maintain in a true and accurate manner and in accordance with GAAP, such accounts, books, records and data as necessary for an independent certified public accountant to perform an audit or examination of the Contract’s financial statements, including balance sheet and income statements in accordance with GAAP and with generally accepted auditing standards. This includes, but is not limited to: general ledgers, subsidiary ledgers and account records, revenue journals, daily or periodic summary reports, inventory and purchasing records, cash register or computer terminal tapes, point of sale records, bank deposit slips, bank statements, tax reports filed with federal, state, county, city or other agencies, discount or rebate agreements, and records of refunds, subtenants or third parties and all documentation and records that support the Contractor’s activities, transactions and financial results of the Contract.

B. Required Records

Such books, records, and information the Contractor shall make available to the Authority include, but are not limited to all supporting documentation and records of all of the Contractor’s pertinent activity under this Contract that is fundamental for the performance of an audit in accordance with GAAP in a form consistent with good accounting practice and may include, without limitation, electronic media compatible with the computers available to the Airports Authority, or computer-generated hard copies.

C. Subcontractor and Joint Venture Agreements

The Contractor shall ensure that the provisions of Sections 5.05 and 5.06 are enforceable with respect to subcontractors or joint venture partners.

D. Controls
In addition to maintaining the books and records required by Article 5 herein, the Contractor shall install on the Premises, and shall always use, point of sale machines, sales slips and other accounting equipment, devices and forms necessary to record properly, accurately, and completely all sales of goods and services under any part of this Contract on or from the Premises.

Section 5.06 Audit and Inspection of Records

A. Airports Authority’s Right to Audit

The Airports Authority shall have the right, upon reasonable notice to Contractor to audit the corporate books, accounts, and records, including any stored electronically related to the operation of the Contractor, involving the formation of the Contract, transactions related to the Contract; and records relating to subcontracts, including, but not limited to payroll records, tax information, and accounting records for the purpose of inspection, making audit, examination, excerpts, and transcriptions. The Airports Authority’s right to inspect and audit extends to the books, accounts, and records related to all subcontractors and/or partners under this Contract as they relate to this Contract. If the audit discloses intentional inaccuracies regarding the correctness of the fees paid to the Authority for any Contract Year under this Contract, at the option of the Airports Authority, may be terminated. The Airports Authority reserves the right to require an agreed upon procedures audit and will provide the procedures for such an audit.

The Airports Authority’s rights include without limitation the right to examine costs and records as they relate to this Contract. The Authority’s rights hereunder are in addition to any other audit and inspection rights under the Contract. The Authority shall have the broad rights of audit and inspection including, but not limited to, the right to examine books, records, documents, and other evidence, including any stored electronically, and accounting procedures and practices, sufficient to reflect properly all costs. Such right of examination shall include inspection at all reasonable times of the Contractor’s labor, materials, Premises or such parts thereof, or other costs or revenues as may be expended or received as a part of the performance of the Contract.

B. Availability of Records for Inspection

The Contractor’s books, accounts, and records relating to its operations under this Contract shall be available for inspection and audit by the Airports Authority or its duly authorized representative upon seven (7) Days’ advance notice and shall include without limitation, the books, accounts, and records the Contractor is required to maintain under this Article 5: Financial Consideration. The Contractor agrees to keep such books, accounts, and records on the Premises or at another location within the Washington metropolitan area. If the Contractor maintains the books, accounts, and records in another location outside the
Washington metropolitan area, the Contractor shall make these books, accounts, and records available at the Contractor’s local office or at an agreed-upon site upon seven (7) Days’ advance notice from the Airports Authority. The Contractor shall keep such books, accounts, and records segregated from the Contractor’s books, accounts, and records relating to operations other than pursuit to this Contract.

C. Examination of Records Not Available in the Washington Metropolitan Area

If the necessary books, accounts, and records are not in the Washington Metropolitan area or cannot be provided for examination at the Contractor’s local office in the Washington Metropolitan area, and if agreed to in advance by the Vice President for Audit, the audit can be conducted outside the Washington Metropolitan area at the Contractor’s headquarters or other appropriate location. For such audits, the Contractor shall reimburse the Airports Authority for air and ground transportation, mileage, food, lodging and other miscellaneous costs associated with the audit. These reimbursements shall conform to the Airports Authority’s Travel and Business Expense Guidelines. The Airports Authority will bill the Contractor for these expenses at the completion of the audit. Failure by the Contractor to reimburse the travel expenses may result in termination of the Contract.

D. Access to Contractor Personnel and Facilities

The Airports Authority or its authorized representatives shall have full access to the Contractor’s personnel for inquiry/interview, and full access to the Contractor’s Premises, including all buildings, to walk-through, and observe as deemed necessary to audit or inspect the books, accounts, and records.

E. Electronic Records

If the Contractor’s books, accounts, and records have been generated from computerized data, the Contractor agrees to provide the Airports Authority or its representative with extracts of the data files in a computer readable format on data disks, e-mail with attached files or suitable alternative computer data exchange formats. The Contractor shall not charge the Airports Authority for retrieving, downloading to diskette, and/or printing any records or transactions stored in magnetic, optical, microform or other media. The Airports Authority’s inspection, examination or audit may include, but not be limited to a review of the general input, processing, and output controls of information systems, using read only access, for all computerized applications used to record financial transactions and information. Contractor shall freely lend its own assistance in a timely manner in making such inspection, examination, audit or copying and, if such records are maintained in electronic or other machine-readable format, shall provide the Airports Authority and/or its representative, such assistance as may be required to allow complete access to such records.
F. Cost and Pricing Data

The Airports Authority or its authorized representatives shall have the right to examine the accuracy and completeness of cost and pricing data including computations and projections.

G. Audited Financial Statements

Upon request, the Contractor shall provide a copy of its audited annual financial statements for the total corporate entity to the Airports Authority.

H. Penalty for Failure to Provide Requested Records

The Contractor shall provide all records and retrievals requested, within seven (7) Days. If such records are not received within fourteen (14) Days, the Contractor shall pay the Airports Authority as liquidated damages the sum of one hundred dollars ($100) per Day for each item requested but not provided. The Contractor shall owe liquidated damages beginning on the fifteenth (15th) Day following the date the request was made.

I. Right to Inspect Subcontractor Records and Accountant’s Workpapers

The Airports Authority’s right to inspect and audit includes the books, accounts, and records of all subcontractors under this Contract as well as to the workpapers of the Contractor’s certified public accountant as they relate to this agreement. The Airports Authority shall also have the right to speak directly with the Contractor’s certified public accountant to clarify and ask questions that arise pursuant to its inspection of the Contractor’s books and records. The Contractor shall agree to include in all its subcontracts hereunder a provision to the effect that the Contracting Officer shall until the expiration of five (5) years after the expiration or termination of the Contract have access to and the right to examine any pertinent books, accounts, and records, including any stored electronically, of the subcontractor(s) involving all aspects of the subcontract, including formation. Upon request of the Contracting Officer, Contractor and its subcontractors shall, in a form acceptable to the Contracting Officer, submit a third-party attestation report regarding its policies, controls, processes and security as they relate to the Contract.

J. Accommodations for Airports Authority Representatives

The Contractor agrees to reasonably accommodate the Airports Authority’s representatives by providing adequate workspace, allowing photocopying of any books, accounts, and records and allowing the interviewing of such employees and subcontractors as the representatives deem necessary to conduct and support their audit.
K. **Contractors Failure to Provide Books, Accounts, and Records**

The Airports Authority may make a determination to issue a default letter, as outlined in Article 11, Default, should the Contractor fail to provide the books, accounts, records as the Airports Authority determines are necessary in connection with its review or audit.

L. **Fees and Interest if Underpayment Discovered by Audit**

If, as a result of the audit performed under this Section herein, it is established that additional fees are due from the Contractor to the Airports Authority, the Contractor shall immediately, upon written demand from the Airports Authority, pay to the Airports Authority such additional fees, together with interest on the amount of such additional fees at the rate specified in Section 5.01 C. herein from the date such additional fees should have been paid. Further, if such audit establishes that the Contractor has understated and underpaid fees for any Contract Year by three percent (3%) or more, then the entire expense of such audit, whether internal or external, shall be paid by the Contractor.

M. **Delinquent Audit Fees**

In the event that it is established through an audit conducted by the Airports Authority that fees or charges otherwise due to the Airports Authority under this Contract have not been paid to the Airports Authority as a result of the Contractor’s improper recording of its Gross Receipts, the Contractor shall pay to the Airports Authority as delinquent fees and charges, an amount equal to the amount of fees or charges reasonably estimated to have been lost to the Airports Authority together with interest on the amount of such fees and charges at the rate specified in Section 5.01 C. herein.

N. **Incomplete Audits**

Furthermore, if the audit reveals that the books, accounts, or records of the Contractor are in such a state that the revenue or the operating expenses cannot be audited, the entire expense of the Airports Authority’s efforts to conduct the audit shall be borne by the Contractor and the Contractor may be subject to default as provided in Article 11, Defaults, of this Contract.

O. **Inspection and Audit Rights Survive Expiration**

The Authority’s rights under Article 5 to inspect and audit the books, accounts, and records of the Contractor shall survive the expiration or earlier termination of this Contract. The Contractor shall retain and keep available all books, accounts, and records relating to this Contract for not less than five (5) years after the expiration or termination of the Contract,
or in the event of litigation or claims arising out of or relating to this Contract, until such litigation or claims are completely disposed of and all time limits for appeal have expired.

ARTICLE 6 - PERFORMANCE GUARANTEE

A. **Amount of the Performance Guarantee**

The Contractor shall deliver to the Airports Authority upon the execution of this Contract a Performance Guarantee in the amount of fifty (50%) percent of the initial Contract Year’s MAG as stated in Exhibit 2-G. This Performance Guarantee is required in order to guarantee the full and faithful performance of the terms and conditions of this Contract by the Contractor and shall be subject to claim in full or part by the Airports Authority in the event of default by the Contractor or the Contractor’s failure to fully perform the Contract. The Contractor shall ensure that the Performance Guarantee is maintained at all times in the proper amount throughout the Contract Term of the Contract.

B. **Adjustment**

The amount of said Performance Guarantee shall be subject to adjustment at the end of each Contract Year, to an amount equal to fifty (50%) percent of the MAG for the subsequent Contract Year.

C. **Form**

The Performance Guarantee, at the option of the Contractor, may be in the form of: 1) a certified check, cashier’s check, or money order acceptable to the Airports Authority and made payable to the Airports Authority; or 2) a performance bond issued by an insurance company acceptable to the Airports Authority.

D. **Failure to Provide or Maintain**

If the Contractor fails to provide or maintain the Performance Guarantee in effect at any time during the period of the Contract, the Contractor shall be in default and the Contract may be terminated by the Airports Authority.

ARTICLE 7 – EXPANSION PREMISES, CAPITAL INVESTMENTS, FIXED IMPROVEMENTS AND OPERATING FACILITIES; TITLE

Section 7.01 Expansion Premises

A. **General**

The Premises outlined in Exhibit 2-B have been identified for General Aviation
Development ("Expansion Premises"). The Contractor shall have the right to expand the Premises in this area under this Contract. The Contractor must complete any Capital Investments and Fixed Improvements to the Expansion Premises by the completion of Contract Year 10.

B. Development of the Expansion Premises

1. If the Contractor has not reached Substantial Completion by October 31, 2032, the Expansion Premises may be removed from the Premises herein, and the Contractor shall have no further rights to the Expansion Premises. If removed, the Airports Authority may, at its discretion, offer the use of the Expansion Premises to other parties or use the Expansion Premises itself.

C. Airports Authority Use of Expansion Premises

1. The Airports Authority shall retain the right to use the Expansion Premises at its discretion until such time as the Contractor provides sixty (60) Days’ written notice of its intention to commence construction activities at which point the Airports Authority will vacate the Expansion Premises.

2. Effective on the Commencement Date of this Contract but prior to the Contractor’s sixty (60) Days’ written notice, in the utilization of the Expansion Premises, the Airports Authority shall not prohibit reasonable access to the Expansion Premises by the Contractor for the purposes of initial planning, testing or surveying activities as it pertains to the Contractor’s option to develop the Expansion Premises.

Section 7.02 Requirements and Procedures Concerning Alterations, Capital Investments and Fixed Improvements

A. National Historic Preservation Act (NHPA)

1. For any proposed (GA) development on the Premises, the Contractor shall comply with the National Environmental Policy Act of 1969 ("NEPA") and the National Historic Preservation Act ("NHPA"). NEPA is required when a federal action is required, which in this case includes approval of a change to the Airport Layout Plan ("ALP"), and compliance under Section 106 of the NHPA is required for actions within the Dulles Airport Historic District ("Historic District"). The Contractor shall be responsible for both NEPA and Virginia State Historic Preservation Officer ("SHPO") documentation and all the costs associated with such approvals. The Contractor shall work with the Airports Authority who will provide quality assurance and quality compliance reviews and will facilitate coordination between the Contractor and FAA and SHPO.

2. The Contractor shall be responsible for conducting the environmental due diligence
and preparing the NEPA documentation at its sole cost. The Airports Authority’s Planning Department will provide the Contractor with guidance, review, and agency coordination to achieve FAA approval. The Contractor shall work with parties familiar with the NEPA process as it relates to airport projects and as prescribed in FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, and FAA Order 5050.4B, NEPA Implementing Instructions for Airport Actions. The NEPA document is designed to provide justification of the proposed project, consideration of alternatives, review of the environmental considerations associated with the general project area, and how the environment could be affected by the alternatives. There are various levels of due diligence and documentation under NEPA for airport projects. A Categorical Exclusion or Short Form Environmental Assessment is anticipated for the Premises. The Authority will confirm the level of NEPA due diligence and documentation with the FAA, once the Contractor makes a project plan is made available.

3. The Contractor’s proposed development shall represent an appropriate and compatible addition to the airport in terms of site plan, building massing, architectural style exterior treatment, and signage. Additionally, the Contractor’s design and construction of the new facility shall be subject to formal consultation among the Authority, VASHPO, and other potential consulting parties, to assess the potential effect of the developments on the contributing historic resources and architectural character of the Airport. Specific architectural standards and guidelines for the construction of new structural additions to the airport should refer to the current edition of the Airport Standards and Signage Guidelines – Washington Dulles International Airport – Design Manual: IAD Vol. 1 available at: https://www.mwaa.com/business/airports-authority-design-manual.

4. In addition to guidelines outlined in the Design Manual, the Contractor shall adhere to the general guidelines for the development of historic preservation project plans also can be found in the Secretary of the Interior’s Standards for The Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings, available at: https://www.nps.gov/tps/standards/treatment-guidelines-2017.pdf

B. Environmental Considerations

1. The Contractor shall address the Virginia Department of Environmental Quality (“VDEQ”) Erosion and Sediment Control (“E&SC”) and Stormwater Management (“SWM”) requirements for both quality and quantity in accordance with the Virginia E&SC Law and the Virginia SWM Act, under the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.3 and the Airports Authority’s Annual Standards and Specifications for SMW and E&SC. Details are outlined under the stormwater management documents and guidance materials available at the Building Codes / Environmental Department website address:
Documents that may be required depending on the size of the project include, but are not limited to:

a. Development/approval of a SWM Plan to address stormwater quality and quantity, which may require the developer to purchase nutrient credits to meet regulations

b. Development/Approval of an E&SC Plan

c. Development of a Stormwater Pollution Prevention Plan

d. Acquisition and management of a Construction General Permit issued by the VDEQ

e. Evaluation for implementation of Best Management Practices ("BMP") such as those available through the Virginia Stormwater BMP Clearinghouse. A list of BMPs is available at: [https://swbmp.vwrrc.vt.edu/](https://swbmp.vwrrc.vt.edu/)

2. The Contractor must account for any impacts to wetlands and plan for any coordination/permitting required.

3. Construction at the Premises has the potential to encounter contaminated soils. The Contractor shall evaluate the site for potential petroleum hydrocarbon contamination. The Contractor shall assume all excess soil to be contaminated. The Contractor shall be responsible for stockpiling, testing, hauling, and treatment/recycling of all excess soil. At a minimum, the Contractor shall test all excess soil for Total Petroleum Hydrocarbons ("TPH") both Diesel Range Organics ("DRO") & Gasoline Range Organics ("GRO"), Benzene, Toluene, Ethylbenzene and Xylenes ("BTEX"), Polychlorinated Biphenyls ("PCB"), and conduct Toxicity Characteristic Leaching Procedure ("TCLP") for all metals. However, the Contractor shall coordinate the acceptance characterization criteria requirements with their selected disposal facility. The Contractor shall not be required to characterize soil reused onsite.

C. Above Ground Storage Tanks

If applicable, the Contractor shall evaluate sections of the Design Manual regarding above ground storage tanks as follows:

1. Design Manual Section 3.7

   a. All above ground storage tanks containing fuels or chemicals designated
hazardous by the Environmental Protection Agency ("EPA") or the Commonwealth of Virginia shall be designed, installed, tested, and operated in accordance with local, state, federal, and Virginia Facility and Above Ground Storage Tank Registration Requirements (9VAC 25-130) and Pollution Prevention Requirements (9VAC 25-140). All above ground storage tanks shall be double wall or have an approved secondary containment system. All permanent or temporary tanks containing materials other than water shall have a barrier installed (Jersey barrier, guard rail, or bollards) to protect the tank from vehicular damage. Barriers shall be spaced to prevent small vehicles from passing in between.

2. Design Manual Section 3.7.1

   a. Regardless of the type of fill port and/or fill adapters that are acceptable to the user/operator, a high level or overfill warning alarm shall be provided.

D. Aircraft Deicing

The Contractor shall account for storage, application, and collection of aircraft deicing fluid to prevent discharge to the stormwater conveyance system. The Contractor must comply with applicable federal, state and local environmental and FAA regulations.

E. Sustainability

The Contractor shall adhere to the sustainability requirements provided in the Design Manual.

F. Asbestos Containing Materials

If applicable, the Contractor shall complete an asbestos inspection in accordance with the EPA National Emission Standards for Hazardous Air Pollutants ("NESHAP") Regulations under 40 CFR Part 61 prior to the completion of the design documents. If present, the Contractor shall remove asbestos containing materials prior to being impacted by the proposed expansion project.

G. Fire Protection

A foam fire protection system complying with Chapter 7 of NFPA 409 will be required providing the hangar door height does not exceed 28 feet.

H. Plans and Specifications

The Contractor shall submit the plans and specifications for all Operating Facilities and Capital Investments and Fixed Improvements to be constructed, altered, or installed by the

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Contractor to the Airports Authority prior to any such construction, alteration or installation, including the size, location, text, material and appearance of any signage. Following approval by the Airports Authority, the Contractor shall install such Operating Facilities and Capital Investments and Fixed Improvements in strict accordance with such plans and specifications, and in accordance with all applicable building code regulations, county, state and federal laws, ordinances and regulations, and with the Design Manual, in effect at the time of the construction, alteration, or installation.

I. Building Permits

The Contractor, at its sole cost, shall obtain all necessary building permits to accomplish the work related to any Capital Investments and Fixed Improvements. The time in which the Contractor is required to comply with this subparagraph shall take into account the time needed to develop and obtain the Contracting Officer’s approval of plans, drawings, and specifications.

J. Certificate(s) of Insurance for Work

The Contractor shall ensure that the contractor(s) performing renovation, construction or maintenance work on the Premises assigned the Contractor, and any of their subcontractors, provide the Airports Authority with valid certificate(s) of insurance of builder’s risk insurance in the amount of the improvements to be constructed along with extended coverage endorsements. Each contractor shall have a minimum of One Million Dollars ($1,000,000) of commercial general liability insurance, in advance of the performance of any work. The Certificates of Insurance shall be provided on the industry Standard Form (Acord 25). The construction contractor shall provide property all risk coverage. Replacement Cost Insurance under Builder’s Risk (100% Completed Value) and an Installation Floater (100% Installed) for Real and Personal Property shall also be provided to the Airports Authority. The Metropolitan Washington Airports Authority shall be identified as an additional insured on all policies. The policy must provide for thirty (30) Days’ advance notice to the Airports Authority of cancellation of the coverage or any material change in the policy.

K. Discharge of Claims, Liens, or Encumbrances

If any claims, liens or encumbrances are filed against the Premises or any Operating Facilities and Fixed Improvements thereto, the Contractor shall, within thirty (30) Days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. In addition to any remedies available to the Airports Authority, if the Contractor fails to discharge the lien, the Airports Authority may bond or pay the lien or claim for the account of the Contractor without inquiring into the validity thereof. The Contractor is required to reimburse the Airports Authority for any funds so spent by the Airports Authority.
L. **Incorporation into Contract**

Upon approval, the final plans, drawings and specifications associated with any alterations and Capital Investments and Fixed Improvements to the Premises shall be deemed to be a part of this Contract. All alterations and Capital Investments and Fixed Improvements done by the Contractor pursuant to this Contract shall be consistent with the plans, drawings, and specifications approved by the Contracting Officer for this Contract.

M. **Fire Extinguishers**

The Contractor agrees to supply and maintain such adequate and readily accessible fire extinguishers, approved by fire underwriters for the protection of the Premises, it being understood and agreed that the Contractor shall not be required to maintain equipment necessary to fight successfully a fire of major proportions in the Premises.

N. **Lock Keying System**

The Contractor agrees to install a Best lock keying system compatible with the Authority’s system on all entrances to the Premises and mechanical room entrances for police, security, fire protection, and maintenance reasons.

O. **Statement of Actual Costs**

Upon the completion of construction or alteration to the Premises, the Contractor shall provide to the Airports Authority a written statement setting forth the actual costs of such improvement or installation, in such detail with respect to the cost of the various elements thereof as the Airports Authority may require, and such statement shall be certified by an authorized representative of the Contractor.

P. **Title to Alterations, Modifications, and Enlargements**

Title to any and all alterations, modifications and enlargements, undertaken by the Contractor during the Contract Term shall vest with the Contractor or its subcontractor as provided in Section 7.05.

Q. **Airport Operations**

The Contractor agrees to conduct any such construction or alteration to the Premises in a manner that does not adversely affect Airport operations.

Section 7.03  Capital Investments and Fixed Improvements

A. **General**
The Contractor is required to make Capital Investments and Fixed Improvements totaling a minimum of Twenty Million Dollars ($20M) by no later than the conclusion of the tenth (10th) Contract Year. The Contractor shall undertake planning for the Capital Investments and Fixed Improvements detailed in the Contractor’s proposal and approved by the Airports Authority upon the commencement of the Contract based upon the Contractor’s schedule for the commencement and reasonable completion date of each construction or renovation project included in the schedule, attached here as **Exhibit 2-J**. The Contractor shall complete and facilitate beneficial occupancy for all Capital Investments and Fixed Improvements detailed in its proposal by the conclusion of the tenth (10th) Contract Year unless specifically agreed otherwise in writing by the Airports Authority.

B. **Additional Capital Expenditures**

The Parties agree that the Capital Investments and Fixed Improvements in Section 7.03A. herein are the minimum Capital Investments and Fixed Improvements and the Contractor agrees to make any and all additional capital expenditures during the Contract Term as are reasonably necessary to meet the Contractor’s obligations under this Contract.

**Section 7.04 Report of Capital Investments and Fixed Improvements Installed or Removed**

A. **Capital Investments and Fixed Improvements Report**

Within sixty (60) Days after the end of each Contract Year, the Contractor shall provide to the Airports Authority a complete and detailed description of:

1. All Capital Investments and Fixed Improvements completed during the prior Contract Year that did not replace Capital Investments and Fixed Improvements previously installed during the Contract Term;

2. The status, to date, of Capital Investments and Fixed Improvements completed or installed from the commencement of the Contract Term with regards to the $20M minimum requirement for Capital Investments and Fixed Improvements the Contractor has to complete by the conclusion of Contract Year Ten (10);

3. The status, to date, of Capital Investments and Fixed Improvements completed or installed from the commencement of the Contract Term;

4. A list of all Capital Investments and Fixed Improvements disposed of during the prior Contract Year;

5. A list of replacement Capital Investments and Fixed Improvements completed or installed during the prior Contract Year.
Section 7.05 Title

A. Operating Facilities

Title to the Operating Facilities shall vest in the Contractor during the Contract Term, and, at the expiration or termination of this Contract, shall remain with the Contractor.

B. Capital Investments and Fixed Improvements

Title to all Capital Investments and Fixed Improvements completed by the Contractor during the Contract Term shall remain vested in the Contractor during the Contract Term. Upon the expiration or earlier termination of this Contract, at the discretion of the Airports Authority, title to all Capital Investments and Fixed Improvements shall vest either in the Airports Authority or its designee.

C. Demolition and Removal

The Contractor shall execute all documents requested and deemed necessary by the Airports Authority as evidence of said transfer of clear title to the Airports Authority. The Contractor shall have no right during the Contract Term to demolish or remove, in whole or in part, any Capital Investments and Fixed Improvements or Operating Facility except with the prior written consent of the Airports Authority, which may at the discretion of the Airports Authority be conditioned on the obligation of the Contractor to replace the same by Capital Investments and Fixed Improvements or Operating Facilities acceptable to the Airports Authority. At the expiration or earlier termination of the Contract, the Contractor shall be required to leave in place all Capital Investments and Fixed Improvements, other than the ones which the Airports Authority has authorized to be demolished or removed and such Capital Investments and Fixed Improvements shall be in good condition, reasonable wear and tear excepted. The Contractor shall be responsible for any demolition and removal of Capital Investments and Fixed Improvements requested by the Contractor and approved by the Airports Authority.

D. Drawings, Data, Designs, Specifications or Other Work

All drawings, data, designs, specifications or other work developed under this Contract and other information furnished to or generated by the Contractor will remain or become the property of the Authority and shall be delivered to the Authority during performance of the work or upon completion or termination of this Contract.

Section 7.06 Warranty

A. Defects or Nonconformance

Notwithstanding inspection and acceptance by the Authority or any provision
concerning the conclusiveness thereof, the Contractor warrants that all work performed under this Contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this Contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within thirty (30) Days from the date of acceptance by the Authority. This notice shall state either: (1) that the Contractor shall correct or reperform any defective or nonconforming services, or (2) that the Authority does not require Correction or reperformance.

B. Correction or Reperformance

If the Contractor is required to correct or reperform, it shall be at no cost to the Authority, and any work corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Authority thereby.

ARTICLE 8 - INDEMNIFICATION AND INSURANCE

Section 8.01 Damage Caused by the Contractor

All damage to the Premises or to the Airport in any way caused by the Contractor or its agents, employees, contractors, visitors, guests or invites, shall be repaired at the expense of the Contractor. In the event of such damage, the Airports Authority shall have the option to make such repairs as are necessary, and any charge, costs, or damages so incurred by the Airports Authority shall be paid by the Contractor.

Section 8.02 Indemnification

A. General

To the fullest extent permitted by law, the Contractor shall hold harmless, defend, and indemnify the Authority, the Authority’s officers, directors, and employees, and the Authority’s agents, contractors, subcontractors, and consultants, and agents and employees of any of them, from and against all claims, suits, damages, losses, expenses, and all reasonable costs for investigation and defense thereof, including, but not limited to attorneys’ fees, court costs and expert fees, arising out of or relating to the Contractor’s conduct of its business on the Airports, or in its use or occupancy of the Premises, except to the extent such injury, sickness, disease, death, damage or destruction is caused by the sole negligent act(s) or omission(s) or willful misconduct of the Authority.

In claims against any person or entity indemnified under this provision by an employee of the Contractor, a subcontractor, an employee of a subcontractor, or an agent of the Contractor or a subcontractor, the indemnification obligation under this provision shall not
be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers’ or workmen’s compensation acts, disability benefit acts or other employee benefit acts.

B. Violation of Laws

The Contractor shall defend, indemnify, and hold the Authority, and its agents, officers, and employees, completely harmless from and against any claim, suit, demand, action, liability, loss, damage, judgment, fine, or civil penalty and all costs and expenses of whatever kind or nature (including, but not limited to, attorney fees, court costs and expert fees) associated therewith in any way arising from, relating to, or based upon the violation of any Federal, state, or municipal laws, statutes, resolutions, or regulations by the Contractor, its agents, employees, subcontractors, or sublessees, in conjunction with the Contractor’s use and/or occupancy of the Airport. The Authority shall give the Contractor reasonable notice of, and an opportunity to defend against, any such claims or actions, and the Authority shall take reasonable actions to mitigate its damages.

C. Airport Security

If the Authority is deemed to be in noncompliance with laws or regulations governing access to secure areas of the Airport and said non-compliance is the result of or due to the act or omission of the Contractor or of any of the Contractor’s employees, agents, subcontractors or sublessees, and such breach results in an action against the Authority by the Transportation Security Administration or any other federal, state or local government with authority over security at the airport, the Contractor agrees to reimburse the Authority for all expenses, including reasonable attorney fees incurred by the Authority in defending against the action and for any fine, penalty or settlement amount paid by the Authority as a result of the action. The Authority shall give the Contractor reasonable notice of any allegation, investigation, or proposed or actual penalty that relates to acts or omissions of the Contractor.

D. Notice by Contractor; Types of Insurance Coverage

Notwithstanding the above indemnification, the Contractor shall give the Airports Authority notice of any matter that may be covered by the indemnification and shall forward to the Airports Authority every demand, notice, summons, or other process received in any claim or legal proceeding covered thereby. Further, the Contractor, at its sole cost and expense, shall throughout the Period of this Contract, keep all of its operations on the Airport, and its obligation to indemnify the Airports Authority pursuant to this Article, continuously and fully insured, and shall provide a certificate of insurance evidencing all required coverages are in effect, prior to the Contract Commencement Date. The insurance limits shall in no event be construed to limit or modify the Contractor’s obligation to indemnify the Airports Authority as set forth above.
Section 8.03  Airports Authority Limitation of Obligations and Liabilities

The Airports Authority maintains two enterprise funds for financial statement purposes. Any and all obligations of the Airports Authority under this Contract, and any and all liabilities of the Airports Authority that may arise under this Contract, shall be limited to the Airports Authority’s Enterprise Fund from which the Contract is funded, and any claim based on any such obligation or liability of the Airports Authority shall be limited to the revenues and assets of that Enterprise Fund. No obligation of the Airports Authority under this Contract and no liability of the Airports Authority that may arise under this Contract shall constitute an obligation or liability of, or give rise to a claim against, or create any recourse against any other Enterprise Fund of the Airports Authority or the revenues or assets associated with any other Enterprise Fund.

Section 8.04  Insurance

A. The Contractor shall procure and maintain at its expense during the Contract period the following insurance coverage from an insurance company or companies that is/are financially sound possessing a rating of A- VII or higher from the A.M. Best Company or an equivalent rating service, insuring the Contractor against all liability, subject to policy terms, conditions, and exclusions, for injuries to persons (including wrongful death) and damages to property and any other liability arising from or caused by the Contractor’s and its agents, representatives, employees, or subcontractors activities on Airports Authority premises or for services performed under this Contract. For those companies not subject to A.M. Best’s ratings or equivalent, they shall have a nationally or internationally recognized reputation and responsibility and shall be approved by the Airports Authority with such approval not to be unreasonably withheld. The Metropolitan Washington Airports Authority premises are physically located in the Commonwealth of Virginia and it is important for Contractor to ensure that all insurance policies have Commonwealth of Virginia amendatory endorsements.

B. Contractor shall advise the Airports Authority of any cancellation, non-renewal, or material change in any policy within ten (10) business days of Contractor receiving notification of such action from the insurer.

C. All of the policies, excluding Professional Liability, required of the Contractor shall be primary and the Contractor agrees that any insurance, including self-insurance, whether primary, excess, or on any other basis, maintained by the Airports Authority shall be non-contributing with respect to the Contractor’s insurance. Any self-insured retention, deductible, or similar obligation on all of the policies shall be the sole responsibility of the Contractor.

D. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity as defined in the Contract. The Contractor must protect the Personally Identifiable Information data to which the Contractor has access to or is holding. If the Contractor maintains broader coverage and/or
higher limits than the minimums shown below, the Airports Authority requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor.

E. The Contractor may use commercial umbrella/excess liability insurance so that Contractor has the flexibility to select the best combination of primary and excess limits to meet the total insurance limits required by this Contract. Any umbrella or excess liability coverage must be at least as broad as the primary coverage and contain all coverage provisions that are required of the primary coverage.

F. The Contractor and its subcontractors are prohibited from operating Airports Authority owned vehicles and mobile equipment.

G. A portion of the work requires Contractor and its subcontractors to operate a vehicle and/or mobile equipment on the restricted areas of the airport such as AOA. Unescorted access is permitted.

H. **Construction Insurance Coverage and Minimum Limits**

The following insurance coverage and minimum limits are required during the design and construct phase of the Contract and ending upon Date of Beneficial Occupancy.

1. **Professional Liability (Design Professionals Errors & Omissions)**
   a. Subject to policy terms, conditions, and limitations there shall be a limit of not less than Two Million Dollars ($2,000,000) per claim covering negligent acts, errors, mistakes, and omissions arising out of the work or services performed by Contractor, or any person employed or contracted by Contractor.
   
   b. Continuous coverage shall be maintained or an extended reporting period will be exercised for a period of not less than two years from Date of Beneficial Occupancy. The retroactive date shall precede the effective date of this Contract.
   
   c. Coverage shall not contain any exclusion or limitation related to environmental impairments.
   
   d. If this coverage is provided by contractor(s) to Contractor, Contractor shall provide to the Airports Authority a certificate of insurance from Contractor’s contractor(s) evidencing coverage is in effect.

2. **Course of Construction (Builder’s Risk)**
   Shall cover all risks of loss for completed value of project with no coinsurance penalty provisions. Contractor shall be named as loss payee.

3. **Commercial General Liability**
   a. Shall be written on an “occurrence” basis with a limit of not less than Twenty-Five Million Dollars ($25,000,000) per occurrence. Coverage written on a “claims-made” basis is not acceptable.
b. Coverage shall include with sublimits and aggregates where applicable, but not be limited to, Mobile Equipment Liability; Bodily Injury and Property Damage to Third Parties, Contractual Liability, Products-Completed Operations, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent Contractors and Subcontractors, and Damage to Rented Premises.

c. Explosion, Collapse, and Underground Property Damage Liability Coverage shall not be excluded.

d. The Products-Completed Operations coverage shall be provided for a minimum of two years following Date of Beneficial Occupancy.

e. Additional Insured: The Metropolitan Washington Airports Authority shall be included as an Additional Insured. A copy of the endorsement must be submitted.

f. Waiver of Subrogation: Coverage shall include a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

4. Business Automobile Liability

a. In the event Contractor does not own automobiles in the corporate name, Contractor shall maintain coverage with each accident limit identified below for Hired and Non-Owned Autos, which may be satisfied by way of endorsement to the Commercial General Liability policy described above or separate Business Auto Liability policy. Evidence of either must be provided.

b. Shall be a limit of not less than Five Million Dollars ($5,000,000) each accident for any vehicle (owned, non-owned, or hired/leased) used by the Contractor or its subcontractors.

c. Coverage shall include handling of property for loading and unloading.

d. If Hazardous Materials are to be transported, coverage shall include hauling of hazardous cargo at least as broad as that provided under the ISO pollution liability CA 99-48, and the Motor Carrier Act endorsement (MCS 90). Contractor shall comply with all Federal laws and with all states’ laws and insurance requirements where Hazardous Materials may be transported.

e. Additional Insured for Vicarious Liability: The Metropolitan Washington Airports Authority shall be included as an Additional Insured for Vicarious Liability. This shall be documented using ISO (Insurance Services Office, Inc.) endorsement CA 20 48 DESIGNATED INSURED or an equivalent form. A copy of the endorsement must be submitted.

f. Waiver of Subrogation: Coverage shall include a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

5. Workers Compensation and Employers Liability
a. Contractor shall satisfy all compulsory requirements relating to workers compensation in any jurisdiction in which benefits may be claimed to cover each employee who is or may be engaged in work under this Contract.

b. Coverage is compulsory in the Commonwealth of Virginia for employers of three or more employees, to include the employer and subcontractors. If the Contractor is required by Virginia law to carry Workers Compensation coverage, the coverage shall be at Virginia Statutory Limits with Virginia coverage added to item 3A of the policy; a Virginia listing under item 3C of the policy is not sufficient.

c. Employers Liability shall be a limit of not be less than One Million Dollars ($1,000,000) for bodily injury by accident and One Million Dollars ($1,000,000) each employee for bodily injury by disease.

d. Waiver of Subrogation: Coverage shall include a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

6. Environmental Liability
   a. Shall be a limit of not less than One Million Dollars ($1,000,000) per loss for bodily injury, property damage, and environmental cleanup costs caused by pollution conditions, both sudden and non-sudden.
   b. This requirement can be satisfied by either a separate environmental liability policy or through a modification to the Commercial General Liability policy. Evidence of either must be provided.
   c. If the coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract and that continuous coverage shall be maintained or an extended reporting period will be exercised for a period of not less than two years from Date of Beneficial Occupancy.
   d. Additional Insured: The Metropolitan Washington Airports Authority shall be included as an Additional Insured. A copy of the endorsement must be submitted.
   e. Waiver of Subrogation: Coverage shall include a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

7. “All Risk” Property (Contractor’s Property)
   Full value and full replacement cost coverage under an “All Risk” policy for any of the Contractor’s real or personal property used or situated on Airports Authority’s property.

I. Operational Insurance Coverage and Minimum Limits
The following insurance coverage and minimum limits are required during the Contract period.

1. **Airport Liability (including vehicles/mobile equipment)**
   a. Shall be written on an “occurrence” basis with a limit of not less than Two Hundred Million Dollars ($200,000,000) per occurrence with sublimits and aggregates where applicable. Coverage written on a “claims-made” basis is not acceptable.
   b. Coverage shall include, with sublimits and aggregates where applicable, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Products-Completed Operations, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent Contractors and Subcontractors, Mobile Equipment, Liquor Liability, and Damage to Rented Premises.
   c. Coverage shall include the Assigned Premises and all on-airport vehicles and mobile equipment, and all activities of the Contractor on the Assigned Premises and the Airport Premises and all indemnifications made in the Contract.
   d. **Additional Insured:** The Metropolitan Washington Airports Authority shall be included as an Additional Insured. A copy of the endorsement must be submitted.
   e. **Waiver of Subrogation:** Coverage shall include a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

2. **Hangar Keepers Liability**
   a. Shall be written on an “occurrence” basis with a limit of not less than Two Hundred Million Dollars ($200,000,000) per occurrence.
   b. The upper single limits of any one (1) aircraft to be determined by the estimated replacement cost of the average number of aircraft parked (serviced) on any given Day.
   c. Coverage written on a “claims-made” basis is not acceptable.

3. **Aircraft Liability**
   a. For aircraft owned, maintained, leased, non-owned, hired, or operated by Contractor or if Contractor conducts flight operations shall be written on an “occurrence” basis per aircraft with a limit of not less than Two Hundred Million Dollars ($200,000,000).
   b. Coverage shall include, with sublimits and aggregates where applicable, for bodily injury and/or death, personal injury, and property damage, including passenger coverage.

4. **Business Automobile Liability**
a. In the event Contractor does not own automobiles in the corporate name, Contractor shall maintain coverage with each accident limit identified below for Hired and Non-Owned Autos, which may be satisfied by way of endorsement to the Airport Liability policy described above or separate Business Auto Liability policy. Evidence of either must be provided.

b. Shall be a limit of not less than Five Million Dollars ($5,000,000) each accident for any vehicle (owned, non-owned, or hired/leased) used by the Contractor to fulfill the services contemplated by this Contract not operated on the restricted areas of the Airport.

c. Coverage shall include handling of property for loading and unloading.

d. If Hazardous Materials are to be transported, coverage shall include hauling of hazardous cargo at least as broad as that provided under the ISO pollution liability CA 99-48, and the Motor Carrier Act endorsement (MCS 90). Contractor shall comply with all Federal laws and with all states’ laws and insurance requirements where Hazardous Materials may be transported.

e. Additional Insured for Vicarious Liability: The Metropolitan Washington Airports Authority shall be included as an Additional Insured for Vicarious Liability. This shall be documented using ISO (Insurance Services Office, Inc.) endorsement CA 20 48 DESIGNATED INSURED or an equivalent form. A copy of the endorsement must be submitted.

f. Waiver of Subrogation: Coverage shall include a waiver of subrogation to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

5. **Workers Compensation and Employers Liability**

   a. Contractor shall satisfy all compulsory requirements relating to workers compensation in any jurisdiction in which benefits may be claimed to cover each employee who is or may be engaged in work under this Contract.

   b. Coverage is compulsory in the Commonwealth of Virginia for employers of three or more employees, to include the employer and subcontractors. If the Contractor is required by Virginia law to carry Workers Compensation coverage, the coverage shall be at Virginia Statutory Limits with Virginia coverage added to item 3A of the policy; a Virginia listing under item 3C of the policy is not sufficient.

   c. Employers Liability shall be a limit of not be less than One Million Dollars ($1,000,000) for bodily injury by accident and One Million Dollars ($1,000,000) each employee for bodily injury by disease.

   d. Waiver of Subrogation: Coverage shall include a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

6. **Environmental Liability**
a. Shall be a limit of not less than Three Million Dollars ($3,000,000) per loss for bodily injury, property damage, and environmental cleanup costs caused by pollution conditions, both sudden and non-sudden.
b. This requirement can be satisfied by either a separate environmental liability policy or through a modification to the Airport Liability policy. Evidence of either must be provided.
c. If the coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract and that continuous coverage shall be maintained or an extended reporting period will be exercised for a period of not less than two years from termination or expiration of this Contract.
d. Additional Insured: The Metropolitan Washington Airports Authority shall be included as an Additional Insured. A copy of the endorsement must be submitted.
e. Waiver of Subrogation: Coverage shall include a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority. A copy of the endorsement must be submitted.

7. **Storage Tank Liability**
   a. Shall be maintained with limits of not less than One Million Dollars ($1,000,000) for both Financial Responsibility Regulations for Under and Above Ground Storage Tank Systems and for third-party bodily injury and property damage from pollution conditions emanating from storage tanks.
   b. The policy shall also provide coverage for corrective action and cleanup as required by applicable federal and state regulations.

8. **“All Risk” Property Insurance for the Assigned Premises**
   Insurance coverage at full value and full replacement cost for the Contractor’s Real and Personal Property, the Authority’s building and hangar facility, and all improvements and betterments, including all subsequent alterations, rebuilding, replacements, changes, and additions thereto made by the Contractor against loss or damage by reason of fire, lightning, wind, hail, floods, explosion, smoke, vandalism, malicious mischief, riot, civil commotion, damage from aircraft, coverage of demolition of buildings and removal of debris, business interruption, extra expense, and hazards and risks included with so-called “extended coverage endorsements” or “all-risk”. The policy shall name the Contractor as the insured owner and shall contain an endorsement in favor of the Metropolitan Washington Airports Authority as Loss Payee in a form satisfactory to the Airports Authority. The policy shall be issued in an aggregate amount which shall not be less than the full replacement value (exclusive of paved surfaces, excavation, basements, and foundations) of all property on the Assigned Premises. The policy shall provide that all proceeds of such insurance shall be payable to the Contractor, in trust, to be used for the sole purpose of repairing or replacing the damaged or destroyed property on the Assigned Premises.
J. By requiring insurance herein, the Airports Authority does not represent that coverage and limits will necessarily be adequate to protect Contractor, and such coverage and limits shall not be deemed as a limitation on Contractor’s liability under the indemnities granted to the Airports Authority in this Contract.

K. The Airports Authority reserves the right at any time throughout the term of the Contract to adjust the aforementioned insurance requirements, if, in Airports Authority’s reasonable judgment, the insurance required by the Contract is deemed inadequate to properly protect the Airports Authority’s interest. The Contractor agrees that it will procure the adjusted insurance provided the coverage is available at commercially reasonable rates.

L. The Airports Authority reserves the right to inspect relevant endorsements, declaration pages, and/or a complete copy of the insurance policy(s) from the Contractor, evidencing the coverage required herein, upon written demand. The Contractor shall provide a reasonable opportunity for the Airports Authority to inspect such insurance documents, at the Contractor’s corporate office located closest to the Airports Authority’s main administrative office, within ten (10) business days of the Airports Authority’s written request for such inspection.

M. The failure of the Airports Authority at any time to enforce the insurance provisions, to demand such certificate or other evidence of full compliance with the insurance requirements, or to identify a deficiency from evidence that is provided shall not constitute a waiver of those provisions nor in any respect reduce the obligations of the Contractor to maintain such insurance or to defend and hold the Airports Authority harmless with respect to any items of injury or damage covered by this Contract.

N. Should any required insurance lapse during the Contract term, requests for payments originating after such lapse may not be processed at the Airports Authority’s discretion until the Airports Authority’s Contracting Officer receives satisfactory evidence of reinstated coverage as required by this Contract, effective as of the lapse date. The Contractor’s failure to maintain the insurance required by this Contract shall also be the basis for immediate termination of this Contract at the Airports Authority’s option.

O. The Contractor shall ensure that all its subcontractors, if any, independently carry insurance appropriate to cover the subcontractors’ exposures, or are covered under the Contractor’s policies. The Contractor shall require and verify that all subcontractors maintain insurance meeting the Contractor’s requirements on specific coverages and limits and as stated herein and Contractor shall ensure that the Metropolitan Washington Airports Authority is also included as an additional insured and with waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the Metropolitan Washington Airports Authority on insurance required from its subcontractors. The Contractor is responsible for monitoring its subcontractors’ evidence of insurance to ensure compliance with their subcontract with Contractor. Copies of all subcontractors’ evidence of insurance
should be maintained by the Contractor, and upon request, be supplied to the Contracting Officer.

P. The Contractor shall provide the Contracting Officer with all of the required insurance policy endorsements and evidence of insurance issued by insurance company or broker/agent, in advance of the performance of any work and as soon as possible after renewal but no later than twenty (20) business days after said renewal, exhibiting coverage as required by the Metropolitan Washington Airports Authority’s contract terms and conditions for the entire term of the Contract, including any renewal or extension terms, and until all work has been completed to the satisfaction of the Airports Authority.

1. The Airports Authority has the right, but not the obligation, of prohibiting Contractor from performing work under this Contract until such evidence of insurance has been provided to the Contracting Officer in complete compliance with the Contract terms and conditions.

2. The evidence of insurance shall be provided on the most current industry standard form by ACORD (Association for Cooperative Operations Research and Development) or other form acceptable to the Airports Authority.

a. For Liability Insurance, the ACORD 25 (2016/03) is the most current industry standard form. ACORD 25 forms older than 2016/03 are not acceptable.

b. Other evidence of insurance forms which may be acceptable include, but are not limited to, certificate forms created by the insurance company, Memorandum of Insurance, Certificate of Commercial Liability Insurance by ISO (Insurance Services Office, Inc.), and Manuscript Certificate of Insurance for certain offshore policy placements. Forms of these types will be considered on a case-by-case basis.

3. The evidence of insurance shall include the Contract Number.

4. If the Contractor is an entity (e.g., corporation, limited liability company, etc.) or a partnership (e.g., general partnership, limited partnership, joint venture, etc.) then Contractor shall provide the evidence of insurance in the name of Contractor’s entity or partnership as the primary insured.

5. If an Umbrella policy is used to meet the total insurance limits required by this Contract and covers more than General Liability and Automobile Liability, a statement must be provided on the evidence of insurance to indicate which policies are covered by the Umbrella policy.
6. If an Excess policy is used to meet the total insurance limits required by this Contract, a statement must be provided on the evidence of insurance to indicate which policy it follows.

7. The Metropolitan Washington Airports Authority must be specifically named as Certificate Holder on the evidence of insurance and the evidence of insurance and any other insurance-related notices shall be issued to:

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY
Airport Administration Department
ATTN: Contract Number SC-22-XXXX
PO BOX 17045
Washington DC  20041

ARTICLE 9 - DAMAGE OR DESTRUCTION OF PREMISES

Section 9.01 Partial Damage

If all or a portion of the Premises is partially damaged by fire, explosion, the elements, the public enemy, or other casualty, but not rendered untenantable, the same will be repaired with due diligence by the Contractor at its own cost and expense, and there will be no abatement of MAG, Annual Facility Rent, and Annual Ground Rent (if applicable), subject to the limitations of Section 9.04, or other fees.

Section 9.02 Extensive Damage

If the damages referred to in Section 9.01 shall be so extensive as to render the Premises untenantable, the same shall be repaired with due diligence by the Contractor at its own cost and expense, subject to the limitations of Section 9.04, and a reasonable portion, as determined by the Airports Authority, of the MAG, Annual Facility Rent, and Annual Ground Rent (if applicable) under Article 5 shall abate from the time of such damage until such time as the Premises are fully restored and certified by the Airports Authority as ready for occupancy; provided, however, that if said damage is caused by the act or omission of the Contractor, its sublessees, agents, or employees, the applicable MAG, Annual Facility Rent, and Annual Ground Rent, if applicable, shall not abate and to the extent that such damage or destruction is not covered by insurance, the Contractor shall be responsible for reimbursing the Airports Authority for the cost and expense incurred in such repair.

Section 9.03 Complete Destruction

A. General

In the event the Premises are completely destroyed by fire, explosion, the elements, the public enemy, or other casualty or so damaged that they are untenantable and cannot be
replaced except after more than thirty (30) Days, the Contractor shall undertake the repair, replacement, and reconstruction of the Premises; and all or a portion of the MAG, Annual Facility Rent, and Annual Ground Rent (if applicable) under Article 5 shall abate as of the time of such destruction or untenantable damage and shall henceforth cease until such time as said Premises are fully restored and certified by the Airports Authority as ready for occupancy; provided, however, that if said destruction or damage is caused by the act or omission of the Contractor, its sublessees, agents, or employees, said MAG, Annual Facility Rent, Annual Ground Rent (if applicable), fees, and charges will not abate and to the extent that such destruction or damage is not covered by insurance, the Airports Authority may, at its discretion, require the Contractor to commence such repair or reconstruction of said Premises within twelve (12) months and pay the costs therefor; or the Airports Authority may repair or reconstruct the Premises and the Contractor shall be responsible for reimbursing the Airports Authority for the costs and expenses incurred in such repair or reconstruction.

B. Destruction as a Result of Contractor’s Act or Omission

Notwithstanding the foregoing, if said Premises are completely destroyed as a result of the act or omission of the Contractor, the MAG, Annual Facility Rent, Annual Ground Rent (if applicable), fees, and charges shall not abate and the Airports Authority may, at its discretion, require the Contractor to repair and reconstruct said Premises within twelve (12) months of such destruction and pay the costs therefor; or the Airports Authority may repair and reconstruct the Premises within twelve (12) months of such destruction and the Contractor shall be responsible for reimbursing the Airports Authority for the costs and expenses incurred in such repair.

Section 9.04 Limits of the Contractor’s Obligations Defined

It is understood that, in the application of the foregoing Sections 9.01, 9.02, and 9.03, the Contractor’s obligations shall be limited to repair and reconstruction of the damaged Premises to, as nearly as possible, a condition and quality as existed at the commencement of the Contract Term hereunder. Redecoration and replacement of furniture, fixtures, equipment, and supplies shall also be the responsibility of the Contractor and any such redecoration and refurnishing/reequipping shall be of equivalent quality to that originally installed hereunder.

ARTICLE 10 - ENVIRONMENTAL PROVISIONS

Section 10.01 Hazardous Materials, Spills, and Releases

A. General

The Contractor shall adhere to the responsibilities and procedures for spill response activities at the Airport in accordance with the Airports Authority Orders and Instructions:
Spill Response and Clean-up at Washington Dulles International Airport, IAD 4-5-4A, as it may be amended from time to time, and is available at: https://www.mwaa.com/business/orders-and-instructions-iad.

B. **Environmental Audit**

The Contractor shall, at its own expense, perform an environmental audit of the Premises prior to the Contract Commencement Date and within thirty (30) Days after the expiration or termination of the Contract Term. The Contractor shall make this audit available to the Airports Authority upon request. In the event of a leak, spill, or release at a material level of a Hazardous Material on the Premises by the Contractor or the threat of or reasonable suspicion of the same, Contractor shall (to the extent that the Contractor or the Airports Authority is so required under applicable law, including applicable environmental laws) immediately undertake all emergency response necessary to contain, clean-up, and remove the Hazardous Materials and shall undertake within a reasonable time all investigatory, remedial, and/or removal action necessary or appropriate to ensure that any contamination by the Hazardous Materials is addressed as authorized or approved by all federal, state, or local agencies having authority to regulate the permitting, handling, and cleanup of Hazardous Materials provided, however, that the Airports Authority shall choose the waste disposal site and assume complete responsibility for arranging for the disposal of any Hazardous Substance(s) arising from any Airports Authority environmental responsibilities, including all emergency response and all investigatory, remedial, and/or removal action required by applicable environmental laws. The Airports Authority shall have the right to approve all investigatory, remedial, and removal procedures and the company(ies) and/or individuals conducting said procedures; provided, however, that in the case of an emergency, no such prior approval shall be required. In all other cases the Airports Authority’s approval shall not be unreasonably withheld and be deemed given five (5) business days after the receipt of the Contractor’s proposed investigatory, remedial, or removal procedures. Within thirty (30) Days following completion of such investigatory, remedial, and/or removal action, Contractor shall provide the Airports Authority with a certificate acceptable to the Airports Authority, stating that all such contamination has been addressed as required by applicable environmental laws. The Contractor shall be responsible for any costs incurred under this Article 10, except that the Airports Authority shall be responsible for any costs incurred by the Contractor under this Article, which costs arise from: (1) a condition on the Premises, existing on the date the Contractor took possession thereof, whether or not such condition was uncovered in an environmental audit or assessment and which condition is not caused by the Contractor or its employees, contractors, or agents; (2) any contamination caused by the migration of Hazardous Materials at any time from any other property (not caused by the Contractor or any of its tenants, or their employees or agents); or (3) a leak, spill or release of Hazardous Materials on the Premises at any time caused by any action or inaction of the Airports Authority.
Authority, its employees, contractors, or agent (collectively, the “Airports Authority Environmental Responsibilities”).

C. Hazardous Materials Training

Contractor shall initiate training for its employees related to Hazardous Materials in compliance with requirements of applicable environmental laws. Contractor is responsible for collecting, accumulating, recycling, and/or disposal of its Hazardous Materials in compliance with applicable environmental law.

1. Documentation on Hazardous Materials - Contractor shall maintain documentation required by applicable environmental laws on Hazardous Materials that are accumulated, handled, generated, treated, transported or disposed as a result of Contractor’s operations under this Contract. This documentation shall be provided upon request during periodic environmental inspections of the Premises by the Airports Authority, which shall be conducted as provided in Section 10.13.

2. Hazardous Material Generator Identification Number - Contractor shall obtain a hazardous waste generator identification number if required by applicable environmental laws.

3. Safety Data Sheets - Contractor shall obtain and keep on file a Safety Data Sheet for each material/chemical, as required by applicable environmental laws.

4. Oil/Water Separator(s) - Contractor shall be responsible for installing and maintaining and operating the oil/water separator(s) on site as required by applicable environmental laws, including periodic inspections, periodic cleaning and disposing of accumulated oils/sludge and grit that collected in the separator(s) and associated oil/water separator(s) cleaning materials in accordance with manufacturer’s recommendations and associated environmental permit requirements. Contractor shall maintain a log for the inspections and maintenance of the oil/water separator(s), which shall be provided at the request of the Airports Authority. The Contractor shall notify the Airports Authority immediately upon becoming aware of any operational failure of the oil/water separator(s).

Section 10.02 Oil Discharge Contingency Plan (“ODCP”) and Spill Prevention Control and Countermeasure Plan (“SPCC”)

If the Contractor stores regulated materials above the federal and state threshold limits, ODCP and SPCC Plans will be required. The Contractor shall be responsible for developing, updating and complying with the approved plans. The plans shall also address aircraft fueling/de-fueling activities. The Contractor shall provide additional storm water and sanitary sewer spill containment devices if aircraft fueling/defueling occur within the Premises.
Section 10.03  Storm Water Permit

The Contractor shall remain as a co-permittee in the Airport’s VPDES Group Storm Water Permit. The Airports Authority will provide the Contractor with a copy of the Airports Authority’s VPDES permit, and the Contractor shall comply with the conditions of the Airports Authority’s VPDES permit applicable to the Premises. The Contractor shall recognize that it is necessary for the Parties to cooperate with respect to the Airports Authority’s VPDES permit, including seeking cost-effective terms when the permit is under renewal and implementing permit requirements in a cost-effective manner. The Airports Authority will provide reasonable notice to the Contractor when revisions to the VPDES permit that may impact the Contractor’s operations are under consideration. The Contractor, in conjunction with the Airports Authority, may be required to engage with the permitting agency regarding such proposed revisions.

Section 10.04  Air Permit

The Contractor shall be responsible for obtaining an air permit through the Virginia Department of Environmental Quality if required. The air permit may be required for the operation of heating units, emergency generators, other fossil fuel fire equipment, painting, storage tanks and other emission generating materials. The Contractor shall provide the Airports Authority with copies of correspondence with the regulatory agencies concerning allegations of material noncompliance with environmental laws.

Section 10.05  Environmental Indemnification – Contractor

A. The Contractor agrees to indemnify, save, and hold harmless the Airports Authority from and against all removal, remediation, containment, and other costs (whenever incurred) caused by, arising out of, or in connection with the handling, storage, discharge, transportation, or disposal of Hazardous Materials on the Premises that occurs after the date of legal possession of the Premises by the Contractor and prior to the vacation of the Premises by the Contractor.

B. As mentioned herein, this indemnity shall also cover any costs (whenever incurred) caused by, arising out of, or in connection with, the handling, storage, discharge, transportation, or disposal of Hazardous Materials which are on the Premises resulting from the acts or omissions of Contractor, or any of its tenants thereof, or their employees, representatives or agents; provided, further, this indemnity shall not cover any costs resulting from the Airports Authority’s environmental responsibilities.

C. Costs shall include, but not be limited to: (1) claims of third parties, including governmental agencies, for damages, response costs, injunctions, or other relief; (2) the cost, expense, or loss to the Airports Authority of any injunctive relief, including preliminary or temporary injunctive relief, applicable to the Airports Authority or the Premises; (3) the expenses, including fees of attorneys, engineers, consultants, paralegals and experts, of reporting to any agency of the Commonwealth of Virginia or the United
States as required by applicable environmental laws and responding to the existence of said Hazardous Materials; and (4) any and all expenses or obligations, including fees of attorneys’ engineers, consultants, and paralegals, incurred at, before, and after any trial or appeal therefrom, or any administrative proceeding or appeal therefrom whether or not taxable as costs, including, without limitation, attorneys’ and paralegal fees, witness fees (expert and otherwise), deposition costs, copying and telephone charges, and other expenses, all of which shall be paid by Contractor promptly after the Airports Authority incurs the obligation to pay such amounts. Such damages, costs, liabilities, and expenses shall include those claimed to be owed by any regulating and administering agency. Contractor shall be provided with the opportunity to contest any claim, citation, notice, penalty, or fine. As used in this Article, the Premises shall be deemed to include the soil and water table thereof.

Section 10.06 Environmental Indemnification – Airports Authority

The Airports Authority agrees to indemnify, save, and hold harmless the Contractor from and against all removal, remediation, containment, and other costs arising in connection with the Airports Authority’s Environmental Responsibilities. Such costs shall include but not be limited to: (1) claims of third parties, including governmental agencies, for damage, response costs, injunctions, or other relief; (2) the cost, expense, or loss to the Contractor; (3) the expense, including fees of attorneys, engineers, consultants, paralegals, and experts, of reporting to any agency of the Commonwealth of Virginia or the United States as required by applicable environmental laws and responding to the existence of said Hazardous Materials; and (4) any and all expenses or obligations, including fees of attorneys’ engineers, consultants, and paralegals, incurred at, before, and after any trial or appeal therefrom or any administrative proceeding or appeal therefrom, whether or not taxable as costs, including, without limitation, attorneys’ and paralegal fees, witness fees (expert and otherwise), deposition costs, copying and telephone charges, and other expenses, all of which shall be paid by the Airports Authority promptly after the Contractor incurs the obligation to pay such amounts. Such damages, costs, liabilities, and expenses shall include those claimed to be owed by any regulating and administering agency. As used in this Article, the Premises shall be deemed to include the soil and water table thereof.

Section 10.07 Storm Water Management Requirements

A. The Contractor shall comply with the following requirements:

1. The Contractor shall designate a pollution prevention coordinator and shall make a reasonable effort to participate in the Airports Authority’s pollution prevention program during the Contract Term.

2. The Contractor shall implement good housekeeping practices such as vacuuming and cleaning any or all spots of oil, grease, and/or gasoline/other fuels on the grounds of the Premises to ensure Hazardous Materials are not allowed to enter the storm water flows that run off from the Premises.
3. The Contractor shall perform vehicle and equipment maintenance activities indoors to the maximum extent possible. If the Contractor cannot perform vehicle and equipment maintenance indoors, the Contractor shall limit such maintenance to activities that do not involve fluids, or the Contractor shall use a containment berm capable of handling the maximum amount of fluids and the Contractor shall set up a containment berm prior to the start of any such maintenance activities.

4. The Contractor is prohibited from outdoor vehicle and equipment washing, unless the Contractor provides a wash water collection and reclamation system.

5. The Contractor shall be fully responsible for all compliance monitoring and inspections performed by the VDEQ-Water Division at the Premises. All compliance mandates, consent orders, and/or fines levied by the VDEQ-Water Division resulting from Contractor’s noncompliance shall be the sole responsibility of the Contractor.

6. The Contractor shall comply with Virginia Stormwater Management and Virginia Erosion and Sediment Control Law and Regulations as applicable for construction and modifications. In addition, the Contractor shall comply with the most recent version of the Airports Authority’s Annual Standards and Specifications for Stormwater Management and Erosion and Sediment Control found here: https://www.mwaa.com/business/building-codes-environmental-department.

Section 10.08  Backflow Prevention Device

The Contractor shall maintain all backflow prevention devices on the Premises. The Airports Authority will perform an annual inspection of all devices and present a copy of any discrepancies to the Contractor. The Contractor shall correct any discrepancies within thirty (30) Days of the receipt of the report.

Section 10.09  Sanitary Drains

The Contractor shall comply with the requirements of the Airports Authority’s Sanitary Discharge Permit applicable to the Premises. The Airports Authority shall provide Contractor with a copy of the Airports Authority’s Sanitary Discharge Permit and shall give Contractor reasonable notice prior to any revisions to the Airports Authority’s Sanitary Discharge Permit that will impact Contractor’s operations, in order to allow Contractor to comment on same prior to issuance of a revised Sanitary Discharge Permit.

Section 10.10  Annual Certification for Fire Alarms and Fire Protection Systems

The Contractor shall maintain fire alarm and fire protection systems in accordance with NFPA 25 and perform annual certifications as required by applicable federal, state, or local laws.

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Section 10.11 Aircraft Deicing

The Contractor shall comply with applicable federal, state, and local environmental and FAA regulations and the deicing procedures established by the Airports Authority in Orders & Instructions No. IAD 5-2-2D, as amended from time to time, or any superseding regulations. The Airports Authority Orders and Instructions are available at: https://www.mwaa.com/business/orders-and-instructions-iad.

For the purposes of IAD 5-2-2 and defined therein, the Premises is defined as “North FBO Operations” in the procedures.

Section 10.12 Aboveground/Underground Storage Tank

The Contractor shall comply with applicable environmental laws for the storage of regulated materials in either above ground or below ground storage tanks.

Section 10.13 Testing and Assessment by Airports Authority

Subject to the conditions stated below in this paragraph, at the Airports Authority’s sole discretion, during reasonable business hours, the Airports Authority or its representatives or consultants, may enter upon the Premises and make any tests, measurements, investigations or assessment the Airports Authority deems necessary in order to determine the presence of Hazardous Materials or to evaluate the Contractor’s compliance with this Contract. The Airports Authority shall also have the right to enter upon the Premises for the purpose of performing multi-media environmental audit inspections and visits, as well as to perform multi-media pollution prevention inspections. The Contractor shall have the right to have a representative present and to split samples of any soil and/or groundwater testing. Nothing herein requires the Airports Authority to conduct any such testing, measurement, investigation or assessment. The Airports Authority will give the Contractor a minimum of five (5) Days’ written notice prior to conducting any such tests, investigations or assessment except no such notice is required under urgent or emergency conditions. If any of the Contractor’s Hazardous Materials are detected requiring corrective action, other than monitoring under this provision, or if any material violation of any law or the requirements of this provision are found by the consultant, the fees and expenses of said consultant shall be paid by the Contractor as additional rent under this Contract on demand by the Airports Authority. This is in addition to the Contractor’s obligation to conduct all required corrective action of any of the Contractor’s Hazardous Material releases or suspected releases at the Contractor’s sole cost as provided in Section 10.05 herein.

Section 10.14 Environmental Testing Prior to Expiration/Termination of Contract

A. Testing

Within thirty (30) Days after the removal of underground storage tanks or otherwise prior to the expiration of the Contract, the Contractor shall test the physical condition of the Premises. If the test results reveal that the Contractor has discharged or released petroleum
products on the Premises in excess of governmental limits, the Contractor shall perform corrective action of the Contractor’s Hazardous Materials to the satisfaction of the federal, state, or county exercising jurisdiction over the matter.

B. Access

In order to facilitate corrective action on the Premises, the Airports Authority shall provide the Contractor and/or its contractors reasonable access to the Premises after the expiration or termination of this Contract. The Airports Authority will provide such access until the Contractor obtains the requisite clearance (i.e., “no further action”) from the governmental authority exercising jurisdiction over the matter.

C. Investigation and Removal or Remediation

Within thirty (30) Days after the removal of underground storage tanks or otherwise prior to the end of the Contract Term or earlier termination of the Contract, the Contractor shall investigate the condition of the Premises and begin to remove or remediate as required under Section 10.01 B. herein, the Contractor Hazardous Materials from the Premises and surrounding lands and waters. The Contractor shall also, within 30 Days after vacating the Premises, remove all tanks, piping and other equipment which stored Hazardous Materials. The Contractor shall give the Airports Authority at least ten (10) Days’ written notice prior to removing such tanks, piping or other equipment, and, instead of removal, the Contractor may elect, if the Airports Authority agrees, to transfer such equipment in place to the Airports Authority or to the Airports Authority’s designee. Should the Contractor fail to comply with this Section, in addition or all other damages and remedies which may which may be available to the Airports Authority, the Contractor shall be liable to the Airports Authority for the fair rental value of the Premises as if uncontaminated by the Contractor’s Hazardous Materials (which shall not be less than the monthly payments set forth in the Contract), or to the extent the Premises can be partially occupied by others, the reduction in the fair rental value, until the required removal or remediation has occurred. The Contractor’s obligation for the fair rental value will arise if the Airports Authority has diligently pursued all reasonable alternatives to lease the Premises for continued aviation use. Except as set out in Section 10.14 B. in order to facilitate corrective action on the Premises, nothing in this Section shall operate to extend the Contract Term or give the Contractor a right of occupancy beyond the Contract Term, or earlier termination of this Contract.

D. Construction During Corrective Action

In the event that the Airports Authority or any other third party plans any construction on the Premises during Contractor’s corrective action, the Airports Authority shall review such plans with the Contractor in order to accommodate and facilitate the Contractor’s corrective action to the maximum extent practicable.

E. Cost of Corrective Action
If the Contractor is continuing to perform corrective action under this Section 10.14 at the same time as the Airports Authority or any successive contractor is required to perform Corrective Action, the Parties will cooperate and each perform (or, in the case of the Airports Authority, require its successive contractor to perform) corrective action of the contamination for which each is responsible. If the Contractor and Airports Authority agree that corrective action should only be performed by a single party, the corrective action will be undertaken by the party whose fractional cost is greater. If either the Contractor or the Airports Authority is performing corrective action to address contamination for which both it and the other party are responsible under this Contract, the Parties shall discuss appropriate proportionate sharing of the cost of corrective action, and shall share such costs of corrective action, with the party that is not performing the corrective action paying its share of costs to the other party performing the corrective action within 30 Days after the date invoices for such work and supporting documentation are presented by the party performing the corrective action to the other party. If the Parties are unable to agree on the appropriate proportionate sharing of the cost of corrective action, the Contractor and the Airports Authority shall hire, sharing the cost, a consultant mutually acceptable to the Airports Authority and the Contractor to assess the impact of the contamination for which the Airports Authority is responsible for under the terms of this Contract on the environmental condition of the Premises. If the Parties do not agree on a single consultant, each party, at its own cost, shall hire its own consultant, and the two consultants shall jointly select a third consultant. The consultant’s assessment must include a review of the corrective action that has been done as of the date of the new contamination for which the Airports Authority or its successor contractor is responsible under this Contract and the remaining cost to complete the Contractor’s corrective action absent this new contamination. In addition, the consultant must estimate the cost of the additional work that will be required due to this new contamination. In such case, the Contractor’s fractional cost equals the estimated cost to complete corrective action before this new contamination divided by the estimated cost to complete this corrective action after the new contamination. The Airports Authority’s fractional cost equals one (1) minus (the estimated cost to complete corrective action before this new contamination divided by the estimated cost to complete the corrective action after the new contamination).

Example: The Contractor is performing corrective action, then estimated (by the consultant, if needed) to cost $100,000 to complete. A spill occurs for which the Airports Authority or its successor contractor is responsible under the contract. The estimated cost to complete corrective action after the new contamination is $150,000 ($100,000 original estimated cost plus $50,000 estimated costs related to the new contamination).

\[ A = \text{Estimated cost to complete corrective action before this new contamination.} \]
\[ B = \text{Estimated cost to complete corrective action after this new contamination.} \]
The Contractor’s fractional cost equals: \( \frac{A}{B} \), or .667. The Contractor will pay two-thirds (.667) of corrective action costs incurred after the new contamination occurs.

The Airports Authority’s fractional cost equals: \( 1 - \frac{A}{B} \), or 1 minus .667. The Airports Authority will pay one-third (.333) of corrective action costs incurred after the new contamination occurs.

F. Underground Storage Tank Reimbursement Program

The Contractor may participate, from time to time, as a result of its corrective action activities, in a state-administered reimbursement program related to underground storage tanks. At the Contractor’s request and at no expense to the Airports Authority, the Airports Authority shall reasonably cooperate with the Contractor in satisfying the requirements of the applicable governmental agency to participate in or comply with this state program. The Contractor is entitled to retain all reimbursement received for corrective action performed by it. If the Airports Authority or any successor contractor fails to comply with the underground storage tank or other environmental regulations relating to the Premises and this failure results in a reduction in the reimbursement the Contractor received from the fund or results in the Contractor losing its fund eligibility, the Airports Authority and any successor contractor shall reimburse the Contractor for any reductions resulting from such noncompliance promptly upon receipt from the Contractor of supporting documentation that demonstrates both the noncompliance and its effect upon Contractor’s reimbursement.

Section 10.15 Effect of Other Terms and Conditions of the Contract

Any greater obligations on the Contractor, or further protections provided to the Airports Authority, under this Article 10 shall prevail over any terms or conditions in this Contract which are less stringent upon the Contractor, create less protection for the Airports Authority, or are contradictory or inconsistent with this paragraph. The Contractor’s obligations under this provision survive destruction of the Premises, condemnation and force majeure and continue until its obligation to perform corrective action ceases. In determining whether to consent to any assignment or subcontracting, the Airports Authority may consider the proposed assignee’s or subcontractor’s use of Hazardous Materials. The Contractor shall provide to the Airports Authority any additional information related to Hazardous Materials requested by the Airports Authority.

Section 10.16 Air Quality

All the Contractor Underground Storage Tanks shall comply with all Stage I vapor recovery in accordance with the requirements of Virginia’s regulations for the control and abatement of air pollution. All Contractor gasoline dispensing nozzles shall be equipped with Stage II vapor recovery equipment which complies with the Virginia regulations.
ARTICLE 11 – DEFAULTS; TERMINATION BY THE AIRPORTS AUTHORITY

Section 11.01 General

A. Each of the following events shall constitute a Default:

1. The occurrence of an event of insolvency of the Contractor, including, but not limited to, an assignment for the benefit of creditors.

2. The occurrence of any act that operates to deprive the Contractor of the rights, powers and privileges necessary for the proper conduct of the FBO Operation.

3. Failure to operate the FBO for a period of five consecutive Days without prior written authorization from the Airports Authority.

4. The assignment of the Contractor’s interest in this Contract by operation of law.

5. The failure of the Contractor to perform, keep or observe any of the terms, covenants and obligations under the Contract and the failure continues for ten (10) Days after written notice by the Airports Authority of such failure.

6. The failure of the Contractor to provide the insurance required under Section 8.04.

Section 11.02 Notices of Termination

This Contract is subject to the limitation that, if a Default occurs, the Airports Authority may give to the Contractor a Notice of Termination of this Contract. The Notice shall specify the termination date. The termination date may occur no sooner than seven (7) Days from the date of the Notice. In the event the Default involves a failure to perform obligations and such failure occurs more than once in any twelve-month period, the Airports Authority shall not be required during the remaining period of the Contract to provide any notice and opportunity to cure prior to issuing a Notice of Termination. At the termination date, the period of this Contract shall expire and all of the rights and interests of the Contractor under this Contract shall end. The Contractor shall then surrender the assigned Premises to the Airports Authority. The Contractor’s liability under all of the provisions of this Contract shall continue as though the termination had not occurred, however.

Section 11.03 Re-entry by the Airports Authority

If this Contract is terminated because of a Default, the Airports Authority or its agents, employees or designee may immediately or at any time thereafter, re-enter the Premises and remove the Contractor, Contractor’s agents, subcontractors, invites and property from the assigned Premises. Re-entry and removal may be affected by summary dispossess proceedings, by any suitable action or proceeding at law, by force, or otherwise. The Airports Authority shall be entitled to the benefits
of all provisions of law respecting speedy recovery of the assigned Premises held over by the Contractor or the proceedings in forcible entry and retainer. Contractor waives any right to the service of any notice of the Airports Authority’s intention to re-enter provided for by any present or future law. The Airports Authority shall not be liable in any way in connection with any action it takes pursuant to this subparagraph. The Contractor’s liability shall survive the Airports Authority’s re-entry, the institution of summary proceedings, and the issuance of any warrants with respect thereto.

Section 11.04 Contractor Remains Liable

If this Contract is terminated under this Article, the Contractor shall remain liable (in addition to accrued liabilities) to the extent legally permissible for the amounts that the Contractor would have been required to pay to the Airports Authority under this Contract had the Contract not been terminated. The Contractor shall pay, as damages, the difference between amounts obtained by adding the amounts owed to the Airports Authority plus the Airports Authority’s expense in reentering or repossessing the Premises, putting the Premises in proper repair, altering the assigned Premises for a new contractor, protecting the Premises, and contracting expenses to obtain a new contractor, minus the revenue to be paid to the Airports Authority by a new contractor occupying the Premises for the remaining Contract period. In addition, the Contractor shall pay to the Airports Authority such sums as the court which has jurisdiction there over may adjudge as reasonable attorney’s fees with respect to any lawsuit or action instituted by the Airports Authority to enforce the provisions of this Contract. If this Contract requires the payment of a Percentage of Gross Receipts Fee to the Airports Authority, the Percentage of Gross Receipts owed after a Default shall be based upon the average of the Contractor’s Gross Receipts under this Contract during the last twelve (12) months of the Contract or during the period of the Contract, whichever is shorter.

Section 11.05 Replacement Contractor

The Airports Authority may enter into a new contract with another contractor that will occupy the Premises for all or any part of the unexpired portion of the Contract Term or for any longer period. The Airports Authority has the sole and absolute discretion with respect to the selection of a new contractor and the use of the Premises. The Airports Authority shall be under no obligation to enter into or attempt to enter into a new contract for the Premises.

Section 11.06 Cure by the Airports Authority

If the Contractor is in Default under this Contract, the Airports Authority may cure the Default at any time through any action deemed appropriate by the Airports Authority for the account and at the expense of the Contractor. Contractor shall reimburse the Airports Authority for any amounts expended by the Airports Authority in connection with the cure. Such cure shall not constitute a waiver of the Airports Authority’s rights with respect to that or any other Default, unless otherwise expressly stated in writing by the Airports Authority.

Section 11.07 No Waiver by the Airports Authority
The Airports Authority’s rights and remedies set forth herein shall be in addition to any other right and remedy now and hereafter provided by law. All rights and remedies shall be cumulative and not exclusive of each other. No delay by the Airports Authority in exercising a right or remedy shall constitute a waiver or acquiescence to the Default. No waiver of a Default shall be effective unless it is in writing. No waiver of a Default shall extend or affect any other Default, excuse future similar Defaults, or impair any right or remedy with respect thereto.

Section 11.08 Right of the Airports Authority to Lien

The right to lien on the inventory and other property of the Contractor is expressly granted to the Airports Authority in any case where the Contractor fails to pay amounts due to the Authority under this Contract.

Section 11.09 No Airports Authority Liability for Damage

The Airports Authority shall not be liable for any damage, including, but not limited to, loss of profit, and the Contractor shall not make a claim of any kind whatsoever against the Airports Authority, its agents or representatives, by reason of any action taken pursuant to this Article.

Section 11.10 Bankruptcy or Reorganization of the Contractor

A. General

To the extent that the Airports Authority’s right to terminate this Contract in accordance with this Article is determined to be unenforceable under 11 U.S.C. Section 101 et.seq. as amended from time to time (the "Code"), or under any other statute, then Contractor as well as any trustee for the estate of Contractor agree to:

1. Perform promptly every obligation of Contractor under this Contract (other than non-monetary obligations of the Contractor that are not capable of being performed due to the filing of a bankruptcy case by the Contractor under the Bankruptcy Code) until this Contract is either rejected, assumed or deemed rejected under the Bankruptcy Code;

2. Pay the post-petition monthly payments of rent and other fees and expenses as and when such payments become due under the Contract;

3. Assume or reject this Contract within the minimum period of time provided for so doing under the Bankruptcy Code and in connection therewith, Contractor hereby waives any right to request extensions of such time period unless the Airports Authority agrees in writing to permit an extended time period;

4. Provide the Airports Authority at least forty five (45) Days’ prior written notice of any intended filing relating to its assumption of this Contract and in such notice, provide detail regarding any proposed assignee of the Contract, including financial
information regarding such intended assignee;

5. Upon the assumption of the Contract, cure any pre-petition default of Contractor under the Contract and provide the Airports Authority with adequate assurance regarding the ability of Contractor to continue to comply with the Contract; and

6. Provide the Airports Authority adequate assurance of future performance under the Contract by the Contractor or Contractor’s assignee.

B. Written Consent

Nothing herein shall be deemed a consent by the Airports Authority regarding Contractor’s ability to assign this Contract to any third party without the Airports Authority’s written consent.

C. Adequate Assurance of Future Performance

For purposes of this section, “adequate assurance of future performance” shall be determined by the Airports Authority in its sole discretion, provided however that the Airports Authority shall be reasonable in such determination. If there exists any post-petition default under the Contract, Contractor agrees to consent in writing to relief from the automatic stay under the Bankruptcy Code in favor of the Airports Authority to enable the Airports Authority to terminate the Contract as expeditiously as possible.

ARTICLE 12 - GENERAL PROVISIONS

Section 12.01 Definitions

A. Except as otherwise clearly indicated by the context, the following words, terms and phrases wherever used in this Contract shall for the purpose of this Contract have the following meanings:

1. “Airport” means Washington Dulles International Airport (IAD).

2. “Airline” shall mean a company operating scheduled air transportation services that has entered into a standard airline use and lease agreement with the Airports Authority.

3. “Airports Authority” means the Metropolitan Washington Airports Authority, the entity that operates and controls Washington National and Washington Dulles International Airports, or its successor.

4. “Capital Investments and Fixed Improvements” shall include: (1) all fencing, paving, landscaping, filling, and grading, underground and overhead wires, cables, pipes, conduits, and drains; (2) all buildings and structures now or hereafter placed
on the Premises; (3) all other property of every kind, nature and description which is so attached to the Premises that the same may not be removed without material injury to the Premises; and (4) any and all alterations to any said Capital Investments and Fixed Improvements; provided, however, property that is considered "Operating Facilities" shall not be considered Capital Investments and Fixed Improvements.

5. “Contracting Officer” means the Vice President, Office of Supply Chain Management for the Airports Authority, or such other authorized individual to whom contracting authority is properly delegated in accordance with Airports Authority delegations of authority. The Contracting Officer is authorized to change any of the terms and conditions of the Contract and is also the party responsible for the on-site administration and enforcement of the terms and conditions of this concession Contract in all areas.

6. “Contractor” means the person or entity that has been awarded the right to manage and operate the FBO that is authorized by this Contract.

7. “Day” means calendar day unless otherwise specified.

8. “Environmental Law” shall mean any applicable Federal, state, or local law, rule, regulation, code, order, ordinance, statute, or decision related to impacts to the environment arising out of the use, handling, storage, release, discharge, remediation or disposal of Hazardous Materials.

9. “Expiration Date” means the scheduled last Day of the period of this Contract. If the period of this Contract is extended, the Expiration Date shall be the scheduled last Day of the period so extended. If the Contract is canceled or terminated, prior to the originally fixed Expiration Date, then the Expiration Date shall be the date on which this Contract is canceled or terminated, as established by the Airports Authority; provided, that if this Contract is canceled or terminated prior to the originally fixed Expiration Date for default by the Contractor, this definition shall not be construed to preclude the Contractor’s liability to the Airports Authority for the period beyond the effective date of the termination or cancellation.

10. “Hazardous Materials” shall mean any substance, chemical, or waste which at any time shall be defined as hazardous, toxic, or dangerous under applicable federal, state or local laws or regulations that govern: (1) the existence, cleanup, or remedy of contamination on property; (2) the protection of the environment from spilled, deposited or otherwise emplaced contamination; (3) control of hazardous wastes; (4) the use, generation, transport, treatment, removal or recovery of hazardous substances, including building materials; or (5) related materials as now or hereinafter defined in any applicable Federal, state, or local environmental law, regulation, ordinance, or directive provided; however any such acts may be amended, modified, or supplemented.
11. “Interior Maintenance” means the maintenance and keeping in good repair of the assigned Premises. This includes, but is not limited to, janitorial services, removal of trash, pest control, painting and maintenance of wall coverings, relamping and maintenance of light fixtures, interior and exterior washing of windows, repainting of Premises, and replacement of floor covering. It does not include maintenance and repairs required because of structural defects.

12. “Operating Equipment” means furniture, furnishings, special lighting fixtures, carpeting, draperies, decorations or other special finishing work, signs, appliances and trade fixtures and equipment that is furnished, installed or used by the Contractor in its operations on the Airport. It does not include Capital Investments and Fixed Improvements, or repair or maintenance of Operating Equipment or Capital Investments and Fixed Improvements or displays or decorations that are of a seasonal or temporary promotional nature.

13. “Operating Facilities” shall include, but not be limited to, any signs (electrical or otherwise) used to identify the Contractor’s business; all machinery, equipment, and fuel tanks used in connection with the fueling and servicing of automotive vehicles on or about the Premises, whether or not such machinery or equipment is bolted or otherwise attached to the Premises; any portable lift, hoist, compressor or other mechanical device used to service said automotive vehicles; and all other miscellaneous equipment that may be removed from the Premises without causing material injury to the Premises.

14. “President” means the President and Chief Executive Officer, Metropolitan Washington Airports Authority, or such person or persons as may from time to time be authorized by the President to act for the President on matters pertaining to this Contract.

Section 12.02 Interpretation or Modification

A. In this Contract, unless the context otherwise requires:

1. The terms “hereby,” “herein,” “hereof,” “hereto,” and “hereunder” and any similar terms used in this Contract refer to this Contract.

2. Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies as well as natural persons.

3. Any headings preceding the text of the Articles and Sections of this Contract, and any table of contents, shall be solely for convenience of reference and shall not constitute a part of this Contract, nor shall they affect its meaning, construction or
4. Words importing the male gender shall include the female gender and vice versa.

5. Words importing the singular shall include the plural and vice versa, unless the context clearly indicates otherwise.

6. A provision of this Contract that prohibits a party from performing an action shall be construed so as to prohibit the party from performing the action or permitting others to perform the action.

7. A provision of this Contract that requires a party to perform an action shall be construed so as to require the party to perform the action or cause the action to be performed.

8. “Including” means “including but not limited to.”

9. The Parties agree that this Contract sets forth the entire Contract between the parties, and that there are no promises or understandings other than those stated herein. Except as otherwise provided in this Contract, none of the provisions, terms, and conditions contained in this Contract may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

10. All exhibits to this Contract shall be deemed to be a part of this Contract.

B. Except as otherwise provided in this Contract, no oral statement of any person and no written statement of anyone other than the Contracting Officer, shall modify or otherwise affect the terms or meaning of the Contract or requirements. The Contractor shall make all requests for interpretation or modifications in writing to the Contracting Officer.

Section 12.03 Rights In Data

If the Contractor is required during the Contract Term to submit data regarding revenue generated under the Contract, the Airports Authority has the right to use such data in contract solicitations and the data may also be subject to public disclosure pursuant to the Airports Authority’s Freedom of Information Policy.

Section 12.04 Suspension of Work

A. General

The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to suspend all, or any part of the work called for by this Contract for a reasonable period of time to be determined by the Contracting Officer after the Contracting
Officer delivers the order to the Contractor and for any further period to which the parties may agree. The order shall be specifically identified as a "Suspension of Work Order" issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work suspension. Within a period of 90 Days after a Suspension of Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either cancel the Suspension of Work Order or terminate the work covered by such order as provided in the Default clause of this Contract.

B. Contract Modification

If a Suspension of Work Order issued under this clause is cancelled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall modify the Contract in writing accordingly, if:

1. The Suspension of Work Order results in the Contractor’s cost properly allocable to, the performance of any part of this Contract; and

2. The Contractor asserts a claim in writing for such adjustment within 30 Days after the end of the period of work suspension; provided that, if the Contracting Officer decides the facts justify such action, the Contracting Officer may receive and act upon any such claim submitted at any time before final payment under this Contract.

C. Reasonable Costs

If the Contracting Officer does not cancel the Suspension of Work Order and the work covered by the order is terminated, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the Suspension of Work Order.

Section 12.05 Reservation by Airports Authority Regarding Utility Lines and Services

The Airports Authority reserves to itself the right to access, install, maintain, utilize and repair existing utility and drainage easements over, under or across the ready/return on the Premises. The Airports Authority reserves the right to complete such projects including but not limited to running new water, sewer, electrical, telephone, gas, jet fuel, drainage and other lines over, under or through the Premises and to grant necessary utility easements therefor; provided, however, that in the exercise of such rights, the Contractor’s use of the Premises and Operating Equipment shall not be unreasonably impaired and any damage to the Premises or to the Operating Equipment caused by the Airports Authority as a result thereof shall be repaired without cost to the Contractor. The Contractor shall ensure that such lines and services are adequately protected from damage by operations on the Premises. The Airports Authority shall be obligated to repair and fully restore any damage to the ground, pavement, or other improvements on the Premises resulting from the laying, installation, repair or maintenance or from subsequent leaks or breaks in the lines or utility.
services. The Airports Authority shall endeavor to provide a two week notice to the Contractor for new utility line and service installations and prior notice, if possible, for all maintenance and repairs conducted by the Airports Authority or its contractors.

Section 12.06 Right to Maintain Airport

The Airports Authority reserves the right to further develop, improve, repair, alter, and make additions to the Airport and all roadways, parking areas, Main Terminal Building, landing area and taxiways as it may reasonably see fit, and the Airports Authority shall be free from any and all liability to the Contractor for loss of business or damages of any nature whatsoever to the Contractor occasioned during the making of such developments, improvements, repairs, alterations, and additions.

Section 12.07 Notices

The Contractor must direct all correspondence of a contractual nature, including but not limited to, scope, financial consideration, terms, or conditions, to the Contracting Officer, electronically or in hard copy to the address indicated below.

Except as specifically provided elsewhere in this Contract, any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered (1) when delivered personally; (2) when delivered, if by reputable overnight courier; or (3) whether actually received or not, when deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, and sent to the address set forth below, or to such other respective addresses as the Parties hereto may designate in writing from time to time. No notice to either the Airports Authority or the Contractor shall be effective unless sent in compliance with this procedure. A refusal of overnight services or a registered or certified mail notice shall constitute actual delivery hereunder.

1. To the Airports Authority for Washington Dulles International Airport:

   Metropolitan Washington Airports Authority
   Procurement and Contracts Department
   2733 Crystal Drive
   Arlington, VA  22202
   Attn: Donald Laffert
   Donald.Laffert@mwaa.com

2. To Contractor:


Attention:

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Section 12.08 Contracting Officer’s Technical Representative (“COTR”)

The Contracting Officer may designate Airports Authority personnel to act as his or her authorized representatives for one or more contract administration functions not involving a change in the scope, financial consideration, terms, or conditions of the Contract. Such designation will be set forth in writing by the Contracting Officer and will contain specific instructions as to the extent to which the representative may take action.

Section 12.09 Order of Precedence

The Contract documents are to be interpreted in harmony so as to avoid conflicts. In the event of an inconsistency between terms set out among the Contract documents, or within the terms set out in a Contract part, notwithstanding the order of precedence noted below, the term that is most favorable to the Airports Authority controls, unless expressly stated otherwise.

The following documents are incorporated into the Contract by reference and made a part of the Contract in the following order of precedence:

1. Contract Modifications, which among themselves, shall have priority in the reverse order of issuance
2. Contract
3. Contract Exhibits
4. Solicitation, as amended

Section 12.10 Confidentiality

Financial information, excluding Gross Receipts data, submitted by the Contractor to the Airports Authority during the Contract Term shall be considered proprietary and confidential and shall not be publicly disclosed or released to other persons outside the Airports Authority.

Section 12.11 Publicity Releases

The Contractor shall not make any publicity releases in connection with this Contract unless it obtains prior written approval from the Contracting Officer.

Section 12.12 Additional Bond Security

When the Contract requires the posting of a bond, guarantee or security, the Contractor shall promptly furnish additional security required to protect the Airports Authority under this Contract when:

1. Any surety upon any bond required furnished with this Contract becomes...
 unacceptable to the Airports Authority;

2. Any surety fails to furnish reports on its financial condition as required by the Airports Authority; or

3. The revenue payable to the Airports Authority by the Contractor is increased so that the penal sum of any bond or guarantee as set forth in the contract becomes inadequate in the opinion of the Contracting Officer.

Section 12.13 Federal Affirmative Action

Contractor understands that the Airports Authority, in the operation and use of the Airport and Premises, is committed to an affirmative action program. Contractor represents and warrants that, to the extent required by law, it shall undertake an affirmative action plan in compliance with all federal rules and regulations, including 14 CFR, Part 152, Subpart E. to ensure that no person shall on the grounds of race, creed, color, religion, age, national origin, or sex be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, Subpart E. Contractor 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 Subpart E. Contractor assures that it will require that its covered suborganizations provide assurances that they similarly will undertake an affirmative action program and that they will require assurances from their organizations, as required by 14 C.F.R., Part 152, Subpart E, to the same effect.

Section 12.14 Compliance with Employment Eligibility Verification, Form I-9

The Contractor shall ensure that it is in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued thereunder, and that it will maintain compliance as long as any work is being performed under this Contract with the Airports Authority. The Contractor shall also ensure that its subcontractors are in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued thereunder, and that its subcontractors will maintain compliance as long as they are performing any work under this Contract.

Section 12.15 General Civil Rights Provisions

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the Solicitation period through the completion of the Contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.
In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the Contractor for the longer of the following periods:

1. The period during which the property is used by the Airports Authority for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or

2. The period during which the Airports Authority retains ownership or possession of the property.

Section 12.16 Title VI Clauses for Compliance with Nondiscrimination Requirements

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

A. **Compliance with Regulations**

   The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.

B. **Non-Discrimination**

   The Contractor, with regard to the Work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

C. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**

   In all solicitations either by competitive bidding or negotiation made by the Contractor for Work to be performed under a subcontract, including procurements of materials or leases of equipment, the Contractor shall notify each potential subcontractor or supplier of the Contractor’s obligations under this Contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

D. **Information and Reports**

   The Contractor shall provide all information and reports required by the Nondiscrimination Acts and Authorities and directives issued pursuant thereto, and shall permit access to its
books, records, accounts, other sources of information, and its facilities as may be
determined by the Airports Authority or the Federal Aviation Administration (FAA) to be
dpertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and
instructions. Where any information required of the Contractor is in the exclusive
possession of another who fails or refuses to furnish the information, the Contractor shall
so certify to the Airports Authority or the FAA as appropriate, and shall set forth what
efforts it has made to obtain the information.

E. Sanctions for Noncompliance

In the event of the Contractor’s noncompliance with the nondiscrimination provisions of
this Contract, the Airports Authority will impose such Contract sanctions as it or the FAA
may determine to be appropriate, including, but not limited to: withholding payments to
the Contractor under the Contract until the Contractor complies; and/or cancelling,
terminating, or suspending the Contract, in whole or in part.

F. Incorporation of Provisions

The Contractor shall include the provisions of paragraphs A. through F. in every
subcontract, including procurements of materials and leases of equipment, unless exempt
by the Nondiscrimination Act and Authorities and directives issued pursuant thereto. The
Contractor shall take action with respect to any subcontract or procurement as the Airports
Authority or the FAA may direct as a means of enforcing such provisions including
sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is
threatened with litigation by a subcontractor or supplier because of such direction, the
Contractor may request the Airports Authority to enter into any litigation to protect the
interests of the Airports Authority. In addition, the Contractor may request the United
States to enter into the litigation to protect the interests of the United States.

Section 12.17 Title VI List of Pertinent Nondiscrimination Act and Authorities

During the performance of this Contract, the Contractor, for itself, its assignees, and successors in
interest, agrees to comply with the following nondiscrimination statutes and authorities; including
but not limited to:

• Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d et seq.) (prohibits
discrimination on the basis of race, color, national origin) and 49 CFR part 21;
• The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,
as amended (42 U.S.C. § 4601 et seq.) (prohibits unfair treatment of persons displaced or
whose property has been acquired because of Federal or Federal-aid programs and
projects);
• Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 et seq.)
(prohibits discrimination on the basis of disability) and 49 CFR part 27;

- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age);
- 49 U.S.C. § 47123 (prohibits discrimination based on race, creed, color, national origin, or sex by recipients of airport improvement grants from the U.S. Department of Transportation and/or Federal Aviation Administration);
- The Civil Rights Restoration Act of 1987, (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131 – 12189) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance. To ensure compliance with Title VI, the Contractor must take reasonable steps to ensure that LEP persons have meaningful access to the Contractor’s programs, activities, or services (70 Fed. Reg. 74087); and
- Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 et seq) (prohibits the Contractor from discriminating because of sex in education programs or activities).

Section 12.18 Title VI Grant Assurances

A. The Contractor for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Contract for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Contractor will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the List of Pertinent Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
B. The Contractor for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (i) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (ii) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (iii) that the Contractor will use the premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Nondiscrimination Acts And Authorities.

C. With respect to the Contract, in the event of breach of any of the above Nondiscrimination covenants, the Airports Authority will have the right to terminate the Contract and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Contract had never been made or issued.

Section 12.19 Affirmative Action

The Contractor assures that: (a) it shall undertake an affirmative action program as required by the Airports Authority, and by all federal and state laws, rules and regulations pertaining to Civil Rights (and any and all amendments thereto), including, without limitation, 49 CFR Part 21 and 49 U.S.C. § 47123, to assure that no person shall, on the grounds of race, creed, color, national origin, sex, or age be excluded from participation in or denied the benefits of the program or activity conducted with or benefitting from Federal financial assistance received by the Airports Authority from the FAA; (b) it shall not engage in employment practices that result in excluding persons on the grounds of race, creed, color, national origin, sex, or age, from participating in or receiving the benefits of any program or activity conducted with or benefitting from Federal financial assistance received by the Airports Authority from the FAA, or in subjecting them to discrimination or another violation of the regulations under any program covered by 49 CFR Part 21 and 49 U.S.C. § 47123; and (c) it shall include the preceding statements of this Section in the Contractor’s subcontracts and other applicable documents under this Contract, and shall require that its contractors and others similarly include these statements in their subcontracts and applicable documents.

Section 12.20 No Oral Changes

This Contract may not be changed or terminated orally. All changes and other notices required by the terms of the Contract shall be in writing and shall comply with the terms of this Contract.

Section 12.21 Quiet Enjoyment

The Airports Authority agrees that if the Contractor pays all amounts due to the Airports Authority under the Contract, the Contractor shall peaceably have and enjoy the assigned Premises and all rights, services, licenses and privileges granted under this Contract without any interruption or disturbance from the Airports Authority.
Section 12.22  Right of Inspection of Premises

The Airports Authority, shall have the right to enter and view any and all Premises occupied by or assigned to the Contractor hereunder at any reasonable time during normal business hours, Monday – Friday between 9 A.M. to 5 P.M., for the purpose of examining, inspecting, or maintaining such Premises, or of doing any other act therein which may be necessary for the proper operation of the Airport; that the Airports Authority will exercise its best efforts not to interfere with the Contractor’s use of the Premises. Notwithstanding the foregoing, the Airports Authority shall have the right to access and examine, inspect, or maintain the Premises at any time in circumstances deemed by the Airports Authority to be of an emergency nature or if a Default has occurred.

Section 12.23  Surrender of Occupancy; Abandonment

A.  Surrender of Occupancy

When this Contract expires or is terminated in whole or in part as provided for elsewhere in this Contract, the Contractor shall surrender the Premises and Fixed Improvements and Operating Facilities therein in a state of good repair, with the exception of reasonable wear and tear and damage by loss or casualty not covered by insurance which the Contractor is required to maintain pursuant to this Contract and not otherwise attributable to the Contractor’s fault or negligence.

B.  Abandonment

The Contractor shall be deemed to have abandoned to the Airports Authority any property which it has failed to remove from the Premises within fifteen (15) Days after the end of the Contract Term or the effective date of termination thereof, unless the Airports Authority grants additional time for this purpose in writing. After the expiration of the fifteen (15) Day period, or any extension thereof granted by the Airports Authority, the Contracting Officer shall have the right to remove the property and restore the area to a satisfactory condition and hold the Contractor liable for all costs incident thereto. In the event it is necessary for the Airports Authority to remove such property, the Airports Authority shall not sustain or be charged with any liability by reason of the removal or custodial care of the same.

Section 12.24  Applicability of Contract Terms to Subcontractors

A.  Inclusion of Contract Terms

Any restriction or requirement imposed upon the Contractor under this Contract shall be deemed to extend to Contractor’s agents, employees, subcontractors, and guarantors. It shall be the Contractor’s obligation to cause these persons to comply with the restrictions
and requirements.

B. **Inclusion of Contract Terms in Contractor’s Documents**

The Contractor shall include all of the clauses and provisions of this Contract in all subcontracts it enters into pursuant to this Contract. The clauses and provisions shall be altered only as necessary to identify properly the contracting parties and the Contracting Officer under this Contract or as otherwise deemed necessary by the Airports Authority. Notwithstanding anything to the contrary herein, the damage and indemnification provisions contained in Article 8 herein, when incorporated into a subcontract, shall clearly state that the subcontractor’s indemnification relates only to the subcontractor’s activities on the Airport, not to all of the Contractor’s activities on the Airport.

**Section 12.25 Federal Regulations**

A. **Airport and Landing Area Development**

The Airports Authority reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or opinions of the Contractor, and without interference or hindrance by Contractor.

B. **Airfield Maintenance**

The Airports Authority reserves the right (but shall not be obligated to the Contractor) to maintain and keep in repair the airfield of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Contractor in this regard. The Airports Authority shall have the right to inspect the Contractor and the Premises to establish proof of currency of all licenses, compliance with all laws, rules, regulations and standards with which Contractor is required to comply.

C. **Aircraft Service**

It is clearly understood by the Contractor that no right or privilege has been granted which would operate to prevent any person operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including but not limited to, maintenance and repair) that it may choose to perform.

D. **Subordination**

This Contract shall be subordinate to the provisions of and requirements of any existing or future agreement between the Airports Authority and the United States relative to the development, operation, or maintenance of the Airport, including those the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
E. Notification of Alteration of Improvements

Prior to commencing any construction or alteration, Contractor agrees to comply with the notification and review requirements contained in 14 CFR Part 77 in the event that any future structure or building is planned for the Premises, or in the event of any modification or alteration of any future building or structure situated on the Premises.

F. Continuing Right of Flight

There is hereby reserved to the Airports Authority, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the right to cause in such airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Airport.

G. Avigation Right-of-Way

The Contractor shall not erect any structure or permit the growth of any natural object that would constitute an obstruction to air navigation. Contractor shall not permit any activity on the Premises that would interfere with or be a hazard to the flight of aircraft over the Premises or to and from the Airport, or that interferes with air navigation and communication facilities serving the Airport. The right of free passage of aircraft shall be in the airspace over the above-described property and shall be for the exclusive benefit of the Airports Authority, its successors and assigns. Further, the rights granted pursuant to this Section shall include the right to cause or deposit in all airspace above the surface of the Premises and on Contractor’s surface space such noise, vibrations, fumes, dust, fuel particles and other effects that may be caused by the passage of the aircraft over the Premises or adjoining property; and by the operation of the aircraft landing at, or taking off from, or otherwise operating at or on said Airport. Contractor does hereby waive, remise and release any right or cause of action which it now has or may have in the future against the Airports Authority, its successors and assigns, due to such noise, vibrations, fumes, dust, fuel particles and all other surface effects that may be caused or may have been caused by the operation of aircraft passing over said Premises or adjoining property, or landing at, or taking off from, or otherwise operating at or on said Airport. The Airports Authority shall have the continuing right to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent the erection or growth upon Contractor’s property of any building, structure, trees or any other object extending into the airspace above said surface and to remove from said airspace, or at the sole option of the Airports Authority, to mark and light as obstructions to air navigation, any such building, structure, trees or other objects now upon, or which in the future may be upon Contractor’s property, together with the right of ingress to and egress from and passage over all Contractor’s property (airspace and surface space) for such purposes. In the event Contractor (or anyone holding through Contractor) interferes with the Airports Authority’s right of free passage, the Airports Authority reserves the right to
enter upon the Premises and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Contractor.

H. **Non-Interference**

The Contractor by accepting this Contract agrees for itself, its successors and assigns that it will not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Airports Authority reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Contractor.

I. **Relationship to Federal Lease**

The Contractor shall subordinate and subject to the provisions of the Federal Lease dated March 2, 1987, between the United States Department of Transportation and the Airports Authority, providing for the Airports Authority’s lease of the Airports effective June 7, 1987. The Airports Authority will use its best efforts to notify the Contractor of any material amendments to the Federal Lease that would affect the Contractor.

J. **Other Government Agreements**

This Contract shall be subordinate and subject to: (a) the terms of any “Airport Sponsor’s Assurances” or like agreement that has been or may be made between the Airports Authority and the United States of America, its board, commissions, or agencies, including without limitation the FAA or required by applicable Federal, state or local laws, codes, regulations, ordinances, rules and orders (now or hereafter enacted) as a condition precedent to receiving Federal financial assistance for development of the Airport or other programs for and activities of the Airport and (b) the terms of any agreement that has been or may be made between the Airports Authority and the United States of America related to the transfer of rights or property to the Airports Authority for airport purposes, or the operation, improvement, maintenance or development of the Airport. The Contractor shall abide by the requirements of agreements entered into between the Airports Authority and the United States of America and shall consent to amendments and modifications of this Contract if required by such agreements, or if required as a condition of the Airports Authority’s entry into such agreements.

K. **Federal Government’s Emergency Clause**

All provisions of this Contract shall be subordinate to the rights of the United States of America to operate or close the Airports or any portion thereof during time of war or declared national emergency in accordance with established lawful procedures. Such rights shall supersede any provision of this Contract that is inconsistent with the operation of the Airports by the United States of America during time of war or national emergency.
Section 12.26 Occupational Safety and Health Act

The requirements of 29 CFR Part 1910 are incorporated in this Contract with the same force and effect as given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

Section 12.27 Strikes or Picketing Affecting Access to Airport

If the Contracting Officer notifies the Contractor in writing that a strike or picketing: (1) is directed at the Contractor and/or subcontractor or any employee or either, and (2) impedes or threatens to impede access by any person to the facility or facilities where the site(s) of the work is (are) located, the Contractor shall take all appropriate action to end such strike or picketing, including, if necessary, the filing of a charge of unfair labor practice with the National Labor Relations Board or the utilization of any other available judicial or administrative remedies. In the event the Contractor's operations are curtailed, interrupted, or otherwise handicapped, in whole or in part, because of an employee strike against the Contractor, such condition shall not operate to relieve the Contractor of its obligation to pay charges and fees required under this Contract, except as otherwise specifically provided for elsewhere in this Contract.

Section 12.28 Inclusion in Subcontracts

The Contractor shall include this Article 12 in its entirety in all subcontracts entered into pursuant to this Contract.

ARTICLE 13 - DISPUTES

A. General

It is the Airports Authority’s policy to encourage resolution of disputes by mutual agreement between the Contracting Officer and the Contractor. Consistent with this intent, the Airports Authority requires, as a condition precedent to the initiation of litigation, the exhaustion of the administrative disputes procedure described in this Contract provision. If the dispute is not resolved by the administrative disputes procedure, the Contractor may proceed to court litigation in accordance with the agreements contained in this Contract.

B. Waiver of Jury Trial

To the fullest extent permitted by law, the Contractor and the Airports Authority hereby waive their respective rights to a trial by jury on any dispute or claim or cause of action.
upon, arising under, arising out of or related to, the Contract. In addition, the Contractor and the Airports Authority hereby waive their respective rights to trial by jury in any other proceeding or litigation of any type brought by any of the contracting parties against the other party whether with respect to contract claims or actions, tort claims, or otherwise. Without limiting the foregoing, the Airports Authority and the Contractor further agree that their respective rights to a trial by jury are waived as to any action, counterclaim, or other proceeding that seeks, in whole or in part, to challenge the validity or enforceability of the Contract. This waiver of jury trial shall also apply to any subsequent amendments, modifications, renewals or supplements to the Contract.

C. **Performance Pending Dispute**

The Contractor shall proceed diligently with performance of the Contract’s requirements, including the disputed portions, pending resolution of any dispute.

D. **Steps of Administrative Disputes Procedure**

1. **Claim Submission**

   The Contractor shall submit a written claim signed and certified as true and accurate and that it is made in good faith based upon supporting facts and cost and pricing data that are current, accurate and complete as of date of submission and date of any agreement; the claim and certifications shall be made by a duly authorized officer of the Contractor. The claim at a minimum shall include: a) the basis of liability; b) basis of request for additional compensation, time extension request or other relief requested; c) a narrative that fully explains the basis for liability; d) a statement that it is made in good faith, that the supporting facts and cost and pricing data are current, accurate and complete as of the date of certification, and the amount of additional compensation, time of performance, or other relief requested reasonably and accurately reflect the added cost, added time of performance, and other damage the Contractor reasonably believes it has incurred; and e) the claim must include or specifically reference all actual cost accounting records, actual schedule data, as-built data, or other data or facts that relate to any aspect of the Contractor’s claim.

2. **Prohibited Claim Formats**

   Monetary claims based on anticipatory profits are prohibited. Monetary claims based on a total cost approach are prohibited. Time extension requests or claims based on a total time approach are prohibited.

E. **Claims Review and Disposition**
1. Contracting Officer Discussions

Discussions between the Contracting Officer and the Contractor concerning the claim presented shall occur within a reasonable period of time after submission of the certified claim and receipt by the Contracting Officer of sufficient information, including, but not limited to, information resulting from an audit, if deemed necessary. Discussions shall be conducted in good faith for the resolution of the dispute, including the exchange of relevant information. If requested by the Contracting Officer, the COTR shall provide the Contracting Officer with a written response to the claim that references the applicable provisions of the statement of work, Contract requirements, and applicable Contract provisions and may include a specific request that the COTR obtain additional information or audit access, or both from the Contractor. The Contractor shall provide such additional information or audit access and failure to promptly provide such information or access shall be a bar to the claim.

2. Alternative Dispute Resolution (“ADR”)

Non-binding evaluative mediation is established as the ADR for this Contract. The parties agree that the following procedures shall apply:

a. Selection of the neutral mediator shall be as made by the parties by a mutually agreeable date; a neutral means an individual who is trained or experienced in conducting dispute resolution proceedings and in providing dispute resolution services related to relevant contracts.

b. All statements made as a part of the proceeding and all memoranda, work products or other materials made during the course of the mediation are deemed confidential and are to be treated in accordance with Virginia Code Section 8.01-576.10; in addition, the statements and any written materials are considered privileged settlement discussions, are not party admissions, and are made without prejudice to any party’s legal position, if mediation does not result in an agreement.

c. Materials prepared for the mediation are not subject to disclosure in any other judicial or administrative proceeding.

d. Informal discovery is permissible in the form of production or inspection of certain categories of documents.

e. The parties agree to split evenly the costs of the mediator and any incidental costs associated with holding the mediation.

3. Impasse and Litigation
If the ADR procedure does not result in an agreement, the Contracting Officer can declare an impasse.

4. Contracting Officer’s Final Decision

Within sixty (60) Days of the declaration of an impasse, the Contractor shall request a written final decision by the Contracting Officer and provide documentation to support its claim. The Contracting Officer shall issue a final decision within sixty (60) Days from receipt of the request unless the Contracting Officer determines the dispute is complex in nature. The final decision of the Contracting Officer shall be final and conclusive unless within thirty (30) Days from receipt of the Contracting Officer’s final decision, the Contractor mails or otherwise furnishes a written notice of appeal in accordance with the Contracting Officer’s Final Decision.

5. Litigation

Following the completion of the administrative disputes resolution process without an agreement, as indicated by the timely receipt of a notice of appeal, the dispute may be resolved by litigation without a jury before a court of competent jurisdiction within the Commonwealth of Virginia.

F. Remedies for Inappropriate Claims

The following remedies are provided for the Airports Authority’s use in the event the Contractor submits reckless or frivolous claims or false, misleading, or material misrepresentations relating to claims.

1. Remedies for Reckless or Frivolous Claims

In the event that the Contractor makes a claim against the Airports Authority and the Contractor’s claim, as certified by an officer of the Contractor, is a) found by a court to be based on any reckless statement contained in the certification of the claim or b) is found by a court to be of frivolous nature or materially overstated in amount, then the Contractor shall be liable to the Airports Authority and shall pay to it a percentage of costs incurred by the Airports Authority in investigating, analyzing, negotiating, mediating and litigating (including attorneys’ fees) the frivolous or overstated claim. The percentage of costs referenced shall be equal to the percentage of the Contractor’s total claim which is determined through litigation to be the result of a reckless statement or frivolous claim. “Frivolous” shall mean having no basis in law or in fact. This remedy is a contractual remedy and does not otherwise affect the other rights of the Airports Authority in law or in equity.
2. Remedies for False or Misleading Statements or Material Misrepresentation

Any claim by the Contractor that is based on false or reckless statements that mislead the Airports Authority or material misrepresentations shall entitle the Airports Authority to a full recovery of all costs incurred by the Airports Authority in investigating, analyzing, negotiating, mediating and litigating (including attorneys’ fees) the claim. This remedy is a contractual remedy and does not otherwise affect the other rights of the Airports Authority in law or in equity.

ARTICLE 14 – ASSIGNMENT

Section 14.01 Prohibition

Contractor shall not transfer or assign its rights, or delegate its performance, under this Contract or its interest in this Contract, or subcontract its rights under this Contract, without the express written consent of the Airports Authority. Transfers or assignments occurring by operation of law are also prohibited. Any attempted transfer, assignment, delegation or subcontract shall be void and confer no rights upon any third person. No assignment or subcontract shall relieve Contractor of any obligations under this Contract. The consent by the Airports Authority to any transfer, assignment or subcontract shall not be deemed to be a waiver on the part of the Airports Authority to any prohibition against any future transfer, assignment or subcontract. The approval of the Airports Authority shall not be required for the Contractor’s assignment to a wholly owned subsidiary of the Contractor. However, the Contractor shall not be relieved of any of the obligations or liabilities hereunder.

Section 14.02 Sale of Stock or Sale of Partnership Interest

Except as provided below, the sale of any of the stock of Contractor, or, if the Contractor is a partnership, sale of any partnership interest therein, shall constitute an assignment of the Contract in the context of this section if, after giving effect to all previous transfers of the stock or partnership interests after the date of this Contract, more than fifty (50) percent of the stock of, or partnership interests in, the Contractor shall have been transferred. This clause shall not apply to the sale of stock or to a merger or consolidation of a public corporation; to the sale of a subsidiary of a public corporation to its parent or another subsidiary of the public corporation; to a merger or consolidation of a public corporation with one or more of its subsidiaries; or to a merger or consolidation of one or more subsidiaries of a public corporation with each other.

Section 14.03 Transfers

The term "transfer" includes, but is not limited to, transactions in which the Contractor’s interest in the Contract or Premises is mortgaged or otherwise encumbered, or in which the Contractor sublets, rents or otherwise permits occupancy or use of the Premises by a third party.

Section 14.04 Consent
If the Airports Authority consents to any transfer, assignment or subcontract, that consent shall not be effective unless and until Contractor gives notice of the transfer or assignment and a copy of the transfer, assignment or subcontract agreement to the Airports Authority, and the transferee, assignee, or subcontractor assumes all of the obligations and liabilities of the Contractor under this Contract.

Section 14.05 Notification of Ownership Changes

The Contractor shall notify the Contracting Officer in writing when the Contractor becomes aware that a change in its ownership is certain to occur. The Contractor shall also include this provision in all subcontracts under this Contract, requiring each subcontractor to notify the Contracting Officer in writing when the subcontractor becomes aware that a change in its ownership is certain to occur.

ARTICLE 15 - QUALITY OF PERFORMANCE AND LIQUIDATED DAMAGES

Section 15.01 Liquidated Damages

The following provisions relate to the quality of the service that the Airports Authority expects to be provided to the public under the Contract. The Contractor agrees that it is obligated to perform the following provisions and that nonperformance denigrates the quality of the service, and therefore, is in violation of this Contract. The occurrence of any of the following situations may result in the imposition of liquidated damages. The Contractor agrees that the following liquidated damages are fair and reasonable and do not constitute a penalty. The Airports Authority will notify the Contractor within thirty (30) Days following the incident if the Airports Authority intends to impose liquidated damages. Failure to impose liquidated damages for a particular violation shall not bar the Airports Authority from imposing liquidated damages for subsequent violations of the same nature.

A. FBO Hours of Operation

The Contractor will make every best and reasonable effort to maintain the hours of operation outlined in Exhibit 2-C. Should the Contractor fail to maintain the hours required and fail to obtain Airports Authority permission to do so, the Airports Authority may assess liquidated damages at a rate of Fifty dollars ($50.00) per hour of non-operation, or any fraction thereof, until corrected, or until termination of this Contract.

B. Failure To Remove Disabled Aircraft In Timely Manner

The Contractor shall use its best efforts to meet the requirements for the removal of disabled aircraft contained in Section 3.03 A.1. hereunder. Should the Contractor fail to
meet those requirements by not responding with the necessary equipment and staffing within two hours after notice from the Airports Authority and approval of the Federal Aviation Administration, the Airports Authority may assess liquidated damages at a rate of Five Hundred dollars ($500.00) per hour of non-operation, or any fraction thereof, until corrected, or until termination of this Contract.

Section 15.02  Violation of Transportation Security Regulations

Should the Contractor, its employees, authorized agents or representatives, subcontractors or contractors violate any Transportation Security Regulation, (Title 49 CFR Part 1540 Series), the Contractor shall immediately, upon the notice thereof from the Airports Authority, make every reasonable effort to take permanent corrective action. Should the Federal Government assess a penalty or fine upon the Airports Authority for a violation caused by the Contractor, its employees, authorized agents or representatives, contractors or subcontractors, said penalty or fine shall be the responsibility of the Contractor.

ARTICLE 16 - INCORPORATION OF CONTRACTOR'S PROPOSAL AND CONFIDENTIALITY

Certain portions of the Contractor’s proposal, submitted in response to Request for Proposals No. RFP-21-26914, are incorporated by reference herein and made a part hereof as Exhibit 2-D. The Contractor shall be obligated to meet all specifications in its proposal, provided however, that where an express provision of this Contract is in conflict with any provision of the Contractor’s proposal, this Contract shall control. The Contractor's proposal may be subject to public disclosure in accordance with the Airports Authority’s Freedom of Information Policy. Notwithstanding the foregoing; however, those pages of the Contractor’s proposal marked as proprietary or containing confidential, commercial, trade and financial information, including financial statements, for which the Contractor provides specific reasons why protection is necessary shall be treated as confidential business information by the Airports Authority.

ARTICLE 17 - MISCELLANEOUS

Section 17.01  Rights Reserved to the Airports Authority

All rights not specifically granted to the Contractor by this Contract are reserved to the Airports Authority.

Section 17.02  Airports Authority Not Liable

Except as specifically provided for in this Contract, the Airports Authority shall not be under any duty or obligation to the Contractor to repair or maintain the Premises, or any portion thereof, or any facilities or equipment constructed thereon. The Airports Authority shall not be responsible or liable to the Contractor for any claims, losses, damages, or injury, including lost profits, sustained by the Contractor or any of its joint venturers or subcontractors, resulting from any failure of water
supply, heat, air conditioning, electrical power, or sewer or drainage facility, or from natural physical conditions on the Airport, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado or other physical event, or from any act of God, state of war, civilian commotion or riot, act of the Federal government or any other cause beyond the reasonable control of the Airports Authority.

Section 17.03 Security

The Contractor understands that the police security protection provided by the Airports Authority is finite and limited to that generally provided to any other businesses on the Airport and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Premises, equipment, improvements, and the Contractor’s personal property, and that of its employees and invitees shall be the sole responsibility of the Contractor and shall involve no cost to the Airports Authority.

Section 17.04 Relationship of the Parties

The Contractor is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts and omissions, and the Airports Authority shall in no way be responsible therefor. Nothing in this Contract shall be construed as making the Contractor an agent or representative of the Airports Authority for any purpose whatsoever. Further, nothing in this Contract is intended or shall be construed as in any way creating or establishing the relationship of copartners between the Parties hereto.

Section 17.05 Contractor Performance Evaluation

The Airports Authority may conduct periodic written evaluations of the Contractor’s performance throughout the term of this Contract. The Airports Authority will provide performance evaluations to the Contractor and may use them when considering whether to exercise an option or as past performance information if the Contractor responds to a future solicitation.

Section 17.06 Ingress and Egress

For the purpose of Contract performance, the Contracting Officer will grant the Contractor without charge therefor, the right of ingress and egress from said Premises by the Contractor, its employees, contractors, suppliers, servicemen, licensees, guests, patrons, and invitees. Provided that such right of ingress and egress shall at all times be exercised in compliance with any and all regulations promulgated by lawful authority for the care, operation, maintenance, and protection of the Airport that apply to all users of the Airport. Provided further, that such right of ingress and egress shall not be construed to prohibit the Contracting Officer from establishing and assessing a fee or charge for the privilege of entry upon the Airport when such fee or charge is levied upon all users of the Airport, nor to prohibit the Contracting Officer from assessing a fee or charge on the Contractor’s employees for parking their personal vehicles in the Airport’s employee parking areas or on persons conducting a business on the Airport. For purposes of this Article, a person shall be
deemed to conduct business on the Airport if he occupies any space on the Airport or if he provides any services on the Airport, other than utilities, on a regular or continuing basis.

Section 17.07 Waiver of Performance

The failure of the Airports Authority or the Contractor, in any one or more instances, to invoke a provision, term, covenant, reservation, condition, or stipulation of this Contract, or to enforce or take action to enforce, or to demand performance by the other party hereto, or to insist upon a strict performance by the other of any of the provisions, terms, covenants, reservations, conditions or stipulations contained in this Contract shall not be considered a waiver or relinquishment of the rights to invoke enforce, demand, or insist thereon, but the same shall continue and remain in full force and effect, and no waiver by either party of any provision, term, covenant, reservation, condition, or stipulation hereof shall be deemed to have been made in any instance unless expressed in writing. In the event any provision contained in this Contract is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder.

Section 17.08 Force Majeure

Except as herein provided, neither the Airports Authority nor the Contractor shall be deemed to be in default hereunder if either party is prevented from performing any of the obligations of this Contract, by reason of circumstances beyond the party’s reasonable control, such as strikes, boycotts, labor disputes, embargoes, shortages of energy or materials, acts of God, acts of the public enemy, acts of the federal government, riots, rebellion, or sabotage; provided, however, the Contractor shall pay all rentals, fees, and charges associated with performance prior to the force majeure event when due, even if such rentals, fees, and charges are not due and payable until after the occurrence of the force majeure event.

Section 17.09 Severability

If any article, section, provision, term or condition of this Contract is held to be invalid by a court of competent jurisdiction, the remainder of this Contract, including the remaining rights and obligations of the Airports Authority and the Contractor, shall not be affected thereby.

Section 17.10 Prohibition Against Exclusive Rights

It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the Airports Authority reserves the right to grant to others the privileges and right of conducting any or all activities of an aeronautical nature.

Section 17.11 No Third Party Beneficiaries
This Contract is for the benefit of the Parties hereto only and is not intended to and shall not create any rights in or confer any benefits upon any person or entity other than the Parties hereto.

Section 17.12  Covenant Against Contingent Fees

The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this Contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Airports Authority shall have the right to annul this Contract without liability or, in its discretion, to or otherwise recover, the full amount of the contingent fee.

A. “Bona fide agency”, as used in this clause, means an established commercial or selling agency, maintained by the Contractor for the purpose of securing business, that neither exerts nor proposed to exert improper influence to solicit or obtain Airports Authority contracts nor holds itself out as being able to obtain any Airports Authority contract or contracts through improper influence.

B. “Bona fide employee”, as used in this clause, means a person, employed by the Contractor and subject to the Contractor’s supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Airports Authority contracts nor holds himself out as being able to obtain any Airports Authority contract or contracts through improper influence.

C. “Contingent fee”, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing an Airports Authority contract.

D. “Improper influence”, as used in this clause, means any influence that induces or tends to induce an Airports Authority employee or officer to give consideration or to act regarding an Airports Authority contract on any basis other than the merits of the matter.

Section 17.13  Prohibition Against Board Member Participation

No member of the Airports Authority’s Board of Directors shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

Section 17.14  Governing Law

This Contract made by the Airports Authority, a public body corporate and politic formed by interstate compact between Virginia and the District of Columbia, is governed in all respects by the laws of the Commonwealth of Virginia, and any Contractor, Seller, Supplier, or Vendor (as such terms may be used) providing goods or services to the Airports Authority assures the Airports Authority it is conforming with the provisions found in applicable Virginia law. This Contract is

Section 17.15 Survival

All provisions regarding indemnification, environmental indemnification, warranty, liability, audit, insurance, and the Financial Consideration, as outlined in Article 5, shall survive the expiration or termination or early cancellation of this Contract.

Section 17.16 Effectiveness

The submission of an unsigned copy of this Contract to the Contractor for the Contractor’s consideration does not constitute an offer to enter into a Contract. This Contract shall not be binding upon either party until executed by both Parties.

Section 17.17 Duplicate Counterpart Originals

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

Section 17.18 Capacity to Execute

The individuals executing this Contract warrant that they each have full authority to execute this Agreement on behalf of the Contractor or the Airports Authority as the case may be.

Section 17.19 Execution

The parties hereto acknowledge that they have thoroughly read this Contract, including any exhibits or attachments hereto and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

Section 17.20 Clear Title

The Airports Authority covenants that at the granting and delivery of this Contract, it has the right and authority to lease or assign the Premises to the Contractor as set forth in this Contract.

Section 17.21 Binding Effect

The terms, conditions, and covenants of this Contract shall inure to the benefit of, and be binding upon, the Parties hereto and upon their successors and assigns, if any. This provision shall not constitute a waiver of any conditions regarding assignments contained in this Contract. No party shall be bound by this Contract until it is executed by both Parties.
Section 17.22 Modifications

This Contract may be modified in writing by mutual agreement of the Contractor and the Airports Authority. Modifications beyond the scope of the original Contract may require approval of the Airports Authority’s Board of Directors.
IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of the dates shown below.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

By: __________________________
Donald Laffert
Contracting Officer

Date: ______________________

CONTRACTOR

By: __________________________

Title: __________________________

Date: ______________________