NORFOLK AIRPORT AUTHORITY
NORFOLK INTERNATIONAL AIRPORT

REQUEST FOR PROPOSALS AND PROPOSED CONCESSION AGREEMENT

AIRPORT COMMON CARRIER

GROUND TRANSPORTATION SERVICE

July 23, 2021

PART I

REQUEST FOR PROPOSALS

TABLE OF CONTENTS

SECTION		PAGE
Section 1	Request for Proposals	R-1
Section 2	Submission of Proposals	R-2
Section 3	Qualifying and Supplemental Information	R-3
Section 4	Information Accompanying Proposals	R-4
Section 5	Proposal Guarantee	R-9
Section 6	Inspection and Condition of Facilities	R-9
Section 7	Negotiations	R-10
Section 8	Basis for Award	R-10
Section 9	Acceptance of Rejection of Proposal	R-11
Section 10	Execution of Concession Agreement	R-12
Section 11	Failure to Execute Concession Agreement	R-12
Section 12	Failure to Obtain Permits	R-13
Section 13	Disadvantaged Business Enterprise	R-13

SECTION 1. REQUEST FOR PROPOSALS.

1.1 The Norfolk Airport Authority ("Authority"), acting by and through its Executive Director, requests Proposals from Offerors to enter into a Concession Agreement to provide necessary vehicles, equipment, furnishings, and personnel to operate a Common Carrier Ground Transportation Service Concession as described herein ("Service") at the Norfolk International Airport ("Airport") in Norfolk, Virginia.

1.2 The Proposal Documents. This document consists of three (3) parts and the respective exhibits and attachments, if any; together these documents are referred to as the "Proposal Documents".

Part 1: The Request for Proposals ("RFP"), which is divided into Sections and has page numbers beginning at "R-1."

Part 2: The Proposal Form, which has page numbers beginning at "P-1" and which, when properly completed and attached to the other information provided by an Offeror, forms the Offeror's Proposal.

Part 3: The Concession Agreement, which is divided into Articles and has page numbers beginning at "C-1."

1.3 The final agreement entered into by the Selected Offeror and the Norfolk Airport Authority will be considered to include all three parts of the Proposal Documents, including any exhibits and attachments. Prospective Offerors are encouraged to review the Proposal Documents in their entirety before submitting a Proposal.

1.4 Copies. Additional copies of the Proposal Documents are available upon request to Steve Sterling, Deputy Executive Director of Administration and Operations, Norfolk Airport Authority, Norfolk International Airport, Norfolk, Virginia 23518-5807 (Facsimile 757-857-3265). The documents are also available on the Airport's website, located at the following link: **http://www.norfolkairport.com/about-us/business-opportunities**

1.5 Unauthorized Contact. Except the communications with the Deputy Executive Director of Administration and Operations as specifically authorized herein, contact with any official or employee of the Authority, including any Commissioner, in connection with this procurement or the Proposal Documents is prohibited and shall be cause for disqualification of the Offeror. The Authority will not meet individually with any Offeror prior to receipt of proposals.

1.6 **The Authority has scheduled a Pre-Proposal Conference on August 4, 2021**. This Conference will be held in the Airport Conference Room A at 10:30 a.m. (local time).

a. The purpose of the Conference will be to discuss the requirements and objectives of this RFP, to answer any questions about the elements of the RFP, and to answer any general questions Offerors may have about the Concession. Authority representatives will be available, and Offerors will be permitted to perform an initial site visit of the Concession Area.

b. Offerors are encouraged to attend the Conference and to submit any questions concerning this RFP, in writing, in advance of the Conference. Questions may be sent by either U.S. Mail, courier, facsimile transmission (757-857-3265), or email at **ssterling@norfolkairport.com .**

c. At the Conference, the Authority will attempt to answer all written questions received in advance as well as those received at the Conference. **Any other questions must be submitted in writing and must be received by the Authority by 5:00 p.m. (local time) on Friday, August 13, 2021.** The questions, and the answers to the questions, will be distributed, without attribution, to all interested potential Offerors so that all potential Offerors have the same information.

d. Any changes in the requirements of this RFP that result from the questions or the Conference will be made by addendum to the RFP.

SECTION 2. SUBMISSION OF PROPOSALS.

2.1 **Proposals will be received until 2:00 p.m. (local time) on August 26, 2021 (the "Due Date") in the Administrative Offices of the Authority, Norfolk International Airport, Norfolk, VA 23518-5807.** An original and two (2) copies of an Offeror's Proposal must be contained in a sealed envelope labeled "Airport Common Carrier Ground Transportation Service Concession Proposal," conspicuously endorsed with the Offeror's name, and showing the Due Date and time the Proposal is to be received. Responders must also submit one (1) electronic copy of their complete response on a thumb drive or DVD utilizing Microsoft Office tools. Proposals must be delivered in sufficient time for receipt by the Authority not later than the Due Date. Proposals or modifications thereto received after the Due Date will not be considered. Proposals will be opened and considered at the discretion of the Authority.

2.2 The Proposal must be submitted upon the forms furnished by the Authority and must give **all** required information. The Proposal must be signed on behalf of the Offeror and the acknowledgment made in the form provided. Optional or additional items must be clearly identified.

2.3 It is essential that the information and requirements of the Proposal Documents be carefully studied and adhered to in the preparation and submission of Proposals. Any award will be based upon the Authority's analysis of the Proposals and upon the evaluation criteria contained herein. Failure to comply with the restrictions and provisions contained herein may be cause for rejection of the Proposal.

2.4 In making the Proposal, the Offeror expressly offers to assume all the obligations and liabilities contained in the Proposal Documents, including the representations and warranties made by the "Concessionaire" in the Concession Agreement.

SECTION 3. QUALIFYING AND SUPPLEMENTAL INFORMATION.

3.1 In its Proposal, an Offeror must provide evidence that it is fully competent to provide the Service and that it has the necessary experience and capacity to fulfill the requirements of the Proposal Documents. Offeror must have a minimum of three (3) years substantial, continuous, and recent experience providing comparable services to the public.

3.2 In addition to the requirements of the Proposal Documents, the Authority may give oral or written notice to any Offeror at any time to furnish additional information, either in writing and/or in a verbal presentation, to representatives of the Authority relating to its qualifications to perform the obligations imposed by the Proposal Documents. The requested information shall be furnished in the format and within the time frame specified by the Authority.

3.3 The giving of the aforesaid notice to any Offeror shall not be construed as an acceptance of Offeror's Proposal.

3.4 The Authority reserves the right to consider, in its evaluation and selection process, such additional information obtained from Offerors or as the Authority may obtain from its independent investigation of Offerors.

SECTION 4. INFORMATION ACCOMPANYING PROPOSALS.

A Proposal shall consist of a completed Proposal Form, the following information that must accompany the Proposal Form, and any other requirements set forth in the Proposal Documents:

4.1 **General Information About Offeror:**

a. The legal name and principal address of the Offeror.

b. The nature of the Offeror entity, i.e. corporation, partnership, individual, limited liability company, or other.

c. If Offeror is a corporation, provide the following:

(1) The full legal name and address of each officer and director.

(2) Certificate of good standing issued by the Virginia State Corporation Commission not more than sixty (60) days prior to the submission of Offeror's Proposal.

(3) If the Offeror is not incorporated under the laws of the Commonwealth of Virginia, a certificate of good standing from the state of incorporation and a certificate from the Secretary of the Commonwealth of Virginia evidencing the Offeror's legal qualifications to transact business in the Commonwealth of Virginia.

d. If Offeror is a partnership, provide the following:

(1) The full legal name and address for each partner, designating any general partners and limited partners.

(2) A copy of Offeror's partnership agreement.

(3) Evidence that the Offeror is legally qualified to transact business in the Commonwealth of Virginia.

e. If Offeror is a limited liability company, provide the following:

(1) A statement of the names and addresses of the members, designating any managing members.

(2) A copy of Offeror's articles of organization.

(3) A copy of the current operating agreement.

(4) A Certificate of Fact for Offeror.

(5) Evidence that the Offeror is legally qualified to transact business in the Commonwealth of Virginia.

f. If any of the officers, directors, partners, members, or other parties identified in the responses to subsections c, d and e above is an entity, provide the information requested in subsections c, d and e above, as appropriate, for each such entity.

g. Provide the following information regarding the finances and financial responsibility of Offeror and any of the individuals or entities identified in the responses to subsections c, d and e above as officers, directors, members and partners of Offeror which either (i) own or control any interest in the Offeror which equals or exceeds one-half of Offeror's units of ownership or control; (ii) are actively engaged in the management of Offeror; or (iii) will be actively involved in the operation of the Concession ("Controlling Party"):

(1) Federal income tax returns filed for the last two years.

(2) Either (i) a balance sheet and income statement, certified by a certified public accountant who is not otherwise an employee of Offeror, showing the net worth of Offeror as of a date not earlier than 120 days prior to the date established for receipt of the Proposals, and the net income of the Offeror for a twelve-month period ending as of a date not earlier than 120 days prior to the date established for the receipt of the Proposals; or (ii) a balance sheet and income statement for Offeror's preceding fiscal year, certified by a certified public accountant who is not otherwise an employee of Offeror, and the net income of the Offeror for the Offeror's preceding fiscal year, along with a statement from said certified public accountant indicating that the present financial condition of the Offeror is at least as good as that shown on the balance sheet and income statement submitted.

(3) The name and address of the primary bank of Offeror and any Controlling Party with the name and telephone number of the bank representative handling the account and a signed copy of the form identified as **Proposal Exhibit A** for Offeror and each Controlling Party.

(4) A credit report on Offeror and any Controlling Party issued by a nationally recognized credit report agency (e.g., Equifax, Experiàn) dated within thirty (30) days of the date of Offeror's Proposal.

(5) The name, address and nature of any other business enterprise currently owned or operated by Offeror and any Controlling Party, or anticipated to be owned or operated during the Term of the Concession.

h. For Offeror, each Controlling Partner and each officer and employee of Offeror who will be directly involved in the supervision, direction, management or operation of the Concession:

(1) Provide a fingerprint-based criminal history record check if the individual or entity has been convicted of a felony, a misdemeanor that involves moral turpitude (e.g., lying, cheating, or stealing), or has pending criminal charges of any nature.

(2) Certify that the individual or entity has never been convicted of, and does not have pending criminal charges of, the disqualifying criminal offenses listed in 49 CFR §1542.209(d), as amended, or any comparable regulations.

(3) State whether any such individual or entity has ever been found to be in violation of any regulatory order of any local, state, or federal governmental agency. If so, provide information regarding each such violation.

(4) State whether any such individual or entity has any pending criminal charges or is a party to any pending civil or administrative proceeding. If so, provide information regarding each such pending charge or proceeding.

(5) Provide the information requested in **Proposal Exhibit B**.

i. If applicable, information and documentation pertaining to Disadvantaged Business Enterprise ("DBE") status.

4.2 **Information About Affiliates, if any:**

a. For purposes of the Proposal and Concession Agreement, the term "Affiliate" shall be defined in accordance with the regulations applicable to small businesses under 15 U.S.C. § 631 et. seq., as the same may be amended from time to time. Entities or individuals are considered to be Affiliates of each other under this Proposal and Concession Agreement when one controls or has the power to control the other, or a third party (or parties) controls or has the power to control both. Factors relevant to affiliation include ownership, management, previous relationships with or ties to another entity, and contractual relationships. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships shall be treated as Affiliates. With regard to a corporation, a person is an Affiliate if the person owns or controls, or has the power to control, fifty percent (50%) or more of its voting stock, or a block of stock which affords control because

it is large compared to other outstanding blocks of stock. If two or more persons each owns, controls or has the power to control less than fifty percent (50%) of the voting stock of an entity, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an Affiliate.

b. Identify every Affiliate of Offeror and for each such Affiliate not otherwise identified as a Controlling Party, provide all the same information requested in subsection 4.1 above with respect to the Offeror, except that the items in subsections h and i must be provided only for Affiliates which control or have the power to control the Offeror. The Authority, however, reserves the right to request such additional information regarding other Affiliates as the Authority shall determine necessary or appropriate.

4.3 **Service Information:**

a. Detailed information relating to concessions or other business ventures that the Offeror has operated or is currently operating that are comparable to the Service. Such information shall include, but not be limited to, references sufficient to enable the Authority to determine the Offeror's financial responsibility and proven experience in the operation and management of a reputable comparable business.

b. Copies of the licenses, permits and/or certificates Offeror currently has to provide the Service, and a list of any licenses, permits and/or certificates for which Offeror intends to apply.

c. A proposed operating plan for the Service to be provided which plan shall address, at a minimum, the following:

(1) Locations to be served with schedules and rates.

(2) Offeror's proposed rate schedule for the Service to include the basis for assessing fares.

(3) A Plan for Financing and operating the first year of the Concession in the format of **Proposal Exhibit C**, or in a comparable form.

(4) Illustrative examples of fares to and from the Airport and the originations and destinations shown in **Proposal Exhibits D and E**.

(5) A description of the vehicles to be used in providing the Service, including but not limited to type and number, model, age, color and mileage of vehicles and such

other information as necessary to assure compliance with the Standards of Service in the Concession Agreement.

(6) The Offeror's plan to minimize waiting time for passengers at the Airport and to provide timely service to passengers traveling to the Airport.

(7) A list of the individual positions and responsibilities of the persons currently employed or to be hired to provide the Service.

(8) The full legal names and addresses of each individual who will serve in a managerial or supervisory position with regard to the Service and for each such individual, detailed information to establish to the satisfaction of the Authority the individual's qualifications and experience.

d. A safety and security plan to assure that people and property using the Service, and other people and property at the Airport, are safe and secure at all times, including but not limited to:

(1) The alcohol and/or drug testing program to be applied to all employees who will provide the Service;

(2) The criminal and security background check program that will be applied to all employees who will provide the Service. This program must, at a minimum, address felonies, crimes involving moral turpitude, and the disqualifying criminal offenses listed in 49 CFR §1542.209(d), as may be amended, or any comparable regulations;

(3) The vehicle maintenance plan to be followed for the vehicles to be used to provide the Service;

(4) The driver training for the vehicle operators for the Service; and

(5) Whether Offeror intends to participate in the Voluntary Driving Record Monitoring Program of the Virginia Department of Motor Vehicles ("DMV").

d. Written certification that Offeror has determined all requirements for permits, licenses, and certificates required by any regulatory agency (federal, state, and local) for Offeror to operate the Service, and that Offeror has or will be able to obtain all required permits, licenses, and certificates upon one hundred twenty (120) calendar days of receipt of the Notice of Intent to Award the Concession Agreement. The Selected Offeror must promptly and diligently apply for and pursue the required permits, licenses, and certificates and shall provide the Authority with copies of all applications for such permits, licenses, and certificates. Selected

Offeror shall provide the Authority with a copy of any application and other information provided to such regulatory agencies and continuously keep Authority fully informed of the status of each application.

e. Offeror may submit any additional information that is material and relevant to a determination of its qualifications and ability to operate a successful concession of the type required hereunder offering safe, timely, and efficient service in a clean, attractive, and professional environment. The Authority shall be the sole judge of the qualifications of the Offeror.

f. A detailed marketing and public relations plan to promote the service and to assure that travelers using the Airport are aware of the Service in order to maximize utilization and revenue.

SECTION 5. PROPOSAL GUARANTEE.

5.1 Each Offeror shall submit with its Proposal a Proposal Guarantee in the amount of Five Thousand and 00/100 Dollars ($5,000.00) in the form of a bank cashier's check or bank certified check, payable to the Authority, or a bid bond issued by a surety authorized to do business in the Commonwealth of Virginia. The Proposal Guarantee of all Offerors will be retained by the Authority, without interest, until execution of the Concession Agreement by the Authority.

5.2 After the execution of the Concession Agreement, the Proposal Guarantees of all non-defaulting Offerors shall be returned without interest thereon.

SECTION 6. INSPECTION AND CONDITION OF FACILITIES.

6.1 Each Offeror may, and is encouraged to, inspect the Concession Area at the Airport, but must make reasonable prior arrangements with the Deputy Executive Director of the Authority for this purpose. No statement by any Authority representative before or during the inspection shall be a part of this procurement and may not be relied upon by the Offeror.

6.2 The Authority shall deliver the applicable Airport facilities to Concessionaire in an **"AS IS, WHERE IS"** condition, without representation or warranty of any kind. The Authority shall have no obligation to alter, renovate, or otherwise change the applicable Airport facilities in any manner whatsoever. By submitting a Proposal, Offeror is deemed to agree that the Concession Area is in a condition suitable for the Concession, and installation of any Improvements required of the Concessionaire under the terms of the Proposal and Concession

Agreement. The Offeror further agrees to accept the facilities as of date of delivery without further recourse to the Authority in regard thereto.

SECTION 7. NEGOTIATIONS.

7.1 The Authority may award a Concession Agreement based on the initial Proposals received, without conducting any negotiations or discussions concerning such Proposals and, accordingly, each initial Proposal should be submitted on the most favorable terms.

7.2 After receipt of Proposals, negotiations may be conducted with one or more Offerors as determined by the Authority. After these negotiations, the Authority will select the Offeror submitting the Proposal with the best overall benefit to the Authority, as determined by the Authority in its sole discretion.

SECTION 8. BASIS FOR AWARD.

8.1 The Authority reserves the right to withdraw the Proposal and Concession Agreement at any time for any reason, to reject any or all Proposals or modifications thereto, and to waive any informalities in Proposals received. The Authority reserves the right to make any award on the basis of the Proposal that it determines, in its sole discretion, best meets the requirements of the Authority as set forth in this Proposal and Concession Agreement.

8.2 The Authority's selection of a Proposal will be based upon an evaluation of the Offeror, and where applicable, its Affiliates, as being both responsive and responsible, and as being the most advantageous to the Authority, with no single evaluation factor being necessarily determinative. The Authority reserves the right to consider the following factors and others without specific prior identification, and without predetermined weight, as it may deem appropriate in evaluating the Proposals received and making its selection:

a. Experience of Offeror and those employees of the Offeror whom the Offeror certifies will have overall management supervision as well as those persons who will have major responsibilities in the control and management of the operation of the Service.

b. The Offeror's proposed operating, safety and security plans.

c. The financial condition of Offeror, and if relevant, any Controlling Party and Affiliates, and the ability to obtain adequate financing to perform those functions necessary for the Service.

d. An evaluation of the Offeror's current and past performance in providing comparable services, particularly at other airports or public facilities.

e. Personal and professional references.

f. The Concession Fee (percentage of gross revenue) the Offeror has proposed to pay the Authority.

g. Offeror's DBE participation, if applicable.

h. Offeror's proposed rates and fares and policies for establishing the rates and fares to be charged to the public for its Services.

i. Offeror's management policies.

j. If applicable, Offeror's plans for Improvements as they involve use of space, décor, and quality of equipment and furnishings.

k. Offeror's vehicle maintenance plan.

l. Offeror's plans for marketing and promoting the service.

8.3 In the process of evaluation, the Authority may acquire and use, to the extent deemed necessary, information obtained from the following sources:

a. The Offeror, including representations and other data contained in the Proposal, or other written statements of commitments, such as financial assistance and subcontracting.

b. Other existing information available to the Authority, including financial data and records concerning Offeror's performance.

c. Publications, including credit ratings, trade and financial journals or reports.

d. Other sources, including banks, other financial companies, state county, and municipal departments and agencies and other public airports.

e. The Authority reserves the right to audit or to appoint a competent representative to audit the books and records of any Offeror in order to verify its financial responsibility.

f. The results of background investigations of Offerors made to verify information furnished or to secure additional information the Authority may deem necessary or desirable.

SECTION 9. ACCEPTANCE OR REJECTION OF PROPOSAL.

9.1 Within ninety (90) days after the Due Date for receipt of Proposals, or as soon thereafter as it may act, the Authority will select one of the Proposals and will reject all other

Proposals or will reject all Proposals. The Authority reserves the right to reject all Proposals if it deems such to be in the best interest of the Airport.

9.2 The selection of a Proposal will be by written Notice of Intent to Award the Concession Agreement, specifically indicating a Selected Offeror and signed by an authorized representative on behalf of the Authority. No other act of the Authority, its Commissioners, agents, or employees shall constitute the selection of a Proposal.

9.3 The selection of a Proposal shall be deemed to constitute an agreement of the Selected Offeror to execute a Concession Agreement on the terms set forth in the Proposal as may be modified by any negotiations. Notwithstanding the foregoing, the selection of a Proposal shall not be effective and binding upon the Authority until the Concession Agreement has been formally executed by both parties.

9.4 The Authority reserves the right to waive any and all defects in form in any Proposal.

SECTION 10. EXECUTION OF CONCESSION AGREEMENT.

10.1 Within fifteen (15) days after Authority's receipt from the Selected Offeror of copies of all required permits, licenses, and certificates, the Authority shall deliver or mail to the Selected Offeror, in duplicate, the final Proposal and Concession Agreement completed in accordance with the Proposal submitted by Offeror and as accepted by Authority.

10.2 Within ten (10) days thereafter, the Selected Offeror shall deliver both copies to the Authority, with the Concession Agreement duly executed by it as "Concessionaire," and the Security Deposit required in the Concession Agreement. Upon receipt, the Authority will execute both copies and return one to the Concessionaire.

SECTION 11. FAILURE TO EXECUTE CONCESSION AGREEMENT.

11.1 Should the Selected Offeror fail or refuse to execute the Concession Agreement as provided herein, or otherwise default on the agreement created by the Authority's acceptance of the Selected Offeror's Proposal, the Proposal Guarantee submitted by the Selected Offeror and any interest thereon shall become the property of the Authority, not as a penalty, but as liquidated damages. Offerors acknowledge that the Authority has incurred costs and will incur additional costs and damages by reason of such default and that such damages are difficult to determine.

11.2 Upon such failure, refusal, or other default, to execute the Concession Agreement, the Authority reserves the right to accept the Proposal of any other Offeror. Neither the exercise of such right by the Authority nor the failure to do so shall operate as a release by the Authority of the defaulting Offeror as to any claims or rights that the Authority may have against such defaulting Offeror pursuant to the preceding paragraph or otherwise.

SECTION 12. FAILURE TO OBTAIN PERMITS.

12.1 If the Authority determines, in its sole discretion, that Selected Offeror has failed to diligently and promptly apply for or pursue all required permits, licenses, and certificates or failed to obtain the permits, licenses, and certificates required to operate the Service within the time period provided herein, including any extension of time authorized by the Authority, the Authority may: (i) withdraw the Notice of Intent to Award the Concession Agreement to the Selected Offeror and issue a Notice of Intent to Award to another Offeror submitting the Proposal with the best overall benefit to the Authority, (ii) withdraw the Proposal Documents without making an award, or (iii) take such other action as the Authority shall determine appropriate.

SECTION 13. DISADVANTAGED BUSINESS ENTERPRISE.

13.1 It is the policy of the Authority that, in compliance with U. S. Department of Transportation ("DOT") Regulations 49 C.F.R. Parts 23 and 26, as may be amended, and other applicable federal, state, and local statues or regulations that may apply, a business which qualifies as an Airport Concession Disadvantaged Business Enterprise ("ACDBE") shall have the maximum opportunity to participate in the Authority's concession contracts and leases for the Airport. In compliance with 49 C.F.R. Parts 23 and 26, the Authority has an "ACDBE Concession Plan" setting forth the Authority's policy pertaining to ACDBE participation in Airport concessions. The Authority's overall ACDBE Concession participation goal for all eligible concessions at the Airport is twelve and one-half percent (12.5%) of gross revenue.

13.2 In conformity with the requirements of 49 C.F.R. Parts 23 and 26, as may be amended, Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of this Concession Agreement. The Concessionaire agrees to include the above statement in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements permitted under this procurement.

13.3 All DBE participants under the Concession Agreement must be certified by the Virginia Department of Small Business and Supplier Diversity ('SBSD") or the Metropolitan Washington Airports Authority ("MWAA").

13.4 The Concessionaire shall submit such reports or other documentation as may be required by the Authority for the purpose of demonstrating compliance with this Section 13.

[END OF PART I]

PART II

PROPOSAL FORM

(to be submitted in response to the Request for Proposals and Proposed Concession Agreement for Airport Common Carrier Ground Transportation Service, issued by the Norfolk Airport Authority, dated July 23, 2021)

PROPOSAL FORM

AIRPORT COMMON CARRIER
GROUND TRANSPORTATION SERVICE CONCESSION
NORFOLK INTERNATIONAL AIRPORT

TO: NORFOLK AIRPORT AUTHORITY

A. The undersigned _____, a
(Name of Offeror)[1]

_____ organized and existing under the laws of the State of
(Type of Entity)[2]

_____, hereby offers to enter into a contract with the Norfolk Airport
(State of Formation)

Authority ("Authority"), in the form entitled "Norfolk International Airport, Airport Common Carrier Ground Transportation Service Concession Agreement," attached hereto and incorporated herein, for the establishment and operation of the Concession as specified in the Proposal Documents.

B. In furtherance of this Proposal, the Offeror offers to pay to the Authority during the term of the Concession Agreement a fee, referred to hereinafter as the "Concession Fee," equal to:

_____ percent (___%) (Insert fixed percentage offered) of Offeror's Gross Revenues

A fixed percentage rate of less than 6% will not be accepted.

C. The Offeror acknowledges that payment of the Concession Fee, in addition to a Fixed Rent and other possible charges, is subject to, and further explained by, all the other terms set forth in the Proposal Documents.

D. This Proposal shall be irrevocable for a period of ninety (90) days after the Due

[1] Give the full legal name of the entity or individual making the proposal.
[2] State whether Offeror is a corporation, limited liability company, partnership, limited partnership or individual.

Date. To induce the selection of this Proposal by the Authority, the Offeror hereby makes each and every representation and agreement made by "Concessionaire" in the Concession Agreement and agrees that the selection of this Proposal shall have the effect provided in the RFP furnished herewith and that effect only. Notwithstanding any statement therein to the contrary, the Offeror agrees that none of the information, regardless of the form of communication, provided to the Authority by the Offeror, or its officers, agents or employees, has been given in confidence. All or any part of the information may be used or disclosed by or on behalf of the Authority without liability of any kind, except as may arise under letters of patent specifically identified by written attachment hereto. All financial information given as a part of this Proposal will remain confidential only to the extent permitted by law.

E. The Offeror hereby affirms that the Proposal contained herein is in no way conditioned upon any predetermined level of aviation activity or passenger activity at the Airport, past, present, or future. Offeror has not relied on any representations of the Authority's staff, either orally or in writing, as to the level of Concession business at the Airport before or during the term of the Concession Agreement, nor of any factors that might bear on such business potential, including without limitation the information provided on the exhibits attached to the Proposal Documents. The Proposal contained herein is based solely on Offeror's own knowledge of the airport common carrier ground transportation service concession business and its own assessment of the market potential at the Airport for such a concession.

F. (Check the appropriate line) The Offeror DOES _____, or DOES NOT _____ wish consideration as a Disadvantaged Business Enterprise.

G. CERTIFICATIONS:

(1) Offeror hereby certifies that no officer, director, employee, or agent of the Offeror has been convicted of, or has pending criminal charges of, the disqualifying criminal offenses identified in Section 4.1(h)(2) of the Request for Proposals will perform any work

pursuant to the Proposal and Concession Agreement on the property of the Authority, without first obtaining the express prior approval of the Authority for that particular employee or agent.

(2) Neither Offeror nor any Controlling Party has ever been denied a permit, license, or certificate necessary to provide any transportation services. If so, provide information regarding each such denial, including the date of each application, the type of service to be provided pursuant to each application, the governmental entity with which each application was filed, and the reasons the application was denied.

(3) Neither the Offeror or any Controlling Party has ever applied for and withdrawn an application for a license, permit, or certificate necessary to provide any transportation service. If so, provide information regarding each such withdrawal, including the date of each application, the governmental entity with which each application was filed, the type of service to be provided and the reasons the application was withdrawn.

H. The entire Proposal and all of the Proposal Documents, all papers required by it and all exhibits and other papers made a part thereof by its terms are incorporated herein and made a part of this Proposal. The undersigned hereby designates the following contact information for notices to be delivered or mailed:

The designated representative of the Offeror is: _____

The mailing address of Offeror is: _____
_____
_____

The telephone number of the Offeror is: _____

The facsimile number of the Offeror is: _____

The e-mail address of the Offeror is: _____
_____

(*) Witness the following signatures:

Date: _____

SIGNATURES:

(1) _____
Printed Name of Offeror

Signed By: _____
Title: _____

_____
Witness

****

(2) _____
Printed Name of Offeror

Signed By: _____
General Partner

_____
Witness

****

(3) _____
Signature of Offeror

_____
Witness

****

(*) If corporation or limited liability company, execute at line (1) above and complete Certificate of Authority on the page provided. If partnership or limited partnership, execute at line (2) above. If individual, execute at line (3) above. If the Concessionaire is a partnership, **all general partners** will be required to sign the Proposal and the Concession Agreement. If the Selected Offeror is a limited liability company, **all managing members** will be required to sign the Proposal and the Concession Agreement. **Add additional signature pages as necessary.**

CERTIFICATE OF AUTHORITY

IF OFFEROR IS A CORPORATION
OR LIMITED LIABILITY COMPANY

I, the undersigned, as Secretary or Assistant Secretary of the Corporation or duly authorized representative of the Limited Liability Company submitting the foregoing Proposal, hereby certify that under and pursuant to the Bylaws and Resolutions of the Corporation, or Operating Agreement and Resolutions of the Limited Liability Company, as applicable, the agent who has signed this Proposal on behalf of the Offeror is fully authorized to do so.

_____
Secretary or Assistant Secretary

(Corporate Seal)

ACKNOWLEDGMENT OF OFFEROR
IF A CORPORATION OR LIMITED LIABILITY COMPANY

STATE OF _____:
COUNTY OF _____:

On this _____ day of _____, 2021, before me personally came and appeared ___ _____, to me known, who being by me duly sworn, did depose and say that he is the _____ of Offeror and he signed his name thereto by authority of the Board of Directors or Members.

_____
Notary

My Commission expires: _____

****

ACKNOWLEDGMENT OF OFFEROR
IF A PARTNERSHIP

STATE OF _____:
COUNTY OF _____:

On this _____ day of _____, 2021, before me personally came and appeared ___ _____, known to me to be a general partner of the firm of _____ _____, who executed the same as and for the act and deed of said firm.

_____
Notary

My commission expires: _____

ACKNOWLEDGMENT OF OFFEROR
IF A LIMITED PARTNERSHIP

STATE OF _____:
COUNTY OF _____:

On this _____ day of _____, 2021, before me personally came and appeared ___ _____, known to me to be a general partner of the limited partnership of _____, who executed the same as and for the act and deed of said limited partnership.

_____
Notary

My commission expires: _____

****

ACKNOWLEDGMENT OF OFFEROR
IF AN INDIVIDUAL

STATE OF _____:
COUNTY OF _____:

On this _____day of _____, 2021, before me personally came and appeared _____, known to me to be the person who executed the foregoing instrument.

_____
Notary

My commission expires: _____

Proposal EXHIBIT A

BANK REFERENCE AUTHORIZATION

_____
Date

_____
Name of Bank

_____
Address of Bank

_____

_____

To Whom It May Concern:

Please provide the Norfolk Airport Authority with requested information about my account(s).

Offeror: _____

_____
Signature of Authorized Representative

_____
Account Numbers(s)

Proposal EXHIBIT B

QUESTIONNAIRE

This Questionnaire must be completed by Offeror, each Controlling Party, and each officer and employee of Offeror who will be directly involved in the supervision, direction, management or operation of the Concession. Please submit a separate questionnaire for each of the above parties. If your answer to any question is "yes," attach a separate sheet of paper on which you set forth the facts in detail and designating by number the question to which you refer.

1. State whether you have been, or presently are, a party to or otherwise involved (except as a witness) in:

A. any civil or administrative action or legal proceeding;

B. any criminal or quasi-criminal action or legal proceeding (whether involving a felony, misdemeanor, minor misdemeanor, or any traffic offense); or

C. any action or legal proceeding in a juvenile court.

2. Have you ever been summoned for a violation of any other statute, regulation or ordinance?

3. Do you have any outstanding or unpaid fines, court costs, or tickets, including those for traffic or parking violations?

4. Have you ever been granted immunity from prosecution?

5. Have you ever been cited or arrested for contempt of court for any reason, including, but not limited to, failure to appear as a witness or answer a subpoena or jury summons?

6. Has your driver's license ever been revoked or suspended within the last ten (10) years?

7. To your knowledge, have you ever been denied a security clearance, or has a security clearance previously granted to you ever been revoked? If your answer is "yes," explain fully, including the name of the issuing agency, the security designation, and the particulars of the revocation or denial of the clearance.

8. Have you ever held, or submitted an application, or in any way applied for a license or certificate, the procurement of which requires proof of good character (including whether you withdrew your application for any reason)? If so, as to each license or certificate, identify the type of license or certificate and state the date it was granted, the name and complete

current mailing address of the authority issuing it, whether the license or certificate has been refused or revoked, and whether you have been reprimanded, censured, or otherwise disciplined as the holder of the license or certificate.

9. Have you ever been discharged or asked to resign by any employer? If your answer to this question is "yes," identify the employer and give the full particulars as to the reason you were discharged or asked to resign.

10. Have you ever been suspended, censured, reprimanded, disqualified or otherwise disciplined as a member of any profession?

11. Have you ever been removed from any office, public or private, because of conduct reflecting upon your character, or have any charges been made or filed or proceedings instituted against you because of conduct reflecting on your character?

12. Have there ever been or are there now pending any charges, complaints, or grievances (formal or informal) concerning your conduct as a member of any profession or as a holder of public office?

13. Have you ever filed or been the subject of a petition in bankruptcy? If your answer to this question is "yes," attach a copy of your bankruptcy petition, including a copy of all schedules and all orders entered in the case.

14. Have you ever been the subject of a trusteeship, receivership, wage attachment or garnishment proceeding?

15. Have you any unsatisfied judgments against you?

16. Have you ever had a credit card revoked or defaulted on a loan or other debt? For any credit card revocations or loan defaults, list the creditor's name, current address, and your account number. If any court or agency proceedings were involved, state the names, case numbers, and dates of all court or agency proceedings; the dispositions made thereof; the names and addresses of the courts or agencies in which the records may be found; and the name and address of your legal counsel in each proceeding.

Proposal EXHIBIT C

PLAN FOR FINANCING THE FIRST YEAR OF OPERATIONS

DATE: _____

NAME OF OFFEROR: _____

Anticipated Revenue:

Fees for Services	_____	
Income From Investments	_____	
Other (*Specify*)	_____	
	_____	
TOTAL REVENUE		**$** _____

Anticipated Expenses:

Concession Fee	_____	
Parking Fee	_____	
Customer Service Counter Rent	_____	
Fuel	_____	
Salaries and Wages	_____	
Employee Benefits	_____	
Payroll Taxes	_____	
Office Expenses	_____	
Utilities	_____	
Maintenance and Repairs	_____	
Equipment	_____	
Other Taxes	_____	
Motor Vehicles	_____	
Interest and Insurance	_____	
Other (*Specify*)	_____	
	_____	
TOTAL EXPENSES:		**$**_____

Proposal EXHIBIT D

EXAMPLES OF FARES
AIRPORT COMMON CARRIER GROUND TRANSPORTATION SERVICES
NORFOLK INTERNATIONAL AIRPORT

DESTINATION FROM AIRPORT/ ORIGINATION TO AIRPORT	FARE	
	1 Passenger	3 Passengers/Same Location (Fare Per Passenger)
Doubletree by Hilton Norfolk Airport		
Quality Lake Wright Suites (Norfolk)		
Holiday Inn Executive Center		
Portsmouth Radisson		
Portsmouth Naval Hospital		
Chesapeake Municipal Center		
Chesapeake Conference Center		
Old Dominion University		
Sentara Norfolk General Hospital		
Sentara Leigh Memorial Hospital		
Sentara Virginia Beach Hospital		
Sentara Bayside Hospital		
Downtown Suffolk		
Fort Eustis		
Fort Monroe		
Norfolk Naval Base		
Oceana Naval Air Station		
Downtown Norfolk (Federal Building)		
Virginia Beach Municipal Center		
Fort Story		
Williamsburg Inn		
Kingsmill on James (Williamsburg)		
6000 Block Powhatan Avenue (Norfolk)		
800 Block Jamestown Crescent (Norfolk)		
1300 Block Harmott Avenue (Norfolk)		
5700 Block Colter Court (Virginia Beach)		
Kitty Hawk, North Carolina		
Elizabeth City, NC (Coast Guard Base)		

Name of Offeror: _____

Proposal EXHIBIT E

EXAMPLES OF FARES
AIRPORT COMMON CARRIER GROUND TRANSPORTATION SERVICE
NORFOLK INTERNATIONAL AIRPORT

DESTINATION FROM AIRPORT/ ORIGINATION TO AIRPORT	**FARE** (Per Passenger) Assume 3 unrelated passengers sharing vehicle to 3 different locations
TRIP #1:	
Doubletree by Hilton Norfolk Airport	
Quality Lake Wright Suites (Norfolk)	
Virginia Wesleyan College	
TRIP #2:	
Portsmouth Radisson	
Portsmouth Naval Hospital	
Portsmouth City Hall	
TRIP #3:	
Chesapeake Municipal Center	
Chesapeake Conference Center	
Chesapeake General Hospital	
TRIP #4:	
Old Dominion University	
Sentara Norfolk General Hospital	
WHRO (Hampton Boulevard, Norfolk)	
TRIP #5:	
800 Block of Jamestown Crescent (Norfolk)	
6400 Block of Argall Crescent (Norfolk)	
1300 Block of Bolling Avenue (Norfolk)	
TRIP #6:	
Fort Monroe	
Hampton City Hall	
Omni Hotel (Newport News)	
TRIP #7	
Williamsburg Inn	
Williamsburg Lodge	
William & Mary College	

TRIP #8:	
Virginia Beach Oceanfront – 5th Street	
Virginia Beach Oceanfront – 21st Street	
Virginia Beach Oceanfront – 57th Street	
TRIP #9:	
Oceana Naval Air Station	
Dam Neck	
Virginia Aquarium & Marine Science Center	

Name of Offeror: _____

PART III

NORFOLK INTERNATIONAL AIRPORT

CONCESSION AGREEMENT

TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS C-1

ARTICLE 2 USE AND PRIVILEGES C-3

ARTICLE 3 TERM C-5

ARTICLE 4 PAYMENTS C-5

ARTICLE 5 BOOKS AND RECORDS C-6

ARTICLE 6 SECURITY DEPOSIT C-7

ARTICLE 7 IMPROVEMENTS BY CONCESSIONAIRE C-7

ARTICLE 8 REPRESENTATIONS & WARRANTIES OF CONCESSIONAIRE C-9

ARTICLE 9 OBLIGATIONS AND COVENANTS OF CONCESSIONAIRE C-10

ARTICLE 10 INGRESS AND EGRESS C-15

ARTICLE 11 FEDERAL AIRPORT AID C-15

ARTICLE 12 OBLIGATIONS OF THE AUTHORITY C-15

ARTICLE 13 LOCAL MANAGEMENT C-16

ARTICLE 14 STANDARDS OF SERVICE C-16

ARTICLE 15 REPAIRS AND MAINTENANCE C-19

ARTICLE 16 VENDING MACHINES C-19

ARTICLE 17 SIGNS AND PUBLIC ADDRESS SYSTEM C-20

ARTICLE 18 PARKING C-20

ARTICLE 19 FIRE OR CASUALTY DAMAGE C-20

ARTICLE 20 INDEMNITY BY CONCESSIONAIRE C-21

ARTICLE 21 INSURANCE C-22

ARTICLE 22 RIGHTS OF ENTRY RESERVED C-25

ARTICLE 23 SUBORDINATION OF AGREEMENT C-25

ARTICLE 24 ASSIGNMENT OF AGREEMENT C-26

ARTICLE 25 AGREEMENT BINDING UPON SUCCESSORS C-27

ARTICLE 26 CONDEMNATION C-27

ARTICLE 27 DEFAULT C-27

ARTICLE 28 EXTRAORDINARY TERMINATION BY CONCESSIONAIRE C-30

ARTICLE 29 TERMINATION FOR CONVENIENCE C-31

ARTICLE 30 SURRENDER OF POSSESSION: HOLDING OVER C-31

ARTICLE 31 REMOVAL OF PROPERTY C-32

ARTICLE 32 RELATIONSHIP OF PARTIES C-32

ARTICLE 33 WAIVERS C-33

ARTICLE 34 WAIVER OF CLAIMS FOR ANTICIPATED PROFITS C-33

ARTICLE 35 FORCE MAJEURE C-33

ARTICLE 36 DISPUTES C-34

ARTICLE 37 SITUS AND SERVICE OF PROCESS C-34

ARTICLE 38 CONCESSIONAIRE'S DEALINGS WITH THE AUTHORITY C-35

ARTICLE 39 NOTIFICATION C-35

ARTICLE 40 INTERPRETATION C-35

THIS CONCESSION AGREEMENT (this "Concession Agreement") is made as of the ____ day of _____, 2021, by and between the NORFOLK AIRPORT AUTHORITY, a political subdivision of the Commonwealth of Virginia (the "Authority"), and _____ ("Concessionaire").

WITNESSETH:

The Authority and the Concessionaire, for and in consideration of the mutual agreements hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, covenant and agree as follows:

ARTICLE 1

DEFINITIONS

1.1 The following terms, when capitalized and used in the Agreement, shall have the respective meanings given below:

a. Airport shall mean the Norfolk International Airport.

b. Authority shall mean the Norfolk Airport Authority, owner and operator of the Airport.

c. Agreement shall mean and include this Concession Agreement, the Request for Proposals, the Concessionaire's Proposal, and all exhibits and appendixes referenced within or attached to these documents.

d. Concession Area shall mean the Customer Service Counter, the five (5) curbside parking spaces and any areas shown on **Appendix A**, the Improvements thereon, and any other structures and other items permanently affixed or permanently located therein.

e. Concessionaire or Selected Offeror shall mean the second party to this Agreement. Upon execution of this Concession Agreement, the "Selected Offeror" becomes the "Concessionaire" and shall, as such, fulfill the obligations stated for either "Selected Offeror" or "Concessionaire" in the Agreement.

f. Concessionaire's Property shall mean any vehicles, trade fixtures, business equipment, inventory, trademarked items, signs, counters and other removable personal property installed in or on the Concession Area by Concessionaire at its expense and identified on **Appendix B** hereto, and as amended from time to time.

g. Concessionaire's Work or Work shall mean all planning, design, and construction work needed to supply, install, and finish all Improvements and to otherwise render the Concession Area ready to provide the Service in accordance with the Agreement.

h. Gross Revenue shall mean the fares and other charges paid or payable to Concessionaire whether by cash, credit, credit card or otherwise for the Ground Transportation Service effected by Concessionaire at the Airport (including any fees, assessments and/or charges assessed under this Agreement or otherwise) without regard for the manner in which or place at which Concessionaire has received the order for said Service and regardless of the ownership, area or location of the vehicle used. The Concessionaire shall have the right to conduct part of its operations on a credit basis, provided the risk of such operation shall be borne solely by Concessionaire; Concessionaire shall report all income, both cash and credit, regardless of whether collected or not, and no deduction shall be allowed for write-offs and/or adjustments. Concessionaire shall make no deduction from Gross Revenue for the payment of franchise taxes or taxes levied on Concessionaire's activities, facilities or equipment located at the Airport.

Gross Revenues shall not include the following:

(i) The amount of any federal, state or municipal sales or other similar taxes separately stated and collected from customers of Concessionaire now or hereafter levied or imposed;

(ii) Any sums received by Concessionaire for damaged automobiles or other property or for the loss, conversion or abandonment of automobiles and/or vehicles;

(iii) Revenues derived from the sale of used fleet motor vehicles;

(iv) Any sums collected as tips or gratuities and actually given to drivers or other employees of the Concessionaire.

i. Improvements shall mean all structures and other items permanently affixed to, within, or on the Concession Area (including, but not limited to, interior walls, ceilings, floor coverings, electrical wiring, water pipes, plumbing, heating and air conditioning ducts and equipment, and all interior decoration and finishing), that are installed to render the Concession Area ready to provide the Service in accordance with the Agreement.

j. Service shall mean the provision of all necessary vehicles, equipment, furnishings and personnel to operate the Common Carrier Ground Transportation Concession at the Airport under the terms and conditions specified in the Agreement.

1.2 Definitions contained in any of the Proposal Documents also apply to all provisions of the Agreement.

ARTICLE 2

USE AND PRIVILEGES

2.1 The Authority hereby grants to the Concessionaire, subject to the terms and conditions herein, the right to conduct and operate a Common Carrier Ground Transportation Concession business at the Airport as follows:

a. The right and privilege to pick up and transport passengers desiring public transportation services to and from the Airport and from points within the cities of Virginia Beach, Chesapeake, Suffolk, Portsmouth, Franklin, Poquoson, Norfolk, Hampton, Newport News and Williamsburg, and the counties of Isle of Wight, Southampton, Surry, James City and York, as authorized under applicable city and county ordinances, as amended, and elsewhere as Concessionaire may be authorized to serve under applicable state and local laws governing intercity transportation. The Service is to be what is known in the airport industry as line-haul (schedule/demand) common carrier ground transportation service.

b. The right to use and occupy the Customer Service Counter located in a shelter situated on the roadway median at the Arrivals Terminal as shown on **Appendix A** attached hereto and made a part hereof.

c. The right to use and occupy certain curbside parking spaces reserved for Concessionaire's vehicles while providing the services herein. The Authority shall reserve the right to designate the location and number of spaces and to modify the location and/or number of spaces. The Authority makes no commitment to provide Concessionaire parking for other vehicles on the Airport.

d. The right to use and occupy the Customer Service Counter located inside the Arrivals terminal building as shown on **Appendix A-1** attached hereto and made a part hereof.

2.2 Use of the Concession Area. Concessionaire shall use the Concession Area in full compliance with all provisions of the Agreement solely for the purpose of providing and operating the Service and for no other purpose whatsoever, unless otherwise approved in writing by the Authority. All operations of Concessionaire authorized under the Agreement must occur

within the Concession Area. The rights and privileges herein granted to Concessionaire are nonexclusive.

2.3 Acceptance of Concession Area. Concessionaire acknowledges that it has had an opportunity to its satisfaction to inspect the Concession Area. Concessionaire accepts the Concession Area "**AS IS, WHERE IS**" in the condition existing on the date of the commencement of this Concession Agreement, and without representation or warranty of any kind.

2.4 Nothing herein shall be deemed to grant Concessionaire any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act, or the conduct of any activity on the Airport, except that Concessionaire shall have the right to use the Concession Area in accordance with the terms of this Agreement.

2.5 The Authority reserves the right to establish additional concessions at the Airport similar to those to be provided under the terms of the Agreement as it may deem to be necessary in its sole discretion. Subject to any requirements of state or federal procurement laws, Concessionaire shall be given the first opportunity to provide such additional services, providing that a satisfactory agreement can be reached between the parties concerned. Upon the failure of Concessionaire to provide such services within sixty (60) days after request to do so by the Authority, the Authority reserves the right to provide the services itself or under a separate agreement. The Authority agrees that if rights and privileges similar to those in the Agreement are granted to any other person, corporation, or other entity, such rights and privileges shall not be granted on more favorable terms than herein stated.

2.6 Designation of Concession Area. The Authority reserves the right to recapture all or a portion of the Concession Area during the term of this Agreement if the Board, in its sole discretion, determines that all or such portion is required for public facilities, utilities, or other uses directly related to the efficient operation of the Airport and the furnishing of air transportation services. In such event, the Board may offer substitute space. Nothing in this paragraph 2.6 shall be deemed to require that the Authority provide substitute space which shall be in the sole discretion of the Authority.

ARTICLE 3

TERM

3.1 Commencement Date. The term of the Agreement shall begin on the "Commencement Date," which shall be the date that the Authority shall designate by written notice to Concessionaire promptly following receipt by Authority of evidence satisfactory to the Authority that Concessionaire has obtained all required permits, licenses and certificates to operate the Concession.

3.2 Termination Date. The term of this Agreement shall be for a period of approximately five (5) years, beginning on the Commencement Date and terminating on June 30, 2025.

3.3 Renewal and Extension of Time.

a. Notwithstanding any other provisions herein to the contrary, the Authority reserves the right to extend the term of the Agreement on all the same terms and conditions set forth herein on a month-to-month basis for a period of up to six (6) months.

b. At its option, after the initial term, the Authority may renew this Agreement for an additional period of up to five (5) years on the terms and conditions herein, but with such rentals and fees as may be mutually agreeable between the Authority and Concessionaire.

c. Authority shall provide Concessionaire notice of its intent to extend or renew this Agreement not less than sixty (60) days prior to the Termination Date.

3.4 Transition of Service. Concessionaire shall take all reasonable steps to coordinate with the current concessionaire, as may be applicable, a smooth transition of service within ten (10) days of execution of this Concession Agreement.

ARTICLE 4

PAYMENTS

4.1 For the privilege of operating the Concession in compliance with the terms and conditions set forth in the Agreement, Concessionaire agrees to pay to the Authority the following payments:

a. Fixed Rent. The Fixed Rent for the Concession Area shall be Three Hundred Fifty and 00/100 Dollars ($350.00) per month.

b. Concession Fee. The Concession Fee shall be the percentage of annual Gross Revenue offered by Concessionaire in its Proposal.

c. Parking Fee. The Parking Fee for the five (5) curbside parking spaces shall be Three Hundred Seventy-Five and 00/100 Dollars ($375.00) per month.

4.2 The Fixed Rent and Parking Fee shall be payable in advance and shall be due, without notice or demand from the Authority, on the first (1st) day of the month.

4.3 The Concession Fee shall be due and payable monthly, without notice from the Authority, on the fifteenth (15th) day of the month following the month during which the business on which the fee is based occurred. Concessionaire shall furnish to the Authority a report in a format and level of specificity approved by the Authority describing Concessionaire's Gross Revenue and the number of passengers carried to and from the Airport, for the preceding calendar month and shall simultaneously pay the Authority the percentage of Gross Revenue offered by Concessionaire in its Proposal.

4.4 Within ninety (90) days after the close of each contract year, Concessionaire shall furnish to the Authority a sworn statement, certified by an independent certified public accountant, showing all Gross Revenue derived from its operation of the Concession Area for the contract year.

4.5 Delinquent Payments. All delinquent payments of any amounts due to the Authority by Concessionaire shall be subject to a service charge of two percent (2.0%) per month on the outstanding balance until paid. In addition to such service charge, the Authority shall be entitled to interest at the judgment rate plus all costs of collection of amounts past due, including without limitation, attorneys' fees and court costs.

4.7 Concessionaire shall not list Concession Fees payable to the Airport as a separate item on its customer contracts or invoices.

ARTICLE 5

BOOKS AND RECORDS

5.1 Concessionaire shall maintain, in accordance with generally accepted accounting practices, throughout the term of the Agreement and for five years (5) thereafter, records and books of account, recording all transactions in any way connected with its operation at the Airport, which records and books of account shall be made available upon demand at reasonable

times for audit and inspection by the Authority. If such records and books of account are maintained outside the City of Norfolk, Concessionaire shall reimburse the Authority for expenses incurred in sending representatives to wherever such records may be maintained, such expense to include, but not be limited to, transportation, lodging, food, and other out-of-pocket expenses resulting from the necessity to leave Norfolk.

ARTICLE 6

SECURITY DEPOSIT

6.1 Upon the execution of the Concession Agreement by Concessionaire and delivery thereof to the Authority, Concessionaire shall also deliver to the Authority as a security deposit, a cashier's check, certified check, irrevocable letter of credit from a bank insured by FDIC, or a performance bond issued by a surety authorized to do business in the Commonwealth of Virginia, in the amount of Five Thousand and 00/100 Dollars ($5,000.00).

6.2 This security deposit shall remain in the possession of the Authority during the full term of the Concession Agreement as security for the full, faithful, and prompt performance of and compliance with, on the part of the Concessionaire, all of the provisions, terms, and conditions of the Concession Agreement.

6.3 The Authority shall have the right to use said deposit and any interest thereon or any part thereof in whole or partial satisfaction of any of its claims or demands against Concessionaire. In the event the Authority shall so use the deposit, or any part thereof, Concessionaire shall, on demand of the Authority and within two (2) business days thereafter, deposit with the Authority the sum necessary to maintain the deposit at the amount herein set forth.

6.4 If such security deposit is in the form of a cashier's check or certified check, it shall be deposited by the Authority in an interest-bearing account. The Authority will return said deposit with any interest earned to Concessionaire upon the expiration or termination of the Concession Agreement, less any monies owed the Authority.

ARTICLE 7

IMPROVEMENTS BY CONCESSIONAIRE

7.1 Concessionaire, at its own expense, shall make any Improvements to the Concession Area, including modifications to heat and air conditioning, as may be required for providing the Service under the terms and conditions in the Agreement.

7.2 Concessionaire shall not make any additions to, or alterations or modifications of, the Concession Area without first obtaining the written approval of the Authority. Prior to commencing its Work, Concessionaire shall submit to the Authority for its review and approval its detailed plans, designs, and specifications, including its cost estimates and proposed contractors for its Work. No substantial change, addition, or alteration shall be made in the scope or extent of Concessionaire's Work as approved by the Authority without first obtaining approval in writing from the Authority.

7.3 Concessionaire's Work shall comply with applicable federal, state, and local statutes, ordinances, building codes, and rules and regulations. Concessionaire shall procure all building, fire and safety, and other permits necessary in connection with its Work.

7.4 Concessionaire, within ten (10) days after notification by the Authority of its approval, shall commence its Work in the Concession Area in accordance with the conditions of approval and schedule agreed to by the Authority. Concessionaire shall be fully liable to the Authority for any damage that results from its Work. All deliveries of materials and supplies shall be made through routes designated by the Authority.

7.5 The payments specified in Article 4 herein shall begin on the Commencement Date of the Agreement and no allowance will be made for delay in Concessionaire completing its Work.

7.6 All work done, equipment supplied and installed, and decor furnished by Concessionaire, as herein provided, shall be at its sole cost and expense, free and clear of liens for labor and material, and Concessionaire shall hold the Authority harmless from any liability in respect thereto.

7.7 Concessionaire shall furnish its Performance and Payment Bond in the form acceptable to the Authority in the amount of one hundred percent (100%) of its total construction costs to guarantee completion of its Work.

7.8 Concessionaire shall pay all claims lawfully made against it by its contractors, subcontractors, materialmen, and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with the performance of any Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them.

7.9 Nothing herein contained shall be deemed to constitute consent to the creation of any lien or claim against the Concession Area or any part thereof, any Improvements thereto or

thereon, or any other part of the Airport, and Concessionaire shall not permit any lien to be attached to such areas.

7.10 Upon the completion of the installation of all Improvements, title thereto shall be automatically transferred to and vested in the Authority. During the term of the Agreement, Concessionaire, at its expense, shall maintain, replace, and keep in good repair and operating condition all Improvements. During the term of the Agreement, the Concessionaire, at its expense, shall maintain insurance upon all Improvements which insurance coverage shall name the Authority as an additional named insured.

7.11 Concessionaire shall retain title to Concessionaire's Property. A list of such property shall be agreed to between Concessionaire and the Authority and shall be attached to the Agreement as **Appendix B**.

ARTICLE 8

REPRESENTATIONS AND WARRANTIES OF CONCESSIONAIRE

8.1 Concessionaire represents and warrants to the Authority that:

a. It is duly organized and validly existing under the laws of its jurisdiction, incorporation or establishment;

b. It has the power and the authority to enter into and perform its obligations under the Agreement and to pay any payments and other fees required under the Agreement;

c. The Agreement has been duly authorized, executed, and delivered by it and, assuming the due authorization, execution and delivery hereof by the other parties hereto, constitutes a legal, valid, and binding obligation of it enforceable against it in accordance with the terms hereof, subject to applicable bankruptcy, insolvency, and similar laws affecting creditor's rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law;

d. Its execution and delivery of the Agreement and its performance of its obligations hereunder do not and will not constitute or result in a default under, a breach or violation of, or the creation of any lien or encumbrance on any of its property under, its charter or by-laws (or equivalent organizational documents), or any other agreement, instrument, law, ordinance, regulation, judgment, injunction, or order applicable to it or any of its property;

e. All consents, authorizations, and approvals requisite for its execution, delivery, and performance of the Agreement have been obtained and remain in full force and

effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required for such execution, delivery or performance; and

f. There is no proceeding pending or threatened against it at law or in equity, or before any governmental instrumentality or in any arbitration, which would materially impair its ability to perform its obligations under the Agreement, and there is no such proceeding pending against it which purports or is likely to affect the legality, validity or enforceability of the Agreement.

ARTICLE 9

OBLIGATIONS AND COVENANTS OF CONCESSIONAIRE; COMPLIANCE WITH LAW

9.1 Concessionaire covenants to the Authority that as long as it shall have any obligations under the Agreement it shall:

a. Provide the Service pursuant to its Proposal and in accordance with this Agreement consistent with the Standards of Service set forth herein, except as modified by written agreement with the Authority.

b. Conduct an operation that complies with the highest standards for providing the Service promptly, reliably, efficiently, and courteously to meet all reasonable demands therefore on a fair, equal, and nondiscriminatory service basis.

c. Furnish all equipment, supplies, material, and personnel necessary for the Service.

d. Obtain and maintain in full force and effect all authorizations, consents, approvals, permits, licenses, and certificates required by any governmental or other authority (federal, state, or local) to provide and operate the Service. Concessionaire shall notify the Authority immediately in writing in the event that any such authorization, consent, approval, permit, license, or certificate is terminated, revoked, restricted, suspended, forfeited, or otherwise lost for any reason.

e. Use its best efforts in every proper manner to maintain, develop, and increase the business conducted by it hereunder.

f. Not divert or cause to be diverted any business provided under the Agreement or which may be provided by other tenants and concessionaires on the Airport.

g. Not place any merchandise, furnishings, displays, or Concessionaire's Property outside the Concession Area at any time.

h. Conduct its operations in an orderly and proper manner so as not to unreasonably annoy, disturb, or be offensive to others on or near the Airport. Concessionaire shall take all reasonable measures to eliminate vibrations tending to damage any equipment, structures, buildings, or portions of buildings.

i. Be responsible for the conduct, demeanor, and appearance of its employees and invitees and of those doing business with it. Upon receipt of any complaint or objection to the conduct, demeanor, or appearance of the employees, invitees or those doing business with the Concessionaire, Concessionaire shall immediately take all reasonable steps necessary to remove the cause of the complaint or objection.

j. Be responsible for the proper storage and removal from the Airport of all garbage, debris, and other waste materials, arising out of its operation, and shall not use any facilities of the Authority for such purpose without the prior written consent of the Authority. No such garbage, debris, or other waste materials shall be thrown, discharged, or deposited into or upon the waters on or bordering the Airport.

k. Not do or permit to be done anything which may interfere with free access and passage on the Airport.

l. Pay all taxes and assessments of any nature whatsoever arising in connection with any aspect of the Service, as well as all taxes and assessments against Concessionaire's Property, and secure all necessary city, state, and federal licenses.

9.2 Compliance With the Law. Concessionaire shall observe and obey, and shall ensure that its officers, employees, agents, guests, invitees, and those doing business with it observe and obey, all federal, state, and local laws and ordinances, including all governmental rules, regulations, decisions, and orders of any nature whatsoever applicable to the operations of the Airport or to Concessionaire's operation at the Airport whether presently in force or enacted during the term of the Agreement. Without limiting the generality of the foregoing, Concessionaire specifically agrees as follows:

a. Concessionaire, it's representatives, successors in interest, and assigns, as part of the consideration hereof, will not discriminate against any person on the grounds of race, color, sex, creed, or national origin, nor exclude any person from participation in, nor deny the

benefits of or be otherwise subjected to discrimination in the provision of Services, or in the construction of any Improvements relating to the Concession Area or the furnishing of services thereon.

b. Concessionaire shall use the Concession Area in compliance with all other requirements imposed by or pursuant to 49 C.F.R. Part 21, entitled "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuations of Title VI of the Civil Rights Act of 1964," as may be amended, which is expressly incorporated herein and made a part hereof by reference.

c. Concessionaire shall comply with all applicable provisions of the Americans with Disabilities Act, Public Law 101-336 ("ADA"), as may be amended, with regard to the operations of the Service. Concessionaire shall indemnify the Authority for any damages suffered by or liability imposed on the Authority as a result of Concessionaire's failure to comply with the obligations and responsibilities imposed by the ADA.

d. Concessionaire shall undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, as amended, or any subsequent comparable regulation, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in or receiving the services or benefits of any program or activity covered by this regulation. Concessionaire assures that it will require that its covered sub-organizations provide assurance to Concessionaire that they similarly will undertake affirmative action programs and that they will require like assurance from their sub-organizations, as required by 14 C.F.R. Part 152, Subpart E, as amended, which is expressly incorporated herein and made a part hereof by reference.

e. Concessionaire shall comply with and enforce, as is currently or may be required, all rules, policies, and procedures of the Transportation Security Administration ("TSA") and all other governmental entities pertaining to airport security which affect Concessionaire's operation on the Airport and the Concession Area. In this connection, Concessionaire shall be responsible to ensure that no unauthorized person enters any Security Identification Display Area ("SIDA") which has been or may be designated by the Authority in its Airport Security Plan.

f. <u>Anti-Discrimination</u>.

(i) During the performance of this Agreement, Concessionaire agrees

as follows:

(A) The Concessionaire will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Concessionaire. The Concessionaire agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(B) The Concessionaire, in all solicitations or advertisements for employees placed by or on behalf of the Concessionaire, will state that such Concessionaire is an equal opportunity employer.

(C) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this Section.

(ii) The Concessionaire will include the provisions of the foregoing Sections 9.2(f)(i)(A), (B), and (C) in every subcontract or purchase order of over Ten Thousand and 00/100 Dollars ($10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

g. Immigration. Concessionaire does not, and shall not during the performance of this Agreement, knowingly employ any unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986, as the same may be amended.

h. Drug-Free Workplace. During the performance of this Agreement, the Concessionaire agrees to (i) provide a drug-free workplace for the Concessionaire's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Concessionaire's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Concessionaire that the Concessionaire maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over Ten Thousand and 00/100 Dollars ($10,000.00), so that the provisions will be binding upon each

subcontractor or vendor.

i. Ethics in Public Contracting. The Concessionaire shall not offer or receive any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor in connection with the Services provided under this Agreement. The Concessionaire shall not confer on any public employee having official responsibility for the Services under this Agreement any payment, loan, subscription, advance, deposit of money, services, or anything more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

9.3 Compliance With Airport Rules and Regulations.

a. Concessionaire shall observe and obey, and shall ensure that its officers, employees, agents, guests, invitees, and those doing business with it observe and obey, all applicable rules and regulations of the Authority, now in effect or hereinafter promulgated, governing the conduct and operation of the Airport.

b. The Authority agrees that, except in cases of emergency, it will give notice to Concessionaire of all such rules or regulations adopted by it at least five (5) days before Concessionaire shall be required to comply therewith. Copies of the rules and regulations are available at the offices of the Authority.

9.4 The Concessionaire shall provide the Authority a true copy of any notice, warning, summons, or other legal process for the enforcement of any laws, ordinances, rules, regulations, decisions, or orders immediately upon receipt of same. Concessionaire shall indemnify and hold the Authority harmless from and against any and all claims, actions, damages, liabilities, fines, penalties, costs, and expenses including attorney fees suffered or incurred by the Authority as a result of Concessionaire's noncompliance with any applicable laws, ordinances, rules, regulations, decisions, or orders.

9.5 Concessionaire shall have such time within which to comply with the aforementioned laws, ordinances, rules, regulations, decision, or orders as the authorities enforcing the same shall allow.

9.6 Concessionaire covenants and agrees that it will not enter into any agreements or understandings, whether or not binding, with any person, firm, association, corporation, or other entity, which would be in violation of applicable federal, state and/or local law.

ARTICLE 10

INGRESS AND EGRESS

10.1 The Concessionaire, its customers, invitees, employees, contractors, suppliers of material, and furnishers of services, shall have the right of ingress and egress between the Concession Area and the city streets or public ways used in common with others having similar rights. The Authority may temporarily or permanently close any such roadway and any other area at the Airport presently or hereafter used as such, so long as an equivalent means of ingress and egress remains available to Concessionaire.

10.2 Concessionaire hereby releases and discharges the Authority, its successors and assigns, of and from any and all claims, demands, or causes of action arising or alleged to arise out of the closing of any street, roadway or other area, whether on or off the Airport.

ARTICLE 11

FEDERAL AIRPORT AID

11.1 Concessionaire acknowledges that the Authority has received, and may in the future apply for and receive, grants of money for the benefit of the Airport, from (i) the Federal Aviation Administration ("FAA"), pursuant to the Federal Airport Act of 1946, the Airport and Airways Development Act of 1970 ("ADAP"), and the Airport and Airway Improvement Act of 1982 ("AIP"), as the same may hereafter be amended and/or replaced by comparable legislation from the FAA; (ii) the Department of Aviation of the Commonwealth of Virginia; and (iii) the City of Norfolk. In connection therewith, the Authority has undertaken or may undertake certain obligations respecting its operation of the Airport and the activities of its lessees, concessionaires, permittees, and contractors thereon.

11.2 Concessionaire covenants and agrees that if the FAA or any other governmental office or body having jurisdiction for the enforcement of the obligations of the Authority resulting from such grant or grants shall make any orders, recommendations or suggestions to the Authority or Concessionaire regarding or affecting the performance of Concessionaire, Concessionaire shall promptly comply therewith.

ARTICLE 12

OBLIGATIONS OF THE AUTHORITY

12.1 The Authority agrees that upon payment of all rents and fees set forth herein during the term of this Agreement and any extension or renewal thereof, and provided that

Concessionaire is in full compliance with the terms and conditions of this Agreement, Concessionaire shall have the peaceful right to use the Concession Area for its Service in accordance with all the rights and privileges herein stated.

12.2 The Authority agrees to furnish to Concessionaire electricity for normal lighting, heating during the heating season, and air-conditioning as required in or about the Concession Area. Concessionaire shall furnish, at its own expense, all telephone line charges, internet services, phone equipment and the cost of maintenance for all three required by it.

ARTICLE 13

LOCAL MANAGEMENT

13.1 Concessionaire shall have in charge at all times a competent and experienced manager who shall be responsible for the day-to-day operation and maintenance of the Service under the Agreement. Concessionaire further agrees that upon notification by the Authority of its dissatisfaction with the manager's performance, Concessionaire shall place the manager on probation for thirty (30) days and, if the manager's performance does not improve to the satisfaction of the Authority, Concessionaire shall immediately replace the manager with one satisfactory to the Authority.

ARTICLE 14

STANDARDS OF SERVICE

14.1 Concessionaire shall provide the public and the air traveler with first class facilities and vehicles, nondiscriminatory services and shall offer only high-quality, prompt and effective ground transportation services adequate to meet all reasonable demands for the Service at the Airport.

14.2 Concessionaire acknowledges the desire of the Authority, as part of its obligation to ensure the highest level of public service, to provide the public and air traveler adequate and competent ground transportation services throughout the year on a seven-day week.

14.3 Concessionaire's vehicles shall be maintained in good operating order, free from known mechanical defects, and in a neat and attractive condition inside and outside. Vehicles are to be no more than three (3) years old based on date purchased, with no more than One Hundred Fifty Thousand (150,000) miles. All vehicles are to be maintained in accordance with the manufacturer's published maintenance and service standards. Vehicles are to be licensed in Virginia, and may not be used if they will not pass Virginia vehicle safety requirements.

Vehicles are to be clean inside and out, showing no interior damage, with an attractive exterior finish, free of collision or paint damage. The operator will maintain written service records for each vehicle which shall be available for review by the Authority upon request.

14.4 Concessionaire covenants and agrees to offer all services at reasonable prices. The Authority reserves the right to request from Concessionaire a list of the rates for each type of service offered by Concessionaire and Concessionaire shall provide such a list within ten (10) days of receipt of the Authority's request. A copy of any application by Concessionaire with the Department of Motor Vehicles ("DMV") will be provided to the Authority simultaneously upon its submission to DMV.

14.5 In the event Concessionaire fails to pick up a passenger who has made arrangements for delivery to the Airport by Concessionaire within fifteen (15) minutes of the time scheduled for pick up, Concessionaire shall promptly reimburse the passenger the full amount of any prepaid fare to the Airport. In addition, if the passenger is not picked up as scheduled, Concessionaire shall promptly reimburse the passenger the difference between the Concessionaire's fare and any costs incurred in procuring an alternate transportation service. If such a passenger misses his scheduled aircraft departure due to Concessionaire's failure to pick up in accordance with prior arrangements, Concessionaire shall also reimburse any additional costs incurred by the passenger as a result of missing the scheduled flight, including but not limited to the following: (i) additional ticketing costs associated with changes in airline itinerary, (ii) cost of overnight accommodations at a local hotel, (iii) cost of transportation between Airport and hotel, and (iv) meals normally occurring during the time the passenger is delayed. Failure of Concessionaire to properly compensate passengers as provided herein will be considered an Event of Default.

14.6 Furnish and operate at all times a sufficient number of suitable vehicles to maintain convenient first class service in accordance with the standards set forth herein between the Airport and all service points authorized by Concessionaire's licenses, certificates and/or permits, as well as those other points to which service such as herein contemplated is normally provided. Concessionaire shall guaranty that no passenger is required to wait at the Airport for an unreasonable period before a vehicle is available to provide such passenger's requested ground transportation.

14.7 Provide motor vehicles which are properly constructed, maintained and equipped

and of such type to fulfill all the requirements of the Service required herein. Such vehicles shall be standard five-passenger, four-door vehicles and/or standard vans with seating capacity not to exceed fifteen (15) passengers. Custom "limousines" are not acceptable vehicles for this Service.

14.8 Promptly notify the Authority in writing of any and all additions or deletions of motor vehicles to or from the Service.

14.9 Minimum Hours of Operation. The service to be provided by Concessionaire as required and authorized under the Agreement shall be made available to the patrons of the Airport, and the Customer Service Counter shall be staffed with sufficient personnel to provide such service at all times during which regularly scheduled commercial airline aircraft arrivals shall occur at the Airport, to include coverage of late arriving aircraft.

a. The Authority may designate, in writing, such changes in the hours herein set forth as it believes necessary to serve the needs and requirements of the traveling public. Concessionaire shall comply with such hours established and shall not change operating hours without prior written approval from the Authority.

b. Concessionaire's telephone shall be operational 24 hours a day, 7 days a week, so that a customer may call and receive information regarding Concessionaire's hours of service.

14.10 All employees or agents of Concessionaire who provide services to the public or who work within view of the public shall wear good quality attractive uniforms. All uniforms used shall be approved by the Authority prior to use, and no substitution shall be permitted without prior approval of the Authority.

14.11 Personnel performing services hereunder shall be neat, clean and courteous, and Concessionaire shall not permit its agents, servants or employees so engage to conduct business in a loud, noisy, boisterous, offensive or objectionable manner, or to solicit business outside the Concession Area in any manner whatsoever except through the use of signs constructed, installed and maintained in accordance with this Agreement.

14.12 Norfolk Naval Base Access Permit. Concessionaire shall obtain the necessary permit(s) to provide pickup and drop off services on the Norfolk Naval Base.

ARTICLE 15

REPAIRS AND MAINTENANCE

15.1 Concessionaire shall furnish, at its own expense, janitorial service for the Concession Area and all other areas assigned or leased to Concessionaire for its exclusive use, and shall maintain such areas and all the furnishings and equipment included therein in a safe, clean, neat, and sanitary condition at all times satisfactory to the Authority.

15.2 Concessionaire, at its own expense, shall maintain the Improvements and Concessionaire's Property in a good state of repair and operating condition, including the replacement and refurnishing of any such items as may require same during the term of the Agreement, whether installed by the Authority or Concessionaire.

15.3 In the event Concessionaire fails to commence such repairs, replacements or refurbishing required hereunder within a period of ten (10) days after written notice from the Authority to do so, or fails to complete same within thirty (30) days after such notice, the Authority may, at its option, and in addition to all such other remedies which may be available to it, repair, replace or refurbish any such item included in said notice and the cost thereof shall be paid by Concessionaire upon demand.

15.4 In the event that the Concession Area is damaged or destroyed, in whole or in part, from any cause whatsoever, Concessionaire shall forthwith proceed with the replacement of, or the reconstruction work necessary to restore the area to the condition and function existing prior to the occurrence of such damage or destruction, and all costs and expense incurred in connection therewith, not covered by Concessionaire's insurance proceeds, shall be paid by Concessionaire.

15.5 Concessionaire shall have the right to contract for delivery of its requirements for any material necessary to the Service and shall be responsible for the collection and daily removal of its refuse and waste from the Concession Area. All deliveries shall be made through the designated service area or as may be otherwise designated by the Authority.

ARTICLE 16

VENDING MACHINES

16.1 The installation of vending machines which dispense food, beverages, chewing gum, tobacco products or any other merchandise shall not be permitted within the Concession Area.

ARTICLE 17

SIGNS AND PUBLIC ADDRESS SYSTEM

17.1 All signs must be constructed and erected in accordance with standards approved by the Authority and at no cost to the Authority. Prior to the erection, construction, or placing of any such signs or advertising matter in the Concession Area, Concessionaire shall submit to the Authority, for its written approval, such drawings, sketches, design dimensions and type, number and character of the sign of advertising matter as necessary to obtain such approval, which approval may be withheld in the Authority's sole discretion.

17.2 Concessionaire shall not hang or affix any sign, poster or other form of display material anywhere outside the Concession Area, nor shall Concessionaire hang any posters, forms of advertising, or any object from the ceiling of the Concession Area.

17.3 The Authority shall have the right, in its sole discretion, to install one or more public address system speakers in the Concession Area for announcing Airport information. Concessionaire shall not install any public address, paging, or other audio system in the Concession Area without the express written approval of the Authority.

ARTICLE 18

PARKING

18.1 The Authority may permit the officers, employees, invitees, and business visitors of Concessionaire to park vehicles in such areas designated by the Authority for such purpose. The fee, if any, for such parking shall be paid by Concessionaire or the operator of the vehicle. Regulations governing employee parking are attached as **Appendix C** to the Agreement.

ARTICLE 19

FIRE OR CASUALTY DAMAGE

19.1 In the event that Improvements or Concessionaire's Property are damaged or destroyed, in whole or in part, from any cause whatsoever including vandalism or trespass, Concessionaire shall forthwith proceed with the replacement of, or the reconstruction work necessary to restore the area to the condition and function existing prior to the occurrence of such damage or destruction, and all costs and expense incurred in connection therewith, not covered by Concessionaire's insurance proceeds, shall be paid by Concessionaire.

19.2 In no event shall Authority be responsible to reimburse Concessionaire any incidental or consequential damages, including, but not limited to, lost profits which may be sustained by Concessionaire.

ARTICLE 20

INDEMNITY BY CONCESSIONAIRE

20.1 Concessionaire shall protect, defend, indemnify, and hold the Authority and its commissioners, officers, directors, and employees, completely harmless from any and all liabilities, losses, suits, actions, claims, judgments, fines, or demands of any character, including, but not limited to, court costs and attorney's fees, brought because of any injuries (including death) or damages received or sustained by any person, persons, or property arising out of or related, in whole or in part, in any way to the provision of the Service or the operations of Concessionaire, its successors, contractors, subcontractors, suppliers, agents, employees or invitees, including but not limited to injuries or damages arising (i) on account of or in consequence of any neglect in safeguarding the Concession Area; (ii) through use of unacceptable materials in constructing the Improvements; (iii) because of any negligent acts or omissions, or misconduct of Concessionaire; (iv) because of any claims for or amounts recovered by any infringements of patent, trademark, or copyright; (v) from any claims or amounts arising or recovered under Concessionaire's worker's compensation coverage, or any other law, ordinance, order, or decree; and (vi) claims arising or alleged to arise with respect to protection of or damages to the Airport or its passengers, guests, invitees and employees.

20.2 Any funds due Concessionaire under and by virtue of the Agreement, as may be considered necessary by the Authority for such purpose, may be retained for the use of the Authority or, in case no such funds are due, Concessionaire's Security Deposit may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the Authority, except that funds due Concessionaire will not be withheld when Concessionaire produces satisfactory evidence, in the form hereinafter prescribed, that Concessionaire is adequately protected by commercial general and automobile liability and property damage insurance provided that the foregoing provisions shall in no way be deemed released, waived, or modified in any respect by reason of any insurance or surety provided by Concessionaire under the Agreement.

20.3 In the event of any such injury (including death), or loss or damage (or claims or claims therefore), Concessionaire shall give immediate notice thereof to the Authority within twenty-four (24) hours of the event.

ARTICLE 21

INSURANCE

21.1 Concessionaire's Insurance. Concessionaire shall maintain such insurance as is customarily maintained by similar business enterprises at commercial airports, which insurance must include, but is not necessarily limited to, the insurance required by the provisions of this Section. Concessionaire shall maintain insurance in companies acceptable to the Authority of the kinds and in the amounts herein specified, with companies licensed and qualified to conduct business within the Commonwealth of Virginia, and having a current A. M. Best Key Rating of at least A, in the prescribed form or such other form as is, in its sole discretion, acceptable to the Authority.

21.2 Forms of Coverage; Limits. In accordance with the above, Concessionaire and any subtenants shall maintain the following forms of insurance coverage and corresponding minimum limits of liability:

FORMS OF COVERAGE	**MINIMUM LIMITS**
Workers' Compensation	**Statutory Limits for Virginia**
Employer's Liability	
Bodily Injury By Accident	$100,000 each accident
Bodily Injury by Disease	$500,000 policy limit
Bodily Injury by Disease	$100,000 each employee
Commercial General Liability on an occurrence basis as follows:	
Combined Single Limit	$1,000,000
General Aggregate Limit	$2,000,000
Products-Completed Operations	$1,000,000
Each Occurrence Limit	$1,000,000
Aggregate Personal Injury and Advertising Injury	$1,000,000
Fire Damage Limit	$100,000
Medical Expense Limit	$5,000

Business Automobile Liability for owned, non-owned, hired, leased, and rented vehicles:	
Combined Single Limits	$1,000,000
Uninsured Motorists	$1,000,000

Commercial General Liability shall include coverage for: (i) Contractual Liability; (ii) Contractor's Protective Liability, including, but not limited to, coverage for explosion, collapse, and damage to underground utilities; and completed operations for 24 months after the work has been completed; and (iii) the Broad Form Comprehensive General Liability Endorsement shall include all of the aforementioned coverages.

21.3 Evidence of Insurance Coverage: Concessionaire shall submit, along with the executed Agreement, the standard "ACORD" insurance certificate forms (or comparable insurance certificate form(s) acceptable to the Authority) signed by an authorized representative of the insurance companies, certifying that the insurance coverage required hereunder is in effect for the Service and Work covered by the Agreement. Said insurance certificate shall indicate that the Authority will be given written notice at least forty-five (45) days prior to cancellation or non-renewal of any insurance required hereunder. Insurance company shall further agree to deliver copies of any insurance policies covering the insurance required hereunder to the Authority within ten (10) days following a request by the Authority for such copies. On all policies of insurance, the Authority shall be an additional insured, or loss payee, as applicable. If available, the policy shall provide for a waiver of subrogation against the Authority.

21.4 Cost of Insurance Coverage: The cost of all insurance required by the Agreement shall be paid by Concessionaire. Notwithstanding the provisions of this paragraph, the Authority shall have the right to pay the premium for each insurance policy required under the Agreement and Concessionaire agrees to reimburse the Authority for all premiums and related expenses associated with the procurement of the necessary insurance coverages under the terms and conditions of the Agreement. Failure of the Authority to secure such insurance for Concessionaire shall not impose any liability upon the Authority and such failure shall not operate to waive or invalidate any obligation assumed hereunder by Concessionaire.

21.5 Notice of Claims: In addition to the provisions of Section 21.4 above, Concessionaire shall provide Authority immediate notice in writing of any claim made on

Concessionaire's insurance. The Authority agrees to notify Concessionaire promptly in writing of any claim, demand, or action arising out of an occurrence related to the performance of the Agreement of which the Authority has knowledge and to cooperate with Concessionaire in the investigation hereof.

21.6 Limitation of Liability: The Authority shall not be liable or responsible for any loss or damage to any real and personal property of Concessionaire, including Concessionaire's vehicles or other equipment, be it mobile, portable or fixed, including loss of income and extra expense associated with any incident, arising out of any incident that is the proximate cause of any peril included within the "Special Causes of Loss" form of the standard Commercial Property Policy as used within the Commonwealth of Virginia, and including additional perils of flood, the dishonest acts of either the Authority's or Concessionaire's employees, earthquake, earth movement, the backup of sewers or drains, collapse of any building or structure, weather conditions, acts of God, or any other cause of loss arising out of nature.

21.7 Third Party Beneficiaries: Concessionaire and the Authority specifically agree that it is not intended by any of the provisions nor any part of the Agreement to cause or create in the public or any individual or other entity a third party beneficiary or to authorize anyone not a party to the Agreement to maintain an action for personal injuries or property damage pursuant to the terms or provisions of the Agreement.

21.8 Defense of Claims. Concessionaire shall defend any and all suits brought against the Authority, and its representatives, officers, agents and employees by any employee or other person (whether employed by Concessionaire or not) for damage to real or personal property and/or injury to persons (including death) alleged or claimed to have been caused by or through the performance of Concessionaire, and shall indemnify and hold harmless the Authority, and its representatives, officers and agents and employees of each of them from and against any and all claims arising out of the operations by Concessionaire, and whether or not such claim or claims are based in whole or in part on the negligence of any one or more of them, except that Concessionaire shall not be liable for any gross negligence on the part of the Authority. Concessionaire shall pay, liquidate and discharge any and all claims or demands for personal injury (including death), and for loss or damage to any and all property caused by, growing out of or incidental to the performance by Concessionaire or the condition of the Concession Area, including, without limitation, damage to the property of the Authority, and including all other

damages and all costs and expenses of such suits and reasonable attorneys' fees. The obligation set forth in this Article shall specifically include, without limitation, all claims and judgments arising or alleged to arise with respect to protection of or damages to adjacent areas of the Airport.

ARTICLE 22

RIGHTS OF ENTRY RESERVED

22.1 The Authority, by its employees, agents, representatives, and contractors shall have the right at all reasonable times to enter upon the Concession Area for the purpose of inspecting the same and for observing the performance by Concessionaire of its obligations under the Agreement and otherwise.

22.2 Without limiting the foregoing, the Authority, through its employees, agents, representatives, contractors, and furnishers of utilities and other services shall have the right to maintain existing and future utility, mechanical, electrical and other systems, and to enter upon the Concession Area at all reasonable times to make such repairs, replacements, or alterations as the Authority may deem necessary or advisable and, from time to time, to construct or install over, in or for access to other parts of the Airport otherwise not conveniently accessible; provided, however, that the exercise of such rights shall not unreasonably interfere with the use and occupancy of the Concession Area by Concessionaire, and that every reasonable effort shall be made to restore the Concession Area to the condition existing prior to the exercise of such rights.

22.3 The exercise of any or all of such rights by the Authority, or others acting on behalf of the Authority, shall not be construed to be an eviction of Concessionaire nor be the grounds for any abatement of the Fixed Rent, Concession Fee, or charge of any type, nor for any claim or demand for damages, consequential or otherwise.

ARTICLE 23

SUBORDINATION OF AGREEMENT

23.1 The Agreement shall be subordinate to the provisions of any existing or future agreement between the Authority and the City of Norfolk, Commonwealth of Virginia, or the United States, relative to the operation, maintenance, or development of the Airport, the execution of which has been or may be required as a condition precedent to the granting of city, state or federal funds for the benefit of the Airport. In the event any such future provision

materially impairs Concessionaire's ability to perform the Agreement, Concessionaire shall have the option to terminate the Agreement on six (6) months written notice to the Authority.

23.2 The Agreement shall be subject to the effect of any covenants, conditions, restrictions, easements, mortgages, deeds of trust, ground leases, rights of way, and any other matters of record; and any land use or zoning laws or regulations of the Commonwealth of Virginia and the City of Norfolk.

ARTICLE 24

ASSIGNMENT OF AGREEMENT

24.1 Concessionaire shall not at any time sell, assign, transfer, pledge or otherwise encumber in any manner whatsoever the Agreement nor any part thereof, nor sublet any portion of the Concession Area, nor any Improvements thereon or thereto for any purpose, nor allow others to use the Concession Area without the prior written consent of the Authority, which consent may be withheld in the Authority's sole discretion.

24.2 Concessionaire acknowledges the importance of the experience, financial capability, and performance criteria that are set forth in the Proposal Documents and that Concessionaire was selected only as a result of Concessionaire's demonstration of Concessionaire's ability to meet and comply with such criteria. Accordingly, Concessionaire agrees that any assignee or transferee of this Agreement must, at the time of assignment or transfer, meet such experience, financial capability, and performance requirements, and thereafter must continue to comply with such requirements throughout the remaining term of this Agreement. Specifically, Concessionaire acknowledges that the prior experience requirements set forth in the bid documents were a material basis upon which Concessionaire was awarded this Agreement and that any assignee or successor must meet such requirements at the time of assignment or transfer. In addition, Concessionaire acknowledges that its financial capability as demonstrated during the procurement stage was a material basis upon which Concessionaire was awarded this Agreement and that meeting and maintaining the financial capability requirements are critical to Concessionaire's ability to perform under this Agreement. Accordingly, Concessionaire acknowledges and agrees that any assignee or successor must meet the financial capability standard in the Proposal Documents at the time of the assignment or transfer and must thereafter maintain the required levels of financial capability throughout the remaining term of this Agreement.

24.3 No assignment or sublease shall in any way affect or diminish Concessionaire's obligation to perform all of the terms, covenants, conditions, and provisions contained in the Agreement.

24.4 The sale or transfer of (i) the controlling stock of a closely held corporation, (ii) the controlling interest in a partnership or limited liability company, or (iii) a sale or transfer of a controlling interest in any Affiliate, whether in a single transaction or as a result of more than one transaction, shall be considered as an assignment for the purpose of this Article.

ARTICLE 25

AGREEMENT BINDING UPON SUCCESSORS

25.1 The Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, as may be permitted herein.

ARTICLE 26

CONDEMNATION

26.1 In the event of the acquisition by condemnation or the exercise of the power of eminent domain (which for these purposes shall not be deemed to include the Authority) of any interest in all or part of the Concession Area, Concessionaire shall not institute any action or proceeding or assert any claim against the Authority for compensation or consideration of any nature whatsoever, and any provision herein contained contrary to the provisions of this Section shall have no force or effect. All compensation awarded or paid upon such a total or partial taking of the Concession Area shall belong to and be the property of the Authority without any participation by Concessionaire.

26.2 Nothing contained herein shall be construed or preclude Concessionaire from recovering directly from the condemning authority the value of any claim, as may exist, for loss of business, or depreciation, damage, or cost of removal, or for the value of Concessionaire's property; provided, however, that no such claim shall diminish or otherwise adversely affect the Authority's award or the award of the Trustee of the presently outstanding Airport Revenue Bonds or future Revenue Bond Issues.

ARTICLE 27

DEFAULT

27.1 The occurrence of any of the following shall constitute a default by Concessionaire:

a. Concessionaire fails to make or cause to be made any payment required herein when due, or fails to provide the insurance herein;

b. Concessionaire fails to observe or perform any provision, covenant, condition, or agreement contained in the Agreement, and such failure continues for a period of five (5) days after written notice of such failure, requiring the same to be remedied, shall have been given by the Authority; provided that if such observance or performance requires work to be done, actions to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied within such 5-day period but can be done, taken or remedied within a reasonable period of time, no default shall be deemed to have occurred or to exist if, and so long as, Concessionaire shall commence such work, action, or other remedy within such 5-day period and shall diligently and continuously prosecute the same to completion;

c. Concessionaire repeatedly fails to observe or perform any provision, condition, covenant, or agreement in the Agreement even if each such failure shall be cured within the time provided in subsection b above.

d. Any warranty, representation, certification, financial statement, or other information made or furnished by Concessionaire at any time is determined by the Authority, in its sole judgment, to be false or misleading in any material respect;

e. If Concessionaire, or any successor or assignee, while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.

f. If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Concessionaire, or if a receiver or trustee shall be appointed of all or substantially all of the property of Concessionaire and such proceedings shall not be dismissed or the receivership or trusteeship vacated within thirty (30) days after the institution or appointment.

g. If Concessionaire shall vacate or abandon the Service;

h. If the Service or any controlling interest in Concessionaire shall be transferred to or shall pass to or devolve on any other party, except in the manner permitted herein; or

i. The criminal conviction of Concessionaire, any Principal of Concessionaire, or any Affiliate of Concessionaire. For purposes of this Section, the term

Principal shall include a shareholder, director, officer, general manager, partner, or member of Concessionaire.

j. Concessionaire is determined by Authority to have committed any of the actions which constitute a reason for denial, suspension or revocation by DMV of a certificate, license, permit, decal or vehicle registration, whether or not DMV imposes such sanction.

27.2 In the event of any default by Concessionaire under the Agreement, in addition to any other remedies available at law or in equity, the Authority shall have the following rights, options, and remedies which shall be construed and held to be cumulative, and no one of them shall be exclusive of the other:

a. The Authority shall have the right to cancel and terminate the Agreement immediately by giving to Concessionaire written notice of the cancellation and termination.

b. The Authority may elect, but shall not be obligated, to make any payment required of Concessionaire or comply with any agreement, term, or condition required by the Agreement to be performed by Concessionaire. The Authority shall have the right to assume the Service for the purpose of correcting or remedying any such default and to continue the Service until the fault has been corrected or remedied, but any expenditure by the Authority shall not constitute a waiver or release of the default of Concessionaire or the right of the Authority to take any action as may be otherwise permissible at law or equity or under the Agreement in the case of any default.

c. The Authority may recover from Concessionaire all damages proximately resulting from the breach, including the cost to the Authority for providing the Service and the payments due the Authority for the balance of the term, which sum shall be due immediately.

d. The Authority shall have the right, but not the obligation, to remove all or any part of Concessionaire's Property located on the Airport and to sell such property and apply the proceeds to any damages incurred by the Authority, or to store Concessionaire's Property in a public warehouse or at a place selected by the Authority, without liability therefore, at the expense and risk of Concessionaire.

27.3 If the Authority pays any sum or incurs any cost as a result of a default, Concessionaire shall reimburse the Authority for all such costs or expenses within ten (10) days from the date of Concessionaire's receipt of the invoice. If Authority personnel is used in the performance of any work as a result of a default, Concessionaire shall reimburse the Authority at

an hourly rate equal to two (2) times the rate of pay (including benefits) normally received by each employee. If material is used in the performance of any work as a result of a default, Concessionaire shall reimburse the Authority at two (2) times the cost of acquisition by the Authority of all such material.

27.4 Concessionaire shall pay all expenses incurred by the Authority in the collection of any payments, damages, or other monies due, or that are incurred by the Authority in any action or proceeding that arises or results from a default, including, but not limited to, court costs and attorney's fees.

27.5 The rights of termination described above shall be in addition to any rights and remedies that the Authority shall have pursuant to the Agreement or at law or in equity, and the exercise by the Authority of any right of termination shall be without prejudice to any other such rights or remedies.

27.6 Default by Authority: Concessionaire's sole remedy against the Authority for its default shall be the right to terminate the Agreement upon ninety (90) days written notice to the Authority if the Authority fails to comply with provisions of the Agreement and such failure is not cured within sixty (60) days of receipt of written notice from Concessionaire.

ARTICLE 28

EXTRAORDINARY TERMINATION BY CONCESSIONAIRE

28.1 The Agreement shall be subject to termination by Concessionaire in the event of any of the following events:

a. The permanent abandonment of the Airport as a commercial air terminal.

b. The lawful assumption by the United States government, or any authorized agency thereof, of the operation, control, or use of the Airport, or any substantial part or parts thereof in such a manner as to substantially restrict Concessionaire from operating there from for a continuous period in excess of ninety (90) days.

c. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the Authority's use of the Airport in such a manner as to substantially restrict Concessionaire from conducting its Services hereunder, provided that such injunction remains in force for a period of ninety (90) days.

28.2 In the event Concessionaire terminates the Agreement pursuant to this Section, Concessionaire shall have no right to seek or recover any damages against the Authority by reason of the termination of the Agreement.

ARTICLE 29

TERMINATION FOR CONVENIENCE

29.1 The Authority reserves the right to cancel and terminate the Agreement for its convenience, for any reason whatsoever, upon thirty (30) days written notice to Concessionaire. In the event of such termination, Concessionaire shall not be entitled to recover any damages from the Authority including, without limitation, lost profits or overhead costs of any nature; provided, however, that Concessionaire may recover the unamortized costs of capital improvements made to the Concession Area which have not been depreciated at the time of termination.

29.2 For purposes of this Section, the unamortized costs of capital improvements shall be calculated on the basis of a straight line, ten (10) year depreciation schedule.

ARTICLE 30

SURRENDER OF POSSESSION; HOLDING OVER

30.1 On the date of the expiration or other termination of the Agreement, the Concessionaire covenants and agrees to yield and deliver, peaceably and promptly, the Concession Area to the Authority, all being in good condition as required by the Agreement.

30.2 Upon the expiration or termination of the Agreement, Concessionaire shall, upon notice from the Authority, take all reasonable steps to cooperate with the designated replacement concessionaire to ensure a smooth transition of the Service.

30.3 If Concessionaire holds over and remains in possession of the Concession Area after the expiration or other termination of the Agreement, without the written approval of the Authority, the Authority may treat such holdover as a month to month tenancy, subject to all the terms and conditions provided in the Agreement, except that any applicable payments shall be equal to 150% of the payments in effect immediately prior to the date of the holding over.

30.4 In addition to any payments as set forth above, Concessionaire shall be liable to the Authority for any and all loss or damages that result from holding over by Concessionaire without the written approval of the Authority.

30.5 It is expressly agreed that the acceptance of any payment by the Authority from Concessionaire in the event that Concessionaire holds over shall not constitute a waiver by the Authority of its right to immediate possession of the Concession Area or any other right at law or equity or pursuant to the Agreement.

ARTICLE 31

REMOVAL OF PROPERTY

31.1 Upon the expiration or termination of the Agreement, or under any other circumstances permitting or requiring Concessionaire to remove all Concessionaire's Property, Concessionaire shall remove such property in a manner and at a time that shall permit continued, uninterrupted operation of the Service. Removal operation shall commence at a time specified by the Authority and shall be completed within five (5) days, but Concessionaire's Property shall be subject to any lien that the Authority may have for any unpaid rents or other fees and charges due under the terms of the Agreement.

31.2 Concessionaire shall repair all damage done to the Concession Area or other Airport property resulting from the removal of Concessionaire's Property, and shall restore the Concession Area to the state of good repair that existed prior to the installation of Concessionaire's Property, less normal wear and tear.

ARTICLE 32

RELATIONSHIP OF PARTIES

32.1 It is understood and agreed that nothing in the Agreement is intended or should be construed as in any way creating or establishing a partnership between the Authority and Concessionaire or of creating a joint venture, or as establishing Concessionaire as the agent, representative, or employee of the Authority for any purpose or in any manner whatsoever. This Agreement is not intended to, and in no event shall it be construed as, granting Permittee any express or implied right or authority to bind the Authority in any manner whatsoever.

32.2 Concessionaire is to be, and shall remain, an independent contractor with respect to the Service and any other actions performed under the Agreement or any part thereof. Concessionaire shall be solely responsible for paying any and all applicable income and payroll taxes, employment taxes, social security, Medicare, and the like, related to any remuneration received by Concessionaire in performing the Services and any other actions under this Agreement.

ARTICLE 33

WAIVERS

33.1 Every provision herein imposing an obligation upon Concessionaire is a material inducement and consideration for the execution of the Agreement. No waiver by the Authority of any of the terms, covenants, or conditions of the Agreement, or noncompliance therewith, shall be deemed as a waiver at any time thereafter of the same or any other term, covenant, or condition herein contained, nor of the strict and prompt performance thereof.

33.2 No delay, failure, or omission of the Authority to re-enter the Concession Area or to exercise any right, power, privilege, or option arising from any default, or subsequent acceptance of payment of any sort then or thereafter accrued shall impair any such right, power, privilege, or option, nor be construed as a waiver of any such default or acquiescence therein.

33.3 No notice by the Authority shall be required to restore or revive time as being of the essence hereof after waiver by the Authority of any event of default in one or more instances.

ARTICLE 34

WAIVER OF CLAIMS FOR ANTICIPATED PROFITS

34.1 Concessionaire waives any claims against the Authority and its Commissioners, officers, directors, agents, or employees for loss of anticipated profit in any suit or proceeding involving the Agreement or any part thereof.

ARTICLE 35

FORCE MAJEURE

35.1 If either party hereto shall be delayed, hindered in, or prevented from, the performance of its obligations under the Agreement by reason of riots, insurrection, war, acts of God, terrorism or other reason of like nature, not the fault of such party (hereinafter, a "Permitted Delay," or the "Permitted Delays"), such party shall be excused for the period of time equivalent to the delay caused by such Permitted Delay. Notwithstanding the foregoing, any extension of time sought by Concessionaire for a Permitted Delay shall be conditioned upon it providing written notice of such Permitted Delay to the Authority within ten (10) days of the event causing the Permitted Delay.

35.2 In no event shall Concessionaire be relieved of its obligations to pay the Concession Fee or the Fixed Rental except as otherwise set forth in the Agreement.

ARTICLE 36

DISPUTES

36.1 Concessionaire shall submit all claims, of whatsoever nature or basis, in writing, to the Executive Director of the Authority within ten (10) days of the occurrence allegedly giving rise to such claim. Any claim not timely submitted to the Executive Director is waived.

36.2 The Executive Director shall respond to such written claim within thirty (30) days of the receipt of the claim by either: (i) making a written determination with respect to the claim, or (ii) making a writing request for additional information. If requested, Concessionaire shall provide all requested additional information within ten (10) days of the date of the Executive Director's request, or the claim is waived. Thereafter, the Executive Director shall make a written determination with respect to the claim within thirty (30) days after receipt of the additional information. In either case, the Executive Director's written determination shall be final and conclusive unless within thirty (30) days from the date of the Executive Director's written determination, Concessionaire requests, in writing, an appeal to the Authority's Board of Commissioners (the "Board") stating specifically all grounds of appeal.

36.3 The Board shall use its best efforts to hear any such appeal within one hundred twenty (120) days after the Board's receipt of the written appeal. At such hearing, Concessionaire shall be afforded such opportunity to be heard and to offer relevant evidence in support of its appeal, as may be determined by the Board in its sole discretion. The decision of the Board shall be final and conclusive unless appealed by Concessionaire within thirty (30) days to the Circuit Court for the City of Norfolk and found by the Court to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith.

36.4 Concessionaire shall diligently continue performance of the Agreement, including as may be directed by the Executive Director or the Board, regardless of whether such dispute is pending or on appeal, and regardless of the outcome of such dispute or appeal.

ARTICLE 37

SITUS AND SERVICE OF PROCESS

37.1 The Circuit Court for the City of Norfolk shall have exclusive jurisdiction and venue with respect to all disputes, actions, and proceedings arising from or under the Agreement, regardless of the nature or basis of the dispute.

37.2 Concessionaire consents to the jurisdiction and venue of the aforesaid Court and waives personal service of any and all process upon Concessionaire in all such actions or proceedings, and consents that all such service or process shall be made by certified mail, return receipt requested, directed to Concessionaire at the address herein stated, and service so made shall be completed two (2) days after the same shall have been posted as aforesaid.

ARTICLE 38

CONCESSIONAIRE'S DEALINGS WITH THE AUTHORITY

38.1 Whenever Concessionaire is required or permitted to obtain the approval of, consult with, give notice to, or otherwise deal with the Authority, Concessionaire shall deal with the Authority's authorized representative.

38.2 The Authority's authorized representative shall be its Executive Director, unless or until the Authority shall give Concessionaire written notice to the contrary.

ARTICLE 39

NOTIFICATION

39.1 All notices from one party to the other under the Agreement shall be in writing, delivered by hand or by recognized commercial courier services or mailed by registered or certified mail to the address indicated herein, with the right to change addresses upon written notice of one party to the other.

If to Norfolk Airport Authority:	If to Concessionaire:
Executive Director	_____
Norfolk Airport Authority	_____
Norfolk International Airport	_____
2200 Norview Avenue	_____
Norfolk, Virginia 23518-5807	_____

ARTICLE 40

INTERPRETATION

40.1 The Agreement shall be construed according to the laws of the Commonwealth of Virginia, without regard to its conflicts of law principles.

40.2 The language of the Agreement shall be construed according to its fair meaning, and not strictly for or against either the Authority or Concessionaire.

40.3 The table of contents, titles, and section headings appearing herein are solely for convenience of reference for the parties and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of the Agreement.

40.4 If any provision of the Agreement is determined to be void or unenforceable for any reason by any court of competent jurisdiction, then such determination shall not affect any other provision of the Agreement and all such other provisions shall remain in full force and effect.

40.5 The Agreement constitutes the entire agreement between the Authority and Concessionaire. Each of its documents, and the exhibits and appendixes attached hereto, are incorporated herein by this reference as if fully set forth herein and made apart thereof. No change in, modification of, or supplement to, the Agreement shall be valid or enforceable unless it is in writing and signed by the duly authorized representatives of both the Authority and Concessionaire.

[Remainder of page intentionally left blank. Signature page follows.]

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

AUTHORITY:

NORFOLK AIRPORT AUTHORITY,
a political subdivision of the
Commonwealth of Virginia

By: _____
Name: _____
Title: _____

ATTEST:

_____
Assistant Secretary

CONCESSIONAIRE:

_____,
a _____

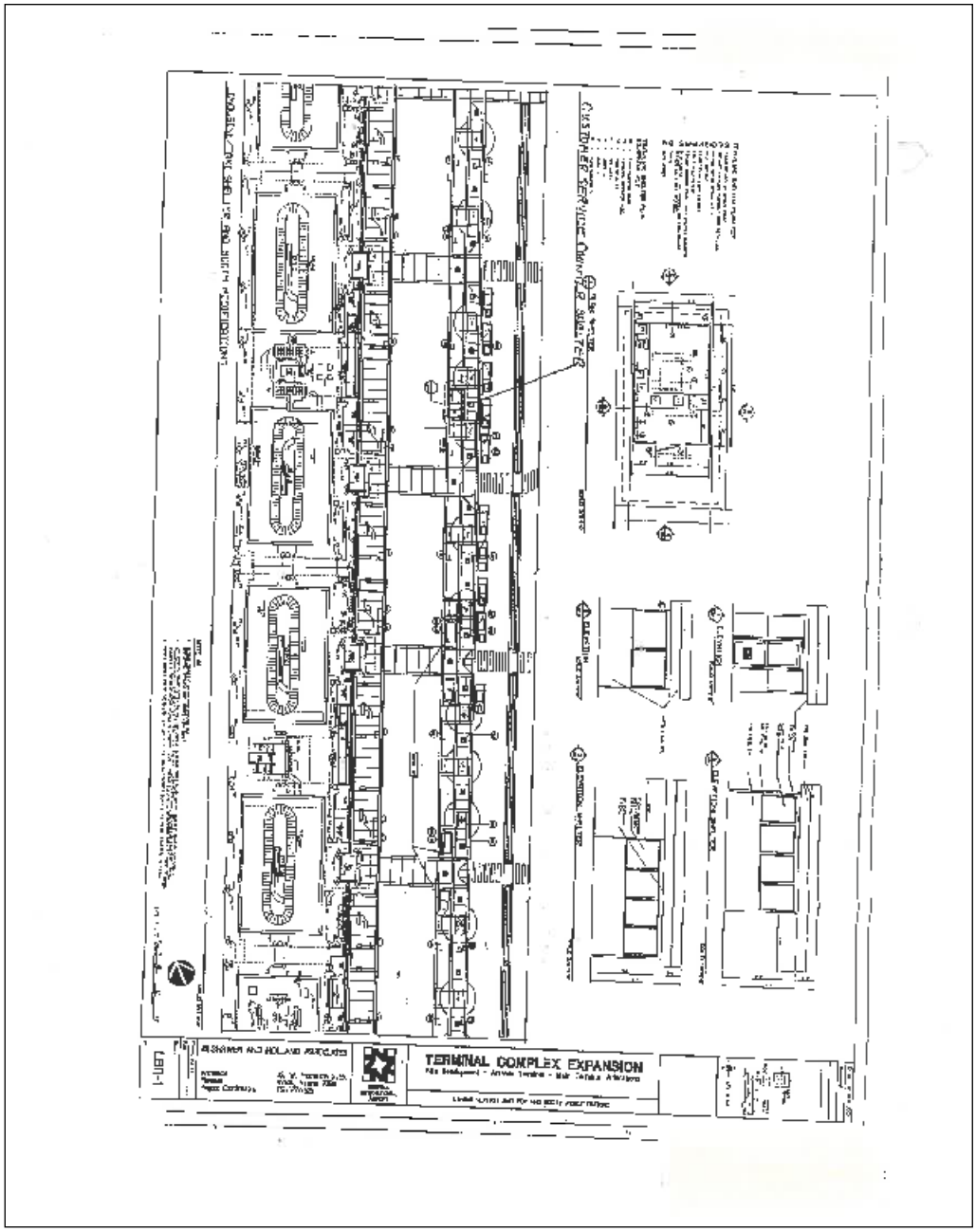
By: _____
Name: _____
Title: _____

ATTEST:

_____
Secretary

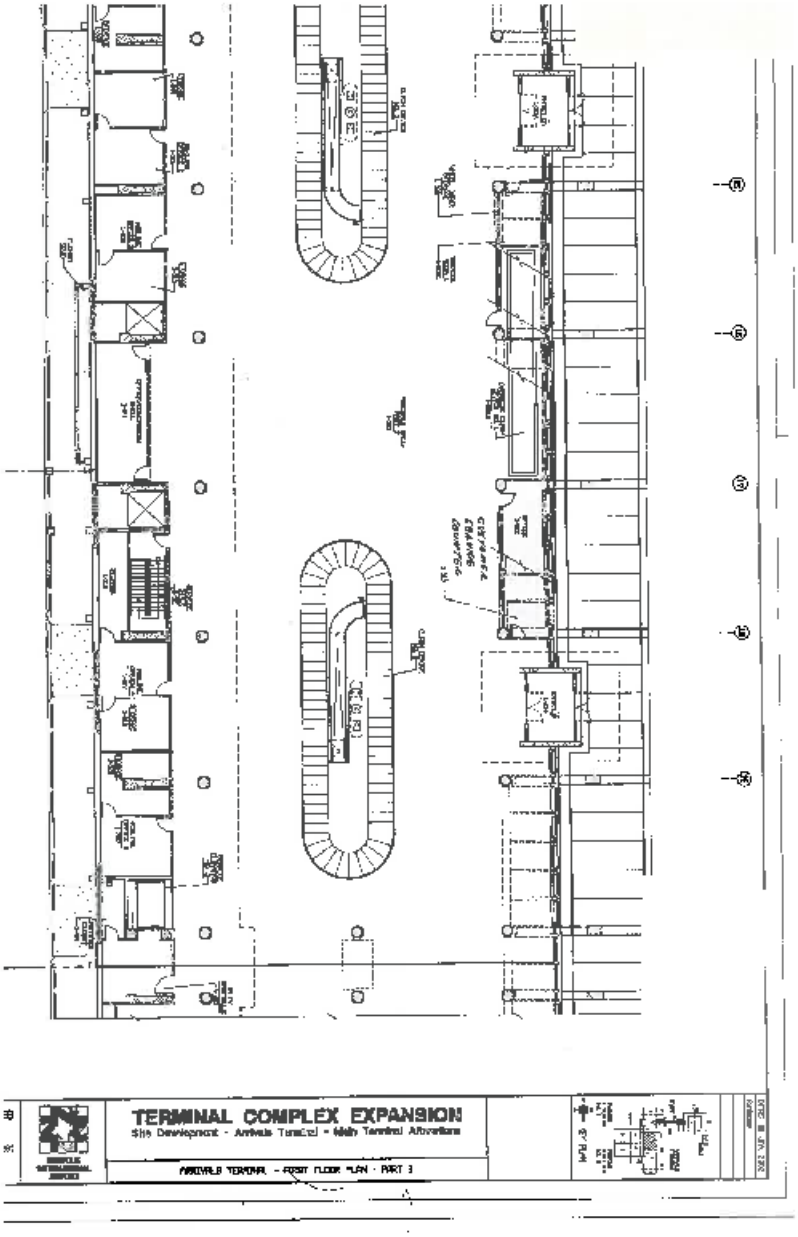
Concession Agreement
APPENDIX A

CONCESSION AREAS NORFOLK INTERNATIONAL AIRPORT



Concession Agreement
APPENDIX A-1

CONCESSION AREAS NORFOLK INTERNATIONAL AIRPORT



Concession Agreement
APPENDIX B

CONCESSIONAIRE'S PROPERTY

Concession Agreement
APPENDIX C

NORFOLK INTERNATIONAL AIRPORT
Rules, Regulations and Parking Agreement
Tenant Employee Parking Program
(effective February 2021)

As operator of Norfolk International Airport, the Norfolk Airport Authority (Authority) provides parking accommodations for employees of Airport Tenants which are under contract/lease with the Authority. Generally, the contract/lease between the Authority and the Airport Tenant addresses "parking" on the Airport.

To establish effective controls governing employee parking, the Authority hereby establishes the following Rules and Regulations for the Tenant Employee Parking Program at Norfolk International Airport:

1. Tenant employee parking is to be used in conjunction with official business duties and is available at location(s) designated by the Authority. Currently, the public Long Term Parking facilities have been designated as authorized location(s) for tenant employee parking. **Unauthorized tenant employees parking in any Short Term Parking facility will be required to pay the parking fees accrued and will not be eligible for reimbursement.**

2. Tenants will be invoiced a fee of $25.00 per month, or **any part thereof**, for each employee enrolled in this program. This rate is subject to future increases at the discretion of the Norfolk Airport Authority.

3. The signatory of each Airport Tenant (including Airlines) will be responsible for requesting issuance of a parking access card for each authorized Tenant employee in accordance with the following criteria and procedures:

   a. Each Tenant employee enrolled in this program will receive one parking access card. This parking access card will be specially encoded to allow entry and exit into authorized locations for Tenant employee parking. **This parking access card may not be utilized by anyone other than the employee to whom the credential was issued. This parking access card shall not be altered in any way** or stored near credit cards or any other type of magnetic source.

   b. There will be a $25.00 replacement fee for all lost, stolen, or damaged cards.

   c. The signatory of each Airport Tenant (including Airlines) will be responsible for obtaining and issuing employee parking access cards to their authorized employees. **UNDER NO CIRCUMSTANCES** will anyone other than the signatory retrieve employee parking access cards directly from the Authority. For definition purposes, **AUTHORIZED EMPLOYEES ARE THOSE PERSONS**

WHO WORK DIRECTLY FOR A TENANT UNDER CONTRACT/LEASE WITH THE AUTHORITY AND WORK ON THE NORFOLK INTERNATIONAL AIRPORT PROPERTY. NON-BASED AIRLINE CREW MEMBERS ARE NOT CONSIDERED AUTHORIZED EMPLOYEES.

d. The Authority will invoice Airport Tenants monthly for each employee registered in this program. Payment for employee monthly parking fees is due thirty (30) days after invoiced by the Authority.

e. The signatory of each Airport Tenant (including Airlines) will be responsible for sending a request to de-activate the parking access card for a terminated employee. This notification should be sent to: employeeparking@norfolkairport.com. Failure to do so will result in the continued billing of all appropriate fees associated with the parking access card.

f. Tenant employees must have their parking access card and their SIDA badge or other photo identification in their possession at the time of exit. **Tenant employees that do not have either of these items will be required to pay the parking fees accrued and <u>will not</u> be eligible for reimbursement.**

g. Tenant employees agree to abide by all signs, pavement markings, and Airport rules and regulations while utilizing any parking facility at the Norfolk International Airport.

4. Employees of Airport Tenants with independent facilities not located in the Departures Terminal or Arrivals Terminal are not eligible for parking privileges under this program.

5. These Rules and Regulations are subject to modification at the discretion of the Authority.

I have read and understand the Rules, Regulations and Parking Agreement for the Tenant Employee Parking Program detailed above and agree to abide by the same. I further understand that my participation in this program can be terminated for failure to follow any of the terms detailed above and/or at the sole discretion of the Authority.

Tenant/Company Name (Print) _____

Tenant Signatory Name (Print) _____ Date_____

Tenant Signatory (Sign) _____

Tenant Signatory Telephone #_____

Tenant Signatory Email: _____

Tenant Employee Name (Print) _____ Date_____

Tenant Employee Name (Sign) _____

-PARKING OFFICE USE ONLY-

Parking Access Card Issued by: _____ Date: _____ Number: _____

Parking Access Card Issued by: _____ Date: _____ Number/s: _____

Notes:

_____

_____

_____

_____

_____

_____

4843-0675-0779, v. 1