Request for Bids

Banking Services Lease

City and County of San Francisco
London N. Breed, Mayor

Airport Commission
Malcolm Yeung, President
Everett A. Hewlett, Jr., Vice President
Jane Natoli
Jose F. Almanza

Ivar C. Satero, Airport Director
May 12, 2023

SFO San Francisco International Airport

Banking Services Lease
SCHEDULE

All times are San Francisco Time

ACTIVITY	**DATE / TIME / LOCATION**
Informational Conference:	Wednesday, May 24, 2023 10:00 a.m. (Pacific) Online Only San Francisco International Airport
Deadline for submission of questions or requests for clarification:	Wednesday, May 31, 2023 2:00 p.m. (Pacific)
Request for Bids Web Portal Open for Submittals at: http://www.flysfo.com/business-at-sfo/current-opportunities	Wednesday, August 9, 2023 2:00 p.m. (Pacific)
Submittal Deadline:	Wednesday, August 16, 2023 2:00 p.m. (Pacific)
Bid Electronic Submittal Location:	San Francisco International Airport Request for Bids Web Portal
Minimum Annual Guarantee Bid and Bid Bond Submittal Location:	Revenue Development and Management 575 North McDonnell Road, Suite 3-329 San Francisco International Airport San Francisco, CA 94128 Attn: Kevin Bumen Chief Financial and Commercial Officer ***Please note - the United States Postal Service (USPS) does not deliver to this address. Use an alternative delivery service or method.**
Bid Opening:	Friday, August 18, 2023 9:00 a.m. SFO Business Center 575 N. McDonnell Road, 3rd Floor Revenue Development and Management Conference Room San Francisco International Airport
Estimated Concession Award Date:	September, 2023

This schedule is subject to change at the sole discretion of the Airport.

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PART I – CONCESSION OPPORTUNITY

Please note that the terms of this Concession Opportunity, including the provisions relating to rent, lease term, deposit, insurance, and operational and merchandise requirements, are described in more detail in the Lease included as Part IX – Lease.

1. Introduction

This Request for Bids (this "**RFB**") and the Informational Conference are intended to inform interested parties about the competitive selection process for this Concession Opportunity at the San Francisco International Airport ("**SFO**" or the "**Airport**"). It is anticipated that the selection process will take several months, culminating with the Airport Commission's award of the Lease.

Definitions of keys terms used in this RFB are detailed in ***Appendix A***.

2. Airport Concession Program

The San Francisco Bay Area evokes colorful images for tourists and business travelers – the Golden Gate Bridge, fine restaurants, elegant hotels, world class and cutting edge retail, the Museum of Modern Art, sail boats on the Bay, the Palace of Fine Arts, wine country, Stanford University, beautiful natural surroundings, and Alcatraz Island. SFO is often the first and last impression travelers have of San Francisco.

The Airport continually seeks new concessions to maximize goods and services available to passengers and to reflect the unique offerings and flavors of the San Francisco Bay Area region. The Airport Commission is committed to the participation of local owners featuring local concepts in its concession opportunities. SFO's food and beverage program is largely local, featuring fresh ingredients and enticing restaurateurs. The retail program provides a thoughtful mix of both local flavor and national and international brands. Traveler services include ATMs throughout the terminals, spas, a travel agency and baggage storage operation, showers, and a medical clinic. Further amenities include an Airport Museum, a dynamic art collection throughout the terminals, free WiFi, yoga rooms, animal relief areas and hydration stations.

3. Description of the Lease

In participating in this selection process, each Bidder will be seeking to operate a concession at the Airport pursuant to the Lease (see Part IX). The Lease describes the business and operational requirements of this Concession Opportunity, including the premises, rent, lease term, deposit, insurance requirements, nondiscrimination requirements, and other important provisions.

The Airport Commission strongly encourages each Bidder to review the Lease carefully. The Airport Commission reserves the right to revise the form of the Lease prior to its execution to (a) reflect the Concession Opportunity developed pursuant to this RFB, (b) incorporate any City requirements adopted or deemed applicable after the drafting of such Lease, and (c) incorporate any other non-material provisions desired by the Airport Commission.

4. Summary of Lease Terms

a. Term. The base term for the Lease is approximately **three** (**3**) **years**, plus a period of up to ninety (90) days for construction of tenant improvements. The Airport Commission will have one (1) option to extend the term by two (2) years, exercisable at its sole and absolute discretion.

b. Permitted Use. The provision of Automated Teller Machines, as described on **Exhibit B** of the Lease. The successful Bidder shall operate the Premises in strict conformity with the Permitted Use requirements of the Lease.

c. Rent. For each year of the Lease, the annual base rent shall be the higher of the Minimum Annual Guarantee ("MAG") or 70% of Gross Revenues. The MAG for the first year of the Lease will be based on the MAG Offer made by the successful bidder (*Submittal E*).

   Minimum Acceptable Bid Amount: $500,000.00

   Additional rent includes utilities and taxes. Office and storage spaces are available for a fee under a separate permit with the Airport.

d. Deposit Amount. During the life of the Lease, the successful Bidder is required to maintain a deposit calculated at **one-half (1/2) of the MAG**, as may be adjusted pursuant to the Lease.

e. Minimum Investment Amount. An amount satisfactory to meet the requirements of Airport's Design Review Committee and the Tenant Design Guidelines.

Bidders should pursue professional advice on the cost of construction in the San Francisco area and, in particular, in an airport. The design must comply with the San Francisco International Airport Tenant Guidelines and approved by the Airport Design Review Committee. Based upon unaudited reports from tenants, recent concession build-outs have ranged from approximately Four Hundred and Fifty Dollars ($450) to One Thousand Two Hundred Dollars ($1,200) per square foot.

5. Premises (Drawings are included in Part IX – Lease)

Six ATM locations in Harvey Milk Terminal 1 and Terminal 3; one Long-Term Parking Garage ATM location; and five ATM locations in the International Terminal.

6. Airport Concession Disadvantaged Business Enterprise Program

The Airport Commission is committed to the participation of small businesses, including certified Airport Concession Disadvantaged Business Enterprises (“**ACDBE”s**) as primes, joint ventures, and/or sublessees in its concessions, including this Concession Opportunity. The Airport has established an ACDBE program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. It is the policy of SFO to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. SFO has established an overall ACDBE participation goal of 15.6%. In order to be counted toward the Airport’s overall ACDBE goal a small business must be certified as an ACDBE at time of award by a certifying agency within the California Unified Certification Program (“**CUCP”**), in accordance with 49 CFR Part 23.

An ACDBE is defined as a "concession that is a for-profit small business concern that is: (1) at least 51% owned by one or more individuals who are both socially and economically disadvantaged" and (2) “whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it."

The Airport’s ACDBE program is overseen by the Airport’s Economic and Community Development Office (“**ECD”**). ECD serves as an advocate and information disseminator for small and disadvantaged businesses, and initiates policies and activities to maximize their participation in Airport opportunities. Additional information may be obtained through the Airport’s Economic and Community Development Office at (650) 821-5242, SmallBusiness@FlySFO.com, or https://www.flysfo.com/business/small-business-development

7. Limitation of Total Airport Leases

On February 21, 2023, by Resolution No. 23-0055, the Airport Commission adopted its current “**Limit of 8 Leases Policy**.” The Limit of 8 Leases Policy which limits to eight the total number of food and beverage and/or retail leases for which operations have commenced that may be held by any individual or entity either through award, transfer, assignment, sublease or other means. For purposes of the Limit of 8 Leases Policy, an individual or entity shall mean an owner with greater than 50% direct or indirect ownership interest in the lease. Leases featuring nationally or internationally branded retail concepts and leases in holdover status shall not be counted toward the eight leases limit. The Airport may disqualify any Bidder and reject the bid as unacceptable if it anticipates the award of a Lease to such Bidder will violate this Limit of 8 Leases Policy, as further set forth in Part V, Section 9.

PART II – INSTRUCTIONS TO BIDDERS

1. Virtual Informational Conference, and Tour of Locations

Bidders are encouraged to attend the Informational Conference where questions regarding this RFB will be addressed, and any new information will be provided. You must register via WebEx link below to attend the Informational Conference. The Informational Conference will be held at the date and time specified on the Schedule.

The Airport will keep a record of all parties who attend the Informational Conference, which information may be posted or made publicly available. Questions raised at the Informational Conference may be answered orally, provided, however, that any oral response will not alter the specifications, terms or conditions of the RFB. Substantive questions and requests for clarification must be submitted in writing as specified in Part II.2 below.

The Virtual Informational Conference will be held via WebEx, please attend this event by clicking on the link below.

Event Registration:	https://sfo.webex.com/sfo/j.php?MTID=m96e7c308d4dfe0c69619950632c4e346
Date and time:	Wednesday, May 24, 2023, at 10:00 am Pacific Daylight-Saving Time (San Francisco)
Duration:	1 hour
Description:	This is the Virtual Informational Conference for the Banking Services RFB.
Event number:	+1-415-655-0002 US Toll Access code: 2603 232 3226 Global call-in numbers
Event password:	AirCommission (24726664 from phones and video systems)

Tour of Locations

A Tour of the Premises may be offered immediately following the Informational Conference on May 24, 2023, at 11:30 a.m. Attendees must register and receive security clearance from the Airport to go on the tour. Please register for the tour by emailing Sam El Gord (Sam.ElGord@flysfo.com) no later than May 19, 2023, with the following information:

- Your full legal name (as shown on government issued ID)
- Your gender
- Your date of birth
- Name of your company

All persons needing special accommodations to participate in the tour should contact the individual designated in Part II.2 below no later than five days prior to the Informational Conference.

2. Deadline for Questions/Clarifications Concerning the RFB

Any questions, requests for clarification of the RFB or any other communications must be submitted via electronic submittal through the Questions and Comments web portal at http://www.flysfo.com/business-at-sfo/current-opportunities by the deadline specified on the Schedule. The Airport will not accept questions and comments submitted in any other form. Any substantive replies will be issued through a Questions and Answers addendum to this RFB posted on-line at the above-mentioned link.

No questions or requests for clarification will be accepted after the deadline specified on the Schedule. The single point of contact for this RFB opportunity is:

Sam El Gord
Principal Property Manager
Email: sam.elgord@flysfo.com
Phone: (650) 821-4500
Facsimile: (650) 821-4519
Mail: Revenue Development and Management
575 North McDonnell Road, Suite 3-329
San Francisco, CA 94128

3. Time and Place for Submission of Bids

In order to qualify for this RFB, a Bidder must submit the following electronic and hard copy Bid materials at the locations specified and prior to the deadlines set forth in subsections (a) and (b) below.

(a) Electronic Submittals. Bidder must submit a cover letter, table of contents, Submittal A (Statement of Minimum Qualifications) with supporting documentation, Submittal B (Statement of Ability to Comply with Governmental Requirements), Submittal C (Copy of the Bid Bond), and Submittal D (Statement of Commitment to Labor Harmony and the Labor Peace/Card Check Rule) through the Airport's Request for Bids Web Portal (RFB Web Portal) prior to the Submittal Deadline specified on the Schedule. Bidders may not submit these documents by other means, including by hand, delivery service, mail, fax or email. The RFB Web Portal will open on the date and time specified on the

Schedule and will close on the Submittal Deadline specified on the Schedule. Please note that Bidders may be prompted to register when initially accessing the RFB Web Portal.

Bidders are strongly encouraged to submit Bids well in advance of the scheduled closing of the RFB Web Portal.

(b) Hard Copy Submittals.

1) Minimum Annual Guarantee Bid: The Bid, in the form of Submittal E (MAG Bid) must be received at the Bid and Bid Bond Submittal Location specified on the Schedule prior to the Submittal Deadline. The Airport will not accept Bids submitted by fax or email or through the RFB Web Portal. The MAG Bid must be submitted separately from any other submittals in a sealed envelope. The outside of the envelope containing the Bid should identify the **Bidder** and be labeled as "**Banking Services Lease RFB – Minimum Annual Guarantee Bid**".

2) Original Bid Bond. An **original** Bid Bond, in the form of Submittal C, must be received at the Bid Bond Submittal Location specified on the Schedule prior to the Submittal Deadline specified on the Schedule. The Airport will not accept Bid Bonds submitted by fax or email or through the RFB Web Portal. The outside of the envelope containing the Bid Bond should identify the Bidder and be labeled as "Banking Services Lease- **Bid Bond**".

With the exception of the original Bid Bond, no materials will be returned.

If the Bid Bond is not an original, the entire Bid will be rejected. If a Bidder submits its electronic submittals in a timely fashion and a late Bid and/or Bid Bond, the entire Bid will be rejected. If a Bidder submits a timely Bid and Bid Bond and late electronic submittals, the entire Bid will be rejected.

4. Restricted Communications Prior to Lease Award

From the date this RFB is issued until the date the competitive process for this RFB is completed either by cancelation of the RFB or by final action of the Airport Commission, Bidders and potential Bidders, and/or their representatives or interested parties, shall communicate with the Airport only as instructed in Part II.2 of this RFB.

Any attempt to communicate with or solicit any person involved in the evaluation, selection, award or approval process, except as instructed in this RFB, is prohibited. The persons with whom communication is prohibited includes, but is not limited to, any City and County of San Francisco elected official, member of the Airport Commission, City or Airport Commission personnel (except as instructed in this RFB), or any selection panel member. Failure to comply with the communications protocol of this RFB shall, at the sole discretion of Airport, result in the disqualification of the Bidder or potential Bidder from the competitive process. Prohibited communications made on behalf of a Bidder or potential Bidder shall be imputed to the Bidder. The above restriction does not apply to communications with the City regarding business not related to this RFB.

PART III – SUBMISSION REQUIREMENTS

1. Bid Submittal Format

The Bid should be prepared (without variance) in the format described below (the "Bid Submittal Package").

All files must be submitted in Portable Document Format (.pdf). No individual file can exceed two (2) Gigabytes (GB). Please follow the directions found at the Airport's RFB Web Portal for further details.

Electronic files should be loaded as separate files for each document comprising the Bid Submittal Package, not one long file.

Do not add any pictures, narrative or information other than what is requested.

2. Bid Content (Please Read Carefully)

In order for your Bid Submittal Package to be deemed responsive to this RFB, it must be complete, accurate, and contain all of the information requested below. Omission, inaccuracy, misstatement or failure to submit any or all of the items required by this RFB may be cause for rejection of the Bid.

REQUIRED BID SUBMITTAL PACKAGE CONTENT:

File 1: Cover Letter

Each Bidder must submit a letter of introduction and executive summary of the Bid Submittal Package. The letter must be signed by a person authorized by the proposing firm to obligate the firm to perform the commitments contained in the Bid Submittal Package. Submission of the letter will constitute a representation by the Bidder that the Bidder is willing and able to perform the commitments contained in the Bid Submittal Package.

File 2: Table of Contents

File 3: Statement of Minimum Qualifications (use Submittal A attached)

The Statement of Minimum Qualifications is required to establish that the Bidder is responsible and meets the Minimum Qualifications of this RFB as set forth below. The Statement of Minimum Qualifications must be accompanied by the supporting documentation specified in the attached Submittal A, including three (3) reference letters.

The Minimum Qualifications for this Concession Opportunity are:

a. Bidder must have a minimum of three years within the past seven years ("**qualifying years**") in the ownership or management of automated teller machines which dispense cash and accept not less than the following companies for withdrawal: Visa, Mastercard, American Express, or Discover.

b. Bidder may be newly-formed entities (e.g., limited liability companies, joint ventures, or corporations) provided that such newly-formed entity is duly organized and validly existing prior to the Submittal Deadline and the Airport is satisfied that the Bidder is qualified as follows: each of the principals (e.g., LLC members, joint venture partners, corporation shareholders) who own an aggregate of 51% or more of Bidder must satisfy the minimum qualification requirements. For example, if the newly-formed entity is:

   i. a limited liability company comprised of two members, owning 51% and 49% respectively, the entity will be deemed qualified if the 51% member satisfies the minimum qualification requirements; or

   ii. a limited liability company comprised of three members, owning 40%, 35%, and 25% respectively, the company will be deemed qualified if two of the three members each satisfy the minimum qualification requirements; or

   iii. owned 50/50, then each principal must satisfy the minimum qualification requirements.

   The Airport must be satisfied that the party(ies) satisfying the minimum qualification requirements will be in control of the bidding entity. Newly-formed entities cannot meet this RFB's minimum qualifications through a sublease agreement.

c. Bidder's qualifying business must have achieved minimum gross sales of **five million Dollars** (**$5,000,000.00**) per qualifying year.

For purposes of determining whether a Bidder has the desired business experience, Airport Commission staff will consider (a) the nature of the Bidder's management experience, which is managing the operation of a qualifying business on a full-time basis (i.e. at least 40 hours a week), or (b) the nature of the Bidder's ownership of a qualifying business, the level of control enjoyed by the Bidder, and whether the Bidder's ownership interest is active (such as managing general partner) or passive (such as limited partner).

File 4: **Statement of Ability to Comply with Governmental Requirements and Policy on Restricted Communications Prior to Contract Award (use Submittal B attached)**

The successful Bidder will be required to enter into the Lease, which sets forth standard terms and conditions of the Airport Commission, including those required by applicable local, state, and federal law. Many of the codes referenced herein, including the San Francisco Charter and the San Francisco Administrative Code, are available online at http://www.municode.com.

As part of its Bid Submittal Package, each Bidder must submit an executed Statement of Ability to Comply with Governmental Requirements and Policy on Restricted Communications Prior to Contract Award demonstrating that it (i) has reviewed and understands the San Francisco ordinances and other governmental provisions referenced in this RFB and the Lease and that there is nothing impeding its ability to comply with such requirements should it be awarded the Lease and (ii) has read, understands and agrees to fully comply at all times with the Policy on Restricted Communications Prior to Award, which prohibits communications with any person involved in the evaluation, selection, award or approval process (except as expressly instructed in this RFB), as the policy is more fully set forth in Part II, Section 4 of this RFB.

File 5: **Bid Bond (use Submittal C attached)**

Bidder must submit a Bid Bond in the Amount of **one hundred and fifty thousand Dollars** (**$150,000.00**). The Bid Bond must be an **original** and must be in the form of a Surety Bond or a Letter of Credit. Any Surety Bond or Letter of Credit submitted by Bidder must be in the form attached as Submittal C. If the Bid Bond requirement is for less than $200,000.00, the Bid Bond may also be in the form of a cashier's check. Bids that do not include an **original** Bid Bond in the form of a surety bond, letter of credit or, if under $200,000.00, a cashier's check, will be rejected.

The Bid Bond must be valid for a minimum of **six months** after the Submittal Deadline.

The Bid Bond will be held to guarantee execution of the Lease. The Bid Bond or the cash proceeds thereof will be retained by the Airport Commission as liquidated damages in the event the successful Bidder fails to execute the Lease. With the consent of the Airport Director, the Bid Bond may be amended in form and substance acceptable to the City Attorney to serve towards the amount of the deposit required under the Lease. The Bid Bond of an unsuccessful Bidder will be returned within a reasonable period of time following award of the Lease or rejection of the Bid. Bidders submitting cashier's checks must submit a "Return of Funds" request form which can be found at: https://sfoconnect.com/forms-documents.

Bidders submitting for more than one Lease in this RFB are only required to submit one Bid Bond in an amount equal to the highest Bid bond requirement for a single Lease for which the Bidder is proposing.

File 6: Statement of Commitment to Labor Harmony and Labor Peace Card Check Rule (use Submittal D attached)

On February 7, 2023, by Resolution No. 23-0018, the Airport Commission adopted a revised Labor Peace/Card Check Rule and Model Form Card Check Agreement, incorporated into the Airport Rules and Regulations as Rule 12.1 and Appendix C, respectively. Bidder must execute and submit written acknowledgement that it has reviewed, understands and agrees to fully comply with the Labor Peace/Card Check Rule, using the form attached as Submittal D.

File 7: Minimum Annual Guarantee Bid- (use Submittal E attached)

Bidder must submit a Minimum Annual Guarantee Bid. Bidder must submit its Minimum Annual Guarantee Bid on the form attached as Submittal E, which must be signed by Bidder. The Minimum Acceptable Bid Amount is $500,000.00.

Submittal E shall not be submitted electronically and shall be delivered to the Bid and Bid Bond Submittal Location specified on the Schedule prior to the Submittal Deadline.

PART IV– EVALUATION AND AWARD PROCESS

1. **Bid Evaluation Process**

To participate in the RFB process, each Bidder must submit its cover letter, table of contents, Submittal A (Statement of Minimum Qualifications) with supporting documentation, Submittal B (Statement of Ability to Comply with Governmental Requirements), and Submittal D (Statement of Commitment to Labor Harmony and the Labor Peace/Card Check Rule) prior to the Submittal Deadline through the RFB Web Portal, and its MAG Bid and Bid Bond prior to the Submittal Deadline at the Submittal Location, as specified in Part II.3 of this RFB.

Each Bid Submittal Package will first be reviewed by staff to ensure: (1) that the Bid Submittal Package is responsive to the RFB (includes all of the required submittals and reflects the Concession Opportunity); and (2) that the Bidder is responsible (meets the Minimum Qualifications defined in Part III.2, as shown through its Statement of Minimum Qualifications and supporting documentation). If a Bidder is deemed non-responsive or the Bidder is deemed non-responsible, the Bid will be rejected and not evaluated or scored.

2. **Lease Award**

Following the opening of the Bids, Airport staff will recommend award of the Lease to the Airport Commission, which retains the authority to select the successful Bidder. Please note that certain concession leases also require approval from the San Francisco Board of Supervisors and the Mayor, each acting in their sole discretion, and are not considered final and executed by the Airport until such approvals are obtained.

The Airport intends to award the Lease to the firm that it considers to be the highest-offer of Minimum Annual Guarantee, most responsive and responsible Bidder. If the selected Bidder fails to execute the Lease within the period of time determined by the Airport, the Commission, in its sole discretion, may elect to rescind the award of the Lease to the initially selected Bidder, and award the Lease to the Bidder submitting the next highest Minimum Annual Guarantee Bid. The selection of any Bid shall not imply acceptance by the City of all terms of the Bid, and the terms of the executed Lease shall govern the concession agreement between the City and the successful Bidder.

3. **Protest of Non-Responsiveness or Non-responsibility Determination**

Within five working days of the City's issuance of a notice of non-responsiveness and/or non-responsibility, any firm that has submitted a Bid and believes that the City has incorrectly determined that its Bid is non-responsive or that it is non-responsible may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth working day following the City's issuance of the notice.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Bidder, and must cite the law, rule, local ordinance, procedure or RFB provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

4. Protest of Award

Within five working days of the City's issuance of a notice of the results of the RFB, any responsible Bidder that has submitted a responsive Bid and believes that the City has incorrectly selected another Bidder for award may submit one written notice of protest. Such notice of protest must be received by the City on or before the fifth working day after the City's issuance of the results of the RFB.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Bidder, and must cite the law, rule, local ordinance, procedure or RFB provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest. Only one protest to the notice of the results of the RFB will be permitted, and no supplemental protests will be accepted or reviewed.

5. Delivery of Protests

All protests must be received by the due date specified above. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests must be in writing and delivered to the Submittal Location stated on the Schedule. Protests made orally (e.g., by telephone) will not be considered.

PART V – RFB GENERAL INFORMATION

1. Internet Access and Paper Copies of RFB Documents

A number of websites are referenced in this RFB and certain forms which are required from the successful Bidder are available at those websites. In an effort to be environmentally responsible, it is the City's intent to limit paper documents where possible. If you do not have access to websites identified in this RFB, please contact the Principal Property Manager listed in Part II, Section 2 for assistance. Paper copies may be provided and, in some cases, ten cents per page may be charged.

2. Errors and Omissions in RFB

Bidders are responsible for reviewing all portions of this RFB. Bidders are to promptly notify Principal Property Manager listed in Part II, Section 2, in writing, if the Bidder discovers any ambiguity, discrepancy, omission, or other error in the RFB. Any such notification should be made no later than five working days prior to the Submittal Deadline.

3. Objections to RFB Terms

Should a Bidder object on any ground to any provision or legal requirements set forth in this RFB, the Bidder must, not more than 10 calendar days after the RFB is issued, provide written notice to the Principal Property Manager listed in Part II, Section 2setting forth with specificity the grounds for the objection. The failure of a Bidder to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of such objection.

4. Modifications to RFB

The Airport Commission may modify the RFB, prior to the Submittal Deadline, by issuing an addendum or addenda, which will be posted on-line at http://www.flysfo.com/business-at-sfo/current-opportunities. The Airport Commission will make reasonable efforts to notify Bidders in a timely manner of modifications to the RFB.

Notwithstanding this provision, the Bidder is responsible for ensuring that its Bid Submittal Package reflects any and all addenda issued by the Airport Commission prior to the Submittal Deadline regardless of when the Bid Submittal Package is submitted. Therefore, the Airport Commission recommends that the Bidder consult the website frequently, including shortly before the Submittal Deadline, to determine if the Bidder has downloaded all addenda.

5. Term and Warranty of Bid

The Bid Submittal Package will remain subject to the Airport Commission's acceptance for 120 calendar days after the Submittal Deadline, or such later date as may be agreed upon by the parties. Submission of a Bid signifies that the financial offer is genuine and not the result of collusion or any other anti-competitive activity. In submitting its Bid, a Bidder agrees that (a) if the Bid is accepted, Bidders will execute a lease substantially in the form of the Lease on or before the deadline specified by the Airport Commission; and (b) Bidder accepts all of the terms and conditions of this RFB, including the Lease. Failure to timely execute the Lease, or to furnish any and all insurance certificates and policy endorsements, deposits, or other materials required in the Lease, shall be deemed an abandonment of a Bid. In such case, the Airport Commission, in its sole discretion, may select another Bidder and may proceed against the original selectee for damages, including, without limitation, the retention of the Bid Bond.

6. Revision of Bid Submittal Package

A Bidder may revise its Bid Submittal Package on the Bidder's own initiative at any time before the Submittal Deadline. The Bidder must submit the revised Bid Submittal Package in the same manner as the original. A revised Bid Submittal Package must be received on or before the Submittal Deadline. In no case will a statement of intent to submit a revised Bid, or commencement of a revision process, extend the Submittal Deadline for any Bidder. At any time during the Bid Submittal Package evaluation process, the Airport Commission may require a Bidder to provide oral or written clarification of its Bid. The Airport Commission reserves the right to make an award without further clarification of Bids received.

7. Errors and Omissions in Bid Submittal Package

Failure by the Airport Commission to object to an error, omission, or deviation in the Bid Submittal Package will in no way modify the RFB or excuse the Bidder from full compliance with the specifications of the RFB or the Lease.

8. Financial Responsibility for Cost of Bid

The Airport Commission accepts no financial responsibility for any costs incurred by a Bidder in responding to this RFB. The Bid Submittal Package will become the property of the Airport Commission and may be used by the Airport Commission in any way deemed appropriate.

9. Unacceptable Bids

The Airport Commission considers any of the following causes to be sufficient for disqualification of a Bidder and rejection of a Bid:

a. Evidence of collusion among Bidders.

b. Existence of any unresolved claims between the Bidder (or any affiliate or partner) and the Airport Commission, including any defaults (whether or not cured) under any other existing lease, permit or other agreement between Airport and Bidder.

c. Failure to meet the Minimum Qualifications.

d. Submittal by any individual or entity holding multiple retail, food and beverage leases, or any combination thereof with the Airport Commission at the time of the Submittal Deadline, which, if an award is made to such bidding individual or entity under this RFB, would result in violation of the Limit of 8 Leases Policy.

e. Failure to include all documents and information required by this RFB in a Bid Submittal Package.

10. Reservations of Rights by the Airport Commission

The issuance of this RFB does not constitute an agreement by the Airport Commission that any contract will actually be entered into by the Airport Commission. The Airport Commission expressly reserves the right, at any time, to:

a. Waive any defect, error or informality in any response or bid of a bidder, or of any RFB procedures or requirements;

b. Reject any or all Bids and any time during the evaluation process for any or no reason;

c. Request a credit report and additional financial information from each Bidder;

d. Ask one or more Bidders to clarify information in a Bid;

e. Rescind or reissue the RFB, or proceed otherwise;

f. Prior to the Submittal Deadline, modify all or any portion of the selection procedures or lease terms, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFB, or the requirements for contents or format of the Bids (provided that the Airport Commission can take any of the actions in Section 10(a) above at any time whether prior to or after the Submittal Deadline);

g. Select a tenant by other means; or

h. Determine that no project will be pursued or award of the Lease will be made.

11. No Waiver

No waiver by the Airport Commission of any provision of this RFB shall be implied from any failure by the Airport Commission to recognize or take action on account of any failure by a Bidder to observe any provision of this RFB.

12. Sunshine Ordinance

In accordance with San Francisco Administrative Code Section 67.24(e), responses to RFBs shall be open to inspection immediately after the lease has been awarded by the Airport Commission and approved by the Board of Supervisors (if such approval is required). Score sheets shall be open to inspection immediately after evaluation has been completed. Nothing in this provision requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

PART VI – AIRPORT LEASE REQUIREMENTS

1. Standard Lease Provisions

The successful Bidder will be required to enter into a lease substantially in the form of the Lease attached hereto as Part IX. The Lease contains a number of standard lease provisions required of Airport tenants by various local, state and federal laws. Some of these lease provisions are summarized below. Bidders should review the requirements of the Lease in detail prior to submitting a Bid.

2. Conflicts of Interest

The successful Bidder will be required to agree to comply fully with and be bound by the applicable state and local provisions related to conflicts of interest including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful Bidder will be required to acknowledge that it is familiar with these laws, certify that it does not know of any facts that constitute a violation of said provisions, and agree to immediately notify the City if it becomes aware of any such fact during the term of the Lease. Individuals who will perform work for the City on behalf of the successful Bidder might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within 10 calendar days of the City notifying the successful Bidder that the City has awarded the Lease to Bidder.

Additional information may be found on the Ethics Commission's website at http://www.sfethics.org/.

3. Bidder's Obligations Under the Campaign Reform Ordinance

Bidders must comply with the requirements of Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or seeks to contract with, the City and County of San Francisco for the sale or lease of any land or building to or from the City ("**City Contractor**"), to (a) an individual holding a City elective office if the contract must be approved by that official, the board on which that individual serves, or a state agency on whose board an appointee of that individual serves, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the submission of a bid for the contract until the later of either the termination of negotiations for the contract or twelve (12) months after the date the City approves the contract. The foregoing restriction applies only if the contract or a combination or series of contracts or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars ($100,000), or more.

The prohibition on contributions also applies to any affiliate of City Contractor, which includes any member of the entity's board of directors and any of the entity's principal officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 10 percent (10%) in firm, and any subcontractor listed in City Contractor's Bid Submittal Package; and any committee that is sponsored or controlled by City Contractor (the "**Contractor Parties**"). Within thirty (30) days of the submission of a bid under this RFB, the Airport is obligated to submit to the Ethics Commission the identity of the Contractor Parties. City Contractor is required to inform each such person of the limitation on contributions imposed by Section 1.126 by the time it submits a bid under this RFB, and to provide to City the names of the persons required to be informed as part of its bid under this RFB.

Violation of Section 1.126 may result in criminal, civil, or administrative penalties. For further information on Section 1.126, Bidders should contact the San Francisco Ethics Commission at (415) 252-3100 or ethics.commission@sfgov.org.

4. Title VI Solicitation Notice

The San Francisco International Airport, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

5. Federal Nondiscrimination Regulations

The successful Bidder will be subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The successful Bidder will agree that it will not discriminate against any business owner because of the owner's race, color, national origin, or gender in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The successful Bidder will agree to include the above statements in any subsequent concession agreement or contracts covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreements.

The successful Bidder will agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the successful Bidder transfers its obligation to another, the transferee will be obligated in the same manner as the successful Bidder. This provision obligates the successful Bidder for the period during which the property is owned, used or possessed by the successful Bidder and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

6. Nondiscrimination in Contracts and Benefits

The successful Bidder will be required to agree to comply fully with and be bound by the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Generally, Chapter 12B prohibits the City and County of San Francisco from entering into contracts or leases with any entity that discriminates in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of employees. The Chapter 12C requires nondiscrimination in contracts in public accommodation. Additional information on Chapters 12B and 12C is available on the Contract Monitoring Division (CMD) website at: https://sfgov.org/cmd/12B-equal-benefits-program or by calling (415) 581-2310.

7. First Source Hiring Program (FSHP)

Pursuant to Chapter 83 of the San Francisco Administrative Code, the successful Bidder must agree to participate in the City's First Source Hiring Program. Within five business days of the Airport Commission approving the award of the Lease, Bidder shall submit to the Airport Commission Office of Employment and Community Partnerships, (a) a completed and signed First Source Hiring Agreement and (b) Employer Projection of Entry-Level Job Openings form (Form FSH 01). In the event that the successful Bidder fails to submit timely said First Source Hiring Agreement and Employer Projection of Entry-Level Job Openings form, consideration for this Concession Opportunity award may pass to the next responsive and responsible Bidder at the discretion of the Airport Commission.

Bidders should consult Chapter 83 of San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the FSHP is available from the Airport Employment and Community Partnership Office at (650) 821-5244.

8. Minimum Compensation Ordinance (MCO)

The successful Bidder will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in S.F. Administrative Code Chapter 12P. Generally, this Ordinance requires contractors to provide employees covered by the Ordinance who do work funded under the contract with hourly gross compensation and paid and unpaid time off that meet certain minimum requirements.

Note that the hourly rate may increase on January 1st and/or July 1st of each year and the successful Bidder shall be required to pay any such increases to covered employees during the term of the contract. Additional information regarding the MCO, including the current hourly gross rate, is available on the web at https://sfgov.org/olse/MINIMUM-COMPENSATION-ORDINANCE-MCO.

9. Health Care Accountability Ordinance (HCAO)

The successful Bidder will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in S.F. Administrative Code Chapter 12Q. Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the web at https://sf.gov/information/understand-health-care-accountability-ordinance

10. Labor Peace/Card Check Rule

On February 7, 2023, by Resolution No. 23-0018, the Airport Commission adopted its current Labor Peace/Card Check Rule (the "**Labor Peace Card Check Rule**") and Model Form Card Check Agreement ("**Model Form Card Check Agreement**"), incorporated into the Airport Rules as Rule 12.1 and Appendix C, respectively. All capitalized terms not otherwise defined in this provision shall have the meaning in the Labor Peace Card Check Rule. To comply with the Labor Peace/Card Check Rule, a tenant shall, among other actions, enter into a Labor Peace/Card Check Agreement with any Registered Labor Organization which requests such an agreement, within thirty (30) days after request. In the event that any such Registered Labor Organization and the tenant are unable to negotiate a Labor Peace/Card Check Agreement within the 30-day period, the parties shall then be deemed to be bound by the Model Labor Peace/Card Check Agreement attached as Appendix C to the Airport Rules, automatically and without any further action required by the parties. If the Airport Director determines that any tenant shall have violated the Labor Peace/Card Check Rule, the Director shall have the right to terminate the lease, in addition to exercising all other available remedies.

11. Labor Harmony

It is of the utmost importance to City and all those occupying or will occupy space at the Airport that there be no interruption in the progress of any construction work, and the successful Bidder will be required to maintain labor harmony in any contract or undertaking which the successful Bidder may make with a contractor for work in the Premises.

12. Local Hiring Policy

The successful Bidder's construction activities under the Lease are subject to the San Francisco Local Hiring Policy (San Francisco Administrative Code Section 23.62) unless the construction activities are estimated to cost less than $750,000 per building permit or meet any other exemptions. The successful Bidder will be required to agree that, unless subject to an exemption or conditional waiver, it will comply with the obligations in San Francisco Administrative Code Section 23.62 and will require its subtenants to comply with such obligations to the extent applicable.

13. Commuter Benefits Program

The successful Bidder will be required to comply fully with the Airport's Commuter Benefits Program as set forth in Rule 10 of the Airport Rules and Regulations. The Airport is committed to reducing greenhouse gas emissions wherever possible. To support this commitment, all tenants and contractors with 20 or more employees in the United States, and at least one employee at SFO, must provide at least one of the following commuter benefits options to covered employees: a pre-tax election, employer paid transit benefits or employer provided transportation to and from a rail station. Additional information can be found at http://www.flysfo.com/about-sfo/the-organization/rules-and-regulations. Tenants with at least 50 employees in the San Francisco Bay Area must comply instead with the Bay Area Commuter Benefits Program: https://commuterbenefits.511.org/. Airport staff will work jointly with the Metropolitan Transportation Commission to ensure participation in the applicable program.

14. Worker Retention Policy

The successful Bidder will be required to agree to the requirements Airport's Worker Retention Policy, as amended by the Airport Commission on February 7, 2017, which, among other things, will, subject to certain limitations, require that a successful Bidder retain certain employees of a predecessor tenant for a 90-day trial employment period. During such trial period, the successful Bidder shall evaluate each employee retained pursuant to the policy. If the employee's performance during such period is satisfactory, the successful Bidder shall offer the employee continued employment. If the employee's performance is determined to be unsatisfactory, such employee may be released from employment and shall be referred to the Airport Employment Center.

15. Green Building Requirements

The successful Bidder will be required to comply with all applicable provisions of Chapter 7 of the San Francisco Environment Code, including those related to Leadership in Energy and Environmental Design (LEED) certification.

16. Plastic Beverage Container Restrictions

Each Bidder is advised that on February 12, 2021, the Airport issued Airport Operations Bulletin 20-01-AOB, which prohibits Airport tenants, vendors and permittees from providing or selling beverages in containers that contain plastic or aseptic paper packaging, including in vending machines. This policy became effective April 1, 2021, and is incorporated into the Airport Rules as Rule 8.2(B). The Airport has compiled a list of compliant beverage container packaging on https://sfoconnect.com/zero-waste-concessions

PART VII – SUBMITTAL FORMS

Bid Checklist

Submittal A - Statement of Minimum Qualifications

Submittal B - Statement of Ability to Comply with Governmental Requirements and Policy on Restricted Communications Prior to Contract Award

Submittal C - Bid Bond Forms

Submittal D - Statement of Commitment to Labor Harmony and the Labor Peace Card Check Rule

Submittal E - Minimum Annual Guarantee Bid

BID CHECKLIST

The following information, forms and documentation must be included in the Bid.

- ☐ **Submittal A, Statement of Minimum Qualifications -** Complete and execute the form provided and include the supporting documentation required.

- ☐ **Submittal B, Statement of Ability to Comply with Governmental Requirements and Policy on Restricted Communications Prior to Contract Award** – Complete and execute the form provided.

- ☐ **Submittal C, Bid Bond Forms** – Submit an original Bid Bond using one of the two forms (Surety Bond or Letter of Credit) provided OR provide an original cashier's check made payable to the City of San Francisco, if the Bid Bond requirement is for less than $200,000.00.

- ☐ **Submittal D, Statement of Ability to Commit to Labor Harmony and Labor Peace Card Check Rule** – Complete and execute the form provided.

- ☐ **Submittal E, Minimum Annual Guarantee Bid** – Complete and execute the form provided.

Submittal A
STATEMENT OF MINIMUM QUALIFICATIONS

Lease Name: ______________________________

A. IDENTITY OF BIDING ENTITY

1. Name and contact details of Bidder:

____

Address: ______________________________

Contact Name and Title: ______________________________

Phone No: ____________________ Fax No: ____________________

Email: ____________________

2. Name of Entity exactly as it will appear on the Lease (if different from above):

Please note that any change in the name or organizational structure of the entity designated above from and after the submittal of this RFB may result in a delay or rescission of any award of the Lease.

____

3. The Bidder, if selected, intends to carry on the business as:

☐ Individual ☐ Partnership ☐ Joint Venture

☐ Limited Liability Company ☐ Corporation ☐ Other (attach explanation)

NOTE: If the Bidder is a general partnership or joint venture, and will not be forming a separate legal entity to represent the partnership or the joint venture (such as a corporation, limited liability company or limited partnership), then each general partner or joint venture partner (as applicable) will be required to execute the Lease in their separate capacities, together with all the other general partners or joint venture partners as "joint tenants", with joint and several liability under the Lease. Bidder is encouraged to seek advice of legal counsel for the implications of this requirement.

4. If the Bidder is composed of one or more individuals and/or entities , attach an executed copy of the general or limited partnership agreement, joint venture agreement, limited liability company operating agreement or shareholder agreement, and answer the following:

Note: If the Bidder is a corporation or limited liability company that meets the Minimum Qualifications and intends to partner with a small business, an executed letter of intent **and** copy of the joint venture or partnership agreement to be executed upon award is sufficient. Partners must be willing to execute the Lease awarded to the Bidder.

(a) Name, address, and share of each partner of the Joint Venture or Partnership:

Name	Address	Share

(b) Date of Organization (MM/YY): ____________

(c) General or Limited Partnership (if applicable): ____________

(d) State of Formation: ____________

(e) Registered California? (Y/N) ______ If so, when (MM/YY) ________

5. If the Bidder is a Corporation or Limited Liability Company, attach a copy of the Bidder's Certificate of Good Standing from the State of California (or state of formation), and answer the following:

(a) When incorporated/formed (MM/YY) ________

(b) In what state/country ____________

(c) Authorized to do business in California? (Y/N) ___ If so, when? (MM/YY) ________

(d) Name, address, experience in the business, and amount of stock/membership interests held by the following officers. If the officer titles presented below do not exist within your organization, list officers of similar functions and include their actual title with their names:

Officer	Name	Address	Percent of Stock or Interests
President			
Vice President			
Secretary			
Treasurer			
Other			

(e) Name, address and shares of stock/membership interests held by other “principal” stockholders or members: (A “principal” stockholder or member is defined as a stockholder or member who holds 10% or more of the outstanding stock or membership interests of the corporation or limited liability company.)

Name	Address	Percent of Stock/ Membership Interest

6. Small Business Participation

Identify small business participation if applicable.

Name	Percent of Ownership or Identify as Sublessee	Identify any/all certifications (SBA, LBE, DBE, ACDBE, etc.)

7. Summary of Experience

Each Bidder must complete the table below with the information necessary to determine if it meets the minimum qualification requirements. Bidder may also submit a narrative response that describes in detail how the Bidder meets the minimum qualification requirements, limited to five (5), double sided pages. **Please follow the same format set forth below for your response**.

a.

	Year 1 20__	**Year 2 20__**	**Year 3 20__**
Concept Name			
Address/Location			
Sales			
Owner/Entity			

b. Supporting Documentation: Each Bidder must submit the following information and documentation which supports its qualifications:

i. Provide evidence of the total number of years the Bidder has owned or managed its qualifying business.

ii. Provide information sufficient to show that the qualifying business specializes in the concept by summarizing the product categories or items, relative to the concept. Items listed must be reflective of the Use and Operational Requirements of **Exhibit B** of the Lease as attached to this RFB document.

Acceptable forms of information will include, but not be limited to sales reports, narrative description, store layout maps with product categories identified and accompanying photos or any other information that will indicate that the qualifying business specializes in the proposed concept.

iii. Provide evidence of ownership or management experience for each of the qualifying years, which evidence must be reasonably satisfactory to the Airport Commission.

Consider submitting one or more of the following items:

Ownership	**Management**
• Organizational documents, such as joint venture/partnership agreement, corporate articles/bylaws, share certificates • Financial Statements of Bidder • Tax Returns of Bidder	• Management charts • W-2 forms • Business cards • Confirmation letter from employer

iv. Provide evidence that the qualifying business generated the minimum gross revenue per qualifying year. Information submitted to substantiate the minimum qualifications must match the information entered in section 7a. In the absence of these documents, Bidder alternatively should describe typical daily, monthly or annual sales and provide a narrative description of the establishment (address, size of store, hours). The Airport, in its sole and reasonable judgment, may determine if this alternative documentation is adequate. Bidder should also provide a contact who can attest to Bidder's employment or a W-2 from the establishment used for meeting the minimum qualification requirements.

Attach audited financial statements for each qualifying year. Audited financial statements may include balance sheets and income statements that were prepared and attested to by a Certified Public Accountant (CPA).

If audited financial statements are not available, submit tax statements prepared by a CPA, along with unaudited financial statements for each qualifying year. Include a detailed breakdown showing which of Bidder's facilities meet the gross revenue requirement for each qualifying year.

v. State if Bidder has ever operated under another name and/or ownership structure.

8. Financial Summary

Relative to your business operations, please answer "Yes" or "No" to the following questions. The following questions pertain to all leases and subleases that you hold or have held in the past five years. Please provide an explanation for those questions in which you responded with "Yes."

In the past five (5) calendar years:

Question	Answer
1. Have you received a letter/notice (e.g. Notice of Default) from the landlord requesting that you remedy/cure any type of default under the lease (e.g., non-payment of rent, maintenance)?	
2. Have you received a letter/notice demanding that you "Pay or Quit" the premises for non-payment of rent?	
3. Have you filed for bankruptcy?	
4. Have you terminated a lease before the expiration of the lease term?	
5. Have you been or are you currently on a "payment plan" to pay past due rent or fees that are owed to the landlord?	

FAILURE TO MAKE FULL DISCLOSURE IN RESPONDING TO THE ABOVE QUESTIONS MAY RESULT IN DISQUALIFICATION FROM PARTICIPATION IN THIS RFB.

9. References

Please provide a minimum of three (3) reference letters from non-affiliated organizations on their company letterhead. Each reference letter must have been dated within the past twelve (12) months and must include information directly related to Bidder's management or ownership experience in the qualifying business.

10. Affirmative Statement of Accuracy

The undersigned represent and warrant to the Airport Commission as follows: (a) the undersigned person(s) are authorized representatives of Bidder; (b) the person(s) signing below is authorized by Bidder to obligate the Bidder to perform the commitments contained in the Bid; (c) all information submitted by Bidder in the Bid is complete, accurate, and truthful; and (d) submission of this Bid constitutes a representation by the Bidder that it is willing and able to perform the commitments contained in this Bid. (Note: If Bidder is a joint venture or general partnership, all joint venturers or general partners must sign; if Bidder is a corporation, at least Bidder's President and Secretary must sign; if Bidder is a limited liability company, at least Bidder's manager or managing member must sign.)

This document is legally effective, valid, and enforceable despite the fact that it or signatures on it may be in electronic form or that it may have been created, transmitted, stored, or otherwise handled or formed, in whole or in part, by electronic means.

____________________ Title ____________________

Printed Name: ____________________

____________________ Title ____________________

Printed Name: ____________________

____________________ Title: ____________________

Printed Name: ____________________

Date: ____________________

Submittal B
STATEMENT OF ABILITY TO COMPLY WITH GOVERNMENTAL REQUIREMENTS AND POLICY ON RESTRICTED COMMUNICATIONS PRIOR TO CONTRACT AWARD

Proposing Entity: ______________________________

Lease Name: ______________________________

1) The undersigned are authorized representatives of Bidder.

2) The undersigned has reviewed the applicable City ordinances and other governmental requirements applicable to this Concession Opportunity ("**Governmental Requirements**"), including those described in this RFB and the Lease.

3) Bidder is ready, willing, and able to comply with all Governmental Requirements.

4) By submitting this Bid, the undersigned attests compliance with the **Policy on Restricted Communications Prior to Contract Award**, set forth in Part II, Section 4 of this RFB.

This document is legally effective, valid, and enforceable despite the fact that it or signatures on it may be in electronic form or that it may have been created, transmitted, stored, or otherwise handled or formed, in whole or in part, by electronic means.

______________________________ Title ______________________________

Printed Name: ______________________________

______________________________ Title ______________________________

Printed Name: ______________________________

______________________________ Title: ______________________________

Printed Name: ______________________________

Date: ____________________

Submittal C
BID BOND FORMS

-Form of Surety Bond-

___________________________________ (Surety)

KNOW ALL MEN BY THESE PRESENTS:

That we, _______________________________, as Principal, and ___________________, a corporation duly organized and existing under and by virtue of the laws of the State of ______________________, as Surety, are held and firmly bound unto the City and County of San Francisco, acting by and through its Airport Commission, as obligee, in the sum of ____________________ Dollars ($_____________) lawful money of the United States of America, to be paid to the City and County of San Francisco, acting by and through its Airport Commission, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for the ________________ **Lease**.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall enter into a Lease or other agreement (the "Agreement") with the Obligee in accordance with the terms of such bid (which by reference is made a part hereof), and give such deposit as may be specified in the Agreement and the RFB process, then this obligation shall be null and void, otherwise to remain in full force and effect; and shall be effective _______________________.

This bond may be called upon by Obligee by a notice sent to the Surety by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at: _______________________________________.

Signed, sealed and dated this ___________________ day of ______________.

Principal:	By: ____
	Title: ____
	Seal:
Surety Company:	By: ____
	Title: ____
	Seal:

(Attach Notary Public Certificate and Attorney-in-Fact form)

-Form of Irrevocable Letter for Credit-

Date________________________________

Letter of Credit No.__________________

Airport Commission
City and County of San Francisco
San Francisco International Airport
PO Box 8097
San Francisco, CA 94128

Ladies and Gentlemen:

We hereby establish an irrevocable letter of credit in your favor in the amount of _______________ United States Dollars (US$________) for the account of _________________________, available by your draft at sight, when accompanied by the following document:

> A statement signed by the Airport Director of the Airport Commission of the City and County of San Francisco, to the effect that upon the award to ________________ by the City and County of San Francisco, acting by and through its Airport Commission, of the Lease or other agreement for the ______________ **Lease** at San Francisco International Airport (the "Agreement"), _______________ failed to execute said Agreement and furnish the deposit required by said Agreement.

Drafts drawn under and in compliance with the terms of this letter of credit will be duly honored by us upon presentation and delivery of the statement specified above. Such drafts may be presented by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at: _____________________________________.

Sincerely,

____

____

Submittal D
STATEMENT OF COMMITMENT TO LABOR HARMONY AND LABOR PEACE CARD CHECK RULE

Name of Bidder: ______________________________

1. The undersigned are authorized representatives of Bidder.

2. The undersigned has reviewed the Airport's Labor Peace/Card Check Rule and Model Form Card Check Agreement, adopted by the Airport Commission on February 7, 2023 by Resolution No. 23-0018, which is incorporated into the Airport's Rules and Regulations as Rule 12.1 and Appendix C, respectively. The undersigned acknowledges and agrees with the strong commitment of the Airport Commission to labor harmony, agrees to be bound by the Labor Peace/Card Check Rule, and to promptly comply with all requirements thereof. A complete copy of the Labor Peace Card Check Rule and Model Form Card Check Agreement is located at https://www.flysfo.com/about/airport-operations/policies-regulations/rules-and-regulations.

3. The undersigned agrees and acknowledges that a multi-employer bargaining group is an established mechanism for employers to bargain collectively with any lawful labor organization representing its employees in an appropriate bargaining unit. In the event that the undersigned's employees elect to be represented by a lawful labor organization, by majority determination through the labor peace/card check process or otherwise, the undersigned agrees to join the relevant multi-employer bargaining group at the Airport,, and become a party to, and be bound by, a collective bargaining agreement for its operations under the Lease in the event a collective bargaining agreement is then in effect or is negotiated on behalf of the proposer's employees. In order to demonstrate compliance with the Airport's labor harmony commitment, the undersigned agrees that membership in a multi-employer bargaining group includes attendance at group meetings and participation in its business activities.

This document is legally effective, valid, and enforceable despite the fact that it or signatures on it may be in electronic form or that it may have been created, transmitted, stored, or otherwise handled or formed, in whole or in part, by electronic means.

______________________________ Title ______________________________

Printed Name: ______________________________

______________________________ Title ______________________________

Printed Name: ______________________________

______________________________ Title: ______________________________

Printed Name: ______________________________

Date: ______________________________

Submittal E
MINIMUM ANNUAL GUARANTEE BID

Lease Name: ______________________________

Proposing Entity: ______________________________

Address: ______________________________

____

Phone No.: ______________ **Fax No.:** ______________

TO THE AIRPORT DIRECTOR:

This Minimum Annual Guarantee Bid is being submitted in response to the Request for Bids for the above-referenced Lease, which is incorporated in this RFB by reference. Defined terms below shall have the meanings given them in the Request for Bids.

Minimum Annual Guarantee Bid. The bid amount for the first lease year's Minimum Annual Guarantee is ______________________ Dollars ($ ______________)
(amount must equal or exceed the Minimum Acceptable Financial Bid)

The undersigned represent and warrant to the Airport Commission as follows: (a) the undersigned person(s) are authorized representatives of Bidder; (b) all information submitted by Bidder in the Bid is complete, accurate and truthful. (Note: If Bidder is a joint venture or partnership, all joint venturers or partners must sign; if Bidder is a corporation, at least Bidder's President and Secretary must sign; if Bidder is a limited liability company, at least Bidder's manager or managing member must sign.)

This document is legally effective, valid, and enforceable despite the fact that it or signatures on it may be in electronic form or that it may have been created, transmitted, stored, or otherwise handled or formed, in whole or in part, by electronic means.

______________________ Title ______________________

Printed Name: ______________________

______________________ Title ______________________

Printed Name: ________________________________

Date: ____________________________

PART VIII – ADDITIONAL INFORMATION REQUIRED FOR THE SUCCESSFUL BIDDER ONLY

Before the City can execute the Lease, the successful Bidder must complete the steps outlined in the table below.

Bidder does not have to be doing business in the State of California on the date on which it submits its Bid; however, before this Lease is executed, such Bidder must show evidence to the Airport Commission that it is authorized to conduct business within the State of California and the Counties of San Mateo and San Francisco.

If the successful Bidder is already set up to do business with the City and County of San Francisco, **the Bidder should not do so again unless the Bidder's answers have changed**.

Should any of the following links not work when clicked on, please type the URL into your web browser as it is written below. Contact your Property Manager should you encounter any difficulty.

Steps	Description	When to File; Where to File; For More Info
1 Register as a New Supplier	The first step to begin working with the City is to complete the registration process.	Must be registered and filed within five (5) days of the Airport Commission approving the award of the Lease. Register as a BIDDER at SF City Partner's website: https://sfcitypartner.sfgov.org/pages/index.aspx A Step by Step Guide to Become a Fully Compliant Supplier: https://sfcitypartnersupport.sfgov.org/support/solutions/articles/11000022936-bidder-
San Francisco Business Tax Registration For questions regarding business tax registration procedures and requirements, contact the Tax Collector's Office at (415) 554-4400 or, if calling from within the City and County of San Francisco, 311.	This declaration is to determine if you are required to obtain a Business Registration Certificate.	

Steps		Description	When to File; Where to File; For More Info
	S.F. Administrative Code Chapters 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits For questions concerning the City's Chapter 12B and 12C Equal Benefits and Non-Discrimination in Contracting requirements, go to: https://sf.gov/departments/contract-monitoring-division	Lessee provides documentation that their personnel policies meet the City's requirements for nondiscrimination against protected classes of people, and in the provision of benefits between employees with spouses and employees with domestic partners.	a-step-by-step-guide-to-becoming-an-approved-supplier
2	S. F. Administrative Code Chapter 83, First Source Hiring Program The First Source Hiring Agreement can be downloaded online at: http://oewd.org/sites/default/files/Documents/professional_services_fsha.pdf	Lessee submits an executed First Source Hiring Agreement and Form FSH-01 to support the hiring of economically disadvantaged San Francisco residents.	Must be filed within five days of the Airport Commission approving the award of the Lease. Office of Economic and Workforce Development 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103 Telephone No.: (415) 701-4848 email to business.services@sfgov.org

PART IX – LEASE

LEASE AGREEMENT
FOR THE
BANKING SERVICES
AT SAN FRANCISCO INTERNATIONAL AIRPORT

by and between

______________________________________,
as tenant

and

CITY AND COUNTY OF SAN FRANCISCO
ACTING BY AND THROUGH ITS AIRPORT COMMISSION,
as landlord

London N. Breed
Mayor

AIRPORT COMMISSION
Hon. Malcolm Yeung, President
Hon. Everett A. Hewlett, Jr., Vice President
Hon. Jane Natoli
Hon. Jose F. Almanza

Ivar C. Satero
Airport Director

___________ __, ____

Lease No.__-____

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LEASE AGREEMENT
FOR THE
BANKING SERVICES
AT SAN FRANCISCO INTERNATIONAL AIRPORT

MAJOR LEASE TERM SUMMARY

For the convenience of Tenant and City (as such terms are defined below), this Major Lease Term Summary (this "**Summary**") summarizes certain terms of this Lease (as defined below). his Summary is not intended to be a detailed or complete description of this Lease, and reference must be made to the other Sections below for the particulars of this Lease. In the event of any inconsistency between the terms of this Summary and any other provision of this Lease, such other provision shall prevail. Capitalized terms used elsewhere in this Lease and not defined elsewhere shall have the meanings given them in this Summary.

Effective Date:	______________________________________, 20___.
Tenant:	____, a ____.
Tenant's Notice Address:	____ ____ ____ Attn: ____ Fax No. ______________________________________ Tel. No. ______________________________________
City:	The City and County of San Francisco, a municipal corporation, acting by and through its Airport Commission.
City's Notice Address:	San Francisco International Airport International Terminal, North Shoulder Bldg., 5th Floor Attn: Airport Director P. O. Box 8097 San Francisco, CA 94128 Fax No. (650) 821-5005 Tel. No. (650) 821-5000

City's Rent Payment Address:	US Regular Mail San Francisco Airport Commission Attn: Accounting P.O. Box 59753 Los Angeles, CA 90074-9753 Overnight Delivery via Courier Lockbox LAC-059753 2706 Media Center Drive Los Angeles, CA 90065 Federal Wire System or ACH JPMorgan Chase New York, NY 10017 Bank Account No. 20000043472200 FedWire Bank Routing No. 021000021 SWIFT code CHASUS33 ACH Bank Routing No. 028000024
City's Sales Report Address:	SFOConcessReport@flysfo.com
City's Deposit/Annual Report Notice Address:	San Francisco International Airport Attn: Revenue Development and Management 575 N. McDonnell Road, Suite 3-329 P. O. Box 8097 San Francisco, CA 94128 Fax No. (650) 821-4519 Tel. No. (650) 821-4500
Premises: (§ 1)	The Premises is comprised of six automated teller machine (ATM) locations in Harvey Milk Terminal 1 and Terminal 3; one Long-Term Parking Garage ATM location; and five ATM locations in the International Terminal (collectively, the "**Premises**") at the San Francisco International Airport, as described on the attached Exhibit A.
Relevant Boarding Area: (§ 4.16)	Boarding Areas A and G in International Terminal, and B and F in Domestic Terminals.

Term: (§ 2)	The Development Term, plus a three (3) year Operating Term, collectively. **Development Term** is the 90-day period commencing on the Commencement Date during which Tenant shall construct its Initial Improvements in each Facility of the Premises. The Development Term for each Facility may be extended in the sole and absolution discretion of the Airport Director. **Operating Term** is the three (3) year period commencing on the earlier to occur of: (a) the Full Rent Commencement Date and (b) the first day of the calendar month following the six (6) month anniversary of the Commencement Date, and ending on the Expiration Date. The Airport Commission shall have one (1) option to extend the term by two (2) years, exercisable by the Airport Commission in its sole and absolute discretion.
Commencement Date: (§ 2.1)	The date on which the Airport Director gives notice to Tenant that the Premises (or *first* Facility if the Premises are comprised of more than one Facility) are ready for Tenant to take possession. ____________________________ (actual date to be inserted upon determination)
Rent for Interim Operations During Construction Period: (§ 4.4)	In the event Tenant desires to operate a temporary Facility during the construction of its Initial Improvements for such Facility, Tenant shall pay Percentage Rent (inserted after award) of Gross Revenues as Base Rent during such period (the "**Construction Period Percentage Rent**").
Rent Prior to Rent Commencement Date: (§ 4.5)	In the event Tenant completes its improvements and opens for business prior to the Rent Commencement Date, Base Rent will be greater of the Percentage Rent or a pro-rated MAG based on a thirty (30) day month. In the event Tenant is improving more than one Facility, upon the Rent Commencement Date for the first and each successive Facility, Base Rent will be the greater of the Percentage Rent or a pro-rated MAG based on the percentage of each such Facility's square footage against the total square footage of the Premises.

Rent Commencement Date: (§ 4)	For each Facility, the earlier of: (a) the first day of the first calendar month following the date on which the Initial Improvements (as defined below) are substantially complete and Tenant opens for business therein, and (b) the first day of the first calendar month following the expiration of the Development Term applicable to such Facility. If the Premises are comprised of a single Facility, the Rent Commencement Date shall also be the "**Full Rent Commencement Date**" under this Lease. If the Premises are comprised of multiple Facilities, the Rent Commencement Date for the last Facility delivered to Tenant shall be the "**Full Rent Commencement Date**" under this Lease. <u>Actual Dates (to be inserted upon determination):</u>

<u>Facility</u>	<u>Delivery Date</u>	<u>Rent Commencement Date</u>
____________	______________________	_________________________
____________	______________________	_________________________
____________	______________________	_________________________
____________	______________________	_________________________
____________	______________________	_________________________

Full Rent Commencement Date: ____________________________________

Expiration Date: (§ 2)	11:59 p.m. on the day before the third (3rd) anniversary of the commencement of the Operating Term. __________________________ (actual date to be inserted upon determination)
Reference Year: (§ 4.16)	The calendar year immediately prior to the year in which this Lease is awarded:____.
Permitted Use: (§ 3)	The operation of ATM Locations, each a "**Facility**" and collectively, the "**Facilities**"), as described on the attached Exhibit B.
Transaction Surcharges: (§ 3.6)	ATM Transaction Surcharges shall not exceed $2.50 per transaction.
Base Rent: (§ 4)	Per Lease Year (as defined below), the greater of the MAG (as defined below) or 70% of Gross Revenues. The Gross Revenues from all Facilities comprising the Premises will be aggregated.

Lease Year: (§ 4)	The period commencing on the first Rent Commencement Date and terminating on December 31 of the year in which the first Rent Commencement Date occurs, and each subsequent 12-month period except that the final Lease Year be less than 12 months.
Minimum Annual Guarantee ("MAG"): (§ 4)	[The MAG (inserted after award) will equal the MAG Offer made by the successful bidder.] _____ ($__.00) per annum; (_____ Dollars ($____.00) per month), (a) subject to adjustments upward as described below and (b) suspension and reinstatement under certain circumstances as described herein.
MAG Adjustment Date: (§ 4.3)	The first MAG adjustment shall occur on January 1st following the first full Lease Year and every January 1st thereafter. ___________________________________ (to be inserted upon determination)
Rent: (§ 4)	Base Rent, together with all other amounts owing by Tenant to City hereunder.
Deposit Amount: (§ 13)	Equal to one-half (1/2) of the initial MAG (subject to mid-term adjustment).
Minimum Investment Amount: (§ 7.1)	An amount satisfactory to meet the requirements of the Design Review Committee and the Tenant Design Guidelines.
Pest Control Services Fee (§ 9.4)	__________________ Dollars ($____________) per month, subject to adjustment as described herein.
Resolution:	Number __-____, approved by the Airport Commission on __________________, 20__.
Initial Tenant Representative: (§ 3.11)	____ Tel. No. ____
Other Agreements: (§ 13.4)	___________________________
Exhibits:	A – Premises B – Use and Operational Requirements C-1 – Form of Performance Bond C-2 – Form of Letter of Credit D – Tenant Work Letter All such exhibits are incorporated into this Lease and made a part hereof.

LEASE AGREEMENT
FOR THE
BANKING SERVICES
AT SAN FRANCISCO INTERNATIONAL AIRPORT

THIS LEASE AGREEMENT (this "**Lease**"), dated as of the Effective Date, is entered into by and between Tenant, and the City and County of San Francisco, a municipal corporation, acting by and through its Airport Commission ("**City**"). This Lease is made with reference to the following facts:

A. City owns the San Francisco International Airport (the "**Airport**") located in the County of San Mateo, State of California, which Airport is operated by and through the Airport Commission (the "**Commission**"), the chief executive officer of which is the Airport Director ("**Director**"). The Airport's "Terminal Building Complex" is currently comprised of Terminal 1, Terminal 2, Terminal 3, and an International Terminal, together with connecting concourses, piers, boarding areas and extensions thereof, and satellite buildings now or hereafter constructed. Tenant acknowledges that, from time to time, the Airport undergoes certain construction and renovation projects. Unless otherwise specified, the term "Airport" or "Terminal Building Complex" as used herein shall mean the Airport or the Terminal Building Complex, respectively, as the same may be expanded, contracted, improved, modified, renovated, or changed in any way. Unless otherwise specified below, references to the "City" shall mean the City, acting by and through its Airport Commission.

B. Tenant desires to provide and operate the service described in the Permitted Use at the Airport, and City has determined that such service would be an accommodation and convenience for airline passengers and the public using the Terminal Building Complex or the Airport.

C. Following a competitive process, pursuant to Section 2A.173 of the San Francisco Administrative Code, the Commission has determined that Tenant is the highest or best responsible bidder or proposer. Pursuant to the Resolution, Commission has awarded this Lease to Tenant.

Accordingly, Tenant and City agree as follows:

1. PREMISES

1.1 Extent of Leasehold. On the terms, conditions, and covenants in this Lease, City hereby leases to Tenant and Tenant hereby leases from City, the Premises. In addition, Tenant shall possess the non-exclusive right of ingress and egress to and from the Premises as may be necessary on areas designated by Director, subject to Airport Rules and Regulations, as amended from time to time (as amended, the "**Airport Rules**"), provided that Tenant's exercise of such right shall not impede or interfere unduly with the operation of the Airport by City, its tenants, customers, and other authorized occupants. Tenant shall not place or install any racks, stands or other display of merchandise or trade fixtures in any Airport property outside the Premises, without the express prior consent of Director. In no event will Tenant engage in any activity on the Airport outside the Premises for the recruitment or solicitation of business. For purposes of this Lease relating to Tenant's responsibilities, the "**Premises**" shall mean the area(s) shown on Exhibit A, where (a) the exact boundaries are deemed to be three inches (3") inside each wall separating the Premises from the adjacent premises or the external Terminal wall, and (b) with respect to the facade and/or wall on the front of the Premises, separating the Premises from the Terminal common areas, the exact boundary is deemed to be the external face of the facade and/or wall.

1.2 Required Relocation, Expansion, Contraction

(a) At any time during the Term, City may require that (i) Tenant relocate and surrender all or part of the Premises (such change to the Premises referred to as a "**Required Relocation**"), and/or (ii) the Premises be contracted or expanded (such change to the Premises referred to as a "**Premises Change**") on the terms set forth in this Section 1.2. City shall give notice (the "**Change Notice**") setting forth a description of the Required Relocation or the Premises Change, as applicable, the approximate effective date thereof (the "**Target Effective Date**"), and with respect to a Required Relocation, the location of comparable on-Airport replacement premises. The Change Notice shall be given no less than six (6) months prior to the Target Effective Date.

(b) With respect to a Required Relocation, Tenant shall surrender the Premises and relocate to the replacement premises on a date (the "**Surrender Date**") determined by City (which shall be no earlier than the Target Effective Date). On the Surrender Date, Tenant shall surrender the Premises in the condition required below. In the event of a relocation pursuant to this Section 1.2(b), except as otherwise expressly set forth below, Tenant shall refurbish, redecorate, and modernize the interiors and exteriors of the replacement premises at Tenant's sole cost and expense, such that the replacement premises are of at least the same quality as the original premises. Notwithstanding the foregoing obligation of Tenant to pay all costs and expenses of any Required Relocation, in connection with any such Required Relocation, City shall provide all required infrastructure (e.g. utility connections) necessary for Tenant's operations at the replacement premises at the sole cost and expense of City.

(c) With respect to a Premises Change Tenant shall cause the Premises to be expanded or contracted as described in the Change Notice on or before the date described therein at Tenant's sole cost and expense.

(d) Any Required Relocation or Premises Change described herein can be effected on the terms and conditions set forth above without need for a formal amendment of this Lease. Notwithstanding anything to the contrary herein, City shall not require a Required Relocation or a Premises Change unless City shall have considered other reasonable alternatives and rejected them.

1.3 Remeasurement of Premises. At any time and from time to time, Director may cause City to conduct a space audit pursuant to which City remeasures the Premises using the Airport's then-current measurement specifications, and in such event, the Lease terms based on square footage shall be deemed automatically adjusted to reflect such remeasurement, but there shall be no adjustment to Base Rent in connection with such remeasurement.

1.4 Changes to Airport. Tenant acknowledges and agrees that City shall have the right at all times to change, alter, expand, and contract the Airport, including the Terminal Building Complex, and that City has made no representations, warranties, or covenants to Tenant regarding the design, construction, pedestrian traffic, enplanements, airline locations, or views of the Airport or the Premises. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that the Airport is currently undergoing, and may from time to time hereafter undergo, renovation, construction, and other Airport modifications, and may from time to time adopt rules and regulations relating to security and other operational concerns that may affect Tenant's business. Although City will use reasonable efforts to minimize the effect of such changes on Tenant's business, Tenant acknowledges that such activity may have some effect on its operations located at the Airport. Such construction and renovation programs might involve barricading, materials storage, noise, the presence of workers and equipment, rearrangement, utility interruptions, and other inconveniences normally associated with construction and renovation. Although City will use reasonable efforts to minimize the effect of such changes on Tenant's business, Tenant acknowledges that such activity may have some effect on its operations located at the Airport, and Tenant shall not be entitled to any rent credit or other compensation therefor. At any time and from time to time, City may, without the consent of Tenant, and without affecting Tenant's obligations under this Lease, at City's sole discretion, (a) change the shape, size, location, number and extent of the improvements in any portion of the Airport, including without limitation the concourses, piers, boarding areas, concession areas and security areas located within the Terminal Building, (b) build additional stories above or below the Airport buildings, including of the Terminal Building, (c) eliminate or relocate public entrances to the Premises so long as there is at all times one public entrance to the Premises, (d) construct multi-level, elevated or subterranean parking facilities, and (e) expand or contract the Airport, including redefining the Airport boundaries so as to include additional lands within the Airport or exclude lands from the Airport or both. Without limiting waivers set forth elsewhere in this Lease, Tenant hereby waives all claims against City and releases City from all Losses (as defined below) that Tenant suffers or incurs arising out of or in connection with any changes to the Airport or any portion of the Airport and Tenant further agrees that Tenant will not be entitled to any rent abatement or any other rent relief in connection with any changes to the Airport or any portion of the Airport.

1.5 Common Areas. The term "**common areas**" means all areas and facilities located within the Airport that are designated by City from time to time for the general use and convenience of the tenants of the Airport and other occupants of the airport, and airline passengers and other visitors to the Airport such as concourses, sidewalks, elevators, escalators, moving walkways, parking areas and facilities, restrooms, pedestrian entrances, driveways, loading zones and roadways. City may, in its sole discretion, and without any liability to Tenant (a) change the common areas, (b) increases or decreases the common areas (including the conversion of common areas to leasable areas and the conversion of leasable areas to common areas), and (c) impose parking charges. City will, in its sole discretion, maintain the common areas, establish and enforce Airport Rules concerning the common areas, close temporarily portions of the common areas for maintenance purposes, and make changes to the common areas including changes in the location of security check points, driveways, entrances, exits, parking spaces, parking areas, and the direction of the flow of traffic. The City reserves the right to make additional Airport Rules affecting the Airport throughout the Term, including the requirement that Tenant participate in a parking validation program.

2. TERM

2.1 Commencement and Expiration. The Term shall commence on the Commencement Date and expire on the Expiration Date, unless terminated prior thereto as provided herein.

2.2 Phased Delivery and Required Opening. City may deliver each Facility to Tenant in phases, with one or more Facilities delivered to Tenant at different times. Tenant shall have no right to use or occupy any Facility until the Facility is so delivered. As to each Facility, upon City's notice that such Facility is ready for Tenant to take possession, Tenant shall (a) take possession of such Facility, (b) cause the Initial Improvements to be substantially completed, and (c) cause the Facility to be open for business within ninety (90) days.

2.3 Late Opening Charge. In the event Tenant fails to open for business in any Facility on or before the Rent Commencement Date, City will incur substantial damages, the exact amount of which are extremely difficult to fix. Accordingly, for each day after the Rent Commencement Date until the day on which Tenant opens for business, Tenant shall pay to City Five Hundred Dollars ($500.00) (in addition to Rent as provided below), as liquidated damages. The parties have agreed that this amount represents a reasonable approximation of the damages likely to be suffered by City in the event Tenant shall fail to open on or before the Rent Commencement Date. In the event the Facilities are not open for business on the date that is sixty (60) days after the Full Rent Commencement Date, City shall have the option to terminate this Lease. Tenant shall be liable for all damages associated with such termination or removal, including City's releasing costs.

2.4 Delivery Delay by City. If for any reason (including, without limitation, the existing tenant's failure to vacate timely the Premises) City cannot deliver possession of the Premises to Tenant on the Commencement Date, this Lease shall remain in effect, City shall not be subject to any liability, and such failure shall not extend the Term hereof. In such event, and provided such delay is not caused by the act or omission of Tenant, or Tenant's principal, affiliate, contractor, employee, agent, licensee or invitee (a "**Tenant Entity**"), the Rent Commencement Date shall be extended day for day to reflect such delay. After the Rent Commencement Date has occurred, upon Director's request, Tenant will execute a written acknowledgment of the Commencement Date and the Rent Commencement Date. In the event Tenant fails to execute and return promptly such acknowledgment to City, the dates described therein shall be deemed conclusive.

2.5 City's Right to Extend Term. City shall have Two (2) option(s) to extend the Term by One (1) year, on the terms and conditions of this Section 2.5 (the "**Extension Option**"), in the sole and absolute discretion of the Commission To exercise an Extension Option, City must give notice (an "**Exercise Notice**") to Tenant on or before the date that is one hundred and eighty (180) days prior to the Expiration Date. In no event will City be required to exercise the Extension Option.

2.6 Holding Over. If, without objection by City, Tenant holds possession of the Premises after the Expiration Date, Tenant shall become a tenant from month to month, upon the terms of this Lease except that, the MAG shall not be applicable, and Base Rent shall be the Percentage Rent specified in the Summary during any such holdover period. No such holdover shall be deemed to operate as a renewal or extension of the Term. Such month-to-month tenancy may be terminated by City or Tenant by giving thirty (30) days' notice of termination to the other at any time. Tenant shall have no rights to renew or extend the Term of this Lease.

2.7 Early Lease Termination. Notwithstanding the Lease provisions herein, the Director, in his sole and absolute discretion, has the authority to terminate the Lease during the Operating Term if the use of the space is required in support of the Airport's Five-Year or Ten-Year Capital Plan, as published annually (the "**Early Lease Termination**"). In the event the Director exercises this Early Lease Termination, the Airport shall provide Tenant with six (6) months' written notice of the termination date of the Lease, upon which the Lease shall terminate and Tenant shall vacate the Premises in accordance with applicable Lease provisions contained herein.

Under this provision only, Tenant is entitled to a Lease buy-out and no other monetary payment under this Lease, at law or at equity. The buy-out is computed as the unamortized investment in "hard construction costs" as defined further in Lease Section 7.1 [Minimum Investment]. In the absence of "hard construction costs," the required Minimum Investment Amount will be used. The amortization is based on a straight-line method as applied to the Operating Term. An example of the buy-out computation is as follows: Tenant invests $500,000 in hard construction costs and has a five year Operating Term, and one two-year Extension Option. During the Operating Term and with two lease years remaining of the Operating Term, the Director exercises the Early Lease Termination provision. Using the straight line method for amortization, the buy-out to Tenant shall be $200,000 ($500,000 divided by 5 years multiplied by two lease years remaining of the term).

3. USE AND OPERATION

3.1 Permitted Use. Tenant shall use the Premises for the Permitted Use and for no other purpose. Tenant shall, at all times, operate the Premises in strict conformance with the Permitted Use attached as Exhibit B herein. In the event Tenant desires to use the Premises for any purpose other than the Permitted Use (including selling an item or service outside the scope of the Permitted Use), Tenant must submit a request to Director. Director may, in his/her sole and absolute discretion approve or deny such request. Any such decision shall be binding on Tenant. Without limiting the generality of this Section 3.1 or any of the requirements set forth on Exhibit B, Tenant shall not operate any Facility under any name or brand other than a name or brand specifically permitted or required herein, or as otherwise approved by Director. Without limiting Section 5 [Assignment or Subletting], Tenant shall not, without the prior consent of Director, engage a third-party operator to conduct the Permitted Use or otherwise operate on the Premises.

3.2 No Exclusivity. Tenant acknowledges and agrees that Tenant has no exclusive rights to conduct the business of the Permitted Use and that City may arrange with others for similar activities at the Airport.

3.3 Operation of Business. Subject to the terms of this Lease, Tenant will operate Tenant's business in the Premises so as to maximize Gross Revenues (as defined below) and in accordance with the requirements set forth on Exhibit B relating to, among other things, merchandise requirements and price requirements. Without limiting the generality of the foregoing, Tenant shall (a) conduct the business in a first-class, businesslike, safe, efficient, courteous and accommodating manner; (b) carry a wide-range stock of merchandise of top character, quantity, and quality; and (c) employ sufficient and experienced staff. In the event Director shall give notice to Tenant that any of the foregoing covenants (a) - (c) are not being satisfied, Tenant shall immediately discontinue or remedy the objectionable practice. In addition, Tenant shall make reasonable change when requested, give directions, and assist the public generally. Tenant shall take all reasonable measures in every proper manner to maintain, develop, and increase the business conducted by it. Tenant will not divert or cause to be diverted any business from the Airport.

3.4 Support Space. shall use no more than fifteen percent (15%) of its Facility for support spaces such as administrative, storage, or preparation area uses. For multiple Facilities, Tenant may not use more than fifteen percent (15%) of each Facility for such uses.

3.5 Hours of Operation. Tenant will carry on its business diligently and continuously in the Premises and will keep the Premises and the ATMs fully operational and open for business 24 hours each day seven (7) days per week, including holidays. Director or his/her representative may, from time to time, modify, expand, or reduce such required hours of operation, in which event, Tenant will remain open during such revised hours. Similarly, Tenant may, from time to time, request to revise its hours of operation. Such change must be approved by Director or his/her representative, in writing, prior to its occurrence. Tenant may not, at any time, vacate or abandon the Premises.

3.6 Prices; ATM Surcharge. For use of the ATMs, Tenant shall not impose any usage fee or transaction surcharges to its customers for access to Tenant's services, separate from any fees assessed for a specific service ("**Transaction Surcharges**") in excess of $2.50 per transaction. Any change in such usage fee or surcharge shall require the advance written consent of Director.

3.7 References to Airport. Tenant shall not, without the prior written consent of Director, reference City or the Airport for any purpose other than the address of the business to be conducted by Tenant in the Premises, nor will Tenant do or permit anything in connection with Tenant's business or advertising which in the judgment of City may reflect unfavorably on City or the Airport, or confuse or mislead the public as to the relationship between City and Tenant.

3.8 Other Operational Requirements.

(a) Tenant must keep the display cases and windows within the Premises presentable, clean, and suitably illuminated at all times.

(b) Tenant must dispose of all trash and debris in areas and in containers designated by Director. If City provides common trash areas, Tenant may request a permit to use the same for a charge determined by Director from time to time. Tenant may not place or leave or permit to be placed or left in or upon any part of the common areas or corridors adjacent to the Premises any garbage, debris or refuse.

(c) City shall have the right to implement a consolidated distribution center for delivery of merchandise to Tenant. If City elects to implement such a consolidated distribution center, Tenant must use the service and pay any associated fees.

(d) Tenant acknowledges that the operational requirements of the Airport as an airport facility, including without limitation security requirements, are of paramount importance. Tenant acknowledges and agrees that it must conduct its business in a manner that does not conflict with the operational requirements of the Airport as an airport facility and that fully accommodates those requirements. Without limiting other waivers herein, Tenant waives all claims for any Losses arising out of or connected to the operation of the Airport as an airport facility. Without limitation on the foregoing, Tenant must:

(i) comply with the Airport Rules;

(ii) cause all deliveries and dispatches of merchandise, supplies, fixtures, equipment and furniture to be made and conveyed to or from the Premises by means and during hours established by Director in Director's sole discretion. City has no responsibility regarding the delivery or dispatch of Tenant's merchandise, supplies, fixtures, equipment and furniture. Tenant may not at any time park its trucks or other delivery vehicles in common areas; and

(iii) not park within the parking areas of the Airport except in those areas, if any, designated by City pursuant to permits obtained from the Airport's Permit Bureau. Nothing herein shall imply that Tenant shall be able to secure any on-Airport parking privileges.

3.9 Prohibited Activities. Without limiting any other provision herein, Tenant shall not, without the prior written consent of Director: (a) use or permit the use of the Premises for the conduct of an outlet store or a second-hand store; (b) advertise any distress, fire, bankruptcy, liquidation, relocation, closing, or going-out-of-business sales; (c) use or permit the use on the Premises of any pinball machines, videogames, or other devices or equipment for amusement or recreation, or any vending machines, newspaper racks, pay telephones, or other coin, token, or credit card-operated devices; (d) cause or permit anything to be done in or about the Premises, or bring or keep anything thereon, which might (i) increase in any way the rate of fire insurance on the Terminal Building Complex or any of its contents; (ii) create a nuisance; (iii) in any way obstruct or interfere with the rights of others in the Terminal Building Complex or injure or annoy them; (e) commit or suffer to be committed any waste upon the Premises; (f) use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose; (g) place any loads upon the floor, walls or ceiling which endanger the structure or obstruct the sidewalk, passageways, stairways or escalators, in front of, within, or adjacent to the Terminal Building Complex; (h) use any advertising or promotional medium that may be seen, heard, or otherwise experienced outside the Premises (such as searchlights, barkers or loudspeakers); (i) distribute handbills or circulars to Airport patrons or to cars in the parking lots, or engage in any other advertising in the Airport; (j) engage in any activity on the Airport outside the Premises for the recruitment or solicitation of business; or (k) do or permit to be done anything in any way tending to injure the reputation of City or appearance of the Airport.

3.10 Audit of Operations. At any time and from time to time, City may conduct an audit of Tenant's operations at the Airport (in addition to City's right to audit pursuant to Section 4.9 [Books and Records; Audit Rights]) to confirm that such operations comply with the requirements set forth in this Lease. Tenant shall cooperate with such audit. In the event such audit shows that Tenant is not complying with such requirements, without limiting City's ability to call a default hereunder, City may require that Tenant reimburse City for the costs of such audit. Tenant shall promptly remedy any noncompliance shown in any such audit.

3.11 Representative of Tenant. Tenant shall at all reasonable times retain in the Terminal Building Complex at least one qualified representative authorized to represent and act for it in matters pertaining to its operation and shall keep Director informed in writing of the identity of each such person. The initial person so designated is the Initial Tenant Representative.

3.12 Investigation Reports. Tenant shall, if required by Director, employ, at its own cost and expense, an investigative organization approved by Director for the purpose of making investigations and observations and preparing a written report of the carrying out of any pricing policies, revenue control, and operational techniques being used on the Premises. Tenant shall cause such investigation and observation to be made at such reasonable times and in the manner directed by Director, and the investigator shall deliver forthwith to Director a true and complete written copy of any such reports made to Tenant.

3.13 Compliance with Laws. Tenant shall promptly, at its sole expense, cause the Premises (including any permitted Alterations (as defined below)), and Tenant's and any Tenant Entity's use of the Premises and operations at the Airport under the Lease, to comply at all times with all Laws (as defined below). Notwithstanding the foregoing, this Section 3.13 shall not impose on Tenant any liability to make any structural alterations to the Terminal's roof, foundation, bearing and exterior walls and subflooring; or heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems of the Terminal (collectively "**Building Systems**"), except to the extent the same is (i) installed by Tenant or Tenant Entity, or (ii) necessitated by Tenant's Alterations or by any act or omission of Tenant or any Tenant Entity. As used herein, the term "**Laws**" shall mean all applicable present and future laws, ordinances, rules, judgments, decrees, injunctions, regulations, permits, authorizations, orders and requirements, to the extent applicable to Tenant or the Premises or any portion of any of them whether or not in the contemplation of the parties, including, without limitation, all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, board of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, including the Occupational Safety and Health Act and all other applicable laws relating to workplace safety or toxic materials, substances or wastes, Title XV (commencing with Section 3082) of the California Civil Code relating to works of improvement and all other applicable laws relating to construction projects, the provisions of the American with Disabilities Act, 42 U.S.C. Section 12101 et seq. and any governmental regulations with respect thereto (the "**ADA**") (including, without limitation, the requirements under the

ADA for the purposes of "public accommodations", as that term is used in the ADA), the provisions of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794 et seq.) and any governmental regulations with respect thereto, Title 24 of the California Administrative Code, the National Labor Relations Act, all Environmental Laws, the Airport Rules, the Tenant Improvement Guide (including any design criteria) as the same may be amended from time to time (the "**TI Guide**"), and the requirements referenced in Section 19 [City and Other Governmental Provisions] hereof.

4. RENT

4.1 Definitions. For purposes of this Lease, the following capitalized terms shall have the following meanings:

(a) "**Gross Revenues**" means:

(i) Transaction Surcharges assessed and processed at the Premises to its Customers.

(ii) All revenues dervied from the sale of gift cards or other banking cards at the Premises.

(iii) All revenues, whether by coin or currency, on account, by check or credit card, collected or uncollected, whether conducted on or off airport, derived by Tenant as a result of its operation of the concession rights herein granted and shall include the sales prices received or billed by Tenant or any subtenants from the services provided at or arising from the Airport; plus

(iv) The retail price of all merchandise sold and services rendered in, on, about or from the Premises or from such other locations on the Airport where Tenant operates, whether through a subtenant, concessionaire, or by any other person or entity herein permitted, to include catering and internet sales, as permitted herein, and any other receipts, credits, rebates, allowance or revenues of any type arising out of or in connection with Tenant's operations at the Premises, regardless of where or by whom any such merchandise is prepared, whether such sales be for cash or on credit, and in case of sales on credit, whether or not payment is actually made; provided, however, that in the event merchandise is returned by a customer and the sale is canceled, the selling price shall be excluded; plus,

(v) The full amount of all deposits forfeited by customers in connection with any business of Tenant in, on, about or from the Premises; plus,

(vi) The full amount of all orders for goods or services accepted by Tenant in, on, about or from the Premises, whether or not to be filled or performed at any other place, and the full amount of all orders accepted by Tenant elsewhere, but to be filled or performed in, on, about or from the Premises or from such other locations on the Airport where Tenant operates. In determining Gross Revenues, retail sales taxes shall not be included; plus,

(vii) The retail price of all merchandise orders placed on the Premises from Tenant's catalog; plus,

(viii) Branding fees, marketing fees, merchandising fees, promotional allowances, retail display allowances (RDA) and any type of ancillary advertising or product placement fees/allowances arising out of or in connection with Tenant's operations at the Premises.

The following shall not be included in Gross Revenues:

(i) Any exchange of merchandise between facilities of Tenant where such exchange is made solely for the convenient operation of Tenant's business and not for the purpose of consummating a sale made in, at or from the demised premises, or for the purpose of depriving City of the benefit of sales which would otherwise be made in or at the Premises;

(ii) Returns to the shippers or manufacturers;

(iii) Cash or credit refunds to customers on transactions (not to exceed the actual selling price of the item returned) otherwise included in Gross Revenues;

(iv) Discount sales to employees, to the extent of the discount; and

(b) "**MAG Adjustment Date**" has the meaning given it in the Summary.

(c) "**Enplanements**" means the total number of passengers boarding airline carriers.

(d) "**First Month**" means the month in which the first Rent Commencement date occurs.

(e) "**Lease Year**" means the period commencing on the first Rent Commencement Date and terminating on December 31st of the year in which the first Rent Commencement Date occurs, and each subsequent 12 month period except that the final Lease Year may be less than 12 months.

(f) "**Consumer Price Index**" means that index published by the United States Department of Labor, Bureau of Labor Statistics known as ***"All Urban Consumers-Not Seasonally Adjusted- San Francisco/Oakland/San Jose, CA***.*"* In the event such index is discontinued, then "**Consumer Price Index**" shall mean an index chosen by Director which is, in Director's reasonable judgment, comparable to the index specified above.

(g) "**Base Index**" means the most recent Consumer Price Index published immediately prior to the first Rent Commencement Date.

(h) "**Comparison Index**" means the most recent Consumer Price Index available at the time of MAG Adjustment review.

(i) "**Customer**" means any user of Tenant's services at the Premises, regardless of whether the user is a customer of Tenant in any other capacity.

(j) "**Customer Use**" means a use of Tenant's services in any ATM unit in the Premises performed pursuant to a single event of access by Customer, regardless of the number of individual transaction performed during that event of access. In the event Tenant's reporting system is unable to distinguish between a single access and multiple transactions performed, the highest number of uses shall be considered Customer Use.

(k) "**Transaction Surcharge(s)**" means fee(s) charged to Customers for access to Tenant's services, separate from any fees assessed for a specific service.

4.2 Monthly Rent Payments. Tenant shall pay, as rent for the Premises, estimated monthly Base Rent in advance, on or before the first (1st) day of each calendar month of the Term, as set forth below:

(a) On or before the Rent Commencement Date and the first (1st) day of each calendar month thereafter, Tenant shall pay the current monthly Minimum Annual Guarantee to the City's Rent Payment Address.

(b) On or before the twentieth (20th) day of each calendar month after the First Month, concurrently with its submission of the Sales Reports described below covering the prior calendar month, Tenant shall pay to City the deficiency, if any, between the Base Rent payable by Tenant with respect to such prior calendar month (based on the Gross Revenues achieved with respect to such prior month), and the amount actually paid by Tenant pursuant to the foregoing subsection (a) with respect to such month.

(c) All payments hereunder shall be paid to City's Rent Payment Address, or at such other place as City may from time to time designate in writing.

(d) All Rent shall be paid in lawful money of the United States, free from all claims, demands, setoffs, or counterclaims of any kind.

(e) Any Rent not paid when due shall be subject to a service charge equal to the lesser of the rate of one and one-half percent (1½%) per month, and the maximum rate permitted by law. Acceptance of any service charge shall not constitute a waiver of Tenant's default on the overdue amount or prevent City from exercising any of the other rights and remedies available to City.

4.3 Adjustments to Minimum Annual Guarantee. On each MAG Adjustment Date, the Minimum Annual Guarantee will be adjusted such that the Minimum Annual Guarantee with respect to the upcoming Lease Year shall be increased to equal the following amount:

$$\text{MAG} \quad \times \quad \frac{\text{Comparison Index}}{\text{Base Index}}$$

Notwithstanding anything to the contrary herein, in no event will the Minimum Annual Guarantee for any Lease Year be lower than the Minimum Annual Guarantee with respect to the prior Lease Year.

4.4 Construction Period Operations. In the event Tenant desires to operate and conduct operations constituting the Permitted Use in a temporary facility prior to substantial completion of the Initial Improvements and the Rent Commencement Date, then prior to the Commencement Date, Tenant shall give notice thereof to Director requesting Director's approval of such interim operations. Such notice shall specify the nature of such operations, including the proposed area for such operations, the hours of such operations, and the inventory to be offered for sale. Director shall have the right to grant or deny such approval in Director's sole and absolute discretion. In the event Director grants approval of such interim operations, then such operations shall be on such terms and conditions required by Director, including: (a) Director may revoke Director's approval at any time, and following such revocation, Tenant must immediately cease such operations until the Rent Commencement Date; (b) Such interim operations may be conducted only in the area designated by Director; (c) Tenant's responsibilities and liabilities with respect to such designated area shall be the same responsibilities and liabilities that Tenant has with respect to the Premises, except that Tenant shall not be obligated to perform the Initial Improvements or any other Alterations on such designated area; (d) As Base Rent for the interim period, Tenant shall pay to City the Construction Period Percentage Rent identified in the Summary based on Gross Revenues achieved from such designated area during each month of such interim period. All such rent shall be due and payable on the twentieth (20th) day of the month following each month of operation, and otherwise as provided in Section 4 of the Lease. Tenant shall report all Gross Revenues achieved during such interim period and such Gross Revenues shall not be included as Gross Revenues for the purposes of calculation of Base Rent following the Rent Commencement Date; and (e) Tenant shall be solely responsible for making the designated area useable for Tenant's interim operations, and for protecting such area from construction and other activities in the Premises. At Director's request, Tenant shall restore such area to the condition existing prior to Tenant's use thereof.

4.5 Rent Prior to Rent Commencement Date. In the event Tenant completes its improvements and opens for business prior to the Rent Commencement Date, Base Rent will be greater of the Percentage Rent or a pro-rated MAG based on a thirty (30) day month. In the event this Lease covers more than one Facility, upon the Rent Commencement Date for the first and each successive Facility, Base Rent will be the greater of the Percentage Rent or a pro-rated MAG based on the percentage of each such Facility's square footage against the total square footage of the Premises. For example, if the aggregate square footage of the Premises equals 1,000 square feet, and the newly constructed Facility equals 500 square feet, the pro-rated MAG will be fifty percent (50%) of the total MAG, since 500 square feet is fifty percent of the aggregate square footage of 1,000 square feet. If the pro-rated MAG amount is less than the Percentage Rent however, then the Percentage Rent amount will supersede the pro-rated MAG.

4.6 Sales Reports. On or before the twentieth (20th) calendar day of each month after the First Month, Tenant shall submit to City, at City's Sales Report Address, a report (the "**Sales Report**") showing all Gross Revenues achieved with respect to the prior month by location, segregated by each source or general type of article sold or service rendered. Such report shall be certified as being true and correct by Tenant and shall otherwise be in form and substance satisfactory to Director. As described below, City shall have the right, in addition to all other rights herein, to impose a fine in the event Tenant shall fail to submit such Sales Report timely.

4.7 Annual Certification of Sales and Adjustment. Within ninety (90) days after the end of each Lease Year, Tenant shall submit to Director at City's Deposit/Annual Report Notice Address a year-end revenue report certified by an independent Certified Public Accountant or senior officer showing Gross Revenues achieved with respect to the prior Lease Year ("**Annual Report**"). If such report shows that the total Base Rent actually paid by Tenant with respect the prior Lease Year was less than the Base Rent payable with respect to such year, then Tenant shall immediately pay to City such deficiency. If such report shows that the total Base Rent actually paid by Tenant with respect to such prior Lease Year exceeded the Base Rent payable with respect to such year, then such excess shall be applied as a rent credit to amounts next coming due. Notwithstanding anything to the contrary herein, in no event will the Base Rent payable to City be less than the Minimum Annual Guarantee. In addition, Tenant shall submit to City such other financial or other reports as Director may reasonably require. Tenant shall also certify any Gross Revenues earned prior to the Rent Commencement Date and a true-up for that period alone will take place in the manner stated immediately above.

4.8 *Left blank by agreement of the parties.*

4.9 Books and Records; Audit Rights.

(a) Tenant shall maintain for a period of five (5) years after the Expiration Date, or, in the event of a claim by City, until such claim of City for payments hereunder shall have been fully ascertained, fixed and paid, separate and accurate daily records of Gross Revenues, whether for cash, credit, or otherwise. Tenant must require each subtenant, concessionaire, licensee, and assignee to maintain the same records. All such books and records shall be kept in accordance with "generally accepted accounting principles," consistently applied, showing in detail all business done or transacted in, on, about or from or pertaining to the Premises, and Tenant shall enter all receipts arising from such business in regular books of account, and all entries in any such records or books shall be made at or about the time the transactions respectively occur. The books and source documents to be kept by Tenant must include records of inventories and receipts of merchandise, daily receipts from all sales and other pertinent original sales records and records of any other transactions conducted in or from the Premises by all persons or entities conducting business in or from the Premises. Pertinent original sales records include: (i) cash register tapes, including tapes from temporary registers, (ii) serially pre-numbered sales slips, (iii) the original records of all mail and telephone orders at and to the Premises, (iv) settlement report sheets of transactions with subtenants, concessionaires, licensees and assignees, (v) original records indicating that merchandise returned by customers was purchased at the Premises by such customers, (vi) memorandum receipts or other records of merchandise taken out on approval, (vii) detailed original records or any exclusions or deductions from Gross Revenues, (viii) sales tax records, and (ix) all other sales records, if any, that would normally be examined by an independent accountant pursuant to generally accepted auditing standards in performing an audit of Gross Revenues. Tenant must keep the required books, source documents and records of Gross Revenues available for inspection by City and its agents and employees at the Premises or at another location within the continental United States at all times during regular business hours. In addition, Tenant shall maintain monthly and annual reports of Gross Revenues derived from its operation under this Lease, using a form and method as is directed by Director. Such forms and methods shall be employed by Tenant throughout the term of this Lease. Upon Director's written request, Tenant shall make available immediately to City and/or its auditors any and all books, records and accounts pertaining to its operations under this Lease. The intent and purpose of the provisions of this section are that Tenant shall keep and maintain records which will enable City and City's Controller to ascertain, determine and audit, if so desired by City, clearly and accurately, Gross Revenues achieved, and the adequacy of the form and method of Tenant's reporting thereof.

(b) Should any examination, inspection, and audit of Tenant's books and records by City disclose an underpayment by Tenant of the total Base Rent due, Tenant shall promptly pay to City such deficiency, and if such deficiency exceeds two percent (2%) of the total Base Rent due, Tenant shall also promptly reimburse City for all costs incurred in the conduct of such examination, inspection, and audit. Further, should any examination, inspection, and audit of Tenant's books and records by City disclose an underpayment by Tenant of the total Base Rent due and such deficiency exceeds five percent (5%) of the total Base Rent due, City shall have the right to terminate this Lease. In the event that City deems it necessary to utilize the services of legal counsel in connection with collecting the reimbursement for such examination, inspection, and audit, then Tenant shall reimburse City for reasonable attorneys' fees and litigation expenses as part of the aforementioned costs incurred.

4.10 Other Reports and Submissions. Tenant shall furnish City with such other financial or statistical reports as Director or his/her representative from time to time may reasonably require. Upon request by Director, Tenant shall furnish to City copies of its quarterly California sales and use tax returns covering the Premises operations as well as that pertinent portion of both the California and Federal income tax returns and possessory interest tax returns on the Premises operations at the time of filing, and any amendments thereto. All copies of such returns must be certified as exact copies of the original documents by a Certified Public Accountant. Tenant and all subtenants (to the extent permitted) shall also promptly notify Director of and furnish to City copies of any audit reports covering this facility conducted by the California Franchise Tax Board or the Board of Equalization.

4.11 *Left blank by agreement of the parties.*

4.12 *Left blank by agreement of the parties.*

4.13 Additional Rent. Tenant shall pay to City any and all charges and other amounts under this Lease as additional rent, at the same place where Base Rent is payable. City shall have the same remedies for a default in the payment of any such additional charges as for a default in the payment of Base Rent.

4.14 Prepay Rent. Notwithstanding anything to the contrary herein, in the event Tenant shall fail to pay any Rent when due hereunder, Director shall have the right to require Tenant to pay estimated monthly Rent (including Base Rent, utility charges, and all other amounts) one (1) month in advance of when such payment would otherwise be due. Such prepayment would be based on the highest monthly Rent previously due from Tenant. Such right shall be exercised by a notice from Director to Tenant, which notice may be given any time after such default by Tenant, regardless of whether the same is cured by Tenant.

4.15 Nature of Lease. Under no circumstances will City be expected or required to make any payment of any kind with respect to Tenant's use or occupancy of the Premises, except as may be otherwise expressly set forth herein. Except as may be specifically and expressly provided otherwise in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, shall relieve Tenant from its liability to pay all of the sums required by this Lease, or relieve Tenant from any of its other obligations under this Lease, or give Tenant the right to terminate this Lease in whole or in part. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction, or suspension of payment of such sums, on account of such occurrence or situation. Except as otherwise expressly provided herein, this Lease shall continue in full force and effect, and the obligations of Tenant hereunder shall not be released, discharged or otherwise affected, by reason of: (a) any damage to or destruction of the Premises or any portion thereof or any improvements thereon, or any taking thereof in eminent domain; (b) any restriction or prevention of or interference with any use of the Premises or the improvements or any part thereof; (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to City, Tenant or any constituent partner of Tenant or any sublessee, licensee or concessionaire or any action taken with respect to this Lease by a trustee or receiver, or by any court, in any proceeding; (d) any claim that Tenant or any other person has or might have against City; (e) any failure on the part of City to perform or comply with any of the terms hereof or of any other agreement with Tenant or any other person; (f) any failure on the part of any sublessee, licensee, concessionaire, or other person to perform or comply with any of the terms of any sublease or other agreement between Tenant and any such person; (g) any termination of any sublease, license or concession, whether voluntary or by operation of law; or (h) any other occurrence whatsoever, whether similar or dissimilar to the foregoing in each case whether or not Tenant shall have notice or knowledge of any of the foregoing. The obligations of Tenant hereunder shall be separate and independent covenants and agreements. Tenant hereby waives to the full extent permitted by applicable law, all rights now or hereafter conferred by statute, including without limitation the provisions of Civil Code Sections 1932 and 1933, to quit, terminate or surrender this Lease or the Premises or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of any rent hereunder.

4.16 Severe Decline in Enplanements.

(a) Defined Terms. For purposes of this Section, the following capitalized terms shall have the following meanings:

(i) "**Relevant Boarding Area**" shall have the meaning given it in the Summary.

(ii) "**Enplanements**" shall mean the total number of passengers boarding airline carriers. For purposes of this Section 4.14, all Enplanement comparisons shall be done by Relevant Boarding Area.

(iii) "**Reference Month(s)**" shall mean the corresponding month in the Reference Year.

(iv) "**Reference Year**" shall have the meaning given it in the Summary.

(v) "**Percentage Rent**" shall have the meaning given it in the Summary.

(vi) "**Severe Decline in Enplanements for Three Months**" shall mean that the actual Enplanements achieved during a one month period is less than 80% of the actual Enplanements of the same Reference Month in the Reference Year, and such shortfall continues for three (3) consecutive months.

(vii) "**Enplanement Stabilization for Two Months**" means that actual Enplanements for a particular month equals or exceeds 80% of the actual Enplanements of the same Reference Month in the Reference Year, and such threshold is achieved for two (2) consecutive months.

(b) MAG Suspension. If at any time during the term, there is a Severe Decline in Enplanements for Three Months, then the MAG shall be temporarily suspended as follows:

(i) The MAG suspension shall be effective on the first day of the month immediately following the Severe Decline in Enplanements for Three Months.

(ii) During such MAG suspension period, Tenant shall be required to pay only the Percentage Rent, unless and until the MAG is reinstated as provided below. On or before the 20th day of each month, Tenant will submit to City a Sales Report showing Tenant's Gross Revenues achieved with respect to the prior month, together with the Percentage Rent calculated on such Gross Revenues, cumulated by Lease Year.

(iii) If the Lease provides that the Percentage Rent is based on a tiered gross revenue structure, for purposes of determining the Percentage Rent payable, the annual Gross Revenues shall continue to cumulate as provided in the Lease. For example, if Tenant's Lease Year is November 1 through October 31, then for purposes of calculating Percentage Rent for April 2003, all gross revenues achieved to date (from November 1 through April 30) will be cumulated.

(c) MAG Reinstatement. Once there is Enplanement Stabilization for Two Months, then the MAG is reinstated, and will continue unless and until there is another Severe Decline in Enplanements for Three Months, as follows:

(i) Such MAG reinstatement will be effective on the first day of the month following an Enplanement Stabilization for Two Months.

(ii) In the event the MAG is reinstated after the commencement of a "Lease Year" or other period of time for annual gross revenue accumulation specified in the Lease, the MAG will be pro-rated accordingly.

(d) Determination of Enplanements and "True-Ups". The parties acknowledge that Enplanements for a particular month are not usually determined as of the first day of the following month. Accordingly, unless and until the MAG is suspended as provided herein, Tenant shall continue to pay the MAG as and when required hereunder. If and when a MAG is later suspended pursuant to Section 4.12(b), then City shall issue a rent credit to reflect any resulting overpayment in rent. If and to the extent Tenant has any outstanding obligations to City hereunder, City may decline to issue such rent credit or reduce the rent credit by the amount outstanding. If and when the MAG is reinstated, Tenant shall pay to City within five (5) days after City shall have given notice to Tenant of such reinstatement, the deficiency, if any, between the Percentage Rent paid by Tenant and the MAG, for the month(s) following such reinstatement.

(e) Enplanement Determinations. Director shall have the sole discretion as to the Enplanement calculations, and whether there exists a Severe Decline in Enplanements for Three Months and/or an Enplanement Stabilization for Two Months.

(f) No Effect. The MAG suspension shall have no effect on (i) any adjustments specified in this Lease to be made to the MAG; or (ii) the Deposit Amount.

(g) Effect of Default. Notwithstanding anything to the contrary herein, in the event Tenant shall default under this Lease or any Other Agreement, the Director may immediately reinstate the MAG, without giving to Tenant the benefit of any notice or right to cure as may otherwise be provided under this Lease or Other Agreement.

(h) Subtenants. Without limiting the provisions of Section 5 [Assignment or Subletting] if Tenant subleases any portion of the Premises, Tenant shall offer to such subtenant(s) the same types of MAG suspension as are provided herein.

(i) Example. The following is intended merely to provide an example of the mechanics of the foregoing provisions, and the numbers provided are not intended to be projections or guarantees. Assume (a) the Premises are in Boarding Area F, (b) the Lease is awarded on January 18, 2022, and (c) Reference Year Enplanements for Boarding Area F, by Reference Month in the Reference Year (January 1-December 31, 2021) are:

	Jan 2021	Feb 2021	Mar 2021	Apr 2021	May 2021	Jun 2021	Jul 2021	Aug 2021	Sep 2021	Oct 2021	Nov 2021	Dec 2021
Enp ('000)	800	800	800	900	1,100	1,200	1,300	1,200	1,100	900	800	900

Assume further that actual Enplanements for Boarding Area F by Reference Month for 2024 are as follows:

	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Jul 2024	Aug 2024	Sep 2024	Oct 2024	Nov 2024	Dec 2024
Enp ('000)	900	900	700	700	800	800	900	1100	700	800	700	800
% of Ref. Month	112.5	112.5	87.5	77.8	72.2	72.2	69.2	91.7	63.6	88.9	87.5	88.9

(j) Then, there occurs a Severe Decline in Enplanements for Three Months with respect to the months April 2024 – June 2024, and the MAG shall be suspended effective July 1, 2024. There occurs an Enplanement Stabilization for Two Months with respect to the months October 2024 – November 2024, and the MAG shall be reinstated effective December 1, 2024.

5. ASSIGNMENT OR SUBLETTING

5.1 No Assignment. Tenant shall not assign, sublet, encumber, or otherwise transfer, whether voluntary or involuntary or by operation of law, the Premises or any part thereof, or any interest herein, without City's prior written consent, which consent may be granted or denied in City's sole and absolute discretion (the term "**Transfer**" shall mean any such assignment, subletting, encumbrance, or transfer). City's consent to one Transfer shall not be deemed a consent to subsequent Transfers. Any Transfer made without City's consent shall constitute a default hereunder and shall be voidable at City's election. In addition to the foregoing, on February 21, 2023, by Resolution No. 23-0055, the Commission adopted its current "**Limit of 8 Leases Policy**." The Limit of 8 Leases Policy limits to eight the total number of food and beverage and/or retail leases for which operations have commenced that may be held by any individual or entity either through award, transfer, assignment, sublease or other means. For purposes of the Limit of 8 Leases Policy, an individual or entity shall mean an owner with greater than 50% direct or indirect ownership interest in the lease. Leases featuring nationally or internally branded retail concepts and leases in holdover status shall not be counted toward the eight leases limit. Tenant is subject to the Limit of 8 Leases Policy and shall not undertake, and City shall not consent to, any transactions, including any assignment or acquisition of any leases by Tenant, which would cause it to be in violation of such policy.

5.2 Changes in Tenant. The merger of Tenant with any other entity or the transfer of any controlling ownership interest in Tenant, or the assignment or transfer of a substantial portion of the assets of Tenant, whether or not located on the Premises, shall constitute a Transfer. Without limiting the generality of the foregoing, if Tenant is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law of the partner or partners owning twenty-five percent (25%) or more of the partnership, or the dissolution of the partnership, or the sale or transfer of at least twenty-five percent (25%) of the value of the assets of Tenant, shall be deemed a Transfer. If Tenant is a corporation or limited liability company, any dissolution, merger, consolidation or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock or membership interests of Tenant, or the sale or transfer of at least twenty-five percent (25%) of the value of the assets of Tenant, shall be deemed a Transfer. The phrase "**controlling percentage**" means the ownership of, and the right to vote, stock or interests possessing at least twenty-five percent (25%) of the total combined voting power of all classes of Tenant's capital stock or interests issued, outstanding and entitled to vote for the election of directors. Without limiting the restrictions on asset transfers, this paragraph shall not apply to stock or limited liability company interest transfers of corporations or limited liability companies the stock or interests of which is traded through an exchange or over the counter.

5.3 No Release. In no event will City's consent to a Transfer be deemed to be a release of Tenant as primary obligor hereunder.

5.4 Subleasing. Without limiting City's discretion in approving or disapproving a proposed Transfer, if and to the extent City permits Tenant to sublease the Premises, the following shall apply: (a) Prior to negotiating a sublease agreement, Tenant must submit to City a sublease proposal for City's approval, which approval may be granted or withheld in City's absolute and sole discretion; (b) Every sublease must be on a Standard Sublease Agreement form approved by Director, and the actual sublease must be approved by Director; (c) Each and every covenant, condition or obligation imposed upon Tenant by this Lease and each and every right, remedy or benefit afforded City by this Lease will not be impaired or diminished as a result of any sublease agreement; (d) No subtenant shall be obligated to pay to Tenant, and Tenant shall not be permitted to charge any rent, percentage rent, bonus rent, key money, administration fee, or the like, which exceeds, in the aggregate, the total sums that Tenant pays to City under this Lease for the portion of the Premises subleased by the subtenant under its sublease agreement (the "**Excess Rent**"). If, notwithstanding the foregoing prohibition, Tenant receives any Excess Rent, Tenant shall pay the same to City; (e) Tenant assigns to City all rent and other payments due from all subtenants under any sublease agreements; provided however, Tenant is hereby granted a license to collect rents and other payments due from subtenants under their sublease agreements until the occurrence of an Event of Default, regardless of whether a notice of that default has been given by City. At any time, at Director's option, City may notify a subtenant of this assignment and upon such notice the subtenant will pay its rent other payments directly to City. City will credit Tenant with any rent received by City under such assignment, but the acceptance of any payment on account of rent from any subtenants as a result of an Event of Default will in no manner whatsoever serve to release Tenant from any liability under this Lease. No payment of rent or any other payment by a subtenant directly to City or other acceptance of such payments by City, regardless of the circumstances or reasons therefor, will in any manner whatsoever be deemed an attornment by the subtenants to City in the absence of either a specific written agreement signed by City to such an effect.

5.5 Excess Rent. City shall receive fifty percent (50%) of all Excess Rent payable in connection with any Transfer. "**Excess Rent**" means the excess of (a) all consideration received by Tenant from a Transfer over (b) Rent payable under this Lease after deducting reasonable tenant improvements paid for by Tenant, reasonable attorneys' fees and any other reasonable out-of-pocket costs paid by Tenant as a result of the Transfer (but specifically excluding any Rent paid to City while the Premises is vacant).

5.6 Acceptance of Rent. The acceptance of rent by City from any person or entity does not constitute a waiver by City of any provision of this Lease or a consent to any Transfer. City's consent to one Transfer will not be deemed to be a consent to any subsequent Transfer. If Tenant defaults in the performance of any of the terms of this Lease, City may proceed directly against the transferor (or if there has been more than one Transfer, then each transferor) without necessity of exhausting remedies against Tenant. City may consent to subsequent Transfers or amendments or modifications to this Lease with transferees, without notifying transferor (or if there has been more than one Transfer, then each transferor) and without obtaining its or their consent thereto and such action shall not relieve any transferor of liability under this Lease as amended.

5.7 Waiver. Tenant waives the provisions of Civil Code Section 1995.310 with respect to remedies available to Tenant should City fail to consent to a Transfer.

6. TAXES, ASSESSMENTS AND LIENS

6.1 Taxes.

(a) Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. Tenant further recognizes and understands that any Transfer permitted under this Lease and any exercise of any option to renew or other extension of this Lease may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Tenant shall pay all taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises, all of which shall be paid when the same become due and payable and before delinquency.

(b) Tenant shall report any Transfer, or any renewal or extension hereof, to the County of San Mateo Assessor within sixty (60) days after such Transfer transaction, or renewal or extension. Tenant further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements under applicable law with respect to possessory interests and any applicable rules and regulations of the Internal Revenue Service and the Securities and Exchange Commission in connection with any tax-exempt Airport revenue bonds financing the property leased to Tenant hereunder. Tenant agrees to make an irrevocable election not to claim depreciation or an investment credit with respect to any property leased hereunder.

6.2 Other Liens. Tenant shall not permit or suffer any liens to be imposed upon the limitation, mechanics', material suppliers' and tax liens, as a result of its activities without promptly discharging the same. Notwithstanding the foregoing, Tenant may in good faith contest any such lien if Tenant provides a bond in an amount and form acceptable to City in order to clear the record of any such liens. Tenant shall assume the defense of and indemnify and hold harmless City against any and all liens and charges of any and every nature and kind which may at any time be established against said premises and improvements, or any part thereof, as a consequence of any act or omission of Tenant or as a consequence of the existence of Tenant's interest under this Lease.

7. INVESTMENTS; ALTERATIONS

7.1 Minimum Investment. Prior to the Rent Commencement Date, Tenant, at Tenant's sole cost and expense, shall refurbish, redecorate and modernize the interiors and exteriors of the Premises, and otherwise complete the initial improvements necessary and appropriate to commence operations in the Premises (the "**Initial Improvements**"), at a minimum cost of the Minimum Investment Amount or less than said amount provided Tenant complies with the Concessions Design Guidelines and receives Design Review Committee approval. As-Built drawings of fire sprinkler and fire alarm systems must be submitted to Building Inspection and Code Enforcement ("**BICE**") in AUTOCAD ".DWG" format within 30 days of issuance of a Temporary Certificate of Occupancy (TCO). Within ninety (90) days after substantial completion of the Initial Improvements, Tenant must provide to City an AUTOCAD file and an electronic PDF file in accordance with the requirements as specified in the Tenant Improvement Guide and an affidavit, signed under penalty of perjury by both Tenant *and* Tenant's general contractor, architect or construction manager, stating the hard construction costs paid by Tenant to complete the Initial Improvements, together with copies of paid invoices and lien waivers substantiating the costs stated in the affidavit. Such "hard construction costs," which must equal or exceed the Minimum Investment Amount, may include architectural and engineering fees, provided the credit for such costs against the Minimum Investment Amount shall not exceed fifteen percent (15%) of the Minimum

Investment Amount. The minimum investment may not include financial costs, interest, inventory, pre-opening expenses, inter-company charges related to construction, business interruption, overhead, or debt service on any construction loan, or any charges paid by Tenant to an affiliate. If Director disputes the amount of investment claimed by Tenant, Director may, at City's expense, hire an independent appraiser to determine the cost of the investment. If the independent appraiser determines that the investment is less than the Minimum Investment Amount, the deficiency, as well as City's costs of hiring such independent appraiser, will be paid to City by Tenant within sixty (60) days of City's written notice of the appraiser's determination. At any time, upon three (3) business days' notice, City or its representatives may audit all of Tenant's books, records and source documents related to the hard construction costs paid by Tenant to complete the Initial Improvements. If the audit reveals that the hard construction costs paid by Tenant were less than those stated in Tenant's affidavit, then Tenant must pay City for the costs incurred by City in connection with the audit plus any additional deficiency discovered between the hard construction costs paid by Tenant and the Minimum Investment Amount. City, at City's sole discretion, may require that Tenant comply with the terms of a Tenant Work Letter setting forth additional terms relating to Tenant's construction of the Initial Improvements, and Tenant hereby agrees to comply with any such Tenant Work Letter.

7.2 City's Approval Rights. Tenant shall not make or suffer to be made any alterations, additions, or improvements to the Premises or any part thereof or attach any fixtures or equipment thereto, including the Initial Improvements (collectively, "**Alterations**") without City's prior written consent. Without limiting the generality of the foregoing, the initial layout and design of all Alterations shall conform to Commission's established architectural design scheme for the Terminal Building Complex, the Airport's Concessions Design Guidelines and the provisions of Airport's TI Guide. Prior to the construction of any Alterations (including the Initial Improvements), Tenant shall submit detailed plans and specifications to the Airport's Design Review Committee and BICE for approval. Tenant shall include with its plans and specifications schematic renderings of the public retail area, materials, a color board(s) and a detailed layout of the overall merchandising plan. All decisions by the Airport's Design Review Committee shall be made subject to the approval of the Airport Commission. City's approval rights will extend to and include architectural and aesthetic matters and City reserves the right to reject any designs submitted and to require Tenant to resubmit designs and layout proposals until they meet City's approval. The Rent Commencement Date shall not be extended if City elects to reject any designs or layout proposals submitted. In the event of disapproval by City of any portion of the plans and specifications, Tenant will promptly submit necessary modifications and revisions thereof. No changes or alterations will be made in said plans or specifications after approval by City. City agrees to act within a reasonable period of time upon such plans and specifications and upon requests for approval of changes or alterations in said plans or specifications. One copy of plans for all improvements or subsequent changes therein or alterations thereof will, within fifteen (15) days after approval thereof by City, be signed by Tenant and deposited with City as an official record thereof. In the event Tenant fails to have its Initial Improvement designs approved by the Airport's Design Review Committee and BICE by the date that is thirty (30) days in advance of the Commencement Date, the Director may elect to impose fines of two hundred fifty dollars ($250) per day until such time that approvals are received. All Alterations shall be effected through the use of contractors approved by City who shall furnish to City upon demand such completion bonds and labor and material bonds as City may require so as to assure completion of the Alterations on a lien-free basis. If the estimated cost of any Alterations exceeds $750,000 per building permit, unless otherwise exempt, Tenant agrees to comply with the Local Hiring Requirements as described in Section 19.28 of this Lease. Without limiting the requirements set forth above, Tenant acknowledges and agrees that Tenant may be required to obtain approvals for any desired Alterations from BICE.

7.3 Structures and Fixtures. Tenant shall, at its sole cost and expense, design, erect, construct and install all fixtures, furnishings, carpeting, decorations, finishings, equipment, counters, or other necessary Alterations for its operation under this Lease. All construction shall be in conformity with the latest edition of the Airport TI Guide, and in conformity with the approved plans and specifications submitted by Tenant, and shall meet all applicable local building codes and ordinances as well as all other Laws. Tenant shall submit complete plans and specifications to Director, and prior to the commencing any construction work, obtain Director's written approval of said plans and specifications. Tenant shall make no change or alteration in the plans and specifications without prior written approval of Director. If Tenant fails to construct, furnish or decorate the premises in accordance with the approved plans and specifications, Tenant shall be given up to sixty (60) days to bring the premises to the condition described in the plans and specifications after which time the Director may impose a two hundred fifty dollars ($250) per day fine until such time that the premises, fixtures and furnishings are brought in accordance with the approved plans and specifications. In the event that Tenant fails to submit plans and specifications which meet the approval of City within thirty (30) days after the Effective Date, City may terminate this Lease. Nothing herein contained shall be construed to delay or otherwise affect the Commencement Date or the Rent Commencement Date.

7.4 Notice and Permits. Tenant shall give written notice to Director not less than seven (7) days prior to the commencement of any work in construction, alteration or repairs of the Premises, in order that City may post appropriate notices of non-responsibility, and agrees that such notices may remain posted until the acceptance of such work by City. Tenant shall obtain, and pay all fees for all permits required by the City or other legal jurisdictions, for improvements that it is required to construct or install, and it shall furnish copies of all such permits to City prior to the commencement of any work.

7.5 Title to Alterations. Title to all Alterations of such a nature as cannot be removed without damage to the Terminal, including all carpeting, decorations, finishings, and counters, shall vest in City on the Expiration Date. All other equipment of such nature as to constitute trade fixtures shall remain the property of Tenant. On the Expiration Date, Tenant may remove said trade fixtures or Director may require that Tenant remove same at Tenant's expense. Prior to the Rent Commencement Date, Tenant shall submit to Director a proposed list of such trade fixtures; said list may be subsequently amended during the term of this Lease to reflect any changes in said trade fixtures. Tenant agrees and understands that "**fixture**" is defined as a thing affixed to premises that is bolted, nailed, screwed, cemented and/or plastered. For the purpose of this Lease, fixtures shall include slat wall, counters and the like, attached to the physical structure of the premises in any matter whatsoever. On the Expiration Date, all fixtures, other than those deemed trade fixtures by City, shall become the property of City. Tenant shall be liable to City for City's costs for storing, removing and disposing of Tenant's personal property, and of restoration of the Premises.

7.6 Effect of Alterations on Airport. If and to the extent that Tenant's activities or proposed Alterations trigger an obligation or requirement on the part of City to make changes to the Airport premises (including ADA requirements), Tenant shall indemnify, defend, and hold harmless City from and against any and all Losses (as defined below) arising out of such activities or Alterations.

7.7 Prevailing Rates of Wage for Tenant Initial Improvements and Alterations.

(a) For purposes of this Lease, any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61, except as set forth below:

(i) "**Covered Work**" means any single project of Alterations in the Premises (including for the avoidance of doubt, the Tenant Initial Improvements) with an aggregate cost equal to or in excess of the Threshold Amount.

(ii) "**Threshold Amount**" means the amount established annually pursuant to Section 6.1 of the San Francisco Administrative Code Section.

(ii) "**Prevailing Wage or Prevailing Rate of Wage**" means the highest general prevailing rate of wage plus "per diem wages" and wages paid for overtime and holiday work paid in private employment in San Mateo County as fixed and determined by the California Department of Industrial Relations for the various crafts and kinds of labor employed in the performance of the Covered Work. "Per diem wages" are defined pursuant to California Labor Code Section 1773.1, as amended from time to time.

(b) Without limiting any other provision of this Lease, Tenant covenants and agrees at all times to comply with all applicable wage requirements, including but not limited to any such requirements in the California Labor Code, the City and County of San Francisco Charter and the San Francisco Municipal Code. Tenant will require its Contractors and Subcontractors performing any Covered Work to: (i) pay workers performing that work not less than the Prevailing Rate of Wages, and (ii) provide the same hours, working conditions, and benefits in each case as are provided for similar work performed in San Mateo County (collectively, "Prevailing Wage Requirements"). Tenant will cooperate with City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements. All Covered Work is subject to compliance monitoring by the San Francisco Office of Labor Standards Enforcement ("**OLSE**").

(c) Tenant will include, and will require its subtenants, and Contractors and Subcontractors (regardless of tier), to include in any construction contract for Covered Work the Prevailing Wage Requirements, and the agreement to cooperate in City enforcement actions. Each construction contract will name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third-party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Tenant's failure to comply with its obligations under this Section will constitute a material breach of this Lease. A Contractor's or Subcontractor's failure to comply with the Prevailing Wage Requirements will enable City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. The enforcement and recourse provisions applicable to such failure by a Contractor or Subcontractor set forth in San Francisco Administrative Code Section 23.61(d) and are hereby incorporated by reference. For the current Prevailing Rate of Wages, see www.sfgov.org/olse or call OLSE at 415-554-6235.

(d) Tenant will require each Contractor and Subcontractor to utilize the City's electronic certified payroll reporting system to keep or cause to be kept complete and accurate payroll records for all persons performing the Covered Work. Such records shall include the name, address and social security number of each worker who provided labor, including apprentices, such worker's classification, a general description of the services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every Subcontractor who shall undertake the performance of any part of the Covered Work herein required shall keep a like record of each person engaged in the execution of the subcontract. All such records shall at all times be available for inspection of and examination by the City.

7.8 Labor Harmony. The parties acknowledge that it is of the utmost importance to City, Tenant, and all those occupying or to occupy space in the Domestic and International Terminals that there be no interruption in the progress of the construction work. Accordingly, City and Tenant agree as follows:

(a) In any contract or undertaking which Tenant may make with a contractor for work in the Premises, provision shall be made for the dismissal from the job of workers whose work is unskilled or otherwise objectionable, in the Director's (and, for this purpose, "**the Director**" shall include a reference to the Airport's Architect) reasonable judgment. Tenant shall cause any such workers to be discharged from the project within twenty-four (24) hours after Director shall give notice to Tenant requiring such discharge.

(b) Tenant shall use, and Tenant shall require its contractor and subcontractors to use, their respective best efforts to prevent work stoppages on the Premises, and/or elsewhere on the Airport, to the extent attributable to work being performed on the Premises, irrespective of the reason of any such stoppage. In the event that the conduct or presence of any employee(s) of Tenant or Tenant's contractor(s) or subcontractor(s) causes a labor dispute or work stoppage, Tenant shall have such employee(s) immediately removed from the Airport upon Director's request.

(c) Tenant shall include, and shall cause its contractor to include, the following clause in all contracts with its general contractors and subcontractors:

Harmony Clause

> There shall be no manifestations on the project of any dispute between any labor organization and any Tenant contractor or subcontractor, including but not limited to, any area standards picketing against said contractor or subcontractor. Should there be any manifestation of a labor dispute between any Tenant contractor or subcontractor and any union, which results in a stoppage of work on the part of said contractor or subcontractor's employees or the employees of any other employer or supplier on the project or at the Airport, which in the sole judgment of the Director will cause, or is likely to cause, unreasonable delay in the progress of construction or operation of any business at the Airport, then upon written notice from Director, Tenant shall declare the contractor or subcontractor in default of its contract, and upon such notice, Tenant shall have the right to take such steps as are necessary to finish the uncompleted portion of the work to be performed by the contractor or subcontractor.

(d) Without limiting the generality of indemnities elsewhere in this Lease, Tenant shall indemnify, defend, and hold harmless City and each City Entity for any and all Losses which arise from the actions taken pursuant to this Section 7.8.

8. UTILITIES

8.1 Services Provided. City shall provide in the Terminal Building Complex the following utility services: reasonable amounts of water, electricity, telephone, sewage outlets, heating, ventilation, and air conditioning, to a point determined by the Director. All extensions of the facilities requested by Tenant for said utility services from said points shall be at the sole cost and expense of Tenant. In the event of any change desired by Tenant as to said points of supply by City, the expense of making such changes or alterations shall be at the sole cost of Tenant.

8.2 Utility Costs. Tenant shall pay the whole cost for all utility services as invoiced to Tenant by City and for such other special services which it may require in the Premises, and Tenant hereby expressly waives the right to contest any utility rates.

8.3 Shared Telecommunications Services. Tenant acknowledges that City has implemented a shared telecommunications service program ("**STS Program**") to provide telecommunications services. The STS Program may involve City's provision of telephone, telefacsimile, local access, long distance service, internet, intranet, and other computer and telecommunications services. In such event, at City's option, Tenant shall participate in the STS Program by engaging City or its agent to provide such services at Tenant's expense, provided that the charges for such services are generally competitive. Further, Tenant shall pay to City when invoiced, the Airport Communication Infrastructure Charge, as the same may be modified from time to time. All payments for STS services shall be due and payable when invoiced by City.

8.4 Waiver of Damages. Tenant hereby expressly waives any and all claims for damages arising or resulting from failures or interruptions of utility services to the Premises, including electricity, gas, water, plumbing, sewage, telephone, communications, heat, ventilation, air conditioning, or for the failure or interruption of any public or passenger conveniences. Without limiting the generality of the foregoing, Tenant shall have no rights to abate Rent or terminate this Lease in the event of any interruption or failure of utility services.

9. MAINTENANCE AND REPAIR

9.1 "As-Is" Condition. TENANT SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS LEASING THE PREMISES TO TENANT ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT TENANT IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THE PREMISES, INCLUDING: (i) the quality, nature, adequacy and physical condition and aspects of the Premises, including, but not limited to, landscaping, utility systems, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises, (iv) the development potential of the Premises, and the use, habitability, merchantability, or fitness, suitability, value or adequacy of the Premises for any particular purpose, (v) the zoning or other legal status of the Premises or any other public or private restrictions on use of the Premises, (vi) the compliance of the Premises or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Premises or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the real property, (ix) the condition of title to the Premises, and (x) the agreements affecting the Premises, including covenants, conditions, restrictions, ground leases, and other matters or documents of record or of which Tenant has knowledge.

9.2 Accessibility Disclosure. California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises have not been inspected by a CASp. Pursuant to California Civil Code

Section 1938(e), City provides the following disclosure to Tenant: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." In the event Tenant elects to obtain a CASp inspection of the Premises, Tenant shall provide notice of such to City, and Tenant agrees that Tenant shall bear the cost of the inspection and any necessary repairs within the Premises.

9.3 Tenant's Maintenance Obligations. Tenant, at all times during the Term and at Tenant's sole cost and expense, shall keep the Premises and every part thereof in good condition and repair, and in compliance with applicable Laws, including the replacement of any facility of City used by Tenant which requires replacement by reason of Tenant's use thereof, excepting (a) ordinary wear and tear, and (b) damage due to casualty with respect to which the provisions of Section 14 [Damage or Destruction] shall apply. Tenant hereby waives all right to make repairs at the expense of City or in lieu thereof to vacate the Premises as provided by California Civil Code Section 1941 and 1942 or any other law, statute or ordinance now or hereafter in effect. In addition, if it becomes reasonably necessary during the term of this Lease, as determined by Director, Tenant will, at its own expense, redecorate and paint fixtures and the interior of the Premises and improvements, and replace fixtures, worn carpeting, curtains, blinds, drapes, or other furnishings. Without limiting the generality of the foregoing, at all times, Tenant shall be solely liable for the facade of the Premises separating the Premises from the Terminal common areas, including the external face thereof, all windows and display areas therein, and all finishes thereon. As provided below in Section 15.4 [City's Right to Perform], in the event Tenant fails to perform its maintenance and repair obligations hereunder, City shall have the right to do so, at Tenant's expense. The parties acknowledge and agree that Tenant's obligations under this Section are a material part of the bargained-for consideration under this Lease. Tenant's compliance obligations shall include, without limitation, the obligation to make substantial or structural repairs and alterations to the Premises (including the Initial Improvements), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or City, the degree to which curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular requirement involved, or the relationship between the requirement involved and Tenant's particular use of the Premises. No occurrence or situation arising during the Term, nor any present or future requirement, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Lease in whole or in part or to otherwise seek redress against City. Tenant waives any rights now or hereafter conferred upon it by any existing or future requirement to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel City to make any repairs to comply with any such requirement, on account of any such occurrence or situation.

9.4 Tenant's Pest Management Obligations. Tenant shall, at all times during the Term of the Lease and at Tenant's sole cost and expense, keep the Premises and every part thereof in a clean and sanitary condition, including having a pest control program in place in accordance to the Airport's standards. Tenant shall contract with the Airport to provide pest control services and shall pay a monthly Pest Control Services Fee for such services. The Pest Control Services Fee may be adjusted from time to time at the sole discretion of the Director. Tenant must adhere to the following set of standards in accordance with the City and County of San Francisco (CCSF) Environment Code, Chapter 3, including but not limited to the following:

(a) Using pesticides on the CCSF allowed list only when application is made on City property, i.e. SFO.

(b) Any pesticide exemption must be granted by the San Francisco Department of Environment before using non-approved pesticides.

(c) All posting requirements regarding pesticide application must be adhered to prior to use.

(d) Pesticide use reports shall be made to Airport IPM (Integrated Pest Management) staff by the 10th of the month following application.

10. SIGNS AND ADVERTISING

10.1 Signs and Advertising. Tenant may, at its own expense, install and operate necessary and appropriate identification signs on the Premises, subject to the approval of Director and the requirements of the TI Guide, including but not limited to, the approval of the number, size, height, location, color and general type and design. Such approval shall be subject to revocation by Director at any time. Without express written consent of Director, Tenant shall not display any advertising, promotional, or informational pamphlets, circulars, brochures or similar materials.

10.2 Prohibition of Tobacco Advertising. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

10.3 Prohibition of Alcoholic Beverage Advertising. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this Section, "**alcoholic beverage**" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

11. *Left blank by agreement of the parties.*

12. WAIVER; INDEMNITY; INSURANCE

12.1 Waiver. Tenant, on behalf of itself and its assigns, waives its rights to recover from and releases and discharges City and all City Entities and their respective heirs, successors, personal representatives and assigns, from any and all Losses whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way connected with (a) the physical or environmental condition of the Premises or any law or regulation applicable thereto, (b) any damage that may be suffered or sustained by Tenant or any person whosoever may at any time be using or occupying or visiting the Premises, or in or about the Airport, or (c) any act or omission (whether negligent, non-negligent or otherwise) of Tenant or any Tenant Entity, whether or not such Losses shall be caused in part by any act, omission or negligence of any of City, Commission, its members, or any officers, agents, and employees of each of them, and their successors and assigns (each, a "**City Entity**"), except if caused by the sole gross negligence or willful misconduct of City. In connection with the foregoing waiver, Tenant expressly waives the benefit of Section 1542 of the California Civil Code, which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

12.2 Indemnity. In addition to, and not in limitation of the foregoing, Tenant shall forever indemnify, defend, hold and save City and each City Entity free and harmless of, from and against any and all Losses caused in whole or in part by or arising out of (a) any act or omission of Tenant or any Tenant Entity, including Tenant's contractors and/or agents, (b) Tenant's use of the Premises or operations at the Airport, or (c) any default by Tenant or any Tenant Entity hereunder, whether or not Losses shall be caused in part by any act, omission or negligence of City or any City Entity. The foregoing indemnity shall not extend to any Loss caused by the sole gross negligence or willful misconduct of City.

12.3 Losses. For purposes hereof "**Losses**" shall mean any and all losses, liabilities, judgments, suits, claims, damages, costs and expenses (including reasonable attorneys' fees, investigation costs, remediation costs, and court costs), of any kind or nature.

12.4 Immediate Obligation to Defend. Tenant specifically acknowledges that it has an immediate and independent obligation to defend City or the City Entity from any claim which is actually or potentially within the scope of the indemnity provision of this Section 12 or any other indemnity provision under this Lease, even if such allegation is or may be groundless, fraudulent or false, and such obligation arises at the time such claim is tendered to Tenant and continues at all times thereafter.

12.5 Notice. Without limiting the foregoing waiver and indemnity, each party hereto shall give to the other prompt and timely written notice of any Loss coming to its knowledge which in any way, directly or indirectly, contingently or otherwise, affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest.

12.6 Insurance. Tenant shall procure and maintain during the Term the following insurance:

(a) Workers' Compensation Insurance with Employer's Liability limits not less than $1,000,000 each accident.

(b) Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products Liability and Completed Operations Coverages.

(c) Commercial Automobile Liability Insurance with limits not less than $2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including owned, non-owned, and hired auto coverages.

(d) Property Insurance on all causes of loss-special form covering all Premises tenant improvements, fixtures, and equipment insuring against the perils of fire, lightning, extended coverage perils, vandalism and malicious mischief in the demised premises in an amount equal to the full replacement value of tenant improvements, fixtures and equipment.

(e) Business Interruption Insurance insuring that the Base Rent will be paid to City for a period of at least one (1) year if Tenant is unable to operate its business at the Premises. Said insurance shall also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion. To calculate Base Rent during any such interruption of business, the Gross Revenues for the 12-month period immediately preceding the incident causing the business interruption shall be used.

12.7 Form of Policies. Before commencing the Initial Improvements or other operations under this Lease, Tenant shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Tenant’s liability hereunder. City may, upon reasonable notice and reasonable grounds increase or change the required insurance hereunder, in which event Tenant shall obtain such required insurance. Without limiting the generality of the foregoing, all Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies shall be endorsed to provide the following:

(a) Name as additional insured the City and County of San Francisco, the Airport Commission and its members, and all of the officers, agents, and employees of each of them (collectively, “**Additional Insureds**”)

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(c) The insurance company shall give thirty (30) days prior written notice to the City for cancellation, non-renewal, or reduction in scope of limits or coverage, except for 10 days prior written notice of cancellation for nonpayment of premiums.

12.8 Subrogation. Notwithstanding anything to the contrary herein, Tenant waives any right of recovery against City for any loss or damage to the extent the same is required to be covered by Tenant’s insurance hereunder. Tenant shall obtain from its insurer a waiver of subrogation the insurer may have against City or any City Entity in connection with any Loss covered by Tenant’s property insurance and worker’s compensation insurance policies.

13. DEPOSIT

13.1 Form of Deposit. On or before the date specified by the Director, Tenant will deliver to Director, at City’s Deposit/Annual Report Notice Address, a security deposit (the “**Deposit**”) in the Deposit Amount. Such Deposit shall be in the form of (a) a surety bond payable to City, naming City as obligee, in the form attached as Exhibit C-1, and otherwise in form satisfactory to City’s City Attorney, and issued by a surety company satisfactory to Director, or a (b) letter of credit naming City as beneficiary, in the form attached as Exhibit C-2, and otherwise in form satisfactory to City’s City Attorney, issued by a bank satisfactory to Director. Notwithstanding the foregoing, as may be provided in the Airport Commission Policy on Concession Deposits (Resolution No. 04-0153, August 3, 2004) as the same may be amended from time to time, Tenant shall be permitted to submit as the Deposit alternative forms of deposit as specified therein. Such Deposit shall be kept in full force and effect during the Term to ensure the faithful performance by Tenant of all covenants, terms, and conditions of this Lease, including payment of Rent. The sum designated as the "Deposit" is and will remain the sole and separate property of City until actually repaid to Tenant (or at City's option, the last assignee (if any) of Tenant's interest hereunder), said sum not being earned by Tenant until all provisions precedent for its payment to Tenant have been fulfilled. For Deposits in the form of a bond or letter of credit, Tenant shall cause the surety company or bank issuing such bond or letter of credit to give Director notice in writing by registered mail at least forty-five (45) days prior to the expiration date of such bond or letter of credit of its intention not to renew said bond or letter of credit.

13.2 Maintenance of Deposit. Tenant shall cause the Deposit to be increased on January 1st following the second full Lease Year to an amount equal to one-half (1/2) of the adjusted MAG, all at Tenant's cost, except that during any holdover period, the Deposit Amount shall equal one-half (1/2) of Tenant's previous 12 months' Rent. Tenant shall cause the bond or letter of credit to be kept in full force and effect during the Term and any holdover period to ensure the faithful performance by Tenant of all covenants, terms, and conditions of this Lease, including payment of Rent. If and to the extent City accepts a Deposit which has an expiration date or cancellation/termination provision, Tenant shall cause the surety company or bank issuing such bond or letter of credit to give Director notice in writing by registered mail at least forty-five (45) days prior to the expiration date of such bond or letter of credit of its intention not to renew or to cancel or terminate said bond or letter of credit. Tenant shall cause such bond or letter of credit to be renewed, extended, or replaced, at Tenant's sole cost, at least thirty (30) days before the expiration date or cancellation date of the bond or letter of credit, with another bond or letter of credit that complies with the requirements herein. If Tenant fails to do so, City may, without notice to Tenant, draw on the entirety of the Deposit and hold the proceeds thereof as security hereunder. Tenant shall cause all notices to be given to City under this Section 13 to be given to City at City's Deposit/Annual Report Notice Address.

13.3 Use of Deposit. If Tenant fails to pay Rent or otherwise defaults with respect to any provision of this Lease, City may use, apply or retain all or any portion of the Deposit for the payment of Rent or other charge in default or for the payment of any other sum to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. If City so uses or applies all or any portion of the Deposit, Tenant, within ten (10) days after request therefore, shall deposit other security acceptable to Director with City in an amount sufficient to restore the Deposit to the full amount thereof, and Tenant's failure to do so shall be a breach of this Lease. City shall not be required to keep the Deposit or any proceeds thereof, as applicable, separate from its general accounts. Any proceeds of the Deposit is and will remain the sole and separate property of City until actually repaid to Tenant, said sum not being earned by Tenant until all provisions precedent for its payment to Tenant have been fulfilled. If Tenant performs all of Tenant's obligations hereunder, the Deposit, or the proceeds thereof, or so much thereof as has not theretofore been applied by City, shall be returned, without payment of interest or other increment for its use, to Tenant (or, at City's option, to the last assignee, if any, of Tenant's interest hereunder) within sixty (60) days after the expiration of the Term, and after Tenant has vacated the Premises. No trust relationship is created herein between City and Tenant with respect to the Deposit or any proceeds thereof. Tenant waives to the fullest extent permitted by law the provisions of California Civil Code Section 1950.7 or other similar laws, which provide that a landlord may claim from a security deposit only those sums reasonably necessary to remedy a default in the payment of rent, to repair damage caused by a tenant, or to clean the premises.

13.4 Other Agreements. If Tenant defaults with respect to any provision of any other agreement between City and Tenant, including the Other Agreements, City may use, apply or retain all or any portion of the Deposit for payment of any sum owing to City or to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. Likewise, if Tenant defaults with respect to any provision under this Lease, City may use, apply, or retain all or any portion of any deposit provided under any other agreement between City and Tenant, including the Other Agreements, for payment of any sum owing to City or to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. In the event the Deposit or any other deposit is so used, Tenant shall deposit other security acceptable to Director with City in an amount sufficient to restore the Deposit to the full amount thereof.

14. DAMAGE OR DESTRUCTION

14.1 Partial Destruction of Premises.

(a) In the event the improvements on the Premises are damaged by any casualty which is required to be insured against pursuant to this Lease, then Tenant shall repair such damage as soon as reasonably possible, at its own cost, and this Lease shall continue in full force and effect.

(b) In the event such improvements are damaged by any casualty not covered under an insurance policy required to be maintained pursuant to this Lease, then City may, at City's option, either (i) repair such damage as soon as reasonably possible at City's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within sixty (60) days after the date of occurrence of such damage of City's intention to terminate this Lease. Such termination shall be effective as of the date specified in such notice.

(c) Notwithstanding the foregoing, if such damage is caused by an act or omission to act of Tenant or a Tenant Entity, then Tenant shall repair such damage, promptly at its sole cost and expense.

(d) In the event City elects to terminate this Lease pursuant to this Section 14.1, Tenant shall have the right within ten (10) days after receipt of the required notice to notify City of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from City, in which event this Lease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as reasonably possible. If Tenant does not give such notice within the ten (10) day period, this Lease shall be terminated as of the date specified in City's notice. City shall not be required to repair any injury or damage by fire or other cause, or to make any restoration or replacement of any paneling, decorations, office fixtures, partitions, railings, ceilings, floor covering, equipment, machinery or fixtures or any other improvements or property installed in the Premises by Tenant or at the direct or indirect expense of Tenant. Tenant shall be required to restore or replace same in the event of damage.

14.2 Total Destruction of Premises. If the improvements on the Premises are totally destroyed during the Term from any cause whether or not covered by the insurance required herein (including any destruction required by any authorized public authority), this Lease shall automatically terminate as of the date of such total destruction.

14.3 Partial Destruction of Terminal Building. If fifty percent (50%) or more of the Terminal Building shall be damaged or destroyed by an insured risk, or if fifteen percent (15%) or more of the Terminal Building shall be damaged or destroyed by an uninsured risk, notwithstanding that the Premises may be unaffected thereby, each of City and Tenant may elect to terminate this Lease by giving notice to the other within ninety (90) days from the date of occurrence of such damage or destruction, in which event the Term of this Lease shall expire on a mutually agreed upon date and Tenant shall thereupon surrender the Premises to City as required hereunder.

14.4 Damage Near End of Term. If during the last year of the Term the improvements on the Premises are partially destroyed or damaged, City may at City's option terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of City's election to do so within thirty (30) days after the date of occurrence of such damage. In the event City elects to terminate this Lease pursuant hereto, Tenant shall have the right within ten (10) days after receipt of the required notice to notify City in writing of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from City, in which event this Lease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as reasonably possible.

14.5 No Abatement of Rent; Tenant's Remedies.

(a) If the Premises are partially destroyed or damaged, Tenant shall have no claim against City for any damage suffered by reason of any such damage, destruction, repair or restoration. Tenant waives California Civil Code Sections 1932(2) and 1933(4) providing for termination of hiring upon destruction of the thing hired.

(b) In no event will Tenant be entitled to an abatement of Rent resulting from any damage, destruction, repair, or restoration described herein.

15. DEFAULT; REMEDIES

15.1 Event of Default. The occurrence of any one or more of the following events shall constitute a breach of this Lease and an "**Event of Default**" hereunder:

(a) Tenant shall fail duly and punctually to pay Rent, or to make any other payment required hereunder, when due to City, and such failure shall continue beyond the date specified in a written notice of such default from Director, which date shall be no earlier than the third (3rd) day after the effective date of such notice. Notwithstanding the foregoing, in the event there occurs two (2) defaults in the payment of Rent or other payment during the Term, thereafter Tenant shall not be entitled to, and City shall have no obligation to give, notice of any further defaults in the payment of Rent or other payment. In such event, there shall be deemed to occur an Event of Default immediately upon Tenant's failure to duly and punctually pay Rent or other payment hereunder; or

(b) Tenant shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or of any state thereof, or consent to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or

(c) A petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, shall be filed against Tenant and shall not be dismissed within thirty (30) days after the filing thereof; or

(d) There shall occur a Transfer without the prior approval of the City; or

(e) Tenant shall voluntarily abandon, desert or vacate the Premises; or

(f) Any lien shall be filed against the Premises as a result of any act or omission of Tenant, and shall not be discharged or contested by Tenant in good faith by proper legal proceedings within twenty (20) days after receipt of notice thereof by Tenant; or

(g) Tenant shall fail to provide, maintain, increase, or replace, the Deposit as required herein; or

(h) Tenant shall fail to obtain and maintain the insurance required hereunder, or provide copies of the policies or certificates to City as required herein; or

(i) Tenant shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Lease, and such failure shall continue for a period of more than three (3) days after delivery by Director of a written notice of such failure (the "**First Notice**"); or if satisfaction of such obligation requires activity over a period of time, if Tenant fails to commence the cure of such failure within three (3) days after receipt of the First Notice, or thereafter fails to diligently prosecute such cure, or fails to actually cause such cure within one hundred twenty (120) days after the giving of the First Notice; or

(j) Tenant shall use or give its permission to any person to use any portion of Airport or the Terminal Buildings used by Tenant under this Lease for any illegal purpose, or any purpose not approved by Director; or

(k) There shall occur a default under any other agreement between Tenant and City, including the Other Agreements, if any, and such default is not cured as may be provided in such agreement; provided, however, that nothing herein shall be deemed to imply that Tenant shall be entitled to additional notice or cure rights with respect to such default other than as may be provided in such other agreement.

15.2 Statutory Notices. Notwithstanding anything to the contrary in this Section 15, any written notice, other than as specifically set forth in this Section 15, required by any statute or law now or hereafter in force is hereby waived by Tenant to the fullest extent available under law. Any notice given by City pursuant to Section 15.1 may be the notice required or permitted pursuant to Section 1161 et seq. of the California Code of Civil Procedure or successor statutes, and the provisions of this Lease will not require the giving of a notice in addition to the statutory notice to terminate this Lease and Tenant's right to possession of the Premises. The periods specified in Section 15.1 within which Tenant is permitted to cure any default following notice from City will run concurrently with any cure period provided by applicable laws.

15.3 Remedies. Upon the occurrence and during the continuance of an Event of Default, City shall have the following rights and remedies in addition to all other rights and remedies available to City at law or in equity:

(a) City shall have the rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant's right to possession of the Premises. In the event this Lease is so terminated, City may recover from Tenant the following damages:

(i) The "**worth at the time of the award**" of the unpaid Rent earned to the time of termination hereunder;

(ii) The "**worth at the time of the award**" of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided;

(iii) The "**worth at the time of the award**" of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and

(iv) Any other amount necessary to compensate City for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

For purposes of the foregoing, the "**worth at the time of award**" of the amounts referred to in clauses (i) and (ii) above is computed by allowing interest at the lower of 18% per annum and the highest rate legally permitted under applicable law. The "**worth at the time of award**" of the amount referred to in clause (iii) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1% (one percent). Notwithstanding any other provisions hereof, any efforts by City to mitigate damages caused by Tenant's breach of this Lease shall not constitute a waiver of City's right to recover damages hereunder and shall not affect the right of City to indemnification pursuant to the provisions of Section 12 [Waiver; Indemnity; Insurance] hereof. For purposes of calculating City's damages comprising Base Rent based on Gross Revenues, that amount will be computed by determining the highest Base Rent accruing in any Lease Year during the immediately preceding three Lease Years or such shorter period if the Term prior to termination was less than three Lease Years. Tenant agrees that Tenant's obligations under this Lease, including the payment of Base Rent, are independent covenants and are not conditioned on the covenants or warranties of City.

(b) City shall have the right and remedy described in California Civil Code Section 1951.4. City may elect not to terminate this Lease and let this Lease continue, in which case City may enforce all its rights and remedies under this Lease, including the right to recover Rent as it becomes due under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon the initiative of City to protect City's interest under this Lease shall not constitute a termination of Tenant's right to possession.

(c) City shall have the right and power, as attorney in fact for Tenant, to enter and to sublet the Premises, to collect rents from all subtenants and to provide or arrange for the provision of all services and fulfill all obligations of Tenant (as permitted in accordance with the terms of this Lease) and City is hereby authorized on behalf of Tenant, but shall have absolutely no obligation, to provide such services and fulfill such obligations and to incur all such expenses and costs as City deems necessary in connection therewith. Tenant shall be liable immediately to City for all costs and expenses City incurs in collecting such rents and arranging for or providing such services or fulfilling such obligations. City is hereby authorized, but not obligated, to relet the Premises or any part thereof on behalf of Tenant, to incur such expenses as may be necessary to effect a relet and make said relet for such term or terms, upon such conditions and at such rental as City in its sole discretion may deem proper. Tenant shall be liable immediately to City for all reasonable costs City incurs in reletting the Premises required by the reletting, and other costs. If City relets the Premises or any portion thereof, such reletting shall not relieve Tenant of any obligation hereunder, except that City shall apply the rent or other proceeds actually collected by it as a result of such reletting against any amounts due from Tenant hereunder to the extent that such rent or other proceeds compensate City for the nonperformance of any obligation of Tenant hereunder. Such payments by Tenant shall be due at such times as are provided elsewhere in this Lease, and City need not wait until the termination of this Lease, by expiration of the Term hereof or otherwise, to recover them by legal action or in any other manner. City may execute any lease made pursuant hereto in its own name, and the lessee thereunder shall be under no obligation to see to the application by City of any rent or other proceeds, nor shall Tenant have any right to collect any such rent or other proceeds. City shall not by any reentry or other act be deemed to have accepted any surrender by Tenant of the Premises or Tenant's interest therein, or be deemed to have otherwise terminated this Lease, or to have relieved Tenant of any obligation hereunder, unless City shall have given Tenant express written notice of City's election to do so as set forth herein.

(d) City shall have the right to have a receiver appointed upon application by City to take possession of the Premises and to collect the rents or profits therefrom and to exercise all other rights and remedies pursuant to this Section 15.3.

(e) City shall have the right to enjoin, and any other remedy or right now or hereafter available to a landlord against a defaulting tenant under the laws of the State of California or the equitable powers of its courts, and not otherwise specifically reserved herein.

(f) City may elect to terminate any other agreement between Tenant and City, including the Other Agreements, if any.

15.4 City's Right to Perform. All agreements and provisions to be performed by Tenant under any of the terms of this Lease shall be at its sole cost and expense and without any abatement of Rent. If Tenant shall fail to make any payment or perform any act on its part to be performed hereunder and such failure shall continue for ten (10) days after notice thereof by City, City may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by City and all necessary incidental costs shall be deemed additional rent hereunder and shall be payable to City on demand, and City shall have (in addition to any other right or remedy of City) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of Rent.

15.5 Rights Related to Termination. In the event of any termination based on any breach of the covenants, terms and conditions contained in this Lease, City shall have the option at once and without further notice to Tenant to enter upon the Premises and take exclusive possession of same. City may remove or store any personal property located therein, at the sole cost and expense of Tenant without City being liable to Tenant for damage or loss thereby sustained by Tenant. Upon such termination by City, all rights, powers and privileges of Tenant hereunder shall cease, and Tenant shall immediately vacate any space occupied by it under this Lease, and Tenant shall have no claim of any kind whatsoever against City or any City Entity by reason of such termination, or by reason of any act by City or any City Entity incidental or related thereto. In the event of the exercise by City of such option to terminate, Tenant shall have no right to or claim upon any improvements or the value thereof, which may have been previously installed by Tenant in or on the Premises.

15.6 Cumulative Rights. The exercise by City of any remedy provided in this Lease shall be cumulative and shall in no way affect any other remedy available to City under law or equity.

15.7 Prepayment. As provided in Section 4.12 [Prepay Rent], if Tenant defaults in the payment of Rent, City may require prepayment of Rent. Such right shall be in addition to and not in lieu of any and all other rights hereunder, or at law or in equity.

15.8 Fines. If Tenant defaults under any of the Lease terms specified below, Director may elect to impose the fines described below on the basis of per violation per day:

Violation	Section	Fine
Violation of Premises Clause	1	$300
Violation of Use Section	3	$300
Failure to open Facility by the Rent Commencement Date	2.3	$500
Failure to cause operations or Premises to comply with Laws	3.13	$300
Failure to submit required documents and reports, including Sales Reports and Annual Reports	4	$100
Construction or Alterations without City approval	7	$500
Failure to submit any as-built drawings on a timely basis	7.1	$500
Failure to obtain DRC and BICE approval 30 days prior to Commencement Date	7.2	$250
Failure to build to DRC approved plans	7.3	$250
Failure to make required repairs	9	$300
Unauthorized advertising or signage	10	$100
Failure to obtain/maintain insurance	12	$300
Failure to obtain or maintain Deposit	13	$300
Failure to abide by any other term in this Lease		$300

Director's right to impose the foregoing Fines shall be in addition to and not in lieu of any and all other rights hereunder, in the Airport Rules, or at law or in equity. City shall have no obligation to Tenant to impose Fines on or otherwise take action against any other tenant at the Airport. Such Fines shall constitute "**Additional Rent**."

15.9 City Lien. Tenant hereby grants to City a lien upon and security interest in all fixtures, chattels and personal property of every kind now or hereafter to be placed or installed in or on the Premises, and agrees that in the event of any default on the part of Tenant City has all the rights and remedies afforded the secured party by the chapter on "Default" of the Uniform Commercial Code in the state wherein the Premises are located on the date of this Lease and may, in connection therewith, also (a) enter on the Premises to assemble and take possession of the collateral, (b) require Tenant to assemble the collateral and make its possession available to the City at the Premises, (c) enter the Premises, render the collateral, if equipment, unusable and dispose of it in a manner provided by the Uniform Commercial Code on the Premises. Tenant agrees to execute such instruments as City may request to perfect such lien, and designates also Director his attorney-in-fact for purposes of executing such documents.

15.10 Commencement of Legal Actions. Any legal action by City to enforce any obligation of Tenant or in the pursuit of any remedy hereunder shall be deemed timely filed if commenced at any time prior to one (1) year after the expiration or termination of the Term hereof or prior to the expiration of the statutory limitation period that would be applicable except for this Section 15.10, whichever period expires later.

15.11 Waiver of Notice. Except as otherwise expressly provided in this Section 15, Tenant hereby expressly waives, so far as permitted by law, the service of any notice of intention to enter or re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 or 1179, or under any other present or future law, if Tenant is evicted or City takes possession of the Premises by reason of any default by Tenant hereunder.

16. SURRENDER

Tenant shall at the end of the Term surrender to City the Premises in "broom clean" condition with all Alterations, additions and improvements thereto in the same condition as when received, ordinary wear and tear and damage by fire, earthquake, act of God, or the elements excepted. Tenant shall abide by the vacating instructions in the Tenant Improvement Guide and shall remove all trade dress, signage inserts, equipment and furnishings not permanently affixed to the base building or chattels. Additionally, Tenant shall be responsible for ensuring that its telecommunications cables and all other low voltage special systems cables are capped off and service discontinued. If Tenant utilized a hood, grease receptacle, or grease interceptor in the operation of its business, all items must be professionally cleaned with a receipt for same submitted to City. Subject to City's right to require removal pursuant to Section 7 [Investments; Alterations] hereof, all Alterations and improvements installed in the Premises by Tenant (other than Tenant's trade fixtures), shall, without compensation to Tenant, then become City's property free and clear of all claims to or against them by Tenant or any third person. In the event that Tenant shall fail to remove its personal property, including trade fixtures, on or before the Expiration Date, such personal property shall become City's property free and clear of all claims to or against them by Tenant or any third person. In such event, City shall not be responsible for any Losses related to such personal property, and City may sell or otherwise dispose of such personal property. If any of the surrender requirements of this Section are not met, City may at its sole discretion deduct reasonable costs for the work from the Tenant's Deposit.

17. HAZARDOUS MATERIALS

17.1 Definitions. As used herein, the following terms shall have the meanings hereinafter set forth:

(a) "**Environmental Laws**" shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.)

(b) "**Hazardous Material**" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. "Hazardous Material" includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to any Environmental Law; any asbestos and asbestos containing materials; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and any materials listed in the Airport's TI Guide.

(c) "**Release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Building, or in, on, under or about the Property.

(d) "**Pre-Existing Condition**" means the existence of any Hazardous Materials on the Premises immediately prior to the Commencement Date.

17.2 Tenant's Covenants.

(a) Neither Tenant nor any Tenant Entity shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Airport, or transported to or from the Premises or the Airport; provided that Tenant may use such substances as are customarily used in retail sales so long as such use is in compliance with all applicable Environmental Laws and the Airport's TI Guide.

(b) Tenant shall handle Hazardous Materials discovered or introduced on the Premises during the Term in compliance with all Environmental Laws and the Airport's TI Guide. Tenant shall protect its employees and the general public in accordance with all Environmental Laws.

(c) In the event Tenant becomes aware of the actual or possible Release of Hazardous Materials on the Premises or elsewhere on the Airport, Tenant shall promptly give notice of the same to City. Without limiting the generality of the foregoing, Tenant shall give notice to City of any of the following: (i) notice of a Release of Hazardous Materials given by Tenant, any subtenant, or other occupant to any governmental or regulatory agency; (ii) notice of a violation or potential or alleged violation of any Environmental Law received by Tenant, any subtenant, other occupant on the Premises from any governmental or regulatory agency; (iii) any inquiry, investigation, enforcement, cleanup, removal, other action that is instituted or threatened by a government or regulatory agency; (iv) any claim that is instituted or threatened by a third party against Tenant, any subtenant, or other occupant on the Premises that relates to Hazardous Materials; and (v) any notice of termination, expiration, or material amendment to any environmental operating permit or license necessary for the use of the Premises.

(d) Any items containing Hazardous Materials in use by Tenant, which are customarily used in retail, must be disposed of in a manner consistent with all applicable Environmental Laws.

(e) At Director's request, Tenant shall provide information necessary for City to confirm that Tenant is complying with the foregoing covenants.

17.3 Environmental Indemnity. Tenant shall indemnify, defend, and hold harmless City from and against any and all Losses arising during or after the Term as a result of or arising from: (a) a breach by Tenant of its obligations contained in the preceding Section 17.2 [Tenant's Covenants], or (b) any Release of Hazardous Material from, in, on or about the Premises or the Airport caused by the act or omission of Tenant or any Tenant Entity, or (c) the existence of any Hazardous Materials on the Premises, except to the extent that Tenant can demonstrate that such Hazardous Materials constitutes a Pre-Existing Condition.

17.4 Environmental Audit. Upon reasonable notice, Director shall have the right but not the obligation to conduct or cause to be conducted by a firm acceptable to Director, an environmental audit or any other appropriate investigation of the Premises for possible environmental contamination. Such investigation may include environmental sampling and equipment and facility testing, including the testing of secondary contamination. No such testing or investigation shall limit Tenant's obligations hereunder or constitute a release of Tenant's obligations therefor. Tenant shall pay all costs associated with said investigation in the event such investigation shall disclose any Hazardous Materials contamination as to which Tenant is liable hereunder.

17.5 Closure Permit. Prior to the termination or expiration of this Lease, Director shall have the right to require Tenant to file with the City an application for a Closure Permit for decontamination of the site and investigation and removal of all Hazardous Materials in compliance with the Airport's TI Guide, the Airport Rules, and all Laws. The Closure Permit may require a plan for long-term care and surveillance of any contamination allowed to remain at the Premises or Airport property and an acknowledgment of responsibility and indemnification for any and all Losses associated with any such contamination. Without limiting the foregoing provision, City reserves the right to require Tenant to, and in such event Tenant shall, at Tenant's sole cost and expense, decontaminate the Premises and remove any Hazardous Materials discovered during the Term, except those Hazardous Materials which constitute Pre-Existing Conditions. Such removal shall be performed to the Director's reasonable satisfaction.

18. EMINENT DOMAIN

18.1 Definitions. For purposes of this Section 18, the following capitalized terms shall have the following meanings:

(a) "***Award***" means all compensation, sums or value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

(b) "***Date of Taking***" means the earlier of: (a) the date upon which title to the portion of the Premises taken passes to and vests in the condemnor, and (b) the date on which Tenant is dispossessed

(c) "***Taking***" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under applicable Laws. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

18.2 General. If during the Term or during the period between the execution of this Lease and the Commencement Date, any Taking of all or any part of the Premises or any interest in this Lease occurs, the rights and obligations of the parties hereunder shall be determined pursuant to this Section 18. City and Tenant intend that the provisions hereof govern fully in the event of a Taking and accordingly, the Parties each hereby waives any right to terminate this Lease in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar Law now or hereafter in effect.

18.3 Total Taking; Automatic Termination. If a total Taking of the Premises occurs, then this Lease shall terminate as of the Date of Taking.

18.4 Partial Taking; Election to Terminate.

(a) If a Taking of any portion (but less than all) of the Premises occurs, then this Lease shall terminate in its entirety if all of the following exist: (i) the partial Taking renders the remaining portion of the Premises untenantable or unsuitable for continued use by Tenant for the Permitted Use; (ii) the condition rendering the Premises untenantable or unsuitable either is not curable or is curable but City is unwilling or unable to cure such condition; and (iii) City elects to terminate.

(b) If a partial Taking of a material portion of the Terminal occurs, City shall have the right to terminate this Lease in its entirety.

(c) City's elections to terminate this Lease pursuant to this Section 18 shall be exercised by City's giving notice to Tenant on or before the date that is one hundred twenty (120) days after the Date of Taking, and thereafter this Lease shall terminate upon on the thirtieth (30th) day after such notice is given.

18.5 Tenant's Monetary Obligations; Award. Upon termination of this Lease pursuant to an election under Section 18.4 [Partial Taking; Election to Terminate] above, then: (a) Tenant's obligation to pay Base Rent shall continue up until the date of termination, and thereafter shall cease, and (b) City shall be entitled to the entire Award in connection therewith (including any portion of the Award made for the value of the leasehold estate created by this Lease), and Tenant shall have no claim against City for the value of any unexpired term of this Lease, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's personal property.

18.6 Partial Taking; Continuation of Lease. If a partial Taking of the Premises occurs and this Lease is not terminated in its entirety under Section 18.4 [Partial Taking; Election to Terminate] above, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the Parties shall be as follows: (a) the Minimum Annual Guarantee shall be adjusted by Director to reflect the Taking, and (b) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease). Tenant shall have no claim against City for the value of any unexpired Term of this Lease, provided that Tenant may make a separate claim for compensation. Tenant shall retain any Award made specifically to Tenant for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's personal property.

18.7 Temporary Takings. Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of one hundred eighty (180) consecutive days, this Lease shall remain unaffected thereby, and Tenant shall continue to pay Rent, and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, City shall be entitled to receive any Award.

19. CITY AND OTHER GOVERNMENTAL PROVISIONS

19.1 MacBride Principles - Northern Ireland. Pursuant to San Francisco Administrative Code §12.F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Tenant acknowledges that he or she has read and understood this section.

19.2 Charter. The terms of this Lease shall be governed by and subject to the budget and fiscal provisions of the Charter of the City and County of San Francisco.

19.3 Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environmental Code, Tenant shall not provide any items to the construction of Alterations, or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Tenant fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environmental Code, Tenant shall be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

19.4 No Representations. Tenant acknowledges and agrees that neither City nor any person on behalf of City has made, and City hereby disclaims, any representations or warranties, express or implied, regarding the business venture proposed by Tenant at the Airport, including any statements relating to the potential success or profitability of such venture. Tenant represents and warrants that it has made an independent investigation of all aspects of the business venture contemplated by this Lease and the Permitted Use.

19.5 Effect of City Approvals. Notwithstanding anything to the contrary herein, Tenant acknowledges and agrees that City is entering into this Lease as a landowner, and not as a regulatory agency with police powers. Accordingly, any construction, alterations, or operations contemplated or performed by Tenant hereunder may require further authorizations, approvals, or permits from governmental regulatory agencies, including the Airport's Quality Control Department. Nothing in this Lease shall limit Tenant's obligation to obtain such other authorizations, approvals, or permits. No inspection, review, or approval by City pursuant to this Lease shall constitute the assumption of, nor be construed to impose, responsibility for the legal or other sufficiency of the matter inspected, reviewed, or approved. In particular, but without limiting the generality of the foregoing, in approving plans and specifications for Alterations, City (a) is not warranting that the proposed plan or other action complies with applicable Laws, and (b) reserves its right to insist on full compliance in that regard even after its approval has been given or a permit has been issued.

19.6 Limitation on Damages. Notwithstanding anything to the contrary herein, in no event will City or any City Entity be liable to Tenant or any Tenant Entity for any consequential, incidental, or special damages, or special damages, or lost revenues or lost profits.

19.7 Sponsor's Assurance Agreement. This Lease shall be subordinate and subject to the terms of any "**Sponsor's Assurance Agreement**" or any like agreement heretofore or hereinafter entered into by City and any agency of the United States of America.

19.8 Federal Nondiscrimination Regulations.

(a) Tenant understands and acknowledges that City has given to the United States of America, acting by and through the Federal Aviation Administration, certain assurances with respect to nondiscrimination, which have been required by Title VI of the Civil Rights Act of 1964, as effectuated by Title 49 of the Code of Federal Regulations, Subtitle A - Office of the Secretary of Transportation, Part 21, as amended, and 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964) (collectively, the "**Acts and Regulations**"), as a condition precedent to the government making grants in aid to City for certain Airport programs and activities, and that City is required under said Regulations to include in every agreement or concession pursuant to which any person or persons other than City, operates or has the right to operate any facility on the Airport providing services to the public, the following covenant, to which Tenant agrees as follows: "The (grantee, lessee, permittee, etc. as appropriate) for himself, herself, his/her heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) in the event facilities are constructed, maintained or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of

Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, and (3) that the grantee, licensee, permittee, etc., shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation Effectuations of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. With respect to this Lease, in the event of a breach of any of the above non-discrimination covenants, City will have the right to terminate this Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if this Lease had never been made or issued."

(b) (i) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23. The concessionaire or contractor 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 any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR part 23. (ii) The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23 that it enters and cause those businesses to similarly include the statements in the further agreements.

(c) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 27, which require, among other things, that all televisions and audio-visual displays installed in passenger areas have high-contrast captioning capability, which is at all times enabled.

19.9 Federal Affirmative Action Regulations. Tenant assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Tenant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Tenant assures that it will require that its covered sub-organizations provide assurances to Tenant that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

19.10 Pertinent Non-Discrimination Authorities. During the performance of this Lease, Tenant, for itself, its assignees, and successors-in-interest (hereinafter referred to as the "contractor" in this Section 18.10) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC §4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973, (29 USC. §794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR §27;
- The Age Discrimination Act of 1975, as amended (42 USC §6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC §471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §12131 - 12189) as implemented by Department of Transportation regulations at 49 CFR §37 and 38 and the Department of Justice regulations at 28 CFR, parts 35 and 36;
- The Federal Aviation Administration's Non-discrimination statute (49 USC §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 CFR at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681 et seq.).

19.11 City's Nondiscrimination Ordinance.

(a) In the performance of this agreement, Tenant agrees not to discriminate against any employee, City and County employee working with Tenant, applicant for employment with Tenant, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Tenant shall include in all subleases and other subcontracts relating to the Premises hereunder a nondiscrimination clause in substantially the form of subsection (a) above. In addition, Tenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subtenants and other subcontractors to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco, where the work is being performed for the City, or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Tenant hereby represents that prior to execution of this Lease (i) Tenant executed and submitted to the Contract Monitoring Division of the City and County of San Francisco (the "**CMD**") the Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits form (Form CMD-12B-101), with supporting documentation, and (ii) the CMD approved such form.

(e) The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to nondiscrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Tenant shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

19.12 Conflict of Interest. Through its execution of this Agreement, Tenant acknowledges that it is familiar with the provisions of section 15.103 of City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and sections 87100 et seq. and sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that if it becomes aware of any such fact during the term of this Agreement it shall immediately notify Landlord.

19.13 Prevailing Rates of Wage. Reference is made to Airport Commission Policy No. 80-0031, requiring that Tenant pay prevailing rates of salaries, wages, and employee benefits, to its employees working at San Francisco International Airport pursuant to this Lease. Tenant covenants and agrees to pay the either (i) the prevailing rate of wages required by such Airport Commission Policy or (ii) the rate required by the Minimum Compensation Ordinance, as set forth below, whichever is greater.

19.14 Declaration Regarding Airport Private Roads. Tenant hereby acknowledges and agrees that all roads existing at the date of execution hereof within the boundaries of the Airport, as shown on the current official Airport plan and as it may be revised, are the private property and private roads of the City and County of San Francisco, with the exception of that portion of the old Bayshore Highway which runs through the southern limits of the City of South San Francisco and through the northern portion of the Airport to the intersection with the North Airport Road as shown on said Airport Plan, and with the exception of that portion of the North Airport Road which runs from the off and on ramps of the State Bayshore Freeway to the intersection with said old Bayshore Highway as shown on said Airport Plan. It further acknowledges that any and all roads hereafter constructed or opened by City within the Airport boundaries will be the private property and road of City, unless otherwise designated by appropriate action.

19.15 No Relocation Assistance; Waiver of Claims. Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully releases, waives, and discharges forever any and all claims or other Losses, against and covenants not to sue City or any City Entity under any Laws, including any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws. Without limiting Section 5 [Assignment or Subletting], Tenant shall cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease. Tenant shall indemnify, defend, and hold harmless City for any and all Losses arising out of any relocation assistance or benefits payable to any Transferee.

19.16 Drug-Free Workplace. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Any violation of this prohibition by Tenant or any Tenant Entity shall constitute a default hereunder.

19.17 Compliance with Americans With Disabilities Act. Tenant acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity, whether directly or through a contractor, must be accessible to the disabled public. Tenant shall provide the services specified in this Lease in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation, including but not limited to, Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794 et seq.), 28 CFR Parts 35 and 36, and 49 CFR Parts 27, 37 and 38. Tenant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Lease, and further agree that any violation of this prohibition on the part of Tenant, its employees, agents or assigns shall constitute a material breach of this Lease.

19.18 Sunshine Ordinance. In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

19.19 Pesticide Prohibition. Tenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Tenant to submit to the Airport an integrated pest management ("**IPM**") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the terms of this Lease, (b) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as Tenant's primary IPM contact person with the City. In addition, Tenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

19.20 First Source Hiring Ordinance. Tenant shall comply with the San Francisco First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98, as amended by Board of Supervisors Ordinance Nos. 32-09 and 149-09) in cooperation with the Airport Commission Office of Employment and Community Partnerships pursuant to the First Source Hiring Agreement entered into between the Airport Commission and the Tenant concurrently herewith, and incorporated herein by reference.

19.21 Labor Peace/Card Check Rule. On February 7, 2023, by Resolution No. 23-0018, the Airport Commission adopted its current Labor Peace/Card Check Rule (the "**Labor Peace Card Check Rule**") and Model Form Labor Peace/Card Check Agreement ("**Model Form Card Check Agreement**"), incorporated into the Airport Rules as Rule 12.1 and Appendix C, respectively. All capitalized terms not otherwise defined in this provision shall have the meaning in the Labor Peace Card Check Rule. Without limiting the generality of other provisions herein requiring Tenant to comply with all Airport Rules, Tenant shall comply with the Labor Peace Card Check Rule. To comply with the Labor Peace/Card Check Rule, Tenant shall, among other actions, enter into a Labor Peace/Card Check Agreement with any Registered Labor Organization which requests such an agreement, within thirty (30) days after request. In the event that any such Registered Labor Organization and the Tenant are unable to negotiate a Labor Peace/Card Check Agreement within the 30-day period, the parties shall then be deemed to be bound by the Model Form Check Agreement attached as Appendix C to the Airport Rules, automatically and without any further action required by the parties. Tenant represents and warrants that it has fully reviewed the Labor Peace/Card Check Rule and agrees to be bound by all of its terms and conditions. Tenant acknowledges and agrees that Tenant's compliance with the Labor Peace/Card Check Rule is a material condition of this Lease, and if the Director determines that Tenant shall have violated the Labor Peace/Card Check Rule, the Director shall have the right to terminate this Lease, in addition to exercising all other remedies available to him/her.

19.22 Requiring Minimum Compensation.

(a) Tenant agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (**MCO**), as set forth in San Francisco Administrative Code Chapter 12P (**Chapter 12P**), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Tenant's obligations under the MCO is set forth in this Section. Tenant is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

(b) The MCO requires Tenant to pay Tenant's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Tenant is obligated to keep informed of the then-current requirements. Any subcontract entered into by Tenant shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Tenant's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Tenant.

(c) Tenant shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(d) Tenant shall maintain employee and payroll records as required by the MCO. If Tenant fails to do so, it shall be presumed that the Tenant paid no more than the minimum wage required under State law.

(e) The City is authorized to inspect Tenant's premises and conduct interviews with employees and conduct audits of Tenants.

(f) Tenant's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Tenant fails to comply with these requirements. Tenant agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Tenant's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(g) Tenant understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(h) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(i) If Tenant is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than $25,000, but Tenant later enters Tenant an agreement or agreements that cause Tenant to exceed that amount in a fiscal year, Tenant shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Tenant and this department to exceed $25,000 in the fiscal year.

19.23 Airport Intellectual Property. Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, without the Director's prior consent.

19.24 Requiring Health Benefits for Covered Employees. Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Tenant is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) Tenant's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Tenant if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Subcontract entered into by Tenant shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Tenant shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Tenant shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Tenant based on the Subcontractor's failure to comply, provided that City has first provided Tenant with notice and an opportunity to obtain a cure of the violation.

(e) Tenant shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Tenant's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) Tenant shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

(h) Tenant shall keep itself informed of the current requirements of the HCAO.

(i) Tenant shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) Tenant shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

(k) Tenant shall allow City to inspect Tenant's premises and have access to Tenant's employees in order to monitor and determine compliance with HCAO.

(l) City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with City when it conducts such audits.

(m) If Tenant is exempt from the HCAO when this Agreement is executed because its amount is less than $25,000 ($50,000 for nonprofits), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with City to reach $75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and the City to be equal to or greater than $75,000 in the fiscal year.

19.25 Notification of Limitations on Contributions. By executing this Agreement, Tenant acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who leases, or seeks to lease, to or from any department of the City any land or building from making any campaign contribution to (a) an individual holding a City elective office if the contract must be approved by that official, the board on which that individual serves, or a state agency on whose board an appointee of that individual serves, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the submission of a proposal for the lease until the later of either the termination of negotiations for the lease or twelve (12) months after the date the City approves the lease. Tenant acknowledges that the foregoing restriction applies only if this Agreement or a combination or series of leases or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars ($100,000) or more. Tenant further acknowledges that (i) the prohibition on contributions applies to each prospective party to the lease; any person on Tenant's board of directors, any of Tenant's principal officers (including its chairperson, chief executive officer, chief financial officer, chief operating officer) and any person with an ownership interest of more than ten percent (10%) in Tenant; any subtenant listed in the lease or any lease proposal; and any committee that is sponsored or controlled by Tenant; and (ii) within thirty (30) days of the submission of a proposal for the lease, the City department with whom Tenant is leasing is obligated to submit to the Ethics Commission the parties to the lease and any subtenant. Additionally, Tenant certifies that it informed any member of its board of directors and any of its principal officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than ten percent (10%) in Tenant, and any subtenant listed herein of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for this Agreement, and has provided the names of the persons required to be informed to the City department with whom it is leasing. Violation of Section 1.126 may result in criminal, civil, or administrative penalties.

19.26 Vending Machines; Nutritional Standards and Calorie Labeling Requirements. Tenant may not install or permit any vending machine on the Premises without the prior written consent of the Airport Director. Any permitted vending machine will comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 18.25 will be a material breach of this Lease. Without limiting City's other rights and remedies under this Lease, City will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements.

19.27 Food Service Waste Reduction Ordinance. San Francisco's Food Service Waste Reduction Ordinance, Ordinance No. 295-06, SF Environment Code Chapter 16 (Ordinance) requires restaurants, retail food vendors, City departments, City contractors and City lessees to use biodegradable/compostable or recyclable disposable food service ware when selling or distributing prepared foods, unless there is no "affordable" alternative. The Ordinance also prohibits such businesses and the City from using disposable food service ware made from polystyrene (Styrofoam™). Violation of the Ordinance may result in contractual damages, a criminal fine, administrative penalty, or other civil enforcement action.

19.28 Multi-Employer Bargaining Group Participation. Tenant agrees and acknowledges that a multi-employer bargaining group is an established mechanism for employers to bargain collectively with any lawful labor organization representing its employees in an appropriate bargaining unit. In the event that Tenant's employees elect to be represented by a lawful labor organization, by majority determination through the labor peace/card check process or otherwise, Tenant agrees to join the relevant multi-employer bargaining group at the Airport, and become a party to, and be bound by, a collective bargaining agreement for its operations under this Agreement in the event a collective bargaining agreement is then in effect or is negotiated on behalf of Tenant's employees. In order to demonstrate compliance with the Airport's labor harmony commitment, Tenant agrees that membership in a multi-employer bargaining group includes attendance at group meetings and participation in its business activities.

19.29 Worker Retention Policy. Tenant acknowledges the Airport's Worker Retention Policy and agrees to comply with its requirements.

19.30 Local Hire Policy. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). All Alterations under this Lease are subject to the Local Hiring Requirements unless the cost for such work is (a) estimated to be less than $750,000 per building permit or (b) meets any of the other exemptions in the Local Hiring Requirements. Tenant agrees that it shall comply with the Local Hiring Requirements to the extent applicable. Before starting any Alteration, Tenant shall contact City's Office of Economic Workforce and Development ("OEWD") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "Covered Project"). Tenant shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant shall cooperate, and require its subtenants to cooperate, with City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

19.31 Consideration of Salary History. Tenant shall comply with Administrative Code Chapter 12K ("**Chapter 12K**"), the Consideration of Salary History Ordinance or "Pay Parity Act." Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Lease or in furtherance of this Lease, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history. Tenant shall Tenant is required to comply with all of the applicable provisions of Chapter 12K, irrespective of the listing of obligations in this Section. Tenant shall include this obligation in all subleases, licenses, sublicenses and any other contracts for work performed in furtherance of this Lease (including all amendments of the same), and failure to do so shall constitute a material breach of this Lease.

19.32 All Gender Toilet Facilities. If applicable, Tenant will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of the Premises in any building where extensive renovations are made by Tenant. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "extensive renovations" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by Administrative Code Section 4.1-3. If Tenant has any question about applicability or compliance, Tenant should contact BICE for guidance.

19.33 Federal Fair Labor Standards Act. This Lease incorporates by reference the provisions of 29 USC §201, the Federal Fair Labor Standards Act (**FLSA**), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Tenant has full responsibility to monitor compliance to the referenced statute or regulation. Tenant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

19.34 OSHA. This Lease incorporates by reference the requirements of 29 CFR §1910 with the same force and effect as if given in full text. Tenant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Tenant retains full responsibility to monitor its compliance and their contractor's and subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR §1910). Tenant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

19.35 Green Building Requirements. Tenant acknowledges that the City and County of San Francisco has enacted Chapter 7 of the San Francisco Environment Code relating to green building requirements. Tenant hereby agrees that it shall comply with all applicable provisions of Chapter 7, including but not limited to those relating to Leadership in Energy and Environmental Design (LEED) certification.

19.36 Plastic Beverage Container Restrictions. Tenant shall comply with Airport Operations Bulletin 20-01-AOB, which prohibits Airport tenants, vendors. and permittees from providing or selling beverages in containers that contain plastic or asceptic paper packaging, including in vending machines. This policy became effective April 1, 2021, and is now incorporated into the Airport Rules as Rule 8.2(B). The Airport has compiled a list of compliant beverage container packaging available on https://www.flysfo.com/approved-bottled-water-list

20. GENERAL PROVISIONS

20.1 Notices. Except as otherwise specifically provided in this Lease, any notice, consent, request, demand, or other correspondence given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or overnight courier, return receipt requested, with postage prepaid or by electronic mail (if an electronic mail address is provided), to: (a) Tenant at Tenant's Notice Address; or (b) City at City's Notice Address; or (c) such other address as either Tenant or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received and effective two (2) days after the date when it is mailed, if sent by first-class, certified mail, one day after the date when it is mailed if sent by overnight courier, or upon the date personal or electronic mail delivery is made. For convenience of the parties, copies of notices may also be given by facsimile to the number set forth in the Summary or such other number as may be provided from time to time; provided, however, neither party may give binding notice by facsimile.

20.2 No Implied Waiver. No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver.

20.3 Entire Agreement. The parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease.

20.4 Amendments. Except as specifically provided herein, neither this Lease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought.

20.5 Interpretation of Lease. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days. Use of the word "**including**" shall mean "including, without limitation." References to statutes, sections, ordinances or regulations are to be construed as including all statutory, ordinance, or regulatory provisions consolidating, amending, replacing, succeeding or supplementing the statute, section, ordinance or regulation. Whenever the singular number is used in this Lease and when required by the context, the same includes the plural, the plural includes the singular, and the masculine gender includes the feminine and neuter genders, and the word "**person**" shall include corporation, partnership, firm, limited liability company, and association.

20.6 Successors and Assigns. Subject to the provisions of Section 5 [Assignment or Subletting], the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Tenant and City and, except as otherwise provided herein, their personal representatives and successors and assigns.

20.7 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Lease.

20.8 No Joint Venture. It is expressly agreed that City is not, in any way or for any purpose, a partner of Tenant in the conduct of Tenant's business or a member of a joint enterprise with Tenant, and does not assume any responsibility for Tenant's conduct or performance of this Lease.

20.9 Brokers. Neither party has had any contact or dealings regarding the leasing of the Premises, nor any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his/her claim shall be responsible for such commission or fee and shall indemnify, defend, and hold harmless the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination or expiration of this Lease.

20.10 Severability. If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law.

20.11 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of California and the Charter of the City and County of San Francisco.

20.12 Attorneys' Fees. In the event that either City or Tenant fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Lease, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. Without limiting the generality of the foregoing, Tenant shall also pay all costs and expenses incurred by City related to City's participation in or monitoring of any Tenant bankruptcy, insolvency, or similar proceeding involving creditors' rights generally and any proceeding ancillary thereto. This Section shall survive expiration or earlier termination of this Lease.

20.13 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

20.14 Time of Essence. Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

20.15 Reservations by City. City may (a) at any time, upon reasonable advance written or oral notice, enter the Premises to show the Premises to prospective tenants or other interested parties, to post notices of non-responsibility, to re-measure the Premises, to repair any part of the Premises or adjoining areas, to install equipment for adjoining areas, and for any other lawful purpose; (b) without advance notice, enter the Premises to conduct an environmental audit, operational audit, or general inspection, or in an emergency. City shall use reasonable efforts to minimize disruption in Tenant's business. Such entry shall not constitute a forcible or unlawful entry into or a detainer of the Premises, or an eviction, actual or constructive of Tenant from the Premises. City reserves the exclusive right to use all areas of the Airport not comprising the Premises, and the exterior walls and roofs the Premises. City reserves the exclusive right to use such areas together with the right to install, maintain, use, repair, and replace pipes, ducts, conduits, wires, columns, and structural elements serving other parts of the Airport in and through the Premises. This reservation in no way affects maintenance obligations imposed in this Lease.

20.16 Survival of Indemnities. Expiration or termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it effect any provision of this Lease that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee. Further, Tenant's obligation to make payments to City in respect of accrued charges (including those which have not yet been billed) and to make repairs (including those relating to the return of the Premises to City) which are accrued at the expiration or earlier termination of this Lease shall survive the expiration or earlier termination of this Lease.

20.17 Quiet Enjoyment and Title. Tenant, upon paying the Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full Term as against all persons or entities claiming by and through City. Tenant expressly acknowledges that Tenant's right to quiet possession of the Premises does not preclude City's right to make changes and additions to the Airport, including the Premises, and to do work in the Premises as permitted by this Lease.

20.18 No Right of Redemption. Tenant waives any right of redemption or reinstatement of Tenant under any present or future case law or statutory provision (including Code of Civil Procedure Sections 473 and 1179 and Civil Code Section 3275) in the event Tenant is dispossessed from the Premises for any reason. This waiver applies to future statutes enacted in addition or in substitution to the statutes specified herein.

20.19 Accord and Satisfaction. The payment by Tenant or the receipt by City of a lesser amount than the rent stipulated in this Lease may be, at City's sole option, deemed to be on account of the earliest due stipulated rent, or deemed to be on account of rent owing for the current period only, notwithstanding any instructions by or on behalf of Tenant to the contrary, which instructions shall be null and void, and no endorsement or statement on any check or any letter accompanying any such check or payment will be deemed an accord and satisfaction, and City may accept such check or payment without prejudice to City's right to recover the balance of such rent or payment or pursue any other remedy available in this Lease, at law or in otherwise, including possession of the Premises. City may accept any partial payment from Tenant without invalidation of any contractual notice required to be given herein (to the extent such contractual notice is required) and without invalidation of any notice given or required to be given pursuant to applicable law. In such event, if City shall receive any such partial payment after it shall have commenced an action against Tenant, City may amend its action as contemplated by Section 1161.1(c) of the California Civil Code to reflect any such partial payment, and no such payment shall limit any of City's rights to continue the action.

20.20 Joint and Several Liability. The liabilities hereunder of the entities and/or person(s) comprising Tenant shall be joint and several.

20.21 Estoppel Statements. Within ten (10) days after request therefor by City, Tenant shall deliver, in recordable form, an estoppel statement certifying that this Lease is in full force and effect; the date of Tenant's most recent payment of Rent, and that Tenant has no defenses or offsets outstanding, or stating those claimed, and any other information reasonably requested. Failure to deliver said statement within the specified period shall be conclusive upon Tenant that: (i) this Lease is in full force and effect, without modification except as may be represented by City; (ii) there are no uncured defaults in City's performance and Tenant has no right of offset, counterclaim or deduction against Rent hereunder; and

(iii) no more than one month's Base Rent has been paid in advance. Notwithstanding the conclusiveness of Tenant's failure to deliver such statement, Tenant's failure shall constitute a breach of this Lease.

20.22 Authority. If Tenant signs as a corporation, a limited liability company, or a partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is duly qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon City's request, Tenant shall provide City evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

20.23 Consents. If City is required to reasonably grant consent or approval, but does not do so, Tenant's sole and exclusive remedy is to seek specific performance and in no event will City be liable for any monetary damages.

20.24 Options Personal. If and to the extent Tenant has an option to extend the Term of this Lease, such option is personal to the original Tenant and may be exercised only by the original Tenant while occupying the Premises who does so without the intent of thereafter making any Transfer, and may not be exercised by or assigned, voluntarily or involuntarily, by or to any person or entity other than Tenant, unless the foregoing prohibition is waived by Director. The options, if any, herein granted to Tenant are not assignable separate and apart from this Lease, nor may any option be separated from this Lease in any manner, either by reservation or otherwise.

20.25 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date.

TENANT: ______________________________________,

a ______________________________________

By:______________________________________

Name:______________________________________
(type or print)

Title:______________________________________

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,
acting by and through its Airport Commission

____
Ivar C. Satero
Airport Director

AUTHORIZED BY
AIRPORT COMMISSION

Resolution No.: __-____

Adopted: ______________________________

Attest:______________________________
Secretary
Airport Commission

APPROVED AS TO FORM:
DAVID CHIU,
City Attorney

By:______________________________
Deputy City Attorney

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LIST OF EXHIBITS

EXHIBIT A
PREMISES

Five ATM locations in the International Terminal; six ATM locations in Harvey Milk Terminal 1 and Terminal 3; one ATM location in Long-Term Parking Garage.

<u>Description of Facility/Location No.</u>

International Terminal ATMs

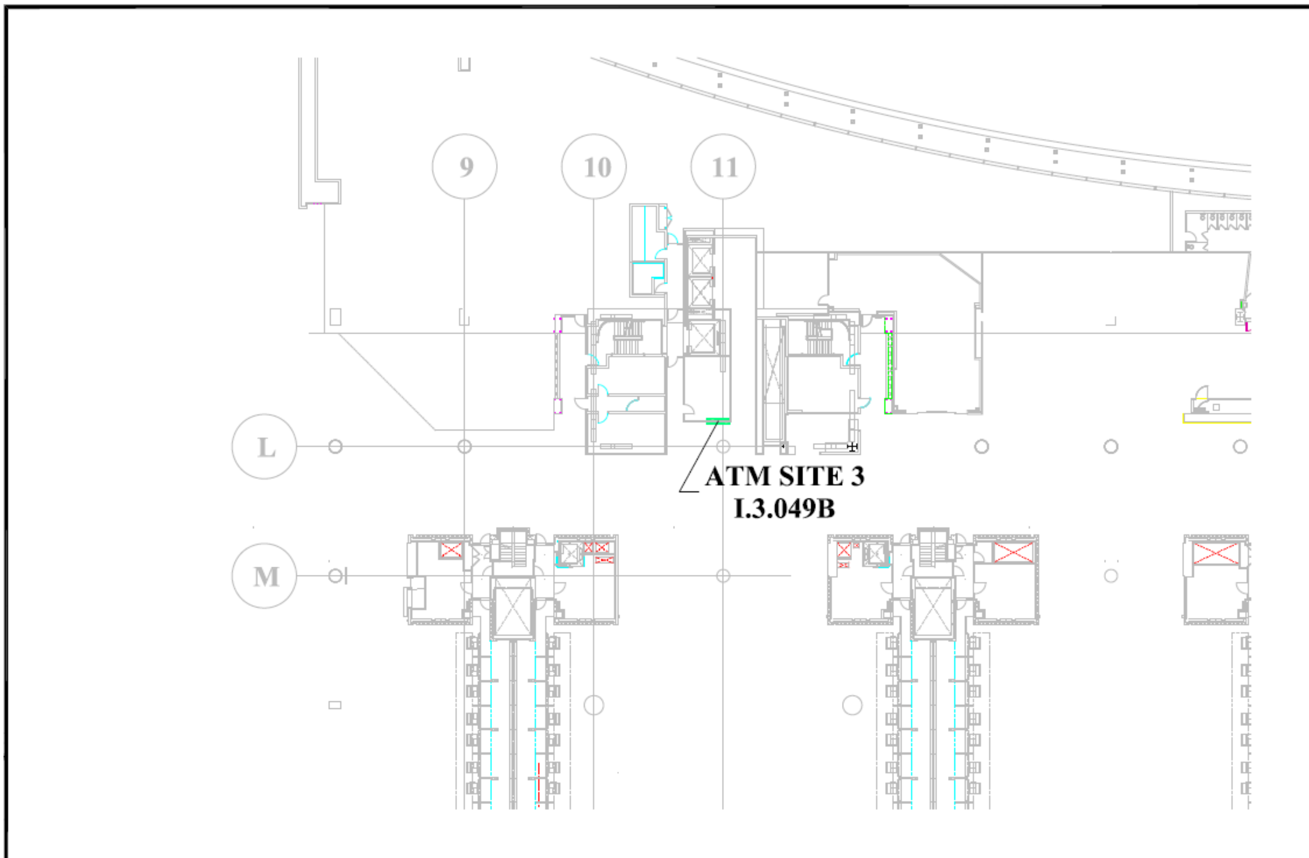
Pre-Security, ITG (ATM SITE 3)
I.3.049A
Pre-Security, ITA (ATM SITE 1)
I.3.027A
Post-Security, ITA (ATM SITE 2)
A.3.034A
Post-Security, ITG (ATM SITE 5)
G.3.004E
Pre-Security, ITG (ATM SITE 4)
I.3.064B

Domestic Terminal ATMs

T3, across from Gate E2 (ATM SITE 1)
T3.2.062C
T3, F Hub (ATM SITE 2)
F.2.017B
T3, across from Gate F2 (ATM SITE 3)
T3.2.330B
HMT1, across from Gate 23 (ATM SITE 4)
B.2.ATM4
HMT1, Pre-Security [(2 ATMs) ATM SITE 5]
T1.2.ATM5

Long Term Parking Garage ATMs

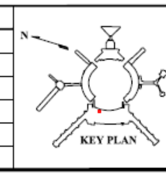
Long Term Parking Garage, First Floor (ATM SITE 7)
795.1.ATM7



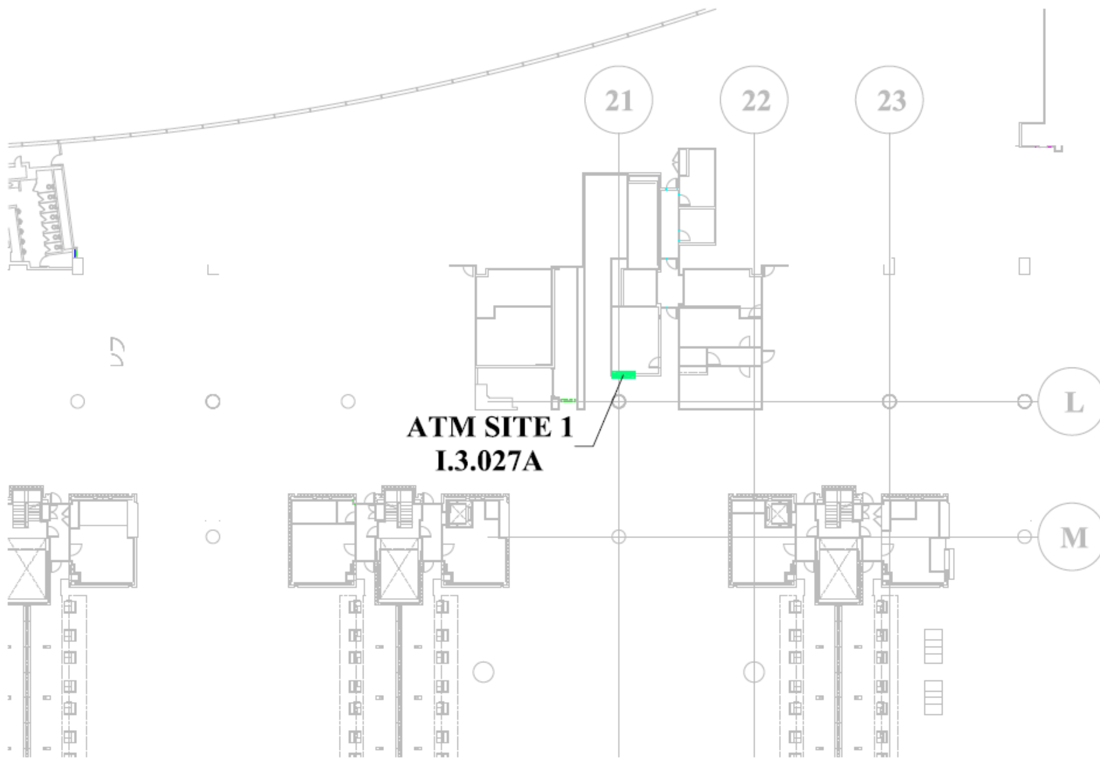
RFB DRAWING

LOCATION: INTERNATIONAL TERMINAL, LEVEL 3	
TENANT: INTERNATIONAL TERMINAL, LEVEL 3 - ATM SITE 3	
AIRPORTS COMMISSION	DWG: IT3ATM3
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/01/2023
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS

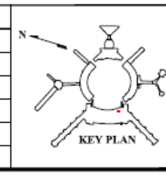
ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
I.3.049B				



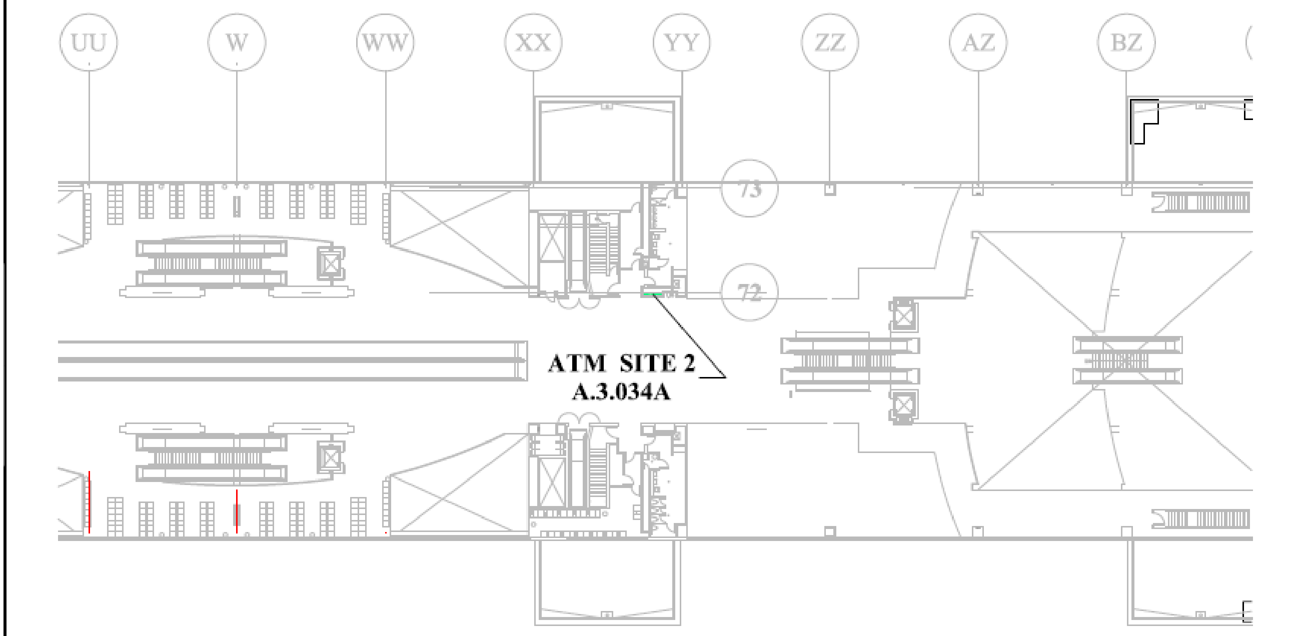
LEASE: Banking Services Lease
TENANT:



RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
		I.3.027A				
LOCATION: INTERNATIONAL TERMINAL, LEVEL 3						
TENANT: INTERNATIONAL TERMINAL, LEVEL 3 – ATM SITE 1						
AIRPORTS COMMISSION	DWG: IT3ATM1					
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/01/2023					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					

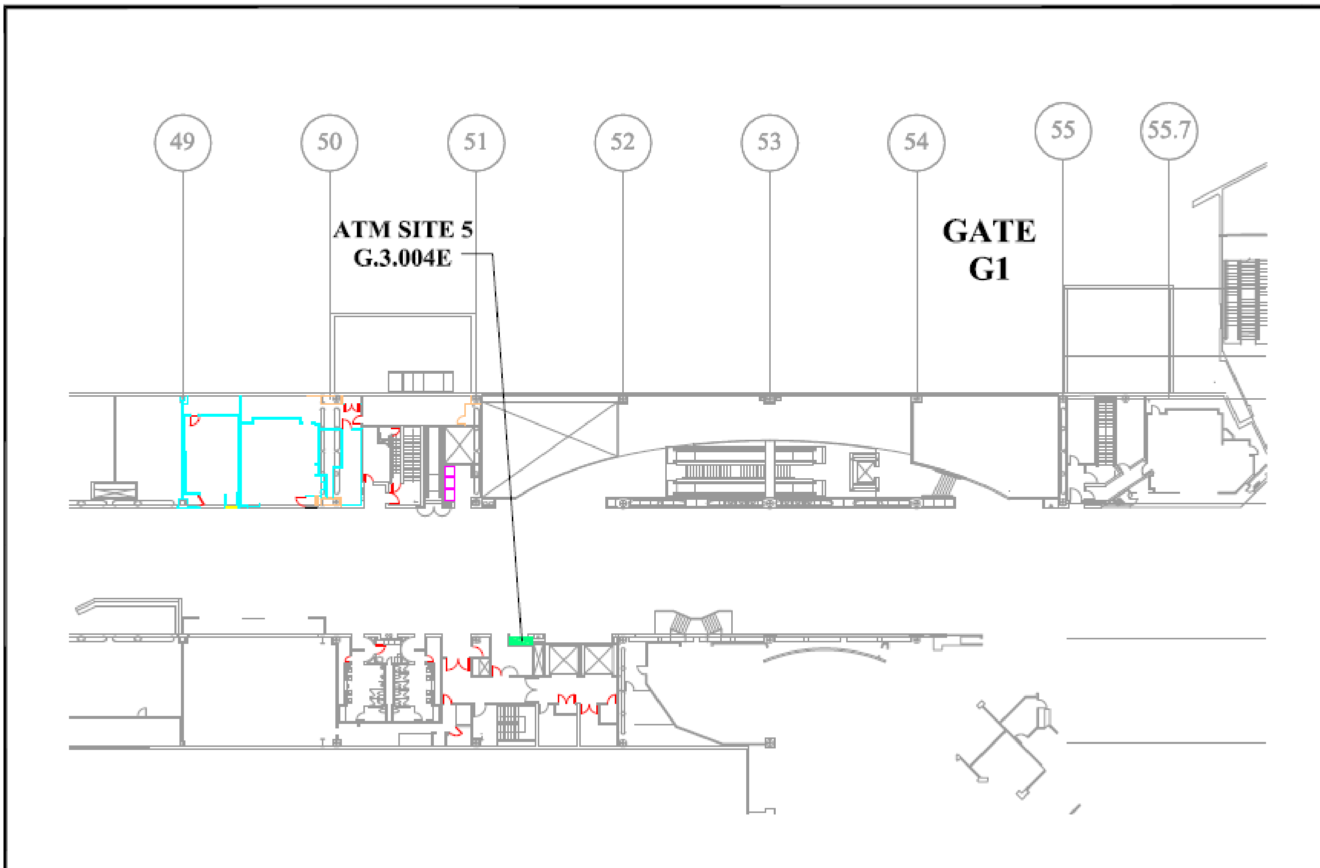


LEASE: Banking Services Lease
TENANT:

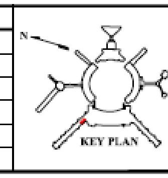


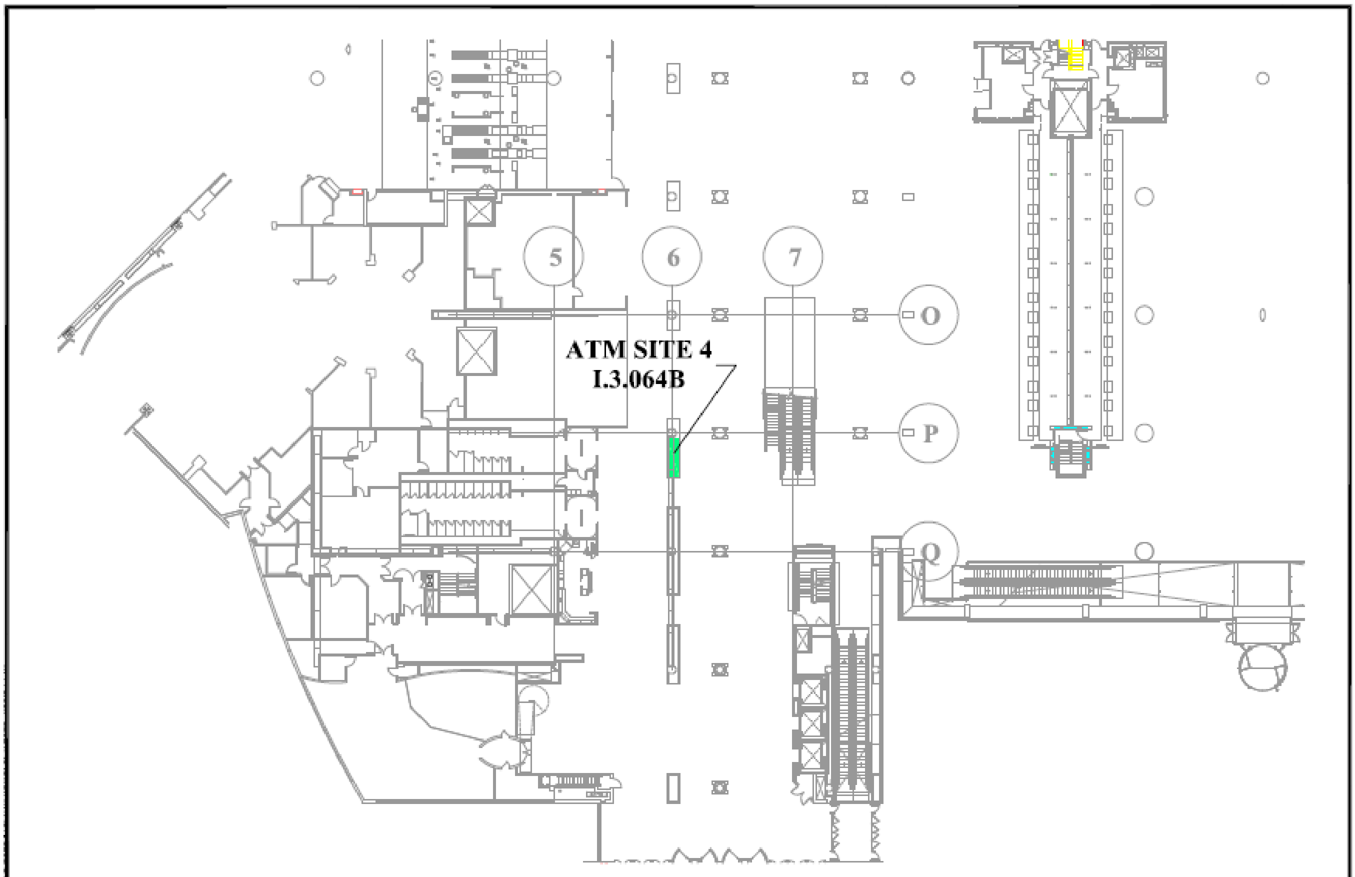
RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
		A.3.034A				
LOCATION: INTERNATIONAL TERMINAL, LEVEL 3						
TENANT: INTERNATIONAL TERMINAL, LEVEL 3 - ATM SITE 2						
AIRPORTS COMMISSION	DWG:IT3ATM2					
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/01/2023					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					

LEASE: Banking Services Lease
TENANT:



RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
		G.3.004E				
LOCATION: BOARDING AREA G, LEVEL 3						
TENANT: ITB BAG, LEVEL 3 - ATM SITE 5						
AIRPORTS COMMISSION	DWG:IT3ATM5					
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/02/2023					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					

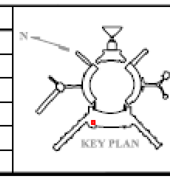




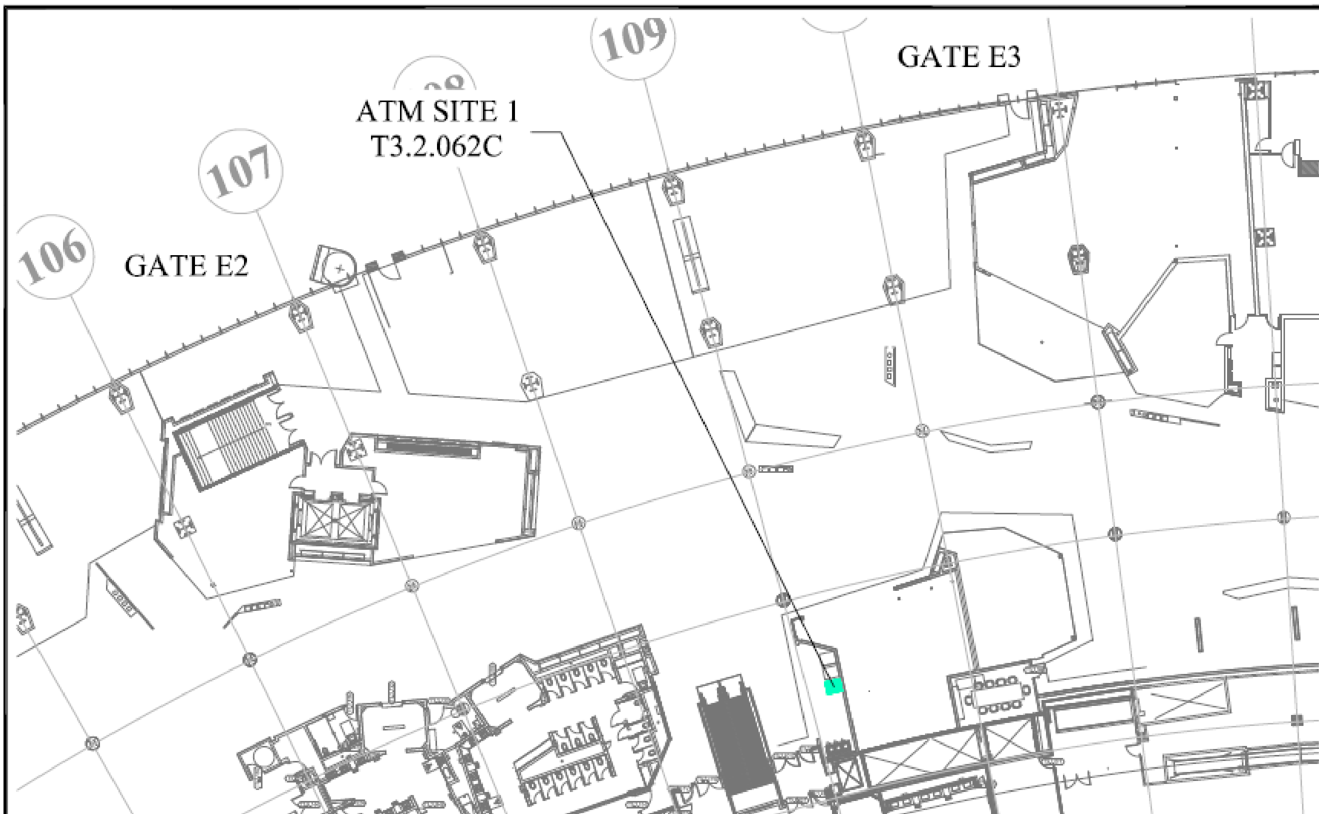
RFB DRAWING

LOCATION: INTERNATIONAL TERMINAL, LEVEL 3
TENANT: INTERNATIONAL TERMINAL, LEVEL 3 - ATM SITE 4
AIRPORTS COMMISSION | DWG: IT3ATM4
CITY & COUNTY OF SAN FRANCISCO | DATE: 05/01/2023
SAN FRANCISCO INTERNATIONAL AIRPORT | SCALE: NTS

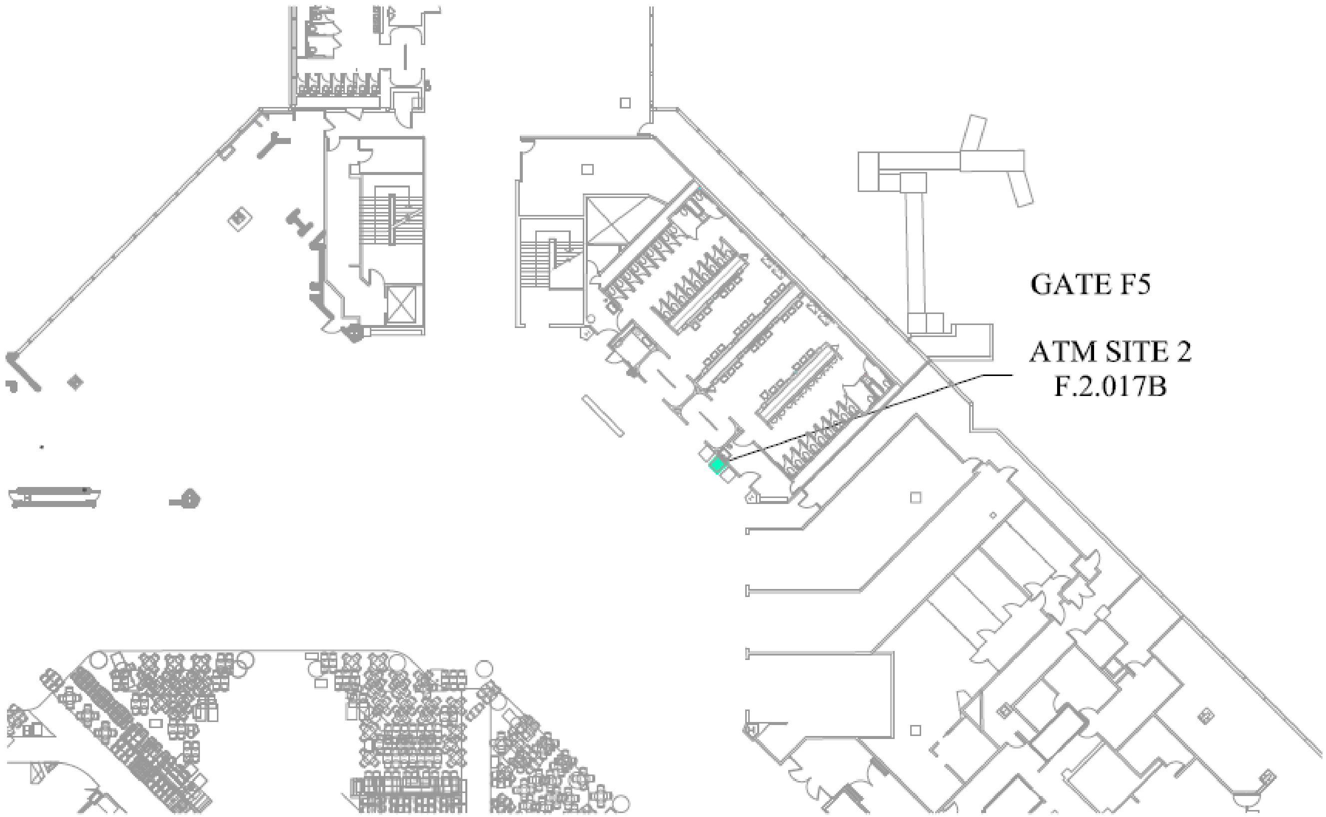
ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
I.3.064B				



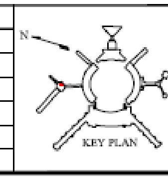
LEASE: Banking Services Lease
TENANT:



RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE	
		T3.2.062C					N
LOCATION: TERMINAL 3 LEVEL 2							
TENANT: TERMINAL 3 LEVEL 2 - ATM SITE 1							
AIRPORTS COMMISSION	DWG: T32ATM1						
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/04/2023						KEY PLAN
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS						

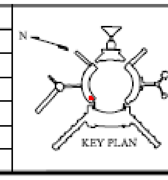


RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
		F.2.017B				
LOCATION: TERMINAL 3 LEVEL 2						
TENANT: TERMINAL 3, LEVEL 2 - ATM SITE 2						
AIRPORTS COMMISSION	DWG: T12ATM2					
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/04/2023					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					



LEASE: Banking Services Lease
TENANT:

RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
		T3.2.330B				
LOCATION: TERMINAL 3 LEVEL 2						
TENANT: TERMINAL 3, LEVEL 2 - ATM SITE 3						
AIRPORTS COMMISSION	DWG: T32ATM3					
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/04/2023					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					



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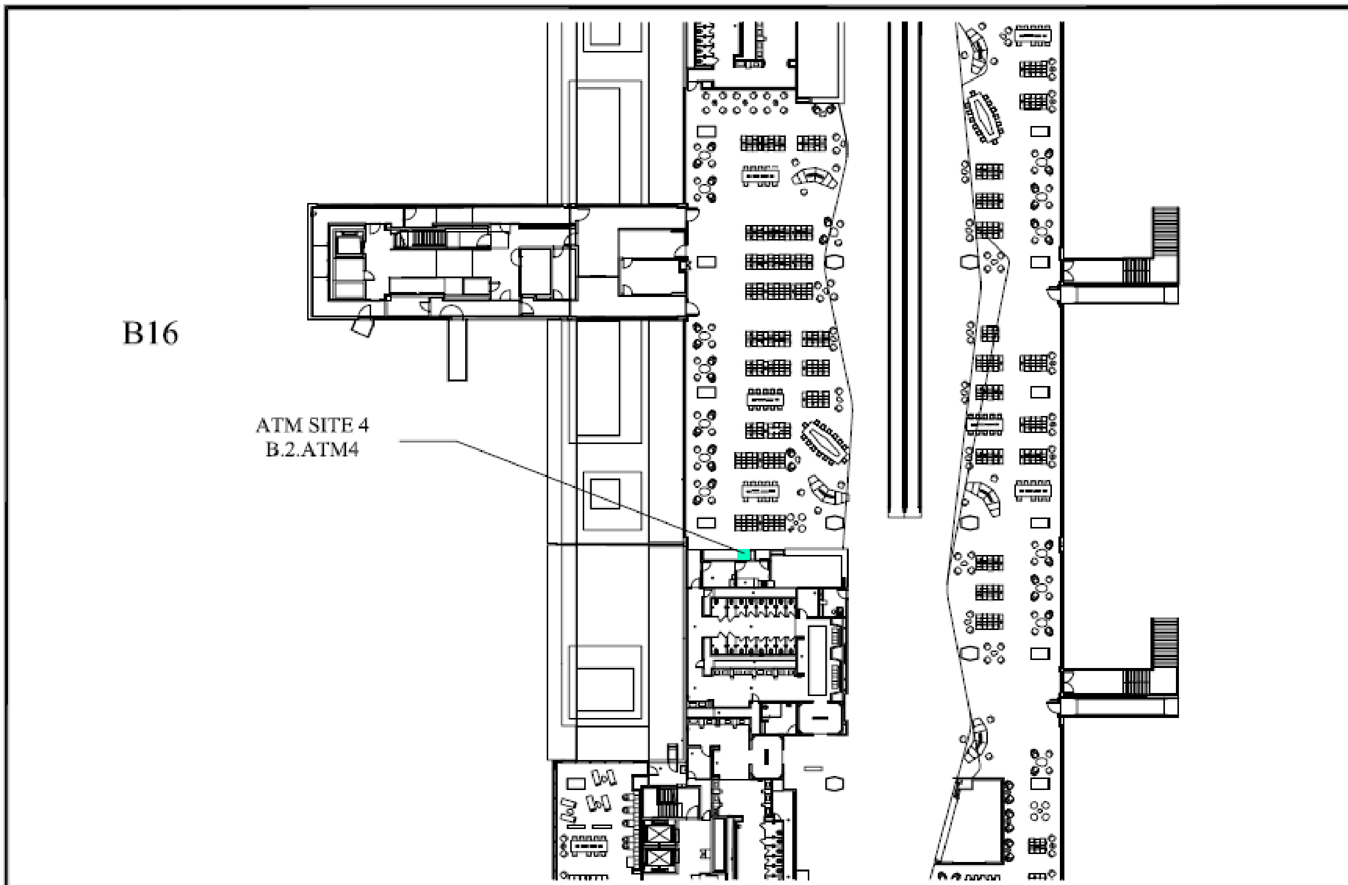
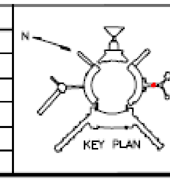
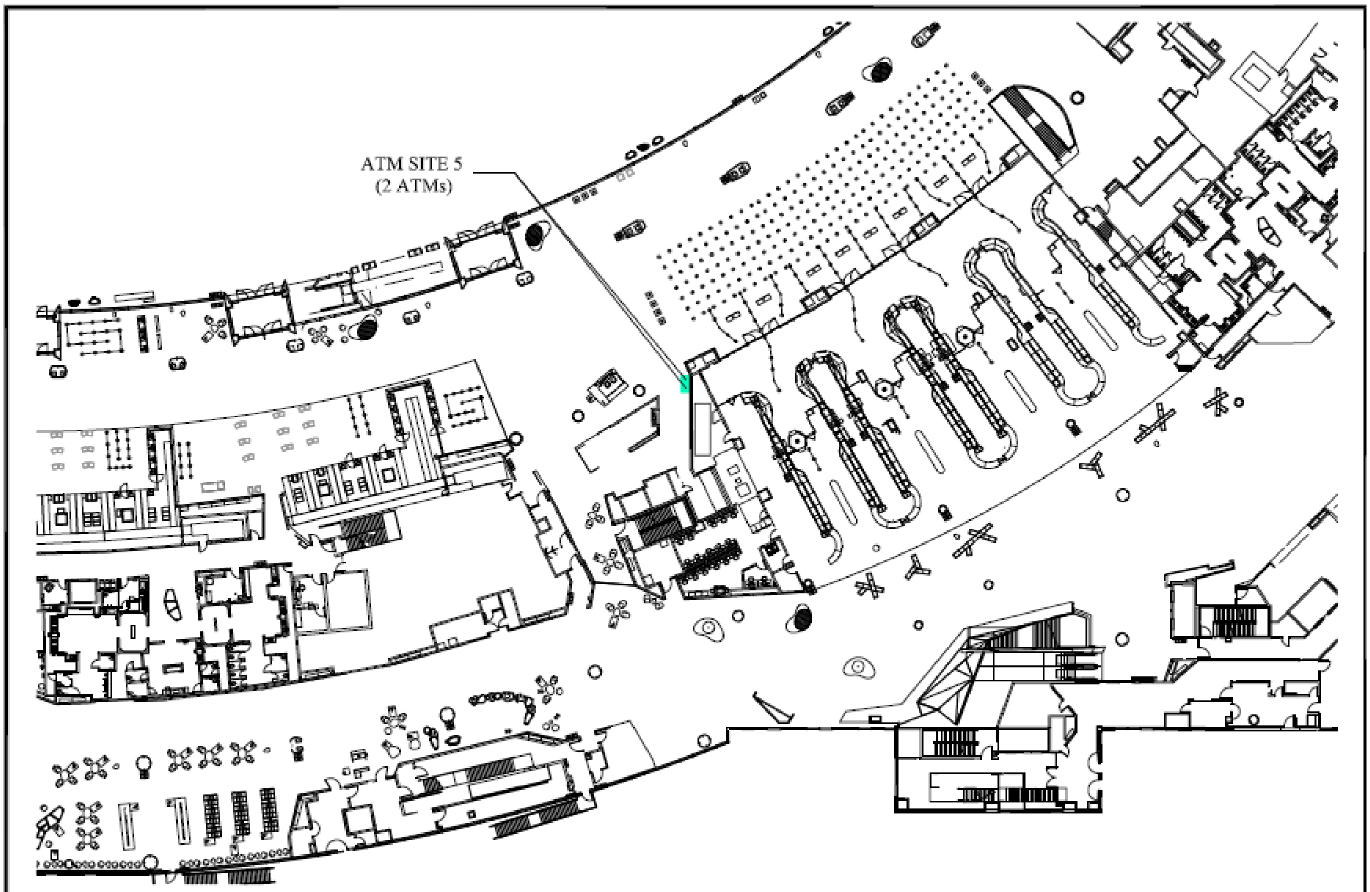
TENANT:

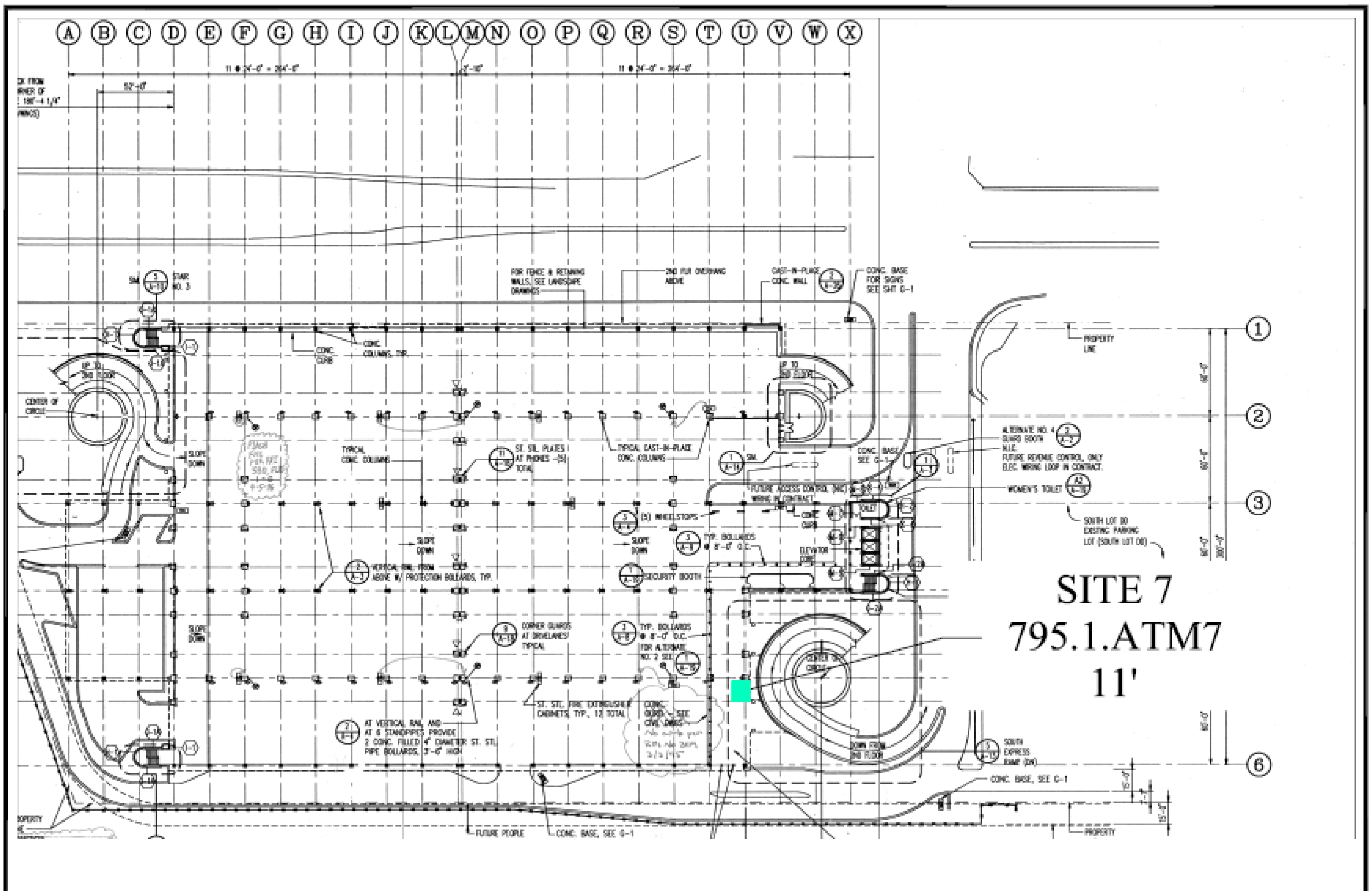


		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
RFB DRAWING		B.2.ATM4				
LOCATION: TERMINAL 1 LEVEL 2						
TENANT: TERMINAL 1, LEVEL2 - ATM SITE 2						
AIRPORTS COMMISSION	DWG: T12ATM4					
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/05/2023					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					

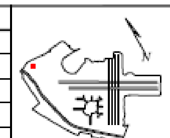




RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE	
		T1.2.ATM5					N KEY PLAN
LOCATION: TERMINAL 1 LEVEL 2							
TENANT: TERMINAL 1, LEVEL 2 - ATM SITE 5							
AIRPORTS COMMISSION	DWG: T12ATM5						
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/04/2023						
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS						



RFB DRAWING		ROOM NUMBER	AREA	CAT	CONTRACT	EFF. DATE
		795.1.ATM7				
LOCATION: BLDG 795 LONG TERM PARKING GARAGE						
TENANT: BLDG. 795, LEVEL 1 - ATM SITE 7						
AIRPORTS COMMISSION	DWG: B7951ATM7					
CITY & COUNTY OF SAN FRANCISCO	DATE: 05/04/2023					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					



KEY PLAN

EXHIBIT B
USE AND OPERATIONAL REQUIREMENTS

1) **GENERAL REQUIREMENTS:** All services shall be rendered on a non-exclusive basis, and Airport reserves the right to sell and to permit other Airport tenants to provide the same or similar services. Tenant may not display, sell, rent, or otherwise offer any product without Director's written prior consent.

2) **REQUIRED/OPTIONAL PRODUCTS:** In the event Director permits any product to be ~~sold or~~ offered that is not listed below, changes the required or optional offerings listed below, or otherwise modifies the Permitted Use or operational requirements under this Lease, this Exhibit shall be deemed amended without need for a formal amendment of this Lease.

Required
Tenant shall install and operate, and maintain ATMs, and provide:

- Dispense United States currency in $20 bill increments from checking and savings accounts, and dispense $20 in bill increment cash advances from credit accounts.
- Provide access to the following networks and credit cards: AFFN, American Express, Cirrus, Discover/Novus, Maestro, MasterCard, NYCE, Plus, Pulse, Quest, and Star.
- Provide a written receipt of each transaction, or have one sent electronically via Tenant cardholder's email.
- Provide display function on user operation.
- Display transaction fee/surcharge information.
- Surcharge shall not exceed $2.50 for each non-bank member card holder transaction.
- Post a toll-free number for customer service inquiries.

Optional
Tenant, at its own option, on a nonexclusive basis, may:

- Allow bank member cardholder to inquire on balances of checking, savings and line of credit.
- Allow bank member cardholder to make electronic payments to credit accounts from checking and savings accounts for bank member cardholders.
- Deposit U.S. currency to Tenant's cardholders' checking, savings and line of credit accounts to full function ATM only. Tenant must show proof that it is a Federal Deposit Insurance Corporation (FDIC)-insured national or state chartered bank and must remain FDIC-insured to provide the deposit service.
- Provide automated teller assistance unit.
- Dispense gift cards issued or approved by the Airport.

3) **AIRPORT MATERIALS MANAGEMENT PROGRAM:** Tenants must comply with Airport Commission Rules and Regulations, which require the separation of all materials into recyclables, compostables and landfill materials. All tenants are required to minimize materials going to landfill and place source separated materials in the Materials Recovery Area receptacle designated for that type of compostable (green bin), recyclable (blue bin) or landfill (black bin) material. Via lease agreements, tenant must use certified compostable to-go containers and utensils. Tenant must donate un-used food that is fit for human consumption to the Airport's food donation program to the fullest extent possible. All waste transported from Tenant premises

through the terminals must be contained in a leak-proof rolling plastic utility cart and transported materials must remain source separated until placed in the proper color-coded bin in the Material Recovery Area.

4) OTHER OPERATIONAL REQUIREMENTS:

[*based upon Tenant's proposal*]

5) PAYMENT CARD INDUSTRY (PCI) DATA SECURITY STANDARD REQUIREMENTS:

A. For purposes of this subsection, the term "Cardholder Data" means personally identifiable data about the cardholder (i.e. the plastic card number, card expiration date in combination with the plastic card number, cardholder name in combination with the plastic card number and/or sensitive authentication data (track data/magnetic stripe, verification numbers CVV2, CVC2, CID, and PIN Block). This term also accounts for other personal insights gathered about the cardholder (i.e., addresses, telephone numbers, and so on), assigned by the card issuer that identifies the cardholder's account or other cardholder personal information. For purposes of this section, a "Tenant" means any person or entity that stores, processes, transmits or otherwise is permitted access to Cardholder Data, while performing the Permitted Uses authorized in this Lease. Customer Information shall include cardholder data and such other customer information as may be defined elsewhere in this Lease.

B. As a Merchant or Service Provider as defined by the PCI Security Council, Tenant must be familiar with and adhere to the Payment Card Industry Data Security Standards (PCI DSS). This requirement includes, but is not limited to, full compliance with the twelve (12) DSS Security Standards as published by the PCI Security Standards Council at all times. The current standards may be found at https://www.pcisecuritystandards.org/index.php. Tenant is responsible for keeping informed about any and all modifications to the PCI DSS, and shall validate yearly compliance with PCI DSS by completing the appropriate Self-Assessment Questionnaire (SAQ) or Report On Compliance (ROC) and accompanying Attestation of Compliance (AOC). Tenant must provide copy of the compliance validation documentation to San Francisco International Airport Revenue Development and Management office every 12 months. Should any assessment result in evidence of non-compliance with PCI DSS standards, Tenant shall immediately: (1) provide written notification to the Airport regarding the specific compliance failures and a Remediation Action Plan Tenant intends to undertake to come into compliance; and (2) immediately remediate operations to come into compliance.

i. Tenant represents and warrants that it shall implement and maintain Payment Card Industry Data Security Standard Requirements ("PCI Data Security Standard Requirements") for Cardholder Data, as they may be amended by the PCI Security Standards Council from time to time. The current PCI Data Security Standard Requirements are available on the following internet site; https://www.pcisecuritystandards.org/. As evidence of compliance with PCI DSS, Tenant shall provide current evidence of compliance with these data security standards certified by a third party authority recognized by the payment card industry for that purpose.

ii. Tenant shall maintain and protect in accordance with all applicable federal, state, local and PCI laws, rules and regulations the security of all Cardholder

Data when performing the Permitted Uses under this Lease. Tenant will use reasonable precautions, including but not limited to, physical, software and network security measures, employee screening, training, and supervision and appropriate agreements with employees, to prevent anyone other than City or its authorized employees from monitoring, using, gaining access to or learning the import of the Cardholder Data; protect appropriate copies of Cardholder Data from loss, corruption or unauthorized alteration; and prevent the disclosure of passwords and other access control information to anyone.

iii. Tenant shall indemnify, defend, protect and hold City harmless from and against any and all claims, losses, damages, notices and expenses, including without limitation, any fines which City may be required to pay, which result from Tenant's breach of the provisions of this Section. Without limiting the generality of the foregoing, it is expressly agreed that if City pays any fine in connection with a breach by Tenant of the provisions of this Section, the foregoing indemnity obligation shall require Tenant to reimburse City the full amount of such fine within thirty (30) days of City delivering written notice to Tenant of City's payment of such fine. Tenant, at its sole cost and expense, shall fully cooperate with any investigation of any data loss or other breach of Tenant's obligations under this Section.

iv. The use of Cardholder Data is specifically restricted to only those applications directly pertaining to payments, including transaction authentication, or as required by applicable law.

v. If there is a breach or intrusion of, or otherwise unauthorized access to Cardholder Data stored at or for Tenant, Tenant shall immediately notify City and the acquiring financial institution, in the manner required by the PCI Data Security Standard Requirements, and provide City and the acquiring financial institution and their respective designees access to Tenant's facilities and all pertinent records to conduct an audit of Tenant's compliance with the PCI Data Security Standard Requirements. Tenant shall fully cooperate with any audits of their facilities and records provided for in this paragraph. Any costs incurred as a result of the breach or audit shall be the responsibility of Tenant.

vi. Tenant shall maintain appropriate business continuity procedures and systems to ensure availability and security of Cardholder Data in the event of a disruption, disaster or failure of Tenant's primary data systems.

vii. Tenant's and its successors' and assigns' compliance with the PCI Data Security Standard Requirements expressly survives termination or expiration of this Lease.

viii. Destruction of Cardholder Data must be completed in accordance with section 9 of the PCI DSS.

EXHIBIT C-1
FORM OF PERFORMANCE BOND FOR AIRPORT LEASES

_____________________________________ (Surety)

KNOW ALL MEN BY THESE PRESENT:

That we,____, as Principal, and ___________________, a corporation duly organized and existing under and by virtue of the laws of the State of , as Surety, are held and firmly bound unto the City and County of San Francisco, acting by and through its Airport Commission, as Obligee, in the sum of _____________________ Dollars ($______________) lawful money of the United States of America, to be paid to the City and County of San Francisco, acting by and through its Airport Commission, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into one or more leases, permits, or agreements with the City and County of San Francisco, Airport Commission (collectively, the "**Agreements**").

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall perform all terms of the Agreements (which by reference are made a part hereof), including the payment of rent or fees, in accordance with the terms of such Agreements, then this obligation shall be null and void, otherwise to remain in full force and effect; and shall be effective _____________________.

This bond may be called upon by Obligee by a notice sent to the Surety in person or by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at: ____.

Any such call by Obligee shall include a statement signed by the Airport Director of the Airport Commission of the City and County of San Francisco, or his/her designee, to the effect that any of the following events has occurred or is continuing:

a) Principal has defaulted under one or more of the Agreements; or

b) Principal has become insolvent, or has taken the benefit of any present or future insolvency statute, or has made a general assignment for the benefit of creditors, or has filed a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or any state thereof, or any jurisdiction available to Principal, or has consented to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or

c) A petition under any of the federal bankruptcy laws or an action under any present or future insolvency law or statute has been filed against Principal.

We shall honor and pay on such call within ten (10) days after receipt.

We shall give you notice in writing by registered mail at least forty-five (45) days prior to the cancellation date, termination date or expiration date of this bond, if any is stated, of our intention to cancel, terminate, or non-renew this bond. In the event we fail to give such notice promptly, then this bond shall be deemed renewed for an additional one-year period.

Signed, sealed and dated this ___ day of ________________, 20__.

Principal: By: ____

Title: ____

Seal: ____

Surety Company: By: ____

Title: ____

Seal:

(Attach Notary Public Certificate and Attorney-in-Fact form)

EXHIBIT C-2
FORM OF LETTER OF CREDIT FOR AIRPORT LEASES

Date __________

Irrevocable Letter of Credit No. _______

Airport Commission
City and County of San Francisco
Attn: Chief Business and Finance Officer
San Francisco International Airport
International Terminal, No. Shoulder Bldg., 5/F
PO Box 8097
San Francisco, CA 94128

Ladies and Gentlemen:

We hereby establish an irrevocable letter of credit in your favor in the amount of ______________________________________ United States Dollars (US$_________________) for the account of ____________________________("**Account Party**"), available by your draft at sight, when accompanied by the following document:

A statement signed by the Airport Director of the Airport Commission of the City and County of San Francisco, or his/her designee, to the effect that any of the following events has occurred or is continuing:

a) Account Party has defaulted under the one or more agreements with the City and County of San Francisco, acting by and through its Airport Commission at San Francisco International Airport; or

b) Account Party has become insolvent, or has taken the benefit of any present or future insolvency statute, or has made a general assignment for the benefit of creditors, or has filed a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or any state thereof, or any jurisdiction available to Account Party, or has consented to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or

c) A petition under any of the federal bankruptcy laws or an action under any present or future insolvency law or statute has been filed against Account Party.

Drafts drawn under and in compliance with the terms of this letter of credit will be duly honored by us upon presentation and delivery of the statement specified above. Partial draws are permitted. Such drafts may be presented in person or by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at:

____
_____.

We shall give you notice in writing by registered mail at least forty-five (45) days prior to the cancellation date or expiration date of this letter of credit, if any is stated, of our intention to cancel or non-renew this letter of credit. In the event we fail to give such notice promptly, then this letter of credit shall be deemed renewed for an additional one-year period. Subject to the foregoing, this letter of credit shall expire on ___________________, 20_.

Sincerely, ____

EXHIBIT D
TENANT WORK LETTER

Tenant Work Letter – All Existing Terminals

Revenue Development Premises Tenant Work
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b. Tenant Contractor Insurance
c. Local Hiring Ordinance
d. Preconstruction Meeting
e. Construction Coordination Meetings
f. Construction Safety
g. Deliveries
h. Airport ID Badging
i. Tenant Construction Schedule
j. Barricades
k. Security
l. Demolition, Cutting, Patching, and Fireproofing
m. Ceilings and Access Doors
n. Floor Finishes
o. As-Built Drawings
p. Indemnity

D. Sustainability Requirements
1. General
2. Base Building
3. Tenant's Work
a. ZERO Committee Process
b. Green Building Standards and Codes
c. Green Business Program
d. Construction and Demolition Debris Management
e. Toxics Reduction and Pollution Prevention
f. Green Cleaning
g. Green Business Certification, Inc. (GBCI)
h. LEED Scorecard for Projects of 10,000 Gross Square Feet or More
i. LEED Scorecard for Projects Less Than 10,000 Gross Square Feet
j. PG&E Tracking of Natural Gas Use
k. Building Electrification
l. Energy Efficiency

Tenant Work Letter – All Existing Terminals

A. GENERAL INFORMATION

1. Governing Codes and Requirements
All Construction work performed at the San Francisco International Airport (SFO) must comply with the requirements of the current California Code Regulations (CCR) Title 24, the San Francisco Environment Code, the Airport Building Regulations (attached as Appendix F to the Airport Rules and Regulations, the Americans with Disability Act (ADA) and all other applicable local, state, and federal laws. Tenant must have sole responsibility to ensure and confirm with all relevant government authorities having jurisdiction over the premises that all construction work performed by Tenant in the premises (Tenant Work) complies with all applicable building codes and standards. The work must also comply with all the requirements of the SFO Tenant Improvement Guide (TIG), a supplemental Airport document governing some aspects of Tenant construction, the California Uniform Retail Food Facilities Law (CURFFL) and the terms and conditions of the Lease, including but not limited to Section 7 [Investments; Alterations].

   Tenants must obtain approval from the SFO Infrastructure Review Committee (IRC) and a building permit from SFO Building Inspection and Code Enforcement (BICE). Food and Beverage Concessions must complete plan review and obtain a Health Permit from the San Mateo County Environmental Health Department. Tenants are encouraged to secure a Green Business Certificate from the County of San Mateo.

   Design of Concessions Tenant Work must be developed in accordance with the Design Review Committee Guidelines.

2. Rights of way
Tenant will need to obtain approval from any other tenants whose leased premises lie above or below occupied or restricted space to accommodate Tenant's mechanical equipment and grease exhaust system. Tenant plumbing and waste lines will NOT be allowed to cross above or go through Special Systems or Tenant Wiring Rooms. These paths of travel will need to be reviewed with BICE for acceptance.

3. Existing Abandoned Utility Responsibility
Tenant is responsible to remove any and all abandoned or no longer in use utilities within the premises including above and below the premises.

   a. Electrical
   Upon approval of a shutdown request from SFO the breakers and all associated wiring must be removed from the entire run and a pull string must be installed with this operation. The conduit may remain from the distribution panel to within 2' outside Tenant lease line. The conduit end outside the premises must be capped and both ends of the conduit run must be labeled with the panel location number and

terminated space identification number. Any existing J box or pull that will remain in the space must be accessible and the box information must be preserved on the box.

b. Data
Any existing phone or box that has been identified and confirmed with ITT as not in use nor serving any other spaces Tenant may remove it. All the cabling must be removed from the conduit to the point of origin and a pull string must be installed with this operation. The conduit must be removed from the premises to a point of 2' outside the lease line and capped. Both ends of this abandoned conduit must be identified with the location of the data room and the terminated space identification number. Any J box or pull remaining within the premises must be accessible and the box information must be preserved on the box.

c. Plumbing
Tenant assumes responsible to remove any and all abandon sanitary, grease waste, domestic water or vent lines that were previously left within the leasable space, which includes above and below the premises. Tenant must maintain the identification and access of any valve that can't be relocated outside of the premises.

d. Mechanical
Any and all pneumatic lines or equipment that are confirmed by SFO mechanical maintenance as not to be reused within Tenant's space must be removed and Tenant must properly plug off the unused lines at the source as to keep the base building system operational. All unit identification must be maintaining on any remaining units.

B. BUILDING SYSTEMS

Tenant must accept full responsibility for the condition of all existing utilities related to the premises. Tenant may reuse existing utilities but must demonstrate to BICE inspectors the functionality of said equipment for approval.

1. Plumbing
   a. Domestic Cold Water
   Potable cold water is provided for Food and Beverage spaces. Tenant water usage is metered by the Airport and the meter is provided and maintained by the Airport. Tenant must extend water service to and within the demised premises as needed. Tenant's domestic water system must be chlorinated and approved prior to receiving Temporary Certificate of Occupancy from BICE. Hot water must be provided by Tenant.

   b. Sanitary Sewer

Tenant is responsible to replace all piping from every fixture connection to the wye connection of the main branch line. All new piping must be of materials that will not be adversely affected by waste being introduced into the system, special consideration must be given to all waste from bars, soda fountain and juicers. All piping must be labeled with the premises name & number every 10 feet and at point of connections.

c. Grease Waste
Tenant is responsible to replace all piping from every fixture connection to the wye connection of the main branch line. Tenant is responsible for installing and maintaining a complete grease waste interceptor system if the existing space is not equipped with one. There are two locations for the interceptor; within the kitchen using model (Thermaco Big Dipper System or approved equal) or at an SFO approved location on the ramp. Tenant contractor must perform confirmation dye testing for any interceptor installations at locations where aboveground sanitary connections are not present. The Airport will determine which type of interceptor is required depending on the anticipated grease production of the restaurant. New piping must be of materials that will not allow grease to coat the interior of the pipe. All piping must be labeled with premises name & number every 10 feet and at point of connections. The GI unit itself must have a plaque with the space name & number including a 24-hour contact number attached to it.

2. Fire Sprinklers
The Airport will provide a "wet type" Fire Sprinkler System complying with the requirements of the NFPA 13 and the Airport Fire Marshal. Tenant must install a hydraulically calculated fire sprinkler system throughout the leased premises, reviewed and approved by the Airport Fire Marshal. Sprinklers must be concealed or flush pendant quick response type heads. Tamper switches must be provided for all valves normally in the open position and must be PPDT self-storing type devices. All components of the fire sprinkler system must be UL listed. The tenant's subcontractor is required to submit a shutdown request 3 days prior of any scheduled work performed on the Airport sprinkler system.

3. HVAC Systems & Controls
The Terminal is serviced by a central heating, ventilation and air conditioning (HVAC) system. The system is a variable volume conditioned air system fed from multiple air handlers. Return air must have transfer air duct from each premises to ceiling return air plenum. The supply air system allowance at 63°F and 1.1 CFM per square foot. The tenant is required to have their mechanical engineer of record provide a letter to the SFFD stating that their system will not affect the base building smoke control system if applicable. The premises must be designed for overhead supply air system (mixing ventilation) or for displacement ventilation depending on location within the Terminal (refer to utility point of connection drawings). Hot Water piping is available for re-heat coils at temperatures at 150° (secondary side). Victaulic couplings will not be permitted on hot water system. Tenant will connect Tenant's HVAC system at the designated

location(s) of the base building's conditioned supply air duct system and extend system as necessary throughout the leased premises providing VAV terminal boxes and necessary DDC controls to maintain proper temperature and maximize energy conservation in the space. Should Tenants need additional tempered air beyond the capacity of the base building system, Tenants must install their own supplemental roof top equipment at an approved Airport location. Tenant is responsible to contract with a licensed roofing contractor for any repairs to the roof. The food service Tenants are responsible for providing make-up air system interlocked with Tenant's grease exhaust system so that the exhaust system cannot operate without the make-up air system operating. Tenant's HVAC design must comply with the A&E and building codes. Tenant must also be responsible for compliance with SFO sustainable goals and objectives. HVAC design must comply with LEED standards and California Title 24 for energy efficiency and air quality. To control odor migration, the make-up air system is to be designed such that the make-up air quantity plus outside air capacity of Tenant's HVAC system equals 80 percent of the exhaust air quantity. Tenant's premises (enclosed spaces) are to be 0.05" water column negative pressure with respect to the terminal or concourse area. Tenant's mechanical equipment must be sound and vibration attenuated. Tenant must submit plans, specifications, and load calculations to BICE for permitting. Tenant must prepare an Air Balance Report for its mechanical systems as part of the required BICE permit closeout submittals. Tenant is required to use a licensed air balancing subcontractor.

a. Grease Exhaust
   Where a Tenant grease exhaust system "Smog Hog" has been installed Tenant must provide documentation to BICE that the system complies with NFPA 96, CBC, CMC and CHC requirements, including hood design, duct design, equipment mounting requirements and fire extinguishing system. The hoods must be UL rated, IR approved capable of capturing 90% of the grease from the exhaust air at the hood. Tenant is responsible for the maintenance of the grease exhaust systems. As part of the BICE permitting process, the system manufacturer must warrant in writing that the proposed system will extract, at a minimum, 90% of the air laden grease prior to the issuance of a building permit. The Airport will work with Tenants to determine an appropriate location for Tenant's roof penetration. Screening of this equipment will need to be provided by Tenant and reviewed for approval by the DRC. Tenant is responsible to contract with a licensed roofing contractor for any repairs to the base building roof and include a complete walk off mat route around all roof equipment for maintenance.

4. Electrical
   Tenant will receive either a 3 phase, 4 wire 277/480V or 120/208 electrical service for their spaces fed from a Tenant Metering Switchboard located in the Airport Metering Room. Tenants will be allowed a connected maximum load of 72W per square foot in food preparation areas and a maximum of 15W per square foot in seating areas. Tenant

must provide all electrical information on proposed Tenant equipment to BICE to verify the actual load with the available service. The tenant must provide documentation to SFO that the existing breaker, shut trip, and relay has been tested and certified prior to its reuse in the existing distribution gear. If Tenant requires electrical service greater than noted above, Airport staff will work with Tenant's Designer on a case-by-case basis to provide the capacity required.

Any additional electrical equipment and associated work necessary to accommodate the request must be provided by Tenant. Emergency electrical power will NOT be available for Tenant use. Emergency lighting must be designed using devices approved under the applicable codes. If an existing space has any SFO emergency circuits within their space Tenant electrical contractor will need to remove these circuits to the closest junction box outside of their premises and have it labeled with circuit ID.

Tenant must be responsible for procurement and installation of all other work required to provide a complete electrical distribution system including feeder circuit breakers and electrical meter circuit transformers (CT's) in the Airport's Tenant Metering Switchboard and feeder wiring from the Switchboard to Tenant's Distribution Panel.

Each premises has an Airport Tenant Meter. Tenant will contact the Airport Electrical Shop at (650) 821-5489 to schedule confirmation of metering continuity prior to Tenant's electrical system being approved by BICE Inspectors.

a. Equipment Requirements
Note that the Airport specifies all products to be installed must match the Airport Electrical Rooms existing equipment including, but not limited to the following:

For a 277/480V electrical service connection, Tenant must install a maximum of 200A feeder circuit breaker in Tenant Metering Switchboard. Ground fault breakers within the Airport's 277/480V Tenant Metering Switchboard must be Square D model Power Pact type HJ with GFM (ground fault module add-on) or match the existing panel gear. Tenant may transform the 480V service to another voltage from Tenant's Distribution Panel. Tenant's Distribution Panel and all other Tenant installed electrical equipment must be located within the lease line as indicated on Tenant's lease outline drawings. Or an approved Electrical closet designated for tenant equipment.

For a 120/208V electrical service connection, Tenant must install a maximum 50A feeder circuit breaker in Tenant Metering Switchboard. Breakers within the Airport's Tenant Metering Switchboard must be Square D model SE R ET or match the existing panel gear. Tenant's Distribution Panel and all other Tenant installed electrical equipment must be located within the lease line as indicated on Tenant's lease outline drawings.

Electrical meter circuit transformers (CTs) are sized according to the service load: for 100A service use 100:5 CT. CT wiring should be lengthened when necessary, with color coded twisted pair #16 gauge using butt splices (not wire nuts) and clearly labeled where terminated at the shorting block. CT ratio must be labeled at the shorting block where the CTs are terminated.

5. Fire Alarm
Every premises has a fire alarm system monitored by an SFO Fire Alarm Control Panel (FACP). A new Tenant taking possession of the premises will be required to update all devices in their premises and would require a network fire alarm system download to reflect all new premise moniker address within the SFO map net. Tenant is required to design towards the latest NFPA 72 requirements and the same fire alarm system as the base building's fire alarm system (Simplex) and must be able to communicate with the base building Network fire alarm system. Tenant must use the base building fire alarm subcontractor (Simplex) for all FA tie-ins and FA network programming changes that would involve download changes to the FACP panel and the TSW network to the communications center. Tenant fire alarm system and terminal box inside their premises are Tenants responsible for any fire alarm systems device repairs. All fire alarm systems will require pretesting with Tenant Coordinator and a final test by BICE & SFFD for a Temporary Certificate of Occupancy (TCO). Both tests will be conducted off hours. 0100 to 0300. Time is subject to change. Johnson Controls Fire Protection - Fred Toste, (510) 750 3918 cell fred.toste@jci.com

- ITB – BA/A – BA/G are Class A for strobe and map net devices
- The remaining Terminal Buildings are Class B

6. Telecommunications & Data
The Airport's Information Technology and Telecommunication Department (ITT) provide a multitude of Shared Tenant Services (STS) via Airport Infrastructure and Network Transport. Services include, voice grade services, DS1 to OC12 SONET Transport, Ethernet Connectivity, Common Use Connectivity and DirecTV and/or Comcast Cable TV Services throughout the Airport Campus.

For all Tenant IT service requests (Move, Ads or Changes) contact the Airport ITT Provisioning Group at 650-821-HELP (4357) Option 1, or sfohelpdesk@flysfo.com.

Tenant is responsible for the installation of their Telecommunication and Data System throughout the leased premises and or utilizing the existing conduit or providing a new conduit from the leased premises to the designated Airport Tenant Wiring Closet (TWC) and/or Special Systems Room (SSR). Any necessary equipment must be housed within the leased premises. General technical recommendations on Voice and Data Cabling at SFO are as follows:

i. Copper Feeder Cable from the premises for Voice and SONET Transport Service: Tenant is recommended to furnish and install a single 25 pair (or greater) copper feeder cable, inside of a 2" (or greater) conduit, from the Airport TWC and/or SSR to a backboard located inside of the premises.

ii. The 25-pair cable inside of the Airport TWC and/or SSR will need to be terminated on an Airport provided 110or 66 style termination block by Tenant. The location of where Tenant can terminate their feeder cable inside of the Airport's TWC and/or SSR will be designated by SFO's ITT Department (650) 821-4361. Inside of Tenant's space, it is recommended that the feeder cable be terminated on a 66 or 110 style termination block. Tenant must install the termination block on an accessible communication backboard or 19-inch relay rack.

iii. If Ethernet/Internet Services will be required within the premises, in addition to the Voice Feeder Cable, individual CAT 5e/6/6A Data Cables or Single Mode / Multi Mode fiber must be installed in the supplied utility stub for communications so Data services from SFO can be distributed into this space. If more than four (4) individual internet connections are required, then a network switch must be installed in the premises which can be fed by Fiber or Copper to the closest Airport TWC and/or SSR for Ethernet/Internet Service. The necessity of installing any combination of these cables and how and where to terminate them within the designated Airport TWC and/or SSR must be discussed with SFO's ITT Department (650) 821-4361.

iv. The individual CAT5e/6/6A and/or Single Mode/Multi Mode Fiber cabling inside of the Airport TWC and/or SSR will need to be terminated on an Airport provided Ethernet Patch Panel and/or Fiber LIU by Tenant unless otherwise directed by SFO ITT. The location of where Tenant can terminate their cable inside of the Airport's TWC will be designated by SFO's ITT Department (650) 821-4361. Inside of Tenant's space, it is recommended that the cable be terminated on Ethernet Patch Panels and/or Fiber LIU's on an accessible communication backboard or 19-inch relay rack.

Copper Station Cabling Inside of a premises: Tenant is required to furnish and install one (1) CAT 5e/6/6A cable per voice or data jack inside Tenant's space. All voice CAT 5e cables should be terminated on the same block as Tenant's feeder cable. All Data CAT

5e/6/6A cables should be terminated on a patch panel or a multi-port surface mount block close to Tenant's network equipment. The Airport recommends the installation of two (2) Voice CAT 5e and two (2) Data CAT 5e/6/6A Cables per communications outlet.

Coaxial Cable for Cable TV Service: If DirectTV TV Services will be required within the premises, in addition to the cables referenced above, a dedicated RG-6 Coax Cable per Set Top Box must be installed within the dedicated Tenant Communications Utility Conduit so TV services from SFO can be distributed into premises. If multiple connections are required within the premises, then an RG-11 Coax Cable must be installed from the Airport TWC to premises, where a coaxial splitter will be used to then distribute up to a maximum of 8 other Set Top Box via an RG-6 Coax per Set Top Box (quantity of downstream connections is dependent on cable length and signal strength).The individual RG-6 or RG-11 Coax cabling inside of the Airport TWC will need to be terminated with an F-Type connector near the Airport distribution panel within existing 19" Relay Rack by Tenant. Inside the premises, it is recommended that the Coax cable be terminated with a F-Type Connector on an accessible communication backboard, a coaxial panel on a 19-inch relay rack or physically at the TV location on a F-Type outlet.

Tenant needs to provide the following Communication Drawings within their BICE Submittal package:

- The location of Tenant Communications Backboard, Voice, Data and Cable TV outlets with callouts inside of their proposed space.
- A single line riser diagram showing the conduit(s) run from the premises to the designated Airport TWC and/or SSR, including what will be installed in the conduit.

7. Solid Waste Management
The Airport is required by City Ordinance to achieve a solid waste recycling rate of 75% by 2012 and 100% by 2020. Tenants are required to cooperate with the Airport to maximize the rate of solid waste recycling and source separation.

Tenant must design the space for source separation of the following minimum materials (during construction and throughout operations): (a) Compost; (b) Recycling; (c) Cardboard; and (d) Landfill. Tenant must provide separate recycling, composting and landfill receptacles within its premises and must ensure source separated materials are deposited in the appropriate collection container within the designated courtyard / Materials Recovery Area during operations. Cardboard must be separated, boxes broken down, and disposed of in the appropriate cardboard compactor. All Food and Beverage

Tenants must collect food waste, soiled paper products, and compostable service ware in separate containers and deposit the contents in the designated compost compactors in Materials Recovery Areas.

Tenants must work with both the Airport's Sustainability Projects Specialist and the Environmental Operations Team to comply with Airport Rules and Regulations and applicable laws regarding waste. The Airport provides resources and training to guide and support tenants to achieve zero waste. All employees using the Material Recovery Areas must receive training by Tenant staff and SFO's Environmental Operations Specialist. Tenants must identify new staff and Materials Recovery Area users at the time of their onboarding and coordinate with the Airport to request training of procedures and use of Material Recovery Area equipment.

Misuse of Materials Recovery Areas and failure to sort waste accordingly may result in administrative fines as set in the Airport's Rules and Regulations. SFO bin labels are available upon request to support proper materials sorting. Tenants are expected to train staff on these processes and work with contractors to meet these requirements.

8. Cooking Oil Waste
   The Airport provides a cooking oil storage tank serviced under contract to the Airport. Food and Beverage Tenants are required to purchase model 2500C Oil Caddy from Darling International to transport cooking oil waste from their kitchens to the storage tanks. Tenants must be responsible to transport caddy oil material from their kitchen to the storage tank location. Caddies are available from Darling International at (415) 647-4890, or http://www.darlingii.com/UsedOilStorage.aspx. Misuse of Materials Recovery Areas and failure to properly dispose of cooking oil waste will result in administrative fines as set in the Airport's Rules and Regulations.

9. Tenant Doors and Locks
   Tenant is responsible for maintaining the rating of all their base-building doors. Spaces with existing store front glass doors may be reused but will be the sole responsibility of Tenant to maintain them or remove to replace with an approved equal type of glass door. Any modification of a door by Tenant which changes the rating of a door is prohibited. It will be the responsibility of Tenant to furnish and install a replacement door of equal or greater quality, to replace any base-building door which they may have modified for their own use. Any added doors, door hardware or modifications to doors which open on public, or secure common areas such as lobbies, tenant corridors and storage areas, must match the existing SFIA hardware in appearance and standard. Cylindrical and tubular locks, or any lock requiring an ANSI 161 prep, are prohibited. Only mortise locks are permitted.

   Locks must conform to the SFIA standard:

   - SCHLAGE L-9000 Series, with 17A lever trim and 630 or 318 finish

- VON DUPRIN 98, 98XP or 35 Series panic devices
- SARGENT S2 Series mortise cipher locks

No SFIA lock or security device must be removed or altered in any way without the written consent of the SFIA Lock shop (650) 821-5939. Installation of doors and locks will follow the standards established by the Airport Carpenter and Locksmith Shops. It is Tenant's responsibility to inform your locksmith contractors of the standards. All locks which are for the exclusive use of Tenant must be rekeyed and combinated by Tenant's locksmith, unless the Airport requires access, or if the door accesses a secure or sterile area.

C. TENANT LEASEHOLD DESIGN AND CONSTRUCTION

1. General
   Tenant must design, engineer and construct, at its sole expense, all improvements, and alterations necessary for Tenant to conduct the Permitted Use in the premises, in accordance with all applicable Laws, Codes and other requirements. Workshops and meetings are delineated herein that will provide information about the process, criteria and schedule that should enable Tenants and their Consultants to accomplish their responsibilities in a timely, cost-effective manner. It is Tenant's responsibility to manage their project, consultants, and contractors. Attendance at all workshops and meetings is mandatory.

2. Design – Plan Development and Approvals
   Plan Development and Approvals. Tenant must engage architectural/engineering professionals licensed by the State of California, experienced in food, retail or other concession service design to prepare Tenant's leasehold improvement plans. Tenant is responsible for obtaining all necessary approvals including SFO Infrastructure Review Committee approval (IRC), Airport Design Review Committee (DRC) design approval, building permit issued by Building Inspection and Code Enforcement (BICE), and a Health permit issued by the San Mateo County Environmental Health Department when required. BICE will not accept an application for a building permit without prior design approval by the Airport's IRC and DRC.

   a. Lease Outlines.
      The Airport will distribute Tenant Lease Outline Drawings to enable Tenant's design consultants to prepare Tenant's leasehold improvement plans.

   b. Tenant Verification of Existing Conditions.
      Tenant must physically survey the demised premises at the earliest opportunity after signing of Tenant Lease to verify existing conditions and acknowledge the results in writing on an Airport-provided form.

c. Tenant Signage Requirements.
Tenants must submit to the DRC for review graphics for their blade and storefront signage logos.

d. Design Review and Permitting Workshop.
For Concessions Tenants, Revenue Development and Management Property Manager will host an informational workshop to provide insight into the DRC Design Review and BICE Permitting process. The presentation includes a period for questions and answers.

e. Infrastructure Review Committee.
Concurrent with the DRC review process, Tenant must submit a scope of work to the IRC on the appropriate form. The IRC will review Tenant infrastructure projects for compliance to Airport standards, rules and regulations to ensure the protection of the Airport's infrastructure.

f. Design Review Meetings.
Tenants must complete the design review process in a timely manner and the Airport will provide Tenants with the estimated opening date upon signing of Tenant's lease and will inform Tenant in writing of any changes to said date. Design Review steps include, but are not limited to the following:

g. DRC Approval.
Upon completion of Tenant's schematic leasehold design, Tenant must submit plans for review by Revenue Development and Management (RDM) Property Manager. Property Manager will review plans to ensure Tenant's design meets space requirements and Permitted Use as defined in Tenant's Lease. If plans meet Lease requirements and have met project sustainability requirements described in the Design Review Committee Guidelines the Property Manager will schedule a Preliminary Review with the DRC. Tenant must submit six copies of plans for Preliminary and subsequent DRC reviews. Full material boards, renderings, plans and elevations are required for DRC meetings. Additional DRC Reviews may be required to obtain final design approval. In the event Tenant needs to change the design after DRC Approval has been given, Tenant must return to the DRC for approval of any changes, including substitutions of materials.

h. Tenant Security Camera System.
Any Tenant furnished and installed security camera system must submit a camera point of view plan for approval by the Aviation Security Operations team prior to installation.

i. BICE Review and Permitting.

Tenant must submit complete Construction Documents to BICE for review and permitting. BICE will review Tenant's plans for conformance with local, state, and federal code requirements as defined in Part 1 A. Governing Codes. Upon satisfaction of BICE reviews and requirements, including submittal of the "Conformed Drawings" in AutoCAD.DWG version 2002 or higher, Tenant will be issued building permit. Construction inspection requirements will be defined in the Building Permit. Tenant must provide Tenant Coordinator with one electronic set of permit drawings prior to starting construction on site.

j. San Mateo County Health Permit.
Food and Beverage Concessions must submit an application to the County of San Mateo for a Health Permit, concurrent with their BICE review. San Mateo County Health Permit requirements and processes can be found at www.co.sanmateo.ca.us.

k. ABC Liquor License Permit.
Tenants seeking a transfer, renewal, or new Liquor License may go to: http://www.abc.ca.gov/. Information regarding zoning as it applies to ABC forms, contact Tiare Pena at the San Mateo County Planning Department (650) 363-1850. Posting of liquor license notices must be coordinated with Tenant Coordinator.

3. Construction
   a. Notice That Premises Are Ready for Tenant's Work.
   The Airport will provide written notification to Tenant that the premises are ready for Tenant's Work. Tenant will physically survey the premises with a representative of the Airport and acknowledge in writing to the Airport that the space is acceptable.

   b. Tenant Contractor Insurance.
      i. Insurance. Prior to the issuance of a building permit from SFIA's Building Inspection and Code Enforcement (BICE) Tenant Contractor must provide proof of the following insurance:
         1. Workers' Compensation Insurance with Employer's Liability limits not less than $1,000,000 each accident, illness or injury.
         2. Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products Liability and Completed Operations Coverage's.
         3. Commercial Automobile Liability Insurance with limits not less than $2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Employer's non-ownership liability and hired auto coverages.

4. Builder's Risk Insurance on an all-risk form, with coverage and limits equal to one hundred percent (100%) of the completed value to date of the work to be completed under this Tenant Work Letter.

c. Local Hiring Ordinance. Per the San Francisco Local Hiring Ordinance (LHO), construction cannot start on any projects with an estimated cost of $750,000 or more, until Tenant has submitted the appropriate forms to the Airport Employment Quality & Standards office.

d. Preconstruction Meeting. Tenant and Tenant's contractor must attend a preconstruction meeting on site prior to beginning construction.

e. Construction Coordination Meetings. Tenant and/or Tenant's contractor is required to attend construction coordination meetings to ensure coordination of Tenant work and related SFO tenants.

f. Construction Safety. Tenant's contractors will comply with all local, state, and federal OSHA guidelines to support San Francisco International Airport's core value "Safety and Security is our first priority." All tenant contractors must present a jobsite construction safety program to Tenant coordinator prior to starting any work at SFO, and have a SDS binder on site at all times with up-to-date chemical information on all products being installed in case of an emergency.

g. Deliveries. All Tenant deliveries will be coordinated with ADM and Airport Operations during the weekly construction meeting.

h. Airport ID Badging. All construction workers are required to have an Airport ID badge while working at the airport.

i. Tenant Construction Schedule. Tenant must submit a construction schedule at the preconstruction meeting. Tenant must submit schedule updates to Tenant Coordinator monthly until completion of Tenant Work.

j. Barricades. Upon receipt of notification from the Airport that the premises are ready for Tenant Work, Tenant must install a construction barricade at a max of 3' off the lease line along the opening of the space. The barricade must be either painted sheet rock or white prefab material included base material. A single or a double door will swing inward and must be painted white as the barricade and any dust protection and tape must be white. Tenant is responsible for maintenance, demolition, and disposal at completion of Tenant Work. Tenant is responsible for mitigation dust control.

k. Security. Tenants and Tenant contractors are responsible for storing and security of all equipment and materials within the construction site.

l. Demolition, Cutting, Patching, and Fireproofing. Tenant will notify Tenant coordinator at least one week in advance of any demolition, cutting and or patching that may be necessary outside the confines of the leased premises to facilitate Tenant's construction. Tenant is responsible for maintaining the integrity of any required fire caulking and fireproofing within the confines of the leased premises. Any fireproofing that is removed by Tenant or its subcontractors will need to be repaired by a licensed fireproofing subcontractor at the soul cost to Tenant. It is Tenants responsible for keeping the exterior floor and areas adjacent to the construction barricade clean and free of dust and debris.

m. Ceilings and Access Doors. Tenant must install finish ceilings throughout the premises. Tenant is responsible for providing access doors to any base building systems that may exist within the demised premises.

n. Floor Finishes. Tenant must install finish flooring throughout the leased premises. Tenant must install a waterproof membrane under Tenant's finish flooring in all areas that have water service, such as kitchens, bars, etc. Tenants' finished floor must conform to adjoining Airport floor finishes.

o. As-Built Drawings. One (1) set of as-built drawings depicting the fire sprinkler and fire alarm system must be submitted in electronic AutoCAD.DWG format to BICE within 30 days of issuance of the Temporary Certificate of Occupancy (TCO). One (1) set of all discipline as-built drawings must be submitted in electronic PDF & CAD format to the designated Airport Property Manager within ninety (90) days of issuance of TOC. Electronic files on either a CD or Travel Disk should be mailed to Tenants' Property Manager at: Revenue Development and Management, San Francisco International Airport, 575 North McDonnell Road, Suite 3-329, San Francisco, CA. 94128

p. Indemnity. Tenant's release and indemnification of Airport as set forth in Sections 12.1 and 12.2 of the Lease also must apply with respect to any and all Losses related in any way to any act or omission of Tenant, its contractor, subcontractor, engineer, consultant, employee or agent, or anyone directly or indirectly employed by any of them, with respect to Tenant's Work, or in connection with Tenant's non-payment of any amount arising out of or related to Tenant's Work.

D. SUSTAINABILITY REQUIREMENTS

1. General. SFO is committed to prudent environmental stewardship and has integrated sustainable planning, design, construction, and operational strategies into its physical facilities. It is anticipated that this process will result in exceptional project outcomes that provide long-term positive environmental, social, and financial benefits to Tenant. Tenant is encouraged to contribute to these sustainable development efforts, and to use creative and innovative design, construction, and operational strategies to create aesthetically pleasing and environmentally responsible space in alignment with SFO's sustainability goals.

2. Base Building. The base building may have been designed and constructed such that the premises may at a minimum: (i) be energy and water efficient, (ii) use materials and products that are environmentally preferable and that support improved indoor environmental quality, (iii) comply with the current version (at time of design and construction) of California Building Code Title 24, CALGreen, the SF Environment Code, and (iv) designed to achieve a LEED BD+C or C+S minimum Gold certification. Tenant should confirm with the Airport the current LEED certification status of the premises.

3. Tenant's Work. In connection with the planning, design and construction of Tenant's Work, Tenant is required to comply with the following:
   a. <u>ZERO Committee Process</u>: Tenant must review SFO's sustainability goals and standards. Tenant must submit to ZERO Committee (and/or ZERO Tenant Subcommittee) for its review and approval a narrative and PowerPoint presentation describing how Tenant's design and operations will meet these goals and standards. For projects >10,000 gross square feet in area, Tenants must provide a presentation to the ZERO Committee at the Schematic Design, Design Development, and Construction Documents phases; for projects <10,000 gross square feet in Area, Tenant must provide a presentation to the ZERO Committee towards the end of the Design phases. The ZERO Committee review should take place after the Design Review. Relevant Airport documents include:
      - Guiding Principles of Sustainability as described in San Francisco International Airport's Delivering Exceptional Projects – Our Guiding Principles (pg. 48-52), located at https://www.sfoconnect.com/sites/default/files/2021-03/final_delivering_exceptional_projects_7.21.14.pdf

- SFO Sustainable Planning, Design and Construction Standards located at https://www.sfoconnect.com/abr-ae-standards-tenant-improvement-guide .
- Tenant Sustainability Guide and Checklist, available during project initiation meeting to be held with the ZERO Committee representative or upon email request at sustainability@flysfo.com

b. Green Building Standards and Codes. Tenant must provide documentation to the ZERO Committee to demonstrate compliance with the California Building Standards Code (California Code of Regulations (CCR) Title 24) Part 6 (Energy) and Part 11 (CALGreen) and the applicable provisions of the San Francisco Environment Code. In addition to, and without limiting the foregoing sustainability requirements, Tenant must comply with all applicable green building laws, codes, ordinances, rules and regulations, including but not limited to, those required under the current version of the San Francisco Environment Code (https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_environment/0-0-0-8 and the 2016 current version of the California Building Standards Code (Title 24 of the California Code of Regulations), Part 6 (Energy Code) and Part 11- (CALGreen).. Compliance with these codes must be demonstrated through submission of the SFO Standard Form for the CALGreen Checklist (obtainable from sustainability@flysfo.com) and the SF Environment "GS6: San Francisco Green Building Submittal Form for Municipal Projects." (obtainable from sustainability@flysfo.com)

c. Green Business Program. Tenant must register its business with the California Green Business Program (http://greenbusinessca.org/), complete all applicable requirements for certification, including but not limited to those related to energy conservation and performance, and provide a checklist to the ZERO Committee. Tenants that are certified through the Green Business Program will be recognized on program websites, receive a certificate to display and electronic logo for use, will receive a trash permit fee discount, and be recognized at an annual Airport event.

d. Construction and Demolition Debris Management. Tenant's General Contractor must plan to divert the maximum possible construction and demolition debris from landfill and must not generate more than 10 lbs./sq. ft. of waste. Tenant's Contractor must be required to prepare a Material Reduction and Recovery Plan (MRRP), submit monthly Material Reduction and Recovery Reports, and submit a Final Material Reduction and Recovery Summary Report consistent with the standards set forth in Chapters 7 and 14 of the San Francisco Environment Code along with providing copies to the ZERO Committee.

Tenant must utilize the Green Halo System online web-based tool (available here: http://sfgov.wastetracking.com/) to submit the MRRP, monthly reports and final report for Airport and City approval. The Airport Sustainability Representative will create an account in the Green Halo System for use by Tenant's Contractor. The "Green Halo Systems User Guide for General Contractors" can be found here: https://sfenvironment.org/sites/default/files/fliers/files/sfe_zw_cd_municipalghs_user guide_generalcontractor.pdf .

Tenant's Contractor must coordinate the location of the construction and demolition debris bins with the Airport's Tenant Coordinator.
Tenant's Contractor must sort and self-haul waste generated by their office and construction site staff. Contractor must provide waste bin trios (Compost, Recycling, and Landfill) throughout the construction site for workers' personal waste. Personal waste may not be disposed of with construction and demolition debris.

e. Toxics Reduction and Pollution Prevention. All projects that include furniture and/or interior surfaces (e.g., countertops, doorknobs, handles, wall paints, carpet) within the project scope must comply with the attributes defined within the Chapter 7 of the San Francisco Environment Code (e.g., emission of volatile organic compounds, fluorinated chemicals, antimicrobial chemicals, required ecolabels, etc.). http://sfapproved.org/sites/default/files/files/general-files/2020-12-23%20Green%20Purchasing%20Regulations%20-%20FINAL%20Signed.pdf :

- Paints: http://sfapproved.org/greener-greenwise-gold-certified-architectural-paints-interior-latex-wall-ceiling-paints-primers
- Resilient Flooring: http://sfapproved.org/flooring-resilient-flooring-adhesives
- Upholstered Furniture: http://sfapproved.org/furniture-upholstered
- Non-upholstered furniture: http://sfapproved.org/furniture-non-upholstered

f. Green Cleaning: Tenant's Contractor must use green cleaning methods in conformance with the product manufacturers' recommendations and in compliance with the Airport's Green Cleaning Program. For Tenant's normal operations in the premises, Tenant must develop a Green Cleaning Plan in compliance with the Airport's Green Cleaning Program and must provide regular staff training in the implementation of this program. A detailed reference copy of the Program will be provided during ZERO Committee and/or Green Business consultation and is accessible upon request by emailing sustainability@flysfo.com.

g. Green Business Certification, Inc. (GBCI). The Airport has been registered with U.S. Green Building Council and the Green Business Certification Inc. ("GBCI") to create a SFO LEED® Campus Master Site Program. The Airport will provide Tenant with access to the SFO LEED® Campus Master Site Program online website for use by Tenant in registering and certifying its project. Tenant must be responsible for adding its team to this website and for providing LEED administration for its project on this website. Once Tenant has registered the project on this website, it will be able to utilize a number of pre-approved LEED v4 ID+C pre-requisites and credits.

h. LEED Scorecard for Projects of 10,000 Gross Square Feet or More. Tenant must coordinate with BICE, San Francisco Department of the Environment ("SF Environment") and the ZERO Committee on the preparation and submission of the "GS6: San Francisco Green Building Submittal Form for Municipal Projects" and a "LEED Scorecard" to demonstrate compliance of Tenant's Work with the San Francisco Environment Code requirements. For tenant improvement projects of 10,000 gross square feet or more LEED v4 or current version ID+C minimum Gold level certification is required. In connection with such certification, Tenant is advised of the following:

- Tenant must be responsible for all work and costs related to the LEED certification.
- Tenant must present all required materials to the ZERO Committee at regularly scheduled meeting during the design process prior to the approval by the ZERO Committee.
- The LEED Scorecard must be submitted at the conclusion of each design phase and at project close-out, along with required documentation and a copy of the project LEED certificate.
- Tenant must demonstrate that the project achieves the LEED credits required by Chapter 7 of the San Francisco Environment Code.

i. LEED Scorecard for Projects Less than 10,000 Gross Square Feet. For tenant improvement projects less than 10,000 gross square feet, Tenant is not required to achieve LEED certification but is required to submit the LEED Scorecard that demonstrates the maximum LEED credits and points that are practicable for Tenant's Work and pursue these credits through the design and construction process as required by Chapter 7 of the San Francisco Environment Code. The LEED Scorecard is to be submitted to SFO BICE, SF Environment and ZERO Committee during the conceptual design phase and as a final as-built indicating all LEED credits that would be achieved if the project had been certified.

j. PG&E Tracking of Natural Gas Use. If the premises will utilize natural gas, Tenant must submit to the ZERO Committee an executed PG&E Authorization to Receive Customer Information to allow the Airport's tracking of natural gas used onsite and keep such authorization active during the term of the tenancy.

k. Building Electrification. SF Environment Environment Code and Electrification Ordinance confirms the requirement that all new construction and major renovations that require LEED certification must be all electric (https://sfgov.legistar.com/View.ashx?M=F&ID=8062116&GUID=28265371-C9E0-4C31-A206-50B53BA48D7E). The Airport is advancing 100% building electrification by eliminating natural gas throughout its entire infrastructure. Natural gas usage introduces a fire risk to the Airport and affects healthy indoor air quality while contributing to greenhouse gas emissions. The Airport, via its ZERO Committee, will work with tenants to migrate existing gas uses like cooking, water heating, and other processes to zero-carbon equipment and ensure the adequacy of building base loads to enable an all-electric transition.

l. Energy Efficiency. Tenant must whenever practicable reduce lighting power density below code required levels; purchase only ENERGY STAR rated equipment and appliances; purchase and install lamps that are light emitting diode (LED); purchase closed refrigerated merchandisers as opposed to energy intensive open refrigerated merchandisers; and specify heat pump water heaters (HPWH) whenever feasible:

Storage Water Examples by Type	Capacity (gal)	Efficiency (UEF)	Input (btu/hr)	Recovery (gal/hr)	FHR (gal)
Gas-Fired	48	.64	40k	40	77
Resistance Electric	45	.93	15k	20	61
Electric Heat Pump*	45	3.4	15k	20	65
RRHPWH (theoretical)	30	3	9k	12	25

* With resistance electrical element.

END OF DOCUMENT

APPENDIX A

Glossary of Terms

Airport Concession Disadvantaged Business Enterprise (ACBDE)	A concession that is a for-profit small business concern that is (1) at least 51% owned by one or more individuals who are both socially and economically disadvantaged, and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
Airport Commission	The City and County of San Francisco, acting by and through its Airport Commission.
City	The City and County of San Francisco.
Concession Opportunity	The business opportunity described in this RFB to lease the premises at the Airport for the permitted use under the terms and conditions in the Lease.
Deplaning Passenger	Passenger exiting an aircraft.
Enplaning Passenger	Passenger entering an aircraft.
Lease	The agreement to be executed by the successful Bidder and City following the award of the Concession Opportunity to the successful Bidder at the end of the RFB process described herein. The form of the Lease is attached as Part IX.
Minimum Annual Guarantee (MAG)	The amount proposed by the successful Bidder, which the successful Bidder guarantees as the minimum payment to the Airport for the first year of the Lease.
Percentage Rent	In addition to the MAG, Concessionaires shall pay percentage rent but only to the extent that the percentage rent exceeds the monthly installment of the MAG.
Premises	The concession space at the Airport undergoing this RFB process.
Bidder(s)	Person(s) or entity(ies) who participate in the RFB process for this Concession Opportunity.

APPENDIX B

General Information and Historical Sales

1. San Francisco International Airport – Background

San Francisco International Airport (SFO) is the major commercial airport for the San Francisco Bay Area and northern California. Owned by the City and County of San Francisco, SFO is located 14 miles south of downtown San Francisco and is situated on San Francisco Bay. Since its opening on May 7, 1927, SFO has grown from a small administration building on 150 acres of unpaved cow pasture to its present configuration of approximately 4.4 million square feet of terminal space on 2,383 acres of developed land. Throughout the Great Depression, four wars, airline deregulation and post-September 11th regulations, SFO has built and retained its position as a world leader in airline and passenger services.

The Airport is a major center for both domestic and international traffic. San Francisco is the largest airport in the San Francisco Bay Area and is the second busiest airport in the state of California after Los Angeles International Airport. In 2017 SFO ranked 24th in the passenger load worldwide and 7th among all North American airports. With total passenger load 57,793,313, SFO provided service to 67.3% of the Bay Area market share in 2018. Currently SFO has 62 scheduled airlines, including major international and national carriers, commuter, seasonal, and air cargo carriers. SFO currently provide services to over 82 airports nationwide and 50 airport internationally.

The Airport is financially self-sufficient and does not rely on general taxpayer support. It prides itself on operating financially as a successful business while serving the public interest. SFO has a direct beneficial economic impact to the San Francisco Bay Area economy with the jobs created and the revenue generated by the airlines, airport businesses, and airport-dependent visitors industry. United Airlines continues to be the single largest employer in San Mateo County.

2. Operating at the Airport

Our guests, and yours, typically consist of passengers who have limited time to spend in restaurants and shops and must be served quickly and efficiently. Concessionaires should pay close attention to how their facilities will accommodate customers who may have rolling luggage and may be traveling with others including children. Facilities are open 365 days per year with longer operating hours than street-side businesses. Flight delays necessitate that tenants be prepared to extend hours to provide a valuable customer service and capture this additional business. Each employee at the Airport is also an ambassador at the Airport. Training is essential to ensure that knowledge of the terminals, the basic functioning of the airport and details about the region are known by all employees. It is very common for anyone wearing an airport identification badge to be approached by passengers with general questions. SFO strives for excellent customer service. Approximately 70% of our passengers live outside of the Bay Area. Their experience at SFO is often the first and last impression they will have of their visit to San Francisco or the United States.

APPENDIX C

Historical Passenger Traffic and Route

CY 2018 - CY 2022

Terminal	2018	2019	2020	2021	2022
A	3,683,196	3,537,055	631,208	945,350	2,202,629
G	3,974,881	4,202,135	1,111,544	1,144,556	2,842,880
International	**7,658,077**	**7,739,190**	**1,742,752**	**2,089,906**	**5,045,509**
B	2,018,882	2,053,574	1,066,053	2,410,521	3,001,621
C	2,735,406	2,847,114	734,973	1,079,979	1,687,977
Terminal 1	**4,754,288**	**4,900,688**	**1,801,026**	**3,490,500**	**4,689,598**
D	5,157,459	4,920,223	1,304,441	1,660,911	3,101,637
Terminal 2	**5,157,459**	**4,920,223**	**1,304,441**	**1,660,911**	**3,101,637**
E	3,727,815	3,444,347	801,488	1,286,031	2,407,304
F	7,438,652	7,660,623	2,531,011	3,634,827	5,803,524
Terminal 3	**11,166,467**	**11,104,970**	**3,332,499**	**4,920,858**	**8,210,828**
	28,736,291	**28,665,071**	**8,180,718**	**12,162,175**	**21,047,572**

NOTICE: This data has been self-reported by the respective airline tenant to the Airport Commission and has not been audited by the Airport Commission. The Airport Commission does not warrant the accuracy of this data. The Airport has compiled this data for informational purposes only and makes no representation or guarantee about expected levels of future enplanements.