

EXHIBIT E

AUTOMATED TELLER MACHINE CONCESSION AGREEMENT AT THE JACKSONVILLE INTERNATIONAL AIRPORT

This Automated Teller Machine Concession Agreement (hereinafter referred to as "Agreement") made and entered into as of the ____ day of _____, 2015, ("Effective Date") by and between **Jacksonville Aviation Authority**, a body politic and corporate (hereinafter referred to as "Authority"), and _____ (hereinafter referred to as "Concessionaire").

WITNESSETH:

WHEREAS, Authority owns and operates Jacksonville International Airport, located in Duval County, Florida ("Airport"); and

WHEREAS, Authority issued a Request for Proposal, Number RFP # 00-000-000 on November 01, 2015 for competitive proposals for the operation of an Automated Teller Machine Concession in the Terminal Building at the Airport ("RFP"); and

WHEREAS, Concessionaire has submitted a response to Authority's RFP at the Airport; and

WHEREAS, based on its response to the Authority's RFP, Concessionaire was selected as a qualified company to provide the services as advertised in the RFP and

WHEREAS, Concessionaire demonstrated the ability to properly finance, operate and manage an Automated Teller Machine Concession in accordance with the terms and conditions of this Agreement; and

WHEREAS, Authority and Concessionaire agree and acknowledge that the recitals herein are true and correct.

NOW THEREFORE, in consideration of the mutual covenants, terms, conditions, privileges, obligations and agreements herein contained, Authority and Concessionaire hereby mutually undertake, promise and agree, each for itself, and its successors and assigns, as follows:

ARTICLE 1 **DEFINITIONS**

- 1.01 "Additional Services" means those non-exclusive services proposed by Concessionaire and offered at the Assigned Premises.
- 1.02 "Airport" means the Jacksonville International Airport.

- 1.03 "Airport Concession Disadvantaged Business Enterprise" or "ACDBE" has the same meaning as set forth in Title 49, Part 23 of the Code of Regulations, as now enacted or hereafter amended, revised, modified or replaced by subsequent regulation.
- 1.04 "Airport Terminal" and "Terminal" mean the existing airline passenger terminal buildings at the Airport or any expansion thereof during the Term of this Agreement.
- 1.05 "Annual Concession Fees" means the amount of money Concessionaire owes Authority for each Contract Year as established in Section 4.01.
- 1.06 "Assigned Premises" means the locations where Concessionaire will install an ATM and conduct its business within the Airport Terminal, as more particularly described in Exhibit "A".
- 1.07 "ATM" means Automated Teller Machine(s).
- 1.08 "Contract Year" means the twelve (12) month period, beginning on March 1st and ending on the last day of February throughout the Term and any extension hereof, of the Agreement, and each twelve-month period thereafter, until the termination of this Agreement
- 1.09 "Executive Director/CEO" or "Director" means the Executive Director/CEO of the Authority or such other person as the Executive Director/CEO may designate from time to time. When this Agreement states that a decision is to be made or authority is to be granted by the Executive Director/CEO, it means that the decision will be made and the authority is to be granted in the Executive Director/CEO or his designate in their sole and absolute discretion. In the event of a dispute in regard to any matter between Concessionaire and Authority, the Executive Director/CEO shall resolve the dispute. The Executive Director's decision shall be final in all such matters.
- 1.10 "FAA" means the Federal Aviation Administration
- 1.11 "Personalty" means all furniture, furnishings, trade fixtures, and equipment of Concessionaire, located in the Assigned Premises but not permanently affixed thereto.
- 1.12 "Term" of this Agreement or words of similar import shall mean the term set forth in Article 2, hereof.
- 1.13 "TSA" means the Transportation Security Administration.

Article 2

TERM OF AGREEMENT

- 2.01 Term. Agreement shall be for a term beginning on _____ ("Commencement Date") and terminating at 12 o'clock midnight on _____. After expiration of the initial term, this Agreement may be extended on a year to year basis thereafter, but not to exceed five (5) years in total, unless this Agreement is earlier terminated under the provisions of Section 2.02, 2.03, 2.04, 3.01, 5.04, Article 10, Article 12 or Section 13.20.

- 2.02 Termination. This Agreement may be terminated by either party provided that the party electing to terminate provides written notice thereof to the other party no later than thirty (30) days prior to the end of a Contract Year, such termination to be effective as of the first day of the following Contract Year. In addition, this Agreement may be terminated pursuant to Section 2.03, 2.04, 3.01, 5.04, Article 10, Article 12 and Section 13.20. Authority, in its sole discretion, reserves the right to terminate on thirty (30) days written notice if Concessionaire fails to comply with the operational service and standards set forth in Article 5.
- 2.03 The obligations of Concessionaire under this Agreement are specifically conditioned upon approval of Concessionaire's operation of ATM(s) at the Assigned Premises by regulatory authorities having jurisdiction over Concessionaire or the Airport. Concessionaire may terminate this Agreement by written notice to Authority if, for any reason, such required regulatory approvals are not received and/or maintained by Concessionaire. Further, Concessionaire may terminate this Agreement by written notice to Authority if Concessionaire is not able to obtain and/or maintain permits related to the Premises. Upon such termination Concessionaire is required to remove all ATM's immediately and Concessionaire is no longer obligated to pay to the Authority the Monthly Concession Fee.
- 2.04 In the event that the Terminal or any part of the Assigned Premises are damaged or destroyed, or is subject to a condemnation proceeding, Concessionaire may elect to be relocated or shall have the right to immediately terminate this Agreement.

ARTICLE 3
PRIVILEGES AND ASSIGNED PREMISES

- 3.01 Description of Specific Privileges. Uses and Rights. The Concessionaire shall have the non-exclusive right, privilege and obligation to install, operate, manage and maintain ATM(s) at the Assigned Premises, as identified on Exhibit "A", attached herein. The parties agree that this Agreement is an agreement for services and nothing in this Agreement shall be construed as granting Concessionaire any title, interest, or estate in the Assigned Premises.

Concessionaire acknowledges and agrees that the Authority may require Concessionaire to provide the services required hereunder from location(s) on the Airport other than the Assigned Premises. In the event the Authority determines that it is necessary or desirable for Concessionaire to relocate its operations within the Terminal, the Authority shall provide thirty (30) days prior written notice to Concessionaire of the required relocation. Concessionaire shall relocate to location(s) on the Airport designated by the Authority for its operations hereunder upon the date set forth in the Authority's written notice. In the event the Authority requires Concessionaire to relocate its operations, the parties agree to amend this Agreement to replace **Exhibit "A"** of this Agreement with a description of the alternative premises to be used by Concessionaire in conjunction with this Agreement. Any amendment entered into pursuant to this paragraph may be executed by the Executive Director/CEO on behalf of Authority. If

Concessionaire is not agreeable to the new location(s) then the Concessionaire may terminate the Agreement by providing to the Authority with a thirty (30) day written notice.

3.02 Additional Services. The Concessionaire and the Executive Director/CEO may from time to time mutually agree that Concessionaire be granted the non-exclusive right to provide additional or expanded services ("Additional Services") other than the specific privileges described in 3.01 above. Any proposal for Additional Services, other than as described in this Agreement are subject to the following:

- a. Such request to provide Additional Services shall be subject to a prior written consent of the Executive Director/CEO.
- b. Should the Executive Director/CEO determine in his/her sole and exclusive discretion, to permit such Additional Services, then an amendment to this Agreement will be entered into to designate, at a minimum: (i) the Assigned Areas(s) from which the Additional Services will be provided, (ii) any capital expenditure requirement of the Concessionaire, and (iii) concession fees to be payable by the Concessionaire to the Authority. The Executive Director/CEO is authorized by the Authority to execute an amendment pursuant to this subparagraph (b) on behalf of the Authority.

3.03 Restrictions of Privileges. Uses and Rights. The rights granted hereunder are expressly limited to the installation, operation, maintenance and management of ATM(s) pursuant to the terms of this Agreement. Concessionaire covenants and agrees that the Assigned Premises shall be used for the uses permitted in Articles 3.01 above and for no other purposes whatsoever. Concessionaire acknowledges that Authority may enter into agreements with companies providing ATM services, not to exceed three (3) companies in total at any one time.

3.04 Condition of Assigned Premises. Concessionaire expressly acknowledges that it has inspected the Assigned Premises and accepts the same **As Is, Where Is** in the condition existing as of the Effective Date. Concessionaire further acknowledges that Authority has made no representation or warranties of any nature whatsoever regarding the Airport or the Assigned Premises, including, but not limited to, the physical and/or environmental condition of the Assigned Premises or any improvements located thereon, or the value of the Assigned Premises or improvements, or suitability of the Assigned Premises, or any improvements, or Concessionaire's legal ability to use the Assigned Premises for Concessionaire's intended use thereof.

3.05 Description of General Privileges. Uses and Rights. In addition to the privileges granted in Article 3.01 of this Agreement, Authority hereby grants to Concessionaire:

- a. The non-exclusive use of the Public Areas within the Airport for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents and authorized subcontractors, if any, in connection with its operations hereunder. For purposes of this Agreement, "Public Areas" means the public corridors, restrooms and other areas within the Terminal that the general public has the right to access. Public Areas shall at all times be subject to the exclusive control and management of Authority. Authority shall have the full right and authority to make all rules and regulations as

Authority may in its sole discretion deem proper, pertaining to the proper operation and maintenance of the Public Areas; and

- b. For so long as Concessionaire is not in default hereunder beyond any applicable notice and cure period, Concessionaire shall and may peacefully and quietly have, hold, and enjoy the then applicable Assigned Premises, solely for the purposes provided hereunder during the Term and any extension hereof, of this Agreement and subject to the terms and provisions of this Agreement.
- c. The non-exclusive right of ingress to and egress from the Terminal over and across roadways, driveways and walkways serving the Airport for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents and authorized subcontractors, if any, in connection with its operations hereunder.
- d. Nothing herein contained shall be construed to grant Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents or authorized subcontractors, if any, the right to use or occupy any space or area at the Airport, improved or unimproved, that is used by the Authority or that is leased or assigned to a third party, other than Concessionaire's rights to the Assigned Premises and Public Areas as set forth in this Agreement. The general privileges, uses and rights granted in this Article 3.05 shall be subject to the terms, conditions and covenants set forth in this Agreement.

ARTICLE 4

ANNUAL CONCESSION FEES, CHARGES AND ACCOUNTABILITY

4.01 Annual Concession Fees. In consideration of the concession privileges granted hereunder, Concessionaire shall pay to the Authority the following Annual Concession Fees:

Effective on the Commencement Date, the Annual Concession Fee rate is Twenty Thousand Dollars (\$20,000.00) per Contract Year, which shall be payable by installment as provided in Section 4.02.

4.02 Monthly Concession Payment. The Monthly Concession Payment payable to Authority by Concessionaire shall be one-twelfth (1/12) of the Annual Concession Fee for each Contract Year (\$1,666.666 per month). Concessionaire shall pay to Authority, commencing on the Commencement Date, and on the first day of each and every month thereafter throughout the Term, the Monthly Concession Payment for the then current Contract Year, plus applicable sales taxes, without demand, deduction, holdback or setoff. If any payment is not paid within ten (10) days after written notice, such failure shall constitute a default as provided in Article 10.

4.03 Security Deposit.

a. As security for the payment of all rents, fees and charges and for the performance of all other obligations under this Agreement, the Concessionaire shall post a non-interest bearing cash

security deposit with the Authority equal to three (3) months rent and other fees payable hereunder; if any ("Security Deposit"). **The Security Deposit shall be paid or submitted to the Authority simultaneously with the submission to Authority of this Agreement executed by Concessionaire.** In addition, the Authority may, upon ten (10) calendar days notice to the Concessionaire, require an increase in the amount of the Security Deposit up to four (4) additional months of the Monthly Concession Payment if, upon a review of Concessionaire's payment or performance history at the Airport, the Authority determines an increase should be required.

b. In the event of any failure by Concessionaire to pay when due any amounts payable under this Agreement, or upon any other default hereunder, then in addition to any other rights and remedies available to Authority at law or in equity, Authority shall be entitled to draw against the full amount of the Security Deposit and apply same to all amounts owed. Upon notice of any such draw, Concessionaire shall immediately replace the Security Deposit with cash in the full amount of the Security Deposit required hereunder. Such cash deposit shall be retained by Authority throughout the term of this Agreement and for a period of six (6) months following the expiration or termination date of this Agreement.

c. [N/A - intentionally deleted].

d. Satisfactory Performance. The refund of the cash required pursuant to this Article shall be conditioned on the satisfactory performance of all terms, conditions, and covenants contained herein throughout the entire Term of this Agreement and any extension thereof.

4.04 Reports Property of Authority. Any and all reports and other data and documents provided to Authority by Concessionaire in connection with this Agreement are and shall remain the property of Authority.

4.05 Accounting Records. Concessionaire shall keep, throughout the entire Term and any extension thereof, of this Agreement true and complete records and accounts of all transactions, and as from time to time may be required by Authority in accordance with Generally Accepted Accounting Principles (GAAP). Annually, within ninety (90) days after the end of each Contract Year, Concessionaires shall furnish a true and accurate statement to the Authority for the preceding Contract Year of all transactions, broken out by type of transaction and location, during the preceding year. Such books of accounts and records shall be retained and available for such period of time as provided herein unless otherwise approved by the Authority. The Authority, at all times, throughout the Term of this Agreement or any extension thereof and for up to three (3) years following expiration, shall have the right to audit and examine during normal working hours all such records and books or account relating to the Concessionaire's operation where under, provided that the Concessionaire shall not be required to retain such books of account and records for more than three (3) years after the end of each year of this Agreement. If the books or account and records are kept at locations other than the Airport, Concessionaire shall arrange for them to be brought to a location convenient to the auditors for the Authority in order for the Authority to conduct the audits and inspection as set forth in this Article.

4.06 Audits by Authority. Notwithstanding any provision in this Agreement to the contrary, Authority or its representative(s) may at any time perform audits of all or selected operations performed by Concessionaire under the terms of this Agreement. In order to facilitate the audit

performed by Authority, Concessionaire agrees to make suitable arrangements with the Concessionaire's auditing team or accountant, who is responsible for preparing the audit report on behalf of Concessionaire pursuant to Article 4.07 above, to make available to Authority's representative(s) any and all working papers relevant to the audit performed. Authority or its representative(s) shall make available to Concessionaire a copy of the audit report prepared by or on behalf of Authority. Concessionaire shall have thirty (30) calendar days from receipt of the audit report from Authority or its representative(s) to provide a written response to Authority regarding the audit report. Concessionaire agrees that failure of Concessionaire to submit a written response to the audit report in accordance with the requirements of this Article 4.06 shall constitute acceptance of the audit report as issued.

4.07 Unpaid Fees. If Concessionaire fails to make payment of any rentals, fees, charges and payments due and payable in accordance with the terms of this Agreement prior to the expiration of any notice and cure period, interest at the rate set forth in Article 4.11 shall accrue against the delinquent payments(s) from the date due until the date payment is received by Authority. The foregoing shall in no way be construed as a waiver of any right granted Authority in this Agreement nor shall this provision be construed to prevent Authority from terminating this Agreement for cause or from exercising any other right or from enforcing any other provision contained herein or provided by law.

4.08 Place of Payments. Payments required to be made by Concessionaire under this Agreement shall be made payable to:

Jacksonville Aviation Authority
Attention: Finance and Administration
14201 Pecan Park Road
Jacksonville, Florida 32218

Or, to such other office or address as may be substituted therefor.

4.09 Licenses, Fees and Taxes. Concessionaire shall pay, on or before their respective due dates, all federal, state, city, county, and local taxes and fees, and all special assessments of any kind, which are now or may hereafter be levied upon any premises used by Concessionaire or the estate hereby granted, or upon Concessionaire, or upon the business conducted by Concessionaire, or upon any of Concessionaire's property used in connection therewith, or upon any sums payable hereunder, including, but not limited to any ad valorem, tangible property or intangible property taxes, and sales or excise taxes on any sums payable hereunder. Concessionaire shall maintain in' current status all federal, state, county, city and local licenses and permits required for the operation of the business conducted by Concessionaire. In addition, Concessionaire shall be responsible for any and all other taxes which are due, or which may become due, pursuant to Chapter 212, Florida Statutes, as it may be amended from time to time, and any implementing regulations.

4.10 No Set Off. The Concessionaire acknowledges that, through the date hereof, it has no claims against Authority with respect to any of the matters covered by this Agreement, with respect to

the operations of Concessionaire at the Airport, and it has not right of set off or counter claims against any amounts payable by Concessionaire to Authority under this Agreement.

- 4.11 Late Payments - Interest. If Concessionaire fails to pay any amount due to Authority under this Agreement within ten (10) days of the date due, Authority shall be entitled to collect interest at the rate of eighteen percent (18%) per annum or the maximum interest rate allowed by law, whichever is less, from the date due until the date paid on any amounts that are past due under this Agreement. The right of Authority to require payment of such interest and the obligation of Concessionaire to pay same shall be in addition to and not in lieu of the right of Authority to enforce other provisions herein, including termination of this Agreement, and to pursue other remedies provided by law.
- 4.12 Other Fees and Charges. Concessionaire acknowledges that Authority may offer to Concessionaire various facilities, equipment and services in addition to those specifically provided to Concessionaire hereunder, and that Authority has or will establish, from time to time, various fees and charges for the use of such various facilities, equipment and services provided by Authority and not specifically provided to Concessionaire hereunder, and the procedures relating to payment of same. Concessionaire shall pay for its use of such facilities, equipment and services at the rates and in the manner prescribed by Authority.
- 4.13. Additional Rent and Charges. If, after notice to Concessionaire and an opportunity to cure as provided in Section 10.01, if and as applicable, Authority is required or elects to pay any sum or sums or incur any obligations or expense by reason of the failure, neglect or refusal of Concessionaire to perform or fulfill any one or more of the conditions, covenants or agreements of Concessionaire contained in this Agreement or as a result of any act or omission of the Concessionaire contrary to said conditions, covenants or agreements, Concessionaire agrees to pay the sum or sums so paid by the Authority or the expense so incurred by the Authority, including all interest, costs, damages and penalties, and the same may be added to any installment payment thereafter due hereunder, and each and every part of the same shall be and become additional rent recoverable by Authority in the same manner and with like remedies as if it were originally a part of the privilege fees payable under this Agreement. All such sums of money shall be paid by Concessionaire immediately upon written demand therefor.
- 4.14 Dishonored Check or Draft. If Concessionaire delivers a dishonored check or draft to Authority in payment of any obligation arising under this Agreement, Concessionaire shall incur and pay a reasonable service charge in the amount established by Authority from time to time. In such event, Authority may require that future payments be made by cashier's check or other means acceptable to Authority.
- 4.15 Net Agreement. Except as otherwise provided in this Agreement, this Agreement in every sense shall be without cost or expense to Authority including without limitation, cost and expenses relating to the development, maintenance, improvements and operation of the Assigned Premises
- 4.16 Employee Identification Badges. Concessionaire agrees and consents to comply with Authority's identification badge requirements. All of Concessionaire's employees and staff that

work or have business at the Airport and any other person at the Airport at the request of, or pursuant to the requirements of, Concessionaire will obtain proper Airport badges to access and work in the respective work location and shall pay the Authority a reasonable charge for such badges.

ARTICLE 5
CONCESSION SERVICE AND OPERATIONAL STANDARDS

- 5.01 Hours of Operations. Subject to cessations due to utility interruption, routine maintenance and service, system conversion, casualty, and other causes beyond Concessionaire's control, and subject to cessation from and after delivery of notice of termination of this Agreement pursuant to Sections 2.02, 2.03, 2.04, 3.01, 5.04, Article 10, Article 12 or Section 13.20, the ATM(s) shall remain continuously and uninterruptedly open to the public 24-hours a day, 7 days per week, 365 days per year. Planned outages or system conversions must be conducted during off-peak times with prior notification to the Authority.
- 5.02 Concession Service Standards.
- a. Concessionaire shall operate and maintain ATM(s) for the use and benefit of the traveling public and shall conform in all respects to all applicable federal, state, and local laws.
 - b. Concessionaire shall provide and maintain its customary high standard of service, quality, and value. Concessionaire shall at all times maintain the ATM(s) in clean, safe, operable, and orderly condition and shall keep the area around the ATM(s) free from any waste or debris which may detract from the appearance of or accessibility to the ATM(s). Authority's reasonable determination as to the quality of service that is required shall be conclusive and shall be accepted and performed by Concessionaire.
 - c. Concessionaire recognizes that from time to time the Authority may cause quality. Assurance reviews of Concessionaire's operations hereunder. Concessionaire agrees to cooperate fully in these reviews and to immediately take whatever steps are necessary to correct any deficiencies discovered as a result of the reviews.
- 5.03 Concession Service Standards
- a. Concessionaire shall provide one (1) ATM in each location identified on Exhibit "A". Concessionaire shall maintain an adequate amount of money in each ATM to meet customer demand. The total number of ATM(s) may be increased or decreased upon the mutual consent of Concessionaire and the Authority; provided however, the Authority may at its sole discretion require Concessionaire to relocate existing ATM(s) from time to time as established in Section 3.01.
 - b. Concessionaire agrees to furnish its service on a fair, equal, and non-discriminatory basis to all customers and to charge fair, reasonable, and non-discriminatory rental rates.
 - c. Subject to Sections 5.01 and 5.02(b), Concessionaire agrees that the ATM(s) shall be maintained in good operational order and available for use at all times.

d. Concessionaire agrees that the services provided, foreign transaction rates charges and the quality standards maintained are subject to the approval of the Authority. Prices charged for services provided by Concessionaire may not change without the prior written consent of the Authority. Concessionaire's services shall be provided to the public on the same or similar terms and at comparable prices as services provided by Concessionaire at non-airport establishments offering a similar service.

e. Concessionaire shall not relocate or remove from service any ATM(s) or increase or decrease the number of ATM(s) without the prior written approval of the Authority. Concessionaire shall remove from service ATM(s) determined by the Authority to be unacceptable for any reason whatsoever.

f. Concessionaire agrees that its employees, agents and or representatives shall be of sufficient number so as to properly service the Concessionaire's operations. Concessionaire shall cause its employees to conduct themselves at all times in a courteous manner toward the public. Concessionaire's employees are to be neat, clean, and appropriately dressed. Concessionaire shall provide its employees with identifiable shirts which are to include Concessionaire's name and/or logo and shall require that such shirts be worn by all employees while on duty. Concessionaire agrees to service the ATMs at such times as will cause the least disturbance to the traveling public.

g. Concessionaire, its agents, employees, subcontractors or suppliers shall not block any areas used for ingress and egress by Airport traffic and shall not interfere with the activities of Authority, its agents or employees, or any Airport tenant.

h. Prior to the Effective Date, Concessionaire shall provide in writing to the Authority the name, address, and telephone number of the manager who at all times shall be the authorized representative of Concessionaire for all matters relating to the Concession. Such manager should provide contact information that can be used on a 24 hour/7 days per week/365 day per year basis to respond to Authority on issues relating to the ATMs. Concessionaire shall provide written notice to the Authority of any change in its manager within three (3) days of the change and shall include any change of address or telephone number.

5.04 ATM(s) Design. Concessionaire agrees that the ATM(s) to be provided for use at the Airport shall be of current industry design and blend into the Airport in an aesthetically pleasing manner. The ATM(s) shall be durable and not easily removed from the Airport. In the event that it is determined by the Authority, in its reasonable discretion, that the ATM(s) do not satisfy the requirements of this paragraph, the Authority shall notify Concessionaire of the deficiency and Concessionaire shall immediately take such action as necessary to correct the deficiency to the reasonable satisfaction of the Authority. If Concessionaire fails to undertake such corrective action within thirty (30) days of the Authority's notice thereof or fails to pursue same in a manner satisfactory to the Authority, in its reasonable discretion, then this Agreement may immediately be terminated by Authority, and Concessionaire shall have no further rights hereunder. Concessionaire waives any claim against Authority for damages or compensation should this Agreement be terminated for failure to undertake corrective action.

5.05 Maintenance and Repair of ATM(s). Concessionaire shall, at its sole cost and expense, be responsible for the installation, servicing and maintenance of ATM(s) and shall furnish all manpower, parts, and supplies necessary for the care, servicing, and maintenance of ATM(s). Installation of the ATM(s) shall be subject to supervision by the Authority and shall be completed by March 1, 2016. The ATM(s) shall at all times be maintained in a safe and presentable condition consistent with good business practice, industry standards, and in accordance with all applicable federal, state, and local laws, regulations and rules. Concessionaire shall maintain and repair all ATM(s) placed in service at the Airport and Authority shall not be liable to Concessionaire for any maintenance, repair, or damage to same. Concessionaire shall promptly repair any broken, damaged, or non-functioning services of the ATM. Concessionaire agrees to replace any ATM which cannot be repaired on the Assigned Premises. The turnaround time for repairs or restocking of monies shall not exceed six (6) hours.

Concessionaire hereby agrees that it shall abide by the reasonable decision of Authority with respect to any and all such maintenance, repair or refurbishing. The Authority shall reasonably judge Concessionaire's performance under this paragraph as to the quality of maintenance, repair, and refurbishing. Upon written notice by the Authority to Concessionaire, Concessionaire shall perform the required maintenance, repair, or refurbishing in accordance with the Authority's decision. If Concessionaire has not made a good faith effort, as determined by the Authority, to begin to perform the required maintenance, repair or refurbishing within ten (10) days after receipt of the Authority's written notice and to diligently pursue the same to completion, Concessionaire shall be in material default of this Agreement.

5.06 Complaints. Concessionaire shall forward to Authority upon request, a list of any complaints, whether verbal or written, accompanied by Concessionaires' resolution of any such complaints. Questions or complaints regarding the quality of services or rates, whether raised by customers' complaints or on Authority's own initiative or otherwise, may be submitted to Concessionaire for response by Concessionaire. Concessionaire shall provide a response to Authority within seven (7) calendar days following submission by customers or by the Authority of said questions, complaints or comments.

5.07 System Conversion. Concessionaire shall have the right, without Authority's consent, at any time and from time to time, to convert the ATM systems(s) and/or facility capable of accepting and operation with any and all Concessionaire, credit, debit or identification cards or devices designate or allowed by Concessionaire. Concessionaire shall provide reasonable notice to Authority of their intent to convert said systems, and shall make every reasonable effort to complete the conversion in a manner which does not affect the traveling public. This could include, but may not be limited to, making any physical conversions required outside of normal business hours, and not during the peak holiday periods.

ARTICLE 6

IMPROVEMENTS/OWNERSHIP

- 6.01 Alterations, Improvements, or Additions. Other than the installation and repair of the ATMs, Concessionaire shall make no alterations, additions, or improvements to the Assigned Premises without the prior written approval of the Authority, which approval may be granted or withheld by the Authority in its sole discretion.
- 6.02 Ownership. Ownership of the ATM(s) shall at all time be and remain vested in Concessionaire. The ATM(s) shall not under any circumstances constitute, be or be deemed to be fixtures annexed to the Premises and such ATM(s) shall at all time be and remain free and clear of any claims, liens or encumbrances created by the Authority. Landlord expressly waives any landlord's lien under Chapter 83 Florida Statutes or otherwise provided by applicable law.

ARTICLE 7

MAINTENANCE, UTILITIES AND SECURITY

- 7.01 Maintenance and Repair. Concessionaire shall, at its sole cost and expense, maintain the Assigned Premises and improvements and appurtenances thereto, in a safe and presentable condition consistent with good business practice, industry standards and in accordance with all applicable federal, state, and local laws, regulations, ordinances, and rules. Concessionaires shall repair all damages to the Assigned Premises caused by its employees, patrons, invitees, suppliers of service, or furnishers of material, or any other person whomsoever, and all damages caused by or resulting from or in any way arising out of Concessionaire's operations thereon or Concessionaire's use of the Assigned Premises. Concessionaire shall maintain and repair all equipment thereon. The Authority may inspect the Assigned Premises to identify items in need of maintenance or repair and report in writing to the Concessionaire those items in need of maintenance and repair. Concessionaire agrees that it shall abide by the decision of the Authority with respect to any and all such maintenance or repair. The Authority shall reasonably judge Concessionaire's performance under this paragraph as to the quality of maintenance and repair. Upon written notice by the Authority to Concessionaire, Concessionaire shall perform the required maintenance or repair in accordance with the Authority's decision. If Concessionaire has not made a good faith effort, as determined by the Authority, to begin to perform the maintenance or repair within ten (10)-days after receipt of the Authority's written notice and to diligently pursue the same to completion, Authority shall have the right to enter the Assigned Premises and perform the necessary maintenance or repair, and Concessionaire hereby expressly agrees that it shall fully assume and be liable to Authority for payment of the costs thereof, plus twenty-five percent (25%) administrative overhead. Such maintenance or repair cost, plus the administrative cost, shall be due and payable within thirty (30) calendar days of the Authority's billing thereof.
- 7.02 Utilities, Access, Signage. Authority shall provide and pay for electricity used or consumed in or on the Assigned Premises, heating and cooling the Assigned Premises and lighting of the Assignment Premises. Any phone or data lines, or other connections or disconnections associated with the installation, relocation or removal of ATM(s) shall be done by Concessionaire at the sole expense and responsibility of Concessionaire and shall be done in accordance with the Authority's

Rules and Regulations. Concessionaire will connect into all utilities, at its own cost, in accordance with the utility's standards. Notwithstanding the foregoing, Concessionaire acknowledges and agrees that Authority may pro-rate utility charges to Terminal tenants, including Concessionaire, in accordance with a formula acceptable to Concessionaire. In such event, Concessionaire hereby expressly agrees that Concessionaire shall assume and be liable to Authority for payment of all such utility costs. Such utility costs shall be due and payable within thirty (30) consecutive days from Authority's billing thereof.

Authority shall provide to Concessionaire, its employees, independent contractors, agents, and customers, access to the ATMs for the purpose of installing, maintaining, servicing, operating, using, promoting and removing such ATMs, subject to Authority's Rules and Regulations: Authority further agrees to keep all relevant parts of the ATMs and the Assigned Premises clear of anything that blocks the view of or access to the ATMs. Concessionaire may provide a written request for approval from Authority to install such signage, at its sole cost and expense, from time to time as necessary to identify the ATM to potential users, to identify ATM networks accessed, to comply with all federal, state and ATM network regulations, and to promote maximum usage of such ATMs. The ATMs and the service marks, names and logos associated with it are and shall remain the property of Concessionaire. Concessionaire may incorporate into the fixtures by which its ATMs are installed Concessionaire's customary signage and identifying marks, subject to Authority approval and governmental approvals and permits. The Authority will provide reasonable loading, unloading and parking privileges to Concessionaire and its agents, employees and contractors subject to Authority's Rules and Regulation.

7.03 Cleanliness of Premises. The Assigned Premises and all equipment and materials used by Concessionaire shall at all times be clean, sanitary and free from rubbish, refuse, food scraps, garbage, dust, dirt, and other offensive or unclean materials. Concessionaire shall remove or cause to be removed, at its sole cost and expense, all waste, garbage, rubbish, and/or refuse within the Assigned Premises. The Authority shall reasonably determine whether Concessionaire is in compliance with the obligations as provided for herein and shall provide Concessionaire with written notice of any violations of Concessionaire's obligations. Immediately upon Concessionaire's receipt of Authority's written notice of violation, Concessionaire shall commence such corrective action as required by Authority or as may be necessary to remedy such non-compliance to satisfaction of receipt of Authority. If corrective action is not initiated within ten (10) days of receipt of Authority's written notice and pursued to completion in a diligent manner; the Authority may cause the same to be accomplished and Concessionaire hereby expressly agrees that Concessionaire shall assume and be liable to Authority for payment of all such costs, plus twenty-five percent (25%) for administrative overhead. Such costs, plus the administrative cost, shall be due and payable within thirty (30) consecutive days from Authority's billing thereof.

7.04 Security. Concessionaire acknowledges and accepts full responsibility for the security and protection of the Assigned Premises and any and all inventory, equipment, and all personal property now existing or hereafter placed on or installed at the Airport, and for the prevention of unauthorized access to its facilities and expressly agrees to comply with all rules and regulations of Authority and of any and all other governmental entities that now or may hereafter have jurisdiction over such security. Concessionaire fully understands that the police security

protection provided by Authority is limited to that provided by the Jacksonville Aviation Authority Police Department to any other business situated at the Airport, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Assigned Premises shall be the sole responsibility of Concessionaire and shall involve no cost to Authority.

- 7.05 Airport Security Program. Concessionaire agrees to observe all federal, state, and local laws, rules, and security requirements applicable to Concessionaire's operations, as now or hereafter promulgated or amended, including, but not limited to, Title 14, Part 139 of the Code of Federal Regulations, and Title 49, Part 1542 of the Code of Federal Regulations., Concessionaire agrees to comply with the Airport Security Program and the Air Operations Area (AOA) Vehicle Access Program, and amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by Authority, and to take such steps as may be necessary or directed by Authority to insure that subcontractors, employees, invitees and guests observe these requirements. If required by the Authority, Concessionaire shall conduct background checks of its employees in accordance with applicable federal, state or local laws. The Authority shall have the right to require the removal or replacement of any employee of Concessionaire at the Airport that the Authority has reasonably determined may present a risk to public safety or the security of the Airport. If as a result of the acts or omissions of Concessionaire, its sub lessees, employees, invitees or guests; Authority incurs any fines and/or penalties imposed by the FAA or TSA; any expense in enforcing the regulations of the FAA or TSA or the rules or regulations of Authority; or any expense in enforcing the Airport Security Program, then Concessionaire agrees to pay to Authority all such costs and expenses, including all costs of any administrative proceedings, court costs, and attorneys' fees and costs incurred by Authority in enforcing this provision. Concessionaire further agrees to rectify any security deficiency or other deficiency as may be determined by Authority, the FAA or TSA. In the event Concessionaire fails to remedy any such deficiency, Authority may do so at the cost and expense of Concessionaire. Concessionaire acknowledges and agrees that Authority may take whatever action is necessary to rectify any security deficiency or any other deficiency identified by Authority, the FAA or TSA.

ARTICLE 8 INSURANCE

Concessionaire shall, at its sole expense, maintain in full force and-effect at all times during the Term and any extension hereof, of this Agreement, the insurance limits, coverages and endorsements required herein. Neither the requirements contained in this Article 9, nor Authority's review, or acceptance of insurance shall in any manner limit or qualify the liabilities and obligations assumed by Concessionaire under this Agreement.

- 8.01 Commercial General Liability. Concessionaire shall maintain Commercial General Liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) each

occurrence including coverage for, but not limited to, Premises/Operations, Products/Completed Operations, Contractual Liability, Personal/Advertising Injury and Cross Liability.

8.02 Workers' Compensation & Employers Liability. Concessionaire shall maintain Workers' Compensation & Employers Liability insurance in accordance with applicable law. This coverage shall be provided on a primary basis. In the event Concessionaire subcontracts any portion of the work or services required or permitted by this Agreement to another party, Concessionaire shall be responsible for ensuring the subcontractor maintains Worker's Compensation & Employers Liability insurance, or Concessionaire shall provide coverage under its own Worker's Compensation & Employers Liability policy on behalf of the subcontract or.

8.03 [SECTION 8.03 DELETED]

8.04 Additional Insured Endorsement. Concessionaire shall endorse Authority as an Additional Insured on each liability insurance policy and as an additional loss payee on any property insurance policy, required to be maintained by Concessionaire, except for Worker's Compensation and Business Auto Liability insurance policies. Other policies, when required, shall provide a standard Additional Insured endorsement offered by the insurer. The Additional Insured endorsements shall provide coverage on a primary basis. The Additional Insured endorsement shall read:

Jacksonville Aviation Authority
Attention: Risk Management
14201 Pecan Park Road
Jacksonville, Florida 32218

8.05 Certificate of Insurance. Concessionaire shall provide Authority with a certificate of insurance evidencing limits, coverages and endorsements required herein. The certificate of insurance shall include a minimum thirty (30) calendar day requirement to notify the Authority due to cancellation or non-renewal of coverage. In the event coverage cancels or non-renews during the Term and any extension hereof, of this Agreement, Concessionaire shall furnish a new certificate of insurance evidencing replacement coverage thirty (30) calendar days prior to the expiration of such insurance.

8.06 Cancellation of Coverage. Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Concessionaire is completed. All policies must be endorsed to provide Authority with at least thirty (30) calendar days' notice of cancellation and/or restriction. If the any of the insurance coverages will expire prior to the termination of this Agreement, copies of renewal policies shall be furnished at least thirty (30) calendar days' prior to the date of their expiration.

8.07 Waiver of Subrogation. Concessionaire agrees by way of entering this Agreement in writing to a Waiver of Subrogation for each required policy providing coverage during the Term and any extension hereof, of this Agreement. When required by the insurer or should a policy condition not allow a pre-loss agreement to waive subrogation without an endorsement, Concessionaire

shall notify its insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This waiver of Subrogation requirement shall not apply to any policy, which includes a condition prohibiting such an endorsement, or voiding coverage should Concessionaire enter into such an agreement on a pre-loss basis.

- 8.08 Deductibles, Coinsurance, and Self-Insured Retention. Concessionaire shall be fully and solely responsible for any deductible, coinsurance penalty or self-insured retention, including any losses, damages or expenses not covered due to an exhaustion of limits or failure to comply with a policy.
- 8.09 Right to Review or Reject Insurance. Authority's Risk Management may review, modify, reject or accept any required policies of insurance, including, but not limited to, limits, coverages or endorsements, required by this Article 9 from time to time throughout the Term and any extension hereof, of this Agreement. Authority may also reject any insure or self-insurance plan providing coverage because of poor financial condition or failure to operate legally. In such event, Authority shall provide Concessionaire a written notice of rejection, and Concessionaire shall comply within thirty (30) calendar days of receipt of the notice. Concessionaire reserves the right to obtain all insurance required by this agreement through a program of self-insurance. Concessionaire's insurance policies are propriety and confidential documents and cannot be released to third parties.
- 8.10 No Representation of Coverage Adequacy. Concessionaire acknowledges the limits, coverages and endorsements required by this Article 9 are intended to minimize liability for Authority. Concessionaire agrees that it will not rely upon the requirements of this Article 11 when assessing the extent or determining appropriate types or limits of insurance coverage to protect Concessionaire against any loss exposures, whether as a result of this Agreement or otherwise.

ARTICLE 9 INDEMNIFICATION

Concessionaire agrees to protect, defend, reimburse, indemnify and hold Authority, its agents, employees, directors and officers and each of them collectively, "Indemnities", free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines, and damages (including, without limitation, reasonable attorney fees and costs incurred prior to trial, at trial, on any appeal, and in any bankruptcy proceeding) and causes of action of every kind and character, known or unknown, against any of the Indemnities by reason of (i) any damage to property or the environment, including any contamination of Airport property such as the soil or storm water by fuel, gas, chemicals, or other substances deemed by the federal Environmental Protection Agency ("EPA") to be hazardous substances or hazardous wastes (as defined herein) at the time this Agreement is executed or (ii) bodily injury (including death) incurred or sustained by person, arising out of or incident to or in connection with this Agreement, Concessionaire's use or occupancy of the Premises, Concessionaire's acts, omissions or operations under this Agreement or the performance, nonperformance or purported performance of Concessionaire or any breach by Concessionaire of the terms of this Agreement. Concessionaire recognizes the broad nature of this indemnification and hold harmless clause and voluntarily makes this covenant, and expressly acknowledges that the Authority would not enter into this Agreement without

this indemnification. This clause shall survive the termination or expiration of this Agreement. Compliance with the insurance requirements as set forth in Article 8 above, shall not relieve Concessionaire of its liability or obligation to indemnify Authority as set forth in this Article.

ARTICLE 10 DEFAULT AND TERMINATION

10.01 Events of Default. The occurrence of any of the following events shall constitute a default of this Agreement:

- a. Concessionaire's failure (i) to pay the Monthly Concession Payment or any other sums payable hereunder for a period of ten (10) days after written notice of the failure to pay when due or, (ii) at any time to maintain in full force and effect the insurance or security deposit as required by this Agreement.
- b. Concessionaire's failure to observe, keep or perform' any of the other terms, covenants, agreements or conditions of this Agreement or in the Airport Rules and Regulations for a period of ten (10) days after written notice by Authority.
- c. The bankruptcy of Concessionaire.
- d. Concessionaire making an assignment for the benefit for creditors.
- e. A receiver or trustee being appointed for Concessionaire or a substantial portion of Concessionaire's assets.
- f. Concessionaire's voluntary petitioning for relief under, or otherwise seeking the benefit of, any bankruptcy, reorganization, arrangement or insolvency law.
- g. Concessionaire's vacating or abandoning the Premises.
- h. Concessionaire's interest under this Agreement being sold under execution or other legal process.
- i. Concessionaire's interest under this Agreement being modified or altered by any unauthorized assignment or subletting or by operation of law other than as provided in Article 11.
- j. Any of the personal property of Concessionaire used in, or incident to, the operation of Concessionaire's business in the Premises being seized, sequestered, or impounded by virtue of, or under authority of, any legal proceeding.
- k. Concessionaire's failure to comply with its environmental obligations under this Agreement, any laws promulgated by applicable regulatory agencies which may be revised from time to time, or
- l. Non-compliance with Florida Statute 287.133 - Concerning Criminal Activity on Contracts with Public Entities.

- 10.02 Remedies. In the event of any of the foregoing events of default, Authority, at its election, may exercise any one or more of the rights or remedies provided by applicable law, or by the terms of this Agreement, including the following rights and/or remedies, the exercise of any of which shall not be deemed to preclude the exercise of any others herein listed or otherwise provided by law at the same time or in subsequent times or actions.
- a. Terminate Concessionaire's right to possession under the Agreement and re-enter and retake possession of the Premises and re-let or attempt to re-let the Premises on behalf of Concessionaire at such rent and under such terms and conditions as Authority may deem best under the circumstances for the purpose of -reducing Concessionaire's liability. Authority shall not be deemed to have thereby accepted a surrender of the Premises, and Concessionaire shall remain liable for all rent, or other sums due under this Agreement and for all damages suffered by Authority because of Concessionaire's breach of any of the covenants of the Agreement.
 - b. Declare this Agreement to be terminated, and re-enter upon and take possession of the Premises whereupon all right, title and interest of Concessionaire in the Premises shall end; or;
 - c. Subject to Section 10.04, accelerate and declare the entire remaining unpaid rent for the balance of this Agreement and any other sums due and payable forthwith and may, at once, take legal action to recover and collect the same, including but not limited to through a collection agency.
- 10.03 Payment after Default. The acceptance of rentals, fees or charges by Authority from Concessionaire for any period or periods after a default by Concessionaire of any of the terms, covenants and condition herein required to be performed, kept and observed by Concessionaire shall not be deemed a waiver or estoppel of any right on the part of Authority to terminate this Agreement for failure by Concessionaire to so perform, keep or observe any of said terms, covenants or conditions.
- 10.04 Termination and Reletting. Should there occur an early termination of this Agreement by Authority pursuant to Section 10.02 of this Agreement, Authority shall have the right to reenter the Assigned Premises of Concessionaire, make repairs necessary, and enter into another Concession Agreement for the Assigned Premises, or any part thereof, for the remainder of the term hereof. In the event of such early termination by Authority pursuant to Section 10.02, Concessionaire shall remain liable to Authority for the full amount of all fees and charges, all costs of repair and finding a new Concessionaire and the Annual Concession Fee under Article 4.01, and shall continue to pay the same or such part thereof that remains unpaid after the application of the fees and charges collected by Authority from such other agreement for the Assigned Premises and privileges or any part thereof. Concessionaire shall remain liable for such payments whether or not another agreement is entered into, Authority's responsibility being in mitigation of damages as provided herein.
- 10.05 Concessionaire's Right of Termination. In addition to any other right of cancellation herein given to Concessionaire or any other rights to which it may be entitled by law, as long as I Concessionaire is not in default in payment to Authority of any amounts due Authority under this I Agreement or any other agreement, Concessionaire may terminate this Agreement by giving

Authority thirty (30) calendar days' advance written notice, to be served as hereinafter provided, upon or after the happening of any of the following events:

- a. Abandonment of passenger airline operations at the Airport.
- b. Default by Authority of any of the covenants or conditions contained herein and the failure of Authority to remedy such default for a period of sixty (60) calendar days after its receipt from Concessionaire of written notice to remedy the same; or
- c. Concessionaire shall be prevented for a period of thirty (30) calendar days, after exhausting or abandoning all appeals, by an action of any government authority, board, agency or offices having jurisdiction thereof, from conducting its business with the traveling public at the Airport or it is so prevented from conducting any business at the Airport by reason of a taking of possession of the Assigned Premises by the U.S. Government.

ARTICLE 11 ASSIGNMENT AND TRANSFER

Concessionaire may, upon satisfaction of the conditions set forth below but without Authority's prior written consent, assign this Agreement to any entity with which Concessionaire merges (where the successor owns all of the capital stock or assets of Concessionaire) or which acquires all of the capital stock or assets of Concessionaire (either, a "Successor"), or to any "Affiliate," which shall mean any entity (1) which controls the majority of the ownership interests of Concessionaire, (2) the majority of whose ownership interests is controlled by Concessionaire, or (3) the majority of whose ownership interests is controlled by an entity described in clause (1) above. Any such assignment may be effectuated without Authority's prior written consent so long as (1) with respect to a Successor transaction, there is no diminution of the tangible net worth of the resulting entity; and with respect to an Affiliate transaction, the tangible net worth of the Affiliate is equal or greater than that of Concessionaire prior to the transaction; (2) Authority is given reasonable prior written notice of the transaction; and (3) Concessionaire is not in default under this Agreement as of the effective date of the transaction; and there are no other changes to the Agreement.

ARTICLE 12 GOVERNMENTAL RESTRICTIONS

12.01 Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Premises are located, for public purposes for a period in excess of ninety (90) days, either party may terminate this Agreement by providing written notice of such termination to the other party and the parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This Article paragraph shall not act or be

construed as a waiver of any rights Concessionaire may have against the United States as a result of such taking.

ARTICLE 13
MISCELLANEOUS

- 13.01 Authority Not Liable. Authority shall not be responsible or liable to Concessionaire for any claims for compensation or any losses, damages or injury sustained by Concessionaire resulting from (a) cessation for any reason of air carrier operations at the Airport Terminal or (b) diversion of passenger traffic to any other facility. Authority shall not be responsible or liable to Concessionaire for any claims for compensation or any losses, damages or injury whatsoever sustained by Concessionaire including, but not limited to, those resulting from failure of any water supply, heat, air conditioning or electrical current or from an act of God, state of war, terrorism, civilian commotion or riot or any cause beyond the control of Authority. All personal property placed on or moved on to the Assigned Premises shall be at the sole risk of Concessionaire. Authority shall not be liable for any damage or loss of any personal property placed or moved on to the Assigned Premises.
- 13.02 Authorized Uses Only. Notwithstanding anything to the contrary herein, Concessionaire shall not use the Assigned Premises for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Airport for Authority or Concessionaire.
- 13.03 Subordination to Bond Resolution. This Agreement and all rights granted to Concessionaire hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by Authority in the Bond Resolution, and Authority and Concessionaire agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of Authority hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by Concessionaire and Authority with the terms and provisions of this Agreement and Bond Resolution.
- 13.04 Subordination to Federal Agreements. This Agreement shall be subject and subordinate to all the terms and conditions of any instrument and documents under which Authority acquired the land or improvements thereon. Concessionaire understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between Authority and the United States of America, or any of its agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

- 13.05 Authority's Governmental Authority. Nothing in this Agreement shall be construed to waive or limit Authority's governmental authority as a political subdivision of the State of Florida to regulate Concessionaire or its operations. Authority's obligations under this Agreement are made in a proprietary capacity, rather than in a governmental capacity and such agreements shall not be construed as limiting, prohibiting, or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statutes, and laws, nor alter or impair Authority's governmental functions, including, without limitation, Authority's right to lawfully exercise its regulatory authority over the developments of the Airport, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of Authority's governmental authority.
- 13.06 Rights Reserved to Authority. Rights not specifically granted to Concessionaire by this Agreement are expressly and independently reserved to Authority. Authority expressly reserve(s) the right to prevent any use of the described Assigned Premises which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute an Airport hazard.
- 13.07 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision clause, or any portion thereof of this Agreement shall have no effect upon the validity of any other part or portion hereof.
- 13.08 Inspections. The authorized employees and representatives of Authority and any applicable federal, state, and local governmental entity having jurisdiction hereof shall have the right of access to the Assigned Premises at all reasonable times for the purposes of inspection for compliance with the provisions of this Agreement and/or applicable laws.
- 13.09 Remedies Cumulative. The rights and remedies of the parties with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the parties.
- 13.10 Paragraph Headings. The headings of the various articles and sections of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.
- 13.11 Binding Effect. The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors, and assigns, if any. This provision shall not constitute a waiver of any condition against assignment.
- 13.12 Performance. The parties expressly agree that time is of the essence in this Agreement and the failure by either party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve such other party of any obligation to accept such performance.

- 13.13 Conflict. Subject to the other provisions of this Agreement, should a conflict arise between Concessionaire and other concession operators at the Airport regarding the scope of concession privileges, the Executive Director/CEO's decision on the matter shall be final and conclusive and Concessionaire agrees to abide by the Executive Director/CEO's decision.
- 13.14 Entirety of Agreement. The parties agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written -instrument executed by the parties hereto.
- 13.15 No Recording. Neither this Agreement, nor any memorandum or short form hereof, shall be recorded in the Public Records of Duval County, Florida.
- 13.16 Construction. Neither party shall be considered the author of this Agreement. The terms of this Agreement shall not be strictly construed against one party as opposed to the other based upon who drafted it.
- 13.17 Survival. Notwithstanding any early termination of this Agreement, each party shall remain obligated hereunder to perform any duty, covenant or obligation imposed upon such party hereunder arising prior to the date of such termination.
- 13.18 Compliance with Laws, Regulations, Ordinances, Rules. Concessionaire (including its officers, agents, servants, employees, contractors, sub operators, and any other person or entity over which Concessionaire has the right of control) agree that throughout the Term of this Agreement, Concessionaire shall at all times be and shall remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature, as now or hereafter amended, including, but not limited to requirements of the Authority, the FAA, the TSA, FAA Advisory Circulars and Airport Rules and Regulations, with regard to Concessionaire's use of the Assigned Premises. Concessionaire agrees that it shall require its appropriate managers, supervisors, and employees to attend such training and instructional programs as the Authority may, from time to time require, in connection with the Airport Rules and Regulations and policies and procedures related to certification of the Airport under Title 14, Part 139 of the Code of Federal Regulations, as now or hereafter amended.
- 13.19 Americans with Disabilities Act. Concessionaire shall comply with the requirements of "The Americans with Disabilities Act" (ADA) as published in the Federal Register, Volume 56, No. 144 and the State of Florida Accessibility Requirements Manual (ARM) as it applies to Concessionaire's facilities and operations at the Airport.
- 13.20 Non-Discrimination in Providing Services. Concessionaire, for itself, its representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Airport facilities; and (2) that Concessionaire shall use the Airport Areas in compliance with all requirements imposed or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted

programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, Authority shall have the right to terminate the Agreement.

13.21 Disadvantaged Business Enterprise. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

a. The Concessionaire 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 further agreements.

b. Policy. It is the policy of the Authority to recognize the authority and applicability of the United States Department of Transportation's Rules and Regulations governing Airport Concession Disadvantaged Business Enterprise (ACDBE) participation. The Aviation Authority is also fully committed to the implementation of these Rules and regulations through its approved Airport Concession Disadvantaged Business Enterprise (ACDBE) Program. Certification (49 CFR Part 26.61-91, Part 23 Subpart C). The Authority will use the procedures and standards of Part 26.61-91 and 23:31, Subpart. C for certification of ACDBEs to participate in its ACDBE program. Firms desiring to participate as an Airport Concession Disadvantaged Business Enterprise (ACDBE) on Authority projects or contracts must be duly certified by the Authority's Administrator, Disadvantaged Business Enterprise Program (DBE), or by a member of the Florida Unified Certification Program (FUCP) and listed in the FUCP DBE Directory <http://www.bipincwebapps.com/biznetflorida/>) of firms. Any ACDBE firm not duly certified by a FUCP certifying member by proposal closing date may not be used to meet the airport concession disadvantaged business participation requirements of the Authority.

c. ACDBE Goal. Authority encourages the inclusion of firms owned and controlled by minorities and women in contract awards and projects whenever feasible. This policy is consistent with the administrative mandate set out by the United States Department of Transportation Code of Federal Regulations in Title 49 Part 26. A participation goal was not established for this project.

13.22 Fees as A Separate Covenant. Concessionaire shall not for any reason withhold or reduce Concessionaire's required payments of fees and other amounts provided in this Agreement, it being expressly understood and agreed by the parties that the payment of fees and other amounts is a covenant by Concessionaire that is independent of the other covenants of the parties hereunder.

13.23 Taxes, Permits, Licenses. Concessionaire shall bear, at its own expense, all costs of operating its equipment and business, except as otherwise provided in this Agreement. In addition Concessionaire shall (i) pay any and all taxes assessed with respect to this Concession Agreement, whether billed to Authority or to Concessionaire, in the Assigned Premises, and any sales tax imposed on the fee payments, furnishings, equipment or supplies and (ii) obtain and pay for all permits, licenses, or other authorizations required by authority of law in connection with the

operation of its business at said Airport. Concessionaire shall have the right to challenge any and all taxes assessed with respect to this Concession Agreement at its own expense.

- 13.24 Surrender Of Assigned Premises. Concessionaire shall surrender up and deliver its Assigned Premises to Authority upon termination of this Agreement in the same condition as existed at the commencement of the Agreement, ordinary wear and tear excepted. Provided the Concessionaire is not in default in the payment of rents, fees and charges required under this Agreement, Concessionaire, at the termination of this Agreement, shall remove all of its equipment from the Assigned Premises forthwith. Failure on the part of Concessionaire to remove its equipment on the date of termination shall constitute a gratuitous transfer of title thereof to Authority for whatever disposition is deemed to be in the best interest of Authority. Any costs incurred by Authority in the disposition of such personal property shall be borne by the Concessionaire.
- 13.25 No Acceptance Of Surrender. No act or action done by Authority or Authority's agents or employees during the term of this Agreement shall be deemed an acceptance of the surrender of this Agreement and no acceptance of a surrender shall be valid unless in writing.
- 13.26 Personal Property. Any personal property of Concessionaire or of others placed in the Assigned Premises shall be at the sole risk of the Concessionaire or the owners thereof, and Authority shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage, and Concessionaire hereby waives all rights of subrogation or recovery from Authority for such damage, destruction or loss. Authority shall not be liable for any damage or loss of any personal property placed or moved on to the Assigned Premises.
- 13.27 Applicable Law, Venue and Waiver of Jury Trial. The Agreement shall be construed in accordance with the laws of the State of Florida. Venue for any action brought pursuant to or arising out of this Agreement shall be brought in a court of competent jurisdiction located in Duval County, Florida. To the extent permitted by Law, the Parties hereto each waive trial by jury in connection with any dispute arising out of or in connection with this Agreement, the relationship of the Authority and Concessionaire created by this Agreement, Concessionaire's use or occupancy of the premises or any claim for injury or damage.
- 13.28 Relationship of the Parties. Concessionaire, or any successor or assignee to this Agreement, is and shall be deemed to be an independent contractor and operator and shall be solely responsible to all parties for its respective acts or omissions, and Authority shall in no way be responsible therefor.
- 13.29 Waivers. No waiver by either party at any time of any of the terms, conditions, covenants, or permits of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant, or permit herein contained, nor of the strict and prompt performance thereof by the other party. No delay, failure or omission of Authority to reenter the Assigned Premises or to exercise any right, power, privilege, or option arising from any default nor subsequent acceptance of fees and charges then or thereafter accrued, shall impair any such right, power, privilege, or option or be construed to be a waiver of any such default or relinquishment thereof, or acquiescence therein. No delay, failure or omission of Concessionaire to exercise any right, power, privilege, or option arising from any default nor subsequent acceptance of fees and charges then or thereafter accrued, shall

impair any such right, power, privilege, or option or be construed to be a waiver of any such default or relinquishment thereof, or acquiescence therein. No notice by either party shall be required to restore or revive time as of the essence hereof after waiver by such party or default in one or more instances. No option, right, power, remedy, or privilege of either party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, power, options, or remedies given to either party by this Agreement are cumulative and no one of them shall be exclusive of the other or exclusive of any remedies provided by law, and that the exercise of one (1) right, power, option or remedy by a party shall not impair its rights to any other right, power, option or remedy.

- 13.30 Public Entity Crimes. If Concessionaire is a corporation or other artificial entity, the undersigned officer of Concessionaire hereby warrants and certifies to Authority that Concessionaire is an entity in good standing and is authorized to do business in the State of Florida. The undersigned officer of Concessionaire hereby further warrants and certifies to Authority that he or she, as such officer, is authorized and empowered to bind the entity to the terms of this Agreement by his or her signature thereto and the Concessionaire and its officers, directors and affiliates are in compliance with Florida Statute 287.133, concerning criminal activity on contracts with a public entity.
- 13.31 Miscellaneous. All of the terms and provisions hereof shall be binding upon and the benefits inure to the parties hereto and their heirs, personal representatives, successors and assigns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. This Agreement, and instruments or documents relating to same, shall be construed under Florida law. This Agreement represents the complete Agreement of the parties and any prior concession Agreements or representations, regarding concession Agreement, whether written or verbal, are hereby superseded. This Agreement may subsequently be amended only by written instrument signed by the parties hereto. The invalidity of any portion, article, paragraph, provision or clause of this Agreement shall have no effect upon the validity of any other part of portion thereof.
- 13.32 Confidentiality. The Authority is a public entity and is required to conform to the Florida Public Records Law, Chapter 119, Florida Statutes.

Article 14
NOTICES AND COMMUNICATIONS

All notices or other communications to Authority or Concessionaire pursuant hereto shall be deemed validly given, serviced or delivered, upon deposit in the United States mail, certified and with property postage and certified fee prepaid, addressed as follows:

TO AUTHORITY:
Executive Director/CEL
Jacksonville Aviation Authority
14201 Pecan Park Road
Jacksonville, Florida 32218

TO CONCESSIONAIRE:
TBD

With a Copy to:

TBD

Or, to such other address as the address may designate in writing by notice to the other party delivered

ARTICLE 15
USE OF NETWORK MARKS

Concessionaire and Authority acknowledge and agree that this Agreement does not operate to assign, transfer or convey to Authority any license, privilege or right of any kind or nature whatsoever to use for any reason any network names or network marks owned by Concessionaire in any of Authority's advertising, signage or promotional materials, including without limitation printed sales/marketing materials without the prior written consent, authorization and approval of Concessionaire.

ARTICLE 16
TERMINATION OF PRIOR PERMITS/AGREEMENTS/MEMORANDUMS; PRIOR NEGOTIATIONS

This Agreement shall supersede and terminate any prior permits, agreements, memorandums and prior negotiations between the parties, including that certain Automated Transaction Machine Agreement dated July 1, 2016 as amended; provided however that Concessionaire shall not be released of any obligations or liabilities to the Authority that have accrued prior to the Effective Date of this Agreement. This Agreement incorporates and includes all prior negotiation, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document.. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and duly executed by the Authority and the Concessionaire; provided however, the Executive Director/CEO or his duly authorized designee may sign any amendments to this Agreement on behalf of the Authority.

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DRAFT

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

AUTHORITY

JACKSONVILLE AVIATION AUTHORITY

CONCESSIONAIRE

TBD

By: _____

Printed Name: _____

Date: _____

By: _____

Printed Name: _____

Date: _____

WITNESSES FOR AUTHORITY:

Signature

Printed Name

Signature

Printed Name

WITNESSES FOR CONCESSIONAIRE:

Signature

Printed Name

Signature

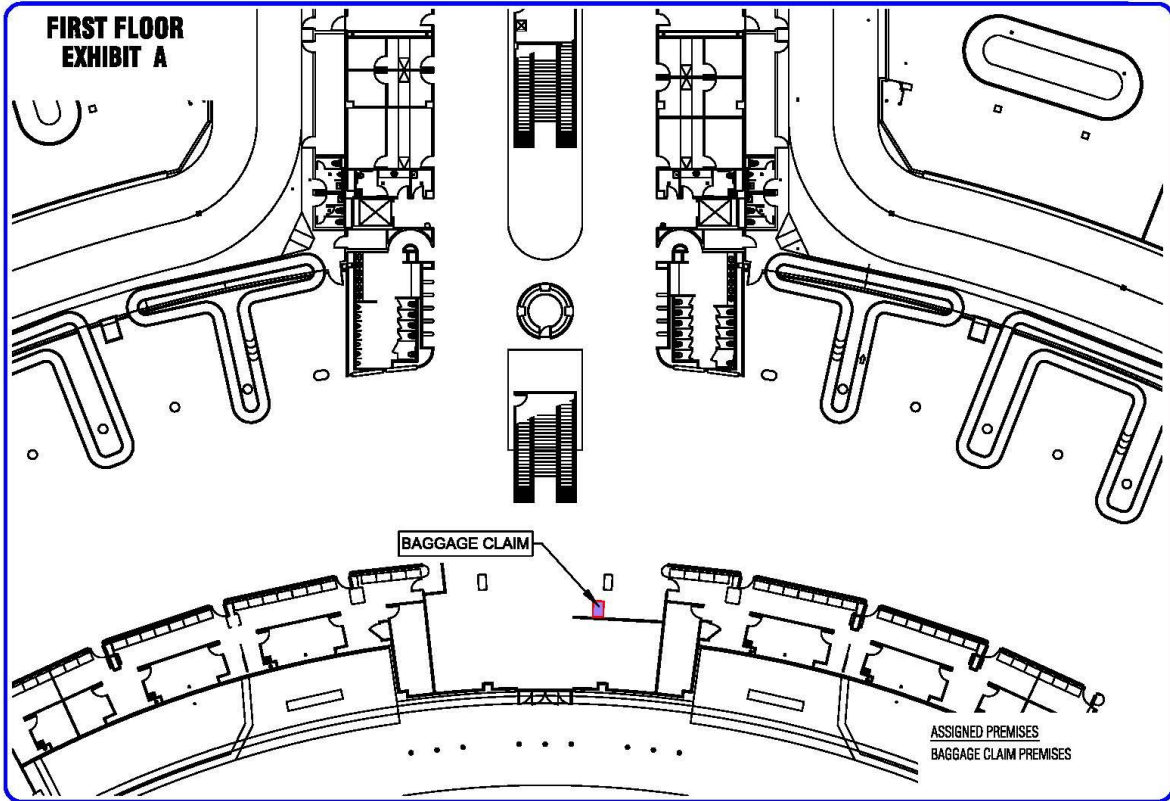
Printed Name

Approved as to form and legality for the
Use and reliance of the Jacksonville Aviation Authority only:

By: _____
Debra A. Braga, Chief Legal Officer

Exhibit A

Assigned Premises

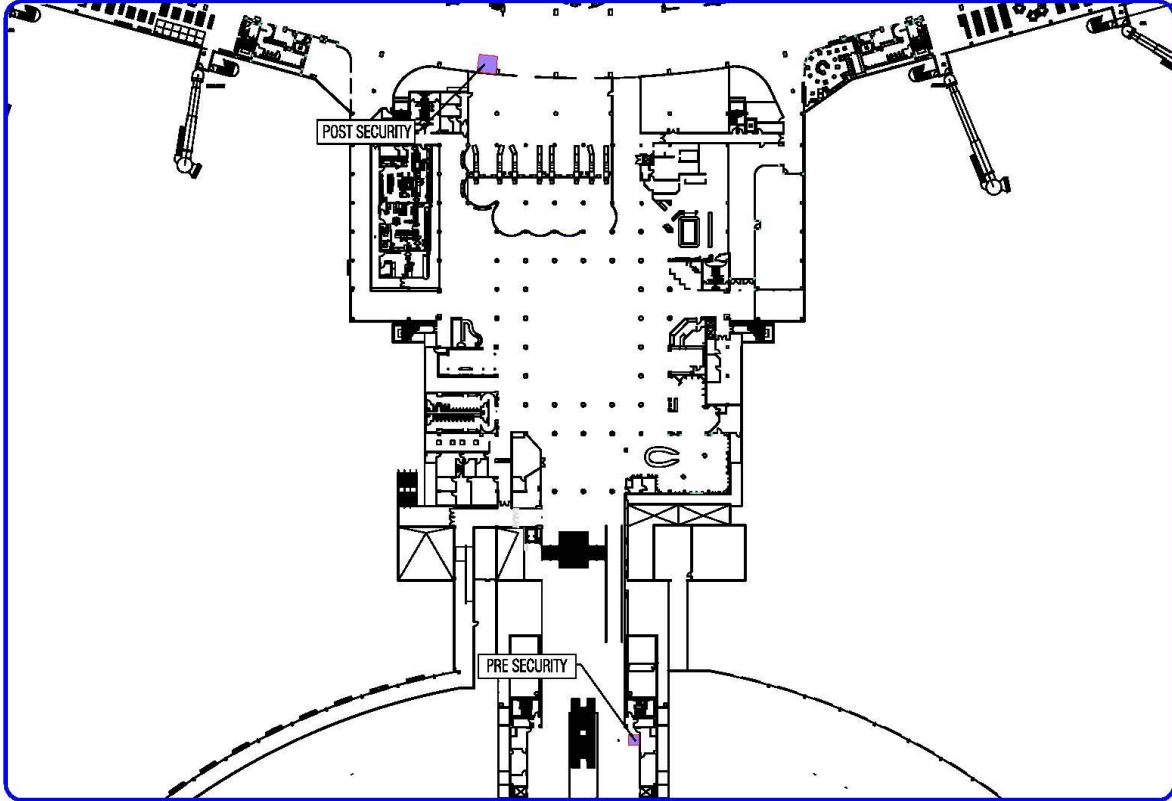


JACKSONVILLE INTERNATIONAL AIRPORT
1st FLOOR TERMINAL
ASSIGNED PREMISES
AUTOMATED TELLER MACHINE

EXHIBIT A

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Exhibit A
Assigned Premises



JACKSONVILLE INTERNATIONAL AIRPORT
2nd FLOOR TERMINAL
ASSIGNED PREMISES
AUTOMATED TELLER MACHINE

EXHIBIT A

Sheet
Number:
1
Of
1