



PhxMesa **Gateway** Airport

Phoenix-Mesa Gateway Airport Authority

**GENERAL AVIATION CENTER
RESTAURANT AND CATERING
CONCESSION LEASE AGREEMENT
(FOOD & BEVERAGE SERVICES)**

with

KIND HOSPITALITY, INC
Barrio Brewing Company

Effective Date: August 1, 2016

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page No.</u>
1.	AGREEMENT.....	1
2.	TERM.....	3
3.	RENT AND FEES.....	4
4.	RECORDS AND AUDITING.....	6
5.	IMPROVEMENTS AND ALTERATIONS.....	7
6.	MAINTENANCE, REPAIRS, SERVICES AND INSPECTIONS.....	8
7.	CONCESSIONAIRE’S COMPLIANCE.....	9
8.	AIRPORT SECURITY PLAN.....	11
9.	TAXES, LICENSES AND PERMITS.....	12
10.	INSURANCE AND INDEMNIFICATION.....	12
11.	ASSIGNMENT.....	12
12.	CANCELLATION PROVISIONS.....	13
13.	NONWAIVER.....	14
14.	APPLICABLE LAW.....	14
15.	RULES AND REGULATIONS.....	14
16.	CORPORATE AUTHORIZATION.....	15
17.	NOTICES.....	15
18.	PRIOR PERMITS.....	15
19.	ENVIRONMENTAL COMPLIANCE.....	15
20.	MISCELLANEOUS.....	15
21.	INCORPORATION OF RECITALS.....	16
	EXHIBIT A – Depiction of the Premises.....	A-1
	EXHIBIT B – Authorized Menu/Product Listing.....	B-1
	EXHIBIT C – Concession Floor Plan, Name and Theme.....	C-1
	EXHIBIT D – Airport Rules and Regulations.....	D-1



Phoenix-Mesa Gateway Airport Authority
CONCESSION LEASE AGREEMENT
(FOOD & BEVERAGE SERVICES)

This nonexclusive CONCESSION LEASE AGREEMENT (FOOD & BEVERAGE SERVICES) (the "Agreement") is made and entered into this FIRST (1st) day of AUGUST 2016 (the "Effective Date"), by and between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("PMGAA"), and **KIND HOSPITALITY, INC**, an Arizona Corporation ("Concessionaire"). PMGAA and Concessionaire may be referred to jointly as "Parties," and each separately as a "Party."

WITNESSETH:

WHEREAS, PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport, an airport and airfield property generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "Airport"); and

WHEREAS, PMGAA has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, PMGAA desires Concessionaire's services as the operator of a FOOD & BEVERAGE (F&B) CONCESSION business at and within the Airport's General Aviation Center (the "GA Center"), is willing to make space available for use by Concessionaire in connection therewith, and has deemed Concessionaire qualified to perform said services, and Concessionaire desires to perform and provide said services. Concessionaire was selected through a competitive bid solicitation.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. AGREEMENT.

1.1 General.

1.1.1 PMGAA hereby grants to Concessionaire, for the term and under the conditions herein provided, a nonexclusive and revocable right to enter upon and use the Airport (pursuant to the provisions of SECTION 12 herein) for the purpose of conducting its business as a F&B concessionaire from that certain space within the GA Center identified as 5803 S. Sossaman Road, Mesa, AZ 85212, Suite 114 and is comprised of approximately THREE THOUSAND NINE HUNDRED (3,900) square feet of concession floor space (the "Premises"), as depicted in **EXHIBIT A** which is attached hereto and made a part hereof. For purposes of this Agreement, the GA Center is that certain building located at 5803 S. Sossaman Road, Mesa, Arizona, as it presently exists or may subsequently be expanded in the future.

1.1.2 Concessionaire shall not engage in any other commercial revenue producing activity at the Airport that is in addition to or materially differs from the activity set forth in SECTION 1.1.1 and SECTION 1.2 herein prior to obtaining such written approval, without waiver or limitation of any other remedies of PMGAA at law or equity, Concessionaire hereby agrees to immediately cease said activity upon notice from PMGAA, and remit to PMGAA the sum equal to TWENTY PERCENT (20%) of gross billings for such unauthorized activity, plus any expenses incurred by PMGAA in the course of any audit conducted for all of Concessionaire's activities.

1.2 Concession Name and Theme. Concessionaire shall name its business enterprise within the GA Center the Barrio Brewing Company A Brewery themed restaurant, and shall operate such as a food and

beverage concession offering contemporary and classic food and beverage to include alcoholic beverages, as well as catering to on and off airport customers.. In addition, Concession shall, in its layout, design, décor and product offerings, represent and reflect Arizona, the Southwestern United States and/or the Maricopa County landscape, to the maximum practical extent.

1.3 Concessionaire's Acknowledgement.

1.3.1 By entering into this Agreement, Concessionaire acknowledges that PMGAA may enter into similar agreements with other concessionaires for services similar to those provided hereunder and under similar terms; provided, however, that PMGAA shall not grant to any other individual or entity a similar concession under terms and conditions substantially different from or more favorable than those granted to Concessionaire, and provided that such third party activities do not require or materially interfere with Concessionaire's use of the Premises .

1.3.2 Concessionaire acknowledges that this Agreement is subject to requirements of the U.S. Department of Transportation regulations, 49 CFR Part 23. 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. Concessionaire further agrees to include such prior statement in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters, when required, and cause those businesses to similarly include the statements in further agreements.

1.3.3 Concessionaire acknowledges and agrees that its obligations to pay rental fees and all other charges due and owing under the terms hereof shall, except as otherwise provided herein, be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Concessionaire may have against PMGAA or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Agreement or any lack of right, power or authority of PMGAA or Concessionaire to enter into this Agreement; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Concessionaire, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent and fees being payable by Concessionaire hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

1.4 Concessionaire's Rights. So long as Concessionaire shall timely pay the rental fees and other charges required to be paid and is not in default of any obligation hereunder, PMGAA hereby grants to Concessionaire the following rights:

1.4.1 A right to peaceably have and enjoy the use of the Premises without hindrance from PMGAA, and to occupy and use the Premises while in compliance with the terms and conditions of this Agreement. All other rights granted to Concessionaire under this Agreement are nonexclusive.

1.4.2 A right of ingress and egress to and from the Premises and the GA Center over Airport roadways, including common use roadways, driveways and public areas of the Airport, subject to any and all applicable rules and regulations established from time to time by PMGAA, the United States government, the State of Arizona, the City of Mesa, or other governmental entity, as applicable. Such rights of ingress and egress shall apply to Concessionaire's employees, guests, patrons, invitees, suppliers and other authorized individuals.

1.4.3 A right to install and maintain appropriate signs within and in proximity to the Premises at Concessionaire's own expense; provided, however, that the design, location, installation, modification and maintenance of such signs shall be subject to the prior written approval of PMGAA.

1.4.4 A right to obtain supplies and services at the Premises from suppliers, vendors or contractors of its choosing; provided, however, that all contracts entered into by Concessionaire for provision

of labor and employment services shall require that personnel engaged by Concessionaire at the Premises shall not be disruptive of other personnel or operations at the Airport and that such personnel shall at all times comply with the *Airport Rules and Regulations*.

1.5 PMGAA's Rights.

1.5.1 PMGAA reserves the right, in its sole discretion, to limit Concessionaire's sale of food, beverages and related items to those specified in **EXHIBIT B** attached hereto, and to other items as may be specifically approved for sale in writing by the Executive Director of PMGAA. In the event any question or dispute arises as to the sale of any specific item on the Premises, Concessionaire may submit a written request to the Executive Director to have the matter reviewed. The Executive Director shall give a decision in writing and such determination shall be considered as final and binding in the matter. Concessionaire shall abide by and conform to the decision of the Executive Director.

1.5.2 In addition to PMGAA's other rights set forth in this Agreement, PMGAA shall have the right (but not the obligation) to substitute Comparable Areas for all or any portion of the Premises, and any additions, alternations or improvements thereon, should PMGAA, in its reasonable discretion, determine that taking of the Premises, any portion thereof or any improvement thereon, is required for other Airport purposes and there exists no appropriate alternative. In the event PMGAA makes the determination to exercise its rights to substitute, all Concessionaire rights to and interest in the portion of the Premises taken shall immediately vest in PMGAA. Furthermore, PMGAA may require Concessionaire to vacate the portion of the Premises taken. For the purposes of this SECTION 1.5.2, the term "Comparable Areas" is defined to mean a space within the GA Center or any additions or extensions thereof, similar in size to the Premises, brought to the same level of improvement as the Premises and having the same or similar usefulness to Concessionaire as the portion taken. PMGAA shall bear all expenses of bringing the substituted area to the same level of improvement as the Premises. If any of Concessionaire's improvements, equipment, furniture or fixtures cannot be relocated to the substituted premises, PMGAA shall replace, at PMGAA's expense, such non-relocatable improvements and other property with comparable property in the Premises, and PMGAA shall be deemed the owner of the non-relocated improvements and other property, free and clear of all claims of any interest or title therein by Concessionaire, or any other third party whomsoever. It is the specific intent of this SECTION 1.5.2 that Concessionaire be placed, to the extent possible, in the same position it would have been, had PMGAA not substituted new premises for the Premises; provided, however, that PMGAA shall not be obligated to reimburse Concessionaire for any damages, including lost profits or revenues, due to such substitution. Notwithstanding the foregoing, PMGAA shall use reasonable efforts to avoid disruption to Concessionaire's business.

2. TERM.

2.1 Initial Term. The term of this Agreement shall commence on the Effective Date and terminate TEN (10) years thereafter, on July 31, 2026 (the "Term"), unless sooner terminated as provided herein.

2.2 Renewal Term. Provided Concessionaire is not then in default of this Agreement and subject to approval of PMGAA, Concessionaire shall have the option of extending the Term for ONE (1) additional period of THREE (3) years (each, individually, an "Extension"). Concessionaire may exercise an Extension by giving written notice to PMGAA of its desire to do so no later than ONE HUNDRED TWENTY (120) days prior to the expiration of the Term, as set forth in SECTION 2.1 herein or subsequently extended. If Concessionaire has properly notified PMGAA of its desire to exercise an Extension and PMGAA approves in writing, then Concessionaire's extension of the Term of this Agreement shall become effective and all references herein to the "Term" shall mean the initial term as extended.

2.3 Holding Over – Occupancy of Premises.

2.3.1 If Concessionaire shall continue to occupy any Premises specified herein, or otherwise continue to operate at, on or from the Airport after the expiration of the Term with PMGAA's

written consent, this Agreement, with all its terms, covenants and conditions, will be deemed extended on a month-to-month basis, which shall then become the current Term of the Agreement. Either Party may terminate this holdover at any time by giving THIRTY (30) calendar days advance written notice of such termination to the other Party.

2.3.2 If Concessionaire shall continue to occupy any Premises specified herein, or otherwise continue to operate at, on or from the Airport after the expiration of the Term without PMGAA's written consent, such occupancy and/or operation shall be at sufferance in monthly intervals with amounts payable in advance and equal to TWO HUNDRED PERCENT (200%) of the immediately prior applicable Term Rent and other fees therefor. Concessionaire shall continue to be bound by all terms, covenants and conditions of this Agreement, until the time such holdover is concluded.

2.3.3 Nothing contained in this SECTION 2.3 shall be construed, however, to give any right of holdover and PMGAA may exercise any and all remedies, at law or in equity, to recover possession of the Premises specified herein, together with any damages incurred by PMGAA.

3. RENT AND FEES.

3.1 Rent. For and in consideration of the privilege and authorization herein granted, Concessionaire shall pay to PMGAA monthly rental for the Premises equal to the greater of the minimum annual guarantee ("MAG Rent") or percent of gross revenue ("Percentage Rent") specified below:

3.1.1 During the first Agreement year (defined as beginning on the earlier of the date Concessionaire opens for business or thirty (30) days after issuance of a Certificate of Occupancy (CofO), Concessionaire shall pay monthly to PMGAA MAG Rent amount of Two Thousand Nine Hundred Twenty-five DOLLARS (\$2,925).

3.1.2 During the second and third Agreement years and beginning annually on the TWELVE (12) month anniversary of the Effective Date, Concessionaire shall pay monthly to PMGAA the MAG Rent amount of TWO THOUSAND NINE HUNDRED TWENTY-FIVE DOLLARS (\$2,925)

3.1.3 During the fourth and all subsequent Agreement years and beginning annually on the TWELVE (12) month anniversary of the Effective Date, Concessionaire shall pay monthly to PMGAA the greater of one hundred percent (100%) of the first agreement years MAG, a revised MAG Rent (the "Revised MAG Rent") or Percentage Rent equal to TEN PERCENT (10%) of gross revenue earned by Concessionaire at, on and from the Premised during the preceding month. For Purposes of this SECTION 3.1.3, Revised MAG Rent shall be calculated to equal the greater of the first Agreements year's MAG Rent, or EIGHTY-FIVE PERCENT (85%) of Concessionaire's actual payments to PMGAA during said year divided by TWELVE (12) months.

3.1.4 During agreement years one thru five, PMGAA shall provide an annual rent credit to Concessionaire equal to one-half the first agreement year MAG rent, SEVENTEEN THOUSAND FIVE HUNDRED FIFTY AND 00/100 DOLLARS (\$17,550.00) as a reimbursement for facility development costs. Rent credit shall be applied monthly at a rate of ONE THOUSAND FOUR HUNDRED SIXTY-TWO AND 50/100 DOLLARS (\$1462.50). Total amount of rent credit shall equal EIGHTY-SEVEN THOUSAND SEVEN HUNDRED FIFTY AND 00/100 DOLLARS (\$87,750.00).

3.2 Trash Collection Fees Concessionaire shall pay PMGAA Eighty-seven and 16/100 dollars (\$87.16) per month.

3.3 Rental Payments.

3.3.1 *MAG Rent.* Concessionaire shall remit its monthly MAG Rent payment to PMGAA, in advance and without any prior demand therefor and without any abatement, deductions or set-offs whatsoever. Such payment shall be due and payable no later than the FIRST (1st) day of each month in which said payment is due (the "MAG Rent Due Date"), plus applicable taxes. MAG Rent payments

received TEN (10) or more days after the MAG Rent Due Date shall be subject to finance charges and/or late fees, as provided in SECTION 3.4 herein.

3.3.2 *Percentage Rent.* In addition to MAG Rent, Concessionaire shall pay monthly to PMGAA, on or before the TWENTIETH (20th) day following the last day of the preceding calendar month (the “Percentage Rent Due Date”), a sum equal to the amount in which Concessionaire’s gross revenue from the sale of Concessionaire’s products during said preceding month multiplied by the applicable percentage specified in SECTION 3.1, exceeds the MAG Rent paid for the applicable month. Such payments, if any, shall include applicable taxes, as required by SECTION 3.5 herein.

a. For purposes of this Agreement, the term “gross revenue” shall mean the gross selling price (whether collected or not) for all final sales made in connection with Concessionaire’s business operations under this Agreement, including the full amount of all orders for goods or services accepted by Concessionaire elsewhere, but to be filled or performed in, on, about or from the Premises, excluding: (i) any and all retail sales taxes, excise taxes, transaction privilege taxes or related direct taxes collected by Concessionaire in the course of making such sales; (ii) any fees or costs charged or deducted by third party credit card issuers, including but not limited to MasterCard and Visa; and (iii) receipts from the sale or trade-in value of any equipment used upon the Premises and owned by Concessionaire.

b. Promptly following the end of each calendar month and in no event later than the Percentage Rent Due Date, Concessionaire shall submit to PMGAA a statement, certified by an officer of Concessionaire, of its gross revenue from its operations at, on, about or from the Premises for the preceding month. Said statements shall also reflect the MAG Rent amount paid during the specific reporting period, and calculate the remaining Percentage Rent due to PMGAA, if any.

3.3.3 *No Waiver.* No payment to or receipt by PMGAA of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way PMGAA’s right to recover the balance of such payment or pursue any other remedy provided in this Agreement or by law.

3.4 Annual Reports. Within THIRTY (30) calendar days of the end of each Agreement year, Concessionaire shall provide PMGAA an accounting of its MAG Rent and Percentage Rent payments to PMGAA, including Concessionaire’s gross revenue for the entire prior Agreement year (as defined in Section 3.1). If Concessionaire’s required payments to PMGAA under this Agreement differ from amounts Concessionaire has actually paid, an adjustment shall be made as follows: (i) If Concessionaire shall have paid to PMGAA an amount greater than Concessionaire is required to pay for such previous Agreement year, Concessionaire shall be entitled to a refund or credit against Concessionaire’s next payment for the amount of such overpayment, at Concessionaire’s discretion; or (ii) if Concessionaire shall have paid an amount less than the amounts required to be paid during said period, then Concessionaire shall immediately pay such difference to PMGAA.

3.5 Finance and Late Charges.

3.5.1 If PMGAA shall receive payment for any rental or other fee from Concessionaire TEN (10) or more calendar days after the applicable due date, Concessionaire shall pay interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (a “Finance Charge”), from such due date and continuing until payment is received by PMGAA in full.

3.5.2 In the event any payment is received by PMGAA more than TEN (10) calendar days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent payment (a “Late Penalty”) shall be due and payable in addition thereto.

3.6 Taxes. In the event any governmental authority shall impose a tax or imposition based upon any rental payments or any other sums paid or owing hereunder or the receipt of such payments by PMGAA, then, Concessionaire shall pay such amounts to PMGAA at the same time and in addition to payments hereunder, which amounts may include, but are not limited to, any or all rental, transaction privilege, sales,

excise or other similar tax except income taxes. Concessionaire's obligation to pay such amounts together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

3.7 Payments – Rentals and Fees.

3.7.1 All payments of rentals, fees and charges specified in SECTIONS 3.1 through 3.6 herein shall be tendered in lawful currency of the United States, either by check or electronic transfer, and shall be free from all claims or setoffs of any kind against PMGAA. In the event technological advances make point of sale gross revenues reporting and payment transfers more economically feasible, PMGAA, after considering the economic impact to both Concessionaire and PMGAA, may revise how payment remittances are made. Any and all equipment and transmission changes necessary to accomplish the change in the reporting and/or remittance process will be the responsibility of Concessionaire.

3.7.2 Except as otherwise provided herein, all payments and reports required by this SECTION 3 shall be remitted to the following address by the due date(s) specified herein:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by PMGAA to Concessionaire.

3.8 Construction Security Deposit. Concessionaire shall provide a refundable deposit in the form of a cashier's check made out to Phoenix-Mesa Gateway Airport Authority for the construction phase of the improvements in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000). The Deposit shall be returned to Concessionaire, upon final completion of the improvements and issuance of a temporary certificate of occupancy or a certificate of occupancy (C of O) from the City of Mesa as provided in SECTION 5.3.3. If Concessionaire abandons or otherwise fails to complete the improvements described in SECTION 5 below by the date in SECTION 5.3.3, then, in addition to any other remedies set forth in this Agreement, PMGAA shall be entitled to claim the deposit as compensation.

3.9 Survival. Concessionaire's obligation to pay all amounts herein stated, together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

4. RECORDS AND AUDITING.

4.1 Concessionaire Records.

4.1.1 With respect to its activities at the Premises and on the Airport, Concessionaire shall keep true and accurate records, books and data which shall show all sales made and services performed for cash or credit or otherwise, whether paid or not. Said records, books and data shall be kept and maintained at Concessionaire's business office in the local Phoenix, Arizona metropolitan area, or upon written PMGAA request, shall be made available for audit at the Airport, within TEN (10) business days after such request. PMGAA and its authorized representatives shall have the right at reasonable times and during business hours to inspect and examine records, books and other data as required to verify sales and billings as described hereinabove.

4.1.2 In addition to the requirements set forth in SECTION 4.1.1, Concessionaire shall keep true and accurate records, books and data to substantiate its continuing eligibility as an Airport Concession Disadvantaged Business Enterprise (ACDBE) under the pertinent provisions of 14 CFR Part 23 and in satisfaction of its related responsibilities under SECTION 7.1.2 herein. Concessionaire shall provide such information as may be required by PMGAA concerning its portion of annual and monthly sales attributed to Disadvantaged Business Enterprise (DBE) firms within TEN (10) business days of PMGAA's written request therefor, or in accordance with any subsequent continuing reporting schedule established, specified and/or required by PMGAA.

4.2 PMGAA Audit Authority. In accordance with SECTION 4.1, PMGAA or its authorized representatives shall have the right to audit Concessionaire's records relating to billings, monthly rental payments reported and paid hereunder, and any other activity by Concessionaire on the Airport during the TWELVE (12) consecutive month period preceding the date of such audit. If PMGAA finds or determines that a discrepancy exists for the period of the audit, Concessionaire shall promptly pay the cost and expense of PMGAA's audit. For purposes of this Agreement, a "discrepancy" shall mean one where audited billings exceed reported billings by TWO PERCENT (2%) or more. The amount of any such deficiency established by such audit shall be conclusive and binding upon the Parties and shall be paid by Concessionaire no later than TEN (10) calendar days from the billing date.

5. IMPROVEMENTS AND ALTERATIONS.

5.1 Concessionaire's Acceptance. Concessionaire agrees to accept the Premises in an "as is" condition, and accepts financial responsibility for all improvements specified in SECTION 5.3 herein, and as required to make the Premises suitable for Concessionaire's business operations.

5.2 Authorization. Concessionaire shall make no improvements or alterations to the Premises during the Term of this Agreement without prior notice to and written permission of PMGAA. Concessionaire shall provide PMGAA with electronic, as-built drawings (or their equivalent) upon completion of any approved improvement or alteration.

5.3 Requirements – Initial Occupancy.

5.3.1 Beginning on the Effective Date, Concessionaire shall undertake to design and construct all improvements and install all fixtures, equipment, furniture and related items (collectively, the "Initial Improvements") to transform the Premises in accordance with the concession name and theme specified in SECTION 1.2, and substantially similar to the corresponding rendering and floor plan reflected at **EXHIBIT C** herein. Construction plans for the Initial Improvements and any material changes thereto shall be submitted to and approved in writing by the PMGAA Business Development Department prior to execution, commencement of construction and/or submission to the City of Mesa for permit. Concessionaire's initial investment in said Initial Improvements to the Premises shall be no less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000), and Concessionaire shall validate its actual expenditures to PMGAA, in writing, upon completion of the Initial Improvements. PMGAA shall reimburse Concessionaire a maximum of \$50,000 for Concessionaire's improvements. Concessionaire shall provide PMGAA with invoices to justify capital expenditures. PMGAA to reimburse Concessionaire within 30 days of rent commencement date.

5.3.2 Schedules pertinent to the delivery and installation of materials, construction activities and other related work events shall be coordinated in advance with the PMGAA Department of Operations & Maintenance no less than FIVE (5) business days prior to their planned action, whenever possible. Concessionaire shall be responsible for ensuring that ongoing Tenant and other business activities taking place within the GA Center during construction and installation of Concessionaire's Initial Improvements are not materially disrupted at any time.

5.3.3 Concessionaire shall complete construction and installation of the Initial Improvements to the Premises in time to permit business activities to commence fully within said Premises on the earlier of the CofO or January 30, 2017. If Concessionaire is unable to complete all Initial Improvements by said date for reasons beyond Concessionaire's reasonable control, then such completion date shall be extended by ONE (1) day for each day of such delay, as determined in PMGAA's sole and absolute discretion. Otherwise, Concessionaire's failure to complete said Initial Improvements and become operational by the aforementioned date may subject Concessionaire to the payment of a late opening penalty equal to NINETY-SEVEN AND 50/100 DOLLARS (\$97.50) [this is 1/30th of the monthly MAG Rent] for each day Concessionaire's commencement of business operations is delayed beyond January 31, 2017, which shall become due and payable to PMGAA, in addition to any other rent and fees due, within FIVE (5) business days of PMGAA's written request therefor.

5.4 Reserved.

5.5 Title to Alterations and Improvements. Title to all improvements and alterations on the Premises, including the Initial Improvements and Refurbishment Improvements, if any, shall vest in PMGAA upon the expiration of this Agreement, and Concessionaire agrees to execute and deliver to PMGAA, within TEN (10) business days after PMGAA's request therefor, a quitclaim deed confirming that title to such improvement and alterations is vested in PMGAA.

5.6 Mechanic's Liens. Concessionaire shall keep the Premises and all improvements thereon free of any mechanic's or materialmen's liens or liens of any kind or nature. In the event that any such lien is filed, Concessionaire shall, at its sole cost, cause such lien to be removed from the Premises within THIRTY (30) calendar days of notice thereof.

5.7 Permit Required. Concessionaire shall be responsible for determining whether it is subject to local building codes or building permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa (hereinafter referred to as the "City") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment and/or use.

5.8 Damage or Destruction.

5.8.1 In the event of damage to or destruction to the Premises, such that other GA Center activities remain unaffected or minimally affected, Concessionaire shall give PMGAA notice thereof, and undertake appropriate repairs or other suitable actions to restore such Premises to their original, usable condition as expeditiously as possible, and, as a minimum, any and all insurance proceeds derived incident thereto shall be applied fully to such restoration. Should Concessionaire fail to complete said restorative actions within ONE HUNDRED TWENTY (120) calendar days after the occurrence of such damage or destruction, subject to any delay for reasons beyond Concessionaire's reasonable control, PMGAA may elect to terminate this Agreement; provided, however, PMGAA may not elect to terminate at any time when restoration, repair or replacement has been commenced and is being pursued with commercially reasonable diligence.

5.8.2 Should greater than FIFTY PERCENT (50%) the GA Center itself, including the Premises, be rendered untenable by fire or other casualty and PMGAA either cannot or elects to not complete restorative action within a reasonable period of time, Concessionaire shall have the option to terminate this Agreement. Further and during PMGAA's restorative activities, PMGAA shall abate all rental fees and other charges owed in connection with the damaged or destroyed Premises until such time as the Agreement is terminated or Concessionaire is able to recommence business operations therefrom.

6. MAINTENANCE, REPAIRS, SERVICES AND INSPECTIONS.

6.1 Maintenance. Concessionaire shall, at its sole expense, maintain the Premises, including all Initial Improvements, furnishings and equipment, fixtures, floor coverings, windows, plate glass and doors therein, in good and safe repair and in a neat, clean and orderly condition throughout the Term of this Agreement. PMGAA shall maintain the HVAC systems, plumbing and electrical to the box and building structure. PMGAA shall clean the oil water separator that is connected to the concession space drain lines. Concessioner shall be responsible for any additional clean out.

6.2 Repairs. Any damage caused to the Premises or any PMGAA property by any act, omission or negligence of Concessionaire, its employees, invitees, suppliers or furnishers of service shall be repaired and restored to the condition existing prior to damage by Concessionaire at Concessionaire's sole expense in accordance with plans and specifications provided by Concessionaire to and approved by PMGAA. Should PMGAA find it necessary to make such repairs itself, Concessionaire shall pay PMGAA, as additional fees hereunder, the expenses of all repairs thereby incurred, as provided in SECTION 6.4.2 herein.

6.3 Services.

6.3.1 Concessionaire agrees to provide, at its own expense, such janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of the Premises. Concessionaire also agrees to keep and maintain the Premises in a clean, neat and sanitary condition, and attractive in appearance. In the event PMGAA determines, in its sole, reasonable discretion, that Concessionaire's janitorial and cleaning program is not acceptable or sufficient, then, PMGAA may, after reasonable notice to Concessionaire, seek to provide such services by other means. Concessionaire agrees to reimburse PMGAA no later than TWENTY (20) calendar days following written demand by PMGAA for any expenses incurred by PMGAA due to conditions at the Premises.

6.3.2 Concessionaire shall provide for the complete removal, sanitary handling and disposal of all trash, garbage and other refuse resulting from its activities at, on, about or from the Premises to receptacles at locations specified by PMGAA.

6.4 Inspections. PMGAA, its authorized employees, agents, contractors, subcontractors and other representatives shall have the right, but not the obligation, at all reasonable times, to enter upon the Premises to:

6.4.1 Inspect the Premises during regular business hours (or at any time in case of an emergency) to ascertain the condition of the Premises and to determine Concessionaire's compliance with the terms of this Agreement and applicable other regulatory requirements. This right of inspection shall not imply or infer any duty of PMGAA to inspect, and shall impart no liability upon PMGAA for failure to inspect.

6.4.2 Perform or arrange to perform maintenance and repairs and replacements in any event when Concessionaire is obligated to do so under this Agreement and failed to do so within TEN (10) business days after written notice from PMGAA, or at any time with or without written notice in the event that PMGAA, in its sole discretion, deems that it is necessary or prudent to correct any condition likely to lead to injury or damage. If such maintenance, repairs or replacements are required to be made by Concessionaire under this Agreement, but are performed by PMGAA, then, Concessionaire shall pay PMGAA's entire cost and expense of performing such work as additional rent to PMGAA upon written demand therefor.

6.4.3 Perform any obligation of PMGAA under this Agreement and to make additions, alterations, maintenance and repairs to the GA Center, including its utility systems.

All entries by PMGAA, its authorized employees, agents, contractors, subcontractors and other representatives made pursuant to this SECTION 6.4, shall be without abatement of rent and/or fees, provided that such entries do not cause unreasonable interference with Concessionaire's business operations.

7. CONCESSIONAIRE'S COMPLIANCE.

7.1 Regulatory Compliance and Certification.

7.1.1 Concessionaire, its agents, employees, invitees, subcontractors and independent contractors shall comply with all directions, rules, regulations and operating procedures of PMGAA in effect or hereinafter promulgated, and shall observe and obey all ordinances of the City, as well as all federal and state statutes and regulations governing use of the Premises and Airport and Concessionaire's business activities thereon.

7.1.2 Reserved.

7.2 Operating Permits. Concessionaire shall furnish to PMGAA, prior to conducting any business or activities at, on or within the Premises and the Airport, copies of all operating permits required by the City, or any other government entity, if applicable.

7.3 Employee Listings. Concessionaire shall furnish to PMGAA's Department of Operations & Maintenance a current list of all of its employees who may require access to the Premises and the Airport, and revise said list as often as needed to inform PMGAA of any changes or as may be required by PMGAA.

7.4 Operating and Service Standards. Concessionaire shall operate its business from the Premises, and elsewhere as may be permitted by PMGAA from time to time. In addition, Concessionaire shall:

7.4.1 *Professional Management.* Designate a local representative experienced in management and supervision who has sufficient authority and responsibility to insure proper operation of the concession, to render decisions and to take all necessary action(s) in connection with this Agreement. Such person (or his or her authorized and designated representative) shall be available whenever the concession is in operation, and be contactable at all other times should emergencies arise.

7.4.2 *Personnel.*

a. Maintain a sufficient number of trained personnel to ensure Concessionaire's customers receive prompt and courteous service at all times. All personnel of Concessionaire, while on or about the Premises, shall be polite, clean, uniformed and present a professional appearance at all times. Concessionaire shall not permit its agents, servants or employees (whether full-time, part-time or contract) to solicit business from the Premises or other Airport locations in any manner whatsoever, except through the use of signs approved by PMGAA.

b. Ensure all Concessionaire employees (whether full-time, part-time or contract) are at all times competent, experienced and properly licensed to perform their duties, as and if required by applicable federal, state and local laws, and obey all traffic laws and regulations. Said employees shall at all times be under the direction of Concessionaire, who will be solely responsible for their conduct and performance, and shall conduct themselves with courtesy and dignity with the public interest of primary importance.

c. Promptly respond to and resolve any issue with any employee whose conduct PMGAA or its Executive Director feels is detrimental to the best interests of the Airport and PMGAA.

d. Not, during the Term of this Agreement, hire or employ, on a full-time, part-time or contract basis, any person or persons employed by PMGAA.

e. To the extent applicable under Arizona Revised Statutes (ARS) §41-4401, Concessionaire warrants compliance with all federal immigration laws and regulations that relate to Concessionaire's employees and compliance with the E-verify requirements under ARS §23-214(A). Concessionaire's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in its termination by PMGAA. PMGAA retains the legal right to randomly inspect the papers and records of any employee who works under this Agreement to ensure Concessionaire is complying with the above-mentioned warranty.

7.4.3 *Scrutinized Business Operations.* Pursuant to ARS §§35-391.06 and 35-393.06, Concessionaire certifies that it does not have a scrutinized business operation in the Sudan or Iran. For purposes of this Subsection 7.4.3, the term "scrutinized business operations" shall have the meanings set forth in ARS §§ 35-391 and 35-393, as applicable. If PMGAA determines that Concessionaire submitted a false certification, PMGAA may impose remedies as provided by law, including termination of this Agreement.

7.4.4 *Public Service.* Ensure that its business operations at, on and about the Premises are conducted in a professional, first class manner, and that all facilities, services and standards of operation are at least equal to the highest quality of service rendered by other companies of a like nature at other modern airport GA Center facilities. The general public shall be given the highest consideration at all times in matters affecting the operation of this concession, and Concessionaire shall emphasize the tenets of "exceptional customer service," "quality products" and "value" in both its products offered for sale and during interaction with its customers.

7.4.5 *Hours of Operation.* Scheduled Monday thru Thursday – 6:00 am to 9:00 pm, Friday and Saturday – 6:00am to 10:00 pm and Sunday 6:00am to 3:00pm. Special hours may be added in addition to scheduled hours for special events.

7.4.6 *Reserved*

7.4.7 *Nondiscrimination.* In furnishing services to the public, Concessionaire shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Concessionaire shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

7.4.8 *Complaints by Public.* In the event Concessionaire receives (or PMGAA receives and forwards to Concessionaire) any written complaint concerning Concessionaire’s operation of the concession, promptly respond to such complaint in writing within TEN (10) business days of its receipt and make a good-faith attempt to explain, resolve or rectify the cause of such complaint. Repeated complaints by the public concerning Concessionaire’s services may be grounds for termination of this Agreement.

7.4.9 *Record-keeping.* Cause to be installed on the Premises, or elsewhere as appropriate, and at all times use such cash registers, invoicing machines, sales slips or other accounting equipment, devices and forms as are reasonably necessary to record properly, accurately and completely all sales from and on the Premises of Concessionaire’s goods and services.

7.5 Condition of the Premises. Concessionaire shall keep the Premises, including all product displays and customer areas, organized, neat and clean at all times, so as to present a positive image to Airport patrons. All signage and notices posted within the Premises shall be professionally prepared and affixed in a safe, aesthetically pleasing manner, such that they complement the concession décor. No paper signs shall be taped to walls or structures anywhere within the Premises.

7.6 Surrender of Occupancy.

7.6.1 When this Agreement expires or is otherwise terminated in whole or in part as provided elsewhere herein, Concessionaire shall surrender the Premises and fixed improvements and operating facilities therein broom-clean and in a state of good repair, with the exception of reasonable wear and tear and damage by loss or casualty not covered by insurance which Concessionaire is required to maintain pursuant to this Agreement and not otherwise attributable to Concessionaire’s fault or negligence.

7.6.2 Concessionaire shall be deemed to have abandoned to PMGAA any personal property and trade fixtures that it has failed to remove from the Premises within FIFTEEN (15) calendar days after the end of the Term of this Agreement, or the effective date of termination thereof, unless PMGAA grants additional time for this purpose in writing. During this period, Concessionaire shall remain responsible for monthly rental and other payment(s) to PMGAA until such time as the Premises are fully available to PMGAA for maintenance, renovation or re-letting to another concessionaire. After the expiration of the aforementioned FIFTEEN (15) business day period or any extension thereof granted by PMGAA, PMGAA shall have the right to remove the property of Concessionaire and restore the Premises to a satisfactory condition and hold Concessionaire liable for all costs incident thereto. In the event it is necessary for PMGAA to remove such property, PMGAA shall not sustain or be charged with any liability by reason of the removal or custodial care of same.

8. AIRPORT SECURITY PLAN.

PMGAA has implemented an Airport Security Plan (the “Security Plan”) in a form acceptable to the Transportation Security Administration pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Concessionaire shall at all times comply with the Security Plan and shall, to the fullest extent permitted by law, indemnify, defend and hold PMGAA harmless for, from and against any violations of the Security Plan committed by any agents, employees, invitees, subcontractors or independent contractors of Concessionaire. PMGAA reserves the right to modify the Security Plan from time to time, as it deems necessary.

9. TAXES, LICENSES AND PERMITS.

Concessionaire shall pay all taxes and assessments that may be levied or charged upon its property, equipment and activity hereunder, and shall secure and comply with all licenses and permits required by PMGAA or any other governmental authority exercising jurisdiction over its business or activities. Concessionaire shall also pay any taxes or assessments levied upon PMGAA as a result of Concessionaire conducting its business under the authority of this Agreement.

10. INSURANCE AND INDEMNIFICATION.

10.1 Insurance Coverage Required. Concessionaire shall at all times and prior to the Effective Date, at its sole expense, maintain in effect the insurance coverage set forth below, deliver a certificate of insurance for each policy to PMGAA and continue to provide such certificate(s) throughout the Term:

10.1.1 Comprehensive General Liability insurance in an amount not less than \$2,000,000 per occurrence and \$5,000,000 aggregate, covering third party bodily injury and property damage, and including coverage for “premises/operations,” “products and completed operations,” “professional,” “host liquor” and “blanket contractual liabilities.”

10.1.2 Business Interruption insurance covering 12-months’ loss of concession income due to fire or other catastrophe. Extra Expense coverage also is recommended, but not required, to cover expenses beyond normal operating expenses that will or could prevent Concessionaire’s business from shutting down during post-disaster restoration.

10.1.3 Property insurance (all risk) for the full value of personal property and improvements to the Premises for their full insurable value on a replacement-cost basis.

10.1.4 Workers’ Compensation insurance, as required by law, and Employer’s Liability insurance in the amount of \$1,000,000, covering work-related injuries to employees and others permitted to operate or otherwise conduct business at the Airport on Concessionaire’s behalf.

10.2 Insurance Form. Each insurance policy obtained pursuant to this SECTION 10, except for Workers’ Compensation and Employer’s Liability policies, shall: (i) name PMGAA as a certificate holder or an additional named insured; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to PMGAA not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in the case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of PMGAA. Concessionaire shall not permit any insurance policy to be canceled or modified without PMGAA’s written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A - VII or higher from the A.M. Best Company, or an equivalent rating approved by PMGAA.

10.3 Indemnification. To the fullest extent permitted by law, Concessionaire shall indemnify, defend and hold PMGAA, its agents and employees, harmless for, from and against all liability, claims, damages, losses, expenses, and fines including attorneys' fees and costs of litigation, arising out of, sustained, or in any manner related to Concessionaire's use of and activities at the Airport or any part or appurtenance thereof. Concessionaire shall not be liable for any consequential damages and for claims arising by reason of the negligent or wrongful act of PMGAA, its agents or employees.

11. ASSIGNMENT.

11.1 Consent. Concessionaire shall not assign, transfer or encumber this Agreement in any manner, or any part hereof, or interest herein or sublease any of the Premises hereunder, except with the prior written permission of PMGAA and subject to whatever reasonable limitations and conditions may be required by PMGAA. Any other transfer, assignment or sublease shall confer no rights upon any third person or party, and such may be deemed by PMGAA, in its sole and absolute discretion, as a breach of this Agreement, rendering it null and void. No assignment or sublease shall relieve Concessionaire of any

obligation under this Agreement unless otherwise agreed in advance, in writing by PMGAA. Notwithstanding the foregoing, this SECTION 11 shall not be interpreted to preclude the assignment of this Agreement to a parent, subsidiary or merged company, if such part, subsidiary or merged company assumes all rights and obligations of this Agreement. Written notice of such assumption shall be provided to PMGAA by the parent, subsidiary or merged company not less than THIRTY (30) calendar days prior to the effective date of such assignment.

11.2 Transfer Defined. For the purposes of this Agreement, a “transfer” shall be deemed to include the following: (i) if Concessionaire is a corporation, partnership, limited liability company, or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Agreement; provided, however, if Concessionaire is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Concessionaire’s stock shall not constitute a transfer requiring PMGAA’s consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Concessionaire.

11.3 Non-Disturbance. PMGAA agrees, for the benefit of all subtenants of all or any part of the Premises, that if this Agreement or Concessionaire’s right to possession of the Premises is terminated for default or otherwise, all subleases of all or any part of the Premises, except any sublease to an affiliate of Concessionaire, shall continue in full force and effect notwithstanding the termination as direct leases or contracts between PMGAA and the subtenants and contractors, and all such subtenants and contractors upon request shall attorn in writing to PMGAA.

12. CANCELLATION PROVISIONS.

12.1 PMGAA’s Right of Cancellation. Except as may be otherwise provided herein, PMGAA shall have the right to terminate this Agreement in its entirety immediately if Concessionaire commits any one or more of the hereinafter listed events of default. Upon receiving notice of such termination, Concessionaire shall immediately cease its operations within the Premises and on the Airport and remove all of its employees and personal property therefrom:

12.1.1 If Concessionaire shall fail to pay any installment of rent or any other amount due from Concessionaire hereunder, provided that Concessionaire does not cure or initiate demonstrable corrective action for such failure within TEN (10) business days after delivery by PMGAA of a written notice of such failure.

12.1.2 If Concessionaire shall neglect or fail to perform, keep or observe any other terms, covenants or conditions herein contained and if such neglect or failure shall continue for a period of THIRTY (30) calendar days after delivery by PMGAA of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

12.1.3 The taking by a court of competent jurisdiction of Concessionaire and its assets pursuant to proceedings under the provisions of any Federal or State reorganization or bankruptcy code or act.

12.1.4 The occurrence of any act which deprives the Concessionaire of the rights, licenses, permits and authorizations necessary for the proper and lawful conduct of the Concessionaire’s business operations at, on, about or from the Airport.

12.1.5 If Concessionaire shall abandon all or any part of the Premises or shall discontinue the conduct of its operations in all or any part of the Premises for a period of THREE (3) consecutive days.

12.1.6 The filing of any mechanic’s, materialman’s or other lien or any kind against the Premises because of any act or omission of Concessionaire which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Concessionaire.

12.1.7 Concessionaire receipt of THREE (3) written notices of default for violations of the Security Plan or *Airport Rules and Regulations* from PMGAA within a SIX (6) consecutive calendar month period.

12.1.8 A transfer or assignment occurs without PMGAA's prior written approval.

12.1.9 Concessionaire conducts its operations in such a manner as to threaten public safety, as determined by PMGAA in conformity with the laws and regulations of the State of Arizona and PMGAA.

12.1.10 PMGAA determines that Concessionaire willfully falsified any of its records or figures so as to deprive PMGAA of any of its rights under the terms of this Agreement.

12.2 Concessionaire's Right of Cancellation. Except as otherwise provided herein and subject to the PMGAA relocation rights under this Agreement, Concessionaire shall have the right to terminate this Agreement in its entirety upon THIRTY (30) calendar days advance written notice to PMGAA if one or more of the following events of default are committed by PMGAA:

12.2.1 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport in such a manner as to substantially restrict Concessionaire from conducting its business activities at, on and within the Premises, which injunction is not caused by any act or omission of Concessionaire and such injunction remains in force for at least SIXTY (60) consecutive calendar days.

12.2.2 If Concessionaire is deprived of the use of all or a major portion of the Premises for THIRTY (30) consecutive calendar days or more, subject to the relocation or other applicable renovation provision provided for herein.

12.2.3 The assumption by the United States Government and the authorized agencies thereof, or any other governmental agency, of the operation, control or use of Airport facilities, including the Premises, or any substantial part or parts thereof in such a manner as to substantially restrict the conduct of Concessionaire's business thereto for a period of THIRTY (30) consecutive calendar days or more.

12.2.4 A breach by PMGAA of any of the terms and covenants or conditions within this Agreement. In the event of such a breach, Concessionaire shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Agreement; provided, however, Concessionaire may not exercise any such right or remedy unless Concessionaire has notified PMGAA by written notice of such alleged default, and PMGAA has not cured such default within a THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot be reasonably cured within such THIRTY (30) day period, PMGAA has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary in this Agreement, in no event shall Concessionaire be entitled to terminate this Agreement or abate or offset any installment of rent or any other payments to be made by Concessionaire hereunder.

13. NONWAIVER.

PMGAA's right to revoke this Agreement shall be absolute. Any election by PMGAA to not enforce any provision of this Agreement, or any failure by PMGAA to exercise any of the remedies allowed PMGAA under this Agreement, shall not operate as a waiver by PMGAA of its right.

14. APPLICABLE LAW.

The laws of the State of Arizona, including its conflicts of law provisions, shall govern the matters set forth in this Agreement. Venue of any action brought under this Lease shall, at the option of PMGAA, lie in Maricopa County, Arizona.

15. RULES AND REGULATIONS.

Concessionaire shall at all times comply with all Federal, State and local laws, ordinances, rules, and

regulations which are applicable to its operations, the Premises itself or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Concessionaire shall at all times comply with the *Airport Rules and Regulations*, as applicable and as the same may be amended from time to time. A copy of the *Airport Rules and Regulations* is attached hereto as **EXHIBIT D**. Concessionaire acknowledges and agrees that PMGAA may amend the *Airport Rules and Regulations* at any time in PMGAA's sole and absolute discretion. Concessionaire also shall display to PMGAA any permits, licenses, or other evidence of compliance with laws upon request.

16. CORPORATE AUTHORIZATION.

In executing this Agreement, Concessionaire represents and warrants to PMGAA that if Concessionaire is a corporation, Concessionaire has obtained and been granted the full right, power and authority to enter into this Agreement.

17. NOTICES.

17.1 Notices required under this Agreement shall be in writing and delivered personally or by registered or certified mail, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn.: Business Development Department
5835 S. Sossaman Road
Mesa, Arizona 85212-0919
Telephone: (480) 988-7649

TO CONCESSIONAIRE: Kind Hospitality, Inc.
Attn.: Nava Thuraisingam, Chief Executive Officer
1225 N. Gilbert Rd.
Mesa, Arizona 85203
Telephone: (480) 329-0149
Email: navasingam@msn.com

17.2 Notice by certified or registered mail in the manner described above shall be deemed effective the day after its deposit in the mail.

18. PRIOR PERMITS.

Upon execution hereof, this Agreement shall supersede and cancel any prior agreement(s) between PMGAA and Concessionaire with respect to the business activities governed hereby. Concessionaire shall not construe PMGAA's execution of this Agreement as a waiver of any prior indebtedness or obligation to PMGAA under any prior agreement or license, nor does PMGAA waive any claim or cause of action arising therefrom.

19. ENVIRONMENTAL COMPLIANCE.

Concessionaire shall, at Concessionaire's own expense, comply with all present and hereinafter enacted environmental laws, rules and regulations and any amendments thereto, affecting or applying to Concessionaire's operations and activities at, on or within the Premises and the Airport.

20. MISCELLANEOUS.

20.1 Personal Liability. No member or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

20.2 No Waiver. No provision of this Agreement may be waived or modified except by a written instrument signed by the Party against whom such waiver or modification is sought.

20.3 Non-Waiver of Rights. No waiver or default by PMGAA of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Concessionaire shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Concessionaire, and PMGAA shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

20.4 Amendment. This Agreement may be amended only by a written instrument executed by the Parties, except that the product listing at **EXHIBIT B** may be updated at any time, upon mutual agreement of the Parties, without formal amendment but shall, upon said mutual agreement, become a valid **EXHIBIT B** replacement to this Agreement thereafter.

20.5 Cancellation. The Parties hereto acknowledge and agree that this Agreement may be cancelled pursuant to the provisions of ARS § 38-511.

20.6 Invalid Provisions. Should any provision of this Agreement or any application thereof shall be held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

20.7 Litigation Expenses. In the event of litigation between the Parties, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

20.8 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

20.9 Approvals, Consents and Notices. All approvals, consents and notices called for in this Agreement shall be in writing, signed by the appropriate party, and may not be established solely by oral testimony.

20.10 Entire Agreement. This Agreement, including exhibits attached hereto at the time of its execution, constitutes the entire Agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

21. INCORPORATION OF RECITALS.

The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

EXECUTED to be effective on the date specified above.

[Signatures follow on page 17]

FOR PMGAA:
PHOENIX-MESA GATEWAY AIRPORT
AUTHORITY, an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, Interim Executive Director

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ____ day of _____,
2016, by J. Brian O'Neill, in his capacity as the Interim Executive Director of the Phoenix-Mesa Gateway
Airport Authority.

Notary Public

My Commission Expires:

FOR CONCESSIONAIRE:
KIND HOSPITALITY, INC., an Arizona Corporation

By: _____
Nava Thuraisingam, Chief Executive Officer

STATE OF _____)
) ss.
County of _____)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ____ day of _____,
2016, by Nava Thuraisingam, in his capacity as the Chief Executive Officer of Kind Hospitality, Inc.

Notary Public

My Commission Expires:

EXHIBIT A
Depiction of the Premises

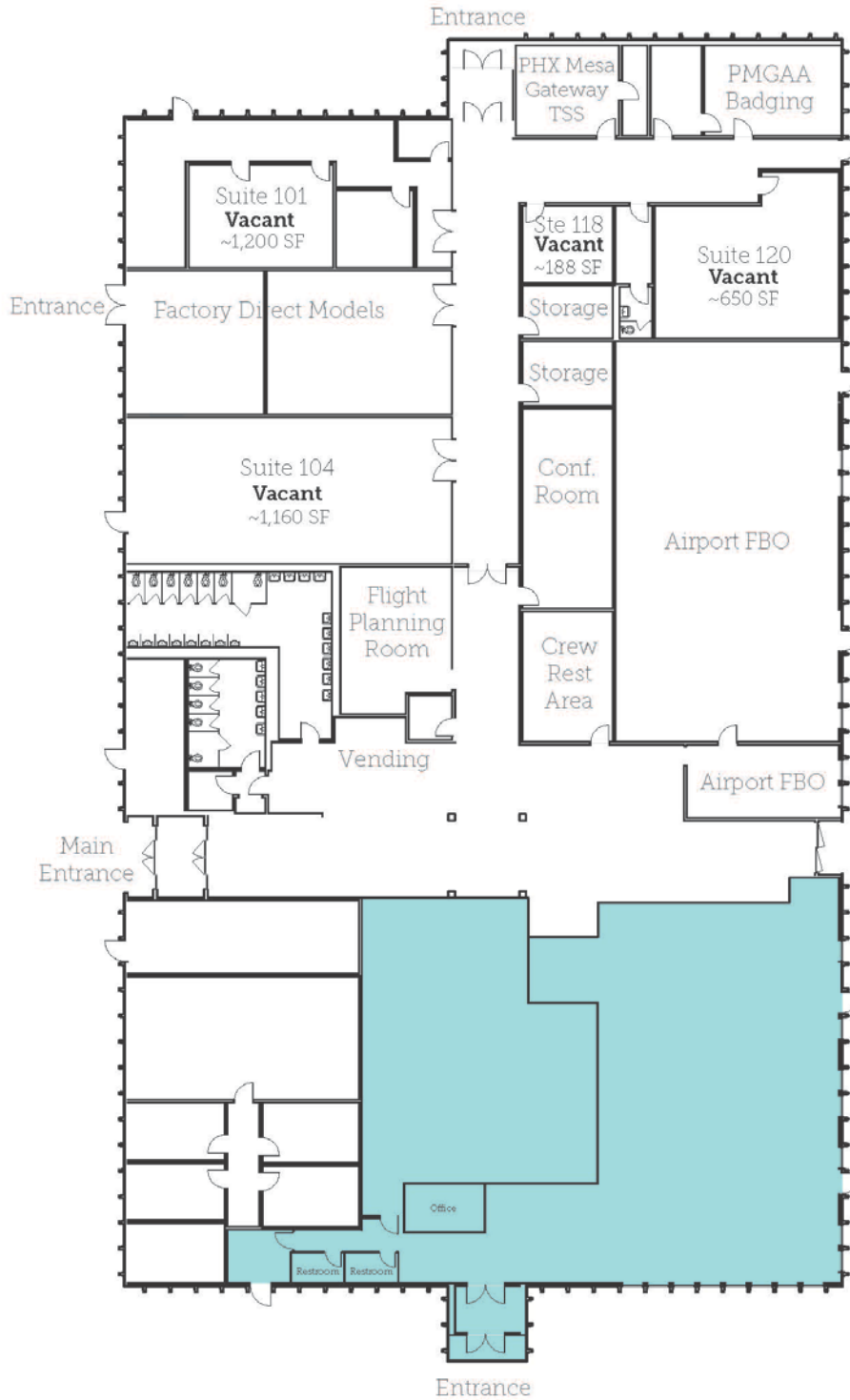


EXHIBIT B

Authorized Menu/Product Listing

- Breakfast
- Appetizers
- Soups and Salads
- Burgers
- Mexican Dishes
- Paninis
- Alcoholic Beverages – Beer and Wine
- Non Alcoholic Beverages – Soda, Ice Tea, Coffee

NOTE: The above may be subject to change. However, any change in product offering shall require a complete updating of this **EXHIBIT B**. Such update may be accomplished without formal amendment to this Agreement.

EXHIBIT C

Concession Floor Plan, Name and Theme

Barrio Brewing Company a Brewery themed restaurant offering contemporary and classic food and beverage to include alcoholic beverages, as well as catering to on and off airport customers

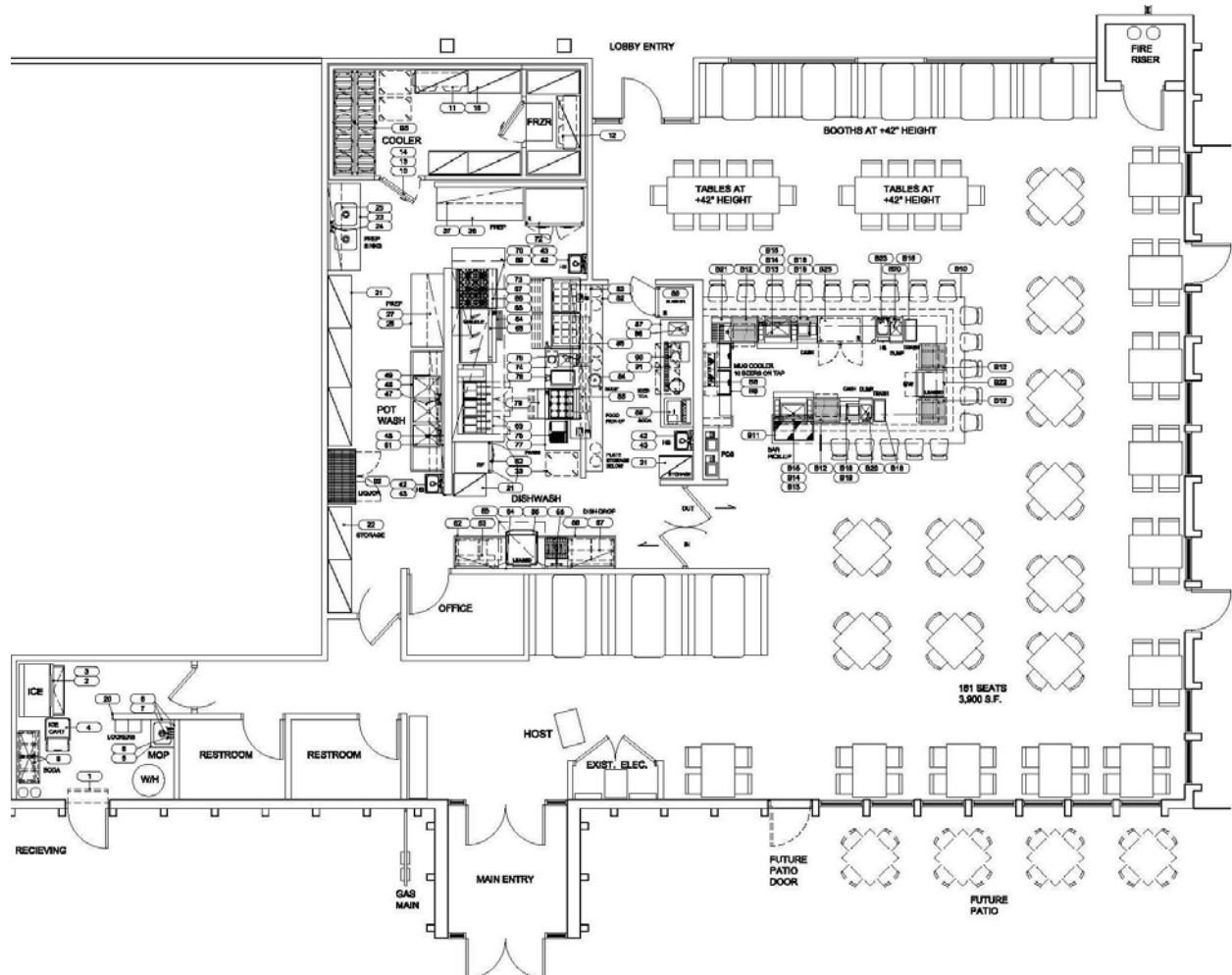


EXHIBIT D
Airport Rules and Regulations

<http://www.phxmesagateway.org/DocumentsAndFormsLibrary.aspx>