

LICENSOR: **MBJ AIRPORTS LIMITED** (herein after referred to as the Licensor)

**SANGSTER INTERNATIONAL AIRPORT
MONTEGO BAY, JAMAICA**

LICENCE NUMBER:

LICENCE DATE:

LICENSOR'S CONTACT PERSON:
Tel: **(876) 940-5034/971-6689**

LICENSEE: OPERATING NAME:

LICENSEE'S CONTACT PERSON:

Tel: (876)

Fax: (876)

Cell: (876)

THE LICENSOR HEREBY AUTHORIZES THE LICENSEE TO:
Display and sell the merchandise referred to in paragraph 8 of the attached terms and conditions under the operating name "NAME " from a retail modular unit (the "Retail Modular Unit") operating from the location(s) in the Terminal Building (the "Building") at the Sangster International Airport (the "Airport") as shown on the drawing(s) attached hereto as Schedule D (the "Location"), subject to the relocation provisions set out in paragraph 14 of the attached terms and conditions.

TERM:
For a period of X year commencing from X and ending X (the "Term"), subject to the cancellation provision as provided in paragraph 28 of the attached terms and conditions.

FEES:
The Licensee shall pay to the Licensor fees as set out in paragraph 1 of the attached terms and conditions plus all applicable taxes, including GCT. The License Fee shall be inclusive of electricity charges.

RETAIL MODULAR UNIT SIZE: xxxx.00 sq. ft **ARRIVALS Ground Transportation Arrivals Hall**

THE PARTIES ACKNOWLEDGE THEY HAVE READ, UNDERSTAND AND AGREE TO THE ATTACHED TERMS AND CONDITIONS. FOR DEFINITIONS USED IN THIS LICENCE, SEE SCHEDULE E ATTACHED.

IN WITNESS WHEREOF the authorized representatives of the parties have signed this Licence as of the Licence Date set out above.

LICENSEE: _____

For the Licensee

Title

For the Licensee

Title

"I/We have authority to bind the Licensee"

LICENSOR: MBJ AIRPORTS LIMITED

For the Licensor

Title

For the Licensor

Title

"I/We have authority to bind the Licensor"

TERMS AND CONDITIONS

1. Payment of Fees

(a) Minimum Annual Guaranteed ("MAG") Fees

Subject to paragraph 1(e), the Licensee shall pay to the Licensor MAG in the amount of **\$X** per annum payable by way of equal consecutive monthly instalments in the amount of **X** United States Dollars (**US\$X**) during the Term payable on the first day of each and every month during the Term.

(b) Percentage Fees

(i) The Licensee shall pay to the Licensor, in addition to MAG percentage fees (the "Percentage Fees") equal to xxx percent (xxx%) of its monthly Gross Revenue (in United States Dollars). Payments are permitted in Jamaican dollars using the Bank of Jamaica weighted average selling rate on the day preceding the date of the payment.

(ii) Within three (3) days after the end of each month of the Term, the Licensee shall furnish the Licensor with a written statement substantially in the form annexed hereto as Schedule A-1 or such other form as the Licensor may from time to time designate to the Licensee, signed and certified as correct by the Licensee or the Licensee's duly authorized agent, setting out in all reasonable detail the amount of the Gross Revenue for the immediately preceding month together with payment of the amount, representing Percentage Fees due for such month.

(iii) Within thirty (30) days after the end of the Term, the Licensee shall furnish the Licensor with a written statement substantially in the form annexed hereto as Schedule A-2 or such other form as the Licensor may from time to time designate to the Licensee, signed by the Licensee and certified as correct by the auditor of the Licensee (who shall be a chartered accountant or other licensed public accountant acceptable to the Licensor) setting out in all reasonable detail and in any event by months, the amount of Gross Revenue for the whole of the Term. If the aggregate amount of the Gross Revenue for the Term as reported monthly to the Licensor is less than the amount set out in such certified statement and if the result is a deficiency in Percentage Fees due for the Term, such certified statement shall be accompanied by a payment to the Licensor equal to the amount of such deficiency.

(iv) The Licensee agrees that should the Licensor install a cable or wireless system the Licensor shall agree to connect their cash register/cash reporting mechanism to the system. The expense of installing the Licensee equipment to the system shall be at the sole cost and expense of the licensee. The Licensor upon request shall access to all point of sales data of the Licensee throughout the Term.

(c) Gross Revenue

For the purpose of calculating the Percentage Fees payable hereunder, the term "Gross Revenue" shall have the following meaning ascribed to it:

Gross Revenue means the total sum of all revenue derived from the sale of all merchandise, food, beverages (including alcoholic and non-alcoholic beverages) and services (including finance charges thereon) sold by the Licensee from the Retail Modular Unit, or on or from any other place of business where delivery of such merchandise, food, beverages or services is made at the Airport, or by personnel operating from the Retail Modular Unit, and whether at wholesale or retail, and whether for cash, partly cash, credit, gift certificates, merchandise certificates, and all other receipts whatsoever of all business conducted at or from the Retail Modular Unit, or by personnel operating from the Retail Modular Unit, including all deposits not refunded to the purchaser, orders taken from the Retail Modular Unit or by personnel operating from the Retail Modular Unit (although such orders may be filled elsewhere), sales made by any sub-Licensee, sub-contractor, Licensee or licensee from the Retail Modular Unit, or by personnel operating from the Retail Modular Unit or reporting to or under the supervision of any employee or agent of a subtenant, subcontractor, Licensee or licensee from the Retail Modular Unit, and the gross amount of any insurance proceeds which directly or indirectly represent reimbursement or recovery for sales, revenues, receipts, gross profits or net profits lost, or which otherwise normally would have been realized or earned by the Licensee or any subtenant, subcontractor, Licensee or licensee because of the occurrence of business interruption covered by such insurance, regardless of whether those proceeds are identified as such reimbursement or recovery by the insurer or anyone acting on the insurer's behalf, or whether the proceeds are separated or segregated in connection with any insurance claim, payment or settlement and includes any revenues received by the Licensee in respect of advertising, subsidies from suppliers, sponsorship fees and rebates. Each sale upon instalment shall be treated as a sale for the full instalment sale price at the time of such sale, irrespective of the time when payment (whether full or partial) shall be received. Each lease of merchandise shall be treated as a sale in the month in which the lease was first contracted, for a price equal to the total amount of rent payable during the term of such lease. In the determination of Gross Revenue there may be deducted there from the amount of refunds upon merchandise sold from the Retail Modular Unit and returned, and sales taxes collected from customers (to the extent to which such taxes are included in Gross Revenue) and actually paid to the relevant taxing authorities.

(d) **Payments Generally**

All payments by the Licensee to the Licensor of whatsoever nature required or contemplated by this Licence shall be:

- (i) paid to the Licensor by the Licensee in lawful currency of the United States;
 - (ii) made when due hereunder, without prior demand therefor and without any set-off, compensation or deduction whatsoever, at the office of the Licensor at the Airport or such other place as the Licensor may designate from time to time in writing to the Licensee; and
 - (iii) applied towards amounts then outstanding hereunder, in such manner as the Licensor may see fit;
- (e) If the date of commencement of the Term is not the first day of a calendar month then the Licensee shall pay on such commencement date by way of MAG for the period from the Commencement Date to the last day of such calendar month inclusive an amount calculated by dividing the MAG for the first full calendar month of the Term by thirty (30) and multiplying by the number of days during such period. If the last day of the Term is not the last day of a calendar month then the Licensee shall pay on the first day of the month in which the Term expires as an instalment of MAG for the period from the first day of the month in which the Term expires to the last day of the Term an amount calculated by dividing the MAG for the last full calendar month of the Term by thirty (30) and multiplying by the number of days during such period.

2. **Payment of Interest**

The Licensee shall pay monthly to the Licensor interest at a rate equal to the lesser of the Prime Rate plus five (5%) percent per annum and the maximum rate permitted by applicable law upon all Fees required to be paid hereunder from the due date for payment thereof until the same is fully paid and satisfied.

3. **Rights of Inspection Audit**

- (a) The Licensor and any accountants or auditors appointed by the Licensor shall have the right during business hours and after written notice to the Licensee to inspect and, should the Licensor so elect, audit all records and supporting information as may be reasonably necessary to accurately determine or verify the Licensee's Gross Revenue.
- (b) If the Licensee fails to deliver any statement required by this Licence within the time limited therefor, the Licensor shall have the right thereafter to employ an independent accountant to examine such books and records as may be necessary to certify the amount of the Licensee's Gross Revenue for the preceding month or the Term, as the case may be, and the Licensee shall pay the amount of the Licensee's expenses in connection therewith, together with an administration fee of twenty percent (20%) of such expense, or such lesser rate as the Licensor may apply, to the Licensor on demand.
- (c) If the Licensee fails to permit the Licensor to exercise such rights, either by denying access to such books or records or because such books and records are non-existent or inadequate, the Licensee shall be deemed to be in default of the Licence.
- (d) If any audit by or on behalf of the Licensor should disclose an understatement of Gross Revenue in any statement delivered pursuant to this Licence, the Licensee shall immediately pay to the Licensor the amount of the deficiency in Percentage Fees and if the understatement is more than three percent (3%) of the amount disclosed in the said statement, the Licensee shall pay the Licensor for such audit together with an administration fee of twenty percent (20%) of such expense, or such lesser rate as the Licensor may apply, and the Licensor, at its option, may immediately terminate this Licence.
- (e) ~~In addition to the foregoing requirements of this paragraph 3, the Licensee agrees, upon written request, for the sole purpose of ascertaining fees (as defined by the Head Lease) payable by the Licensor to the Government of Jamaica under the Head Lease, to open its books and records for inspection or audit, or either, at any time or from time to time, by the chartered accountants or other representatives.~~

4. **No Prejudice**

The acceptance by the Licensor of payments of Percentage Fees shall be without prejudice to the Licensor's rights to determine or verify the Licensee's Gross Revenue and without prejudice to the right to collect any additional Percentage Fees found to be due thereby.

5. **Installation of the Retail Modular Unit**

The Licensee, at its sole cost and expense, shall provide and install the Retail Modular Unit at the Location. Notwithstanding the foregoing, the Licensee agrees that:

- (a) prior to installing the Retail Modular Unit at the Location, the Licensee must obtain the Licensor's prior written approval (such approval not to be unreasonably withheld or delayed) with respect to the type and standards of each Retail Modular Unit which it proposes to use at the Airport; and
- (b) it would be reasonable for the Licensor to withhold its approval to a request made pursuant to subparagraph 5(a) above if a Retail Modular Unit is not:
 - (i) in first class condition and repair; and/or
 - (ii) of a type or standard comparable to those used for similar purposes at North American International Airports.

6. **Electrical Supply**

The Licensee shall be responsible for connecting and maintaining the electrical supply at the Retail Module Unit at its sole cost and expense. The Licensor shall not, for any reason, be responsible for any power surges, fluctuations or stoppages in the electricity supplied, or for problems or damages arising therefrom, which shall be borne solely by the Licensee.

7. **Telephone Connection**

The Licensee shall be responsible for connecting to and maintaining a telephone line at the Retail Modular Unit at its sole cost and expense for the purpose of credit card authorization and debit card use.

8. **Permitted Use**

The Retail Modular Unit shall be used solely for the display, use, and sale of the merchandise identified in Schedule C attached hereto and such other merchandise as may be approved from time to time by the Licensor in writing. In any event, the Licensee covenants not to engage in: (i) any use of the Retail Modular Unit which is not a permitted use under this Licence and (ii) any purpose that is inconsistent with the use of the Airport as an International Airport. The Licensee must seek the prior written approval of the Licensor to offer for sale at the Retail Modular Unit, any additional products, not included in Schedule C, the grant of which is within the sole discretion of the Licensor. All displays or items for sale must be located on the Retail Modular Unit; not from anywhere else on the Airport property including the floor on which the retail modular unit is placed unless permission is obtained from the Licensor in writing, the grant of which is within the sole discretion of the Licensor.

9. **Pricing**

The Licensee shall offer the merchandise at such prices as approved by the Licensor and shall not increase the price of the merchandise without the prior written consent of the Licensor, which will not be unreasonably withheld. As a general principle, the Licensee agrees that its guiding policy will be to sell merchandise at rates based on "street pricing" and not rates based on "captive market" pricing.

10. **Disclosure of Gross Revenue Information**

Within ten (3) days after the end of each month during the Term, the Licensee shall deliver to the Licensor a written unaudited statement, signed by the Licensee, of the Licensee's Gross Revenue (in United States Dollars) for the immediately preceding month broken down by product category and product type, in such form as the Licensor may prescribe from time to time. It is understood and agreed that during the Term and any time thereafter, the Licensor may publish the details of any report or reports by the Licensee of Gross Revenue (broken down by product category and product type).

11. **Covenant to Operate**

The Licensee shall throughout the whole of the Term continuously operate its business from the Location/s in compliance with the provisions of this Licence and shall be open for business each and every day during the Term during operating hours prescribed from time to time by the Licensor as being applicable to the Location. For greater certainty, the Licensor may from time to time prescribe seasonal operating hours. The Licensee acknowledges that the Licensor is executing this Licence in reliance upon the Licensee's covenant herein contained and that such covenant is a material element inducing the Licensor to execute this Licence.

The Licensee acknowledges that the regular conduct of its business at the Location is of the utmost importance to other Licensees in the Airport and to the Licensor in the licensing of space therein, the renewal of other Licenses, the efficient and economic supply of services and utilities, the maintenance of guaranteed rents and percentage fees, the payment of fees by other Licensees and the character and quality of other Licensees. The Licensee therefore covenants and agrees that it will, throughout the Term, continuously occupy and actively carry on business with the public in the whole of the Location/s with due diligence and efficiency so as to produce all of the Gross Revenue which reasonably may be produced by its business, and in particular the Licensee shall:

- (a) undertake to operate the Location/s as a distinct and separate business entity whose revenues, expenses and financial records/ statements will be maintained independently and not combined or consolidated with any other entity or branch of the applicant.
- (b) keep on during all business hours an adequate complement of trained and experienced staff and a full and complete stock of merchandise;
- (c) promote the use of distinctive trade names and symbols for the Airport as may be designated by the Licensor from time to time;
- (d) maintain high quality displays and shall keep the displays and signs well lit during hours of business;

and if the Licensee fails to do so:

(i) the Licensee will pay the Agreed Damages and Late Opening Fees set out in Schedule B hereof in addition to all other amounts payable under this License for each day on which the Licensee fails to carry on its business with the public in the whole of the Location/s; and

(ii) If the Licensee is not open for business on the commencement date of this Licence, the Licensee will pay either US\$500.00 or US\$2.50 per square foot per day, whichever is greater, for each day upon which the Licensee fails to carry on its business with the public in the whole of the Location/s; and

(iii) The Licensor shall be entitled to obtain an injunction and or order for specific performance of the Licensee's covenant to carry on business at the Location in a court of competent jurisdiction to restrain the Licensee from defaulting under the provisions of this License and a mandatory injunction to compel the Licensee to open or re-open for business with the public in the whole of the Location/s in accordance with this License either upon the Licensee defaulting under this Licence or upon the Licensor establishing by affidavit or other evidence that the Licensor has reasonable cause to believe that the Licensee is about to default thereunder.

12. **Alterations**

The Licensee shall not make any improvements or alterations to any facilities at the Airport including equipment, utility services or electrical and other wiring, without first having obtained a facility permit (the "Facility Permit"), duly issued by or on behalf of the Licensor. The Licensee agrees to make the alterations at the Licensee's cost, in accordance with the requirements, terms and conditions specified in the Facility Permit, and thereafter maintain the said alterations at the cost of the Licensee and to the satisfaction of the Approving Authority. The Licensee shall, in all respects, comply with the standard policies of the Approving Authority for the issuing of Facility Permits and other matters relating to land development and construction at the Airport, whether created before or after the date of this Licence, all as may be amended from time to time, and together with any rules and regulations referred to therein.

13. **Cleaning, Maintenance and Repair**

The Licensee, at its sole cost and expense, shall at all times keep the Retail Modular Unit in first-class condition and repair, in a clean, neat and sanitary condition and free from any damage. The Licensee shall not allow any refuse, garbage or other loose or objectionable or waste material to accumulate on or about the Retail Modular Unit. The Licensee agrees to clean the exterior of the Retail Modular Unit daily to the satisfaction of the Licensor.

14. **Relocation**

Notwithstanding any other provisions of this Licence, at any time during the currency of this Licence, the Licensor, upon no less than forty-eight (48) hours prior written notice, shall have the right to require the Licensee to relocate the Retail Modular Unit to one or more different locations, either on a temporary basis or for the remainder of the Term. The Licensee shall immediately move to such new location at its sole cost and expense and without any right of compensation for business interruption or any lost or diminished business.

15. **Risks**

The Licensor shall not be responsible in any way for any injury to any person or for any loss of or damage to any property belonging to the Licensee, its officers, invitees, agents or employees, including but not limited to any loss or damage caused by theft, breakage, steam, water, rain or attributable to electric or other wiring or caused by smoke unless such loss, damage or injury was caused due to the negligence of the Licensor or persons for whom it is in law responsible. Under no circumstances shall the Licensor be liable for indirect or consequential damage by reason of interruptions to any service or facility or for any business loss.

16. **Indemnification**

The Licensee shall indemnify and hold harmless each of the Licensor and Government of Jamaica, their respective directors, officers, agents and employees and the Government of Jamaica, its councillors, officers, agents and employees, from and against all liabilities, losses, suits, claims, demands, fines, damages, costs and expenses (including all costs for investigation and defence thereof) based upon or attributable to this Licence or any actions taken or things done by the Licensee, its officers, invitees, agents or employees unless such damage or injury was caused due to the negligence of the Licensor or any other person for whom it is in law responsible.

17. **Damage**

Any damage which may, during the existence of this Licence be occasioned to the Licensor's property or any part thereof, or works connected therewith, by the Licensee or the activities of the Licensee, shall forthwith upon notice thereof from the Licensor given orally or in writing, be repaired, rebuilt, replaced and restored by the Licensee, at its sole cost and expense, to the reasonable satisfaction of the Licensor, or the Licensor may, at its option, repair such damage in which case the Licensee shall upon demand forthwith repay and reimburse the Licensor for all reasonable costs and expenses connected therewith or incidental thereto.

18. **Insurance**

The Licensee shall maintain at all times during the currency of this Licence general liability insurance, for an amount of coverage and in a form acceptable to the Licensor. Proof of required insurance shall be provided to the Licensor before the Licensee commences any activities under this Licence. The Licensee acknowledges that the Licensor's current insurance requirements are more fully set out in Schedule F attached hereto.

19. **Schedules**

All schedules and attachments to this Licence are incorporated into and form an integral part of this Licence.

20. **Entire Agreement**

This Licence constitutes the entire agreement between the parties with respect to the subject matter hereof, and any representation or statements heretofore made with respect to such subject matter whether oral or written are merged herein. This Licence may be altered or amended only by written instrument executed by both parties hereto.

21. **Head Lease**

- (a) This Licence and the interest of the Licensee hereunder is subject to all the terms and conditions of the Head Lease. The Licensor and Licensee acknowledge and agree that the Head Lease requires that this Licence contain certain covenants, obligations and agreements and the parties agree those provisions are deemed to be incorporated into this Licence as if they were set forth in this Licence and to the extent of a conflict between the terms of the Head Lease and the specific terms of this Licence, the terms of the Head Lease shall prevail and the Licensee agrees to do all things necessary to enable compliance by the Licensor with the Head Lease.
- (b) The Licensee acknowledges and agrees that notwithstanding the entering into of this Licence, no privity of estate or privity of contract shall arise as between the Licensee and the Licensor and/or the Government of Jamaica and/or as between the Licensee and the Airports Authority of Jamaica.
- (c) The Licensee acknowledges that should the Licensor default in its obligations under the Head Lease and should the Head Lease be terminated prior to the expiration of the Term, the Airports Authority of Jamaica and/or the Government of Jamaica, in its sole and unfettered discretion, to require the Licensee to attorn its interest hereunder to the Airports Authority of Jamaica and/or the Government of Jamaica, in which event, the Licensee shall forthwith attorn such interest to the Airports Authority of Jamaica and/or the Government of Jamaica.

22. **Assignment**

The Licensee shall not assign or transfer this Licence in whole or in part without the prior written consent of the Licensor, which consent may be unreasonably withheld.

23. **Compliance with Regulations and Laws**

The Licensee shall abide by and comply forthwith at its expense with all laws, regulations, requirements and recommendations made by the Government of Jamaica or other authorities and all directions as may be issued from time to time by the Licensor concerning the operation of the Airport and the Building. Without limiting the generality of the foregoing, the Licensee, at its sole cost, shall ensure compliance with all environment, zoning, licensing, public health and safety requirements.

24. **Access**

The Licensor's directors, officers, employees and agents and any other person the Licensor may authorize shall, at all times and for all purposes have full and free access to the areas used by the Licensee pursuant to this Licence.

25. **Default or Breach**

- (a) Upon default or breach in respect of any provision or condition herein, the Licensor may, on reasonable notice, retake possession of the Location and any other areas used by the Licensee under this Licence and thereupon, the Licensee shall forthwith remove therefrom the Retail Modular Unit, together with all merchandise and all other property and upon its failure to do so, same shall, at the sole option of the Licensor, become the property of and shall vest in the Licensor, without any right of compensation on the part of the Licensee therefor.
- (b) Any breach or default on the part of the Licensee under any other licence (including, without limiting the generality of the foregoing, under the existing licence) to which the Licensee is a party with the Licensor in connection with the Airport shall also constitute default on the part of the Licensee under this Licence, and if as a result of such breach or default the Licensor is entitled to terminate any such other licence, then the Licensor shall be entitled to immediately terminate this Licence. Likewise, any breach or default on the part of the Licensee under this Licence shall constitute a default under such other licence (including, without limiting the generality of the foregoing, under the existing licence). On default of payment of fees or other monies under this Licence, the Licensor shall be entitled to recover such fees or other monies as rent, fees or other monies (as the Licensor may elect) due and owing to the Licensor under any (as the Licensor may elect) such other licence (including, without limiting the generality of the foregoing, under the existing licence) and the Licensor shall have available to it all of the remedies as are available thereunder. On default of payment of fees, rent or other monies under any such other licence (including, without limiting the generality of the foregoing, under the existing licence), the Licensor shall be entitled to recover such fees or other monies as fees due and owing to the Licensor under this Licence and shall have available all of the remedies as are available under this Licence.

26. **Signage and Displays**

The Licensee shall not conduct any advertising at the Airport or construct, erect, place, apply or install any graphics, design, poster, sign or display at the Airport or on the Retail Modular Unit without first obtaining the written consent of the Licensor. The Licensee acknowledges that the Licensor has or will enter into agreements with third parties regarding advertising at the Airport and that it would be reasonable for the Licensor to withhold its consent to a request made pursuant to this paragraph 26 in situations where to grant such consent would contravene the Licensor's contractual obligations to such third parties. The cost of installing, maintaining, changing and removing all advertising, graphics, designs, posters, signs or displays shall be borne by the Licensee.

27. **Nuisance**

The Licensee shall not do or permit to be done any act or thing at the Airport which is or would constitute a nuisance to the lands or premises of the Licensor, to the operations of the Airport, to the occupiers of any lands or premises at the Airport or to the public generally.

28. **Cancellation**

This Licence may be cancelled or terminated at any time by the Licensor giving thirty **(30) days** prior notice in writing to the Licensee, and thereupon after the expiration of such period of notification this Licence shall be determined and ended. This Licence may only be cancelled or terminated by the Licensee giving the Licensor a minimum of thirty (30) days written notice and only after at least six (6) months of the Term has elapsed.

29. **Continued Operations**

If the Licensee continues its operations after the end of the Term of this Licence and without the execution and delivery of a new licence or written renewal or extension of this Licence, then the Licensee will be considered to be conducting its operations on a month to month basis at the sufferance of the Licensor, and during such period of continued operations, the parties shall be subject to the covenants and conditions herein contained except as to length of term.

30. **Airport Security**

The Licensee shall comply with Airport Security Rate and Regulations and with the Licensor's security measures as provided in any rules and regulations established by the Licensor from time to time, including but not limited to those relating to restricted area passes, personnel identification systems and security clearance procedures, and shall pay to the Licensor on demand all charges levied by the Licensor for those security measures. The Licensee is solely responsible for securing or providing security for the Retail Modular Unit, the Licensee, its employees or invitees or any property belonging to the Licensee at its own cost.

31. **The Government of Jamaica and the Airports Authority of Jamaica Not Responsible**

The Licensee acknowledges and agrees that in no event is the Government of Jamaica liable or responsible in any way to the Licensee or any other person for any injury, loss, loss of profits, damages, consequential or indirect damages or for any claims resulting from any matter affecting any Airport infrastructure, whether or not the Airport infrastructure, as the case may be, was constructed by the Government of Jamaica and whether or not the matter affecting the Airport infrastructure is caused or contributed to by any fault, default, negligence, act or omission of the Government of Jamaica or any person for where the Government of Jamaica may be responsible in law.

32. **Security for Payment**

- (a) The Licensee shall, upon execution of this Licence by the Licensee, deliver to the Licensor as Security for Payment, a Manager's Cheque equal to the first (1st) and last two (2) months MAG, in the amount of **xxxxxx Hundred United States Dollars (US\$xxxxxx)** issued in favour of the Licensor.
- (b) The Licensor may elect to accept the Security for Payment by Manager's cheque or Bank Guarantee in the form as per Schedule H.
- (c) In the event the Licensee is in arrears of payment to the Licensor of any fees or any other sum payable by the Licensee to the Licensor, and such default continues for five (5) days following notice by the Licensor requiring the Licensee to pay the same, the Licensor may, in addition to any other right or remedy, draw on the security to pay the arrears or deduct the arrears from the security deposit, as the case may be.
- (d) The Licensee shall provide the Licensor with replacement security immediately after any drawing by the Licensor on the security. The Licensor may draw the full amount of the Security Payment and hold the funds as a security deposit pursuant to this paragraph 32. (a) above failing which THIS AGREEMENT SHALL BE CONSIDERED NULL AND VOID.
- (e) The Licensee shall, immediately after the Licensor deducts arrears from the security deposit, deposit an additional security deposit in the amount of such arrears with the Licensor.
- (f) The Licensor shall have the right on at least thirty (30) days prior notice to the Licensee to increase or decrease the amount of the security that the Licensee is required to maintain hereunder.
- (g) At the end of the Term and upon payment by the Licensee to the Licensor of all fees and any other amounts payable under this Licence, including all costs and expenses incurred by the Licensor in correcting or satisfying any default or fulfilling any obligation of the Licensee under this Licence, the Licensor shall prepare a Manager's Cheque and return any unused security deposit to the Licensee, without interest.

33. **Character of Business**

- (a) The Licensee shall operate and conduct its business from the Retail Modular Unit in an up-to-date first class and reputable manner befitting the character of the Airport and the Building and shall act diligently and use all proper and reasonable efforts consistent with good business practice to achieve the highest degree of customer satisfaction for service and product choice, quality, and price, and, subject to the foregoing, to maximize the Gross Revenue of the Licensee and hence the Percentage Fees payable to the Licensor.
- (b) The Licensee shall engage sufficient and suitable personnel and equipment to provide a standard of service that is safe, prompt, reliable, efficient, friendly and polite, and personnel shall be trained to achieve those ends and shall be properly groomed and attired all to the reasonable satisfaction of the Licensor.

34. **United States Customs**

If the Retail Modular Unit is ever located in a part of the Building that is being used for United States bound flights and the movement of passengers who have pre-cleared United States customs, the Licensee shall abide by and comply at its expense with all requirements of the Government of the United States.

35. **Performance**

The Licensee will comply with and perform the provisions and requirements set out in Schedule B.

36. **Applicable Law, Court**

- (a) This Licence shall be governed and construed by the laws of Jamaica.
- (b) The venue of any proceedings taken in respect of this Licence shall be at Montego Bay, Jamaica, so long as such venue is permitted by law, and the Licensee shall consent to any applications by the Licensor to change the venue of any proceedings taken elsewhere to Montego Bay, Jamaica.

END OF TERMS AND CONDITIONS. SEE ATTACHED SCHEDULES A-1, A-2, B, C, D, E, F and G

SCHEDULE A-1

STATEMENT OF MONTHLY GROSS REVENUE AND PERCENTAGE FEES

DATE: _____

TO: MBJ AIRPORT LIMITED (Licensor)

FROM: _____ (Licensee)

LICENCE DATED _____

THE FOLLOWING IS A TRUE AND ACCURATE STATEMENT OF THE GROSS REVENUE (as defined in our Licence) for the stated month

GROSS REVENUE THIS MONTH - _____, 20_ 1) \$ _____

PERCENTAGE FEES: AT ____% OF GROSS REVENUE FOR THE MONTH 2) \$ _____

PLUS MAG FEE FOR THIS MONTH 3) \$ _____

FEES REQUIRED TO BE PAID PER THIS STATEMENT (2 PLUS 3) 4) \$ _____

GENERAL CONSUMPTION TAX 5) \$ _____

TOTAL (4 Plus 5) 6) \$ _____

Certified Correct By: _____

Title: _____

SCHEDULE A – 2

STATEMENT OF GROSS REVENUE AND PERCENTAGE FEE EACH LICENCE YEAR

DATE: _____

TO: MBJ AIRPORT SERVICES LIMITED (Licensor)

FROM: _____ (Licensee)

LICENCE DATED _____ LICENCE NO. _____

THE FOLLOWING IS A TRUE AND ACCURATE STATEMENT OF GROSS REVENUE (as defined in our Licence) FOR THE LICENCE YEAR

PERIOD	GROSS REVENUES	(1) PERCENTAGE FEES	(2) MAG	SUMMATION OF	GCT	TOTAL TO PAY
		% OF GROSS REVENUE	MONTHLY FEE	(1) AND (2)		
LICENSE MONTH 1						
LICENSE MONTH 2						
LICENSE MONTH 3						
LICENSE MONTH 4						
LICENSE MONTH 5						
LICENSE MONTH 6						
LICENSE MONTH 7						
LICENSE MONTH 8						
LICENSE MONTH 9						
LICENSE MONTH 10						
LICENSE MONTH 11						
LICENSE MONTH 12						

Certified Correct By: _____

Title: _____

SCHEDULE B

PERFORMANCE REQUIREMENTS

1. Acknowledgement and Agreed Damages

The Licensor and the Licensee acknowledge that if the Licensee fails to continuously operate its business from the Retail Modular Unit in compliance with the provisions of this Licence or fails to adhere and comply with the hours of operation prescribed by the Licensor pursuant to this Licence, then such failure impacts on the revenue that the Licensor is able to generate under this Licence and from other concession operators in the Building, including percentage fees payable to the Licensor under this Licence and percentage fees and percentage rent payable by such other concession operators, and that the Agreed Damages Sum (defined below) represents an agreed genuine pre-estimate of such damages.

If the Licensor retakes possession or terminates this Licence, under paragraph 25 of this Licence, or, in connection with any breach or default by the Licensee, under any other provisions of this Licence, then Licensee shall pay to the Licensor on demand the Agreed Damages Sum.

The "Agreed Damages Sum" means the amount equal to the Percentage Fees payable under this Licence for the two month period immediately preceding the date the Licensor retakes possession or terminates this Licence under paragraph 25 of this Licence.

The Licensor may, but is not obligated to, elect to waive or forego all or part of the Agreed Damages Sum. The Licensor advises licensees that in considering whether to waive or forego all or part of the Agreed Damages Sum, the Licensor will consider the following:

- (a) whether the Licensor considers that the Licensee has made genuine and earnest best efforts to be successful and to maximize Gross Revenue;
- (b) the Licensee's record of compliance with the hours of operation prescribed by the Licensor pursuant to this Licence;
- (c) any non-compliance by the Licensee with the other terms and conditions of this Licence;
- (d) co-operation by the Licensee with the Licensor; and
- (e) such other factors and circumstances as the Licensor may consider to be relevant.

As previously stated, real financial loss is experienced by the Licensor where a licensee fails to continuously operate or fails to adhere and comply with the hours of operation prescribed by the Licensor and other terms and conditions of this Licence; but the Licensor does not include this provision in this Licence with the primary objective of recovering revenue from the collection of the Agreed Damages Sum from licensees who have failed to perform despite genuine and earnest best efforts. Rather, this provision is included in order to enable the Licensor to differentiate between licensees who are maenuine and earnest best efforts to comply and perform, and those who have not, and to assist the Licensor in promoting and encouraging compliance.

2. Enforcement Measure Without Resorting to Termination

- (a) If from time to time the Licensor is dissatisfied with any aspect of the Licensee's compliance and performance with the requirements of this Licence, then the Licensor may, subject to paragraph 2(b) below, give written notice to that effect to the Licensee. Such notice shall refer to this paragraph 2 of this Schedule B. If, after such notice has been given, the Licensor continues to be dissatisfied, then the Licensor may, by notice or invoice given by the Licensor to the Licensee, levy a charge of UP TO US\$1,000.00 which the Licensee will pay with the next monthly payment due under this Licence (or within 15 days, whichever is sooner). Such charge shall not be levied more frequently than once per month.
- (b) Before any notice is given under paragraph 2(a) of this Schedule B, the Licensor must have at least once, within the period of 15 days preceding such notice, communicated to the Licensee in writing its dissatisfaction with the matter.
- (c) The objective of this provision is not principally to serve as a financial remediation to the Licensor; rather, the objective is to serve as a means for the Licensor to meaningfully express to the Licensee that the Licensor is dissatisfied with the Licensee's performance, without resorting to retaking of possession or termination under paragraph 25 of this Licence or any other provision of this Licence. The Licensee acknowledges that failure by the Licensee to comply and perform in accordance with the provisions of this Licence results in costs (including costs of staff for management and enforcement) to the Licensor and impacts on the revenue that the Licensor is able to generate under this Licence and from other concession operators in the Building (who may be less inclined to comply and perform, if others do not comply and perform) and including percentage fees payable to the Licensor under this Licence and percentage fees and percentage rent payable by such other concession operators, and that such costs and lost revenue exceed the revenue that might be recovered by the collection of charges levied under paragraph 2(a) of this Schedule B.

3. **Late Opening or Failure to Open Within the Prescribed Opening Time**

If the Licensee fails to open for business within 15 minutes of the prescribed opening time then the Licensor may remove the Retail Modular Unit to a non-public area, and the Licensor may refuse or decline to allow the Retail Modular Unit to be returned to its location during any period of heavy traffic or if the Licensor does not have surplus staff available to return it. Unless otherwise approved by the Licensor, movement of the Retail Modular Unit will be carried out only by the Licensor's staff. The Licensor may charge for its staff, for such removal and return, at an hourly rate that the Licensor would have to pay if the Licensor engaged a third party (as reasonably determined by the Licensor) plus an administration fee of US\$100.00 for each instance. The Licensee will pay such charge and administration fee with the next monthly payment due under this Licence. The Licensee will be responsible for any loss or damage to the Retail Modular Unit or to the Licensee's goods or merchandise.

Where the Licensee fails to open on time on three or more occasions in any 30 day period, the Licensor may immediately terminate this Licence.

SCHEDULE C
MERCHANDISE LISTING

SCHEDULE D

LOCATION

- See attached drawing(s) -

SCHEDULE E

DEFINITIONS

"Building" means the buildings, structures and improvements from time to time erected in, upon or under the Land and all alternations, additions and replacements thereto.

"License" means this License and all Riders and Schedules attached hereto which are referred in this License and every properly executed instrument which by its terms amends, modifies or supplements this License, and includes the rights, obligations and interests arising hereunder and thereunder, but does not include any renewal of this License, any New License or any License pursuant to which this License has been entered into.

"License Year" means each successive period of twelve (12) months (if any) during the Term commencing on the Commencement Date or on any other date specified by THE LICENSOR from time to time; provided that if the first License Year commences on a day other than the first day of the month, it shall continue until twelve (12) months after the last day of the month in which it commences unless the License is sooner terminated as herein provided; and provided that if and whenever THE LICENSOR deems it necessary for THE LICENSOR'S accounting purposes, THE LICENSOR may by written notice to the Licensee specify the date upon which each subsequent License Year is to commence and in such event the then current License Year shall terminate on the day preceding the date specified in the notice and any appropriate adjustment shall be made in respect of any License Year which is as a result less than twelve (12) calendar months; and provided further that the last License Year shall end on the last day of the Term even if it is less than twelve (12) months.

"Prime Rate" means the rate of interest per annum established from time to time by The Bank of Nova Scotia (or such other bank being a class A chartered bank as THE LICENSOR may designate from time to time) at its head office in Montego Bay, Jamaica as the reference rate of interest to determine interest rates it will charge on United States Dollars loans to its Jamaican customers and which it refers to as its "prime rate".

"Retail Module Unit-Kiosk" means those premises (including the Licensed Premise) in the Airport that are designated or intended by THE LICENSOR from time to time to be used and occupied by businesses, which sell or License goods or service, or provide entertainment to the public.

SCHEDULE F

INSURANCE

1.1

- (a) The Licensee shall purchase, provide and at all times maintain during the currency of this Licence comprehensive general liability insurance against claims for personal injury, including death, and loss or damage to property arising as a result of this Licence or the Licensee's operations hereunder in an amount not less than One Million United States Dollars (US\$200,000.00) per occurrence and shall purchase, provide and maintain other insurance coverage and increase limits as may be required from time to time by the Licensor or any other competent authority.
- (b) The Licensee shall cause each and every policy of the insurance to:
- (i) name each of the Licensor, Government of Jamaica and the Airports Authority of Jamaica as an additional insured thereunder;
 - (ii) be primary to and non-contributing with any other insurance;
 - (iii) be in a form and with insurers satisfactory to the Licensor;
 - (iv) contain an "agency and trustee" clause;
 - (v) contain a "severability of interest" and "cross-liability" clause;
 - (vi) contain a prohibition against cancellation or suspension or material change that reduces or restricts the insurance except on no less than thirty (30) days' prior written notice to the Licensor;
 - (vii) contain a waiver of any subrogation rights that the insurers may have against the Licensor, Government of Jamaica and the Airports Authority of Jamaica; and
 - (viii) be signed by the insurer or insurers responsible for the risks insured against.

The Licensee shall ensure that no policy shall contain an exclusion that removes coverage because the insured's premises or operations are located at the Airport.

- (c) The Licensee shall, prior to its effective date, deliver to the Licensor detailed insurance certificates and/or binders of any policy of insurance and shall provide evidence that any such policy is in full force and effect. At least ten (10) days prior to expiry of each policy of insurance, the Licensee shall provide to the Licensor evidence of renewal of such insurance. The Licensee shall, within sixty (60) days of the effective date of each such policy, deliver to the Licensor a certified copy of any such policy. Delivery to and examination by the Licensor of any detailed insurance binder or any policy of insurance or other evidence of insurance in no way shall relieve the Licensee of any of its obligations to insure in strict compliance with the provisions of this Schedule F, and in no way shall operate as a waiver by the Licensor of any of its rights.
- (d) The Licensee shall not do or omit to do or suffer anything to be done or omitted to be done on the Airport which will in any way impair or invalidate such policy or policies.
- (e) Every policy shall contain a provision that written notice of cancellation or suspension shall be promptly given to the Licensor.
- (f) If, during the Term, the Licensor, Government of Jamaica or the Airports Authority of Jamaica establishes new or amended insurance requirements which apply to the Airport's use, whether under the Head Lease or otherwise, the Licensee agrees to amend or supplement the coverage identified herein and maintain, at its own cost, such amended or supplemented insurance coverage. Any such amendments or supplements to insurance coverage arising out of this paragraph are to be determined by the Licensee and the Licensor, acting reasonably, and are to be consistent with the applicable new or amended insurance requirements established by the Licensor, Government of Jamaica or the Airports Authority of Jamaica.

SCHEDULE G

RULES AND REGULATIONS

1. The Licensee shall not perform any acts or carry on any practice, which may damage the Common Elements or be a nuisance to any other Licensee in the Project.
2. Any Person entering and leaving the Building at any time other than during normal business hours shall register in the books kept by MBJ and MBJ will have the right to prevent any Person from entering or leaving the Building unless provided with a key to the Licenced Premises or pass in a form to be approved by MBJ. MBJ shall be under no responsibility for failure to enforce this rule.
3. In regard to the use and occupancy of the Licenced Premises and Common Elements, the Licensee shall:
 - (a) at its expense, keep the inside and outside of all glass in the doors and windows of the Licenced Premises clean;
 - (b) at its expense, keep all exterior storefront surfaces of the Licenced Premises clean;
 - (c) replace promptly, at its expense, any cracked or broken window glass of the Licenced Premises with glass of like kind and quality;
 - (d) maintain the Licenced Premises, at its expense, in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pest, and the Licensee shall use at the cost of the Licensee such pest extermination contractor as MBJ may direct and such intervals as MBJ may require;
 - (e) at its expense, keep any garbage, trash, rubbish or refuse in containers as approved by MBJ within the interior of the Licenced Premises until removed as herein provided;
 - (f) at its expense, have such garbage, trash, rubbish and refuse removed at its expense on a regular basis as prescribed by MBJ;
 - (g) at its expense, keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the Licenced Premises;
 - (h) at its expense, light the show windows of the Licenced Premises and exterior sign, if any, each night of the year to the extent required by MBJ or during such hours and on such days as are designated from time to time by MBJ;
 - (i) ensure that all loading and unloading of goods shall be done only at such times, in the areas, and through the entrances designated for such purposes by MBJ. The delivery or shipping of merchandise, supplies and fixtures to and from the Licenced Premises shall be subject to such controls in the judgment of MBJ as necessary for the proper operation of the Licenced Premises and/or the Project;
 - (j) permit window cleaners to clean the windows of the Licenced Premises only during those hours when the Airport shall not be open for business.
4. In regard to the use and occupancy of the Licensed Premises and the Common Elements, the Licensee shall not:
 - (a) place or maintain any merchandise or other articles in any vestibule or entry of the Licenced Premises, on the footwalks adjacent thereto or elsewhere on the exterior of the Licenced Premises or Common Elements;
 - (b) use trading stamps;
 - (c) use or permit the use of any objectionable advertising medium such as, without limitation, loudspeakers, phonographs, public address systems, sound amplifiers, radio, broadcast or television apparatus with in the Airport which is in any manner audible or visible outside the Licenced Premises;
 - (d) permit undue accumulations of garbage, trash, rubbish or other refuse in the Licenced Premises or elsewhere in or adjacent to the Project;
 - (e) cause, suffer or permit odours to emanate or be dispelled from the Licenced Premises, and upon direction of MBJ shall forthwith, at the Licensee's expense, remedy any situation resulting in a breach of this provision;
 - (f) solicit business in the Common Elements;
 - (g) distribute handbills or other advertising matter to, in or upon any automobiles parked in the Common Elements;

- (h) permit the parking of delivery vehicles so as to interfere with the use of any driveway, walkway, parking area, mall or other Common Elements in the Project;
- (i) mount or place an antenna of any nature on the exterior of the Licenced Premises;
- (j) use the plumbing facilities for any other purposes than that for which they are constructed, and no foreign substance of any kind shall put therein, and the expense of any breakage, stoppage or damage resulting from a violation of this provision shall be borne by the Licensee;
- (k) use any part of the Licenced Premises for lodging, sleeping or any illegal purpose;
- (l) cause, permit or suffer any machines selling merchandise, rendering services or providing, however operated, entertainment, including vending machines, to be present on the Licenced Premises unless consented to in advance in writing by MBJ;
- (m) place or cause to be placed any additional locks upon any doors of the Licenced Premises without the approval of MBJ and subject to any conditions imposed by MBJ;
- (n) bring in and take out, position, construct, install or remove any safe or other heavy equipment or furniture without first obtaining the consent in writing of MBJ. In giving consent, MBJ shall have the rights in its sole discretion, to prescribe the weight permitted and the position thereof. All damage done to the building by moving or using any such safe, heavy equipment or furniture shall occur only during those hours when the Airport shall not be open for business or any other time consented to by MBJ, and any Person employed to move the same in and out of the Licenced Premises shall be acceptable to MBJ.

5. When required by a governmental authority having jurisdiction, the Licensee will provide within the Licensed Premises facilities or accommodation for garbage and waste and its disposal and pick-up as required.

6. Any hand trucks, carryalls, or similar appliances used any building in the Airport shall be equipped with rubber tires, side guards and such other safeguards as MBJ shall require.

No animals or birds shall be brought into the Licensed Premises except as permitted by this Licence.

SCHEDULE H
FORM OF BANK GUARANTEE