# Addendum # 4

# REQUEST FOR PROPOSALS

## FOR THE DEVELOPMENT, OPERATION AND MAINTENANCE OF AN

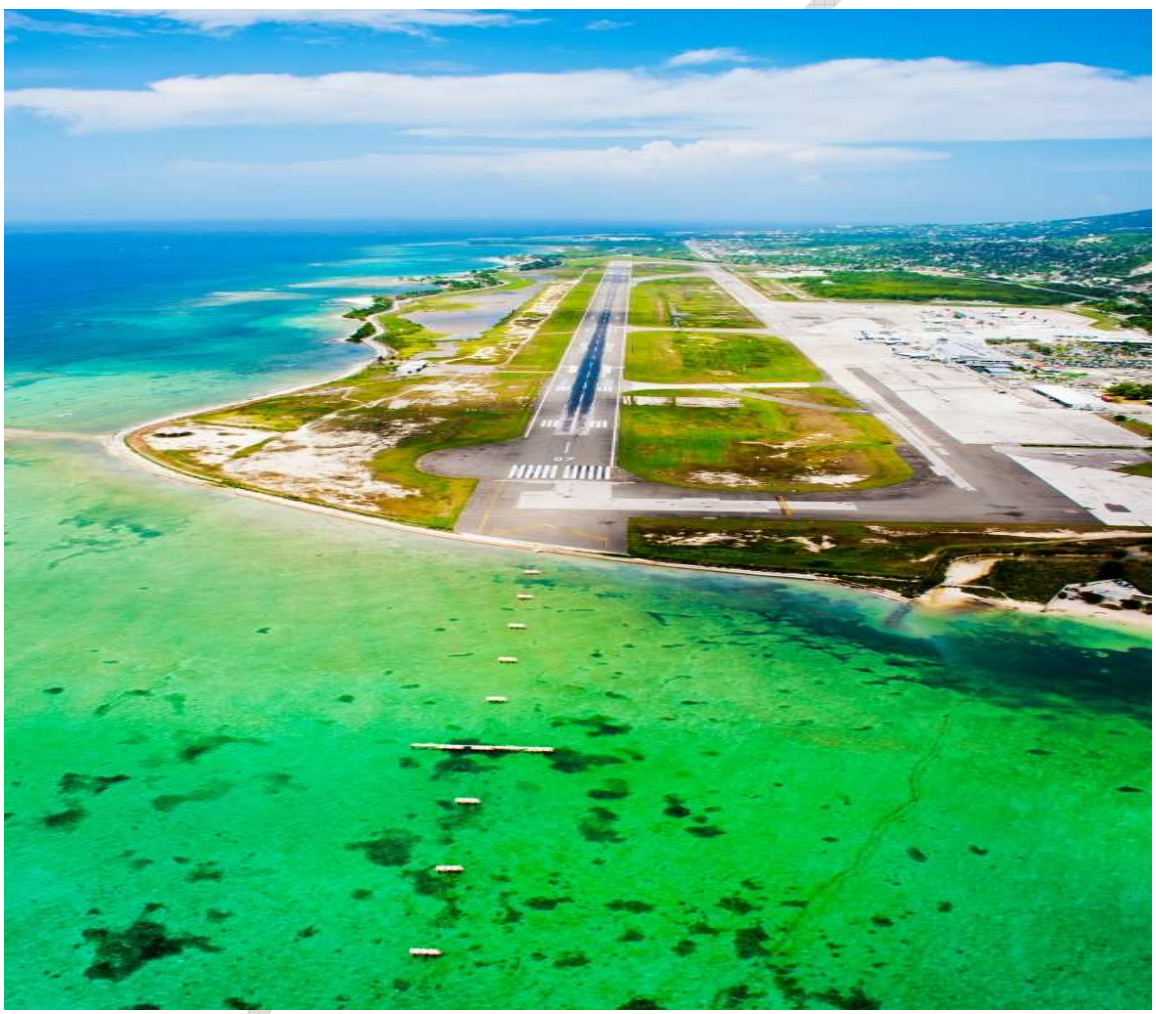
## ADVERTISING CONCESSION

## SANGSTER INTERNATIONAL AIRPORT

## INTERNATIONAL TERMINAL BUILDING

# LICENCE FOR THE

# ADVERTISING DISPLAY CONCESSION



## SANGSTER INTERNATIONAL AIRPORT

## MONTEGO BAY, JAMAICA

**TERM SHEET**

**PAGE 1 OF TERM SHEET – FORMING PART OF LICENCE FOR ADVERTISING DISPLAY CONCESSION**

1. **LICENSOR**: **MBJ AIRPORTS LIMITED**

**MAILING ADDRESS**:
Sangster International Airport
Domestic Terminal
Island Mailboxes Suite 4000
Montego Bay, St. James
Jamaica, W.I.

**CORPORATE OFFICE ADDRESS**:
Sangster International Airport
Montego Bay, St. James
Jamaica, W.I.

**Attention**: Chief Commercial Officer

2. LICENSEE'S LEGAL NAME

ADDRESS:

OPERATING AS:

EMAIL:
PHONE:
FAX:

3. AIRPORT: Sangster International Airport
Montego Bay
Jamaica

4. LICENSED PREMISES: All locations forming part of the Advertising Concession Space

5. TERM: December 1, 2015 – November 30, 2020

6. FIRST DAY OF THE TERM: December 1, 2015 (the "Commencement Date")

7. LAST DAY OF THE TERM: November 30, 2020

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8. MINIMUM ANNUAL GUARANTEED FEES ("MAG"):

| Year | Date | MAG US $ | Monthly MAG US $ |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |

9. PERCENTAGE FEE:

| Year | Date | Percentage % |
|---|---|---|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |

10. SECURITY DEPOSIT: US**$xxxx** (Equivalent of three (3) months' License revenue to the Licensor.)

11. PERMITTED USE OF THE LICENSED PREMISES**:**

To use and/or occupy the Licensed Premises at the Airport for the purpose of offering for sale approved advertising displays and services at the Location/s specified in Schedule A of this License.

12. LICENCE CLAUSE 4.1 (e): ENVIRONMENTAL ISSUES

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**SCHEDULE A**
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**SCHEDULE G**
DEFINITIONS

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**THIS LICENCE** made this day of 2015

**BETWEEN:**

**MBJ AIRPORTS LIMITED**
Sangster International Airport
Island Mailboxes Suite 4000
Montego Bay, St. James
Jamaica

(hereinafter called **"the Licensor"**) OF THE FIRST PART

And

XXXXXXXXXXXXXXXXXXXXXXXXXXX

(hereinafter called **"the Licensee"**) **OF THE SECOND PART**

**WHEREAS:**

1. The Licensor is the manager and operator of the Sangster International Airport ("the Airport") under and by virtue of a Concession Agreement with the owner of the Airport, Airports Authority of Jamaica (AAJ) commencing April 12, 2003 for term of thirty (30) years;
2. The Licensor issued a Request for Proposals ("RFP") for an advertising concession at the Airport and the Licensee responded with a proposal to develop and operate the said advertising concession;
3. The Licensor wishes to grant the Licensee, and the Licensee d to accept, a license to operate such advertising concession at the locations identified and to occupy the premises identified in this License at the Airport all under the terms and conditions of this Agreement;
4. The parties hereto acknowledge that the continued operation of the Airport as a safe, convenient, and attractive facility is vital to the economic health and welfare of the Licensor and that the Licensor's right to supervise performance under this Agreement of the Licensee is a valuable and undeniable right;

In consideration of the Fees, covenants, provisos and conditions hereinafter reserved and contained, it is hereby covenanted, agreed and declared between the two parties as follows:

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## 1. INTERPRETATION

**(a) The headings appearing in this License are for convenience of reference only and in no way define, limit, or enlarge the scope or meaning of the provision.**

**(b) All references to any party, whether a party to this License or not, shall be read with such changes in number and gender as the context or reference reasonably requires.**

**(c) Unless otherwise indicated, all dollar amounts referred to in this License are in lawful money of the United States of America, and shall be payable as described in this License.**

**(d) If Licensee is comprised of more than one person, then all liabilities and obligations shall be joint and several.**

**(e) The proper law of this License is the law of Jamaica. Licensee hereby submits and attorns to the jurisdiction of the Courts of Jamaica.**

**(f) This License, the schedules to this License, and any documents expressly contemplated by this License, constitute the entire License between the parties and supersede all previous communications, representations and Licenses, whether oral or written, between the parties with respect to the subject matter of this License.**

**(g) Each party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this License.**

**(h) This License shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.**

## 2. LicenseGRANT AND TERM

### 2.1. GRANT OF LICENCE

a) The Licensor hereby grants to the Licensee a license to operate and maintain an advertising display concession at the Airport and to use the Licensed Premises specified in Schedule A of this License at the Airport for the purpose of offering for sale to third parties approved advertising displays and services at the Location/s and on the terms and conditions of this License. A plan of the Airport showing the advertising display locations specified in Schedule A is comprised in Schedule E of this License.

b) The Licensor shall have the exclusive use of the Licensed Premises for the purpose of advertising as of the Commencement Date. Should any other areas of the Airport be made available by the Licensor to the Licensee for display advertising use, same shall be added to Schedule A and Schedule E, subject to the terms hereof by way of a supplemental agreement signed by both parties hereto. If at any time during the Term, the Licensee is not utilizing any part of the Licensed Premises for an advertising display, the Licensor reserves the right to use the said location for an advertising display upon the expiration of thirty (30) days' notice to the Licensee without compliance on the part of the Licensee. For the avoidance of doubt, the Fees payable herein shall remain unaffected by the exercise of this right on the part of the Licensor.

c) The Licensee shall have the right of first refusal to operate an advertising concession in any new premises such as terminals or airport extensions commissioned into operation by the Licensor at the Airport, provided that the Licensee is not in breach of this License. Should

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the parties not arrive at a mutual satisfactory agreement within sixty (60) days of the Licensor's offer regarding the terms and conditions of the Licensee's operation of an advertising concession in the new premises, the Licensor shall be free to offer such opportunity to any third party as it deems fit. Licensee shall have a right of first refusal to any new forms of display advertising media desired by Licensor and to an advertising concession in any new premises including terminals or airport extentions . Should Licensor desire any new form of display advertising media not provided by Licensee, then same shall be requested of Licensee in writing under specific terms and conditions regarding form of display advertising media desired, locations within the Airport, length of term offered, capital investment required, percentage fee and MAG fee payments. Licensee shall have thirty (30) days to accept or reject such offer, with no action to be deemed a rejection. Upon rejection, Licensor shall be free to offer such rights to any third party under the same terms and conditions as offered to Licensee and the granting of such right to a third party shall not be considered a breach of this License.

d) Licensee shall establish, operate, service and maintain prime quality, professionally designed commercial advertising displays. The licensee shall operate the advertising concession in a first class manner, in accordance with the highest standards for this type of service within the travel industry.

**2.2. TERM**

a) This License shall have a term (the "Term") commencing on December 1, 2015 (the "Commencement Date") and, unless sooner terminated pursuant to the terms of this License, ending on November 30, 2020.

b) The Licensor shall not be liable for any loss, damage or inconvenience resulting from any delay in delivering possession of the Licensed Premises and agrees that unless the delay is caused by or attributable to the Licensee, its servants, agents or independent contractors, no Fee shall be payable by the Licensee for the period prior to the date on which, the Licensor can deliver possession of the Licensed Premises and then in amounts and on the Terms and conditions as are herein in this License provided.

c) The Term of this License may, at the option of the Licensor, be extended for an additional two (2) year period. For the Licensor to consider an extension, the Licensee must have complied during the Term with the following performance standards:

1) Invest capital of no less than US$800,000 into the advertising program at the Airport during the Term, of which 100% shall be within the first two (2) years of the Term while earning no less than US$1.6 million per annum in gross sales for this concession.

2) Install and maintain advertising equipment with the capability of displaying a map of the main Terminal Building, in three (3) different locations to be determined by the Licensor, by the end of the year one (1) of the Licence.

3) Obtain gross revenues of US$1.6 million or more per annum for the duration of the license.

4) Provide a regional, national and international sales force to ensure that the Licensor receives the benefit of local, regional and national advertising campaign dollars;

5) Provide a certified computer aided design display designer for use on the project as needed;

6) Provide architect-approved engineering drawings for the project as required;

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7) Provide properties personnel sufficient for display case relocation at Airport request with fourteen (14) days' notice;

8) Provide maintenance staff and scheduling commensurate with facilities, with onsite availability within twenty-four (24) hours upon Licensor or advertiser request and shall keep proper records of said schedules and work done and make them available to the Licensor upon request;

9) Provide graphic guidance to advertisers and obtain written approval from Licensor of all advertising graphic renditions prior to install; and

10) Assist the Licensor, upon request, in public relations efforts including media release support.

(d) Licensee shall have the responsibility to provide evidence of compliance with the above performance standards to Licensor within a reasonable time upon request. Licensor agrees to evaluate the compliance of Licensee with the above performance standards no later than ninety (90) days prior to the end of the initial Term. For the avoidance of doubt, the Licensor shall not be obligated to extend the Term of this License in any event.

**2.3. USE OF LICENSED PREMISES**

(a) The Licensee shall use the Licensed Premises solely for the purpose of operating an advertising services concession and the offering for sale of the various advertising services and products as approved prior in writing by the Licensor. The Licensee shall not use or permit or suffer the use of the Licensed Premises or any part thereof for any purpose whatsoever that is inconsistent with the terms and conditions of this License or with the use of the Airport as an international airport.

(b) Additional services proposed to be provided by the Licensee in connection with this License are subject to the advance review and approval of the Licensor in writing. The right to reject services so proposed is reserved to and at the sole discretion of the Licensor.

(c) The Licensor reserves the right to withdraw approval for any services being offered for fees in conjunction with this License, at any time upon notice of the Licensor; and the offering of such services shall accordingly cease forthwith upon such notice, and in any event shall cease within three days from receipt of such notice.

(d) Advertising Displays installed by the Licensee under this License must be aesthetically consistent with the Airport's design and architecture and shall not interfere with operational efficiencies and safety of the Airport.

**2.4. SURRENDER OF LICENSED PREMISES**

On the last day or sooner determination of the Term, the Licensee shall, at its sole cost and expense:

(a) peaceably surrender and yield to the Licensor, in as good as condition as the Licensee is required to maintain the Licensed Premises throughout the Term, the Licensed Premises. Upon termination of this License and provided that the Licensee has not outstanding obligations owed to the Licensor,, the Licensee shall remove all trade fixtures, chattels, goods, supplies, articles, equipment, material, effects or things (including, without limitation, LCD screens, back-illuminated signs and free-standing display cases and boards) save and excepting any terminal map displays installed by the Licensee under this License which shall become the property of the Licensor and the Licensee shall not, by reason of such termination, be entitled to any compensation whatsoever. The Licensee is required to make good any repairs to the Airport arising from damages caused by removal of its trade fixtures, chattels, goods, supplies, articles, equipment, material, effects or things.

(b) surrender all keys and security devices for the Licensed Premises to the Licensor at the place then fixed for payment of Fees and inform the Licensor of all combinations of all locks, safes and vaults of any kind and the code for any security devices in or for the Licensed Premises;

(c) remove any material which may be deemed by any Applicable Laws, or by any Authority, or by the Licensor, as a Hazardous Substance which has been brought onto the Licensed Premises by the Licensee or which is a result of the Licensee's use or occupation of the Licensed Premises;

(d) to the satisfaction of the Licensor, repair all and every damage and injury occasioned to the Licensed Premises by reason of any removal pursuant to Subsections 2.5(b) or (c) or in the performance thereof.

(e) The Licensee shall not, by reason of any action taken or things performed or required under this Section 2.4 be entitled to any compensation whatever. Unless required by the Licensor, no chattels, goods, supplies, articles, equipment, materials, effects or things shall be removed from the Licensed Premises until all Fees due or to become due under this License is fully paid. If the Licensee fails to perform its obligations under this Section 2.4, After fourteen (14) days, Licensor may, at its option, remove at the risk of and at the cost and expense of the Licensee, the chattels, goods, supplies, articles, equipment, materials, effects or things from the Licensed Premises and the Licensee shall reimburse the Licensor within 10 days of demand being made by the Licensor upon receipt of appropriate accounts therefor and for any storage charges which may have been or will be incurred by the Licensor as a result of such removal. Where not removed by the Licensee, and where the Licensee is not engaged in diligent efforts to remove such property, the Licensor may consider the chattels, goods, supplies, articles, equipment, materials, effects or things to be abandoned, and take title thereto in the name of the Licensor, all without any duty to account to the Licensee. If the Licensed Premises are not surrendered at the time and in the manner set out in this Section 2.5, the Licensee shall promptly indemnify and hold harmless the Licensor from and against any and all Claims resulting from the delay by the Licensee in so surrendering the Licensed Premises, including, without limitation, any Claims made by any succeeding Licensee or occupant founded on such a delay. The Licensee's obligation to observe and perform the provisions of this Section 2.4 shall survive the expiration or earlier termination of this License.

**2.5. OVERHOLDING**

If the Licensee remains in the Licensed Premises or any part thereof after the expiration or other termination of the Term:

(a) without the consent of the Licensor, no yearly or other periodic term shall be created but the Licensee shall be bound by the terms and provisions of this License except any options thereby granted to the Licensee and except that Fees and Percentage Fees shall be twice the amounts provided for herein plus the sum of One Thousand United States Dollars ($1,000.00) daily and subject to such additional obligations and conditions as the Licensor may impose by notice to the Licensee; or

(b) with the consent of the Licensor, in writing, and License as to the Fees payable, in which case the term shall be month-to-month at the Fees agreed and otherwise on the terms and conditions of this License excluding any options thereby granted. For a partial month, such fees shall be prorated by the Licensor according to such terms as the Licensor sees fit.

(c) The Licensee shall be stopped and forever barred from claiming any rights to occupy the Licensed Premises on terms other than as set out in this Section 2.5 and the Licensor may plead this section in any court proceedings. The Licensee shall indemnify and save harmless the Licensor from all Claims incurred by the Licensor as a result of the Licensee remaining in use of all or any part of the Licensed Premises following the expiry of the Term. Nothing in this section shall be interpreted as permitting or giving the Licensee an option to stay in use

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of the Licensed Premises following the expiry of the Term and the Licensee shall surrender the Licensed Premises to the Licensor on the expiry of this Term.

## 3. FEES, FINANCIAL INFORMATION AND SECURITY DEPOSIT

### 3.1. FEES

The Licensee shall from and after the Commencement Date and throughout the term, pay fees to the Licensor in the manner herein provided in lawful money, such payment to be delivered to:

MBJ Airports Limited
Sangster International Airport
Main Terminal Building
Montego Bay, Jamaica
Attention: Finance Department

Or such other address as the Licensor may from time to time designate.

### 3.2. MINIMUM ANNUAL GUARANTEED FEES ("MAG")

(a) In each Licensed Year, the Licensee shall pay MAG as set out in this Section 3.2 (a), as follows:

| Minimum Annual Guarantee (rate per annual passenger)* |
|---|
| $xxxx |
| $xxxx |
| $xxxx |
| $xxxx |
| $xxxx |
| $xxxx |
| $xxxx |

(b) Payment of the monthly installments of MAG in the sum of US$xxxxxxx shall be made by the Licensee to the Licensor in advance on or before the first day of the first License Year and on or before the first day of each month thereafter during the currency of this License.

### 3.3 (a) Percentage Fees

(1) In addition to the MAG, the Licensee will pay to the Licensor the Percentage Fee, if any, for each month in each License Year:

| Percentage of Gross Sales Payable – Set off against MAG<br>Static & Technology Advertising |
|---|

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| |
|---|
| Dec 1, 2015 – Nov 30, 2016 - xxx% |
| Dec 1, 2016 – Nov 30, 2017 - xxx% |
| Dec 1, 2017 – Nov 30, 2018 - xxx% |
| Dec 1, 2018 – Nov 30, 2019 - xxx% |
| Dec 1, 2019 – Nov 30, 2020 - xxx% |
| Dec 1, 2020 – Nov 30, 2021 - xxx% |
| Dec 1, 2021 – Nov 30, 2022 - xxx% |

For purposes of this Section, "Static % Fee" shall refer to the percentage fee due for the Gross Revenues derived from the sale of advertising in the static, back-lighted or poster advertising at the Airport, and "Tech % Fee" shall refer to the percentage fee due for the Gross Revenues derived from the sale of advertising in the digital electronic, video, mechanical motion, or computer based advertising or themed three-dimensional advertising at the Airport.

(2) The payment of Percentage Fee is first due and payable on the tenth (10th) day following the first complete month of the Term and thereafter on the tenth (10th) day of each and every succeeding calendar month inclusive of the month immediately following the expiry of the Term. The amount of each payment of Percentage Fee will be equal to the excess, if any, obtained by applying the percentage referred to in Section 3.3 (a) (1) above to the Gross Revenues for the immediately preceding month only, less the monthly MAG. If the Annual Statement furnished by the Licensee under Section 4.05, at the end of a License Year, discloses that the total MAG and Percentage Fee paid by the Licensee for the License Year is less than the total MAG and Percentage Fee payable by the Licensee for the License Year, then the Licensee will pay any deficiency at the same time as it furnishes the Annual Statement.

(3) If a License Year does not correspond to a twelve (12) calendar month period, Percentage Fee will be calculated for the License Year on a per diem basis based on the number of days in the License Year.

**(b) Gross Revenue Report**

1. Before the third (3rd) day of each calendar month, except the first month of the Term, the Licensee will deliver to the Licensor at the place then fixed for payment of fee, a statement (the "Monthly Statement") signed by the Licensee which (i) certifies that Gross Revenue as reported in the monthly statement are correct and in accordance with this License; (ii) is in the form and detail that the Licensor requires at Schedule C1; and (iii) states clearly the amount of Gross Revenue for the preceding month of the License Year and the monthly payment of MAG and Percentage Fee made for the month, if any. If requested by the Licensor, the Licensee will cooperate with the Licensor in providing sales figures prior to the due date of the Monthly Statement.

2. Before the ninetieth ($90^{th}$) day after each License Year end (except the last License Year of the Term when the annual statement shall be delivered within ten (10) days following the last day on which the Licensee carried on business with the public from the Licensed Premises) the Licensee will deliver to the Licensor at the place then fixed for the payment of Fee, a statement (the "Annual Statement") certified by a senior financial officer of the Licensee, certifying that the Annual Statement is correct and showing clearly month–by-month the amount of the Gross Revenue for the preceding License Year. The Annual Statement will be in form and detail approved by the Licensor as shown at Schedule C2.

3. Before the One Hundred and Eighty-first (181st) day after each License Year ends the Licensee will deliver to the Licensor an opinion by an independent public accountant (an "Accountant") stating that (i) the Accountant has examined, in accordance with generally accepted auditing standards, the Gross Revenue (as defined in this License) of the Licensee for the License Year then ended; and (ii) Gross Revenue are fairly presented for that License Year, on a basis consistent with that of the preceding License Year(s), as applicable.

4. Audited Financial Statements: Upon the written request of the Licensor, the Licensee shall submit to the Licensor within four (4) months after the end of the Licensee's fiscal year the Audited Financial Statements, audited by a reputable firm of chartered accountants, for the Licensee's operations under this License.

### 3.4 INTEREST ON FEES IN DEFAULT

In the event that the Licensee does not pay its fees as agreed herein, the Licensee shall pay to the Licensor monthly 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.

### 3.5 SECURITY DEPOSIT

(a) On or before the first day of the Term, the Licensee shall deposit with the Licensor a certified cheque or irrevocable letter of credit in the amount identified as "security deposit" in the amount of US$XXXXXX to be held by the Licensor without interest as a Security Deposit (the " Security Deposit"), for the due performance of all the Licensee's covenants and obligations under the License and not to be applied on account of fee except as otherwise provided in this section.

(b) If the Licensee defaults in respect of any of the terms, provisions and conditions of the License, including but not limited to, the payment of any Fees (including arrears) or other charge hereunder, the Licensor may in its sole discretion apply or retain the whole or any part of the Concession Security Deposit to the extent required for the payment of any Fees or any other sums as to which the Licensee is in default or for any sum which the Licensor may expend or may be required to expend by reason of the Licensee's default hereunder, including but not limited to, any damages to or deficiency in respect of, the Licensed Premises, provided, however, that the application or retention of the Concession Security Deposit shall not be deemed to be the substitution for any claims that the Licensor may have under this License or in law.

(c) The Letter of Credit shall be payable upon the Licensor delivering to the issuing bank a written demand for the amount being drawn by the Licensor together with a certificate signed by an officer of the Licensor stating that the Licensor is entitled under this License to draw the amount stated in the said written demand. In addition, the entire amount of the Letter of Credit shall be payable to the Licensor in the event of the bankruptcy of the Licensee, notwithstanding any disclaimer of this License by a trustee in bankruptcy as liquidated damages representing the parties' genuine pre-estimate of the minimum amount of damages which the Licensor shall be deemed to have suffered in the event of the bankruptcy of the Licensee, upon the Licensor delivering to the issuing bank a written demand for entire amount of the Letter of Credit together with the certificate referred to above.

(d) Provided that the Licensee shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this License, the Concession Security Deposit shall be returned to the Licensee without interest, and less (a) any amounts previously applied by the Licensor, and (b) all costs incurred by the Licensor in correcting or satisfying any default or any Fees owing by the Licensee and in returning the Licensed Premises to the state of repair required by the Licensee pursuant to the License within thirty days (30) after the expiration or earlier

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termination of this License and the delivery of exclusive and vacant use of and rights to the Licensed Premises by the Licensee to the Licensor in the state of repair required by this License.

### 3.6 LICENSEE'S RECORDS

During the Term, the Licensee shall prepare and keep on the Licensed Premises or at the Licensee's principal office for at least three (3) years following the end of the Term, full, true and accurate books and records that adhere to generally acceptable accounting principles with respect to the Licensee's operations under this License (which shall include, without limitation, (i) receipts from all sales, charges, services and other transactions in respect of its operations under this License made by the Licensee which, for the purpose of this License, shall be deemed to be copies of the actual client advertising contracts; (ii) Sales records and returns, (iii) bank deposit records (Iv) computer printouts; (v) such other sales and other records as the Licensor reasonably requires) which are required to satisfy the requirements of the income tax authorities and which would normally be examined by an independent chartered accountant pursuant to generally accepted accounting principles in performing a detailed audit of the Licensee's sales operations under this License. The Licensee shall record at the time of sale in the presence of the customer, on pre-printed consecutive serially numbered non-repetitive sales slips and invoices, all receipts from sales, charges, services, refunds, exchanges and other transactions, whether for cash or credit, in a cash register or device having (i) an automatic tape or other storage medium which shall permanently record each sales transaction, complete with any voids and refunds; (ii) a sealed cumulative total; and (iii) such other control features as required and approved by the Licensor from time to time.

### 3.7 AUDIT AND INSPECTION

(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 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 License.

(c) If any audit by or on behalf of the Licensor should disclose an understatement of Gross Revenue in any statement delivered pursuant to the License, 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 fifteen percent (15%) of such expense, or such lesser rate as the Licensor may apply, and the Licensor, at its option, may immediately terminate this License without any penalty or liability to the Licensor.

(d) The entire business affairs, records and procedures of the Licensee with respect to business conducted on the Licensed Premises or under this License shall be open for audit and inspection and for taking extracts therefrom at all times during business hours, by the accredited officers, auditors, accountants or agents of the Licensor. The Licensee shall prepare and keep adequate books and records, which shall show transactions by the Licensee. If the auditor or chartered accountant performing such audit or inspection reports to the Licensor that in his opinion, the Licensee's records and procedures are insufficient to permit a determination of Gross Revenue for any License Year or part thereof or if the Licensee fails to comply with the provisions of Section 3 hereof, the Licensee shall immediately after notice from the Licensor take such steps as are necessary to remedy such default. If the Licensee is unable to satisfy forthwith the objections contained in the audit report aforesaid, the Licensor may thereafter deliver to the Licensee an estimate made by the

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Licensor of Gross Revenue for the period under consideration (which shall be based on any further information or records of the Licensee that have been made available and such other information as the Licensor considers relevant) and the Licensee shall within ten (10) business days of receipt of such estimate pay to the Licensor any amount shown thereby owing on account of Percentage Fees, subject to later reconciliation should a complete review of records later result in the adjustment of fees determined to have been due. If the Licensor's representative reports that the Licensee is in default, pursuant to the requirements of Section 3 hereof or that in his opinion the Licensee's records and procedures are insufficient to permit a determination of the Licensee's Gross Revenue or if such audit discloses that Gross Revenue for the period in question is understated by two percent (2%) or more, the Licensee shall forthwith after notice from the Licensor pay to the Licensor the cost of such audit in addition to the deficiency, which deficiency is payable in any event, and in addition to any other rights or remedies of the Licensor under this License or at law, the Licensor may, at his option and after providing all notice and opportunity to cure as provided in Section 9.1 of this License, terminate this License upon one (1) months' notice to the Licensee; provided, that such termination right shall not apply during any period when Licensee is engaged in diligent efforts to remedy any such failure. The report of the Licensor's auditor from time to time is final and binding upon the parties hereto.

### 3.8 DISCLOSURE OF GROSS REVENUE INFORMATION

Within ten (10) 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).

It is understood and agreed that the Licensor may publish the monthly and annual total of the Gross Revenue reported by the Licensee in each month of this Licence and such other information as the Licensor considers appropriate for the purpose of tender information.

### 3.9 CAPITAL INVESTMENT

During the currency of this License, the Licensee will be required to make capital investments in accordance with clause 2.2 (c) (1) and Schedule D, the Capital Expenditure Proposal.

## 4. LICENSEE'S CONDUCT OF BUSINESS ON THE LICENSED PREMISES

### 4.1 GENERAL CONVENANTS

The Licensee shall:

(a) not commit, nor permit to be committed, any waste upon, or damage to the Licensed Premises or any nuisance or other act or thing which in the Licensor's opinion disturbs the quiet enjoyment of any other Licensee or occupant of premises in the Terminal Building or at the Airport and not perform any acts or carry on any practices which may damage the Terminal Building or the Airport or any part thereof;

(b) not do, or permit to be done, any act in or about the Terminal Building, the Airport or the Lands which, in the Licensor's opinion, (i) hinders or interrupts the flow of traffic to, in and from the Airport, the Terminal Building or the Licensed Premises, or (ii) in any way obstructs the free movement of persons during business in the Airport, Terminal Building or the Licensed Premises;

(c) not install or allow on the Licensed Premises any transmitting devices;

(d) cooperate with the Licensor in the conservation of all forms of energy in the Airport, including without limitation, in the Licensed Premises; (ii) comply with all laws, by-laws, regulations and orders relating to the conservation of energy affecting the Terminal Building and the Airport or any part thereof; and (iii) promptly comply with all reasonable requests and demands of the Licensor made with a view to such energy conservation. The Licensee acknowledges and agrees that the Licensor shall not be liable or responsible to the Licensee in any way for any Claims whether direct or consequential, made, suffered, or incurred by the Licensee due to any reduction in the services provided by the Licensor to the Licensee or to the Terminal Building or the Airport or any part thereof as a result of the Licensor's compliance with such laws, by-laws, regulations or orders;

(e) not permit any activity within the Licensed Premises which would in the Licensor's opinion constitute or create an environmental or pollution problem with respect to the Licensed Premises, the Terminal Building, the Airport or the Lands;

(f) not permit any odours, gases, dust, smoke, fumes, vapours, steam, water, cinders, soot, vibrations, noises or other undesirable effects to emanate from the Licensed Premises or any equipment, system, facility or installation therein which, in the Licensor's opinion, are objectionable or cause an interference with the safety, comfort or convenience of the Airport, Terminal Building or any part thereof by the Licensor or any tenants, licensees or occupants thereof or their customers or invitees. If the Licensee is in default of any of the foregoing, the Licensor shall have the right orally to inform the Licensee, whereupon the Licensee shall immediately take such steps as are necessary to cure any such default; and

(g) not, nor shall it suffer or permit its employees or agents to, solicit or carry on business in any of the Common Areas at any time without the Licensor's prior written consent.

(h) comply with all pertinent regulatory environmental, health and safety laws and any licensing requirements

(i) comply with MBJ Airports Limited's Environmental Health and Safety Policies and other policies to include, but not limited to MBJ's Environmental Construction Standards, MBJ's Safety and Security Manual for Contractors, Airport Operating Detectives.

(j) immediately notify MBJ Airports of any environmental health and safety notices served or legal proceedings undertaken on its operation by any environmental, health and safety regulatory agency, including but not limited to Jamaica Public Health Department, claiming contravention of any environmental, health or safety laws

### 4.2 INSTALLATION, MAINTENANCE, AND REMOVAL OF ADVERTISING DISPLAYS

a) The work connected with the installation, servicing and maintenance of the Advertising Displays and related equipment and other advertising material shall be carried on, under and in accordance with the control and direction of the Licensor and shall be done in all respects to its satisfaction and at the sole cost and expense of the Licensee.

b) The Advertising Displays and related equipment and other advertising material shall at all times be in proper mechanical condition and be repaired at the sole cost and expense of the Licensee and the Licensee shall at all times carry out a proper and efficient system of inspection to ensure that the Advertising Displays are so maintained. Should any Advertising Display suffer a failure, Licensee must repair such failure within three (3) business days of notice or, where more than three (3) business days is required due to the technical nature of the failure or the need to ship parts, Licensee must begin to take diligent efforts to make repair within three (3) business days of notice and maintains diligent efforts to complete the repair.

c) All locations, Advertising Displays and related equipment and other advertising material shall at all times be maintained in a neat and clean condition by the Licensee, at the cost and expense of the Licensee and to the satisfaction of the Licensor.

d) No Advertising Displays and related equipment and other advertising material will be removed from the Licensed Premises during the currency of the License without prior consent in writing from the Licensor.

**4.3 ADVERTISING COPY, RATES AND ADVERTISING LICENSES WITH THIRD PARTIES**

(a) All advertising copy shall be referred to the Chief Commercial Officer for approval in accordance with the Advertising Approval Process (Schedule prior to being placed or erected at or on the Airport.

(b) It is expressly understood and agreed that the Licensee shall file a schedule of advertising rates for each type of display on or before the commencement date of this License with such supporting data as may be required by the Licensor to determine whether such rates are reasonable.

(c) The Licensor assumes no responsibility to honour any outstanding Licenses between the Licensee and third parties which may be in existence at the end of the License, whether by effluxion of time or any other manner whatsoever and the Licensee is hereby expressly prohibited from entering into advertising Licenses that extend beyond the Term without the express written approval of the Licensor prior, in writing.

(d) The Licensor reserves the right to develop and implement other advertising concepts at the Airport, subject to the terms of this License. Nothing in this License shall act to restrict advertising by leaseholders of Licensor of their own goods and services within their own licensed premises.

(e) The Licensor reserves the right to grant Licences, rights of way or privileges in the nature of easements to others on, over, under, through or across the Locations provided however that such rights of way or privileges are not detrimental to the proper conduct of the business or operations of the Licensee hereunder, will not damage or disrupt or disrupt permanently the equipment of the Licensee, will not impose any cost upon the Licensee and will not weaken, diminish or impair the privileges of the Licensee under this License.

**4.4 VACANT SIGNS**

If during the currency of this Licence, an Advertising Display is not leased to a third party for promotional purposes, the Licensor may immediately utilize the said display for the Airport, Jamaica Tourist Board, community or charity related advertising purposes at no charge, until such time as the said display is once again leased to a third party.

**4.5 LICENCES, PERMITS, ETC**

The Licensee shall procure and maintain at the sole cost and expense of the Licensee, such licenses, permits or approvals from provincial, municipal or other government authorities and such private permits as may be necessary to enable the Licensee to furnish the services and conduct the operations provided for in this Licence.

**4.6 TAXES**

**(a) <u>Taxes Payable by the Licensor</u>** – the Licensor covenants and agrees to pay all Taxes assessed against the Licensor or the Airport on account of its ownership thereof when due (except for Taxes payable directly to the taxing authority by the Licensee under Subsection 4.5) and subject to the provision hereafter contained in this Article 4.6. Provided however, that the Licensor may defer payment of any such Taxes or defer compliance with any statute, law, by-law, regulation or ordinance in connection with the levy of such Taxes in each case to the fullest extent permitted by law as long as its shall diligently prosecute any contest or appeal of such Taxes.

**(b) <u>Taxes Payable by Licensee</u>** – The Licensee shall promptly pay, when due to taxing authority or the Licensor at the Licensor's direction every Tax upon or account of the following:

(1) any Taxes imposed or assessed against or in respect of the personal property and improvements of the Licensed Premises of the Licensee in the Licensed Premises or in respect of any business operations carried on or in respect of the use thereof by the Licensee or any sublicensee or Licensee, if levied or assessed separately from Taxes upon the remainder of the Airport and referred to herein as "Business Taxes".

(2) The Licensee agrees to provide to the Licensor within three (3) days of receipt thereof, an original or duplicate copy of any separate Tax bill.

(3) In the event that there shall not be a separate assessment and separate tax bill for Business Taxes levied in respect of the Licensed Premises, the Licensee shall at the same time as MAG pay the Licensee's Share of Taxes which may be assessed, levied, rated, or imposed against the Project. The Licensee shall deliver promptly, upon request of the Licensor, receipts for all such payments and will furnish such other information as the Licensor may require.

**(c)** **GCT** – The Licensee shall pay the Licensor the amount of all GCT accruing due with respect to Fees no later than the due date for payment thereof by the Licensee under the relevant laws and regulations. The Licensee's obligations to pay GCT under this section shall not be limited or precluded by any limitation contained in this License upon the Licensor's right to recover or receive payment from the Licensee of taxes upon the Licensor's income or profits or otherwise.

**(d)** **Right to Contest** – the Licensor shall have the right to contest in good faith the validity or amount of any tax, rate, levy, assessment, fee or other charge which, the Licensor is responsible to pay under Section 4.6.1. The Licensor may defer payment of any taxes payable by it pursuant to said section.

The Licensee, if legally entitled to do so, may contest in good faith the validity or amount of any Tax for which it is responsible to pay under Section 4.6.3 and for which it is separately assessed. The Licensee may, upon notice to the Licensor, defer payment of any taxes payable by it pursuant to Section 4.6.2 for which it is separately assessed, in each case to the extent permitted by law; provided the no contest by the Licensee shall not involve the possibility of forfeiture, sale or disturbance of the Licensor's interest in the Licensed Premises or the imposition of any penalty or interest, charge or lien and that, upon the final determination of any contest by the Licensee, the Licensee shall immediately pay and satisfy the amount found to be due, together with any costs, penalties and interest. If as a result of any contest by the Licensee, any tax, rate, levy, assessment, fee or other charge is increased, the Licensee shall be responsible for the full amount of such increase in respect of both the period to which the contest relates and to any subsequent tax periods which commence during the term.

The Licensee shall not contest any taxes payable by it or appeal any assessment therefore except that, in each case, the Licensee:

will deliver to the Licensor any notices of appeal or other like instrument and obtain the Licensor's consent thereto, which consent will not be unreasonably withheld, before filing the same;

will deliver whatever security the Licensor may reasonably require;

will promptly and diligently prosecute the appeal at its sole expense; and

will keep the Licensor fully informed.

**(e)** **Registration and Stamp Duty**

The Licensee acknowledges the confidential nature of this License and agrees with the Licensor not to register or apply to register this License and waives any statutory obligation upon the Licensor to execute and deliver this License in registerable form. Notwithstanding the foregoing,

if the Licensor in its absolute discretion does permit the Licensee to register a caveat or notice of this License, the same shall be in a form that is approved by the Licensor, and the Licensee shall bear the expense thereof. The Licensee shall, at its own cost, promptly on request, whether before or after the expiration or earlier termination of the Term, discharge any such caveat or notice as well as any other registration carried out contrary to this Section, provided always, that this clause does not preclude stamp duty from being affixed to the License. In the event that Stamp Duty is assessed for this License the parties agree to pay the one half costs and any applicable penalties, in order for the said duty to be affixed to same.

**4.7. COMPLIANCE WITH LAWS**

(a) The Licensee shall ensure that all activities of the Licensee on the Licensed Premises are carried out without any conflict, and in all respects in a manner compatible with the Airport.

(b) In connection with its use of the Licensed Premises and the Common Areas, the Licensee shall at its sole cost and expense, and in all respects, promptly abide by and comply with all Applicable Laws which pertain to or in any manner affect the Licensed Premises and the operations of the Licensee hereunder.

(c) The Parties agree that the laws of Jamaica shall govern the rights and duties of the Parties and the validity, construction, enforcement, and interpretation of this License.

(d) The venue of any proceedings taken in respect of this License 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.

(e) In connection with its use of the Licensed Premises and the common areas, the Licensee shall (a) use all names, marks and insignia reasonably required by the Licensor in all advertising in connection with the Airport, and (b) discontinue, at the request of the Licensor, any business, conduct or practice in relation to the Licensed Premises that, in the opinion of the Licensor, may harm the business or reputation of the Licensor or reflect unfavorably on the development of the Licensed Premises, or the Airport as a whole.

(f) In the event that the Licensee is in default of Section 4.7 (b), the Licensee may, in its discretion, upon such notice to the Licensee as would be reasonable in the circumstances, do all things necessary to effect compliance with any Applicable Laws and applicable Rules and Regulations and the Licensee shall, within five (5) days of written demand from the Licensor, reimburse the Licensor for all costs reasonably incurred by the Licensor for this purpose.

(g) The Licensee's right of access to any part of the Airport shall be subject to all Applicable Laws and the Licensor's Rules and Regulations.

**4.8 DELIVERY AND SHIPPING**

The delivery or shipping of merchandise, supplies and fixtures to and from the Licensed Premises shall be subject to such rules and regulations as in the sole judgment of the Licensor are necessary for the proper operation of the Licensed Premises, the Terminal Building and the Airport.

**4.9 CONDUCT OF BUSINESS BY THE LICENSEE**

(a) On and after the Commencement Date and thereafter throughout the Term, the Licensee shall begin productive use of the Licensed Premises and shall therein continuously, actively

and diligently maintain and conduct the business set out in Section 2.1 hereof to at least to industry standards and in accordance with Schedule E attached hereto. In the conduct of the Licensee's business pursuant to this License, the Licensee shall, at its sole cost and expense operate and conduct its business in an up-to-date, first class, dignified and reputable manner with due diligence, in conformity with the highest standards of practice prevailing in such field of business and among merchants engaged in the same or similar business, and in accordance with Schedule E attached hereto, and maintain a full, competent staff to properly serve all customers and furnish prompt, courteous and efficient service adequate to meet all reasonable requests therefore and shall insure polite and inoffensive conduct and demeanor on the part of its representatives, agents, servants, and employees; (i) own or acquire by equipment lease, install in the Licensed Premises and keep in good order and condition, free from liens or encumbrances by third parties, fixtures and equipment of first class quality; (ii) keep the Licensed Premises at all times in a safe, sanitary, neat, clean, attractive, orderly, first class and inviting condition; (iii) discontinue, at the reasonable request of the Licensor, any business, conduct or practice in relation to the Licensed Premises that, in the reasonable opinion of the Licensor, may harm the business or reputation of the Licensor or reflect unfavorably on the Airport, the Licensor, or other Licensees or occupants of the Airport, or which may tend to confuse, mislead, deceive or be fraudulent to the public;

(b) The Licensor reserves the right to demand from time to time from the Licensee a complete list of the advertising copy for each Advertising Display; and such shall be in the form and content to be determined by the Licensor; and the Licensor may at its sole discretion determine that a class of advertising copy may not be displayed; and the Licensee shall discontinue the displaying of such class of advertising copy upon receipt of notice thereof in writing signed by or on behalf of the Licensor.

(c) The Licensee shall:

1) Develop on a continuing basis, integrated master plan for advertising at the Airport to be shared with the Licensor upon request;

2) Practice space utilization planning which will recognize and meet the needs of all advertising classifications and insure maximum revenue return consistent with the scope and integrity of the advertising master plan.

3) Provide a sales team with ability and experience of sufficient scope to solicit and sell, local, regional, and international advertising for advertising at the airport.

4) Provide up to date advertising units and facilities which are consistent with the architectural design plan for advertising at the airport.

5) Practice energy conservation and efficient energy use through use of energy efficient lighting and screens such as LED bulbs and screens.

**4.10 JAMAICAN CONTENT**

The Licensee shall, in purchasing goods and services for the performance of its obligations under this License, provide a full and fair opportunity for the use of Jamaican carriers, content, suppliers and contractors to the extent that they are competitive and available.

**4.11 PERSONNEL**

(a) The Licensee shall employ or permit the employment of only such personnel as will assure a high standard of service to the public. All such personnel, while on or about the Licensed Premises, shall be clean, neat in appearance and courteous at all times. Local personnel shall be employed to the extent practical and consistent with reasonable efficiency and economy. No personnel employed by the Licensee, while on or about the Licensed

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Premises, shall use improper language, act in a loud, boisterous or otherwise improper way or be permitted to solicit business in an inappropriate manner.

(b) The Licensee shall if so directed by the Licensor in writing require its employees who come in direct contact with the public at the Airport to wear a uniform or badge by which they may be known and distinguished as the employee of the Licensee.

(c) If the Licensor determines that national security is involved the Licensor may instruct the Licensee to provide information concerning any person or persons employed by the Licensee on the Licensed Premises. The Licensee shall not employ any person with a criminal record and shall direct its employees to furnish it with an original Police Record. The Licensee shall comply immediately with instructions from the Licensor pursuant to this Section 4.11.

(d) If the Licensee or its employees require parking at the Airport, the Licensee shall pay for such parking for the automobiles or other motorized vehicles of the Licensee's employees, at rates in effect from time to time at the Airport.

(e) The Licensee shall select and appoint, subject to the reasonable approval of the Licensor, a partner, general partner, corporate or other officer who shall serve as managing director of the Licensee's operations at the Airport. Such person must be an outstanding, highly qualified experienced manager or supervisor, vested with full power and authority to accept service of all notices provided for herein regarding the operation of the Licensee's business in the Licensed Premises, including the quality and prices or products sold, and the appearance, conduct and demeanor of the Licensee's representatives, agents, servants and employees. Such managing director shall be assigned to a duty station or office at or near the Terminal Building, where he or she shall be available during regular business hours and where, at all times during his absence, a reputable subordinate shall be in charge and available.

(f) Within 10 days of written notice to the Licensee by the Licensor of any violation of this Section 4.11, the Licensee shall correct the condition objected to. If the condition so objected to is not corrected within 10 days after receipt of such notice, the Licensor may remedy such default at the Licensee's expense, in addition to and without limiting or affecting any rights and remedies of the Licensor.

## 5. THE LICENSED PREMISES, SERVICES AND IMPROVEMENTS

### 5.1 "AS IS" CONDITION

The Licensee accepts the Licensed Premises in an "as is" condition on the Commencement Date. The Licensee releases the Licensor from the obligation to make any repair or improvements to the Licensed Premises except as expressly required by the License.

### 5.2 ACCESS

(a) The Licensor and its agents shall have full and free access for inspection purposes during normal business hours and in the presence of the Licensee or a representative of the Licensee to any and every part of the License Premises and shall have access to all equipment, stores, furnishings and movables therein, for the purpose of inspecting the same; it being expressly understood and agreed, however, that in cases of emergency, the Licensor shall at all times and for all purposes have full and free access to the Licensed Premises. In addition, the Licensor and its agents shall have the right to enter the Licensed Premises during normal business hours to make such repairs, alterations, changes, adjustments, improvements or additions to the Licensed Premises or any part thereof or any adjacent property as the Licensor considers necessary or desirable, including without limitation, the pipes, conduits, wiring, ducts, and other installments of any kind in the Licensed Premises which is required thereof without the same constituting a re-entry or a breach of any covenant for quiet enjoyment contained in this License or of any statutory provision.

(b) The Licensor and its agents shall have full and free access during normal business hours and in the presence of the Licensee or a representative of the Licensee to any and every part of the Licensed Premises for the purpose of showing such premises to interested parties during the Term.

**5.3 SERVICES AND UTLITIES**

(a) Subject to the Licensor's ability to do so and the Licensor's obligations under this License, the Licensor shall supply or cause to be supplied to the Licensed Premises, including electrical energy for general purposes and ventilation for the reasonable and comfortable use of the License Premises for their intended purpose.

(b) If the Licensee requires, at any time during the Term, any such utilities in excess of such provided to operate typical back-illuminated advertising signs or household-type lights, the Licensee shall supply and install at its sole cost and expense any special wires, conduits, or other equipment necessary to provide such additional capacity, subject to the prior written consent of the Licensor.

(c) The Licensor may install a separate meter or meters to measure electrical consumption, by and at the cost of Licensee, and make such installation a condition for approval of any types of advertising displays that use energy in excess of that required to operate a typical back-lighted advertising sign or household-type lights.

(d) The Licensee will be invoiced by the Licensor as a reimbursement and shall pay for all electrical energy used which will be established on estimated consumption for the particular type of equipment based on the power supply requirement and hours of use daily at such rates as may be in effect from time to time. 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.

(e) The Licensee shall have the use of washroom facilities provided by the Licensor in common with others.

(f) The Licensor reserves the right to install life safety equipment and public address systems in the Common Areas and the Licensed Premises.

g) In order to effect any maintenance, repairs, replacements, alterations or improvements to the utilities, ventilating, air-conditioning or humidity control systems or equipment serving the Terminal Building, the Licensor shall have the right, without liability and without being deemed thereby to have interfered with the Licensee's rights under this License or committed a breach of this License, and without thereby entitling the Licensee to any rights in respect thereof, to discontinue, suspend or modify any utilities, ventilating, air-conditioning and humidity control systems or equipment at such time or times and from time to time as the Licensor shall deem desirable on 24 hours' notice to the Licensee, except in the case of emergencies or apprehended emergencies in which case no such notice shall be required.

(h) The Licensee shall pay the Licensor forthwith on demand all charges as determined and allocated by the Licensor, acting reasonably, in respect of all special services provided to or for the benefit of the Licensee and requested by the Licensee or required (as determined by the Licensor, acting reasonably) by the Licensee's use of the Licensed Premises beyond standard services. Such special services include, charges for security outside airport operating hours (where requested by Licensee), hoisting, waste removal, storing materials and articles and other similar services.

**5.4 TEMPORARY SUSPENSION OF SERVICES**

Without limiting or restricting the generality of the provisions of Section 7 hereof, the Licensee shall not have nor make any claim or demand, nor bring any action or suit or petition against the Licensor, for any damage which the Licensee may sustain by reason of temporary suspension,

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interruption or discontinuance, in whole or part, from whatever cause arising in services supplied by the Licensor hereunder. Without limiting the generality of the foregoing, the Licensor shall not be liable for, and the Licensee shall indemnify the Licensor and save the Licensor harmless from and against, any and all Claims for personal discomfort, illness or injury of the Licensee or any persons permitted by it to be on the Licensed Premises by reason of the suspension or interruption for any period of time of any utilities, ventilating, air-conditioning or humidity control or by reason of the non-operation or failure of any systems or equipment related thereto.

### 5.5 LICENSOR'S APPROVAL OF LICENSEE'S ALTERATIONS

(a) The Licensee shall not make any repairs, replacements or alterations to any part of the Licensed Premises without the Licensor's prior written consent.

(b) The Licensee will not commence nor make any Alterations without the Licensor's prior written consent, which consent, subject to Section 5.5 (c), shall not be unreasonably withheld. The Licensor's consent shall be evidenced by a Facility Alteration Permit

(c) If any proposed Alterations:

1. affect the structure (including, without limitation, the foundations, subfloor, roof slabs, load bearing walls and structural columns and beams), of any systems located on the Licensed Premises; or
2. require compatibility with, or relocate to or will affect, the Licensor's systems (including, without limitation, the ventilating and air-conditioning equipment);
3. may adversely affect the Licensor or any other tenant or licensee in the Terminal Building or at the Airport; or
4. are requested to be made at the time an Event of Default is existing;

then, the Licensor may unreasonably and arbitrarily withhold its consent to the proposed Alterations, or if it had given it, withdraw its consent without any penalty or liability to the Licensee.

(d) No alterations by or on behalf of the Licensee shall be permitted which may weaken or endanger the structure or adversely affect the condition or operation of the Licensed Premises or the Building or diminish the value therefore before commencing any alterations, the Licensee shall submit to the Licensor:

(1) details of the proposed alterations, including, without limitation, drawings and specifications prepared by qualified designers and conforming to good engineering practice;

(2) such indemnification against liens, costs, damages and expenses as the Licensor shall reasonably require; and

(3) evidence satisfactory to the Licensor that the Licensee has obtained all necessary consents, permits, Licenses and inspections from all provincial, municipal and other governmental authorities having jurisdiction.

(e) All alterations by the Licensee shall be:

1) at the sole cost of the Licensee;

2) performed by competent workers whose labour union affiliations are compatible with others employed by the Licensor and its contractors and who are fully covered by Workers' Compensation;

3) performed in a first class and good and workmanlike manner as befitting a world class international air terminal in accordance with the approved drawings and specifications, all

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applicable codes and regulations including the Airport Construction Code, and the very best standards of practice;

4) subject to the reasonable supervision and direction of the Licensor; and

5) completed as expeditiously as possible with first class new materials and in such a manner as to minimize to the extent reasonably possible, interference with any business conducted in the Terminal Building and the Airport.

(f) The Licensee shall carry builder's all risk insurance satisfactory to the Licensor, acting reasonably, naming the Licensor as an additional insured during the making of the alterations and the Licensee will provide the Licensor with a copy of such insurance policy or certificate of insurance for the Licensor's approval prior to the commencement of any alterations and the Licensee shall not commence any alterations until the Licensor has approved the said insurance and the Licensee provides the Licensor with evidence satisfactory to the Licensor, acting reasonably, that the Licensee has taken out such insurance as approved by the Licensor.

(g) Any alterations made by the Licensee without the prior written consent of the Licensor or which are not in accordance with the drawings and specifications approved by the Licensor shall, if requested by the Licensor, be promptly removed by the Licensee at its expense and the Licensed Premises restored to their previous condition.

(h) Upon completion of any alterations, the Licensee shall provide to the Licensor as-built drawings for the Licensed Premises and shall secure all applicable statutory declarations and certificates of inspection, approval and occupancy and provide evidence of same to the Licensor.

(i) Under no circumstances shall the Licensee, its employees, agents, contractors, suppliers or workers enter onto the roof of the Building or make any opening in the roof of the Licensed Premises in connection with the performance of any alterations or for any other reason whatsoever.

(j) Regardless of any consents granted by the Licensor to any proposed alterations, such consents relate only to the general acceptability of the proposed alterations and that by giving such consent, the Licensor shall not be deemed to have any direct or indirect interest, responsibility or liability with respect to such alterations or the design, installation or maintenance of same or for the payment of same, all of which shall be the sole responsibility of the Licensee.

(k) Any repairs or alterations made by the Licensee to or upon the Licensed Premises which by their nature are determined in accordance with the provision hereof to be Licensee Improvements shall upon termination of this License, except and subject as in this License otherwise specifically provided, be vested in title in the Licensor without any payment of compensation to the Licensee in respect of such repairs or alterations; nevertheless, the Licensor shall have the option of requiring or compelling the Licensee upon written notice, prior to or promptly after the expiry or earlier termination of this License, to remove such repairs or alterations and the Licensee shall be so bound to remove and shall restore the Licensed Premises to their original condition all at the sole cost and expense of the Licensee and without any right on the part of the Licensee to seek compensation for any reason whatsoever.

### 5.6 CLEANING AND MAINTENANCE

The Licensed Premises and everything in and about them (including without limitation the Licensee Improvements) shall in all respects be kept clean, neat and in good sanitary condition, and free from any damage. The Licensee shall not allow any refuse, garbage or other loose objectionable or waste material to accumulate on or about the licensed premises. in accordance with all Applicable Laws, all to the satisfaction of the Licensor, it being expressly understood that

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the Licensor reserves the right to rule upon the cleaning methods and quality of the cleaning supplies.

The Licensor shall ensure that the cleaning standards are known to the Licensee's operating staff.

### 5.7 GARBAGE AND REFUSE DISPOSAL

(a) The Licensee, at its sole cost and expense, shall at all times provide or cause to be provided, complete and proper arrangements for the adequate sanitary handling and disposal away from the Licensed Premises of all trash, garbage and other refuse on or in connection with the Licensee's operations under this License, all to the satisfaction of the Licensor. Piling of boxes, cartons, barrels or other similar items shall not be permitted in a public area in or around the Terminal Building, the Airport or the Lands. Proper arrangements are to be made for the removal and disposal of any non-office wastes, to include but not limited to construction debris, from off the airport facility.

(b) The Licensee shall comply with any and all recycling programs established at the Terminal Building or the Airport, all to the satisfaction of the Licensor. Without limiting the generality of the foregoing, the Licensee agrees, at its expense, to comply with all present and future Applicable Laws regarding the collection, sorting, separation and recycling of waste products, garbage, refuse and trash. The Licensee shall, at its expense, sort and separate such waste products, garbage, refuse and trash into such categories as provided by law. Each separately sorted category of waste products, garbage, refuse and trash shall be placed in separate receptacles approved by the Licensor. Such separate receptacles may, at the Licensor's option, be removed from the Licensed Premises in accordance with a collector schedule approved by the Licensor prescribed by law.

### 5.8 DRAINAGE SYSTEM

The Licensee shall not do, cause or permit to be done any act or thing on the Licensed Premises which may damage, injure, or impair the operation of any drainage system, sanitary sewer system or any facility provided for the protection of the general public or the operation of the Terminal Building or the Airport, all to the satisfaction of the Licensor and shall fully indemnify and hold the Licensor harmless from any loss, damage, claim or suit in respect of same.

### 5.9 REASONABLE USE

The Licensee shall not do, nor suffer nor permit to be done any act or thing which may impair, damage or injure the Licensed Premises, the Terminal Building, the Airport, or any part thereof, and shall indemnify the Licensor of any and all losses beyond the damage occasioned by reasonable use, that is, fair wear and tear.

### 5.10 FURNITURE, TRADE FIXTURES AND EQUIPMENT

The Licensee shall provide, install and maintain in the Licensed Premises, such Trade Fixtures, furnishings and equipment required for purposes in connection with the operations conducted in the Licensed Premises pursuant to this License and the Licensee shall also provide the replacement of such Trade Fixtures, furnishings and equipment, all at the sole cost and expense of the Licensee and to the satisfaction of the Licensor; provided, however that the Licensee shall submit to the Licensor plans and specifications for approval prior to the purchase and installation thereof.

### 5.11 DANGEROUS GOODS

No Hazardous Substance, or goods of an explosive, dangerous, inflammable or noxious nature or character shall be stored in or upon the Licensed Premises nor shall be brought into or onto the Terminal Building, the Airport or the Lands, except with the prior written consent of the Licensor.

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## 5.12 FIRE PREVENTION

The Licensee shall, at its sole cost and expense, take all precautions to prevent fire from occurring in or about the Licensed Premises, and shall observe and comply with all laws and regulations in force respecting fires and fire prevention at the Terminal Building or the Airport, and with all instructions given from time to time by the Licensor with respect to fires and fire prevention, evacuation procedures and extinguishing of fires.

## 5.13 REPAIR OF DAMAGE WHERE LICENSEE AT FAULT

Notwithstanding any other terms, covenants and conditions contained in this License, including without limitation the Licensee's obligation to take out insurance, if at any time or times hereafter any damage or injury (ordinary wear and tear only excepted) should be occasioned to the Licensed Premises, the Terminal Building, or any part thereof, or to any works of the Licensor on the Airport, by reason of or on account of the operations of the Licensee hereunder or any action taken or things done or maintained by virtue thereof or any persons for whom the Licensee is in law responsible or through the fault, default, negligence, want of skill, carelessness, neglect, act, misconduct or misuse of the Licensee or any persons for whom the Licensee is in law responsible, then and in every such case, the Licensee shall, within a reasonable time upon notice thereof from the Licensor given in writing, repair, rebuild and restore the same in good, sufficient and workmanlike manner. In the event of failure on the part of the Licensee to so repair, the Licensor may, at its option, repair such damage or injury in which case the Licensee shall repay and reimburse the Licensor for all costs and expenses connected therewith or incidental as may be applicable under the policies of the Licensor for administration and overhead forthwith upon receipt by the Licensee of appropriate accounts therefor from the Licensor. In the event of failure on the part of the Licensee to repair such damage or injury and in the event of non-repair by the Licensor, the Licensee shall remain liable to the Licensor for the amount of such damage or injury to the extent the Licensee is liable therefor in law and payment of such amount shall be made by the Licensee to the Licensor forthwith, upon receipt by the Licensee of appropriate accounts therefor from the Licensor.

## 5.14 LICENSOR'S CONTROL

(a) The Airport and the Terminal Building are and will be at all times subject to the exclusive control and management of the Licensor. Without limiting the generality of the foregoing, the Licensor:

(1) may do such things on the Lands, in the Terminal Building, or the Airport or in the Licensed Premises as required to comply with any laws, by-laws, regulations, orders or directives affecting the Lands, the Terminal Building or the Airport or any part thereof;

(2) may do such other things on the Lands, in the Terminal Building or the Airport or in the Licensed Premises as the Licensor, in the use of good business judgment determines to be advisable;

(3) shall have the right to police and supervise any or all portions of the Airport and the Terminal Building; obstruct, lock up or close off all or any part of the Airport and the Terminal Building for purposes of performing any maintenance, repairs or replacements of for security purposes or to prevent the accrual of any rights to any person or the public or any dedication thereof; grant, modify, and terminate any easements or other Licenses respecting any use or occupancy, maintenance, of or supply of any services to any part of the Airport and the Terminal Building; and use or permit to be used any part of the Common Areas for any purpose including promotional activities, merchandising display, entertainment or special features; and

(4) shall have the right to construct on or remove from the Airport or adjacent lands such other buildings or extensions of buildings as the Licensor may desire. The Licensor

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shall have the right to make any changes in, additions to, deletions from, re-arrangements of or relocations of any part or parts of the Airport and the Terminal Building including the Licensed Premises and any of the Common Areas, as the Licensor shall consider necessary or desirable in its sole discretion.

(5) Notwithstanding any other provisions in this License, at any time during the currency of this License, the Licensor, upon no less than thirty (30) days prior written notice, shall have the right to require the Licensee to relocate the location to one or more different locations, either on a temporary basis or for the remainder of the term. The Licensee shall move within such required time to such new location without any right of compensation for business interruption or any lost or diminished business. In instance of operational emergency, Licensor shall have the right to relocate or remove any advertising display and shall provide written notice to Licensee within forty-eight (48) hours of such relocation.

(b) The exercise by the Licensor of any of its rights under Section 5.14(a) shall not constitute a breach by the Licensor of any of its obligations under this License, nor an infringement nor breach of any of the Licensee's rights under this License or at law, nor entitle the Licensee to any abatement of Fees or damages or any other remedy whatsoever, whether or not damage to or interference with the use of the Licensed Premises or their contents results.

**5.15 DISCHARGE OF LIENS**

The Licensee shall at all times throughout the Term promptly pay all of its contractors, suppliers and workers and all charges incurred by or on behalf of it for any work, materials or services which may be done, supplied or performed at any time in respect of the Licensed Premises and shall do any and all things necessary so as to ensure that no lien, encumbrance, charge, or caveat (collectively "lien") is registered against the Airport or the Lands or any part thereof, or against the Licensor's interest in the Licensed Premises, by any Person claiming by, through, under or against the Licensee or its employees, agents, invitees, licensees, contractors or subcontractors, and if any such lien is made, filed or registered, the Licensee shall discharge it or cause it to be discharged forthwith at its sole cost and expense.

If the Licensee fails to discharge or cause any such lien to be discharged as aforesaid, then, in addition to any other right or remedy of the Licensor, the Licensor may in its sole discretion, but it shall not be obligated to discharge the same by paying the amount claimed to be due into Court or directly to any such lien claimant and the amount so paid by the Licensor and all costs and expenses including solicitors fees (on a solicitor and client basis) incurred for the discharge of such lien shall be immediately due and payable by the Licensee to the Licensor on demand as Additional Fees.

**5.16 OPERATION OF COMMON AREAS**

(1) All Common Areas shall be subject at all times to the exclusive control and management of the Licensor. The Licensor shall be entitled to operate and police the same, to change area and location thereof, to employ all personnel and to make all rules and regulations necessary for the proper operation and maintenance thereof, and to do such other acts with respect thereto as the Licensor, acting reasonably, shall determine to be advisable provided, however, that the Licensee, unless deprived by reasons beyond the Licensor's control, shall always have the use of such of the Common Areas as are reasonably necessary for the use and enjoyment of the Licensed Premises.

(2) The Licensee agrees to co-operate with the Licensor in the policing and supervision of the Airport and the Terminal Building. The Licensee agrees that all enclosed Common Areas may be open for access to the Licensed Premises during the business hours of the Terminal Building as determined by the Licensor from time to time, and during such other hours as the Licensor may determine. At any other times, any or all enclosed areas, malls, walkways may

be locked by the Licensor, and the public and the Licensee may be excluded therefrom. In order to perform any maintenance, repairs, alterations or improvements in or relating to any part of the Airport and the Terminal Building, the Licensor may cause reasonable and temporary obstructions of access to the Common Areas without thereby being deemed to have interfered with any of the Licensee's rights hereunder or to have breached any of its obligations under this License.

(3) The Licensee shall not itself and shall not permit any of its employees, servants, agents, customers, contractors or those for whom it is in law responsible to obstruct the Common Areas, including driveways, laneways, access routes or other portions of the Airport or the Terminal Building other than as expressly permitted under this License or as otherwise expressly permitted by the Licensor in writing. If there is a breach of this Section, the Licensor shall have the right at the expense of the Licensee, to remove such obstruction. The cost of such removal shall be paid by the Licensee forthwith upon demand, and the Licensor shall not be responsible for and is hereby released from any liability for any damage caused during such removal. The Licensor shall also be entitled to hold such items as security for the payment of the costs of removing the same and any damage arising from such obstruction or its removal. If requested by the Licensor, the Licensee shall supply to the Licensor the license numbers of all vehicles for which access may properly be gained to any part of the Airport and the Terminal Building from time to time, including employee's automobiles, delivery trucks of the Licensee and frequent suppliers of goods and materials to the Licensed Premises.

**5.17 AIRPORT SECURITY**

The Licensee shall comply with Airport Security Rules 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 standard charges levied by the Licensor for those security measures.

**5.18. LICENSOR'S TERMINATION RIGHT**

The Licensor shall have the right (the "Termination Right") exercisable at any time, and from time to time, during the Term, including but not limited to bona fide Airport operational, development or redevelopment purposes to terminate this License in respect of any portion of the Licensed Premises on the following terms and conditions:

(a) the Licensor shall give the Licensee not less than thirty (30) days written notice of its exercising the Termination Right, which notice shall specify the termination date (the "Termination Date") and the relevant portion of the Licensed Premises (the "Terminated Premises);

(b) on the Termination Date the Licensee shall surrender its right to use of the Terminated Premises to the Licensor in accordance with its obligations contained in this License;

(c) the Licensee shall not have any right to or make any Claim on account of goodwill, loss of profits, loss of business or otherwise in connection with the exercise by the Licensor of the Termination Right.

**5.19. PATTERN OF PASSENGER TRAFFIC AND TERMINAL BUILDING RENOVATIONS**

(1) The Licensee hereby acknowledges that any data provided by the Licensor on past passenger levels and historic Gross Revenue are not necessarily indicative of future

passenger levels and Gross Revenue. The Licensee further acknowledges that passenger forecasts provided by the Licensor may not materialize. The Licensee agrees that it shall have no Claim whatsoever against the Licensor for any losses or damages which it may suffer as a result of any reliance on any such data or forecasts.

(2) The Licensee acknowledges that the configuration of the Terminal Building will be in a state of flux during any new terminal development or renovation program and that, therefore, there can be no guarantee that the pattern of passenger traffic adjacent to the Licensed Premises on the commencement of the Term or any future pattern thereof will be permanent for all or any portion of the Term. Because of construction, or for other reasons, the Licensor may find it necessary and in the best interests of the traveling public to make changes in the passenger traffic pattern and erect temporary structures, walls or partitions. Changes in air carrier operations or facilities at the Airport or in the Terminal Building could also affect Gross Revenue and/or activity generally and could affect the passenger traffic pattern adjacent to the Licensed Premises. The Licensee hereby acknowledges and agrees that it shall have no Claim whatsoever against the Licensor for any changes or disruptions that may be made and/or arise as a result of any Terminal Building renovation program, or any other change as herein set out.

(3) Notwithstanding any provision to the contrary in this License, the MAG or Percentage Fee shall be subject to reduction equal to Concessionaire's share of advertising revenues lost where the Licensor requires any removal or relocation of any Licensed Area shown in Schedule E, as may be amended, due to any Terminal Building renovation program or any concession or physical plant alteration plan, without the contemporaneous assignment to Licensee of a replacement location of at least equal passenger exposure and commercial advertising value. Where a display case or other display advertisement in an any Licensed Area has been visually obstructed or subject to material passenger diversions for more than seven (7) days without fault to Licensee, any amounts refunded to or withheld by affected advertisers shall not count towards Gross Revenues but, rather, shall be deducted from the MAG or Percentage Fee payment to the Licensor.

**5.20 REMOVAL/RELOCATION/ADDITION OF DISPLAYS**

(a) The Licensor reserves the right to instruct the Licensee, at any time during the currency of this License and for whatever reason determined by the Licensor, to remove or relocate any Advertising Display or Displays installed under this License in accordance with the notice provisions of subsection 5.14 (6), above. Upon written notice from the Licensor, the Licensee shall remove such Advertising Display(s) and leave the location(s) in a good and tidy condition to the satisfaction of the Licensor. Under such circumstances, the Licensor shall bear the costs incurred with the removal or relocation of the Advertising Display(s), provided, however, that if the Licensee fails to comply with the instructions of the Licensor as indicated in the aforementioned notice, the Licensor will have the right to arrange for the removal or relocation of the Advertising Display(s), all at the risk, cost and expense of the Licensee.

(b) At any time during the currency of this License, the Licensee may, upon written notice to the Licensor, request permission to remove or relocate any Advertising Display or Displays installed under the License, and the decision of the Licensor in respect to such request shall be final. Upon approval of the Licensor, evidenced by necessary permit, the Licensee shall forthwith remove or relocate such display(s), leaving the Location(s) in a good and tidy condition, all to the satisfaction of the Licensor and at the risk, cost and expense of the Licensee.

(c) If additional Locations are desired by the Licensee or the Licensor, additional Locations may be authorized by the Licensor whose decision shall be final. No additional Advertising Displays other than the ones at the locations referred to in Schedule A annexed hereto shall be installed by the Licensee without the prior approval in writing from the Licensor.

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(d) It is understood and agreed between parties that if any of the subsections outlined above; 5.20(a), 5.20(b), or 5.20(c) are exercised, that the Licensee shall not by reason of any actions taken or things performed, be entitled to any compensation whatever.

(e) The Licensed Premises annexed hereto at Schedule A may be amended in writing from time to time during the currency of this License, by or on behalf of the Licensor and by the Licensee's duly authorized representative.

## 6. TRANSFERS OF LICENSEE'S RIGHTS

### 6.1 TRANSFER OF LICENSEE'S RIGHTS

The Licensee shall not cause or permit any Transfer or Assignment of this License without the express consent of the Licensor in writing.

### 6.2 ASSIGNMENT BY THE LICENSOR AND SUBORDINATION

It is specifically understood and agreed that the Licensor shall be entitled to assign under this License, in whole or in part, and upon such assignment being executed by the Licensor, and notice thereof being given by or on behalf of the Licensor to the Licensee, this License shall be subordinated and subjected to the assignment or encumbrance.

## 7. LIABILITY AND INDEMNITY

### 7.1 CLAIM OR DEMAND

The Licensee acknowledges and agrees that the Licensor shall not be liable or responsible in any way to the Licensee or any other Person for (i) any Injury arising from or out of any occurrence in, upon, at or relating to the Airport or any part thereof (including without limitation the Terminal Building and the Licensed Premises) or any loss or damage to property (including loss of use thereof) of the Licensee, its employees, agents or invitees or any other Person located in the Terminal Building or any part thereof from any cause whatsoever, except where any such injury, loss or damage results from the negligence of the Licensor, its agents, employees or any other Person for whom the Licensor is in law responsible (ii) any Injury to the Licensee or any other Person or loss or damage to property resulting from fire, smoke, explosion, impact of aircraft, falling plaster, ceiling tiles, fixtures or signs, broken glass, steam, gas, fumes, vapours, odours, dust, dirt, grease, acid, oil, any hazardous material or substance, debris, noise, air or noise pollution, theft, breakage, vermin, electricity, computer or electronic equipment or systems malfunction or stoppage, water, rain, flood, flooding, tornado, windstorm, hail, frost, excessive heat or cold, sewage, sewer backup, toilet overflow, or leaks or discharges from any part of the Airport or the Lands (including the Licensed Premises), or from any pipes, sprinklers, appliances, equipment (including without limitation ventilating and air-condition equipment), electrical or other wiring, plumbing fixtures, roof(s), windows, skylights, doors, trapdoors, or subsurface of any floor or dampness or climatic conditions or from any other cause whatsoever, (iii) any Injury, loss or damage caused by other Licensees or any Person in the Airport, or by occupants of adjacent property thereto, or by the public, or by construction or renovation, or by any private, public, quasi-public work, or by interruption, cessation or failure of any public or other utility service, or caused by Force Majeure. Without limiting the generality of the foregoing, all property of the Licensee kept or stored on the Licensed Premises shall be so kept or stored at the risk of the Licensee only, and the Licensee shall promptly indemnify and hold harmless the Licensor from and against any loss, damage or injury and all Claims arising out of any loss of or damage to such property, including loss of use thereof, and including, without limitation, any subrogation claims by the Licensee's insurers; (iv) any Injury to the Licensee or any other Person or any loss or damage suffered to the Licensed Premises or the contents thereof by reason of the Licensor or its representatives entering the Licensed Premises to undertake any work therein, or to exercise

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any of the Licensor's rights or remedies hereunder, or to fulfill any of the Licensor's obligations hereunder, or in the case of emergency; or (v) any Injury, loss or damage insured against or required to be insured against by the Licensee under Section 8.1; the Licensee expressly releases the Licensor from any Injury or loss or damage to property caused by perils insured against or required to be insured against the Licensee. The Licensee shall promptly indemnify and hold the Licensor harmless from and against any and all Claims in connection with any Injury or any loss or damage to property referred to in this Section 7(a).

### 7.2 INDEMNITY

Notwithstanding any other terms, covenants and conditions contained in this License, the Licensee hereby indemnifies and holds harmless the Licensor from and against any and all injury or any loss or damage to real or personal property of the Licensor, other occupants of the airport, contracting parties or third parties arising from or out of this License, or any alterations, to or for the Licensed Premises, or any occurrence in, upon or at the Licensed Premises, or the use by the Licensee of the Licensed Premises, or any part thereof, or occasioned wholly or in part by any fault, default, negligence, act or omission of the Licensee or by any Person permitted or invited to be on the Licensed Premises by the Licensee or for any claims or demands connected or in relation thereto. For any loss or damage that may arise from breach of the contract through non-performance or defective performance, injuries suffered by employees, subcontractors or the general public. If the Licensor shall be made a party to any litigation commenced by or against the Licensee, then the Licensee shall promptly indemnify and hold harmless the Licensor and shall pay the Licensor all costs and expenses, including, without limitation, any professional, consultant and legal fees (on an Attorney and his own client basis) that may be incurred or paid by or on behalf of the Licensor in connection with such litigation on demand. The Licensor may, at its option and at the Licensee's expense, participate in or assume carriage of any litigation or settlement discussions relating to the foregoing or any other matter for which the Licensee is required to indemnify the Licensor under this License. Alternatively, the Licensor may require the Licensee at the Licensee's expense to assume carriage of any litigation or settlement discussions relating to the foregoing or any other matter for which the Licensee is required to indemnify the Licensor under this License. Alternatively, the Licensor may require the Licensee at the Licensee's expense to assume the carriage of and responsibility for all or any part of such litigation or discussions, subject to the Licensee at all times keeping the Licensor up to date in writing as the status thereof. Without limiting the generality of the foregoing, the Licensee shall also pay the Licensor, on demand, all cost and expense, including without limitation, any professional, consultant, and legal fees (on a solicitor and his own client basis) that may be incurred or paid by or on behalf of the Licensor in enforcing the terms, covenants and conditions of this License.

## 8. INSURANCE

### 8.1 LICENSEE'S INSURANCE

The Licensee shall maintain, at its sole cost and expense, and keep in full force and effect at all times during the currency of this License, 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 License. The Licensee acknowledges that the Licensor's current insurance requirements are more fully set out hereunder:

(a) all risks insurance on all property of every description, nature and kind owned or controlled by the Licensee or for which the Licensee is legally liable, which is installed, located or situate within the Licensed Premises or elsewhere in the Airport, including without limitation, all inventory or stock-in-trade in an amount not less than the full replacement cost thereof without deduction for depreciation; such insurance shall be subjected to a replacement cost

endorsement and shall include a stated amount co-insurance clause and a breach of conditions clause;

(b) comprehensive public liability insurance to respond to any and all incidents occurring in the Licensed Premises or caused by the legal liability of the Licensee at the Airport in the minimum amount One Million United States Dollars (US$1,000,000) per occurrence including the following extensions: owners and contractors protective; limited pollution coverage endorsement; products and completed operations; personal injury; occurrence basis property damage; blanket contractual and non-owned automobile liability; such insurance shall include the Licensor as named additional insured, and shall protect and indemnify the Licensor in respect of Claims by the Licensee as if the Licensor were separately insured; such insurance shall include cross liability and severability of interest clauses;

(c) any other form of insurance in such amounts and against such risks as the Licensor may from time to time reasonably require, including but not limited to insurance required at clause 5.5 (f) herein.

(d) The Licensee acknowledges and agrees that it shall be solely responsible for insuring the Licensed Premises, its equipment and stock and any other property owned or brought into the Licensed Premises by the Licensee whether affixed to the Building or not.

(e) The insurance policies referred to in this Section be subject to such higher limits as the Licensee, or the Licensor acting reasonably, or any mortgagee of the Licensor's interest in the Airport may require from time to time. The policies of insurance referred to in Sub-Section 8.1 (a) (b) and (c) shall contain a waiver of the insurer's right of subrogation as against the Licensor. The Licensee hereby waives its right of recovery against the Licensor, its employees and those for whom the Licensor is in law responsible with respect to occurrences required to be insured against by the Licensee hereunder. Any and all deductibles in the Licensee's insurance policies shall be borne solely by the Licensee and shall not be recovered or attempted to be recovered from the Licensor. In addition, all such policies shall be non-contributing with, and will apply only as primary and not excess to, any insurance proceeds available to the Licensor and shall name the Licensor as an Additional Insured.

(f) The Licensee shall provide to the Licensor at the commencement of the Term and at least thirty (30) days prior to the renewal of all insurance referred to in this Section 8.1 and promptly at any time upon request, a certificate of insurance evidencing the insurance coverage maintained by the Licensee in accordance with this Section 8.1. The delivery to the Licensor of a certificate of insurance or any review thereof by or on behalf of the Licensor shall not limit the obligation of the Licensee to provide and maintain insurance pursuant to this section 8.1 or derogate from the Licensor's rights if the Licensee shall fail to fully insure.

(g) All policies shall provide that the insurance shall not be cancelled or changed to the prejudice of the Licensor without at least thirty (30) days prior written notice given by the insurer to the Licensor. All policies of insurance shall be placed with a company licensed to sell commercial insurance in Jamaica.

(h) The Licensee acknowledges and agrees that, if it fails to obtain and maintain in force any of the insurance set out in this Section 8.1, then the Licensee shall indemnify THE LICENSOR in full with respect to the total costs and or losses arising therefrom.

**1.** **<u>Placement of Licensee's Insurance by the Licensor</u>** – If the Licensee fails to place or maintain all or any of the insurance coverage referred to in Section , the Licensor may, at its option, place all or any part of such insurance in the name of or on behalf of the Licensee and the Licensee shall pay to the Licensor upon demand all costs incurred by the Licensor in so doing including, without limitation, the premium or premiums for such insurance together with the Licensor's administrative fee of fifteen (15%) percent of such premium.

**2.** **Dangerous Use** – Licensee shall not do, omit or permit anything which will increase the cost of the Licensor's insurance or render any insurance on or relating to the Airport subject to cancellation; and Licensee pay to the Licensor upon demand the amount of any increase in the cost of insurance caused by anything so done, omitted or permitted. Licensee shall forthwith upon request comply with requirements of the Licensor's insurers, cease any activity complained of and make good any circumstance which has resulted in an increase in insurance premiums or the cancellation of an insurance policy.

**3.** **Limitation of the Licensor's Liability** – The Licensor, the Licensor's Agents and employees and any Person for whom it or they are in law responsible shall not be liable under any circumstances for any damage caused by anything done or omitted to be done by the licensee of the Airport or any damage resulting from the exercise of the Licensor's control over the Airport or any part thereof.

## 8.2 ENDORSEMENT TO LICENSEE'S POLICIES

a) Each Licensee's policy except as required by Section 8.1 (e) shall be endorsed to:

   (i) name the Licensor and those for whom in law it is responsible as an additional named insured, as their interest may appear,

   (ii) a mortgage clause as may be required by any Mortgagee, other secured creditor or Licensor. Sections 8.1(a) and (b) shall contain a joint loss endorsement.

b) All policies specified under Sections 8.1(a), (b) and (c), and when applicable Section 8.2 (c), shall contain a waiver of any subrogation rights which the Licensee's insurers may have against the Licensor or those for whom in law they are responsible (but if the Licensee fails to procure such waiver, the Licensee will pay to the Licensor as liquidated damages on demand all moneys to which a subrogor hereunder becomes entitled and the cost of any legal defense of any claim for subrogation, except with respect to the Licensee's stock-in-trade, furniture and trade fixtures),

c) All policies will:

   (i) be taken out with insurers acceptable to the Licensor;

   (ii) be in a form satisfactory to the Licensor;

   (iii) be non-contributing with, and apply only as primary and not excess to any other insurance available to the Licensor, Mortgagee, or other secured creditors;

   (iv) contain a severability of interests clause and a cross liability clause, where applicable;

   (v) not be invalidated with respect to the interest of the Licensor, any Owner, or any Mortgagee, or other secured creditors by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policies;

   (vi) contain an undertaking by the Licensee's insurers to notify the Licensor in writing not less than thirty (30) days before any material change, cancellation or termination.

d) The Licensee will, prior to beginning use of the Licensed Premises and on each and every renewal date deliver certified certificates of insurance, or if request, copies of each insurance policy. These certified certificates shall be executed by the Licensee's insurers or their authorized representatives evidencing that the required insurance is in force and the policies have been endorsed accordingly.

## 8.3 INCREASE IN INSURANCE PREMIUMS

The Licensee agrees that it will comply promptly with the reasonable requirements of the loss prevention recommendations of the Licensor's insurers, pertaining to the Licensed Premises. If

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failure to do so causes an increase in premium to the Licensor's insurance premium, the Licensee shall pay any such increase in premiums as an additional charge within ten (10) days after such increase is rendered to the Licensor.

### 8.4 CANCELLATION OF INSURANCE

The Licensee shall not permit anything to be done by reason of the use and occupation of the Licensed Premises or any part thereof by the Licensee or any assignee of the Licensee, or by anyone permitted by the Licensee to be on the Licensed Premises that results in the cancellation or threatened cancellation or the reduction of coverage under the Licensor's insurance.

### 8.5 LICENSOR'S RIGHT TO PLACE LICENSEE'S INSURANCE

If the Licensee at any time fails to take out, renew or keep in full force and effect, or pay any premiums for, any insurance as required to obtain and maintain under this License, or if the Licensee fails to deliver to the Licensor satisfactory proof of insurance coverage the Licensor shall have the right but not the obligation to effect such insurance on behalf of the Licensee and the cost hereof and all other reasonable expenses incurred by the Licensor in respect thereof shall be paid by the Licensee to the Licensor upon demand.

## 9. DEFAULT AND REMEDIES

### 9.1 Default and Remedies

It is expressly agreed that an "Event of Default" means the occurrence of any one or more of the following:

a) the Licensee defaults in the payment of any portion of Fees and such default continues for a period of ten (10) days after written notice of such default is received by Licensee;

b) the Licensee fails to observe or perform any of its covenants or Licenses hereunder (other than the terms, covenants or conditions set to below in Subsections (c) to (k) inclusive (for which no notice shall be required and its covenant to pay Fees) and such default continues for a period of fifteen (15) days after receipt of written notice by the Licensor to the Licensee specifying with reasonable particularity the nature of such default and requiring the same to be remedied; provided, that such shall not be a default where Licensee has commenced remedying or curing the same within the fifteen (15) day period and makes diligent efforts to complete the same within a reasonable time;

c) the Licensee commits a breach of this License that is not capable of being remedied and receives written notice from the Licensor specifying particulars of the breach;

d) if Gross Revenue during any License Year of this License, except the first year, calculated pursuant to Section 3, is less than One Million Five Hundred Thousand United States Dollars (US$1,500,000.00) or if the Licensee fails to report Gross Revenue as required or if the Licensee fails to spend less than Eight Hundred Thousand United States Dollars within the first 2 years of the license;

e) if the default set out in the notice given to the Licensee by the Licensor pursuant to Section 9.1(a) reasonably requires more time to cure than the fifteen (15) day period referred to in that paragraph and the Licensee has not commenced remedying or curing the same within the fifteen (15) day period or, in the opinion of the Licensor fails to diligently complete the same within a reasonable time;

f) the licensee becomes bankrupt or insolvent or takes the benefit of any act now or hereafter in force for insolvent or bankrupt debtors or files any proposal or makes any assignment for the benefit of creditors or any arrangement or compromise;

g) a receiver, interim receiver, receiver manager, monitor, custodian or like Person is appointed for all or part of the property or business of the Licensee;

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h) any steps are taken or proceedings are instituted by the Licensee or any other Person, court or government agency for the dissolution, winding-up or liquidation of the Licensee or its assets;

i) the Licensee makes or attempts to make a bulk sale of any of its assets regardless of where they are situated;

j) the Licensee effects or attempts to effect a Transfer of the License;

k) this Licensee or any of the Licensee's assets are taken or seized under a writ of execution, charge, debenture or other security instrument; or

l) the Licensee fails to pay any amounts due under, or is otherwise in default under any other License or arrangement between the Licensee and the Licensor and all requisite cure periods have expired.

**9.2 DEFAULT**

(1) If and whenever an Event of Default occurs then without prejudice to any other rights which it has pursuant to this License or at law, the Licensor shall have the following rights and remedies, which are cumulative and not alternative:

(i) to terminate this License by fourteen (14) calendar days' notice to the Licensee or to give time to the Licensee to remedy the default and if they fail to do so, to terminate the Licensee with notice as the Licensor may deem fit in the circumstances ;

(ii) to remedy or attempt to remedy any default of the Licensee under this License for the account of the Licensee and to enter upon the Licensed Premises for such purpose. No notice of the Licensor's intention to perform such covenants need be given to the Licensee unless expressly required by this License. The Licensor shall not be liable to the Licensee for any loss, injury or damage caused by acts of the Licensor in remedying or attempting to remedy such default and the Licensee shall pay to the Licensor all expenses incurred by the Licensor in connection with remedying or attempting to remedy such default; and

(iii) to recover from the Licensee all damages and expenses incurred by the Licensor as a result of any breach of this License by the Licensee including, if the Licensor terminates this License, any deficiency between those amounts which would have been payable by the Licensee for that portion of the Term following such termination and the net amounts actually received by the Licensor during such period of time with respect to the Licensed Premises; provided, that Licensee shall have a good faith obligation to mitigate damages by obtaining replacement advertising revenues and that in no instance shall such damages exceed six (6) months' pro-rated value of the then applicable Base Fee in effect at the time of such default, subject to the duty of Licensor to otherwise mitigate such damages.

(2) Should Licensor fail to comply with any duty or obligation under this License and continue to fail for a period of thirty (30) days after receipt of written notice and opportunity to cure, then Licensee shall have the right to seek any and all remedies and damages available at law or equity.

**9.3 LEGAL EXPENSES**

If the assistance of legal counsel shall be required to recover any rights to the Licensed Premises, recover fees or because of the breach of any other covenants herein contained on the part of the Licensee to be kept or performed or to advise the Licensor on any of the foregoing matters, the Licensee shall pay to the Licensor all expenses incurred therefor, including solicitor fees on a solicitor and his client basis.

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## 9.4 RIGHTS CUMULATIVE

The rights and remedies given to the Licensor in this License are distinct, separate and cumulative, and no one of them, whether or not exercised by the Licensor shall be deemed to be in exclusion of any other rights or remedies provided in this License or by law or in equity.

## 9.5 ACCEPTANCE OF FEES – NON WAIVER

No receipt of monies by the Licensor from the Licensee after the cancellation of this License in any lawful manner shall reinstate, continue or extend the Term or affect any notice previously given to the Licensee or operate as a waiver of the right of the Licensor to enforce the payment of Fees then due or thereafter falling due or operate as a waiver of the right of the Licensor to recover all rights to the Licensed Premises by proper suit, action, proceedings or other remedy. After the service of any notice to cancel this License and the expiration of any time therein specified or after a final order or judgment for recovery of rights to the Licensed Premises, the Licensor may demand, receive and collect any monies due, or thereafter falling due without in any manner affecting such notice, suit, action, proceeding, order or judgment. Any and all such monies so collected shall be deemed payments on account of the use and occupation of the Licensed Premises or at the election of the Licensor on account of the Licensee's liability hereunder.

## 9.6 NO WAIVER

**Waiver** – If the Licensor shall overlook, excuse, condone or suffer an Event of Default, this shall not operate as a waiver of the obligation in respect of any continuing or subsequent Event of Default, and no such waiver shall be implied but shall only be effective if expressed in writing.

The Licensor's acceptance of Fees after Event of Default is not a waiver of any Event of Default under this License even if the Licensor knows of the Event of Default at the time of acceptance of the Fee.

**Waiver of Exemption and Redemption** – Notwithstanding anything contained in any statute now or hereafter in force limiting the right of distress, none of the Licensee's goods or Trade Fixtures in the Licensed Premises at any time during the Term shall be exempted from levy by distress for Fee in arrears, and this License of the Licensee in this Section may be pleaded as an estoppel against the Licensee.

## 9.7 ACCORD AND SATISFACTION

No payment by the Licensee or receipt by the Licensor of a lesser amount than the Fees required to be paid pursuant to this License shall be deemed to be other than on account of the earlier stipulated Fees, nor shall any endorsement or statement on any cheque or any letter accompanying any cheque or payment as Fees be deemed an accord and satisfaction, and the Licensor may accept such cheque or payment without prejudice to the Licensor's rights to recover the balance of such Fees or pursue any other remedy provided in this License.

## 9.8. RIGHT TO PERFORM

If the Licensor fails to comply with any of its obligations under this License, then the Licensor may, at its option, and without notice or demand upon the Licensee and without waiving or releasing the Licensee from the strict performance of any of its obligations under this License, make any such payment or perform or observe any other act on the part of the Licensee to be made, performed or observed, as provided in this License in such manner and to such extent as the Licensor may deem desirable and in exercising any such rights may pay necessary and incidental costs and expense. The Licensee covenants and agrees that all sums paid by the Licensor pursuant to this section plus an administrative fee equal to 15% of the amount so paid

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by the Licensor, together with interest thereon at the rate provided for interest payable in this License calculated from the date of the making of such payment by the Licensor, shall be deemed Additional Fees and shall be payable on demand.

## 10.0 GENERAL

### 10.1 SUCCESSORS

Notwithstanding any provision to the contrary in this License, Licensee shall have the free and unfettered right to assign or transfer this License, including all rights, duties and obligations under this License, to any Jamaican subsidiary or Jamaican affiliated business entity. In such instance, written notice of such transfer or assignment shall be provided to Licensor.

This License and everything herein shall inure to the benefit of and be binding upon the permitted successors and assigns, as the case may be, of each of the parties hereto.

### 10.2 PROVISIONS SEPARATELY VALID

If any covenant, obligation, License, term or condition of this License or the application thereof to any person or circumstances shall, to any extent, be invalid, unenforceable or illegal, the remainder of this License or the application of such covenant, obligation, License, term or condition to persons or circumstances other than those in respect of which it is held invalid, unenforceable or illegal, shall not be affected thereby and each covenant, obligation, License, term or condition of this License shall be separately valid and enforceable to the fullest extent permitted by law.

### 10.3 NO IMPLIED OBLIGATIONS

No implied obligations of any kind or on behalf of the Licensor shall arise from anything in this License and the express covenants and Licenses herein contained and made by the Licensor are the only covenants and Licenses upon which any rights against the Licensor may be founded.

### 10.4 ENTIRE LICENSE

This License and the Schedules attached hereto, together with the Rules and Regulations adopted and promulgated by the Licensor shall be deemed to constitute the entire License between the Licensor and the Licensee hereto with respect to the subject matter hereof and shall supersede all previous negotiations, representations, communications and documents in relation hereto made by any party to this License. No amendment to this License shall be effective unless in writing and signed by the parties hereto. No representation or warranty, express, implied or otherwise is made by the Licensor to the Licensee or by the Licensee to the Licensor except as expressly set out in the License.

### 10.5 CHOICE OF LAW

This License shall be interpreted in accordance with the laws of Jamaica.

### 10.6 BUSINESS DAY

If the day on which any act or payment is required to be done or made is a day which is not a Business Day, then such act or payment shall be duly performed or made if done on the next following Business Day.

### 10.7 TIME

Time is of the essence of this License.

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## 10.8 RELATIONSHIP

Nothing contained in this License nor any acts of the Licensor or the Licensee shall be deemed to constitute the Licensor and the Licensee's partner, joint ventures or principal and agent, or to create any relationship between the Licensor and the Licensee other than the relationship of Licensor and Licensee.

## 10.9 THIRD PARTIES

The Licensee shall, in all significant contractual and License relationships entered into by the Licensee with third parties relating to all or any part of the Licensed Premises ensure that the License or License contains a written acknowledgement whereby the third party acknowledges that it will not assert that a joint venture, partnership or principal and agent relationship or any other type of relationship exists between the Licensee and the Licensor.

## 10.10 RULES AND REGULATIONS

The Rules and Regulations reasonably adopted and promulgated by the Licensor for the Licensed Premises, the Airport, the Terminal Buildings and the Lands from time to time, are hereby made a part of this License as if they were embodied herein, and the Licensee shall comply with and observe the same. The Licensee's failure to keep and observe the Rules and Regulations constitutes an Event of Default under this License in such manner as if the same were contained herein as covenants. The Licensor reserves the right from time to time to amend or supplement the Rules and Regulations applicable to the License Premises. Notice of the Rules and Regulations and amendments and supplements, if any, shall be given to the Licensee and the Licensee shall thereupon comply with and observe all such Rules and Regulations.

## 11.0 NOTICES

Wherever in this License it is required or permitted that a notice, demand, consent, approval or request (a "Notice") be given or served by either party to or on the other, such Notice will be in writing (which may be by facsimile transmission) and will be validly given or sufficiently communicated, or if mailed, on the seventh (7th) calendar day after it is enclosed in an envelope, addressed to the Party to be notified at the address stated below, properly stamped, sealed and deposited in the appropriate official postal service; or any notice required or contemplated by any provision of this License shall be given in writing and may only be given if delivered, either personally or by courier service, or if sent by telecopy with confirmation of transmission and if to the Licensor, then given to the person stated below at the Licensor's address stated below and if to the Licensee, then given to the person for the Licensee stated below (or to a partner or Officer of the Licensee) or by leaving same at the address specified herein or left at the location (whether or not the Licensee has departed from, vacated or abandoned the same.) Any notice shall be deemed to have been received on the business day following the date of delivery or sending. The licensor or the Licensee may from time to time by notice in writing to the other designate another address or addresses in Jamaica to which notices are to be sent.

Notwithstanding the provision of any statute or law relating thereto, service by means of electronic mail of any notice(s) required to be given in writing by either party hereto pursuant to the License, shall not constitute good and effective service.

If two or more persons are named as, or are bound to perform the obligations of, the Licensee hereunder, any notice given herein provided to any one of the persons constituting the Licensee or so bound shall be deemed to be notice simultaneously to all persons constituting the Licensee and to all persons bound. Any notice given to the indemnifier or the Licensee shall be deemed to have been given simultaneously to the other of them and to all persons bound by their obligations hereunder.

Until changed by notice pursuant hereto, the address and facsimile number for each Party is as follows:

**To the Licensor**:

MBJ Airports Limited
Sangster International Airport
Montego Bay

Attention: Chief Commercial Officer
Telephone No.: 952-2712
Facsimile: 940-0884

**To the Licensee:**

Name and Address of entity;

Attention:
Facsimile:

Any Notice delivered personally shall be deemed to have been validly and effectively given on the day of such delivery if delivered before 4:00 p.m. on a Business Day or on the next Business Day if delivered on a non-Business Day or after 4:00 p.m. on the previous Business Day. Any Notice sent by registered mail shall be deemed to have been validly and effectively given on the seventh Business Day following the date of mailing. Any Notice sent by facsimile or other similar means of electronic communication shall be deemed to have been validly and effectively given on the day it was sent, if sent before 4:00 p.m. on a Business Day or on the next Business Day if sent on a non-Business Day or after 4:00 p.m. on the previous Business Day.

## 12. GOOD FAITH

Consistent with general contract law, all discretionary reviews or evaluations by Licensor (which, for the purpose of this Paragraph, shall include the Licensor's auditors and agents), of the performance of Licensee or any other requirements of Licensee shall be carried out timely and in good faith, applying standards of commercial reasonableness, and employing objective criteria wherever possible. Where the License provides for such reviews or evaluations to be based on the sole discretion of the Licensor or to the sole satisfaction of the Licensor, then these reviews and evaluations shall, in good faith, determine satisfaction by applying objective industry standards, generally accepted accounting principles and standards of commercial reasonableness.

## 13. FORCE MAJEURE

Neither party shall be deemed in violation of this License if it is prevented from performing any of the obligations hereunder by reason of anything beyond its reasonable control, including but not limited to, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, riots, rebellion, sabotage, or any other similar circumstances.

## 14. CASUALTY

In the event that structural or permanent portions of the Licensed Premises shall be damaged in whole or in part by fire, flood, wind damage, or other casualty not the fault of Licensee, Licensor shall have an obligation to repair the same. From the date of such casualty until such area is so repaired (including if such area is not repaired), any fee payments otherwise due hereunder shall abate in amounts proportional to the loss of commercially useful advertising space; provided, however, that if an area shall be so slightly injured in any such casualty as not to be rendered unfit for normal commercial advertising use, the fees related thereto shall not cease or be abated

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during any repair period. In the event of the area being damaged by fire, flood, wind damage or other casualty to such an extent as to render it necessary in the exclusive judgment of Licensor not to rebuild the same, then, at the option of Licensor or Licensee, and upon thirty (30) days written notice to the other, this License as it applies to said area(s) shall cease and come to an end, and the fees payable to the Airport shall be proportionally adjusted to represent the loss of the use of the area to Licensee. If Licensor elects to rebuild said areas, Licensor shall notify of such intention within thirty (30) days of the date of the damage.

(INTENTIONALLY LEFT BLANK)

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**IN WITNESS WHEREOF** the parties hereto have executed this License.

SIGNED, SEALED AND DELIVERED
in the presence of:

LICENSEE:

_____
Witness

By: _____
Name & Title:

_____
Witness

By: _____
Name & Title:

I/We have authority to bind the Corporation.

SIGNED, SEALED AND DELIVERED
in the presence of:

LICENSOR:

_____
Witness

By: _____
Name & Title:

_____
Witness

By: _____
Name &Title:

I/We have authority to bind the Corporation.

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**SCHEDULE A**

**LICENSED PREMISES**

**(ADVERTISING LOCATIONS)**

| REFERENCE NUMBER | DIMENSIONS (inches) | TYPE OF EQUIPMENT | APPROXIMATE COLUMN LOCATION |
|---|---|---|---|

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## SCHEDULE B

## GROSS REVENUE

"Gross Revenue": means the total of all revenue of any kind, derived by the Licensee from the Licensee's operations under this License and obtained and from the Licensed Premises or the Airport and whether at wholesale or retail, and whether for cash, partly cash, credit, certificates, and all other receipts whatsoever of all business conducted at, on, in, about or from the Licensed Premises, including all deposits not refunded, sales orders taken, sales made by any sub licensee (excluding advertising clients), concessionaire or Licensee, or by personnel operating from the premises or reporting to or under the supervision of any employee or agent of a sub licensee, concessionaire or Licensee on, at, in, about or from the Licensed Premises 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 sub licensee, concessionaire 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, grants or subsidies from suppliers or others, commissions, fees and rebates. In the determination of Gross Revenue there may be deducted the amount of:

a) Amounts up to 3% of Gross Revenue which are deemed uncollectible by concessionaire after prudent collection efforts; provided, that Licensee shall document such uncollectible amounts in its annual payment reports to the Licensor.

In the event Licensee is unable to collect any amount due from any advertiser upon which Licensee has previously based a Percentage Fee payment(s), and after diligent collection efforts, such amount shall be documented and deemed uncollectible and an appropriate adjustment shall be made in Licensee's subsequent statement(s) and Percentage Fee submission(s). If any uncollectible amount is collected by Licensee after fee adjustment, then a coinciding and equivalent upward adjustment shall be made to any subsequent revenue statement(s) and Percentage Fee submission(s).

For greater certainty, Gross Revenue as above-described:

I. shall be included even if the business or activity is not a permitted business or activity (but that shall not operate as an estoppels or a consent or waiver, implied or otherwise, by the licensor);

II. relating to the promotion or advertisement of goods and services of a third party shall be included; and

III. derived through the internet shall be included, if there is any connection to or with the Premises. If any person (including a firm, partnership, joint venture or body corporate) related to or associated in any way with the Licensee carries on any activity at the Airport (whether or not on the Premises) of the same kind as is permitted under this License or any similar or associated activity, then (unless fee or license fees are paid to the licensor in respect of such other activity pursuant to a License or license or other written License with the Licensor and such other activity is expressly authorized and permitted pursuant to such other License or license or written License) all revenue is connection with such activity will be included in Gross Revenue for all purposes of this License and in the calculation of Percentage Fee under this License, as fully as if such activity was being carried out by the Licensee on the Premises and the revenues therefrom were being received by the Licensee; provided, that no such proceeds shall be due from advertising clients for advertising at the Airport.

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**SCHEDULE C1**

**STATEMENT OF MONTHLY GROSS REVENUE AND THE PERCENTAGE FEES**

**DATE**: _____

**TO**: MBJ AIRPORTS LIMITED

**FROM**: _____

**LICENSE DATED**: _____

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

| | |
|---|---|
| TOTAL GROSS REVENUE FOR THE MONTH OF _____, 201 | 1) $_____ |
| Gross Revenue For Static Display | $_____ |
| Gross Revenue For Technological Display | $_____ |
| PERCENTAGE FEES: OF GROSS REVENUE FOR THE MONTH (XX%) | 2) $_____ |
| LESS MAG FOR THIS MONTH | 3) $_____ |
| FEE REQUIRED TO BE PAID PER THIS STATEMENT (Higher of 2 and 3) | 4) $_____ |
| GENERAL CONSUMPTION TAX | 5) $_____ |
| TOTAL (4 PLUS 5) | 6) $_____ |

**CERTIFIED CORRECT BY:** _____

**TITLE:** _____

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**SCHEDULE C2**

**STATEMENT OF GROSS REVENUES AND THE PERCENTAGE FEE EACH LICENSE YEAR**

**DATE:** _____

**TO: MBJ AIRPORTS LIMITED**

**FROM:** _____

**LICENSE DATED:** _____ **LICENSE NO:** _____

THE FOLLOWING IS A TRUE ACCURATE STATEMENT OF THE GROSS REVENUES (as defined on the License) FOR THE LICENSE YEAR

| | | (1) PERCENTAGE FEES | (2) MAG | GREATER OF | | |
|---|---|---|---|---|---|---|
| **PERIOD** | **GROSS REVENUES** | **% OF GROSS REVENUE** | **MONTHLY FEE** | **(1) AND (2)** | **GCT** | **TOTAL TO PAY** |
| **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**: _____

DRAFT

**TITLE**: _____

**SCHEDULE D**

**CAPITAL INVESTMENT PROPOSAL**

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**SCHEDULE E**

Plan showing Advertising Display Locations

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**SCHEDULE F**

Advertising Approval Process

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## SCHEDULE G

DEFINITIONS

The parties hereto agree that when used in this License or in any Schedule attached to this License, the following words and expressions have the meaning hereinafter set forth unless the context expressly or by necessary implication otherwise requires:

**"Additional Fee"** means any and all sums of money or charges required to be paid by the Licensee under this License (except Annual Minimum Guaranteed Fees) whether or not the same are designated "Additional Fees" or whether or not the same are payable to the Licensor or otherwise.

**"Advertising Displays"** mean all forms of advertising including but not limited to signs, display units, exhibitions, brochures and interactive modules.

**"Airport"** means all land and improvements within the geographical boundaries of Sangster International Airport (as the same may from time to time be altered, diminished, reconstructed or expanded).

**"Airport Construction Code"** means the Airport Construction Code promulgated by the Licensor in respect of construction or similar activity at the Airport as the same may be restated, supplemented or amended from time to time.

**"Airside"** has the meaning ascribed thereto in the Ground Lease.

**"Alterations"** means all repairs, replacements, improvements or alterations to the Licensee Improvements by the Licensee.

**"Annual Passengers"** mean the total passengers recorded and reported by MBJ for the calendar year January 1 to December 31. This shall exclude Transit Passengers and passengers using the Private Jet Centre.

**"Applicable Laws"** mean all laws, statutes, regulations, by-laws, lawful rules, declarations, ordinances, requirements, directions, orders, policies and guidelines of the Jamaican Authorities and or the Licensor. Without limiting the generality of the foregoing. Applicable Laws shall include:

(i) all relevant laws, by-laws, regulations, directives and rules in relation to health, safety, environmental protection, sanitation, good order, security, fire precautions and fire prevention, traffic control and operation and maintenance;

(ii) all local police, health or fire regulations or by-laws and other regulations now or hereafter in force or made by fire insurance underwriters; and

(iii) the Licensor's directives and instructions as they apply to the Airport generally, relating to operational matters affecting the Airport as a whole.

(iv) Including any amendments thereto from time to time.

**"Auditor"** means the auditors from time to time named by the Licensor.

**"Authorities"** mean all governmental and quasi-governmental authorities, departments, commissions, agencies and boards having jurisdiction or any other body or Person having jurisdiction in relation to the Airport.

**"Business Day"** means any day other than Saturday, Sunday or a statutory holiday in Jamaica.

**"Business Taxes"** mean (a) all taxes, duties, assessments and other charges that are levied, rated, charged or assessed against or in respect of the improvements, equipment and facilities of the Licensee on or in the Licensed Premises or any part or parts thereof, and (b) every tax and License fee which is levied, rated, charged or assessed against or in respect of any and every business carried on in the Licensed Premises or in respect of the use thereof or any part of the Lands by the Licensee and every sub licensee of the Licensee, and any and all taxes which may in the future be levied in lieu of any of the foregoing, whether foreseen or unforeseen.

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**“Change of Control”** means in the case of any corporation or partnership, the transfer or issue by sale, assignment, subscription, transmission on death, mortgage, charge, security interest, operation of law or otherwise of any shares, voting rights or interest which would result in any change in the effective control of such corporation or partnership listed on a recognized stock exchange in Jamaica or the United States and then only so long as the Licensor receives assurances reasonably satisfactory to it that there will be continuity of management and of the business practices of such corporation notwithstanding such Change of Control.

**“Claims”** mean claims, losses, actions, suits, proceedings, causes of action, demands, damages (direct, indirect, consequential or otherwise), judgments, executions, liabilities, responsibilities, costs, charges, payments and expenses, including without limitation, any professional consultant and legal fees (on an Attorney-at-law and client basis).

**“Commencement Date”** means the date on which the Term commences pursuant to Section 2.2.

**“Common Areas”** mean those common areas and facilities which serve the Terminal Buildings or any part thereof and which are from time to time designated by the Licensor for the common use and enjoyment of the tenants and licensees in the Terminal Buildings (and their respective employees, agents, customers, and invitees) or any part thereof, including and also access roads, driveways, entrances and exits, sidewalks, ramps, landscaped areas, stairways, escalators, elevators, passageways, mechanical and electrical rooms, garbage facilities, delivery facilities including common loading and receiving facilities, fire protection and detection equipment, security equipment, first aid and information facilities and washrooms. The Common Areas do not include any access roads, driveways, entrances and exits intended exclusively for or as part of any Office Building and do not include any Parking Areas.

**“Concession Security Deposit”** has the meaning ascribed thereto in Section 3.5.

**"Event of Default”** has the meaning ascribed thereto in Section 9.1.

**“Facility Alteration Permit”** means a permit issued by the Licensor, and which grants permission to perform any Alterations.

**“Fees”** mean all Annual Minimum Guaranteed Fees, Percentage Fees and Additional Fees payable by the Licensee pursuant to this License.

**“Force Majeure”** means any delay by reason of embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, riots, rebellion, sabotage, or any other similar circumstances.

**“Gross Revenue”** has the meaning ascribed thereto in Schedule B.

**“Hazardous Substance”** means (a) any contaminant, (including without limitation a contaminant as defined in the *Environmental Protection Act*), pollutant, dangerous substance, noxious substance, toxic substance, hazardous waste, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, PCBs, (b) any other substance or material declared or defined to be hazardous or toxic contaminants in or pursuant to any Applicable Law and, (c) all other materials which may cause an adverse effect (as that term is defined in the *Environmental Protection Act*).

**“Hotel”** if any means any hotel structure or structures built or to be built upon the Lands, any expansion or addition thereto, or any replacement or substituted Hotel

**“Injury”** means bodily injury, personal discomfort, mental anguish, shock, sickness, disease, death, false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation of character, invasion of privacy, wrongful entry or eviction and discrimination, or any of them, as the case may be.

**“Insurance”** has the meaning as ascribed thereto in Section 8 hereof.

**“Intransit”** refers to a passenger arriving and departing on one and the same flight and do not disembark the aircraft.

**“License”** means this License between the parties hereto, including the Schedules hereto, as the same may be amended, restated or supplemented from time to time.

**"License Year"** means annual periods during the Term commencing on the first day of January in each year except that:

(a) the first License Year of the Term begins on the Commencement Date and ends on the last day of the calendar year in which the Commencement Date occurs; and

(b) the last License Year of the Term begins on the first day of the calendar year during which the last day of the Term occurs and ends on the last day of the Term;

provided that the Licensor may, from time to time, by written notice to the Licensee, specify an annual date upon which each subsequent License Year is to commence in which event the License Year which would otherwise be current when such annual date first occurs shall terminate on such date and appropriate adjustments of Fees resulting from any License Year being shorter or longer shall be made.

**"Licensed Premises"** mean all of the Locations permitted to be used for advertising within the Terminal Building. Reference in this License to the "Licensed Premises" shall be a reference as the context requires, to the relevant Location or Locations comprising the Licensed Premises. The Licensed Premises are shown on Attachment E hereto, as may be amended from time to time by mutual written License of the parties.

**"Licensee"** means _____., and its permitted successors or assigns. Any reference to "Licensee" includes, where the context allows, the directors, officers, servants, employees, contractors, agents, invitees and licensees of the Licensee and all other Persons over whom the Licensee (i) may reasonably be expected to exercise control, and (ii) is in law responsible.

**"Licensee Improvements"** mean and include all fixtures (including Licensee'' Trade Fixtures and Advertising Displays), equipment and alterations from time to time made, constructed, erected, or installed by, for or on behalf of the Licensee in, on, to, for or which serve, the Licensed Premises, or otherwise in connection with this License whether or not easily disconnected or movable.

**"Licensor"** means MBJ Airports Limited and its successors and assigns. In any section of the License that contains a release or other exculpatory language in favour of the Licensor, the term "Licensor" also means the directors, officers, servants, employees and agents of the Licensor.

**"Licensor's Notice"** has the meaning ascribed thereto in Section 2.3.

**"Licensor's Option"** has the meaning ascribed thereto in Section 2.3.

**"Location"** means any individual location in the Terminal or on the Lands identified in the plans attached as Schedule A or Schedule A-1 and to be licensed to the Licensee pursuant to this License. The purpose of Schedule A and Schedule A-1 are to show the approximate position and configuration of the Locations and Schedule A and Schedule A-1 are not intended as a representation of any kind as to the precise size or dimensions of the Locations.

**"Minimum Annual Guaranteed Fee"** has the meaning ascribed thereto in Section 3.2.

**"Mortgage"** means any and all mortgages, charges, debentures, security Licenses, trust deeds, hypothecs or like instruments resulting from financing, refinancing or collateral financing (including renewals or extensions thereof) made or arranged by the Licensor of its interests in all or any part of the Lands.

**"Mortgagee"** means any mortgage, debenture, or bondholder, hypothecary creditor (including any trustee for bondholders) or secured creditor of the Lands or any part thereof.

**"Parking Areas"** mean any area on the Lands to be used for vehicle parking, as such areas are constructed or modified from time to time, but excluding any Parking Garage.

**"Percentage Fees"** mean the amounts payable by the Licensee to the Licensor pursuant to Section 3.3

**“Person”** includes any individual, company, corporation, partnership, limited partnership, firm, trust, sole proprietorship, organization, association, government or government agency, authority or entity, however designated or constituted.

**“Prime Rate"** means the rate of interest per annum established from time to time by Sagicor Bank (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 Dollar loans to its Jamaican customers and which it refers to as its "prime rate"

**“Proposal”** means the service concept and information submitted by the Licensee to the Licensor, and attached hereto as Schedule D.

**“Rules and Regulations”** mean all rules, regulations, codes, policies and airport operations bulletins promulgated by the Licensor from time to time in respect of all aspects of the Airport’s operations.

**“Sales Taxes”** mean all business transfer, goods and services taxes, sales, use, consumption, or other similar taxes, rates, duties, levies, rents, charges and assessments whatsoever, whether or not in existence at the commencement of the Term, assess, charged, levied, rated or imposed by any taxing authority, upon the Licensor or the Licensee or in respect of this License, or the payments made by the Licensee hereunder or the goods and services provided by the Licensor hereunder including, without limitation, the License of the License Premises and the provision of administrative services to the Licensee hereunder whether any such tax rate, duty, levy, fee, charge or assessment is called or characterized as a sales, use, consumption, value-added, business transfer of goods and services tax or otherwise.

**“Taxes”** mean all real property, business, municipal, local improvement taxes, assessments, rates, duties, and levies and all taxes, assessments, rates, duties and levies of a like nature imposed in respect of real property from time to time by any municipality, or public authority, including any costs and fees incurred by the Licensor in contesting any of the same in good faith (although this shall not imply any obligation of the Licensor to contest, object to or litigate the levying or imposition of any Taxes without notice to, consent of, or approval of the Licensee), but excluding (a) income or profits taxes upon the income of the Licensor to the extent such taxes are not levied in lieu of taxes, rates, duties, levies and assessments against the Lands or upon the Licensor in respect thereof, and (b) Business Taxes. If the system of real estate taxation shall be altered or varied and any new tax shall be levied or imposed, on all or any portion of the Lands and/or the revenues therefrom and/or the Licensor in substitution for and/or in addition to Taxes presently levied or imposed, then any such new tax or levy shall be deemed to be included in Taxes.

**“Term”** means the period of time described in Section 2.2 thereof.

**“Terminal Building”** means the buildings, structures, fixtures and improvements currently constructed on or affixed to the Lands (as the same may from time to time be altered, diminished, reconstructed or expanded).

**“Terminal Advertising Display Annual Minimum Guaranteed Fees”** has the meaning ascribed thereto in Section 3.2(1).

**“Terminal Advertising Display Revenue”** means the Gross Revenue attributable to or resulting from the sale of Advertising Display services at the Airport.

**“Trade Fixtures”** mean trade fixtures as determined at common law and includes all personal chattels (if any) installed at the Commencement Date or during the Term by or on behalf of the Licensee, in, on or which serve, the Licensed Premises, for the sole purpose of the Licensee carrying on its trade in the Licensed Premises and which Trade Fixtures the Licensee is permitted to remove only to the extent permitted by the terms of this License.

**“Transfers” mean:** (a) an assignment of this License in whole or in part; (b) a sub-License of all or any part of the License Premises; (c) any transaction whereby the rights of the Licensee under this License or to the Licensed Premises are transferred to another; (d) any transaction by which any right of use of all or any part of the Licensed Premises is conferred upon anyone; (e) any mortgage, charge or encumbrance

of this License or the Licensed Premises or any part thereof or other arrangement under which either this License or the Licensed Premises become security for any indebtedness or other obligations; (f) any transaction or occurrence whatsoever (including, but not limited to, expropriation, receivership proceedings, seizure by legal process and transfer by operation of law), which has changed or might change the identity of the persons having lawful use of any part of the Licensed Premises; and (g) a Change of Control of the Licensee.

**"Transit Passengers"** means a passenger who arrives at and departs from the airport on the same flight which is transiting the airport (whether or not he or she disembarks and re-boards during the period of transit)

All accounting and financial terms used herein, unless specifically provided to the contrary herein, shall be interpreted and applied, and all calculations referred to herein shall be made, in accordance with generally accepted accounting principles and generally accepted auditing standards in Jamaica as they exist from time to time. Where the Institute of Chartered Accountants or any successor thereto has a method or alternative methods of accounting, such statement shall be regarded as the only generally accepted accounting principle applicable to the circumstances that it covers and references herein to "generally accepted accounting principles" shall be interpreted accordingly.

Words importing the singular number include the plural and vice versa and words importing gender include the masculine, feminine and neuter genders.

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