

STATE OF TEXAS

COUNTY OF BELL

RETAIL CONCESSION LEASE AGREEMENT

This lease is made and entered into by and between the City of Killeen, a municipal corporation of Bell County, Texas, hereinafter referred to as "Airport"; and Tailwind Concessions, Inc., d/b/a Airport Gift Shop, hereinafter referred to as "Tenant".

ARTICLE I

Description of Leased Premises

The Airport, in consideration of the rents and covenants herein to be performed by the Tenant, does hereby lease and let unto Tenant the following described property, hereinafter referred to as "Leased Premises" (Exhibit B), Room B205 known as the Airport Gift Shop located in the Ted C. Connell Terminal Building at the Killeen-Fort Hood Regional Airport, 8101 Clear Creek Rd, Killeen, Texas 76549: to include office and storage space in Room B204.

ARTICLE II

Description of Concession Granted

1. The Airport grants Tenant the right to engage in the activities of a retail concession. Authorized products include retail of accessories, apparel, electronics, food-gifts, medicine, media magazines and books (to include bestseller paperbacks or hard cover), retail items, souvenirs, toys, and travel, tobacco products, and other products associated with an airport gift shop operation. This concession agreement does not allow the sale of sandwiches, any unpackaged food or drink items, or the use of vending or game machines for the sale of services, products, or entertainment without the prior written approval of the Executive Director of Aviation.
2. Tenant agrees and understands that the concession granted by this agreement is not an exclusive concession. The Airport shall have the right to deal with and arrangements with any other individual, company, or corporation for engaging in like activity on the airport premises subject to the same conditions, prerequisites, and terms binding Tenant herein.

ARTICLE III

Obligations of the Airport

1. The Airport shall maintain and repair the non-leased portion of the areas surrounding the Leased Premises.
2. The Airport shall provide adequate access to the Leased Premises so long as Airport, Transportation Security Administration, Federal Aviation Administration, U.S. Army and other pertinent regulations are not violated. This access includes the terminal ingress/egress routes during times when the terminal building is open to the public.

3. The Airport will keep the terminal building open to the public at least one hour before the first scheduled flight of the day until at least 30 minutes after the arrival of the last scheduled flight of the day.
4. Parking will be provided for Tenant's employees in an area designated by the Airport. Parking will be at no additional cost to the employee or the tenant while the employee is on business of the tenant as long as the employee possesses his/her electronic access card that is controlled and issued by the Tenant's designated station manager. This provision applies only to employees of the tenant whose duty assignment is at the Killeen-Fort Hood Regional Airport. Senior company officials and other employees who have occasional official duties at the airport may obtain a daily pass from the airport administration office to accommodate their requirements.
5. If the Leased Premises are destroyed, damaged, or otherwise made unavailable by any means which are not fully the fault of the Tenant due to fire, flood, explosion, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority, to the extent that the Tenant will be unable to conduct any substantial portion/s of the business contemplated by this lease, either party may cancel this lease and the Tenant will stand charged only with the rent specified in ARTICLE VI up to the time of such damage, destruction, or other non-availability. If the repair of the damage can be reasonably accomplished by the Airport in less than ninety (90) days, the Airport shall make such repairs with the rental to be abated in proportion to the space usable to the Tenant during the repair period. All repair work shall be done in a good and workmanlike manner, which is in concert with the City of Killeen requirements.
6. The Airport shall provide heating and air conditioning in all leased areas of the terminal building. The Airport has provided the initial supply of light bulbs for these fixtures; however, subsequent replacement of such bulbs will be made by the Airport with bulb replacement costs passed on to the Tenant as specified in Exhibit "A". Light/sign fixtures used solely for premise enhancement/ advertisement shall be maintained by the Tenant.
7. The Airport will furnish keys, at no initial cost to Tenant, to the Tenant's designated Station Manager who shall be responsible for safekeeping of such keys. These include:
 - a. Access to leased premises.
 - b. Post office box (mail delivery).

Lost keys will be charged to Tenant in accordance with the Rents and Fees Schedule depicted on Exhibit "A".

8. The Airport normally has master keys or coded card access to all passageways in the terminal building, for use in emergencies. The Tenant may not add it's own locks or change locks to these areas.

9. The Airport shall furnish telephone system/service access to the Internet via a T-1. Rates for these services will be in accordance with the Rents and Fees Schedule depicted on Exhibit "A". A letter of agreement or other suitable document will be executed between the Airport's Director of Aviation or his/her designated representative and the local designated representative of the Tenant to document exactly which services are agreed to between the two parties. Tenant shall be prohibited from procuring telephone, data communications, wireless 802.11 data, or Internet access from others without written approval of the Executive Director of Aviation.
10. After reasonable notice to Tenant (when practical), the Airport reserves the right to temporarily close the airport or any other facilities thereon for maintenance, improvements, or for the safety of the public only for the period of time reasonable necessary.
11. The Airport will issue airport credentials to each employee of the tenant upon authorization by the designated local manager of the tenant. These credentials will include picture identification, employee parking area access, and other uses that may be required.

ARTICLE IV **Obligations of the Tenant**

1. Tenant agrees that it will not assign this lease or sublet the Leased Premises or any part thereof, without prior written consent of the Killeen City Manager.
2. Tenant agrees to keep the Leased Premises clean and shall provide its own janitorial services. This provision includes the regular cleaning of both the interior and exterior glass walls and door inclosing the leased premises.
3. Tenant shall be responsible for disposal of its own trash accumulations by depositing it in the nearest exterior trash dumpster on a daily basis. Trash receptacles inside the terminal building are for customer use only. Tenant also agrees to participate in the City of Killeen's recycling program by depositing all recyclable products in the appropriate outside recycling container in lieu of the trash dumpster.
4. Tenant agrees that it shall not engage in any business or activity within the confines of the Killeen-Fort Hood Regional Airport other than those permitted herein or such other activities as may be expressly authorized in writing by the Airport.
5. Tenant shall operate the Leased Premises without cost to the City of Killeen, and will maintain all of the included equipment, appliances and furnishings.
6. Tenant agrees to keep clean, maintain and repair all Tenant owned furnishings utilized in the public areas to include cabinets, display cases, signage, etc.
7. Tenant agrees that its employees, while performing the duties associated with the concession granted in ARTICLE II, will be neatly groomed and attired in a

designated company uniform, and will conduct themselves in a courteous, professional, and businesslike manner while providing service to the public.

8. Tenant shall provide and maintain an adequate staff of employees with skills, licenses, and certificates appropriate to the activities conducted.
9. Upon vacating, Tenant shall leave the Leased Premises in as good condition and substantially as they were before removal; ordinary wear and tear excepted. Tenant shall make no structural changes, additions or improvements to the Leased Premises without prior written consent of the Executive Director of Aviation, and appropriate building permits obtained from the City of Killeen Building and Developments Services Department. Any such structural changes / improvements become property of the Airport, unless otherwise agreed upon in writing before such work begins. The foregoing notwithstanding, Tenant shall not be liable for damage caused by other tenants and other users, or their employees, representatives or invitees, and shall be liable only for its proportionate share of wear and tear in the leased premises.
10. Tenant's employees shall observe and comply with all posted restrictions on parking or standing vehicles, speed limits, and traffic rules on the airport properties.
11. Tenant shall, not later than ten (10) days after the end of each month, provide a report reflecting the following for the completed month: (a) a Gross Receipts statement reporting the amount of total gross revenue received in the Gift Shop; (b) gross revenues for all retail items sold across all revenue centers, regardless of where those retail items are sold throughout the terminal. Tenant will provide a category listing for all items subject to the rental rate, which will also reflect on the rent report submitted each month; (c) a listing of the amount of excluded receipts in accordance with Article VI, paragraph 3.b; and (d) amounts previously paid to the Airport or included with the report for that month. Such report will be signed by the Tenant's designated manager or other representative designated by the Tenant.
12. Tenant, or its designated station manager, is responsible to request and receive the necessary quantity of electronic access cards from the Airport's Operations Center in order to provide one access card to each employee that has regular duty at the airport. Said electronic access cards will provide each employee access and exit to the designated employee parking lot according to Article III, Paragraph 4. It will also provide designated employees access to other authorized areas, as applicable. The tenant will notify the Airport's Operations Center by telephone or other appropriate means as soon as possible following the loss of an electronic access card. Any lost access cards must be reported in writing to the Airport's Operations Center as soon as possible, but no later than the end of the next working day from the date of the loss. Tenant is responsible for any charges or damages incurred by the use of access cards issued to Tenant unless more than one business day has passed from the time the Tenant provides written notification to the Airport's Operations Center to cancel any access these access cards may allow. A monthly fee will be charged for active access cards and for lost cards as indicated in Exhibit "A". Tenant is responsible

for maintaining control of which employee is issued each electronic access card and collecting cards from terminated or suspended employees. Each employee may be issued only one access card at any one time. All communication with Airport concerning the status of a specific card will be articulated by card number, not by employee name.

13. Tenant may advertise only within the leased premises of the terminal building. Installation and operation of appropriate identifying signs will be allowed within the leased premises and above the exterior window of the leased premises, subject to the approval of the Executive Director of Aviation, or his designated representative. The Tenant may coordinate with the Airport Business Manager, as appropriate, for advertising/promotional material in other areas of the building.
14. As a minimum, Tenant shall provide the service described in Article II and continuously remain open to the public for the duration of the time the terminal building is open to the public (Art. III, Par. 3.). Normal hours of operation will be posted near the entrance door of the leased premises. The Executive Director of Aviation may approve exceptions to these minimum operation hours for Federal holidays or other reasonable occasions.

ARTICLE V **Terms of Agreement**

1. The Airport hereby grants unto the said Tenant, for a period, beginning March 1, 2021 and ending January 1, 2024 the right to operate a retail concession, as previously described, at the Killeen-Ft Hood Regional Airport, Robert Gray Army Airfield.
2. If Tenant is not in default of the terms hereunder, Tenant will have the option to enter into a new two (2) year lease agreement under the terms and fees as set by the City Council of the City of Killeen, providing it gives notice of its option at least ninety (90) days prior to the termination date hereof.
3. At the expiration of the term of this lease, the Tenant will immediately vacate the leased premises unless the Tenant has executed a subsequent lease renewal agreement for that premises prior to its expiration. Alternatively, the Tenant may submit a written request to the Executive Director of Aviation to remain in the premises on a month-to-month basis beyond that expiration date. If the Director provides written approval of such a request, the Tenant will be considered to be in a "hold over status". Any such holding over by the Tenant on the expiration of the term of this lease shall not constitute a renewal thereof but shall constitute only a tenancy on a month-to-month basis. All provisions of this lease will remain in full force and effect for the duration of the period that the Tenant remains in hold over status except that rental rates will be increased in accordance with ARTICLE VI, Par 7.
4. As consideration for this lease, Tenant promises to pay to the Airport, at the office of the Executive Director of Aviation in Killeen, Bell County, Texas, the concession

fees and rent prescribed in ARTICLE VI and Exhibit "A". The basic rents and fees prescribed in ARTICLE VI, Par. 1, are payable without demand in monthly installments in advance on or before first day of each and every month during the term of this lease. Other charges and fees will be due and payable as prescribed in ARTICLE VI, Par 2 and 3.

ARTICLE VI
Rentals, Fees, and Accounting Records

1. Tenant shall pay to the Airport \$391.00 per month as described in Exhibit "A" as Basic Rents and Fees. Basic Rents and Fees are payable without demand in monthly installments in advance on or before the first day of each and every month during the term of this lease.
2. Tenant shall pay to the Airport 14% of gross revenues for all RETAIL items sold across all revenue centers, regardless of where those retail items are sold throughout the terminal.
 - a. "Gross Receipts" shall include all receipts, whether by coin or currency, on account, by check or credit card, collected or uncollected, whether conducted on or off airport, derived by the Tenant as a result of its operation of the concession rights herein granted, without exclusion, except those expressly permitted in paragraph 3.b. below. Gross receipts shall include the total amount actually charged to the customer by the Tenant for, or in connection with, products sold, or delivered from the Tenant's Leased Premises and adjoining revenue centers at the Killeen-Fort Hood Regional Airport, regardless of where or by whom the payment is made.
 - b. Gross Receipts shall exclude receipts from the following:
 - (1) Federal, State, City or municipal sales taxes now in effect or hereinafter levied which are separately stated and collected from customers of the Tenant.
 - (2) The value of any goods exchanged or transferred from or to other business locations of the Tenant, where such exchanges or transfers are not made for the purpose of avoiding a sale or service fee by the Tenant that would otherwise be made from or at the Killeen-Fort Hood Regional Airport.
 - (3) Refunds to customers. Receipts with respect to any refunds made to Tenant's customers, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit, providing the refund and reason therefore is documented along with the name and address of the person receiving the refund.
 - (4) Documented discounts and rebates to customers, to include discount cards and coupons.

4. Tenant shall pay the sundry charges and other variable fees based upon activity to the Airport as described in Exhibit "A", no later than thirty (30) days after the invoice for that period is provided to the Tenant. Sundry charges are subject to change on an annual basis. Airport will provide a revised Rents and Fees Schedule to Tenant at least sixty (60) days before the effective date of any changes to sundry charges. For purposes of this provision, Tenant may designate either its local representative or a corporate office to receive the official copy of this invoice.
5. A late fee of five percent (5%) of the total amount due will be assessed to the Tenant if payments prescribed in Paragraphs 1, 2, or 3 above are not received in the administrative offices of the Executive Director of Aviation by the dates prescribed therein. An additional five percent (5%) of the outstanding amount will be assessed each month that all or a portion of the Tenant's obligations remain unpaid. Obligations unpaid more than sixty days after the prescribed due dates will be cause of considering the payment(s) in default of the lease agreement.
6. If Tenant defaults in the payment of rent, fees, or any part thereof, and such default shall continue for thirty (30) days after written notice by the City of Killeen to the Tenant to pay, the Airport shall, without further notice, have the right to re-enter the Leased Premises to remove the Tenant and all persons holding over it and to terminate this lease and repossess the premises. Such repossession shall not constitute a waiver by the Airport for any other rights it may have to enforce collection of rents for the balance of the term or to recover damages from the Tenant for default in payment of rents.
7. If the Tenant holds over beyond the term of the lease on a month-to-month basis, basic rents and concession fees, as listed in Exhibit "A", will increase by 15%. Beginning with the fourth month in a hold over status, the above described rents and fees will increase by 20%. Beginning with the seventh month in a hold over status, the above described rents and fees will increase by 25%. Other fees and/or charges will be at the current rates in effect for that month as approved by the City Council.

Due to the COVID-19 impacts to the aviation industry and in consideration for Tenant's agreement, the Tenant may submit a written request to the Executive Director of Aviation to waive Basic Rent & Fees payments as stated in ARTICLE VI, 1., for a 6 month period of time.

ARTICLE VII

Rights of Inspection

1. The Airport reserves the right to inspect the Leased Premises, equipment, and services at any reasonable time and with reasonable notice for the purpose of assuring compliance with this lease, public safety or welfare, or the Airport's general rights and duties as lessor. The Airport also reserves the right to inspect

and audit any records and computer software necessary to verify the correct reporting of data used to compute fees described in Exhibit "A".

2. Upon at least fifteen (15) days written notice, Airport auditors or other authorized representatives shall, at any time during the term of this lease agreement, within two years after the end of this agreement, or within two years of any extension to it, have access to, and the right to audit, examine, or reproduce any and all records of the Tenant related to the most recent thirty six (36) months performance under this lease agreement. Tenant shall retain all records associated with transactions at the Killeen-Fort Hood Regional Airport within the Leased Premises or at another a mutually acceptable location in Killeen, Texas for the longer of the most recent thirty six (36) months or until completion of any pending audit or litigation action between the parties.
3. If the audit reveals that additional fees are due the Airport, Tenant shall, upon written notice by the Airport pay such additional fees, plus interest and penalties, within ten (10) days of written notice. Interest will be calculated at one and one-half percent (1 ½%) per month for each month after the day the additional amount should have originally been paid. The penalty will be twenty percent (20%) of the total of the additional fees due (not including interest). If the audit reveals that the Tenant has overpaid the fees due the Airport, such overpayment shall be credited to the Tenant's account, or refunded if the term of the lease agreement has expired and all other obligations by the Tenant have been satisfied. If the audit reveals an underpayment of more than five percent (5%), the cost of the audit shall be borne by the Tenant.
4. In addition to the interest and penalty payments as stated in paragraph 3 above, any deliberate attempts to misrepresent gross receipt amounts, attempts to divert airport earned revenue to an off-airport site will be cause for default of the lease agreement.

ARTICLE VIII

Non-Discrimination Covenants

1. The Tenant for itself, its personal and legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agrees as a covenant running with the lease that:
 - a. No persons on the grounds of race, color, religion, sex, age, disability, or national origin shall be unlawfully excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities and the privileges provided herein.
 - b. That in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, age, disability, or national origin shall be unlawfully excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

- c. That the Tenant shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Department of Transportation, Subtitle A, Office of the Secretary, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.
2. Tenant assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, disability, or sex be unlawfully excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Tenant assures that no person shall be unlawfully excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by the subpart. The Tenant assures that it will require that its covered suborganizations provide assurances to the Airport that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required, by 14 CFR Part 152, Subpart E, to the same effect.
3. Tenant agrees that in the event of breach of any of the preceding nondiscrimination covenants, the Airport shall have the right to terminate this lease and the privileges herein, and hold the same as if said lease had never been made or issued.
4. Tenant in the conduct of its authorized business activities on said Leased Premises and on said Airport shall furnish good, prompt, and efficient service adequate to meet the demands for its services at the airport and shall furnish such services on a fair, equal, and non-discriminatory price for each service.
5. Contract Assurance
 - A. (1) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR part 23.

(2) The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23, that it enters and cause those businesses to similarly include the statements in further agreements.
 - B. As a recipient of FAA Airport Improvement Program grant funds, the City of Killeen is obligated to comply with Airport Concessions Disadvantaged Business Enterprise (ACDBE) program requirements as established by 49 CFR Part 23 and 49 U.S. Code § 47107. The ACDBE goal for the expected concession is 8.59%. Therefore, the City strongly encourages,

but does not require, that proposers for this concession opportunity make a good faith effort to meet the 8.59% ACDBE goal either through its own certification, or through the use of DBE certified sub-vendors/contractors or suppliers.

(1) The concessionaire agrees to participate in the Airport's ACDBE program and support the airport at meeting the overall goal of 8.59% for concessions during the term of this agreement.

(2) Goods and Services: The Airport and concessionaire can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The Airport, and the concessionaire at the airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises; the dollar value from purchases of goods and services from ACDBEs; and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs).

ARTICLE IX **Indemnification and Insurance**

1. Without limiting Tenant's obligation to indemnify the Airport, Tenant shall provide, pay for, and maintain in full force at all times during the term of the agreement insurance coverage from an insurance carrier admitted to do business in the State of Texas that has at least an "A" rating with AM Best Company in the types and amounts as listed below:

TYPE	MINIMUM AMOUNTS
WORKERS COMPENSATION	Statutory
COMMERICAL GENERAL LIABILITY	
Each Occurrence	\$1,000,000
Damage to rented premises	\$300,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$1,000,000
Products-Comp/Op Agg	\$1,000,000

The "City of Killeen" shall be named as additional insured and shall be furnished with Certificate of Insurance coverage in the above minimum amounts with the signed lease and at any time during the lease period that the Tenant may change or extend coverage. Current period proof of coverage must be on file with the Airport at all times.

2. The Airport reserves the right to increase the minimum required insurance in an amount and type not to exceed coverage required at comparable airports to be effective thirty (30) days after notice is sent to the address provided herein.

3. The Airport and the Tenant shall be liable for their own acts of negligence, and each agrees to indemnify the other to the fullest extent allowed by law for any losses, damages, costs or expenses, including attorney fees and litigation expenses, paid or sustained by reason of the sole negligence of the indemnifying party.
4. The Tenant shall hold the Executive Director of Aviation and all other Department of Aviation personnel, and the officers, elected officials and employees of the city harmless from and against all suits, claims, demands, damages, actions, and/or causes of action of any kind or nature in any way arising out of, or resulting from its tenancy and activities, and shall pay all expenses in defending any such claims against the City. Similarly, the City shall hold Tenant harmless from and against all suits, claims, demands, damages, actions, and/or causes of action of any kind or nature in any way arising out of the City's activities under this lease, and shall pay all expenses in defending any such claims against the Tenant. The indemnification provided for in this agreement shall not apply to the extent of the indemnified party's gross negligence or willful misconduct.
5. The Tenant shall be solely liable and responsible for civil penalties imposed upon the Airport as a result of negligent acts and/or violations of Federal, State or Local Regulations or laws by the Tenant, especially when the Airport has made good faith efforts to establish rules and procedures for compliance with such regulations. Similarly, the City shall be solely liable and responsible for civil penalties imposed upon the Tenant as a result of negligent acts and/or violations of Federal, State or Local Regulations or laws by the City which do not result from any violation of said regulations by the Tenant.

ARTICLE X

Events of Default and Remedies Upon Default

1. "Event of Default" means the occurrence of any one or more of the following events as they may relate to such lease: (a) Tenant fails to make any Rent payment (or any other payment) as it becomes due in accordance with the terms of this agreement, and any such failure continues for thirty (30) days after written notice by the Airport to the Tenant to pay; (b) Lessee fails to perform or observe any of its obligations under this agreement, and such failure is not cured within thirty (30) days after receipt of written notice by Airport; (c) any statement, representation or warranty made by Tenant in the agreement or in any writing delivered by Tenant pursuant thereto or in connection therewith proves at any time to be false, misleading or erroneous in any material respect as of the time when made; (d) Tenant applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of Tenant or of all or a substantial part of its assets, or a petition for relief is filed by Tenant under any federal or state bankruptcy, insolvency or similar law, or a petition in a proceeding under any federal or state bankruptcy, insolvency or similar law is filed against Lessee and is not dismissed within sixty (60) days thereafter
2. If any Event of Default occurs, then Airport may, at its option, exercise any one

or more of the following remedies:

- (a) Airport may terminate, cancel or rescind this agreement;
- (b) Airport may exercise any other right, remedy or privilege which may be available to Airport under applicable law or, by appropriate court action at law or in equity, Airport may enforce any of Tenant's obligations under this agreement;
- (c) Airport may require Tenant to pay (and Tenant agrees that it shall pay) all out-of-pocket costs and expenses incurred by Airport as a result (directly or indirectly) of the Event of Default and/or of Tenant's actions under this section, including, without limitation, any attorney fees and expenses and any costs related to the repossession, repair, reconditioning or disposition of the leased premises and any equipment associated with such agreement;
- (d) Airport may re-enter the Leased Premises to remove the Tenant and all persons holding over it and to terminate this lease and repossess the premises. Such repossession shall not constitute a waiver by the Airport for any other rights it may have to enforce collection of rents for the balance of the term or to recover damages from the Tenant for default in payment of rents.

None of the above remedies is exclusive, but each is cumulative and in addition to any other remedy available to Airport. Airport's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Airport to exercise any remedy under any agreement shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any remedy preclude any other exercise thereof or the exercise of any other remedy.

ARTICLE XI

General Provisions

1. Neither the failure of the Airport to strictly enforce all of the terms of this lease nor the acceptance of rent by the Airport after any breach by the Tenant nor any delay on the part of the City to strictly enforce the provisions hereof shall operate or be deemed a waiver of any rights or remedies accruing to the Airport by reasons of any subsequent breach. In any legal proceedings under this lease, the successful party shall be reimbursed by the other party for costs, expenses and reasonable attorney's fees, which shall be incurred in such proceedings.
2. Notices to the Airport shall be sufficient if sent by registered mail, postage paid, addressed to the Executive Director of Aviation, Killeen-Fort Hood Regional Airport, 8101 Clear Creek Rd, Box C, Killeen, Texas 76549, and notices to the Tenant shall be sufficient if sent by registered mail, postage paid, addressed to Jeff Switzer, President, Tailwind Concessions, Inc., 408 Landmark Dr., Wilmington, NC 28412. The parties may designate other addresses from time to time in writing.

3. This lease is made upon the express condition that if Tenant fails to keep and perform any of the covenants or agreements contained in this indenture, then this lease shall become void at the option of the City provided, the City shall first give the Tenant at least thirty (30) days written notice of intention to forfeit this lease, and shall set forth therein the specific breach of lease and of City of Killeen's intention to re-enter the Leased Premises and declare this lease forfeited, if such breach be continued. Such notice shall be served in the manner heretofore provided and after the expiration of said thirty (30) days notice this lease shall be void, provided the Tenant is then in default and the City shall then be entitled to the possession of the Leased Premises.
4. In the event of the appointment of a Trustee due to a voluntary or involuntary bankruptcy on the part of Tenant, or the appointment of a receiver for the Tenant, or a voluntary assignment for creditors by the Tenant, or if this lease shall, by operation of law or otherwise, devolve upon or pass to a person or corporation other than the Tenant, then in no case shall the Leased Premises be used for any purpose other than those contained in ARTICLE II, herein.
5. The Airport reserves the right to further develop or improve the airport as it sees fit, regardless of the desires or views of Tenant and without interference or hindrance by Tenant; however, all developments and improvements of the airport will be coordinated with Tenant.
6. This lease agreement shall be subordinate to the current or future reasonable airport rules, regulations and standards, and City Ordinances, as well as all applicable State and Federal regulations and laws. It is herein agreed between the Airport and the Tenant that the Airport Rules and Regulations now in effect and hereafter adopted or amended by the City of Killeen shall not be altered or impaired in any respect by this lease agreement, but said rules and regulations shall remain in effect and be applicable to the Tenant during the term of this lease.

It is expressly understood and agreed that this lease is subject to and subordinate to and controlled by provisions, stipulations, covenants, and agreements contained in those certain contracts, agreements, resolutions, and actions of the City of Killeen, Texas, constituting agreements between the City and the United States of America and its agents including, but not limited to, the United States Army, the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA), and all regulations now and hereafter imposed upon the City and that the Airport shall not be liable to Tenant on account of any of the foregoing matters and all of such contracts, agreements, resolutions, laws, and regulations are incorporated herein by reference, and if any provision of this lease is determined to be at variance with same, such provision is unilaterally reformable at the Airport's option.

7. The Tenant, its successors, and assigns will not make or permit any use of the property which would interfere with landing or taking off of aircraft at the airport, or otherwise constitute an airport hazard. This includes such items as electrical or electronic equipment, creation of smoke or dust, or glaring or misleading lights.

8. Airport warrants and represents that it has the right to Lease the Premises, and covenants and agrees that while performing its obligations hereunder, Tenant shall enjoy, and Airport will defend and uphold its right to quiet and peaceful possession of the Premises, and all rights and privileges granted herein.
9. This agreement is governed by the laws of the State of Texas, and venue shall be in Bell County.

IN WITNESS WHEREOF, the parties have executed this lease in duplicate on this ____ day of _____, 2021.

ATTEST:

Lucy Aldrich
City Secretary

CITY OF KILLEEN:

Kent Cagle
City Manager *mc* hcc

ATTEST:

President

Tailwind Concessions, Inc.
d/b/a Airport Gift Shop

Jeff Switzer

Jeff Switzer

EXHIBIT "A"

City of Killeen and Tailwind Concessions, Inc.

Rents and Fees Schedule

BASIC RENT and FEES

Minimum Retail Concession Fee
(includes Room B205)/Gift Shop

**14% of monthly gross revenues for all
RETAIL items sold across all revenue
centers throughout terminal.**

Minimum Retail Concession Fee
(includes Room B204)/Office Space & Storage
\$1/SQ FT @ 391 SQ FT

\$391.00/month

TOTAL MINIMUM RENT AND FEES

\$391.00 per month

SUNDRY CHARGES

Electronic access cards

\$7.00 per month per card

Replacement of lost access cards or keys

\$15.00 each

Light bulb replacement

\$6.00 each

Telephone Service

Local Service

\$23.50 per line per month *

Voice mail

\$ 4.25 per line per month

Phone rental

\$ 6.00 per phone per month

Maintenance fee

\$15.50 per line per month

Internet access via T-1

\$64.00 per connection per month *

* Plus applicable federal / state taxes and surcharges

EXHIBIT "B"
GIFT SHOP

