

REQUEST FOR PROPOSALS

FOR THE  
GIFT SHOP CONCESSION  
AT THE  
GENERAL WAYNE A. DOWNING  
PEORIA INTERNATIONAL AIRPORT

6100 W. Everett McKinley Dirksen Parkway  
Peoria, Illinois 61607  
Phone: (309)697-8272 Email: [golson@flypia.com](mailto:golson@flypia.com)

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ADVERTISEMENT

NOTICE OF SOLICITATION  
OF COMPETITIVE PROPOSALS FOR  
A GIFT SHOP CONCESSION

1. The Metropolitan Airport Authority of Peoria (The "Authority") is accepting sealed proposals for the Gift Shop Concession at the General Wayne A. Downing Peoria International Airport (The "Airport").
2. The sealed proposals are to be received no later than 4:00 p.m. (CST) on Friday, December 30, 2011. Proposals should be mailed or delivered to: Director of Finance and Administration, Metropolitan Airport Authority of Peoria, 6100 W. Dirksen Parkway, Peoria, IL 61607. Any proposals received after the specified closing time will be returned without being considered. We encourage all Proposers to obtain a receipt for delivery.
3. Proposals are to be submitted on the preprinted forms provided in the Authority's RFP Document and must be identified on the outside of the envelope as "Gift Shop Concession Proposal," stating the opening date and time.
4. An RFP Package can be requested in writing from Mr. Gene Olson, Director of Airports, Metropolitan Airport Authority of Peoria, 6100 W. Dirksen Parkway, Peoria, IL 61607, or by calling (309) 697-8272 or by emailing [golson@flypia.com](mailto:golson@flypia.com).
5. The Authority reserves the right to: 1) reject any and all proposals; 2) waive any formalities in connection herewith; and 3) accept any proposal, either in part or in full, deemed advantageous to it.
6. The Authority hereby notifies all Proposers that it will affirmatively ensure that disadvantaged business enterprises (DBEs) will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, age, sex, handicap or national origin in consideration for an award.

TIME TABLE

Event:	Date:
Advertise and mail RFP	Wednesday, November 23, 2011
Pre-proposal Conference	Friday, December 9, 2011
Written questions/requests due to Authority	Tuesday, December 13, 2011
Proposals Due	Friday, December 30, 2011
Effective Date of the Agreement	Wednesday, February 1, 2012

## BACKGROUND

The Metropolitan Airport Authority of Peoria, owner and operator of the General Wayne A. Downing Peoria International Airport is seeking a new person or company to operate the Gift Shop Concession in the New Terminal. Gift shop space is located in the public area of the new terminal adjacent to the baggage claim area across from the car rental counters. Approximately 498 square feet of space is available in this location. An additional space is located in the passenger waiting area which could also be incorporated into the Gift Shop concession. This space is not currently improved.

Proposers are encouraged to read the attached proposal form contract and Exhibit 3, as this contract and its terms and conditions are part of this RFP.

## INSTRUCTIONS

### HOW TO SUBMIT PROPOSALS FOR THE GIFT SHOP CONCESSION AT THE GENERAL WAYNE A. DOWNING PEORIA INTERNATIONAL AIRPORT PEORIA, IL SUMMARY

WHEN: Submit by 4:00 p.m. (CST), Friday, December 30, 2011

WHERE: Must be received in the office of:

Director of Finance and Administration  
Metropolitan Airport Authority of Peoria  
General Wayne A. Downing Peoria International Airport  
6100 W. Dirksen Parkway Peoria, IL 61607

HOW: Ten (10) copies of the proposal in sealed envelopes clearly identified

FORM: Proposals must be complete and include:

- (1) Fully completed Proposal Form with additional information specified on the Form
- (2) Executed non-collusion affidavit
- (3) Any supplemental information Proposer feels is relevant to the selection process.

## INSTRUCTIONS

EFFECTIVE DATE: The Effective Date of the Agreement is Wednesday, February 1, 2012.

1. **Invitations:** Notice is hereby given that the Authority is requesting proposals from qualified companies to manage the Gift Shop Concession in the Terminal Building Complex at the Airport.
2. **Questions for Clarification:** Questions for clarification of the information contained in this Request for Proposal ("RFP") may be addressed at the Pre-Proposal Conference or may be submitted in writing to the Airport Authority at the address or e-mail address included in the RFP Document.
3. **Pre-Proposal Conference:** A pre-proposal conference will be held in the lower level Conference Room located in the Terminal Building at 2:00 p.m. (CST), on Friday, December 9, 2011. A tour of the Terminal Building follows this meeting.
4. **Determination of Qualified Proposals:** Only those proposals received timely and in proper form will be considered. Those submitting proposals are required to present evidence that they have the experience, expertise, and resources necessary to properly manage the Gift Shop Concession at the Airport. To ensure this, the Authority requires that those submitting proposals complete and furnish a Proposal Form and Non-collusion Affidavit attached as Exhibit 1 and Exhibit 2. The firm or individual submitting proposals shall be able to demonstrate its ability in the management and operation of Gift Shop Concessions at a similar size airport or similar types of experience in communities the size of Peoria. This notice is written not to preclude the formation of a new company, partnership, or cooperation to participate in this opportunity, the Authority will give attention to prior experience. The Authority is most interested in experience in small communities and how there will be strong local presence.
5. **Filing Proposals:** Proposals will be received by the Authority until 4:00 p.m. (CST) Friday, December 30, 2011. Facsimile or e-mailed proposals will not be accepted.
6. **Proposal Form -Attaching Additional:** For purposes of format uniformity and to facilitate in the proposal analysis and comparison, each proposal must be submitted on the preprinted forms attached hereto as Exhibit 1, and must be identified on the outside of the envelope as "Gift Shop Concession Proposal," stating the opening date and time. If the Proposal Form contains insufficient space or additional information is required, that information should be typed on plain paper, attached to the Proposal Form, and marked appropriately. All information that is required to be supplied should be submitted with the Proposal Form. All documentation submitted with this proposal should be bound in a single volume. Proposal shall be limited to twenty-five (25) pages excluding the cover letter, table of contents and back page.
7. **Authentication of Proposal:** The Proposal Form marked Appendix A, must be completed in every respect, and signed by an authorized representative possessing authority to bind the firm. The Proposal Form must be sworn to before a Notary Public. The official name of the firm will be regarded as the name in which the proposal is submitted and in which the Concession Agreement (the "Agreement") will be prepared. As proposals are to be accepted

from newly formed firms or a group of existing firms already engaged in similar activities, the Proposal Form is to indicate company information for the newly-formed firm or joint venture that may be organized.

8. Rejection of Proposals: The Authority reserves the right reject any and all proposals, to select the proposal, which in the Authority's sole discretion it judges to be in the best interest of the Authority, even though this proposal does not represent the highest financial return to the Authority, and to waive any technicalities. If all proposals are rejected, Authority reserves the right to re-solicit proposals.
9. Withdrawal of Proposals: A submitting firm (person) may withdraw its proposal by sending its request, in writing and by certified mail to the office of the Authority Director of Finance & Administration. The request must be received prior to 3:00 p. m. (CST) Monday, January 16, 2012.
10. Award of the Agreement: A contract award will be made to the firm (person) making the proposal considered most advantageous to the Authority. The Agreement must be formally approved by the Authority Board of Commissioners. The successful Proposer must execute concession agreement in the form included in this RFP, which is attached as Exhibit 3.
11. Explanation of, or Finding of Discrepancies: Should a firm (person) submitting a proposal find a discrepancy or omission in these instructions, or should there be any doubt as to the meaning of any provision, it shall notify in writing and by certified mail the Authority Director of Finance & Administration no later than Tuesday, December 13, 2011, who will then send written supplemental instructions to all Proposers. Said written instructions shall become addenda to these instructions.
12. Supplemental Information: The Authority does not assume any responsibility for the accuracy of data provided in Exhibit 4, "Statistical Data" although it was assembled and compiled from sources considered reliable.
13. Proposal Security and Requirements of Successful Proposer: Proposals must be accompanied by a Proposal Security in the form of a Proposal Bond, Certified Check, or Cashier's Check payable to the Metropolitan Airport Authority of Peoria, in the amount of \$250.00. Should the Proposer selected as most highly-ranked fail to execute an Concession Agreement in accordance with their proposal as specified in response to this RFP and by no later than December 28, 2011, Proposal Security shall be forfeited to the Authority as liquidated damages, the Successful Proposer shall forfeit any rights granted under this invitation for proposals, the Authority reserves the right to enter into negotiations with the next highest-rated Proposer. The Proposal Security will be returned to the unsuccessful Proposers within thirty (30) days after the signing of the Agreement with the Successful Proposer. The Authority reserves the right to extend the Effective Date if it determines in its sole opinion that more time is needed and significant effort is made by the Successful Proposer towards signing an Agreement. By submitting a proposal in response to this solicitation, the Proposer agrees to all the terms and conditions of this Request for Proposals Document. The Authority Director, at his sole discretion, may grant additional time if warranted.
14. Investigation of Proposers: The Authority reserves the right to thoroughly investigate the financial status, experience, and performance record of each Proposer and to decline to award

to any Proposer found to be unqualified.

15. Proposer Responsible for Examination: The Proposers shall be responsible for examination and understanding of the terms of these Instructions To Proposers, the physical layout of the site, the future constraints and the operating characteristics and requirements at the General Wayne A. Downing Peoria International Airport, and shall judge for themselves all of the circumstances and conditions affecting the proposal. Failure on the part of the Proposer to make such examinations and to investigate thoroughly shall not be grounds for any declaration that the Proposer did not understand the conditions of these instructions. Interested parties may submit questions pertaining to the proposal in writing to the Director of Finance and Administration, to be received no later than December 5, 2011. The Authority will issue written responses to all questions raised.
16. Concession Fee: The minimum concession fee set by ordinance is 10% of gross receipts in excess of the Minimum Annual Guarantee as set forth below. The Proposer shall submit any additional proposed percentage of gross revenues payable to the Authority as a concession fee during the term of the Agreement and proposed option agreement.
17. Minimum Annual Guarantee (MAG): The Minimum Annual Guarantee is set at the standard square footage rental rate for the gift shop space. This rate is set by the Rates and Charges Ordinance adopted from time to time by the Airport Authority and is currently set at \$20.21 per square foot per year, payable monthly. The Proposer shall submit any additional proposed minimum annual guarantee (MAG) payable to the Authority. The MAG shall be specified in dollars for each of the years of the agreement.
18. Agreement Term: The term of the Agreement is for five (5) years, with a single five (5) year mutual option. The Authority, at its sole option, reserves the right to require the concessionaire to demolish any and all improvements, clear the premises, and return the premises to the state it was in when first occupied by Concessionaire.
19. Selection Process: Judging of proposals by the Selection Committee shall consist of the following criteria as arranged in descending order of magnitude:
  - a. Economic benefit to the Authority over the term and option period of the Agreement.
  - b. The extent of specialized experience of the Proposer (individual, corporation, or firm) in the type of work required and the degree and depth of professional qualifications available through the Proposer for performance of the services required.
  - c. The performance history of the Proposer in the Gift Shop or Retail industry.
  - d. The Financial strength/capacity of the Proposer.
  - e. The marketing plan and the operations plan. The Authority is looking for a specific marketing plan as it relates to the airport market.
  - f. Individual experience for staff assigned to this contract.
  - g. Disadvantaged Business Enterprise (DBE) participation.
20. Disadvantaged Business Enterprise (DBE) Participation: The Authority has a DBE participation goal for business opportunities at the General Wayne A. Downing Peoria International Airport. To be considered as a DBE Proposer, the DBE firm must be certified

by the Illinois Department of Transportation. A "Disadvantaged Business Enterprise Eligibility" form can be obtained from the IDOT Office of Business and Workforce Diversity, Small Business Enterprises, or downloaded from:  
<http://www.dot.il.gov/sbe/sbepw.html>.

21. Insurance: At the same time of the execution of the Agreement, the Successful Proposer will also deliver to the Authority a certificate of insurance as evidence that the Successful Proposer has obtained all the required insurance in the Gift Shop Concession Agreement as outlined in the Authority's Rates and Charges Ordinance. A current certificate will be kept on file with the Airport Authority for the entire term of the Agreement.
22. The Effective Date: The Effective Date of the Agreement shall be Wednesday, February 1, 2012. The Successful Proposer will be expected to begin business activities as soon as the transition can be arranged with the existing Gift Shop Concessionaire (if necessary).

EXHIBIT 1

PROPOSAL FORM

GENERAL WAYNE A. DOWNING  
PEORIA INTERNATIONAL AIRPORT  
PEORIA, IL

A. GENERAL INFORMATION

I. Proposer:  
II. Principal Office Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

III. Telephone: \_\_\_\_\_

IV. Official Representative: \_\_\_\_\_

V. Type of Organization: (Please check one)  
Corporation ( ) Limited Liability Company ( ) Partnership ( ) Joint Venture ( ) Sole  
Proprietorship ( ) Other ( ) Explain "Other": \_\_\_\_\_  
\_\_\_\_\_

1. If a corporation, answer the following:

a. When incorporated? \_\_\_\_\_

b. Where incorporated? \_\_\_\_\_

c. Authorized to do business in Illinois: Yes ( ) No ( )

d. The corporation is held: Publicly ( ) Privately ( )

e. If publicly held, how and where is the stock traded? \_\_\_\_\_  
\_\_\_\_\_

f. List names, titles and addresses of corporate officers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

g. Name and title of full-time managing officer or managing employee:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Attach Resume)

List names, titles and addresses of corporate directors:

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List names, titles and addresses of stockholders owning 10% or more of the corporation's issued stock:

Attach copies of the current Articles of Incorporation.

2. If a partnership, answer the following:

a. Date of organization: \_\_\_\_\_

b. General Partnership ( ) Limited Partnership ( )

c. Certificate of Partnership recorded? Yes ( ) No ( ) If yes,

d. Has the Partnership done business or is it doing business in Illinois?

e. Name, and address and partnership share of each general partner:

NAME	ADDRESS	SHARE %
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_____	_____	_____
_____	_____	_____
_____	_____	_____

f. Attach a complete copy of the current partnership Agreement or limited partnership agreement and/or certificate of partnership.

g. Name and title of full-time managing partner or managing employee:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Attach Resume)

3. If a limited liability company, answer the following:

a. Date of organization: \_\_\_\_\_

b. Member Managed ( ) Governor Managed ( )

c. Statute of Organization: \_\_\_\_\_

d. Authorized to do business in Illinois: Yes ( ) No ( )

e. List names, titles and addresses of officers of limited liability company:

NAME	TITLE	ADDRESS

f. List names and addresses of Governors of limited liability company, if applicable:

NAME	ADDRESS

g. List names, addresses and percentage of membership interests held by each Member of limited liability company:

NAME	ADDRESS	Percentage

h. Attach a complete copy of the limited liability company's articles of organization and a fully executed copy of the limited liability company's operating Agreement.

i. Name and title of full-time chief manager or equivalent officer of the limited liability company:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Attach Resume)

4. If a joint venture, answer the following:

a. Date of organization: \_\_\_\_\_

b. Joint Venture Agreement recorded? Yes ( ) No ( )

Date \_\_\_\_\_

Book \_\_\_\_\_

Page \_\_\_\_\_

County and State \_\_\_\_\_

c. Has the joint venture or any joint venturer done business in Illinois?

Yes( ) No( ) If yes, when and where? \_\_\_\_\_

d. Name, address, and joint venture share of each joint Venturer:

NAME	ADDRESS	Percentage
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_____	_____	_____
_____	_____	_____
_____	_____	_____

Attach a complete copy of the current Joint Venture Agreement. Name and title of full-time joint venture manager or managing employee:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Attach Resume)

5. If a Sole Proprietorship, answer the following:

a. Name in full: \_\_\_\_\_

b. Address: \_\_\_\_\_

c. Date of Birth: \_\_\_\_\_

d. Social Security No.: \_\_\_\_\_

e. Have you conducted business in Illinois? Yes ( ) No ( )

If yes, when and where? \_\_\_\_\_

(Attach Resume)

## B. FINANCIAL INFORMATION

The Proposer must demonstrate financial trust, responsibility, and capability by providing the following financial information (any private and confidential information provided that is marked appropriately will be kept confidential):

a. Financial Statements:

The Proposer shall submit a Balance Sheet, an Income Statement and a Statement of Cash Flows including all footnotes to the above for the last two (2) fiscal year periods prepared in accordance with generally accepted accounting principles by a Certified Public Accountant. (Attach information.)

b. Surety Information:

Have you or any entity in which you have had an ownership interest, ever had a bond or surety instrument canceled or forfeited? Yes ( ) No ( )

If yes, state name of bonding company, date, amount of bond and reason for cancellation or forfeiture:

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c. Bankruptcy Information:

Have you or any entity you have had ownership interest ever been declared bankrupt?

Yes( ) No( )

If yes, state name of entity, date, and state in which bankruptcy action occurred.

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d. Credit References: (Not necessary for current Operator)

Provide names, addresses, titles, phone numbers and business type of at least three (3) organizations your company has done business with in the most recent three (3) years.

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e. Financing Construction and Start-Up of Operations. The Authority is not responsible for any start-up costs or on-going costs such as utilities. (Not necessary for current Operator):

The funds necessary for the Gift Shop Concession will be financed in the following manner: (Be specific as to how you will finance your business. This should include your existing lines of credit, current assets and a Letter of Intent from your banking institution -unless being financed out of existing capital.)

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### C. EXPERIENCE STATEMENT

- a. The firm or individual submitting proposals shall be able to demonstrate its ability in the management and operation of Gift Shop Concessions at a similar size airport or similar type of retail experience in communities the size of Peoria.

This notice is written not to preclude the formation of a new company, partnership, or cooperation to operate this concession, the Authority will give attention to prior experience. The Authority is most interested in experience in conducting retail operations in a similar environment in similar sized communities and operations.

Attach a statement detailing experience and a list of all locations currently managed which must include the contact information for location owner(s). The Proposer may include any additional information deemed necessary to demonstrate experience.

- b. Attach an Organizational Chart and management structure of the proposed operation.
- c. Attach a statement detailing the experience and qualifications of each individual who will be responsible for the operations at the Airport.
- d. If entity has multiple locations, attach a statement detailing the experience and qualifications of all individuals for sales and home office of the individual.
- e. Have any Gift Shop Concession Agreements held by the Proposer ever been canceled or terminated? Yes ( ) No ( )

If yes, attach statement / setting forth details.

### D. FINANCIAL PROPOSAL

The basic concession fee as outlined in the Rates and Charges Ordinance for Gift Shops is 10% of gross revenues in excess of the minimum annual rent of \$20.21 per square foot per year, payable monthly, based on a total space of 498 square feet. For example, basic space rent is \$20.21 x 498 square feet for a total of \$10,064.58 per year, or \$838.72 per month. If gross revenues exceed \$8,387.20 in a month, then an additional 10% concession fee would be charged on the amount exceeding \$8,387.20 in addition to the space rent. Please identify any additional compensation being proposed to the Airport Authority in your proposal.

### E. OPERATING PLAN

- a. Please provide a detailed operating plan.

b. Please provide detailed plan of equipment and displays to be used.

#### F. MARKETING PLAN

Please provide information about how you plan to market the facilities, and what your strategy is to attract customers and increase sales.

#### G. LICENSING AND PERMITS REQUIREMENTS

The Proposer is responsible for obtaining all necessary licenses and permits required. The Authority will not reimburse the operator for any cost of licenses or registration with the City, County, or State.

#### H. EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Airport Authority Policies regarding equal opportunity, please provide your firm's affirmative action plan for equal employment opportunity. (See attached)

#### I. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION AND TITLE 6 LANGUAGE:

The Authority has an overall Concession goal for Disadvantaged Business Enterprise (DBE) participation.

The Authority policy states that DBE's will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, age, sex, handicap or national origin in consideration for an award.

All non-DBE respondents/Proposers should attempt to secure DBE participation as part of their response/proposal. If the Successful Proposer fails to meet the goal, its efforts will be evaluated to determine whether there has been good faith compliance with the bid documents, and may result in withholding the contract award.

Describe the methods used by the Proposer to assist the Authority in meeting the DBE participation goals.

#### J. THE UNDERSIGNED PROPOSER FURTHER WARRANTS AND AGREES THAT:

1. It understands that its proposal may be withdrawn and its Proposal Security Deposit refunded by requesting such withdrawal, in writing, by certified mail, any time before 3:00 pm on December 19, 2011.
2. It has carefully read and fully understands the terms and conditions of the Request for

Proposals and the Instructions to Proposers, and has the capability to carry out all of the responsibilities set forth therein.

3. The individual or any partner or corporate officer or LLC member has never been convicted of a felony or crime involving moral turpitude and there are no pending proceedings against the individual, a partner, a member or the corporation of officer concerning the alleged commission of a felony or crime involving moral turpitude.
4. The Proposal Form and related forms have been completed to the best of its ability and it represents and warrants that all information contained therein is true and correct to the best of its knowledge.
5. By submission of this proposal, the Proposer acknowledges that representatives of the Authority have the right to make any inquiry or investigation they deem appropriate to substantiate or supplement information contained in the Proposal Form, and the Proposer authorizes release to the Authority of any and all information sought in such inquiry or investigation. Further, the undersigned agrees to permit the audit and examination of books, records, and files of the named firm for compliance. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements.

**K. BINDING AGREEMENT**

The Proposer agrees to be bound by this proposal for a period of one hundred twenty (120) days from the date set for receipt of proposals.

The undersigned swears that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of (name of firm) \_\_\_\_\_ as well as the ownership thereof.

CORPORATE Signature \_\_\_\_\_

SEAL

(If Applicable) Name \_\_\_\_\_

Title \_\_\_\_\_

NOTE: If a partnership, a general partner must sign; if a corporation, the authorized corporate officer must sign, if an LLC, the authorized party must sign.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_ day of 2011

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Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

EXHIBIT 2

NON-COLLUSION AFFIDAVIT

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

\*(Name) \_\_\_\_\_

(Address) \_\_\_\_\_

of lawful age, being first duty sworn, on oath says, that (s)he is the agent authorized by the Proposer to submit the attached proposal. Affiant further says that: (1) the proposal filed herewith is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation; (2) that such proposal is genuine and not collusive or a sham; (3) that said Proposer has not, directly or indirectly, induced or solicited any other Proposer to put in a false or sham proposal, and has not, directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham proposal, or that anyone else shall refrain from proposing; (4) that said Proposer has not in any manner directly or indirectly, sought by Agreement, communication or conference with anyone to fix the proposal price of said Proposer or any other Proposer, or to fix any overhead, profit, or cost element of such proposal price of said Proposer or of any other Proposer, or to secure any advantage against the Authority or anyone interested in the Gift Shop Concession; (5) that the Proposer has not been a party to any collusion with any official of the Authority or any employees of the Authority concerning exchange of money or other things of value for special consideration in submitting a sealed proposal for the Gift Shop Concession at the General Wayne A. Downing Peoria International Airport; (6) that all statements contained in such proposal are true; (7) and that Proposer has not, directly or indirectly, submitted its proposal price or any breakdown thereof or the contents thereof, or divulged information or data relative thereto to other parties.

Firm Name \_\_\_\_\_

By: Signature and Title\* \_\_\_\_\_

Subscribed and sworn to before me this \_\_ day of 2011

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

\*Owner, General Partner, LLC Manager, or Officer of the Corporation, Company Name and State.

EXHIBIT 3

"SAMPLE"

**GIFT SHOP LEASE AGREEMENT**

This Lease Agreement ("Agreement") made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the METROPOLITAN AIRPORT AUTHORITY OF PEORIA, an Illinois municipal corporation, hereinafter referred to as "Lessor," and Up, Up and Away Gift Shop, hereinafter referred to as "Lessee."

**WITNESSETH:**

WHEREAS, the Lessee desires to lease certain space located within the terminal building located at General Wayne A. Downing, Peoria International Airport for the operation of a gift shop to serve the public; and

WHEREAS, the Lessor desires to make said rental space available for the use of the Lessee, and the parties have negotiated the terms in this Agreement by which such rental space shall be available to Lessee from Lessor;

NOW, THEREFORE, the parties hereto, for and in consideration of the rents, covenants and agreements contained herein, agree as follows:

**ARTICLE I  
SUBORDINATION OF LEASE AGREEMENT TO RATES AND  
CHARGES ORDINANCE**

Lessee agrees that this Agreement shall be subordinate and subject to the terms and provisions of "An Ordinance of the Greater Peoria Airport Authority pertaining to rates and fees" effective March 1, 2008, as Ordinance 2008-A, as amended or as succeeded from time to time ("Rates and Charges Ordinance"), which Rates and Charges Ordinance is expressly incorporated herein by reference. It is intended between the parties that the terms of this Agreement shall control matters not specifically addressed in the Rates and Charges Ordinance. To the extent any terms of this Agreement conflict with the Rates and Charges Ordinance, the Rates and Charges Ordinance shall control.

**ARTICLE II  
PREMISES**

**A. Leased Premises.** Lessor does hereby grant unto Lessee the use of the premises as shown in Exhibit A, and as may later be amended, which is attached hereto and made a part hereof and certain other areas as described in the Agreement, located in the General Wayne A. Downing Peoria International Airport, 6100 W. Everett McKinley Dirksen Parkway, Peoria, Illinois 61607, which areas consist of a retail location adjacent to the baggage claim area for the purpose of selling publications, gifts, and sundries to the general public. Certain other storage

areas will be available to the Lessee as a part of doing business as assigned by the Director of Airports.

**B. Utilities.** During the Initial Term and Renewal Term (including the period from and after any relocation to new space as provided in Article VII), Lessee shall pay for all electricity needed to operate its approved concessions at the Leased Premises, which electricity shall be billed to Lessee by Lessor. Lessee shall additionally be responsible for the cost of telephone or facsimile service at the Lease Premises. Lessor may provide other utilities to Lessee during the Initial Term and Renewal Term on such terms, conditions and costs as determined by Lessor.

**C. Housekeeping/Health Regulation.** The Lessee will provide housekeeping and shall maintain the Leased Premises in a first class sanitary condition in compliance with all applicable regulations and to procure and keep in effect all necessary licenses and permits required by law and to post the same.

**D. Advertising.** The Lessor agrees to include the Lessee in advertising when possible. The Lessee agrees to help promote Lessor when possible.

**E. Access.** Lessor reserves the right to enter Leased Premises at reasonable times with reasonable notice for the purpose of inspection or repairs.

**F. Other Business and Services.** Neither Lessee, nor any of its employees will conduct, transact or otherwise carry on any business or services that are not specifically authorized in accordance with this Agreement or receipt of prior written approval of the Director of Airports. Any such business or activity shall be reported by Lessee as part of gross sales as defined in this Agreement. Lessee must meet any security requirements as established by the Transportation Security Administration or any other agencies to conduct these activities or any future activities on the Leased Premises.

### **ARTICLE III TERM/OPTION TO RENEW**

Except as provided in Article VII, the Initial Term of this Agreement (“Initial Term”) shall be for three (3) years, commencing on February 1, 2012, and terminating on January 31, 2015. Lessee shall have the option to renew this Agreement for one additional three (3) year term (“Renewal Term”) by giving Lessor six months’ written notice prior to the end of the Initial Term of Lessee's desire to exercise the option. The Renewal Term shall be on the same terms and conditions as the Initial Term.

#### **ARTICLE IV RENT AND CONCESSION FEE**

During both the Initial Term and the Renewal Term, the Lessee shall pay Rent to Lessor in accordance with the Rates and Charges Ordinance, which is currently established at the rate of twenty dollars and twenty-one cents (\$20.21) per square foot per annum (Square Foot Rental), which rate may be amended from time to time, as described in Article I. Square Foot Rental shall be paid in advance in equal monthly installments, at a rate of one twelfth of the total annual amount, by the first day of each month. Lessor and Lessee agree that the total square footage applicable to this Agreement shall be 498 square feet.

In addition, Lessee shall pay to Lessor, as Additional Rent, a Concession Fee. The Concession Fee shall be in an amount equal to ten percent (10%) of Lessee's yearly gross sales in excess of the then applicable Square Foot Rental. Rent shall be paid on the first day of the month in each month. The Concession Fee (Additional Rent) shall be due and payable on or before the twentieth (20th) day after the end of each month of the term prior to the expiration of the term (or on or before the twentieth (20th) day after any termination of this Agreement).

Lessee's gross sales are defined as the total amount of each transaction involving the selling of food, merchandise, beverages or any other item made or contracted for on the Leased Premises, from any activity by Lessee, whether such sales be evidenced by cash, check, credit, debit card, charge account, exchange, internet sales or otherwise, and shall include, but not be limited to, the amounts received from gift, merchandise or food certificates, and shall include all deposits not refunded to purchasers.

All sales made on or contracted for on the Leased Premises shall be considered as being made on or through the Leased Premises, notwithstanding that payment for and/or delivery of the food and beverages is made at some other place. Amounts from the sales of food, merchandise, beverages or any other item delivered from the Leased Premises, though contracted for elsewhere, shall likewise be included within sales subject to the Concession Fee and shall be considered gross sales.

All revenue shall be deemed received upon determination of the amount due Lessee for each transaction whether for cash, check, credit, debit card or charge account, exchange, internet sales or otherwise, and not at the time of billing or payment.

The following items shall be excluded from the Concession Fee: amount of cash or credit card refunds, or allowances made on merchandise or sales claimed to be defective or unsatisfactory, provided the original sale shall have been included in Concession Fee. Also, any and all sales taxes or other governmental required fees or taxes shall be excluded from the amount of gross sales or the Concession Fee and shall be separately stated and collected from Lessee's customers.

The Concession Fee or monthly rent shall be paid to Lessor monthly on or before the twentieth (20th) day after expiration of the month for which the fee or rent is due and shall be

submitted together with the statement of all sales hereinafter required. All payments shall be made by good draft or check payable to the order of the "Metropolitan Airport Authority of Peoria" or successor entity and forwarded to the Director of Airports as set forth in this Agreement.

## **ARTICLE V RECORDS AND ACCOUNTING**

**A. Records.** Lessee shall provide and maintain (1) daily and monthly records of sales from the operation of Lessee's business, and (2) all legally required returns and reports relating to all sales taxes paid by Lessee.

**B. Statement of Concession Fees.** On or before the twentieth (20th) day after the end of each month of the term prior to the expiration of the term (or on or before the twentieth day after any termination of this Agreement), Lessee shall submit to the Lessor, together with the payment of the Concession Fee due, a statement of the Concession Fees derived from the operation of its business for the previous month. In addition to the statement of Concession Fees derived from the operations of Lessee's business during the previous month, the Lessee shall provide a copy of all documents provided to the Illinois Department of Revenue for sales tax purposes.

**C. Right of Audit.** The Lessor through its officers, employees or agents shall have the right, upon reasonable notice to Lessee, to inspect or audit all records of Lessee which the Director of Airports considers necessary to determine Concession Fees or Rent due from Lessee operation hereunder or Lessee's compliance with the terms hereof. If any inspection or audit made by or on behalf of the Lessor discloses a discrepancy of more than three percent (3%) in the report of Concession Fees or Rent for any time period, Lessee shall reimburse Lessor for the expense or cost of such inspection or audit. Lessee shall be responsible for payment of all additional Rent due Lessor as a result of any audit.

## **ARTICLE VI ALTERATIONS**

Lessee shall not, without the prior written consent of Lessor which shall not be unreasonably withheld or delayed, make any material alterations, installations, improvements, or additions to the Premises including, but not limited to, wall coverings, floor coverings, and special lighting installation. In the event Lessee desires to make any material alterations, installments, improvements, or additions, Lessee shall first submit to Lessor plans and specifications therefore, including names of proposed design professionals and contractors to be involved in such work and obtain Lessor's written approval thereof (which shall not be unreasonably withheld or delayed) prior to commencing any such work. All such work shall be done at Lessee's sole cost and expense, and in a good and workmanlike manner. Lessor shall be furnished with sworn statements and waivers of lien as may be deemed appropriate by Lessor. Except as to any trade fixtures, business equipment, or other removable personal property

installed by Lessee, which Lessee shall remove at the termination of this Lease (by lapse of time or otherwise) and for which Lessee shall repair all improvements damaged by the installation or removal of same, all alterations, installations, improvements, and additions (whether temporary or permanent in character) made by Lessee in or upon the Premises shall be the property of Lessee, but shall become Lessor's property and shall remain upon the Premises at the termination of this Lease, by lapse of time or otherwise, without compensation to Lessee. All construction work performed at Lessee's request in the Premises shall be done by contractors and subcontractors who have worker's compensation and employer's liability insurance meeting the following requirements: (1) in statutory amounts; (2) with reputable companies licensed to do business in the State of Illinois; and (3) showing Lessor as an additional insured. In addition, all such contractors and subcontractors shall have general public liability insurance coverage consistent with the specifications contained in Article XVII of this Lease. Evidence of the insurance required herein shall be provided Lessor before any construction is begun. The Lessor has the right to approve any and all signs used by the Lessee in the operation of its business.

## **ARTICLE VII RELOCATION OF LEASED PREMISES**

**A. Lessor's Rights.** Lessor retains the right to improve, alter, modify or otherwise change the Terminal Building including the space allocated to the Lessee. The Lessor further retains the right to relocate the Lessee should relocation become necessary in the opinion of the management of the Lessor. Should relocation become necessary, the Lessor shall pay for the cost of moving and re-installing Lessee's equipment and furniture to the new location.

**B. Lessee's Rights.** Should any improvements, modifications or relocations, as referred to herein, temporarily interrupt or otherwise prevent the Lessee from conducting business, fees normally paid to the Lessor will be suspended on a prorated basis during the time such interruption shall exist. If the interruption period exceeds, in total, more than seven (7) calendar days, Lessor shall pay and reimburse Lessee for all Lessee's costs and expenses incurred thereby, including payroll costs to retain employees.

## **ARTICLE VIII HOURS OF OPERATION**

Lessee shall operate during those hours as are necessary to adequately serve the public demand, as determined by the Director of Airports. Lessee shall be obligated to be open one hour prior to the first scheduled airline departure and remain open until the last scheduled airline departure has departed or the last passengers of the day have cleared the security checkpoint. Lessee shall be open seven (7) days/week, including holidays. Lessee shall consult and seek approval from the Director of Airports no later than seven (7) calendar days prior to any official holiday to close.

**ARTICLE IX  
MAINTENANCE**

Except as otherwise provided herein, Lessor shall maintain the structural components of the Leased Premises. The Lessee hereby acknowledges and agrees that the Leased Premises hereunder are in new condition and repair. Lessee shall be responsible for all other maintenance and housekeeping within the Leased Premises.

**ARTICLE X  
RULES AND REGULATIONS**

Lessee covenants and agrees to observe and obey all rules and regulations which may from time to time during the term hereof be promulgated and enforced by the Lessor; and further, Lessee agrees to obey any applicable city, county, state and federal rules, regulations and statutes, and acquire any and all licenses and permits required.

Lessee agrees that all of its employees at General Wayne A. Downing, Peoria International Airport that may require access to restricted or non-public areas shall be subject to the investigation and approval of the Lessor and that such employees are at all times to cooperate and abide by all laws and rules or regulations established by Lessor, including regulations for parking of employees' vehicles.

**ARTICLE XI  
TAXES**

Lessee agrees to pay all federal, state and local taxes which may be assessed against any equipment, or merchandise while in or upon the Leased Premises, as well as all federal, state or local taxes assessed in connection with the operation of its services upon the Leased Premises. Lessee shall pay all real estate taxes which may be assessed with respect to the Leased Premises and any personal property taxes which may be assessed with respect to Lessee's equipment located on the Leased Premises.

**ARTICLE XII  
DAMAGE OR DESTRUCTION**

In the event any portion of the Airport Terminal Building which is normally open to the general public or any portion of the premises demised herein is rendered wholly or partially untenable or unusable because of fire or other casualty, there shall be a reasonable and proportionate abatement of the rentals of the affected areas during the period that the same are untenable or unusable. However, if repairs cannot be completed within one hundred twenty (120) days of the event which causes the Terminal Building or Leased Premises to be untenable, Lessee, may, upon written, notice terminate this Agreement. Provided further, however if such damage is caused by the negligent act or omission of Lessee, Lessee's agents or employees, the rentals will not be abate and Lessee shall be responsible for reimbursing Lessor for costs and expenses incurred in such repair.

**ARTICLE XIII  
QUIET ENJOYMENT**

Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of the Lessee to be performed hereunder, Lessee shall peaceably have and enjoy the Leased Premises.

**ARTICLE XIV  
FORCE MAJEURE OR TERRORIST ACT**

**A. Excuse in Performance.** In the event that either party shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or Terrorist Act or other reasons of a like nature not the fault of the party delayed in performing this Agreement, then performance of such act shall be excused for the period of the delay and the period of any such act shall be extended for a period equivalent to the period of such delay.

**B. Termination by Lessee.** In the event of an act of terrorism occurring in the United States of America, and such act of terrorism causes a material decrease in airport travel and a decrease in Lessee's customer count for a period exceeding ninety (90) days, Lessee may, upon written notice, terminate this Agreement and be released from all terms and conditions thereof. "Material decrease" as used in the preceding sentence shall mean fifty percent (50%) or more reduction in average monthly sales as determined by averaging sales for the six (6) month period preceding the act of terrorism.

**ARTICLE XV  
SURRENDER OF POSSESSION**

Lessee agrees to yield and deliver to Lessor possession of the Leased Premises and equipment at the termination of this Agreement, by expiration or otherwise, in good condition in accordance with its express obligations hereunder, except for reasonable wear and tear. Should Lessee fail to yield and deliver possession of the Leased Premises at the termination of this Agreement, Lessee is responsible to pay the Lessor "holdover rent" at the following rates until Lessee vacates the Premises: (i) 125 percent of the then applicable rent and average Concession Fee for the first month during such holdover period, and (ii) 200 percent of the then applicable rent and average Concession Fee for each subsequent month during a holdover period. The average monthly Concession Fee shall be determined by averaging the previous six months of Concession Fees to determine a monthly average, which is computed on a thirty (30) day per month basis. The acceptance of rent, whether partial rent, holdover rent, or any other form of payment by Lessee, by Lessor after default and/or termination of this Lease is for Lessee's use and occupancy and is not a waiver, either expressed or implied, by Lessor of the default or termination.

**ARTICLE XVI  
PROPERTY RIGHTS UPON TERMINATION**

Upon expiration or any earlier termination of this Agreement, Lessee shall immediately, and at its own expense, remove all its personal property, equipment, devices, and appurtenances thereto and any other portions of the facility or its structural components which are readily removable without damaging the Leased Premises; provided, however, that no installed or extended utility lines or facilities or any other structure or appurtenances permanently affixed or not removable without damaging the Leased Premises shall be removed therefrom unless Lessee is directed to do so by the Lessor.

Any damage incurred to the Leased Premises on account of removal by Lessee of any item or portion of the facility or appurtenances thereto shall be promptly repaired by Lessee at its own expense within forty-five (45) calendar days, and the Leased Premises shall be restored to the condition in which it was received by Lessee at the commencement of this Agreement, or as it was improved hereunder. If, in the Lessor's sole determination, repairs are not made in a manner which it deems to be satisfactory, the Lessor will make such repairs and assess the cost to the Lessee.

## **ARTICLE XVII INDEMNIFICATION AND INSURANCE**

Lessee agrees to indemnify, defend, and hold harmless Lessor and its authorized agents, officers, representatives and employees from and against all injury to persons or property, liabilities, judgments, costs, damages, loss of life or other losses (including reasonable attorneys' fees and court costs) resulting from claims or court actions arising out of the acts of Lessee, Lessee's agents, and/or servants, or by reason of any act or omission of Lessee, Lessee's agents and/or servants in connection with its operations or its occupation of the Leased Premises, or under state, federal, or local laws, regulations or ordinances at the General Wayne A. Downing, Peoria International Airport.

Lessee shall secure public liability (including product liability) and property damages insurance in which Lessor shall be named as an additional insured party with Lessee. Such policies or insurance shall be maintained in full force and effect for as long as Lessee operates a business at the airport. Said insurance shall protect Lessor against any and all liability for death, injury, loss or damage against which Lessee has undertaken to save and hold Lessor harmless. Such policy limits shall be not less than Two Million Dollars (\$2,000,000.00).

Lessee agrees to cover its employees with Workman's Compensation Insurance in sufficient amounts as required under the law of the State of Illinois.

Lessee shall furnish Lessor a Certificate of Insurance for each policy required above evidencing such coverage and all policies shall name Lessor as an additional insured. Such insurance shall be placed with a company or companies acceptable to and meeting the approval of Lessor. Copies of all such policies of insurance or in lieu thereof, a proper certificate of insurance showing Lessor as an additional insured party shall be delivered to Lessor and shall be held for the benefit of the parties as their respective interests may appear. Lessee shall further arrange to have any insurance company providing coverage during the lease term provide written

notice to Lessor at least fifteen (15) days prior to any cancellation or termination of coverage.

While the amount of insurance specified above shall be a source of indemnification by Lessee as required above, Lessee shall save and hold harmless Lessor to the extent that there is no valid and collectible insurance for the above protection Lessee is required to provide. Lessee acknowledges and agrees that Lessor will not carry any insurance on Lessee's furniture, furnishings, fixtures, equipment, property or interest in the Leased Premises, nor be liable for any loss, damage or expense to any of the same, nor shall Lessor be liable for any inconvenience or annoyance to Lessee or injury to the business of Lessee resulting in any way from damage to the Leased Premises or the repairing or rebuilding done upon such damage. Lessee agrees and understands that any insurance limits may be requested by Lessor to be appropriately adjusted based on industry standards for airport facilities.

### **ARTICLE XVIII WAIVERS**

No waiver by the Lessor at any time of any of the terms, conditions, covenants or agreements, or non-compliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or of any other terms, conditions, covenant or agreement herein contained, nor of the strict and proper performance thereof by Lessee. No delay, failure or omission of Lessor to re-enter the Leased Premises or to exercise any right, power, privilege or option arising from any default, nor subsequent acceptance of rent then or thereafter approved, shall impair any such right, power, privilege or option or be construed to be a waiver of any such default of relinquishment thereof, or acquiescence therein, and no notice by Lessor shall be required to restore or revive time as of the essence hereof after waiver by Lessor of default in any one or more instances. No option, right, power, privilege or remedy of Lessor shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to Lessor by this Agreement are cumulative and no one of them shall be exclusive of the other or exclusive of any remedies provided by law and that the exercise of one right power, option or remedy by Lessor shall not impair its rights to any other right, power, option or remedy.

### **ARTICLE XIX TIME OF ESSENCE**

Time is of the essence of this Agreement.

### **ARTICLE XX INDEPENDENT CONTRACTOR**

Lessee shall be and remain an independent contractor with respect to all installations, construction and services performed hereunder and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, unemployment insurance or old age retirement benefits, pension or annuities now or hereafter imposed under any State or Federal law which are measured by the wages, salaries or other

remuneration paid to persons employed by Lessee for work performed during the term of this Agreement and further agrees to obey all rules and regulations which are now or hereafter may be issued or promulgated under said respective laws by any duly authorized State or Federal officials; and Lessee also agrees to indemnify and save harmless the Lessor from any such contributions or taxes or liability therefore. Neither a partnership or joint venture is created by this Agreement, notwithstanding the fact the Concession Fees/Rent to be paid hereunder may be determined by gross revenues from the operation of Lessee hereunder.

**ARTICLE XXI  
EXCLUSIVE/NO ASSIGNMENT**

The parties acknowledge that this Agreement is personal between Lessee and Lessor, and Lessee shall not at any time assign this Agreement or any part thereof, nor sublease the Leased Premises or any portion thereof.

**ARTICLE XXII  
NOTICES**

Notice to the Lessor provided herein shall be sufficient if sent by certified mail, return receipt requested, postage paid, addressed to:

Director of Airports  
General Wayne A. Downing Peoria International Airport  
6100 West Everett McKinley Dirksen Pkwy  
Peoria, Illinois 61607

And notice to Lessee, shall be sufficient if sent by certified mail, return receipt requested, postage paid, addressed to:

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or to such other address as the parties may designate in writing from time to time.

**ARTICLE XXIII  
SEVERABILITY**

It is further expressly understood and agreed by and between the parties hereto that if any covenant, condition or provision herein contained is held to be invalid by any Court of competent jurisdiction, or of any agency of the State or Federal government having jurisdiction over the content of this Agreement, the invalidity of any such provision shall in no way effect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any

such provision does not materially prejudice either the Lessor or the Lessee in their respective rights and obligations contained in the valid covenant, conditions or provisions of this Agreement.

## **ARTICLE XXIV DEFAULT**

**A. Events of Default.** Lessor, at its option, may terminate this Agreement upon any of the following events or occurrences, which shall constitute a default by Lessee, or event of termination under this Agreement:

- (1) Failure of Lessee to pay any installment of Concession Fees or Rent (whichever is then applicable) due within ten (10) days after written notice of nonpayment;
- (2) Failure of Lessee to perform any other covenant, condition or obligation contained herein for more than thirty (30) days after written notice of such default;
- (3) Abandonment or vacation of the Leased Premises by Lessee;
- (4) Insolvency of Lessee or its failure to pay debts as they mature in the ordinary course of business, or assignment of a receiver for Lessee and a failure to remove the same within sixty (60) days thereafter, or an adjudication that Lessee is bankrupt.

**B. Lessor's Remedies.** Should Lessee default in any of its obligations under this Lease and fail to cure such default after receipt of written notice from Lessor, Lessor, at its option, shall have the following rights and remedies:

- (1) Allow Lessee to remain in possession, determine the Rent and average monthly Concession Fees that would be due (as determined by averaging the previous six months' Concession Fees to determine a monthly average as due to the end of the Lease Term) and declare such sums immediately due and payable and institute proceedings for the collection of such sums due by Lessee together with costs of collection and reasonable attorneys' fees;
- (2) Retake possession of the Leased Premises, terminate this Agreement and institute proceedings for the collection of all sums unpaid and due without acceleration by Lessee under this Agreement, together with any cost or expense of Lessor incident to repossession costs of collection and reasonable attorneys' fees, all without relief from valuation or appraisal laws;  
or
- (3) Retake possession of the Leased Premises and use its best efforts to re-let the Leased Premises, holding Lessee liable for the difference in the total Rent and/or average monthly Concession Fees (as determined by averaging the previous six  
  
(6) months of Concession Fees to determine a monthly average) and other amounts due. No waiver of any default of failure or delay to exercise any right or remedy by Lessor shall operate as a waiver of any other default or the same default in the future or as a waiver of any right or

remedy with respect to the same or other occurrence.

(4) Exercise any other rights or remedies at law or equity.

**C. Lessee's Remedies.** If Lessor defaults upon the performance or fails to observe any term, condition or requirement of it under this Agreement, Lessee shall give Lessor notice specifying the manner in which Lessor has defaulted and Lessor shall have thirty (30) days after delivery of such notice to cure such default. In the event Lessor fails to cure the default within such thirty (30) day period, or such other period of time as may be reasonably necessary to cure the default given its nature, Lessee shall have the right to exercise all rights and remedies in law or equity.

#### **ARTICLE XXV SUBORDINATION OF AGREEMENT**

It is mutually understood and agreed that this Agreement shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States of America and the State of Illinois, their Boards, Agencies, Commissions and other relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal or State funds on the development of the Airport, and this Agreement will be subordinate to the license or permit of entry which may be granted by the Secretary of Defense of the Department of Transportation.

#### **ARTICLE XXVI RIGHT TO AMEND**

In the event the Federal Aviation Administration, the Department of Transportation, the State of Illinois or their successors require modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvements of the Airport, Lessee agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions or requirements of this Agreement as may be reasonably required, pursuant to this paragraph, to agree to a replacement of the Concession Fees or to an increase in the rent provided for hereunder or to a change in the use (provided it is an authorized use hereunder) to which Lessee has put the Leased Premises. Provided however, Lessee upon any such amendment being proposed to it shall have the right, upon sixty (60) days' notice to terminate this Agreement and be released from all its terms and conditions.

#### **ARTICLE XXVII CONFORMITY OF AGREEMENT**

In the event that Lessor shall enter into any lease, contract or agreement with any other operator for purposes similar to those set forth theretofore with respect to the Airport, containing more favorable terms than this Agreement, or shall grant to any other operator rights, privileges or concessions with respect thereto which are not accorded to Lessee hereunder, then the same

rights, privileges and favorable terms shall be concurrently and automatically made available to Lessee.

**ARTICLE XXVIII  
NO LIENS**

Lessee shall pay for all labor done or materials furnished in the repair, replacement, development or improvement of the Leased Premises by Lessee, and shall keep said Leased Premises and Lessee's possessory interest therein free and clear of any lien or encumbrance of any kind whatsoever created by Lessee's act or omission. Provided however, Lessee may contest validity of any such lien or claim, provided that upon written demand of Lessor, Lessee shall deposit with Lessor an amount equal to the claimed lien or a surety bond, with sureties to be approved by Lessor, in an amount sufficient to assure payment and prevent any sale or forfeiture of the Leased Premises by reason of such nonpayment. No structural alterations, additions or improvements shall be made without the prior written consent of Lessor.

**ARTICLE XXIX  
EXPENSES OF ENFORCEMENT**

If either party to this Agreement shall default in its performance or promises stated herein, the defaulting party shall pay and discharge all reasonable costs, attorneys' fees and expenses incurred by the non defaulting party in enforcing any of the covenants and agreements contained herein, and such costs, fees and expenses may be taxed as costs in any suit or proceeding that may be brought to enforce any covenant or obligation of either party herein contained.

**ARTICLE XXX  
NON-DISCRIMINATION**

Lessee agrees that (1) no person shall be excluded from participation in the use of any facilities either leased or used at the Airport on any grounds prohibited by federal, state or local laws, regulations or ordinances, now existing or as may be in the future amended; (2) in connection with the construction of any improvements on, over or under such land and the furnishings of services thereon, no persons shall be excluded from participation in, denied the benefits of or otherwise be subject to discrimination on any grounds prohibited by federal, state or local laws, regulations or ordinances, now existing or as may be in the future amended ; and (3) that Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to applicable state, federal and local laws, regulations or ordinances, including but not limited to, Title 49, Code of Federal Regulation, Department of Transportation, Sub-Title A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation Title VI of the Civil Rights Act of 1964 Part 15 of the Federal Aviation Regulations, and as such regulations may be amended, and as may be required by any grant agreement with Lessor. In the event of breach of any of the above nondiscrimination requirements, Lessor shall have the right to terminate any lease or use of its

property and to re-enter and repossess such land and facilities thereof, and hold the same as if said lease had never been made or issued

**ARTICLE XXXI  
AFFIRMATIVE ACTION**

Lessee assures that it will undertake an affirmative action program as required by 14 C.F.R., Part 152, Subpart E, to insure that no person on any grounds prohibited by federal, state or local laws, regulations or ordinances, now existing or as may be in the future amended be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, Subpart E. Lessee assures that no persons shall be excluded on such grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart of the Code of Federal Regulations. Lessee further assures that it will require that its covered sub-organization, if any, provide assurances to Lessor that it similarly will undertake affirmative action programs and that it will require assurances from its sub-organizations, as required by 14 C.F.R. Part 152, Subpart E, to the same effect.

If Lessee fails to comply with the above provision, Lessor shall have the right to terminate the Agreement, and to re-enter and repossess any land and facilities used by Lessee and hold the same as if this Agreement had never been made or issued.

**ARTICLE XXXII  
MISCELLANEOUS**

**A.** No amendment to this Lease shall be effective unless it is in writing and signed by all parties.

**B.** This Lease and all of the terms contained herein shall be construed under Illinois law. In the event of any litigation between the parties related to this Lease, venue shall lie and be with the federal or state courts located in Peoria County, Illinois.

**C.** The section and paragraph headings contained herein are for the convenience of the parties only and are not intended to define or limit the contents of their sections and paragraphs.

**D.** If any term, condition, or provision of this Lease shall be declared invalid or unenforceable, the remainder of the Lease, other than such term, condition, or provision, shall not be affected thereby and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

**E.** Upon the written request of Lessor, Lessee agrees to execute or join in the execution of any documents or instruments that may be reasonably required by Lessor and/or third parties, including, but not limited to governmental authorities for the development, use and enjoyment of the Leased Premises.

IN WITNESS WHEREOF, the parties have caused these presents to be executed by their respective officers or representatives thereunto duly authorized the day and year first above written, the Lessor pursuant to authorization of its Board of Commissioners.

LESSOR:

METROPOLITAN AIRPORT AUTHORITY  
OF PEORIA, an Illinois Municipal Corporation

ATTEST:

\_\_\_\_\_  
By: Secretary

\_\_\_\_\_  
Chairman of its Board of Commissioners

LESSEE:

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT 4

STATISTICAL DATA

Historical Airline Passenger Activity

Year	Passengers Enplaned & Deplaned
2000	385,185
2001	400,920
2002	423,582
2003	368,614
2004	452,448
2005	520,034
2006	483,575
2007	543,619
2008	564,988
2009	493,856
2010	511,513

EXHIBIT 5

TERMINAL BUILDING DRAWING FIRST FLOOR

