THIS CONTRACT AGREEMENT made in triplicate as of the _____________ day of ________, 2011, between the Toledo-Lucas County Convention Center and Visitor’s Bureau, Inc., (the CVB) and ______________________________ (Contractor).

WHEREAS, the CVB desires to contract for food/beverage operations services for the Seagate Convention Centre and Huntington Center Facilities (the Facilities), in Toledo, Ohio and ________________________________.

WHEREAS, Contractor is desirous of providing such food/beverage services in accordance with the terms and conditions contained herein;

NOW THEREFORE, in consideration of the mutual covenants and contracts hereinafter contained, the parties hereto agree as follows:

SECTION I – DEFINITIONS; BONDS; TERM; TERMINATION; AGREEMENTS

1 Definitions and Request for Proposal

The definitions in the accompanying Request for Proposal, the Request for Proposal itself, and all accompanying Contractor proposal responses shall be incorporated herein by reference.
Proposal

The Proposal submitted by Contractor to obtain the award of this Food/Beverage Services Contract Agreement and all obligations of Contractor as the successful Proposer, as well as all conditions of the award of Contract Agreement, are hereby recognized and affirmed by Contractor and are made part of this Contract Agreement as if written herein in extensor. A copy of said Proposal documents with Contractor’s Proposal are annexed hereto and made a part hereof.

Bonds

3.1 The Contractor shall deliver to the CVB, at the CVB’s address referenced herein hereof, within seven (7) days after the Contractor’s execution of this Contract, as a performance guarantee, FIVE HUNDRED THOUSAND DOLLARS ($500,000). Said performance guarantee constitutes additional consideration for the CVB’s execution of this Contract and shall be fully earned by the CVB as of the commencement date of this Contract and may be commingled with other CVB funds and invested to generate additional earnings for the CVB’s benefit as the CVB desires. The CVB may (but shall not be required to) use, apply, or retain all or any part of this performance guarantee for the payment of any commission, guarantee, additional commission or any sum alleged to be or actually in default or for the payment of any amount that the CVB may expend by reason of any alleged or actual default by the Contractor.
4 No Guarantees

4.1 Neither party has promised or guaranteed to the other any level of attendance, sales, revenues, or payments hereunder, except as expressly set forth herein.

5 Personal Services Contract Agreement

5.1 Contractor shall take notice that this is a personal services Contract Agreement granting rights to use facilities and equipment and to provide services as set out herein. As such no sale of lease rights are hereby granted to Contractor.

5.2 Neither Toledo Arena Sports, Inc. (TASI) nor the Consultant shall prepare and issue any request for proposals or enter into an agreement with any Person to provide concessions and/or catering services at the Arena without prior consultation, with TASI which consultation shall include, but not be limited to, TASI’s right to review and submit comments to the Consultant on any such request for proposals or agreements. TASI shall have the right and reasonable opportunity to interview any Person proposed by the Consultant as the concession and catering contractor at the Arena and to provide comments the Consultant based on such interview.

6 Singular, Plural, Masculine, and Feminine

6.1 Wherever the singular and masculine is used in the Contract Agreement, it shall be construed as if the plural or feminine or neuter, as the case may be, had been used where the nature of the party of parties hereto so requires.
and the rest of any sentence shall be construed as if the grammatical and
terminological changes thereby rendered necessary had been made.

7 Headings

7.1 All section and paragraph headings are for quick reference and
convenience only and do not alter, amend, explain, or otherwise affect the
terms and conditions appearing in this Contract Agreement.

8 Term

8.1 This Food/Beverage Services Operations Contract Agreement shall be in
effect for seven (7) years (from July 1, 2012 to June 30, 2019).

8.2 For purposes of planning, Contractor shall be available to begin work on
the project immediately upon written notification of selection and to be
substantially complete and ready for operation by June 1, 2012.

9 Right of Termination – For Cause

9.1 Should Contractor at any time violate any conditions of this Contract
Agreement or fail to comply with any of its obligations and should such
violation or failure persist for ten (10) days after written notice thereof is
given by the CVB (unless, with respect to those violations or failures
which cannot be reasonably corrected or remedied within such ten (10)
day period, Contractor must commence to correct or remedy same within
such ten (10) day period and thereafter proceed with all due diligence to
correct or remedy same); or should Contractor fail to pay to the CVB
charges imposed hereunder when due and such failure to pay should
persist for ten (10) days after written notice thereof or upon the filing by or
against Contractor of a bankruptcy, receivership, respite reorganization, or arrangement petition (if involuntary, the same not having been dismissed after 60 days from the date of filing), the amount stipulated herein to be paid as to the guaranteed minimum of each year remaining of the unexpired term of this Contract Agreement (or prorate portion of such yearly minimum amount) shall, whether or not the CVB exercises its right to terminate this Contract Agreement, at once become due and payable, and in any such event, the CVB shall have the option to cancel this Contract Agreement and enter into an Agreement with another party, on such terms and conditions as are agreed between the CVB and such other party and for such remuneration as may be obtainable, in the sole discretion of the CVB. The Contractor shall remain responsible for all damages or losses suffered by the CVB as a result of any default by the Contractor hereunder not withstanding the termination of this Contract Agreement, Contractor hereby assenting thereto and expressly waiving legal notice to vacate said premises. Failure of the CVB to strictly and promptly enforce these conditions shall not operate as a waiver of the CVB’s rights, the CVB expressly reserves the right always to enforce payment of charges due hereunder or to cancel this Contract Agreement, regardless of any indulgence previously granted. Not withstanding anything seemingly to the contrary contained in this Contract Agreement, the CVB reserves and shall have all rights and remedies provided under this Contract Agreement, at law or in equity.
9.2 If the Contractor should ever cease operations or abandon the premises during the term of the Contract Agreement, in addition to any other remedies under this Contract Agreement or under the law, the CVB may at its option and without serving the notice otherwise required in this Section, take immediate possession of the premises and, in its discretion, terminate this Contract Agreement and enter into a food/beverage service Contract Agreement with another party.

9.2.1 **Default & Breach by Contractor:** The following acts and omissions shall constitute a default and material breach of this Contract by the Contractor:

9.2.1.1 The failure to comply with all of the requirements regarding insurance; or

9.2.1.2 The violation of any law, Charter provision, ordinance, rule, regulation, governmental CVB’s order or directive; or

9.2.1.3 The abandonment or vacating of the Facilities; or

9.2.1.4 The repeated failure to perform or the violation of any single condition or covenant of this Lease on two or more occasions in any twelve (12) month period; or

9.2.1.5 The assignment of the Contractor’s interest in this Contract without the prior written
consent of the CVB; of the use of any
sublease without the prior written consent of
the CVB; or the filing of a voluntary of
involuntary petition in bankruptcy; or for
reorganization or an arrangement; or the
adjudication of the Contractor as being
bankrupt or insolvent; or the appointment of
a receiver of or for the Contractor if such
appointment, adjudication, or similar order
or ruling remains in force or unstayed for a
period of thirty (30) days; or

9.2.1.6 The failure to perform or the violation of
any other condition or covenant of this
Contract where such default or deficiency in
performance was not remedied within a
reasonable time.

9.2.2 CVB’s Notice of Default & Breach: The CVB shall
provide written notice to the Contractor in the event the
Contractor commits any act or omission specifying the
nature of the act or omission, the reasonable number of
days (but not more than sixty [60] days) after the date of
the notice within which such failure must be corrected or
the violation must be ceased or remedied to avoid
termination, and the CVB’s intention to terminate this Contract in the event such act or omission has not been corrected within such stated period. The notice shall also describe special procedures (if any) provided by law, Charter, ordinance, rule, or regulation permitting the Contractor to have a hearing on such failure or violation.

9.2.3 Remedies: In the event the Contractor fails to correct, remedy, or cease such failure or violation within the time specified in the notice, the CVB may thereafter terminate this Contract without any further proceedings, re-enter the Facilities, lease and license others to use said Facilities during any portion of the period of use remaining under this Contract had it not been terminated, and assume license fees therefore; provided, that notwithstanding such termination and re-entry, the Contractor’s liability for services rendered until the date of actual cessation of services.

9.2.4 Criteria for Substitute Tenant: The CVB’s obligation to mitigate damages after a default by the Contractor under this Contract that results in the CVB’s regaining possession of all or part of the Facilities shall be satisfied in full if the CVB undertakes to lease the Facilities to another tenant (a substitute Tenant) in accordance with the following criteria:
9.2.4.1 The CVB shall have no obligation to solicit or entertain negotiations with any other prospective tenants for the Facilities until the CVB obtains full and complete possession of the Facilities including, without limitation, the final and unappealable legal right to re-let the Facilities free of any claim of the Contractor.

9.2.4.2 The CVB shall not be obligated to offer the Facilities to any prospective tenant when other Facilities suitable for that prospective tenant’s use are currently available or will be available within the next three months.

9.2.5 Default by CVB: The CVB shall not be in default of any obligation to perform under this Contract unless it fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after written notice by the Contractor to the CVB specifying the particular obligation that it has failed to perform; provided, however, that if the nature of the CVB’s obligation is such that more than thirty (30) days are required for performance, then the CVB shall not be in default if it commences
performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

9.3 Upon termination, Contractor may be required by the CVB to remove any and all improvements, fixtures, facilities and structures, constructed or placed on the premises by the Contractor, title to which has not vested in the Facilities, whether permanently affixed to the premises or not, and to restore the premises and leave them in as good condition as at the commencement of this Contract Agreement, complete with all equipment, furnishings, and fixtures which are inventoried at the commencement of this Contract Agreement. The Contractor shall remove all trash, stocks and material, supplies, tools, etc., belonging to the Contractor’s agents. Costs of such removals and restoration shall be borne by the Contractor.

9.3.1 Surrender & Delivery: Upon the expiration or termination date of this Contract, whichever is earlier, the Contractor shall surrender the Facilities and promptly deliver to the CVB all keys the Contractor, and any of its officers, agents, and employees have to the Facilities or any other part of the specified Facilities herein.

9.3.2 Removal of Contractor’s Property: Prior to the expiration date of this Contract, or in the event this Contract is terminated, within fifteen (15) days after the termination date, whichever is earlier, the Contractor shall remove, at its sole expense, all trade equipment and personal property
owned or installed by the Contractor in, on, or from the Facilities, as well as those improvements, alterations, and additions to the Facilities that are specified in the CVB’s notice. In performing such removal work, the Contractor shall take due care to not unreasonably injure or damage the Facilities, and shall make such repairs to the Facilities as shall be necessary to restore the same to their condition as of the commencement date of this Contract, ordinary wear and tear and improvements, additions, and alterations, approved by the CVB, excepted.

9.3.3 Removal of Contractor’s Property: In the event the Contractor fails to remove personal property and the improvements, alterations, and additions specified in the CVB’s notice on or by the time specified in such notice, the CVB may, but shall not be required to remove such material from the Facilities and store the same, all at the Contractor’s expense; and in the event the CVB removes or arranges for the storage of such material, the CVB shall be reimbursed its costs therefore, including any administrative costs, which reimbursement shall constitute a claim upon the Contractor or, at the CVB’s option, may be invoiced to the Contractor or deducted from the Commission due.
Hold-Over Use & Occupancy of Facilities: In the event the Contractor, with the CVB’s consent, holds over after the date the Term expires or is terminated, whichever is earlier, the resulting use and occupancy shall be on a monthly basis, during which time the Contractor shall be bound by all of the provisions of this Contract. If, however, the Contractor holds over, without CVB’s consent, after the expiration or termination date of this Contract, whichever is earlier, whether by failing to remove its personal property or any addition, alteration, or improvement specified by the CVB, or otherwise, the Contractor shall pay to the CVB, liquidated damages to be determined by the CVB.

No Claim for Removal: In no event shall the Contractor make any claim or demand upon the CVB nor shall the CVB be liable for any inconvenience, annoyance, disturbance, or loss of business or any other damage suffered by the Contractor arising out of removal operations.

Inspection Upon Surrender of Facilities: Immediately following the vacating of the Facilities and the surrender of the same to the CVB, a representative of the Contractor shall inspect the Facilities with a representative of the CVB to determine the condition of the Facilities. The results of
such an inspection shall be summarized by the CVB in a Facilities inspection report, a copy of which shall be provided to the Contractor.

10  Removal of Subcontractor

10.1 The CVB reserves the right to remove any subcontractor from the premises whose background, performance, and/or general methodologies are deemed by the CVB’s Designee not in the best interests of the overall Facilities’ interests.

11  Operations Contract Agreement Conditions

11.1  Law to Apply

This Contract Agreement is entered into in Toledo, Ohio and shall be governed, interpreted, and enforced in accordance with the laws of the State of Ohio. The parties agree that the exclusive venue for any claims or actions arising under or in relation to this Contract Agreement and the rights, responsibilities, and duties of the parties hereunder shall be in, Toledo, Ohio.

11.2 The Contractor shall strictly comply with all local, state, and federal laws, ordinances and regulations applicable to and governing this operation, and shall procure all necessary licenses and permits, which are to be displayed in an appropriate location of the food and beverage service areas at the Seagate Convention Centre and Huntington Center, as designated by the CVB.
11.2.1 **General Requirements:** The Contractor, at no cost to the CVB, shall perform and comply with all applicable, current and future laws of the United States and the State of Ohio; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. The Contractor shall use its best efforts to ensure that every person it admits to the Facilities similarly performs and complies with the same. Whenever the Contractor or its authorized representative is informed of any violation of any such law, ordinance, rule, regulation, license, permit, or authorization committed by it or any person admitted to the Facilities, the Contractor shall immediately desist from and/or prevent or correct such violation.

11.2.2 **Licenses & Other Authorizations:** The Contractor shall secure and maintain in full force and effect during the term of this Contract, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

11.2.3 **Taxes:** The Contractor shall notify the Owner before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Facilities, including but not limited to taxes arising out of the activity or business conducted on the Facilities; taxes levied on its property,
equipment and improvements on the Facilities; and taxes on the Contractor’s interest in this Contract and any
leasehold interest deemed to have been created thereby; and in the event the State of Ohio makes any demand upon the CVB for payment of leasehold excise taxes resulting from the Contractor’s occupancy of the Facilities or withholds funds due to the CVB to enforce collections of leasehold excise taxes and where Contractor has failed to notify CVB of such requirement, then the Contractor shall be liable for such taxes demanded together with any interest and penalties associated therewith or, at no expense to the CVB, shall not contest such collection action and shall indemnify the CVB for all sums expended by, or withheld by the State of Ohio from the CVB in connection with such taxation.

11.2.4 Nondiscrimination, Affirmative Action, and WMBE Utilization – General: The Contractor shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Ohio, and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

11.2.4.1 Nondiscrimination: Contractor shall not create barriers to open and fair opportunities for WMBEs to participate in all CVB
contracts and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services. In considering offers from and doing business with contractors and suppliers, Contractor shall not discriminate on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation, or the presence of any mental or physical disability in an otherwise qualified disabled person.

11.2.4.2 Record-Keeping: Contractor shall maintain, for at least twelve (12) months after the expiration or earlier termination of this Contract, relevant records and information necessary to document Contractor’s utilization of WMBEs and other businesses as contractors and suppliers under this Contract and in its overall public and private business activities. Contractor shall also maintain all written quotes, bids, estimates, or proposals submitted to Contractor by all businesses seeking to participate as
contractors or suppliers under this Contract.
The CVB shall have the right to inspect and copy such records.

11.2.4.3 Affirmative Efforts to Utilize WMBEs: The CVB encourages the utilization of minority-owned businesses (MBEs) and women-owned businesses (WBEs) collectively, WMBEs), in all CVB contracts.

11.2.5 Recycling of Waste Materials: The Contractor shall collect, sort, and separate into such categories as may be legally required, all solid waste products on the Facilities, and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles reasonably approved by the CVB, which receptacles shall be dumped or removed from the Facilities, at such minimum frequency as is specified by the CVB. The CVB reserves the right to refuse to collect or accept from the Contractor any waste product that is not sorted and separated as required by law, ordinance, rule or regulation, and to require the Contractor to arrange for the collection of the same at the Contractor’s sole cost and expense using a contractor satisfactory to the CVB. The Contractor shall pay all costs, fines, penalties,
and damages that may be imposed on CVB or the Contractor as a consequence of the Contractor’s failure to comply with the provisions of this subsection.

11.2.6 Environmental Standards:

11.2.6.1 Definitions: For the purpose of this subsection, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

11.2.6.1.1 “Laws or Regulation” shall mean any environmentally related local, state, or federal law, regulation, ordinance, or order (including without limitation any final order of any court of competent jurisdiction of which the Contractor has knowledge), now or hereafter in effect including but not limited to the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Toxic Substances Control

11.2.6.1.2 “Hazardous Substances” shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any federal, state, or local statute, ordinance, or regulation relating to
11.2.6.2 Restrictions on Contractor Activities: The Contractor shall not cause to occur upon the Facilities or permit the Facilities to be used to generate, produce, manufacture, refine, transport, treat, store, handle, dispose, transfer, or process Hazardous Substances except in compliance with all applicable Laws and Regulations. The Contractor shall provide the CVB with the Contractor's USEPA Waste Generator Number (if any), and with a copy of every Material Safety Data Sheet (MSDS), Generator Annual Dangerous Waste Report, environmentally related regulatory permit or approval (including every revision or renewal thereof) and any correspondence the Contractor receives from, or provides to, any governmental unit or agency in connection with the Contractor’s handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on
the Facilities. Also notwithstanding anything to the contrary contained in this Food/Beverage Services Contract Agreement, during the term hereof, Contractor shall commit no act or acts which shall entirely or in part, cause the CVB to be in breach of any contract to which the Association is a party.

11.2.6.3 Correction of Violations: If the Contractor violates any of the terms of this section concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, the Contractor shall promptly take such action as is necessary to mitigate and correct the violation. If the Contractor does not act in a prudent and prompt manner, the CVB reserves the right, but not the obligation, to act in place of the Contractor (for which purpose the Contractor hereby appoints the CVB as its agent), to come onto the Facilities and to take such action as the CVB deems necessary to ensure compliance or to
mitigate the violation. If the CVB’s Designee (Designee) has a reasonable belief that the Contractor is in violation of any law or regulation, or that any action or inaction of the Contractor presents a threat of violation or a threat of damages to the Facilities, the CVB reserves the right to enter onto the Facilities and take such corrective or mitigating action as the Designee deems necessary. All costs and expenses incurred by the CVB in connection with any such action shall become immediately due and payable by the Contractor upon presentation of an invoice therefore.

11.2.6.4 Testing: The Contractor shall provide the CVB with access to the Facilities to conduct an annual environmental inspection in January of each year of the term hereof or at such other time(s) as may be mutually agreed upon. In addition, the Contractor shall permit the CVB access to the Facilities at any time, upon reasonable notice, for the
purpose of conducting environmental testing at the CVB’s expense. The Contractor shall not conduct or permit others to conduct environmental testing on the Facilities without first obtaining the Designee’s written consent, which shall not be unreasonably withheld. The Contractor shall promptly inform the Designee of the existence of any environmental study, evaluation, investigation, or results of any environmental testing conducted on the Facilities whenever the same becomes known to the Contractor, and the Contractor shall provide a written copy of the same to the Designee within thirty (30) days after the preparation of any such material.

11.2.6.5 Removal of Hazardous Substances Prior to Vacation of Facilities: Removal of Hazardous Substances Prior to Vacation of Facilities, in addition to all other requirements under this Contract, the Contractor shall remove any Hazardous Substances placed on the Facilities during
the term of this Contract or the Contractor’s possession of the Facilities, and shall demonstrate such removal to the Designee’s reasonable satisfaction.

11.2.6.6 Reimbursement of CVB Costs: In addition to any remedy provided above, the CVB shall be entitled to full reimbursement from the Contractor whenever the CVB incurs any cost resulting from the Contractor’s violation of any of the terms of this Subsection, including but not limited to, the cost of clean-up or any other remedial activity, fines, penalties assessed directly against the CVB, injuries to third persons or other property, and loss of revenue resulting from an inability to re-lease or market the Facilities due to its environmental condition as the result of the Contractor’s violation of the terms of this Contract (even if such loss of revenue occurs after the expiration or earlier termination of this Contract).

11.2.6.7 Indemnification: In addition to all other indemnities provided in this Contract, and
notwithstanding the expiration or earlier
termination of this Contract, the Contractor
agrees to and shall defend, indemnify, and
hold the CVB free and harmless from any
and all claims, causes of action, regulatory
demands, liabilities, fines, penalties, losses,
and expenses, including without limitation,
cleanup or other remedial costs (and
including attorneys’ fees, costs, and all other
reasonable litigation expense when incurred
and whether incurred in defense of actual
litigation or in reasonable anticipation of
litigation), arising from the existence or
discovery of any Hazardous Substance on
the Facilities resulting from a violation of
the terms of this section or the migration of
any Hazardous Substance from the Facilities
to other property or into the surrounding
environment that is the result of a violation
of the terms of this section, whether (a)
made, commenced, or incurred during the
term of this Contract, or (b) made,
commenced, or incurred after the expiration
or termination of this Contract if arising out
of an event occurring during the term of this
Contract.

11.3 The Contractor agrees that all financial settlements, reports, and billings
rendered to the CVB under this Contract Agreement shall properly reflect
the facts of all activities and transactions handled for CVB and may be
relied upon as being complete and accurate in any further recording or
reporting made by the Facilities for any purpose.

11.4 The Contractor shall notify the CVB in writing within seventy-two (72)
hours upon discovery of any failure to comply with Subsections .1
through .3 of this paragraph.

11.5 Notice – Until written notice of change of address is given by either party
to the other by registered letter properly addressed, any notice with
reference to the subject matter of this Contract Agreement shall be deemed
to have been sufficiently given when, if given to the CVB. All notices
required by this Agreement shall be in writing. Unless otherwise
specifically provided herein, all notices and other material to be delivered
hereunder shall be delivered or mailed to the following CVB
representative:

Mr. Steve Miller
SMG General Manager
SeaGate Convention Centre
500 Jefferson Avenue
Toledo, OH 43604

And when, if given to the Contractor, it shall be addressed to:
Or such other respective addresses as either party may from time to time
designate in writing and in any case sent by prepaid registered mail. Any
notice given as aforesaid shall be deemed to have been received by the
party to whom it is addressed on the third business day following the day
upon which it is mailed.

11.6 **Subordination** – This Contract Agreement and everything herein contained
shall be subordinate to any ground and underlying lease or leases and to
any charge or charges (including deeds of trusts, mortgages, bonds, and all
instruments supplemental thereto) and all renewals, modification,
consolidations, replacements, and extensions thereof created by the CVB
in respect to the Facilities, and the Contractor hereby covenants and agrees
that it will at any time and from time to time as required by the CVB
during the term hereof and any extension or renewal, give all such further
assurances relative to this proviso as may be reasonably required to
evidence and effectuate this subordination of its rights and privileges
hereunder to the holder or holders of any such ground and underlying
lease or leases and charge or charges (including deeds and trust).

11.7 **Successors and Assigns** – The provisions hereof shall be binding upon and
shall inure to the benefit of the parties hereto and each of their respective
successors and assigns. This Contract Agreement and any of the rights
and obligations of the Contractor hereunder may not be assigned by the Contractor without the prior written consent of the CVB.

11.7.1 Designee’s Prior Written Consent Required for Assignment & Subleases: No purported assignment, sublease, or other transfer of the Facilities or any portion thereof or of any aspect of the Contractor’s interest in this Contract shall be effective without the prior written consent of the Designee whose consent shall not be unreasonably withheld. Every proposed sublease, assignment, or other interest-transferring agreement shall be submitted to the Designee for review and approval or disapproval after execution by the proposed subtenant, assignee, or transferee, and not less than fourteen (14) calendar days prior to the commencement date of the proposed subcontractor’s, assignee’s, or transferee’s intended use of any portion of the Facilities under such agreement or the assumption of any right or interest in any portion of the Facilities or this Contract. No assignment or sublease of this Contract, with or without the Designee’s consent, shall release or relieve the Contractor of or from any of the obligations on the Contractor’s part to be kept and performed under this Contract, and the Contractor shall remain jointly and severally liable for the performance of all obligations of the
Contractor hereunder regardless of any (i) agreement that modifies any of the rights or obligations of the parties to this Contract; (ii) stipulation that extends the time within which an obligation under this Contract is to be performed; (iii) waiver of the performance of any obligation under this Contract; or (iv) failure to enforce any obligation under this Contract. Every assignment and sublease shall be subject to all the terms and provisions of this Contract.

11.7.2 Contract Interests Not Transferable by Action of Law or Court: Neither this Contract, nor any right, privilege, or other interest conferred by this Contract shall pass to any trustee or receiver in bankruptcy or to any receiver or assignee for the benefit of creditors; nor shall this Contract or any rights, privilege, or interest be transferable by operation of law or proceeding of any court.

11.7.3 Change of Contractor’s Organizational Structure or Ownership Constitutes Assignment: If the Contractor is a partnership, limited or general, a withdrawal of a general partner, or change, voluntary or involuntary, by operation of law or otherwise, of a general partner thereof, shall be deemed an assignment. If the Contractor is a corporation, the merger, consolidation, or liquidation of the Contractor or any change in the ownership of or power to vote thirty-
three and one-third percent (33 1/3%) or more of its capital stock, as held as of the date of execution of this Contract, shall be deemed an assignment.

11.7.4 Contractor’s Authorization to Use Facilities Constitutes Assignment or Sublease: In the event the Contractor in any manner permits anyone to occupy all or any portion of the Facilities for any purpose including but not limited to the conduct of any business or other activity, whether or not business-related, not within the intent of this Contract or any sublease, such permission shall be deemed an assignment or sublease, as deemed appropriate by the Designee. Every sublease shall require the subcontractor to submit to the Designee and the Contractor not more than ten (10) days after the end of each month during the term of its sublease and the month after the expiration or earlier termination of such sublease, a written statement identifying the amount of net receipts and a full profit/loss explanation generated by such subcontractor on and from the portion of the Facilities used and occupied by such subcontractor during the immediately preceding month. In the event of any assignment of this Contract, the Contractor shall cause to be delivered to the Designee simultaneously with such assignment, an instrument, in writing, executed
by the assignee, in which the assignee shall assume and agree to perform all of the terms and provisions of this Contract on the Contractor’s part to be kept and performed that theretofore have not been fully performed.

11.8 **Amendment** – No amendment or modification of the Contract Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each of such parties by their respective representatives hereunto duly authorized.

11.8.1 **Extent of CVB Service**: The CVB shall provide basic utility service including but not limited to gas, electric, sewer, water, garbage, recycling, and heating for the facilities.

11.8.2 **Limitation on CVB Liability Regarding Utility Service**: The CVB shall not be liable for the interruption of any utility service when such interruption is caused by maintenance work, or when the interruption is not due to CVB negligence.

11.8.3 **Special Services and Facilities Subject to Prior CVB Approval and at Contractor’s Cost**: The Contractor, directly or through a third party, may install, secure, maintain and repair, at no expense to the CVB, any utility service related to the Contractor’s operations and its use of the Facilities that is not provided or maintained by the CVB.
Any special utility or waste disposal facility, item of equipment, or service beyond that provided to the Facilities by the CVB, must be installed only in accordance with plans and specifications approved by the Designee and other appropriate CVB officials, in writing, in advance of such installation. The Contractor shall not install on the Facilities any fixture, furnishing, or trade equipment that exceeds the capacity of any utility or waste facility for such location. The Contractor shall pay, before delinquency, all fees and charges for the installation, change, and relocation of any point or means of service by any utility or waste line or system. The Contractor shall make arrangements with the utility service provider for the separate metering, where possible, of such service and the direct billing to the Contractor for the delivery of such service.

11.8.4 **Cooperative Parking**: As of the commencement date of this Contract, the Facilities, have very limited close-in parking. Accordingly, unless otherwise specifically provided herein, the CVB will provide up to 8 parking spots only, for full-time employees at the SeaGate Garage.

11.9 The CVB will furnish to the Contractor where applicable for the period of the Contract Agreement office and storage spaces, concession areas,
certain buffet and/or banquet seating areas, kitchens, food/beverage areas, pantry spaces, fixed bar/lounge areas, and foodservice equipment.

11.10 The CVB will also furnish spaces for office, money counting, and record keeping purposes of the Contractor for the Contract Agreement period. Use of these office spaces for purposes other than operation of this Contract Agreement, without prior written approval of the Designee shall result in grounds for termination of the Contract Agreement.

11.11 Location of any and all mobile concession stands and auxiliary storage spaces required by the Contractor shall be approved by the CVB’s Designee. The Contractor shall acquire no rights to such locations once assigned, and the CVB reserves the right to require the Contractor to move mobile stands and equipment and to relocate items from any auxiliary storage spaces when needs of other events require the use of them.

11.12 The CVB shall provide gas, electricity, garbage, recycling, and water services for use by the Contractor.

11.13 Anything herein to the contrary notwithstanding, the CVB shall not be liable or responsible for any failure to furnish the services set forth above occasioned by strike or other work stoppage, federal, state, or local government action, breakdown, or failure of apparatus, equipment, or machinery employed in supplying said services, and temporary stoppage for repair, improvement, or enlargement thereof, or any act or condition beyond its reasonable control.
11.14 Contractor shall agree, upon demand by any labor organization representing employees in the food service and concession operations at the Huntington Center and at SeaGate Centre (collectively, “Facilities”), to maintain neutrality in and not oppose any attempts or campaign by the labor organization to seek the right to represent the Contractor’s employees at the Facilities for purposes of collective bargaining. In the event any labor organization files a petition seeking an election to determine whether it should be certified as the representative of Contractor’s employees, Contractor shall inform its employees that it is totally neutral regarding the issue of representation and that the employees’ freedom to choose a representative without coercion is a paramount concern of the Contractor.

11.15 The Contractor shall furnish at its own expense all common and skilled labor for the setting up and dismantling or moving of all food and beverage facilities including related furniture and related equipment in such locations as may be agreed upon between the Contractor and the CVB.

11.16 The Contractor and its employees shall be entitled to enter upon and remain in the premises with access at designated areas for work purposes only during event or functions at the Facilities; and for a reasonable time prior to and subsequent to events; and non-event days for administrative or non-event functions; and only for the purpose of exercising the rights and privileges mentioned herein. This paragraph shall not exclude the
Contractor reasonable access to office areas for the conduct of normal business activities associated with this Contract Agreement. The CVB’s Designee may require the Contractor, either directly or by subcontract, to provide vending machines. Vending machines shall not be used, except with the prior written approval by the CVB. The Contractor shall submit his Proposals concerning items to be sold, suggested prices, type and style of machines and recommended locations in writing, for the consideration and approval by the CVB.

11.17 The Contractor agrees that nothing in this Contract Agreement shall be construed to prohibit a tenant of the Facilities from exhibiting any merchandise or article in connection with the exhibit or other type of event, or from dispensing free samples of merchandise. Such sampling is subject to approval by the CVB but normally will be restricted to the following:

- Food – 2 oz. Portion
- Beverage – 4 oz. Cup

At certain special shows that occur annually, Contractor shall offer menu items generic to the show type in consultation with the show manager and CVB’s Designee.

11.18 The Contractor shall have the food/beverage services open and in operation a reasonable time before, during, and after all events or operating days as may be requested or approved by the CVB’s Designee. These services may be in operation when there are no events, upon
approval by the CVB’s Designee. The staffing levels and operation times of food service at each location must be approved by the CVB’s Designee.

11.19 When catering, and/or other special i.e., mobile “special emphasis” food service areas are in operation, food served must be cooked and prepared by the chef on the premises with the exception of baked goods and standard canned and packaged items. Deviation from this requirement must be approved in advance in writing by the CVB’s Designee.

11.20 The public’s right shall not be infringed upon by any activity of the Contractor or any of its employees. The activities of the Contractor shall be such as to render service to the public in a dignified manner and no pressure, coercion, or persuasion shall be used by the Contractor in an attempt to influence the public to use the services or product of the Contractor. All concession sales shall be conducted and operated under the supervision of the Contractor, but shall in no way interfere with the orderly operation of any event. The Contractor shall conduct all sales at such times and at locations, for such purpose as designated by the CVB’s Designee. The Contractor will not circulate throughout the premises for the sale of any merchandise, except with the permission of the CVB’s Designee. Neither the Contractor nor his employees shall distribute campaign or political literature or any commercial solicitation literature of any kind at any time in or on the premises of the Facilities.

11.21 The CVB reserves the right to direct the Contractor to partially or completely suspend service during those events with which the
contractor’s operation may be incompatible in the opinion of the CVB’s Designee, such suspension to be judged prudent and responsible.

11.22 The CVB shall not be responsible for any goods, merchandise, or equipment owned or leased by the Contractor and used, maintained or stored at the Facilities, nor will it be responsible for damage resulting from a power failure, flood, fire, explosion, vandalism, theft, and or other causes.

11.23 Nothing herein contained shall be held to limit or qualify the right of the CVB to free and unobstructed use, occupation, and control of the Facilities and ingress and egress for itself, its tenants, and the public.

11.24 Representatives of the CVB shall have the right to enter upon and have access to all occupied areas of the Contractor during the time that events are in operation and at all times when Contractor’s employees are present.

11.24.1 Access to Facilities: The Contractor shall provide the CVB and its contractors and consultants, their subcontractors, sub-consultants, and agents with access to the Facilities at all reasonable times to inspect the same and to make any inspection, repair, or improvement deemed necessary by the Designee, but this right of access shall not impose on the CVB any obligation to make any repair, alteration, addition, or improvement except as specifically provided herein.
11.24.2 Permitted Interference With Contractor’s Operations: In inspecting and in making repairs, alterations, additions, and improvements, the CVB may erect barricades and scaffolding in and outside of the Facilities, and may otherwise interfere with the conduct of the Contractor’s business and operations where such action is reasonably required by the nature of the CVB’s work; and such interference shall not be deemed to be a breach or default under this Contract.

11.24.3 Suspension of Contractor’s Operations and Obligation to Pay Monthly Fees: In the event such inspection, repair, alteration, addition, or improvement work necessitates the temporary suspension of the Contractor’s business or operations in, on, or from the Facilities, the CVB shall notify the Contractor of such necessity and the anticipated beginning and ending dates of such suspension. Payments from CVB pursuant to the requirements herein shall be prorated during each month in which the Contractor’s business or operations are required by CVB to be suspended pursuant to this subsection, and the CVB shall have no obligation to pay such prorated fees during the period that the Contractor’s business or operations are suspended; such cancellation of the obligation to pay the
prorated payments shall constitute the totality of relief
available, and the Contractor waives all claims for damages
and for any injury to and interference with its operations or
business and losses occasioned by any such suspension.

11.24.4 CVB’s Retention & Use of Key to Facilities: The CVB
shall have the option to key the premises with its core
system and charge the Contractor the CVB’s normal key
fees. Otherwise, the Contractor shall provide the Designee
with a key with which to unlock all of the doors in, upon,
and about the Facilities, excluding the Contractor’s vaults,
safes, and files, for each of the aforesaid purposes. The
CVB shall have the right to use any and all means that the
Designee deems proper to open said doors in an emergency,
in order to obtain entry to the Facilities, without liability to
the Contractor except for any failure to exercise due care
for the Contractor’s property. Any entry to the Facilities
obtained by the CVB by any of said means, or otherwise,
shall not be construed or deemed to be an eviction of the
Contractor or a forcible or unlawful entry into, or a detainer
of, the Facilities or any portion thereof.

11.25 The CVB shall have sole and exclusive rights to negotiate all advertising,
sponsorships and pouring rights available for food and beverage services.
SECTION II – DESCRIPTION OF REQUIRED AND DAILY OPERATIONAL SERVICES BY CONTRACTOR

12 Control

12.1 The CVB shall, through its designee, be the final CVB with regard to all aspects of the control, management, and performance of the foodservice program herein provided for and all requests, procedures, approvals, or changes shall be submitted through the CVB. Liaison between the CVB and the Contractor will be through the CVB’s Designee or his/her designee. This requirement shall not limit or otherwise affect the obligations and liabilities of the Contractor under this Contract Agreement.

13 Exclusive Rights

13.1 The Contractor shall have the exclusive right to operate foodservice areas, bars, restaurants, club and suite areas, fixed and mobile concession stands, banquet/catering areas, and vending operations selling food and beverages (alcoholic and non-alcoholic), except as herein otherwise provided. Failure to provide any food/beverage service as required under the terms of this Contract Agreement will be considered a breach of contract and the Contractor will be considered in default of the Contract Agreement. Failure to provide any food/beverage service as required under the terms of this Contract Agreement will be considered a breach of contract and the Contractor will be considered in default of the Contract Agreement.

14 Use of Facilities By Others
14.1 Contractor shall not permit the private use of any part of the premises without, in each case, the prior written approval of the CVB’s Designee.

14.2 The Designee shall give the Contractor advance notice of the nature of scheduled events and such information as is available regarding the probable attendance at each event. Every effort will be made by the Designee to notify the Contractor of cancellation of previously scheduled events to which due notice has been given the CVB, but no liability shall evolve upon the CVB for failure to deliver notice of cancellation. The Contractor on the other hand shall be held accountable for furnishing full and adequate service, as determined by the CVB, for the full period of time required for any event of which the Contractor has had notice. Further, nothing contained herein shall be interpreted to limit the Contractor in taking the initiative to obtain event information from the Facilities in a timely manner.

14.3 All parties to this Contract Agreement understand and agree that the Contractor is an independent Contractor and not an agent, servant, employee, joint venturer or partner of the CVB, and nothing contained in this Contract Agreement or in the performances of the obligations of the parties hereunder shall be deemed to constitute or create the relationship between Contractor and the CVB or agent, servant, employee, joint venturer or partner.

14.4 Should the Contractor utilize foodservice facilities for off-site food functions, the Contractor must obtain written approval of the Designee at
least two working days before the function. All such services are to be considered part of gross sales and expenses and as such, are fee approved operations.

15 Hours of Operation

15.1 Contractor’s food/beverage sales hours of operation shall be determined by mutual agreement of the Contractor and the CVB’s Designee, subject to certain restrictions as provided in the “Restrictions on Sales” section herein.

15.2 All concession sales shall be conducted and operated in such manner as not to interfere with the orderly operation of events held within the Facilities. Sales shall be conducted only from and at locations approved by the CVB’s Designee.

16 Foodservice Provision

16.1 The Contractor shall organize, put into service, and manage efficiently all food, beverage facilities noted on Architectural drawings dated and hereby incorporated as an element of this Contract Agreement or as described in the RFP and/or Contract Agreement Documents.

17 Types of Service

17.1 In addition to the normal concessions, and catering functions the Contractor will provide in the Facilities, the Contractor will be required to provide specialized services normally associated with recreational facility activities. These specialized services may include, but are not limited to, the following:
17.1.1 Mobile and fixed thematic concession facilities service.
17.1.2 Main Kitchen storage/preparation.
17.1.3 Special meeting and buffet/banquet/catering services.
17.1.4 Water, tablecloth, and table skirting service.
17.1.5 Non-exclusive catering services.

18 Procurement Policy

18.1 The Contractor shall purchase food, beverages, and operation supplies, such as uniforms, laundry service, paper goods, and detergents needed for the foodservices and related operating supports to be supplied hereunder from whatever source or sources that will establish and effect procedures which assure the quality and quantity required at the most economical prices, it being understood that the Contractor shall avail itself of all lawful trade, cash, quantity discounts, and rebates and all such discounts and rebates both local and national shall inure to the benefit of the foodservice operations herein. The Contractor shall adhere to the Minimum Purchase Specification Requirements of the CVB provided in Schedule 4 of this document. All such purchases shall be in the Contractor’s name and payment shall be made directly to the supplier.

18.2 The Contractor will hold the CVB harmless from actions by suppliers and will permit no liens whatsoever to be placed against the property of the CVB as a result of the failure of the Contractor, his agents, Contractors, and/or sub-contractors to make all payments required of them in this connection.
18.3 The CVB reserves the right to sell advertising and sponsorship packages at the Facilities. The CVB maintains the final right of approval of Contractor supplies however all approved suppliers must provide competitive produce quality, service, and prices. The Contractor retains no advertising rights or approvals within this Contract Agreement.

19 Menus

19.1 The Contractor shall plan and prepare imaginative menus in the Facilities in consultation and coordination with the CVB’s Designee and in accordance with its specifications. Quantities, portions, prices of banquet/meeting and concession snack items for all food and beverages shall be subject to approval by the CVB according to its requirements. Only foods and beverages which are wholesome and of the best quality, in the opinion of the CVB, shall be purchased (and served). Any changes to the menu or pricing are subject to approval by the CVB.

19.2 The Contractor shall first submit for the CVB’s approval and shall keep posted in places conspicuous to users of the Facilities, a full list of all items, with their prices offered for consumption on a given day.

19.3 The Contractor, shall prepare approved, printed catering and other menus utilizing the Facilities’ logos and used exclusively for the Facilities, in sufficient quantities to insure clean, neat menus are available at all times to guests. All menus shall include the courses available, prices, date of distribution, and location. All menus shall be subject to the approval of
the CVB prior to distribution and shall be used by the CVB and the Contractor’s marketing department for sales purposes.

19.4 Should the Contractor or its representative directly contract with a tenant for a meal function, buffet and/or cocktail party, or for providing any services in the Facilities, Contractor shall forward within two (2) business days one (1) copy of the completed Agreement for Services to the CVB’s Designee. Such Contract Agreement shall list the various dishes to be served, the approximate number of people involved, the services to be provided, the prices of the various services and the total charges to be collected for the function by the Contractor.

20 Food Handling

20.1 Contractor shall adhere to all HACCP rules, regulations, and operating requirements.

20.2 The Contractor shall inspect all merchandise upon delivery for quality and quantity compliance with the original order and shall store all food and beverage merchandise in proper areas in sanitary containers which are dated for effective rotation of stock on a first-in, first-out basis. The Contractor shall cover all refreshments and food exhibited for sale in showcases or other suitable containers. The Contractor shall wrap all pre-packaged sandwiches, cakes, and other similar products in cellophane or similar transparent wrapping appropriate to the food service industry.

20.3 The Contractor agrees to operate the foodservice facilities and perform all work in connection therewith in a professional and resourceful manner,
complying with all public health regulations including a Grade “A” sanitation rating to the satisfaction of all authorized local Health Department officers and the CVB.

21 Food Quality

21.1 The Contractor shall sell only foods that comply with all applicable federal, state, and local laws, acts, orders, or regulations including, without limitation on the generality of the foregoing, the applicable sections of the following laws, acts, and regulations:

• The Food and Drug Act.
• Applicable Meat Inspection Regulations.
• The Humane Slaughter of Animals and Humane Slaughter Regulations.
• The Official Methods of Analysis and Association of Official Analytical Chemists.
• The Federal Department of Agriculture – Products Regulations.
• The Fish Inspection Act and Regulations.
• Meat and Canned Foods Act.
• Fresh and Processed Fruit and Vegetable Regulations.
• The U.S. Grain Act and Grain Regulations
22 Items To Be Sold

22.1 The Contractor shall sell those products, commodities, and articles normally found in operations of this type, subject to the approval of the CVB, which approval may be granted or denied, in CVB’s sole discretion. The CVB may require the Contractor to sell items which, in the CVB’s sole discretion, are necessary for the Operation of the foodservice facilities and may limit, prohibit, or require discontinuance of the sale of any products, commodities, or articles.

22.1.1 As a matter of general policy, prices shall not be higher than those charged at comparable arenas, stadiums, theaters, bars, snack facilities, hotels, convention centers, restaurants, etc., for the same quality merchandise and services within the Midwestern Region of the United States of America. Prices must be posted in displays on all stands and vendor equipment. Within thirty (30) days after execution of the Contract Agreement, the Contractor shall submit a Proposal for price signs to be provided by the Contractor for the written approval of the CVB’s Designee. The CVB’s Designee shall be the sole and final judge of prices, sign quality, size of letters, and propriety of any advertising proposed.
22.1.2 The Contractor shall submit a detailed price schedule based on current market conditions for all items it proposes to sell showing size, weight, quantity, and prices of items. This includes items sold in the bars, concession stands, in lounge areas, mobile “special emphasis” food services areas, in vending machines, etc., meeting rooms, for all catered services, etc. All prices finally adopted will require approval of the CVB’s Designee.

22.1.3 The CVB’s Designee and the Contractor shall, on a quarterly basis, or as deemed necessary by the CVB or the Contractor, review the general price structure of all commodities sold and may, in writing increase or decrease the maximum price or size of any article or articles offered for sale.

22.1.4 If the Contractor desires to offer for sale any article not included in the approved price schedule, menu, or alcoholic beverage list, then the Contractor may be allowed to do so after first obtaining written approval of the CVB’s Designee to sell such articles. If the Contractor desires to substitute an article listed in the approved price schedule, prior written approval must be obtained from the CVB’s Designee as to the quality, size, weight, quantity, brand, and price of such substitute article.
22.1.5 The Contractor will not sell any products of inferior quality. All items to be sold require the approval of the CVB’s Designee. This requirement shall not require the Contractor to rely exclusively on one seller or manufacturer’s item(s), but several manufacturers or sellers may be used or the Contractor’s original source may be changed in the interest of quality, competition, and public appeal, as required by the CVB’s Designee.

22.1.6 All merchandise kept for sale shall be subject to inspection and approval or rejection by the CVB’s Designee during the term of the Contract Agreement. The Contractor shall immediately remove from the Facilities all rejected merchandise and it shall not be returned for sale. Notwithstanding the above, Contractor shall have sole and final responsibility to comply with the Contract Agreement, perform all of its obligations under the Contract Agreement, and to comply with all governmental codes, regulations, and laws.

22.1.7 The Contractor shall purchase, sell, and feature locally (Ohio) produced products, as long as said wholesale prices are competitive with similar products available on the open market.
Sale of Alcoholic Beverages

23.1 The Contractor shall not sell or allow the sale or consumption of any intoxicating or alcoholic beverages or any fermented ale, wine, liquor, or spirits in any part of the food and beverage service facilities, at any event, unless the Contractor is licensed by the State of Ohio and its local Liquor Control/Licensing Boards and the sales or consumption of such beverages is approved by the CVB.

23.2 The types of functions at which wine, beer, or other alcoholic beverages are sold shall be subject to policies and procedures established by the CVB. If any license with the prior approval of the CVB’s Designee, requires that its patrons be allowed to bring alcoholic beverages upon the premises, then the Contractor shall have the exclusive right to sell ice, cups, and beverages, commonly referred to as set-ups, and to levy corkage charge during such functions at a price approved by the CVB.

23.3 The Contractor must, at his own expense, provide all licenses and permits required for the legal sale of alcoholic beverages.

23.4 Contractor must provide at its expense an Alcohol Awareness Training Program for its staff, for all alcohol service and monitoring staff, i.e. TIPS, TEAMS, etc. at least once a year and provide a complete record of training to the CVB’s Designee. Contractor must provide the same training for new employees at the employees’ orientation.
Deliveries: The Contractor shall monitor the movement of products in and out of all foodservice areas to avoid all conflicts with other Facilities functions. The Contractor shall cover or otherwise protect all food, beverages, and food handling equipment being moved through public areas.

Take-Out Sales

25.1 The Contractor understands that take-out sales are strictly prohibited.

Restriction on Sales

26.1 Contractor understands and agrees that the CVB’s contracts with tenants for particular functions may stipulate reasonable restrictions on the sale of food, beverages, and concession items, where necessary, to protect the goods on display or where necessary because of the nature of the function. For example, without limiting the generality of the foregoing; such items as certain specialty foods or the sale of alcoholic beverages (at specific performance/event times as determined by the CVB’s Designee) may not be permitted.

26.2 Chewing gum, sunflower seeds, and stickers may not be sold in the Facilities by Contractor or its subcontractors whether from vending machines or otherwise.

Sampling

27.1 Contractor understands and agrees that food or beverage may be germane to the function itself, and in such cases, the CVB’s contract with the Contractor may permit it to dispense samples of foods and beverages, in quantities smaller than normally offered for sale by the Contractor.
27.2 The CVB’s Designee reserves the right to examine and/or sample Contractor’s products at any time for the purpose of assessing quality and portion controls.

28 Use of Operating Memoranda

28.1 The parties recognize that a close degree of cooperation will be required in order that management, operation, maintenance, and repair of the Facilities can be efficiently conducted. The parties further acknowledge that experience over time will demonstrate changes that will be required in the methods of management, operation, maintenance and repair, and that a certain degree of flexibility will be required. To preserve such flexibility, certain items have been covered in this Contract Agreement in general terms only with the understanding that details are to be set forth in “operation memoranda.” Therefore, from time to time operating memoranda may be entered into by Contractor and the CVB’s Designee which shall be binding upon the parties. It is understood that there is no implication in this language that this Contract Agreement is not complete and that further terms are yet to be agreed to.

29 Altering Facilities

29.1 The Contractor shall not alter, add to, or in any way vary the foodservice facilities or make any alterations or installation without having first obtained the consent in writing of the CVB’s Designee provided that payment of all such alterations and/or additions be negotiated between the
CVB’s Designee and the Contractor and shall inure to the benefit of and become the absolute property of the CVB.

29.1.1 Acceptance of Facilities: Contractor accepts the Facilities in their condition as of the commencement date of the term hereof. The CVB disclaims all representations, statements, and warranties, expressed or implied, with respect to the condition of the Facilities or the use and occupancy authorized other than those contained in this Contract.

29.1.2 Prior Approval of Plans & Specifications Required: The Contractor shall submit to the CVB, for approval, schematic designs, design development drawings, and final working drawings and specifications for the construction on the Facilities of any additional improvements, additions, and alterations to convert the Facilities to the condition desired by the Contractor for the operation of its business. All improvements, additions, and alterations shall be subject to the CVB’s site standards and related review procedures. All such designs, drawings, and plans for work affecting, in any way, the structural, mechanical, or electrical systems of the buildings of which the Facilities form a part or having a cost in excess of Two Thousand Dollars ($2,000) shall be prepared by a licensed architect or engineer, who shall have affixed to the same his/her
signature and seal. No change shall be made to any electrical wiring or plumbing in the Facilities or any utility service to or from the Facilities as of the commencement date of this Contract and at any time subsequent thereto, other than a change made by a properly-licensed electrician or plumber. No demolition, remodeling, or construction work shall begin on any improvement, addition, or alteration on the Facilities or to any utility service connection with the Facilities or any portion thereof, or to any other CVB facility, until after the Designee has approved the same and all other required authorizations have been secured for such work. If any improvement, addition, or alteration to the Facilities is begun, the portion of the Facilities that is subjected to such change must be made accessible for disabled people as required by applicable law.

29.1.3 No Representation or Liability Created by Approval: The approval of any plans and specifications by the CVB shall not constitute an opinion or representation by the CVB as to their completeness; design sufficiency; compliance with any law, ordinance, rule or regulation; or their adequacy for other than the Facilities’ own purposes. No such approval shall create or form the basis of any liability on the part of
the CVB or any of its officers, employees, or agents for any injury or damage resulting from any inadequacy or error therein or any failure to comply with any applicable law, ordinance, rule, or regulation.

29.1.4 **Changes in CVB Facilities, Utilities, or Services:** In the event an improvement, addition, or alteration made or desired to be made by the Contractor requires or would require any change in any facility, utility, or service provided by the CVB, the CVB shall pay any costs incurred in making such change or otherwise in connection therewith as long as such work has been approved prior, in writing, by the CVB.

29.1.5 **Work at Contractor’s Expense:**

29.1.5.1 All improvements, additions, and alterations made to the Facilities to convert the same to the condition desired by Contractor for the operation of its business, shall be at the expense of the Contractor, and at no expense to the CVB unless otherwise specifically agreed upon in writing.

29.1.5.2 In the event any activity or omission of the Contractor results in damage to CVB property or any other Contractor’s Facilities
or property, and the CVB undertakes emergency repair or cleanup activity, the Contractor shall be liable for the full cost of such CVB work.

29.1.6 Improvements, Additions & Alterations and Fixtures

Become Facilities Property: All improvements, additions, and alterations made to, and fixtures installed on, the Facilities shall become the property of the Facilities upon the expiration or termination of this Agreement except for those items specified by the Designee by written notice to the Contractor. All improvements, additions, alterations, and fixtures not identified in such Designee’s notice shall remain in, and be surrendered with the Facilities as a part thereof without molestation, disturbance, or injury.

29.1.7 No Liens or Encumbrances: The Contractor shall keep the Facilities free and clear of any liens and encumbrances arising or growing out of its use and occupancy of the Facilities. At the request of the CVB, the Contractor shall deliver to the CVB written proof of the payment of any item that could be the basis of such a lien, if not paid.

30 Emergency

30.1 The obligation of any party to perform any acts hereunder shall be suspended during the period such performance is prevented by acts of God,
war, riot, invasion, fire, accident, strike or walkout, or by government interference, regulation, appropriation, or rationing or by inability to secure goods or materials or shipments or because of other conditions similar to those enumerated above, beyond the control of the party obligated to perform.

30.2 In the event that the Contractor is unable to provide the services or a portion of the services covered by this Contract Agreement, for any reasons specified in the preceding paragraph, the CVB is duly authorized to provide such service or portion thereof, in such manner as it may deem proper and to use therefore any of the food or supplies of the Contractor which are available provided that the CVB, as may be applicable, shall reimburse the Contractor for such food and supplies actually used at the actual cost thereof to the Contractor.

31 Unlawful Pursuits

31.1 The Contractor shall preserve the foodservice facilities in good order and prevent unlawful pursuits.

32 Advertising

32.1 The Contractor shall not advertise in any manner other than as approved by the CVB’s Desigee and the Contractor shall have no right to use the trademarks, symbols, or trade name or name of the Facilities, directly or indirectly, in connection with any production, promotion, service, or
publication not located in the Facilities, without the prior written approval of the CVB’s Designee.

33 Other

33.1 The use of table coverings other than cloth must be approved in advance by the CVB.

33.2 At the expiration or termination of this Contract Agreement, the Contractor shall assign all catering and special function contracts and deposits, for events scheduled to occur after the effective date of expiration or termination, to the succeeding Contractor.

33.3 The Contractor must conduct regularly scheduled training classes for all employees and management throughout the term of the Contract Agreement. This schedule and its content shall be approved by the CVB in writing. At a minimum such training will consist of Customer Service, Alcohol Awareness, Positional Skills Training including banquet service training, buffet set up, bartending, and serving techniques and food/wine service techniques. A detailed record of the training will be provided to the CVB’s Designee.
SECTION III – PERSONNEL AND UNIFORMS

34 Personnel

34.1 The Contractor shall select, employ, train, furnish, and deploy employees who are proficient, productive, and courteous to patrons; and shall discipline, and if necessary, discharge any and all personnel working in this operation. The Contractor shall also provide adequately-trained relief personnel in the event of absences by primary staff. Whenever possible, Contractor shall hire its personnel from within the greater Toledo area.

34.2 The Contractor shall furnish all necessary qualified supervision for the performance of the food/beverage service and agrees to assign to these operations a highly-competent, full-time resident manager who shall have no duties other than direction of these operations. The Contractor shall secure the CVB’s approval in advance of the manager for this assignment and, once assigned to this operation, such manager shall not be replaced without approval of the CVB. Contractor shall furnish a bond on behalf of its Designee to the CVB from a reputable insurance company in the amount of $50,000 to ensure against improper management movement.

34.3 Should the Contractor’s manager be changed in less than two (2) year’s time from date of his/her work commencement (other than voluntarily leaving the employ of the company or the parent company), the Contractor will pay to the CVB a management penalty fee of $50,000.00.
34.4 The Contractor’s general or assistant managers shall be available at all food and beverage functions.

34.5 If at any time the CVB finds that the Contractor’s manager or his/her alternate is unsatisfactory, and such causes and reasons are duly reported in writing by the CVB to the Contractor, the Contractor shall, within ten (10) days, unless specifically extended in writing by the CVB’s Designee, replace him/her with one who is satisfactory to the CVB. At any time Contractor’s management desires to leave the Facilities, Contractor’s current management staff will provide to the replacement management such detailed training as necessary and required before changing his/her position.

34.6 Contractor’s full-time management shall provide a management staffing plan. Such management team shall have no other duties other than those specifically dedicated to the Facilities on a full-time basis.

34.7 Free close-in parking is not available at the Facilities for Contractor’s employees or company vehicles, in excess of 8 reserved spots provided for Food Services. All parking will be at employees own cost.

34.8 Personnel supplied by the Contractor will be deemed employees of the Contractor and will not for any purpose be considered employees or agents of the CVB.

34.9 The Contractor assumes full responsibility for the actions of such personnel while performing services pursuant to this Contract Agreement, and shall be solely responsible for their supervision, daily direction and
control, payment of salary (including withholding and income taxes, unemployment insurance, workers’ compensation, and Social Security) and the like, as required by applicable federal, state, and local laws.

34.10 The CVB shall have the right to refuse access to its facilities at any time to any employee of the Contractor, its agents, sub-contractors, or suppliers’ employees. The exercise of its right shall not diminish the Contractor’s obligation of performance arising under this Contract Agreement, provided that the CVB shall allow the Contractor to have access to said facilities at times sufficient to fulfill said obligation. The rights of access for personnel shall be limited to those parts of the CVB’s premises available for common use (e.g., entrances, hallways, stairways, concession areas, lounges, kitchens, and other food preparation areas), but shall not include a right of access to other parts of the Facilities unless specifically otherwise requested by the CVB. The Contractor will be responsible for requiring employees to abide by all instructions, regulations, and codes as specified by the CVB.

34.11 The CVB requires that all Contractor’s full time employees engage in the preparing, handling, serving, and storing food, meet State and Local Health Department requirements including a Health Card and Food Handlers Permit. The minimum health requirement for full-time Contractor food and beverage service employees at the Facilities will consist of satisfactory results of:

• Chest X-ray (14” x 17”);
• Serological tests for venereal diseases;
• Stool examination for ova and parasites;
• Examination of the skin for lesions or rashes; and
• Appropriate alcohol and drug testing.

34.12 Examinations are to be conducted and satisfactory results reported by a competent physician or clinic, approved in advance by the CVB, and are to be forwarded to the CVB’s Designee for approval prior to the employees reporting to work at the Facilities. These tests are to be repeated on an annual basis. All foodservice employees’ medical reports shall be kept on confidential file at the Facilities and kept up to date.

34.13 In the event that any employee refuses health inspections, the CVB’s Designee shall request that the Contractor remove the employee from the foodservice operations.

34.14 The Contractor shall remove from the foodservice operations any employee whom the CVB’s Designee considers detrimental to the best interests of the Facilities.

35 Unit Staffing, Labor, and Personnel Training Practices

35.1 Prior to commencement of work in the Facilities, the Contractor shall furnish to the CVB a written statement setting for the names of all employees, the location in which they will work, the commencement date of the employment at the Facilities of each such employee, and the duties to be performed by each. The Contractor shall also furnish to the CVB
monthly a written statement setting forth the names of persons ceasing to be employed in the Facilities.

35.2 In addition, the Contractor shall:

35.2.1 Prior to commencing work, describe in writing its good faith efforts regarding the CVB’s Equal Opportunity Employment Program.

35.2.2 Provide the number of entry-level employee hours to be devoted to formal training for the staff at the Facilities by work area, during the first two (2) weeks of employment and monthly/annually thereafter.

35.2.3 Submit a detailed copy of the Contractor’s Employee Handbook.

35.2.4 Provide a detailed written description of recruiting techniques and sources of non-management labor.

35.2.5 Provide a detailed written description of personnel policies and practices.

35.2.6 Toledo Arena Sports, Inc. (TASI) shall have the right and reasonable opportunity to consult on and participate in the decisions on staffing concessions and catering facilities at the Arena for TASI Professional Sports Events. The Concessions and catering staffing must be reasonably acceptable to TASI and ensure that patrons of the Arena will received satisfactory service levels.
36  Wages and Employment

36.1 The Contractor shall comply with all laws and regulations of the government of the United States and the State of Ohio governing wages and conditions of employment. Wages payable to any personnel hereunder shall at the commencement of this Contract Agreement be in accordance with the schedules attached hereto.

37  Tipping Policy

37.1 Contractor’s employees at the Facilities will not solicit or accept tips or other gratuities.

- Exception: Employees may accept, but not solicit tips in any cash bar environment.

38  Uniforms

38.1 The Contractor or its agent will provide and maintain uniforms for all employees. Selection type, color, style, and dress code of uniforms, including specialty uniforms designated to fit the exact nature of the various operations at the Facilities, shall be at the discretion and approval of the CVB. The Contractor must provide written and graphic presentation of a choice of uniform styles and availability to and at the CVB’s request. The CVB will provide the graphic standards to be followed in this design. The CVB will consider the Contractor to be the sole contact and responsible for the services it or its agents provide. Additionally, the condition of the hygiene and appearance of employees is the Contractor’s sole responsibility not withstanding the fact the CVB’s
Designee or his/her designee have the right to comment on and where necessary, cause Contractor to ensure that all employees meet minimum hygiene and appearance standards.

39 \textbf{Special Personnel Services}

39.1 On various occasions the Contractor may be called upon to provide personnel for special purposes such as bartending, waiter/waitress, host/hostess, or other activities. The special personnel services are not to be confused with the normal personnel required by the Contractor to meet the Contractor’s responsibilities to provide service to the Facilities in fulfillment of the obligations set out within this document.
SECTION IV – BOOKS, RECORDS, AUDITS, AND TAXES/FEES

40 General Description of Records, Accounting, and Audit

40.1 The Contractor shall keep an accurate and complete set of books and records of the operation of the food, beverage facilities on the premises in accordance with generally accepted accounting principles and allow the CVB or its auditors at all reasonable times to inspect said books and records, correspondence, memoranda, and other information relating to this Contract Agreement during the term of this Contract Agreement and such time thereafter as may be necessary for the CVB to verify amounts due it under the terms of this Contract Agreement.

40.1.1 The Contractor will be paid by CVB for the Management Fees due under the Contract Agreement on or before the tenth (10th) day following the conclusion of each of the months of the term.

40.1.2 CVB will be paid a one twelfth (1/12) share of the contract’s annual contractor guarantee or the actual portion of profit due from monthly operations, whichever is greater, within fifteen (15) calendar days following each month of the term, according to the annual schedule of guarantees due. At the conclusion of each fiscal year, a reconciliation will be accomplished within thirty (30) days after the last month of the fiscal year. The difference of funds paid to
the CVB versus annual guarantee due the CVB, will be paid in full to CVB, if not already done so, at that time.

40.1.3 Audit – Throughout the term of this Contract Agreement, Contractor shall submit to the CVB, within ninety (90) days of the close of the Contractor’s fiscal year, a certified audit from a certified public accountant covering the Contractor’s financial statements for its operations at the Facilities. In the event that the CVB is not satisfied with the statements on a generally accepted accounting principles basis (GAAP) presented herein, the CVB shall have the right to conduct a special audit of the Contractor’s books and records, by auditors selected by the CVB. Should such audit(s) uncover a deficiency or deficiencies in payments from the CVB for any period covered, in excess of one percent (1%), the total amount owing plus the cost of the audit shall be immediately due and payable by the Contractor and shall not be expensed as a controllable expense. The Contractor shall permit the CVB, from time to time, as its Auditor deems necessary, to inspect and audit at any and all reasonable times, all books and records pertaining to the Contractor’s gross receipts to verify the amount of gross receipts generated by the Contractor on or from the Facilities, and shall supply the CVB with, or shall
permit the CVB to make, a copy of any such books and records and any portion thereof, upon the request of the CVB’s Director of Finance or functional successor or designee. The Designee shall notify the Contractor of the amount of any over or underpayment found. Any overpayment shall be a credit against any fee subsequently due, or at the CVB’s option, shall be refunded to the CVB. In the event of an underpayment, the CVB shall pay to the Contractor the amount of such underpayment plus any costs incurred in auditing the Contractor’s books and records. The Contractor shall ensure that the CVB’s right to inspect, audit, and copy the Facilities user’s books and records is a condition of any sublease or other arrangement under which any other person or entity is permitted to use or occupy the Facilities.

40.1.4 Failure to comply with the aforementioned clause shall result in the Contractor paying to the CVB as a penalty, the amount of TEN THOUSAND DOLLARS ($10,000.00) for each and every day exceeding the 90-day deadline. Such penalty shall apply after the CVB has given notice in writing to the Contractor of non-receipt of such certified audit.
40.1.5 The Contractor must submit the following information:

40.1.5.1 Monthly by the tenth (10\textsuperscript{th}) of the month, a complete, detailed profit and loss statement in the format of Schedule 2 for the previous month.

40.1.5.2 Monthly by the tenth (10\textsuperscript{th}) of the month, revenue by event and by revenue source, with per person (per cap) revenue for the previous month.

40.1.5.3 Monthly by the 10\textsuperscript{th} of the month, a complete expense breakdown by event and by expense category.

40.1.5.4 Within 2 business days from close of event, estimated revenue totals by event, people served and per caps allocated.

40.1.5.5 Coin-Operated Vending – The Contractor must submit an explanation of vending control methods. Contractor may subcontract coin-operated vending with the written approval of CVB’s Designee. Such approval shall not be unreasonably withheld. In the event the Contractor subcontracts the
vending concession, the Contractor shall supply the following information:

- The name and address of the subcontractor;
- The subcontractor’s reputation and industry experience.

40.1.5.6 In the event that vending is subcontracted, the CVB will consider the prime Contractor to be the sole contract responsible for the services it or its agents provide.

40.1.5.7 The Contractor, except upon prior written approval, shall use in all permanent and portable concession stands, special function areas, merchandise areas et. al. a cash control system of a type provided by the Contractor and approved by the CVB’s Designee.

40.1.5.8 Inventory systems to determine sales and product usage must be approved by the CVB’s Designee. The Contractor will not permit any of his/her employees to make change from boxes, container, or from pockets of clothing in the above establishments.
40.1.5.9 Records – Contractor will keep within the Facilities proper, adequate, and accurate accounting books and records prepared in accordance with an accounting system approved by the CVB, of all business and transactions engaged in under this Contract Agreement, for all periods included within the term of this Contract Agreement, said records to include without limitation the daily receipts and expenses, the daily bank deposits, the daily sales, and business done by the Contractor and shall preserve and make available for audit and examination by the CVB as hereinafter provided, such books and records as well as a copy of all business tax returns to the State of Ohio and of all federal income tax returns.

40.1.5.10 Contractor shall only utilize CVB- approved computer hardware and account software for all records, proposals, contracts, invoices, letters, and all accounting functions related to the operations of this contract.
40.1.5.11 A separate bank account at a bank approved by the CVB shall be maintained for all sales deposits. Cash shortages in excess of inventory sales may not be deducted from Gross Receipts.

40.1.5.12 Contractor shall utilize computerized sales, control, and point-of-sale locations including but not limited to fixed and mobile concession stands, vending rooms, mobile thematic carts, lounges, and the like. All products must be able to be tracked from purchase order through delivery, warehouse stocking, inventory depletion, and final sales transaction and reduction from par or other stock inventories. The CVB shall have complete and open access to this system and its reports at all times. Contractor shall provide CVB with a preliminary sales/expense report by noon on the day following an event.

40.1.5.13 Contractor and CVB shall conduct annual inventories of all food/beverage equipment, leasehold improvements, uniforms, and
smallwares to determine required
replacements, repairs, and adjustments to
any depreciation schedules in force
pertaining to such items.

41 Books and Records: “Gross Receipts” Defined

41.1 Keeping of Records: The Contractor shall keep true, accurate, complete,
and auditable records of all of the Contractor’s gross receipts, and
expenses which records shall be separate from all of the other business
records of the Contractor.

41.2 Payment Reports: Contractor shall submit monthly financial reports as
shown in Schedule 2.

41.3 Definition of Gross Receipts: As used in this Contract, the term “gross
receipts” means and includes the total income of the Contractor and every
other person or entity conducting business in, on, or from the Facilities
including but not limited to the proceeds from all retail and wholesale
sales of food, beverages, and services of any kind whatsoever, for cash,
barter, exchange or credit, regardless of collections; sales from vending
devices; mail or telephone orders received or filled on or from the
Facilities; all deposits not refunded to purchasers; orders taken although
filled elsewhere; fees; commissions; catalog sales; and rental receipts. An
installment or credit sale shall be deemed to have been made for the full
price on the date of sale regardless of when payment is received. Subject
only to the exclusions specified in the immediately following paragraph,
the full amount received by the Contractor shall be included in its “gross receipts,” regardless of whether (a) the Contractor was acting as a consignee, trustee, or agent for a third party in connection with such sale or rental, or (b) the Contractor is entitled to retain the full amount received on such sale as the Contractor’s own property.

The term “gross receipts” does not mean or include the amount of money refunded to and not merely credited to the account of customers who return or do not accept food and beverage or services sold or commissioned by Contractor; where such exchange is made solely for the convenient operation of the Contractor’s business and not for the purpose of consummating a sale made in, on, or from the Facilities; returns to shippers or manufacturers; any discount allowed by the Contractor to customers; the Ohio State Sales Tax and any other tax imposed by any government agency directly on sales; and all admission taxes collected by the Contractor. (Business and occupation taxes are not taxes imposed directly on sales and shall not be deducted from the amount of “gross receipts” reported to the CVB.)

41.4 Definition of Profit/Loss: as defined herein includes full and complete disclosure pursuant to generally accepted accounting principles (GAAP), of all revenues whether gross or net and all expenses by specific cost center category, whether collectable or not. Such statement and
supporting schedules shall constitute a fully-certified Profit and Loss Statement.

42  Taxes and Fees

The Contractor shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Facilities, including but not limited to taxes arising out of the activity or business conducted on the Facilities; taxes levied on its property, equipment, and improvements on the Facilities; and taxes on the Contractor’s interest in this Contract and any leasehold interest deemed to have been created thereby; and in the event the State of Ohio and/or the City of Toledo makes any demand upon the CVB for payment of leasehold excise taxes and/or taxes based upon any possessory interest resulting from the Contractor’s occupancy of the Facilities to enforce collections of leasehold excise taxes, the Contractor shall remit the taxes demanded together with any interest and penalties associated therewith or, at no expense to the CVB, contest such collection action and indemnify the CVB for all sums expended by, or withheld by the State of Ohio from the CVB in connection with such taxation.

43  Payment of Bills, Payroll

The Contractor will promptly notify the CVB regarding all expenses incurred in the normal operation of the food/beverage services and will indemnify, defend, and hold the CVB harmless there from. The CVB shall pay such expenses in a timely and professional manner.
44 Insurance

44.1 Contractor shall secure and deliver to the CVB not less than thirty (30) days prior to the commencement of this Agreement and shall keep in force at all times during the term of this Agreement:

44.1.1 A comprehensive general liability insurance policy in form acceptable to the CVB covering the Services being provided hereunder in an amount not less than One Million Dollars ($1,000,000) combined single limit per occurrence for bodily injury and property damage. Coverage should include contractual liability and fire damage legal liability. The CVB and the Facilities shall be named as additional insureds under this policy;

44.1.2 A liquor liability insurance policy in form acceptable to the CVB covering the Services being provided hereunder in an amount not less than One Million Dollars ($1,000,000) combined single limit per occurrence. The CVB and the Facilities shall be named as additional insureds under this policy;

44.1.3 An excess liability insurance policy in form acceptable to the CVB covering the Services being provided hereunder in an amount not less than Ten Million Dollars ($10,000,000)
for each incident. The CVB and the Facilities shall be named as additional insureds under this policy;

44.1.4 Comprehensive automotive bodily injury and property damage insurance in form acceptable to the CVB for business use covering all vehicles owned/operated by Contractor, its officers, agents, and employees in connection with the Services, with a combined single limit of not less than One Million Dollars ($1,000,000) (including an extension of hired and non-owned coverage).

44.1.5 Employers’ liability insurance in an amount not less than One Million Dollars ($1,000,000) for each incident in form acceptable to the CVB and workers compensation insurance for Contractor’s employees, as required by the State of Ohio;

44.1.6 A fidelity guarantee insurance policy in form acceptable to the CVB covering the Services being provided hereunder in an amount no less than Five Hundred Thousand Dollars ($500,000). The CVB and the Facilities shall be named as loss payees under this policy; and

44.1.7 Insurance against loss and/or damage to fixtures, furnishings, equipment, and other personal property upon the premises by fire or other such casualty as may be generally included in the usual form of extended coverages
in an amount equal to the replacement costs of such property used in this agreement on the premises. Insurance coverage for business interruption should also be sufficient to provide for the payment of commission and other costs during any interruption of Contractor's business because of fire or other cause.

44.2 The following shall apply to the insurance policies described above:

44.2.1 Not less than thirty (30) days prior to the commencement of this Agreement, Contractor shall deliver to the CVB certificates of insurance evidencing the existence thereof, all in such form as the CVB may reasonably require. Each such policy or certificate shall contain a valid provision or endorsement stating, “This policy will not be canceled or materially changed or altered without first giving thirty (30) days written notice thereof of each to the CVB at 401 Jefferson Avenue, Toledo, Ohio 43604-1063. If any of the insurance policies covered by the foregoing certificates of insurance will expire prior to the expiration of this Agreement, Contractor shall deliver to the CVB at least thirty (30) days prior to such expiration a certificate of insurance evidencing the renewal of such policy or policies.

44.2.2 The coverage provided under such policies shall be occurrence-based, not claims made.
44.2.3 Contractor hereby acknowledges that the coverage limits contained in any policy, whether such limits are per occurrence or in the aggregate, shall in no way limit the liabilities or obligations of Contractor under this Agreement, including without limitation, Contractor’s indemnification obligations under Section 7 below.

44.3 The terms of all insurance policies referred to in this Section 44 shall preclude subrogation claims against the CVB and the Facilities and their respective officers, employees, and agents.

44.4 Sub-Concessionaires – Concessionaires shall include all Sub-Concessionaires as insureds under its policies or shall furnish separate evidence of insurance as stated above for each subcontractor. All coverages for Sub-Concessionaires shall be subject to all the requirements stated herein applicable to their profession.

44.5 Contractor shall, throughout the term of this Contract Agreement, require all of Contractor’s agents, licenses, or subcontractors providing a service at the Facilities to provide Contractor and the CVB (if requested) with certificates of insurance and insurance policies evidencing the same type of Commercial General Liability Workers’ Compensation, Employers’ Liability, and Commercial Automobile Liability insurance coverages with limits of no less than required by Contractor by this Contract Agreement. Said insurance shall include the additional insured endorsement and
cancellation language required of the Contractor by this Contract Agreement.

44.6 The insurance described in above shall be obtained from one or more insurance companies duly authorized to issue such policies in the State of Ohio and having a rating of at least “A: as rated in Best’s Rating Guide or a successor or substitute rating service accepted by the Contractor and CVB.

44.7 The placement and storage of personal property in the Facilities or any other CVB facility shall be the responsibility, and at the sole risk, of the Contractor.

44.8 The CVB shall notify the Contractor whenever the CVB has a reasonable belief that the Contractor has failed to secure or maintain insurance as required by this Contract. Notwithstanding any other provision of this Contract, after its receipt of any such notice, the Contractor shall not enter upon the facility until the Contractor has secured and is maintaining insurance as required by this Contract.

44.9 Contractor shall indemnify, defend, and hold harmless the CVB, the Facilities, and their respective officers, agents, and employees from and against any and all losses, claims, damages and expenses (including reasonable costs of investigation and attorneys’ fees) (collectively, the “Losses”) arising from (i) Contractor’s failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, and constitutional provisions (collectively the
“Laws”) applicable to Contractor’s performance of this Agreement, (ii) any unlawful acts on the part of Contractor or its officers, agents, employees, or subcontractors, (iii) personal or bodily injury to or death of persons or damage to the property of the CVB to the extent caused by the negligent acts, errors, and/or omissions or the willful misconduct of Contractor or its officers, agents, employees, or subcontractors, or (iv) the material breach or default by Contractor or its officers, agents, employees, or subcontractors of any provisions of this Agreement. The indemnity provisions set forth in this paragraph shall survive the termination of this Agreement.
45 Equipment and Smallwares

45.1 The CVB will provide for the use of the Contractor certain fixed equipment listed in Appendix C. All equipment listed in the Appendix C shall be the property of the Facilities.

45.2 The CVB shall be responsible for the maintenance and repair of the Facilities’ equipment as outlined in Appendix C during the term of this Contract Agreement. The Contractor will cooperate with the CVB’s maintenance personnel in the development and institution of a comprehensive preventative maintenance program and shall organize and institute maintenance contracts on all major pieces of foodservice equipment to ensure continuous, high-quality, long-term maintenance and upkeep on this important equipment.

45.3 Other equipment such as office equipment, safe, forklift trucks and generally non-foodservice specific equipment etc., that is not provided, is to be provided by the Contractor so as to ensure a full and complete operating system.

45.4 The Contractor acknowledges that CVB’s equipment has been inspected prior to its use and hereby agrees to accept the food and beverage equipment, in the condition in which it is found by the Contractor, at the
commencement of this Contract Agreement. The Contractor shall maintain the foodservice facilities in first-class condition and shall maintain the food and beverage equipment and smallwares in operable and presentable condition (except ordinary wear and tear) and conduct the business generally at a high level of cleanliness and neat appearance at all times. Contractor shall be fully responsible for anything other than normal repair and maintenance as determined by the CVB in its reasonable/sole discretion. The CVB shall be sole judge as to the sufficiency of the cleanliness and neatness of appearance of the premises and equipment with the power to order any changes or alterations thereto that it may deem desirable. The Contractor shall return to the CVB the facilities and equipment in a neat and tidy condition and in good operating order (less normal wear and tear) at the expiration or other termination of this Contract Agreement.

45.5 The Contractor shall perform at its sole expense, a physical inventory of smallwares at least on a quarterly basis. Contractor shall provide the CVB with the written results of the physical inventory within five (5) business days of the inventory and shall replace all missing or damaged smallwares within thirty (30) days of the physical inventory, such replacement being deemed a Controllable Operating Expense.

45.6 Contractor shall notify the CVB’s Designee of the need and reason for replacement of the CVB’s equipment and Contractor’s utensils and/or
fixtures used in the handling, preparation and service of all foods and beverages for written approval before replacing any equipment.

45.7 The Contractor shall, from time to time and with the prior written approval of the CVB, furnish additional equipment and smallwares as required for the proper operation of the foodservice program.

45.8 Upon commencement of Contractor’s operations, the parties shall conduct a joint inventory and condition survey of the equipment, furnishings, and fixtures included with the premises occupied and used by the Contractor and make a written record thereof, with each party indicating by authorized signature its acceptance of said written record. Any additional equipment for use in the food/beverage service areas added by the Contractor must be approved in advance in writing by the CVB’s Designee.

46 Smallwares and CVB Supplied Equipment

46.1 The CVB shall provide any additional smallwares adequate to provide service in the facilities for special function areas, in dining areas as well as equipment to service all of the Facilities food/beverage service facilities as set out herein etc. as specified and purchased by the Contractor with assistance and final written approval by the CVB. Such equipment provided by the CVB, shall include but may not be limited to the following:

46.1.1 Adequate supply of china, including but not limited to plates, bowls, cups, saucers, water pitchers, and related
items. Unless otherwise directed by the CVB the china may have the logo of the Facilities imprinted thereon.

46.1.2 Beverage glassware.
46.1.3 Adequate supply of trays (both service and cafeteria style).
46.1.4 Supply of stainless steel and/or silver plated dining utensils, including but not limited to: knives, forks, spoons, and soup spoons.
46.1.5 Ample supplies of back-of-the-house servicewares, including but not limited to: Kitchen utensils, equipment cleaning aids, and related items.
46.1.6 Buffet and catering equipment, i.e.: chafing dishes, mobile carts, servicewares, and related items.
46.1.7 Salt and pepper shakers.
46.1.8 Specialty mobile foodservice equipment/carts.
46.1.9 Other miscellaneous tabletop smallwares as required.
46.1.10 Electronic, computerized point-of-sale cash/inventory control system with all tie in equipment necessary to operate fully with CVB and the Facilities computer systems.
46.1.11 Food service related furniture including but not limited to tables, chairs, and interior furniture primarily for use in the areas serving catered events.
SECTION VII – CLEANING, INSPECTION, AND SANITATION

47 Cleaning, Inspection, and Sanitation

47.1 The Contractor will maintain, at all times, all kitchens and food preparation and serving areas and all equipment, fixtures, paraphernalia, material, utensils, and other items therein, in a clean and sanitary condition and comply with all applicable health and sanitation laws and regulations in effect where the foodservices areas are located. The Contractor shall at all times permit and facilitate inspection of the foodservice operation by the CVB and its representatives and by authorized public authorities.

47.2 The Contractor shall provide the CVB with the following:

47.2.1 A description of the Contractor’s approach to sanitation practices.

47.2.2 A description of the Contractor’s program used to train employees in proper sanitation procedures.

47.2.3 The Contractor shall comply with all Sanitation Regulations and Job Inspection requirements attached hereto.

48 Operations Warewashing

48.1 The Contractor will wash after each use, all non-disposable serviceware, flatware, glassware, and cutlery to achieve maximum cleanliness and sanitation. The Contractor’s washing of glassware and cutlery must produce spotless drying.
48.2 All concession/cash business operations will utilize high-quality disposable plates, cutlery, and cups. The CVB reserves the right however to require permanent smallwares, dishes, silverware, glassware, and place settings to be provided in these and other operations when requested in writing to the Contractor.

48.3 All catering operations shall utilize permanent smallwares, dishes, silverware, glassware, and place settings in service to their guests unless specified, modified, or altered in writing to the Contractor by the CVB.

49 Garbage

49.1 The Contractor shall transport all waste materials, including grease, from foodservice locations, including the areas within a twenty-five (25) foot radius of all fixed and mobile concession stands, to the dumpster or compactor area, as well as transporting recycling materials to recycling area in a manner and by a route designated by the CVB’s Designee. Such removal shall be made after each event, and all trash handling costs shall be borne by the Contractor.

49.2 Cost of repair of damage done to floors, walls, windows, or other property in said radius and other foodservice areas by reason of operation of said stand and other foodservice areas, will be the responsibility of the Contractor and not a cost assignable to the CVB. The Contractor must employ the necessary cleaning personnel before, during, and after the hours of each event to comply with these provisions subject to approval of
the CVB. These personnel will provide cleaning services only during designated times.

49.3 The CVB shall provide sufficient waste receptacles at each location.

50 **Grease**

50.1 The Contractor must not discharge any grease into floor drains and must keep grease in containers for disposal by the Contractor. Contractor is responsible for the cost of containers and disposal of grease. If the Contractor fails to comply with this provision, any cost, charge, or expense involved in opening, cleaning, or repairing of drains shall be paid by the Contractor and not as a cost of doing business.

50.2 Contractor expressly agrees to comply with all codes, ordinances, regulations, and laws regarding environmental health and safety matters, including the use and disposal of chemical or caustic cleaning agents and the like.

51 **Pest Control**

51.1 The Contractor shall engage and supervise exterminators to control rodents and other vermin and pests as is necessary, but at least monthly. Such extermination services shall be supplied in all areas where food is prepared, stored, or dispensed. Documentation of such services shall be retained and provided to the CVB. Should such service be deemed unsatisfactory by the CVB, the CVB reserves the right to contract for extermination services and charge back the Contractor for all costs incurred therein.
Maintenance Services

52.1 Notwithstanding the Contractor’s responsibility to maintain the foodservice facilities at a high level of neatness and cleanliness, the Contractor shall provide standard janitorial and maintenance services in all food/beverage service areas. Should these services be deemed unsatisfactory by the CVB, the CVB reserves the right to contract for or to directly provide such service and duly charge the Contractor for same. Such costs shall not be considered a Controllable Operating Expense. This is to be clarified and agreed to in detail in operating memorandum.
SECTION VIII – LETTER OF CREDIT

53 Letters of Credit

53.1 As an alternative to the furnishing of the various bonds required herein, the CVB at its option may agree to accept irrevocable letters of credit from a bank or banks organized pursuant to laws of the United States of America and domiciled in the State of Ohio which shall be for an amount not less than FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) for the Performance Bond available by draft of the CVB at sight to be accompanied by the signed statement of the CVB in duplicate certifying that the Contractor has failed to faithfully perform any obligation assumed by, or imposed upon said Contractor by this Contract Agreement, which letters of credit shall be delivered to the CVB prior to the commencement date of this Contract Agreement. Contractor agrees that in the event of cancellation or termination of said letter or letters of credit new letters of credit or bond effecting the same guarantees to the CVB shall be furnished by Contractor to the CVB prior to the effective date of such cancellations or terminations.

53.2 Contractor herein agrees that under no circumstances shall the CVB be liable for damages to Contractor in the event that the CVB should issue a draft or drafts against said letter or letters of credit in an amount or amounts over and above those which may ultimately be declared to be the actual liability of Contractor to the CVB.
Surety

54.1 The performance bond as herein below provided shall be furnished throughout the life of this Contract Agreement, and all premiums for these shall be paid by the Contractor. Contractor agrees that in the event of cancellation or termination of said bond or bonds, a new bond or bonds, or letters of credit effecting the same guarantees to the CVB shall be furnished by Contractor to the CVB prior to the effective date of such cancellations or terminations.

54.2 Each such letter or letters of credit shall be provided with the following certification: TO THESE PRESENT NOW COMES AND INTERVENES: a surety corporation organized and existing under and pursuant to the laws of the state of ________________, having its principal office in the city of ________________, appearing herein through ________________, herein duly authorized to act pursuant to the Power of Attorney conferred upon him/her, a duly certified copy of which is annexed hereto and made part hereof, which corporation binds and obligates itself jointly, severally and in solido with said TO AND IN FAVOR OF THE TOLEDO-LUCAS COUNTY CONVENTION CENTER AUTHORITY AND VISITOR’S BUREAU, INC. (THE CVB) for the faithful performance by said Contractor of all obligations assumed by, or imposed upon said Contractor by this Contract Agreement, including all payments due by Contractor to the CVB and the CVB hereunder; provided, however, that the obligation of the aforesaid surety
shall not exceed the sum of _______________________. The condition of this Contract Agreement on the part of the aforesaid surety is such that if the said Contractor shall perform and abide by all of the obligations assumed by, or imposed upon, said Contractor by this Contract Agreement, including the payment of such charges as aforesaid, then this obligation shall be null and void and of no effect; otherwise it shall remain in full force and effect. Additionally application and payment bonds as previously described herein shall be due and payable at time of proposal application.
SECTION IX – FEES

55 Fees

55.1 In accordance with the attached Schedule 3, “Proposed Fee Schedule,” attached hereto, the CVB shall pay to the Contractor by the 10th day of each calendar month of the term of this Contract Agreement, fees as defined herein, and shall be computed and stated separately pursuant to the following provisions.

55.2 CVB will be paid a one twelfth (1/12) share of the contract’s annual contractor guarantee or the actual portion of profit due from monthly operations, whichever is greater, within fifteen (15) calendar days following each month of the term, according to the schedule of guarantees due. At the conclusion of each fiscal year, a reconciliation will be accomplished within thirty (30) days after the last month of the fiscal year. The difference of funds paid to the CVB versus annual guarantee due the CVB, will be paid in full to CVB, if not already done so, at that time.

55.3 The first such payment shall be on ________, covering the period from commencement of this Contract Agreement through _____________ and the last or final payment shall be due no later than ten (10) days after expiration or termination.

55.4 Each year’s fees shall be treated as isolated events and as a separate charge for accounting purposes. No previous payments or credits from
any prior or past years shall be credited or subtracted from the amount of the annual fees due and payable as required herein.

55.5 In addition to fees as defined herein, CVB shall provide Contractor with all fixed, mobile, and accessory equipment and smallwares required to operate the Facilities as defined herein.
SECTION X – DEFAULT

Bankruptcy

56.1 Should the Contractor during the term of this Contract Agreement make any assignment for the benefit of its creditors or voluntarily or involuntarily be declared bankrupt or terminated or if a receiver or liquidator shall be appointed to administer the Contractor’s affairs, this Contract Agreement shall, at the sole discretion of the CVB, be automatically and without notice canceled and terminated as of the date of such assignment or as of the date upon which a custodian, receiver, trustee, or liquidator is appointed.

56.2 If such improvements, fixtures, facilities, and structures which are required by the CVB to be removed from the premises and substantially all trash, stocks of materials, supplies, tools, etc., place on the premises by the Contractor or the Contractor’s agents, have not been removed by the Contractor by the date of termination, it will be the option of the CVB:

56.2.1 To collect liquidated damages until the said facilities, buildings and structures, trash, stocks of material, supplies, tools, etc., have been removed by the Contractor.

56.2.2 Or to remove the same at the Contractor’s cost, risk, and expense; and

56.2.3 Or to retain or dispose of the same or any part thereof, without payment or reimbursement to the Contractor,
unless other arrangements have been made in writing, between the CVB and the Contractor with regards to the removal thereof.

57 **Non-Waiver**

57.1 No condoning, excusing, or overlooking by the CVB of any default, breach or non-observances by the Contractor at the time or times in respect of any covenant, proviso, or condition herein contained shall operate as a waiver of the CVB’s rights hereunder in respect to any continuing or subsequent default, breach or non-observance, or operate so as to defeat or affect in any way the rights of the CVB in respect of any such continuing or subsequent default or breach and no waiver shall be inferred from or implied by anything done or omitted by the CVB save only an express waiver in writing. All rights and remedies of the CVB in this Contract Agreement contained shall be cumulative and not alternative.

58 **Waiver of Subrogation**

58.1 Contractor, its agents, employees, and insurer(s) hereby releases the CVB, its agents, and assigns from any and all liability or responsibility including anyone claiming through or under them by way of subrogation or otherwise for any loss or damage which Contractor, its agent, or insurers may sustain incidental to or in any way related to Contractor’s operation under this Contract Agreement.
Laws to Apply

59.1 This contract is entered into in Toledo, Ohio, and shall be governed, interpreted, and enforced in accordance with the laws of the State of Ohio.

The parties agree that the exclusive venue for any claims or actions arising under or in relation to this contract and the rights, responsibilities, and duties of the parties hereunder shall be solely in the State of Ohio.
SCHEDULES 1, 2, 3, 4, 5, and 6, Appendices A – C attached form an integral part of this Contract Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Contract Agreement under seal.

SIGNED, SEALED, AND DELIVERED

THE TOLEDO-LUCAS COUNTY CONVENTION CENTER AND VISITORS BUREAU, INC. (CVB)

PRESENCE OF:

Per ______________________

(Witness – Signature)

Date ______________________

[CORPORATE SEAL] [CONTRACTOR]

Per ______________________

Per ______________________

Date ______________________

(Witness – Signature)

(Corporate Seal)
List estimated wages payable to the Contractor’s personnel as part of this Agreement.

**STAFFING SCHEDULE**

<table>
<thead>
<tr>
<th>No.</th>
<th>Employee Position</th>
<th>Working Hours Per Week</th>
<th>Wage Per Hour</th>
<th>Total Wages Exc. Benefits</th>
<th>Benefits as a % of Total Wages</th>
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SCHEDULE 2

FINANCIAL FORMAT FOR OPERATIONAL SUBMITTAL PURPOSES

FOOD AND BEVERAGE SERVICES

<table>
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<tr>
<th>%</th>
<th>Amount ($)</th>
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**SALES**

Food Service and Non-Alcoholic Beverages
- Catered and Special Functions
- Mobile/Fixed Concession Operations
- Other

Alcoholic Beverage Services
- Catered and Special Functions
- Mobile/Fixed Concession Operations
- Other

Third Party Sales
- Branded Concessions

**OTHER SALES**

- Vending Machines (if any)
- Backstage Catering (non-exclusive)

**TOTAL FOOD, BEVERAGE, & VENDING SALES**

**COSTS**

Food Service and Non-Alcoholic Beverages
- Catered and Special Functions
- Mobile/Fixed Concession Operations

Alcoholic Beverage Services
- Catered and Special Functions
- Mobile/Fixed Concession Operations

Third Party Sales
- Branded Concessions

**OTHER COSTS**

- Vending Machines (if any)

**TOTAL FOOD, BEVERAGE &**
VENDING COST OF SALES

TOTAL GROSS PROFIT

TOTAL INCOME

CONTROLLABLE EXPENSES
Payroll
Employee Benefits
Employee Meals
Direct Operating Expenses
- Replacement
- Insurances
- Extermination
- Janitorial & Paper
- Laundry & Uniforms
- Telephone & Office
- Ice
- Miscellaneous (list)

Music and Entertainment
Advertising and Sales Promotion
Utilities
Administrative and General
Repairs and Maintenance
Miscellaneous Expenses

TOTAL CONROLLABLE EXPENSES

PROFIT BEFORE COMMISSIONS

PROFIT BEFORE DEPRECIATION
- Depreciation (Equipment/Other)
- Fees

OPERATING PROFIT
Additions to or Deductions from Profit

NET PROFIT
The undersigned hereby offers to enter into the Food/Beverage Contract Agreement for the Seagate Convention Centre and the Huntington Center, Toledo, Ohio for the specific areas serviced with food and beverage services as enumerated herein, under the terms and conditions set forth in said Contract Agreement, in this Proposal Form and in the attached Instructions to Proposers, for a term of seven (7) years commencing on July 1, 2012, through June 30, 2019, with agreement to provide services for management fees as proposed below and defined herein in accordance with the Food and Beverage Contract Agreement and this Proposal Form, for each contract year, the fee amounts noted on the proposal chart attached. The base management fee will be for $___________/year or an average management fee of ______% of gross sales, whichever is less, payable by the CVB to the Contractor, monthly in arrears. In addition an incentive management fee will be available to the Contractor whose total compensation shall not exceed $__________/year or _____% of net operating profit, whichever is less, defined as follows:
1. Attainment of minimum blended fixed and mobile thematic concession per caps of $5.75 in Year One, escalated by 4.5% per year over each of the annual contract periods.

2. An annual average product cost over all facilities not to exceed 29.5% - based on total revenues (less taxes) divided by the actual product costs as defined above.

3. An annual average payroll cost over all facilities including benefits and associated payroll taxes not to exceed 25.0% for cash concession operations and 32.0 % for all banquet/catering/services associated with this contract. This will include all payroll costs both variable and fixed including benefits and associated payroll taxes for payroll directly related to serviced events. These costs include staff and on-site full-time management. To arrive at this percentage, total revenues (less taxes) will be divided by the payroll costs.

4. Results of an annual operational audit conducted by an independent, third party food/ beverage facilities consulting firm mutually agreeable to both parties and paid for equally by both parties. Such audit results shall show a minimum score of 85 points out of a possible 100 points attainable to qualify for this incentive award. The type, style, basis and detail of such audit to be determined and mutually agreed upon by both parties prior to commencement of such activities during Year One of the term of this contract. Such audit shall occur anytime after month seven into each contract term year. The cost of such audit shall be paid for
by the CVB and Contractor equally and shall not be considered an expense under the contract.

5. If one of these incentives is met, Concessionaire will receive twenty-five (25) percent of the annual Incentive Management Fee, if two incentives are met the Concessionaire will receive fifty (50) percent of the fee, if three incentives are met, the Concessionaire will receive seventy-five (75) percent of the fee and if all four incentives are met Concessionaire will receive one hundred (100) percent of the Incentive Management Fee.

The Incentive Management Fee shall be paid annually by the CVB in arrears, shall be invoiced at the end of each agreement year after the final results of the audit are tabulated and presented to both parties, and shall be paid within thirty (30) days of annual operational financial reconciliation; however, efforts shall be made to complete the annual audit within ninety (90) days of the end of each agreement year.

**Important Note:**

Incentive fees are payable annually as noted above only if a net operating annual profit is realized and after a minimum annual guarantee payment is paid to the CVB totaling $1,250,000.00/year in Year 1 of the contract, escalated by 2.0% per annum throughout the course of the contract term.
Additionally, the CVB will require the following:

1. Contractor to provide the Seagate Convention Centre and the Huntington Center and CVB employees food and beverage services at Actual Cost (food plus labor) at designated on-site facilities.

2. Proposals shall include agreement to provide a Capital Reserve Fund equal to 1.5 percent of Annual Gross Sales to fund repair, maintenance, and replacement of food/beverage service equipment, smallwares, computerized point-of-sale systems, and other leasehold improvements directly associated with the food/beverage service program. Such funds shall be placed in an interest bearing account owned by the CVB to be used only under written direction and approval of the CVB. Any funds unused during any year shall be carried forward with interest until the end of the agreement at which time all unused funds shall immediately become the property of the CVB.

3. Investment – an investment in the Seagate Convention Centre food/beverage equipment and facilities and selected areas/equipment at the Huntington Center, will be required. The minimum aggregate amount acceptable for this purpose will be $500,000, however each proposer is requested to exceed this in its bid, as “investment provided” will be one of the Selection Committee review issues in its final determination of the successful proposer. Such equipment will be depreciated on a seven (7) year straight-line depreciation basis with buyout protection provided. Thus, please prepare an investment bid accordingly as part of your proposal.
The terms and conditions of this proposal are agreed upon on this ______ day of the year 20__. 

BY:  
SIGNATURE:  
TITLE:  
COMPANY:  
ADDRESS:  

DATE:  
PHONE:  
FAX:  

WITNESS (SIGNATURE)  

TYPED NAME - TITLE  

(CORPORATE SEAL)
OWNER SUPPLIED EQUIPMENT LIST

Smallwares adequate to provide service in special function dining areas at the facilities as well as other equipment to service the Facilities’ food/beverage system etc. as specified and purchased by the Owner. These shall include the following:

1. Adequate supply of china, including but not limited to: plates, bowls, cups, saucers, water pitchers, and related items. Unless otherwise directed by the CVB, the china may have the logo of the Facilities imprinted thereon.

2. Beverage glassware

3. Adequate supply of trays.

4. Supply of stainless steel and/or silver-plated dining utensils, including but not limited to: knives, forks, spoons, and soup spoons.

5. Ample supplies of back-of-house service wares, including but not limited to: kitchen utensils, equipment cleaning aids, and related items.

6. Buffet and catering equipment i.e.: chafing dishes, mobile carts, service wares, and related items.
7. Specialty mobile foodservice equipment/carts.

8. Electronic, computerized point-of-sale cash/inventor control system with all tie-in equipment necessary to operate fully with CVB’s computer systems.
SCHEDULE 4

MINIMUM FOOD PURCHASE SPECIFICATION REQUIREMENTS

BEEF
  Heifer or Steer
  GRADE: USDA Top Choice
  YIELD: 3 or under
  CONDITION: Fresh of Frozen
  GROUND BEEF: Chuck, 20% fat content

PORK
  GRADE: US No. 1
  YIELD: 1
  CONDITION: Fresh or Frozen

VEAL
  Calf
  GRADE: USDA Choice
  CONDITION: Fresh or Frozen

LAMB
  Under one year old
  GRADE: USDA Choice
  CONDITION: Fresh or Frozen

POULTRY
  GRADE: USDA Inspected Grade A
  CONDITION:
    Hens – Fresh or Frozen
    Fryers – Fresh or Frozen
    Duckling – Fresh or Frozen
    Turkey Breast – Fresh or Frozen

FISH & SHELLFISH
  GRADE: When graded – A,
  CONDITION: otherwise top quality Fresh
  when available, frozen if cost and availability warrant

EGGS
  GRADE:
  CONDITION:
    USDA A, 100% candled
    Large
    Fresh
    USDA AA

BUTTER
  GRADE:

MILK & MILK PRODUCTS
  GRADE: US Grade A pasteurized

NONFAT DRY MILK
  GRADE: US Extra

BULK ICE CREAM
  GRADE: Minimum 12% milk fat, 80-
  100% overrun

FRESH VEGETABLES & FRUITS
  GRADE: US No. 1 or better

FROZEN VEGETABLES
  GRADE: A
CANNED FRUIT  GRADE:  US Grade A or Fancy in heavy syrup
CANNED VEGETABLES  GRADE:  US Grade A or Fancy
DRY GOODS  RICE:  Fancy or US No. 2
BEANS:  Grade A
BAKED PRODUCTS  At the CVB’s approval

PURCHASING SPECIFICATION  Proposers must submit a written purchasing specification for each of the sample items listed below. At least three (3) of the meat specifications must be for meat items specified in the recipes to be submitted for this Contract Agreement.
• Portion cut beef item
• Beef roast item
• Pork rib item
• Poultry item
• Lamb item
• Veal (calf) item
• Fresh fruit item
• Frozen vegetable item
• Canned fruit item
• Non-food item
SCHEDULE 5

MINIMUM OPERATING STANDARDS REQUIREMENTS

1 A detailed product branding plan utilizing a series of national, regional, and local branded products both as singular entities and as products marketed under another umbrella name.

2 A high level of personal service to guests as evidenced by the following:
   (a) No greater than a 1:150-1:175 POS ratio of the number of POS stations to guests at the Facilities – as evidenced by a written plan noting all locations and number of POS and strategy to accomplish this goal.
   (b) Qualified management team at all venues – minimal qualifications of all managers presented should include at least five (5) years of senior food management responsibility in the convention center/performing arts center field, degrees in hotel/restaurant management from recognized colleges/universities in that field, and a high-quality service plan that meets or exceeds same at other similar very high-quality service facilities.

3 A professional uniform plan for each of the venues serviced – presented in written and graphic form with budgeted costs noted.

4 A qualified management staff as detailed to every degree herein.
5. Ongoing service training and detailed information supporting this in TIPS, TEAM, HACCP, etc. programs.

6. Demonstrated ability to develop maximum gross receipts and potentials from similar-type operations. This demonstration shall demonstrate per capita receipts over at least five (5) consecutive operating seasons at the following levels:

- Special function services – extensive catering menus for breakfast, lunch, and dinner showing local market pricing and cost justifications for same
- Cost and control results in similar operations generating at least $5,000,000 per year in food/beverage receipts over the past five (5) consecutive years as follows:
  - Labor cost – not greater than 25.0% of gross sales blended average for mobile and fixed concessions operations (excluding taxes) and 32.0% blended average of gross sales for all banquet/catering services (excluding taxes) under this contract
  - Food cost – not greater than 29.5.0% blended average all areas where food is served

* Above results to be certified via audited Statements for facilities currently in operation by an outside, professional accounting firm.
SCHEDULE 6

SANITATION REGULATIONS AND PROJECT INSPECTIONS

REGULATIONS

The following shall establish the minimum sanitation guidelines to be followed by the Contactor:


2. All State of Ohio Acts and Regulations governing foodservice operations sanitation.

3. All applicable Regulations of the City of Toledo and its Health Department.

4. All applicable Federal Government Acts and Regulations.

5. Appropriate voluntary codes and guidelines established by trade associations and other groups operating within the food industry.

6. Any specific guidelines established by the CVB and set out herein or from time to time through memoranda from the CVB to the Contractor.
1. Formal inspections of the foodservice facilities may be conducted a minimum of four (4) times a year (January, April, July, October) by the CVB’s Designee, accompanied by the Contractor.

2. Semi-formal inspections of the foodservice facilities are to be conducted at selected intervals by the Contractor and the CVB’s Designee. A formal inspection checklist is to be prepared and completed by the Contractor and submitted to the CVB not later than three (3) working days following the inspection. A complete report of corrective measures taken or to be taken for any deficiencies noted should accompany the inspection report.

3. Informal inspections of the foodservice facilities are to be conducted daily by the Contractor with immediate corrective measures taken for any deficiencies noted.
APPENDIX A

THE SEAGATE CONVENTION CENTRE AND HUNTINGTON CENTER

FOOD/BEVERAGE OPERATIONS CONTRACT

AFFIDAVIT

State of
County of , ss: being first duly sworn, deposes and says that he is the ________________ of ____________, with offices located at ________________________, and its duly authorized representative states that effective this ______ day of _________________, 20___, (date of submission of bid) the ____________ (Name of Contractor) is not charged with delinquent personal property taxes on the general list of personal property in Lucas County, Ohio, or any other cities or counties containing property in the taxing districts under the jurisdiction of the Auditor of Lucas County, Ohio

() is charged with delinquent personal property taxes on the general list of personal property in Lucas County, Ohio, or any other cities or counties containing property in the taxing districts under the jurisdiction of the Auditor of Lucas County, Ohio

Amount (include total amount and any penalties and interest thereon)

$____________________

$____________________

$____________________

$____________________

$____________________

(Affidavit)

Sworn to and subscribed this _____ day of ________________, 20__.

__________________________ (Notary Public)

My Commission Expires:

___________, 20__.
APPENDIX C

FOOD SERVICE EQUIPMENT LIST AND PLANS

The existing Foodservice Equipment List and Reduced Plans are provided herein for reference purposes – these are enclosed separately as an enclosure to the RFP.
INSTRUCTIONS TO PROPOSERS, PROPOSAL BID FORMS
BUSINESS QUESTIONNAIRE, SAMPLE CONTRACT FOR SERVICES
AND OTHER RELATED DOCUMENTS

Prepared By:
THE TOLEDO-LUCAS COUNTY CONVENTION AND VISITORS BUREAU, INC.

For the:
FOOD/BEVERAGE OPERATIONS AGREEMENT

At:
THE SEAGATE CONVENTION CENTRE AND THE HUNTINGTON CENTER ARENA
TOLEDO, OHIO

PART 2 OF 2

DECEMBER 2011