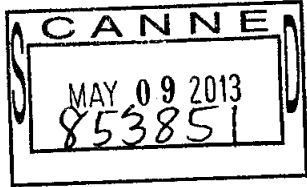


**LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®**



**GATE GOURMET, INC.**

**OPERATING PERMIT NO. AL-315**

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LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®  
OPERATING PERMIT

GATE GOURMET, INC.

THIS PERMIT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013 (“**Permit**”), by and between the City of St. Louis, a municipal corporation of the State of Missouri (“**City**”) and Gate Gourmet, Inc., a corporation organized and existing under the laws of the State of Delaware (“**Permittee**”).

RECITALS

The City owns and operates the Lambert-St. Louis International Airport®, located in the County of St. Louis, State of Missouri.

Permittee wishes to provide in-flight catering services at the Airport and, to that end, desires to enter into this Permit for the use of the Airport and its facilities.

The City is willing to grant Permittee certain rights and privileges for the use of the Airport and its facilities upon the terms and conditions set forth herein.

The parties, therefore, agree as follows:

ARTICLE I

MEANINGS AND CONSTRUCTION

Section 101. Meanings and Construction. Except as otherwise clearly indicated by the context, the words and phrases defined in this Section shall have the following meanings when used elsewhere in this Permit.

“**Airfield Operations Area**” or “**AOA**” means those areas of the Airport used for the landing, taking-off, movement, and parking of aircraft, as the same now exist or as the same hereafter may be added to, modified, changed, or developed.

“**Airport**” means the Lambert-St. Louis International Airport, together with any additions, improvements, or enlargements made from time to time.

“**Airport Director**” means the Airport Director of the City or the person performing the functions of that office, as authorized by the City’s Mayor, or that person authorized by the Airport Director to act for or on behalf of the Airport Director with respect to any particular matter under this Permit.

**“Environmental Laws”** means all applicable federal, state, and local statutes, ordinances, regulations, rules, laws, permits, permit conditions, and orders relating to the generation, emission, discharge, release, use, storage, transportation, or disposal of pollutants, contaminants, Hazardous Materials, wastes, hazardous substances, or chemicals or the preservation or regulation of the environment or natural resources including, without limitation, the Clean Air Act, 42 U.S.C. §7401 *et seq.*; the Clean Water Act, 33 U.S.C. §1251 *et seq.*, and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.*; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 *et seq.*; the Noise Control Act, 42 U.S.C. §4901 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §651 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, as amended by the Hazardous and Solid Waste, Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §5101 *et seq.*; the Endangered Species Act, 16 U.S.C. §1531 *et seq.*; the National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*; the Toxic Substance Control Act, 15 U.S.C. §2601 *et seq.*; the Atomic Energy Act, 42 U.S.C. §2011 *et seq.*; and the Nuclear Waste Policy Act of 1982, U.S.C. §10101 *et seq.*, as such statutes and laws may be amended from time to time, all regulations, rules, executive orders, policies and instructions pertaining to and lawfully promulgated pursuant to such statute or law as they now exist or may be amended from time to time.

**“Environmental Permits”** means any and all permits, licenses, approvals, authorizations, consents, or registrations required by Environmental Laws, whether federal, state or local, and any duly filed environmental covenant or land use restrictions applicable to the Airport or the Premises.

**“Event of Default”** means an Event of Default as defined in Section 1001.

**“Fees”** means for any Fiscal Year, the fee payable by Permittee pursuant to Article V.

**“Federal Aviation Administration”** or **“FAA”** means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

**“Fixed Base Operator Apron”** means those aircraft parking areas adjacent to the Fixed Base Operator terminal areas, as show on the attached Exhibit “A”

**“Hazardous Materials”** means friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum, or crude oil or any fraction thereof, natural gas, source material, special nuclear material, byproducts, pesticides, hazardous waste, toxic substance, or any material defined or treated as a hazardous substance, hazardous

waste, regulated special waste, toxic substance, or contaminant (or comparable term) under any of the Environmental Laws.

**“Notice”** means a communication between the parties to this Permit performed in accordance with the requirements of Subsection 1112(B).

**“Passenger Facility Charge or PFC”** means charges imposed by the City pursuant to 49 U.S.C. §40117 as amended or supplemented from time to time, and 14 C.F.R. Part 158 as amended or supplemented from time to time.

**“Premises”** means the area or areas described in Section 201, and shown on Exhibit “A,” that has or have been designated by the City as the Terminal Complex Apron and Fixed Base Operator Apron areas.

**“Remediation Costs”** means any reasonable losses, expenses, or costs incurred by the City in connection with environmental remediation -- (i) required by the appropriate governmental agency responsible for enforcing Environmental Laws or Environmental Permits, and (ii) attributable to Hazardous Materials left on City property in violation of Environmental Laws or Environmental Permits, and caused by, or arising out of, Permittee’s operations at the Airport or Permittee’s use or lease of the City’s property. Remediation Costs include investigation and evaluation costs, costs to implement institutional controls or restrictive covenants, sampling and analysis costs, reporting costs, planning and design costs, consultant and contractor costs, labor costs, equipment costs, construction costs, access costs, disposal costs, transportation costs, reasonable administrative costs, reasonable attorneys’ fees and other legal fees and litigation expenses, permit fees and costs, monitoring costs, oversight and inspection costs, claims, demands, causes of action, suits, judgments, damages, compensation, debts, costs, expenses, losses, penalties, fines, stipulated penalties, punitive damages, and other similar liabilities arising out of Permittee’s violation of Environmental Laws or Environmental Permits.

**“Rules and Regulations”** means those lawful, reasonable, and not unjustly discriminatory rules and regulations, including ordinances and operating directives, promulgated by the Airport Director, the Airport Commission, or the City from time to time for the orderly operation of the Airport.

**“Terminal Complex Apron”** means those aircraft parking areas adjacent to the Airport Terminals and Concourse gate areas, as show on the attached Exhibit “A”.

**“Transportation Security Administration” or “TSA”** means the Transportation Security Administration created under the Aviation and Transportation Security Act of 2001, as amended, or any successor agency thereto.

Section 102. Interpretation. References in the text of this Permit to articles, sections, paragraphs, or exhibits pertain to articles, sections, paragraphs, or exhibits of this Permit, unless otherwise specified.

The terms "hereby," "herein," "hereof," "hereto," "hereunder," and any similar terms used in this Permit refer to this Permit.

Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies, as well as natural persons.

Any headings preceding the text of the articles and sections of this Permit, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Permit, nor shall they affect its meaning, construction, or effect.

Words importing the singular shall include the plural and vice versa. Words of any gender shall be deemed to include correlative words of the other gender.

The term "including" shall be construed to mean "including without limitation," unless otherwise expressly indicated.

All references to number of days shall mean calendar days.

Words used in the present tense include the future.

## ARTICLE II

### PREMISES

Section 201. Premises. The Premises for which Permittee is granted use and access in accordance with the terms of this Permit is shown on **Exhibit "A"**, attached hereto and made a part hereof, and is more fully described as the Terminal Complex Apron and Fixed Base Operator Apron areas. As it pertains to the Terminal Complex Apron, Permittee is granted use on a joint use basis with all other authorized users. As it pertains to the Fixed Base Operator Apron areas, use shall be subject to permission from the existing Lessee of each Fixed Base Operation for ingress and egress to its premises. The use granted in Section 301 herein, may be exercised only within the Premises.

Section 202. Access. Subject to the payments, terms, covenants and conditions of this Permit, Permittee has the right of free access, ingress to and egress from the Premises, for Permittee's employees, agents, guests, patrons and invitees.

### ARTICLE III

#### USE OF PREMISES

Section 301. Use. City hereby grants to Permittee, subject to all the terms, covenants, and conditions of this Permit, permission to use the Premises for the delivery of prepared food and beverages to aircraft under the control of Permittee's customers, for which the delivery has been previously arranged and is necessary for the operation of an in-flight catering business as contemplated in this Permit. This Permit does not grant the use of any parking area by Permittee unless specifically granted.

No sale of any goods or services to the public or to employees of any airport tenant is authorized. Violation of this restriction may result in immediate termination of this Permit. Notwithstanding the foregoing, City acknowledges that Permittee may use the excess capacity of its kitchen and/or food processing facilities in order to prepare products that may be sold to parties outside the Premises and the Airport (**“Non-Airport Products”**).

If after exhausting or abandoning any further appeals, Permittee is prevented for a period of thirty consecutive days by action of any governmental agency other than the City from conducting its in-flight catering business at the Airport, City may terminate this Permit by giving thirty days written notice to the Permittee.

Section 302. Restrictions on Exercise of Rights and Reservation of Rights to City. The rights established in this Article shall not be exercised so as to interfere with the City's operation of the Airport for the benefit of all aeronautical users, and shall be subject at all time to the restrictions herein and reservation of rights by the City.

Section 303. No Interference with Operations. If the City determines that Permittee or its contractors are exercising the rights and privileges granted to Permittee pursuant to this Article (i) in a manner which interferes with the operation or maintenance of the Airport; (ii) in a manner which adversely affects the health, safety or security of the public or other users of the Airport; or (iii) in a manner which fails to comply with the City's Rules and Regulations or terms of this Permit, the City shall give Permittee Notice of such determination including the specific reasons therefore. Permittee shall promptly commence and diligently pursue actions necessary to correct the conditions or actions specified in such Notice. If such conditions or actions are not, in the opinion of the City, promptly corrected after receipt of such Notice or if such conditions or actions required corrective action over a period of time, and Permittee has not, in the reasonable opinion of the City, promptly commenced and diligently pursued all such corrective action, then upon 10 days Notice from the City to Permittee, the City may suspend Permittee's or its contractor's access to the Airport. Notwithstanding the foregoing provision, the City shall have the right, upon Notice to Permittee, to immediately suspend operations of Permittee or of said contractors if such action is necessary to protect the health, safety or security of the public or other users of the Airport or in emergency situations.

Section 304. Integration with Systems. Permittee shall not knowingly do, or permit to be done, anything that may interfere with the effectiveness or accessibility of the drainage, sewer, water, communications, heating or ventilation, air conditioning, natural gas, sprinkler, alarm or fire protection systems, fire hydrants and hoses, or any other part of the utility, electrical, or other systems installed or located from time to time at the Airport.

Section 305. Right to Designate Location. The City reserves the right to designate the locations within which all of the activities conducted at the Airport, including the activities authorized herein, shall be conducted, and to reasonably change such designations from time to time; provided, however, that the City shall comply with the provisions of this Permit if Permittee's Premises, or any portion thereof, are relocated as a result of any re-designation. The City shall provide reasonable prior notice prior to any amendment or relocation of the Premises.

Section 306. Airport Access. The City may, from time to time, temporarily or permanently close or restrict specific roadways, taxiways, taxi lanes, runways, apron areas, doorways, and any other area at the Airport; provided, however, that, unless an emergency situation exists, to the extent that the City deems it practical, Permittee shall be notified with regard to such closings in order to minimize the disruption of services being provided. The City shall have the right at any time or times to relocate, reconstruct, change, alter, or modify any such means of access provided for pursuant to this Permit or otherwise, either temporarily or permanently; provided that a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. The City shall reasonably notify Permittee of any such action.

Section 307. All Other Rights. Any and all rights and privileges not specifically granted to Permittee for its use of and operations at the Airport pursuant to this Permit are hereby reserved for and to the City.

Section 308. Strict Construction of Rights. The rights granted to Permittee hereunder may be exercised by Permittee only to the extent such rights are necessary or incidental to the conduct by Permittee of its in-flight catering business at the Airport, as provided in Section 301 hereof.

Section 309. Utilities. Permittee shall provide for and pay for all utilities it requires.

Section 310. Interference with Air Navigation. Permittee warrants, represents and agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of Part 77 of the Federal Aviation Regulations or subsequent and additional regulations of the Federal Aviation Administration, will be constructed or permitted to remain on the Premises. Permittee warrants, represents and agrees that any obstructions will be immediately removed by Permittee at its expense. Permittee warrants, represents and agrees not to increase the height of any structure or objects or permit the growth of



plantings of any kind or nature whatsoever that would interfere with the line of sight of the control tower and its operations. Permittee further warrants, represents and agrees not to install any structures, objects, machinery or equipment that would interfere with operation of navigation aides or that would interfere with the safe and efficient operations of the Airport, or interfere with the operations of other tenants and users of the Airport.

Section 311. Security Plan and Facilities. Permittee hereby acknowledges that City is required by the Transportation Security Administration's Regulation 1542, to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to air operations areas. City has met said requirements by developing a master security plan for the Airport, and Permittee covenants and agrees to be fully bound by and immediately responsive to the requirements of the plan in connection with Permittee's exercise of the privileges granted to Permittee hereunder. Permittee will promptly (within thirty days of the City's request) reimburse City for all fines or penalties imposed upon City by the TSA or the FAA resulting from Permittee's negligence or failure to act in relation to TSA regulation 1542 or any other applicable airport security regulations.

#### ARTICLE IV TERM

Section 401. Term. The term of this Permit shall begin as of April 1, 2013, and shall end on March 31, 2016 unless sooner terminated in accordance with other provisions of this Permit.

City or Permittee may terminate this Permit without cause by giving thirty (30) days written notice to the other party with no liability or cost to the terminating party and such termination shall be deemed a no fault cancellation.

Section 402. Holdover Provision. If Permittee shall, with the prior written approval of the Director, hold over after the expiration of the term of this Permit, the resulting tenancy shall, unless otherwise mutually agreed, be as a month-to-month tenant. During such month-to-month tenancy, Permittee shall pay to City the same Fees as set forth in the final year herein, unless different fees shall be agreed upon in writing by City and Permittee, and shall be bound by all terms, covenants and conditions of this Permit.

#### ARTICLE V FEE PAYMENT

Section 501. Fee Payment. Permittee agrees to pay to City a fee for the rights and privileges herein granted by City. Permittee warrants, covenants and agrees to pay the fee of seven percent (7%) of Permittee's Gross Revenue (as defined in Section 504 below) from the sale of food and beverages to its customers at the Airport.

Section 502. Notice, Place and Manner of Payments. Payment of fees contemplated herein shall be made by check, payable to the Treasurer, City of St. Louis, and shall be addressed to the Airport Fiscal Officer, P.O. Box 10036, St. Louis, Missouri, 63145, or at such other place as City may hereafter notify Permittee in writing.

Section 503. Reports. Permittee will submit to City by the 20th of the second and each succeeding month of the term hereof, two (2) copies of an accurate statement of the Gross Revenue (as defined in Section 504 below) for the preceding month and simultaneously therewith will pay to City an amount equal to the aforesaid percent of the Gross Revenue.

The statements of Gross Revenue will be certified by a responsible officer of Permittee, and will be in such form and of such content as required by the Director of Airports. The statement and payment thereon for the final month of the term hereof will be submitted on the 15th day of the next succeeding month.

Within one hundred and twenty (120) days after the close of each contract year and within one hundred and twenty (120) days after the expiration or early termination of this Permit, Permittee will furnish to City a statement certified by an independent Certified Public Accountant showing the total Gross Revenue collected at the Airport by Permittee during the contract year from the operations of Permittee on the Premises. This statement shall reflect the total amount payable to City based upon accumulated Gross Revenue for the contract year with the percentage fee payable. If as a result of such report Permittee has underpaid the Airport, Permittee shall make payment to City for the amount of underpayment within thirty (30) days of City's written notice. If said report shows an overpayment, Airport shall reimburse Permittee.

Section 504. Gross Revenue. The term Gross Revenue shall mean the gross receipts from all sales made and services performed for cash or credit at the Airport, regardless of when and whether paid for or not. Excluded from Gross Revenues will be federal, state, county and municipal sales taxes, other sales taxes, or any other pass through expenses separately stated and collected from customers. Also excluded from Gross Revenue will be receipts relating to Non-Airport Products.

Section 505. Accounting Records. Permittee shall maintain books, records, and accounts, including computerized records, relevant to the determination and payment of any fees due to the City in accordance with this Permit. Each such item of information shall be maintained for a period of at least three years following the expiration or early termination of this Permit, and longer if necessary for pending litigation. Permittee may maintain such books, records and accounts at its corporate offices, but shall make such material available at the Airport upon 15-day Notice.

Section 506. Audit. The City and such persons as may be designated by it, including its auditors and financial consultants, shall have the right, during normal business hours, with 10-day Notice to Permittee, to examine, audit, and make copies of the Permittee's books, records, and accounts, including computerized records maintained for the Permittee's operations pursuant to this Permit. Except as otherwise provided, the cost of

such examination or audit shall be borne by the City; provided, however, that the cost of such audit shall be reimbursed to the City by Permittee if: (i) the audit reveals an underpayment by Permittee of at least 10% for fee payments payable by Permittee hereunder for any Fiscal Year, as determined by such audit, or (ii) Permittee has failed to maintain books, records, and accounts in accordance with this Section.

Section 507. Unpaid Fees. All unpaid fee payments, charges, or other amounts due City under this Permit shall bear a service charge of one and one-half percent (1.5%) per month if same is not paid and received by City on or before the 30th of the month in which said payments are due, and Permittee agrees that it will pay and discharge all reasonable costs and expenses including without limitation reasonable attorneys' fees, court costs and litigation costs incurred or expended by City in collection of said delinquent amounts due including service charges.

Section 508. Security Deposit.

A. Amount and Form of Security Deposit. Upon execution of this Permit, Permittee shall provide the City with an irrevocable letter of credit, contract bond, or other security or instrument acceptable to the City ("Security Deposit") in an amount equal to three (3) months of estimated fees due the City pursuant to this Permit, as determined by the City based upon prior sales for Permittee's operations. The amount of the Security Deposit may be adjusted from time to time to reflect changes in Permittee's financial obligations to the City. The Security Deposit shall guarantee the faithful performance by Permittee of all of its obligations hereunder and the payment of all fees due to the City. The Security Deposit shall be kept in full force and effect throughout the term of this Permit as provided for in Section 508.B below. The Security Deposit shall be in such form and with such company licensed to do business in the State of Missouri as shall be acceptable to the City, within its reasonable discretion. The Security Deposit is not the sole or exclusive remedy of the City and shall not be construed, in and of itself, as adequate assurance of Permittee's future performance.

B. Term of Security Deposit. The Security Deposit shall remain in full force and effect throughout the term of this Permit and shall extend at least ninety (90) days following the expiration or early termination of this Permit. Permittee shall provide at least sixty (60) days prior Notice of the date on which any Security Deposit expires or is subject to cancellation.

C. City's Right to Use Security Deposit; Replenishment. If Permittee commits or is under an Event of Default pursuant to Article XI, the City shall have the right to use the amounts of such Security Deposit to pay Permittee's fees, or any other amounts owed to the City by Permittee then due and payable, or to apply the proceeds to any cost or expense or material damages incurred by the City as a result of Permittee's default, or Event of Default under Article XI. The City shall provide Permittee with prompt notice of any use of the Security Deposit funds. If any such Security Deposit, or portion thereof, is used as stated in this Subsection, Permittee shall replenish or provide a renewal or

replacement Security Deposit up to the full amount set forth in Subsection 508(A) within ten (10) days of being notified to do so by the City. The City's rights under this Section shall be in addition to all other rights and remedies provided to the City hereunder.

Section 509. Additional Fees and Charges. Permittee shall pay additional fees and charges under the following conditions:

A. If City has paid any sum or sums or has incurred any obligation or expense for which Permittee has agreed to pay or reimburse City for, or

B. If City is required or elects to pay any sum or sums or incur any obligations or reasonable expense because of the failure, neglect or refusal of Permittee to perform or fulfill any of the terms, covenants or conditions of this Permit and City has provided Permittee with thirty (30) days written Notice of such failure, neglect or refusal and Permittee has failed to timely cure such default as provided for in Article XI.

Such payments shall include all interest, reasonable costs, damages and penalties in conjunction with such sums so paid or expenses so incurred and may be added to any installment of fees and charges thereafter due hereunder. Each and every part of such payment shall be recoverable by City in the same manner and with like remedies as if it were originally a part of the basic fees and charges, as set forth herein.

For all purposes under this Permit, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum or sums by City for any work done or material furnished shall be prima facie evidence against Permittee that the amount of such payment was necessary and reasonable.

Section 510. Prompt Payments of Taxes and Fees. Permittee warrants, covenants and agrees to pay promptly all lawful general taxes, special assessments, excises, license fees, permit fees, and utility service charges of whatever nature, applicable to its operation at the Airport, and to acquire and keep current all approvals, licenses, municipal, state or federal, required for the conduct of its business at and upon the Airport, and further warrants, covenants and agrees not to permit any of said taxes, assessments, fees and charges to become delinquent.

## ARTICLE VI

### PERMITTEE'S OPERATIONS

Section 601. Standards of Service. Permittee shall furnish a first class operation serving the needs of its customers at the Airport, and offer high quality, prompt and efficient services that are adequate to meet all reasonable and customary demands thereof at the Airport on a fair, equal and nondiscriminatory basis to all categories of users and in a manner that will reflect credit upon Permittee and City. Permittee shall provide quality

services and products and shall equip, organize, put into service and manage efficiently their in-flight catering operation.

Section 602. Pricing. Permittee will charge commercially reasonable and nondiscriminatory prices for its products and services on a basis substantially similar to the prices charged for similar products and services at other airports serving like users; provided that the Permittee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar price reductions to volume purchasers as may be allowed under law.

Permittee represents, warrants and agrees that if the City receives a complaint alleging that the Permittee has or is charging unfair, unreasonable and/or discriminatory prices for services or products provided by the Permittee at the Airport, that the Permittee will, within ten (10) days of written notice from the Director of Airports of such complaint, provide the Director of Airports without limitation, schedules of fees for all services and products offered at the Airport, and any other information or documentation requested by the Director of Airports in order to determine whether the Permittee is in compliance with this section's requirements regarding commercially reasonable and nondiscriminatory pricing.

Section 603. Personnel.

A. Permittee shall require its employees to wear appropriate uniforms and badges to indicate the fact and nature of their employment. Permittee shall employ only properly trained, efficient, pleasant, neat, clean and courteous personnel, each of whom shall be reasonably proficient in the duties to be performed in the operation of this Permit. Permittee agrees that it will be responsible for ensuring that its employees abide by all applicable laws, rules and regulations. Permittee shall use its best efforts to prohibit and restrain its lessees, visitors and employees from objectionable behavior. Upon notice from the Director of Airports concerning objectionable conduct or appearance of any persons, Permittee shall immediately take all reasonable steps necessary to immediately correct the cause of the objection.

B. Permittee shall provide staff in adequate numbers to provide a high level of service.

C. Permittee shall not do or permit its agents, employees, and its contractors or suppliers while such contractors or suppliers are providing services to Permittee, to do anything at the Airport that would be in conflict with or violate the requirements of any federal, state, or local law, regulation or security directive regarding airport security, as they may be amended from time to time, or the Airport Security Program.

D. Permittee shall be responsible for obtaining and coordinating any security badging, vehicle decals, and/or any other actions required to ensure that Permittee's agents, employees, contractors, or suppliers are in compliance with the City's security plan, and any federal, state, or local law, regulation and security directive regarding airport security,

as they may be amended from time to time. Permittee shall be responsible for all costs associated with obtaining such badge and/or access privileges.

Section 604. Manager. Permittee shall at all times retain one or more qualified, competent and experienced managers who shall manage and supervise the operations and the facilities, and represent and act for Permittee. The manager shall ordinarily be available during regular business hours. A responsible subordinate shall be in charge and available at all times during the manager's absence.

## ARTICLE VII COMPLIANCE WITH LAWS

### Section 701. Observance and Compliance with Laws

(A) Permittee, its officers, directors, employees, agents, and its contractors and suppliers while such contractors and suppliers are providing services to Permittee, shall comply with:

- (i) all applicable federal, state and local laws and ordinances, including directives of the FAA applicable to the Permittee's operation at the Airport;
- (i) the Rules and Regulations governing the Airport; and
- (ii) the provisions of the Airport certification manual, as it may be amended from time to time.

(B) Notwithstanding anything to the contrary, references herein to a statute or law shall be deemed to be a reference to: (i) such statute or law as it may be amended from time to time, and (ii) all ordinances, regulations, rules, executive orders, policies and instructions pertaining, and lawfully promulgated pursuant, to such statute or law as they now exist or may be amended from time to time.

Section 702. Compliance with Environmental Laws. Permittee warrants and covenants that in conducting any activities or business at the Airport, including any activities directly related or incidental to its in-flight catering business, Permittee shall comply with any and all applicable Environmental Laws including any plans, monitoring, recordkeeping or programs prepared in conformance with Environmental Laws. Permittee further covenants and warrants as follows:

(A) Environmental Permits.

- (i) Permittee shall obtain and maintain any and all Environmental Permits required by applicable Environmental Laws to conduct the activities in which Permittee engages at the Airport.

(ii) Permittee shall comply with any requirement imposed by an Environmental Permit obtained by the City that is or are applicable to Permittee or Permittee's activities at the Airport, including any plans, monitoring, recordkeeping or programs prepared in conformance with such Environmental Permits or Environmental Laws; provided, however that the City shall adequately give Notice to Permittee of such applicable Environmental Permit, Environmental Law and associated requirements, including all applicable deadlines for compliance.

(iii) The City and Permittee shall cooperate to ensure compliance with the terms and conditions of any Environmental Permit, Environmental Law and any associated requirements to insure safety and to minimize cost of compliance.

(B) Duty to Notify City. In the event of any release or threatened release of Hazardous Materials caused, handled or owned by Permittee, its employees, agents, contractors, suppliers, passengers, guests, or invitees, and which is required by applicable Environmental Laws, Environmental Permits, Rules and Regulations, or any plan or program prepared in response to Environmental Laws or Environmental Permits to be reported by Permittee, whether as a result of negligent conduct or otherwise, at, on, under or about the Airport, or any portion thereof, or in the event any written claim, demand, complaint or action is made or taken against Permittee that pertains to Permittee's failure or alleged failure to comply with any Environmental Laws or Environmental Permits at the Airport or which pertains to the release of Hazardous Materials by Permittee at the Airport, Permittee shall notify the City as soon as reasonably practical of all known facts pertinent to such release, threatened release, claim, demand, complaint, action, or notice, and shall provide the City with copies of any and all such claims, demands, complaints, notices, or actions so made. If Permittee is required, by any Environmental Laws, Environmental Permits, or governmental agency, to file any written notice or report of a release or threatened release of Hazardous Materials at, on, under or about the Airport, or any part thereof, Permittee shall simultaneously provide a copy of such notice or report to the City.

(C) Environmental Remediation. Permittee shall undertake with all due diligence all necessary steps to remedy and remove at its cost any Hazardous Material, or environmental condition or damage to the extent caused by, or resulting from, the activities, conduct or presence of Permittee or its agents, employees, contractors, or suppliers at the Airport, whether resulting from negligent conduct or otherwise ("**Remediation Work**"). Such Remediation Work shall be consistent with remediation standards established by or derived from the appropriate government agency responsible for enforcing Environmental Laws or Environmental Permits. Except in the event of an emergency, such Remediation Work shall be performed after Permittee submits to the City a written plan for completing such Remediation Work and receives the prior approval of the City through Notice; provided, however, that the City's approval shall not be unreasonably withheld or delayed. The City expressly reserves the right to review and approve any proposed: remedial investigations, remedial work plans, interim and final remedies, institutional controls, including environmental covenants, or other associated

documents prior to submittal to the relevant governmental agencies responsible for enforcing Environmental Laws or Environmental Permits and prior to recording any instrument or the land title. Specific cleanup levels for any Remediation Work by Permittee shall be designed to meet and satisfy the requirements of all applicable Environmental Laws and Environmental Permits and be consistent with the commercial use of the Airport, as determined by the governmental agency responsible for enforcing Environmental Laws or Environmental Permits or for establishing cleanup levels. Neither an ongoing remediation, including any testing or monitoring, nor the use of institutional controls, shall either unreasonably or materially impair or interfere with the City's use and enjoyment of its property or the Airport, or that of current and future Airport users or tenants. Upon reasonable notice, the City shall have the right to conduct a reasonable review and inspect all such Remediation Work at any time using consultants and representatives of its choice at City's sole expense. Such inspection shall not unreasonably interfere with Permittee's operations.

(D) Corrective Action by City. If Permittee fails to comply with any applicable Environmental Laws or Environmental Permits governing its activities at the Airport, or if Permittee fails to conduct necessary Remediation Work in a timely manner as required under this Section, the City, as required by applicable Environmental Laws and Environmental Permits, in addition to the rights and remedies described elsewhere herein and any other rights and remedies otherwise available to the City, may take all reasonable and necessary actions to conduct Remediation Work to remove Hazardous Materials or other contaminants for which Permittee is responsible under this Permit and remedy Permittee's non-compliance with such applicable Environmental Laws and Environmental Permits. All Remediation Costs incurred by the City shall be paid or reimbursed by Permittee. The City shall add the cost of the Remediation Work plus actual administrative costs, on the first day of the month following the date of such work, and such cost shall be and constitute a part of the Fee Payment. Subsequent to receipt of the City's Notice to perform the Remediation Work, the Permittee shall not undertake performance of such Remediation Work without the specific prior authorization from the City. Remediation Work, if necessary, and any other actions taken by the City pursuant to this Section, shall be performed in accordance with the provisions of Subsection 702(C), but only after first having provided Notice to Permittee of such failure to comply, and 30 days within which Permittee may demonstrate why no such alleged failure is present, or to timely remedy such alleged failure that may be present. If Permittee's compliance reasonably requires more than 30 days to complete, the City may take such reasonable and necessary measures to achieve compliance only upon Permittee's failing to timely begin curing such noncompliance within such 30 day period and to continue diligently working to achieve compliance thereafter.

(E) Review of Environmental Documents. At the reasonable request of the City, and at City's expense, Permittee shall make available for inspection and copying, at reasonable times, any and all non-privileged documents and materials Permittee has prepared pursuant to any applicable Environmental Laws or Environmental Permits, or submitted to any governmental agency, which documents and materials relate to



Environmental Laws or Environmental Permits and which pertain to the Airport or the Premises, and which would be discoverable in litigation.

(F) Cumulative Remedies. All remedies of the City as provided herein with regard to environmental pollution, contamination, damage, Hazardous Materials releases, or any actual or threatened violations of any applicable Environmental Laws or Environmental Permits are deemed to be cumulative in nature. The City's right to indemnification as provided under this Section shall survive the expiration or early termination of this Agreement.

(G) Pollution Control. In addition to all other requirements of this Permit, Permittee, at its cost, shall manage all its operations at the Airport in compliance with all applicable Environmental Laws, Environmental Permits, and with applicable best management practices outlined and delineated in the Airport's Storm Water Pollution Prevention Plan and Storm Water Management Plan, which shall be provided to Permittee at Permittee's request.

(H) Environmental Covenants. So long as they do not adversely impact Permittee's day-to-day operations at the Airport, Permittee will not object to and, if requested by the City, will subordinate any rights it has under this Permit to an environmental covenant or environmental land use restriction which (i) restricts the use of groundwater underlying the Premises or the Airport; (ii) limits the use of the Premises to nonresidential uses; and/or (iii) reasonably restricts access to soil and/or the disturbance of the soil underlying the Premises or the Airport.

### Section 703. Nondiscrimination.

(A) Permittee for itself, its personal representatives, successors in interest, and assigns, agrees that no person on the grounds of race, creed, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in (i) the use of the Airport; or (ii) the construction of any improvements on, over, or under the Airport, and the furnishing of services thereon.

(B) Permittee shall comply with all applicable nondiscriminatory requirements that may be imposed pursuant to the Federal Aviation Act of 1958, as amended; the Civil Rights Act of 1964, as amended; 49 C.F.R. Parts 21, 23, and 26, as said regulations may be amended; and state and local laws.

Section 704. Prevailing Wage. Permittee shall include in all service contracts pertaining to the Leased Premises language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor in accordance with the provisions of the Revised Code of The City of St. Louis, Chapter 6.20.

## ARTICLE VIII IMPROVEMENTS AND ALTERATIONS

Section 801. Construction by Permittee. Permittee shall not construct any improvements on the Premises.

Section 802. Signs. Permittee shall not place, paint, or erect any manner of signs or advertising upon the Premises without prior written approval of the Director of Airports, and such signs shall conform to standards established by said Director of Airports with respect to wording, type, size, design, color and location.

## ARTICLE IX INSURANCE AND INDEMNIFICATION

Section 901. Insurance.

General. Permittee at all times during the term hereof, shall cause St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, its officers, agents and employees and Permittee to be insured on an occurrence basis against the risk of all claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the activities or omissions of Permittee, its officers, agents, and employees pursuant to this Permit both on the Premises and the Airport.

A. Risks and Minimum Limits of Coverage. Permittee shall procure and maintain the following policies of insurance:

- i. Commercial General Liability in an amount not less than \$75 million. Such coverage shall be single limit liability with no annual aggregate.
- ii. Automobile Liability Insurance in an amount not less than \$2 million combined single limit per occurrence (for automobiles used by Permittee in the course of its performance hereunder, including Permittee's non-owned and hired autos). In addition, Permittee shall carry excess coverage in the amount of \$25 million to Permittee's automobile liability insurance.

- iii. Workers' Compensation and Employer's Liability Insurance in accordance with Missouri laws and regulations. With respect to Workers' Compensation Insurance, if Permittee elects to be self-insured, Permittee shall comply with the applicable requirements of law. Permittee shall require that all its subcontractors or licensees similarly provide such coverage (or qualify as a self-insured) for their respective employees. City, its officers, employees, or agents shall not be liable or responsible for any claims or actions occasioned by Permittee's failure to comply with the provisions of this Subparagraph and that the indemnification provisions hereof shall apply to this Section. It is expressly agreed that the employees of Permittee are not employees of the City for any purpose, and that employees of the City are not employees of Permittee.
  - iv. Contents Insurance. Permittee shall be solely responsible for obtaining insurance policies that provide coverage for losses of Permittee owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Permittee's cost for such insurance.
- C. Issuers of Policies. The issuer of each policy required herein shall be a financially sound insurance company authorized to issue insurance policies in the State of Missouri. Acceptable insurers include insurance companies with an "A.M. Best Company" rating of at least an "A," or other insurers or insurance syndicates of similar recognized responsibility.
- i. Form of Policies. The insurance may be in one or more policies of insurance.
  - ii. Non-waiver. Nothing the City does or fails to do shall relieve Permittee from its duties to provide the required coverage hereunder, and the City's actions or inactions shall not be construed as waiving the City's rights hereunder.
  - iii. Insured Parties. Each policy by endorsement, except those for Worker' Compensation, Employer's Liability, and the FAA War Risk Insurance Program, shall name the City, its officers, agents, and employees as "additional insured" on the certificate of insurance, including all renewal certificates, to the extent of Permittee's indemnification obligations hereunder. Inclusion as an "additional insured" is not intended to, and shall not, make the City a partner or joint venture with Permittee in its operations.
  - iv. Deductibles. Permittee shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Permittee's rights or increase Permittee's obligations in respect to its undertakings or hold harmless defense and indemnification set forth in Section 905 hereof.

- v. Cancellation. Each policy shall expressly state that it may not be cancelled, materially modified or non-renewed unless thirty days advance Notice is given in writing to the City by the insurance company, or authorized representative of Permittee.
  - vi. Subrogation. Each policy shall contain an endorsement by which the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents, or employees.
  - vii. Endorsement of Primary Insurance. Each policy hereunder except Workers' Compensation shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.
  - viii. Liability for Premium. Permittee shall be solely responsible for payment of all insurance premiums required pursuant to this Permit, and the City shall not be obligated to pay any premiums; provided, however, that if Permittee fails to obtain the insurance as required herein or make premium payments, the City may, without further notification, effect such insurance or make such payments on Permittee's behalf and, after Notice to Permittee, the City may recover the cost of those payments with the installment of fees next due plus 15% administrative charge, from Permittee.
  - ix. Proof of Insurance. Within thirty (30) days of the start date of this Permit and at any time during the term hereof, Permittee shall furnish the City with certificates of insurance. At least 5 days prior to the expiration of any such policy, Permittee shall submit to the City a certificate showing that such insurance coverage has been renewed. If such coverage is canceled or reduced, Permittee shall, within 15 days after the date of such notice from the insurer of such cancellation or reduction in coverage, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon reasonable notification by the City to Permittee, the City shall have the right to examine Permittee's insurance policies.
- D. Maintenance of Coverage. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Permittee, continuously and without interruption, maintain in force the required insurance coverages set forth above.
- E. City Right to Review and Adjust Coverage Limits. The City reserves the right at reasonable intervals during the term of this Permit to cause the insurance requirements of this Article to be reviewed, at its sole cost, by an independent insurance consultant experienced in insurance for public airports, taking into consideration changes in statutory law, court decisions, or the claims history of the airport industry as well as that of Permittee, and, based on the written recommendations of such consultant, and in consultation with Permittee, to reasonably adjust the insurance coverages and limits

required herein but not more often than every 24 months nor within the first 24 months of the Term of this Permit.

Section 902. Permittee Actions Affecting Insurance.

Permittee shall not knowingly do or permit to be done anything, either by act or failure to act, that may cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Permit. If such Permittee's act, or failure to act, causes cancellation of any policy, then Permittee shall immediately, upon notification by the City, do whatever is necessary to cause reinstatement of said insurance. Furthermore, if Permittee does or permits to be done any act or fails to do any act which causes an increase in the City's insurance premiums, Permittee shall immediately remedy such actions and/or pay the increase in premiums, upon Notice from the City to do so; but in any event, Permittee will hold the City harmless for any expenses and/or damage resulting from any such action.

Section 903. Adjustment of Claims. Permittee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of Permittee under this Permit.

Section 904. Occupancy of Premises. Permittee agrees that it will not permit any act of omission or commission or condition to exist on the Premises which would increase the premium rate of insurance thereon or on the terminal or invalidate any such insurance.

Section 905. Indemnification.

(A) Permittee shall defend, indemnify, and hold harmless St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their respective officers, agents and employees (the "**Indemnified Parties**") from and against any and all loss, liability, penalties, damages of whatever nature, causes of action, suits, claims, demands, judgments, injunctive relief, awards, settlements, costs, and expenses, including payments of claims of liability resulting from any injury or death of any person or damage to or destruction of any property including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees) of any nature, arising out of and in connection with this Permit, the conduct of Permittee's in-flight catering business, or Permittee's use of the Premises or other areas or facilities at the Airport by Permittee, its agents, employees, contractors, or subcontractors, including, but not limited to:

- (i) the acts or omissions of Permittee, its agents, employees, contractors, or suppliers; and
- (ii) Permittee's use of the Airport and the Premises

any violation by Permittee in the conduct of Permittee's in-flight catering business or its use of the Premises or other areas or facilities at the Airport of any provision, warranty, covenant, or condition of this Permit.

Permittee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

(B) Permittee shall defend, indemnify, pay, and hold harmless the Indemnified Parties from and against all applicable taxes and assessments for which the City may become liable and which by law may be levied or assessed on the Premises, or which arise out of the operations of Permittee or by reason of Permittee's use of the Premises. However, Permittee may, at its own risk, cost, and expense, and at no cost to the City, contest, by appropriate judicial or administrative proceedings, the applicability or the legal or constitutional validity of any such tax or assessment, and the City will, to the extent permitted by law, execute such documents as are necessary to permit Permittee to contest or appeal the same. Permittee shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authority and shall promptly deliver to the City, upon request by the City, copies of receipts of payment. If the City receives any tax billings falling within the scope of this paragraph, it will forward said billings to Permittee. Permittee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

(C) Permittee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature associated therewith in any way arising from or based in whole or substantial part upon claim or allegation of a violation of any federal, state, or local laws, statutes, resolutions, regulations, ordinance, or court order affecting the Airport, by Permittee, its agents, employees, contractors, or suppliers, in conjunction with Permittee's use of the Premises or its operations at the Airport. Permittee will, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not. Permittee shall include the substance of this Subsection (C) in every sublease, contract or other agreement which Permittee may enter into related to its activities at the Airport, and any such sublease, contract or other agreement shall specifically provide that the City is a third-party beneficiary of this and related provisions. This provision does not constitute a waiver of any other condition of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

(D) Permittee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature arising from or based in whole or part upon the presence in, or the release into, the environment or the Airport of any Hazardous Materials to the extent caused by, or resulting from, the acts or omissions of Permittee or its agents, employees, contractors, invitees, licensees, or suppliers at the Airport whether resulting from negligent conduct or otherwise.

- (E) If a prohibited incursion into the air operations area occurs, or if the Airfield Operations Area or sterile area security is breached, by or due to the negligence or willful act or omission of any of Permittee's employees, agents, contractors, or suppliers, and such incursion or breach results in a civil penalty action against the City, Permittee shall assume the defense of any such action and be responsible for any civil penalty or settlement amount required to be paid by the City as a result of such incursion or breach. The City shall notify Permittee of any allegation, investigation, or proposed or actual civil penalty sought for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAA or TSA regulations or security directives.
- (F) Permittee's obligation to defend and indemnify past officers, employees, and agents of the City shall apply to such persons only for claims, suits, demands, actions, liability, loss, damages, judgments, or fines arising from events, occurrences, and circumstances during which said officers, employees, and agents held their office or position with the City.
- (G) The City shall promptly notify Permittee of each claim, action, proceeding, or suit in respect of which indemnity may be sought by the City against Permittee hereunder, setting forth the particulars of such claim, action, proceeding or suit; shall furnish Permittee with a copy of all judicial filings and legal process and any correspondence received by the City related thereto; and shall tender the defense of same to Permittee.
- (H) The duty to defend, indemnify, hold harmless, and reimburse shall apply to any claim, demands, or suits made against the City for which Permittee is responsible pursuant to this Section. Provided, however, that upon the filing by anyone of a claim with the City for damages arising out of incidents for which Permittee herein agrees to indemnify and hold the City harmless, the City shall promptly notify Permittee of such claim and, if Permittee does not settle or compromise such claim, then Permittee shall undertake the legal defense of such claim both on behalf of Permittee and on behalf of the City, at Permittee's expense; provided, however, that Permittee shall immediately notify City if a conflict between the interests of Permittee and City arises during the course of such representation. Permittee shall use counsel reasonably acceptable to the City Counselor of the City or his or her designee, after consultation with the Airport Director, in carrying out its obligations hereunder. The provisions of this Section shall survive the expiration or early termination of this Agreement. It is specifically agreed, however, that the City, at its option and at its own expense, may participate in the legal defense of any claim defended by Permittee in accordance with this Section. Any final judgment rendered against the City for any cause for which Permittee is liable hereunder shall be conclusive against Permittee as to amount upon the expiration of the time for appeal therefrom. Nothing in this Article shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim of legal liability against the City. This Section shall not be construed as a waiver of the City's sovereign or other immunity.

(I) The City, at its own expense except as otherwise provided herein, shall be invited to attend and participate in all meetings (including those related to settlement) and to appear and participate in all judicial proceedings and to the extent of its interests, approve, in writing, the terms of any settlement related to any claim, action, proceeding or suit set forth in this Section.

(J) Notwithstanding the provisions of this Section, Permittee shall have no obligation to defend, indemnify, or hold harmless the City for any consequential damages or for any amounts to be paid in connection with losses, liabilities, penalties, damages of whatever nature, causes of action, suits, claims, demands, injunctive relief, judgments, awards and settlements because, and to the extent, of the negligence or willful misconduct of the City, but only if the City is conclusively determined to be more than 10% liable due to contributory negligence.

(K) This Section shall survive the expiration or early termination of this Permit. Permittee understands and agrees that any insurance protection furnished by Permittee pursuant to this Permit shall in no way limit Permittee's responsibility to indemnify and hold harmless the City under the provisions of this Permit.

Section 906. City Not Liable.

Unless otherwise expressly provided for in this Permit, the City shall not in any event be liable to Permittee for:

A. any acts or omissions of Permittee, its officers, directors, employees, agents, contractors, or suppliers, or for any conditions resulting from the operations or activities of Permittee's directors, officers, employees, agents, contractors, or suppliers;

B. Permittee's failure to perform any of the obligations hereunder or for any delay in the performance thereof;

C. any environmental condition in existence at the Airport, or any part thereof, which condition may interfere with Permittee's business or other operations or activities, or which might otherwise cause damages to Permittee through loss of business, destruction of property, or injury to Permittee, its officers, directors, employees, agents, contractors, suppliers, passengers, invitees, or licensees except to the extent such conditions are caused by the City, its employees or agents; or

D. bodily injury or any loss or damage to real or personal property or business income occasioned by flood, fire, smoke, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, vandalism, malicious mischief, or acts of war or terrorism, or for any injury, loss or damage not caused by the negligence, willful misconduct, or bad faith of the City.

Section 907. Waiver of Subrogation. Permittee, on behalf of itself and its insurers, hereby waives any claim or right of recovery from City, its Board of Aldermen, Airport



Commission, officers, agents and employees for loss or damage to Permittee or its property or the property of others under Permittee's control, to the extent that such loss is covered by valid insurance policies or could be covered by an "all risk" physical damage property insurance policy. Permittee shall provide notice of this waiver of subrogation to its insurers.

## ARTICLE X

### ASSIGNMENT AND SUBLETTING

Section 1001. Assignment and Subletting. Permittee shall not assign or transfer this Permit. Permittee shall not sublet the Premises.

Section 1002. Subcontracts. Permittee shall be entitled to subcontract certain segments of its operations to subcontractors. The Permittee shall inform the City of any subcontracts of services entered into by the Permittee.

## ARTICLE XI

### TERMINATION OF PERMIT IN ENTIRETY BY REASON OF DEFAULT

Section 1101. Events of Default.

Each of the following constitutes an "Event of Default" under this Permit:

A. Permittee fails to punctually pay when due any fees and charges, or any other sum required to be paid hereunder, and such failure continues for a period of fifteen (15) days after Notice of non-payment has been given to Permittee by the City.

B. Permittee fails to keep, perform and observe any promise, covenant or other provision of this Permit for a period of thirty (30) days after Notice specifying such failure by the City; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such thirty (30) day period, shall not give rise to the City's right to terminate this Permit if corrective action is instituted by Permittee within such thirty (30) day period and diligently pursued until the failure is corrected.

C. Any representation or warranty of a material fact made by Permittee herein or in any certificate or statement furnished to the City pursuant to or in connection herewith proves untrue in any material respect as of the date of issuance or making thereof, and such materiality is then continuing.

D. Permittee fails to meet and maintain any of the Security Deposit requirements in accordance with Section 508.

E. Permittee fails to maintain the minimum required insurance coverage as required by Article VIII for a period of thirty (30) days after Notice specifying such failure by the City, provided that the City shall have the right to immediately suspend Permittee's right to operate at the Airport until Permittee has obtained the minimum required insurance coverage.

F. Permittee fails to maintain true and accurate books, records, and accounts resulting in an underpayment of fees and charges by Permittee to the City, and such underpayment continues for a period of six months.

G. Permittee becomes insolvent (as such term is defined under Section 101 of the Federal Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), or any successor statute thereto); or fails to pay its debts generally as they mature; or takes the benefit of any present or future federal or state insolvency statute; or makes a general assignment for the benefit of creditors.

H. Permittee files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the Bankruptcy Code or under any other law or statute of the United States or of any state thereof, or under any law or statute of another country; or consents to the appointment of a receiver, trustee, custodian, liquidator, or other similar official, of all or substantially all of its property; or an order for relief is entered by or against Permittee under any chapter of the Bankruptcy Code.

I. Permittee is adjudged a debtor or bankrupt and/or an order is made approving a petition filed by any of Permittee's creditors or stockholders seeking Permittee's liquidation or reorganization under the Bankruptcy Code or under any other law or statute of the United States or any state thereof, and such order or decree is not stayed or vacated within sixty (60) days of its issuance.

J. A petition under any chapter of the Bankruptcy Code or an action under any federal or state insolvency law or statute, or an action under any insolvency law or statute of another country is filed against Permittee and is not dismissed or stayed within sixty (60) days after the filing thereof.

K. By or pursuant to, or under authority of any legislative act, resolution, or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, custodian, liquidator, or other similar official takes possession or control of all or substantially all of the property of Permittee and such possession or control continues in effect for a period of sixty (60) days.

L. Permittee becomes a corporation in dissolution.

M. The letting, license, or other interest of or rights of Permittee hereunder is transferred to, passed to, or devolved upon, by operation of law or otherwise, any other person, firm, corporation, or other entity, by, in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation, or other proceedings or occurrence described in subparagraphs (H) through (M) of this Section.

Section 1102. Permittee's Right to Terminate Permit by Reason of Default. Permittee, at its option, may declare this Permit terminated in its entirety by reason of default, in the manner provided in Section 1003 hereof for the following causes:

A. If a court of competent jurisdiction or other authorized governmental body issues an injunction or restraining order against City preventing or restraining the use of the Airport for airport purposes in its entirety or substantial entirety, or of a nature which substantially infringes upon Permittee's ability to conduct its business as contemplated by this Permit.

B. If City shall have abandoned the Airport for a period of at least sixty (60) days and shall have failed to operate and maintain the Airport in such manner as to permit landings and takeoffs of airplanes.

C. In the event of destruction of all or a material portion of the Airport or the Airport facilities, or in the event that any agency or instrumentality of the United States Government or any state or local government shall occupy the Airport or a substantial part thereof, or in the event of military mobilization or public emergency wherein there is a curtailment, either by executive decree or legislative action, of normal civilian traffic at the Airport or of the use of motor vehicles or airplanes by the general public, and any of said events shall result in material interference with Permittee's normal business operations or substantial diminution of Permittee's gross revenue from the operation at the Airport, continuing for a period in excess of sixty (60) days.

D. If City shall have failed in the performance of any term, covenant or condition within the control of City and herein required to be performed by City.

Section 1103. Procedures for Termination. No termination declared by either party shall be effective until not less than thirty (30) days have elapsed after notice by either party to the other specifying the date upon which such termination shall take effect, and the cause for which this Permit is being terminated and no such termination shall be effective if such cause of default is cured within said thirty (30) day period, or by its nature cannot be cured within such thirty (30) day period, and if the party at default commences to diligently correct such default within said thirty (30) days and corrects the same as promptly as is reasonably practicable.

In the event that suit shall be instituted by City upon the default of payment of charges and fees as provided herein, then Permittee agrees also to pay a reasonable attorneys' fees, court cost and litigation expenses.

Section 1104. Rights Cumulative. It is understood and agreed that the rights and remedies of City and Permittee specified in this Article are not intended to be, and shall not be exclusive of one another or exclusive of any common law right of either of the parties hereto.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

Section 1201. Relationship of Parties. Nothing herein contained is intended or shall be construed to create or establish any relationship other than that of an owner and permittee, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Permittee the general representative or agent of the City for any purpose whatsoever.

Section 1202. Amendment. Except as otherwise expressly provided herein, this Permit may not be changed, modified, discharged, or extended except by written amendment duly executed by the parties.

Section 1203. Subordination to Agreements with the United States.

A. This Permit shall be subordinated to the provisions of any existing or future agreement between the City and the United States Government or governmental authority, relating to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds or the approval to impose or use PFCs for the improvement or development of the Airport. Permit shall not cause the City to violate any assurances made by the City to the United States Government in connection with the granting of such federal funds or the approval of such PFCs.

B. All provisions of this Permit shall be subordinate to the rights of the United States of America to operate all of the Airport or any part thereof during time of war or national emergency. Such rights shall supersede any provisions of this Permit inconsistent with the operation of the Airport by the United States of America.

Section 1204. Subordination to Trust Indenture.

A. This Permit and all rights granted to Permit hereunder are expressly subordinated and subject to the lien and provisions of the pledges, covenants (including rate covenants), transfers, hypothecation, or assignments made by the City in the Trust Indenture and any Bond ordinance (including related documents authorized or approved by such ordinance) enacted by the City regarding the issuance of Bonds. The City expressly reserves the right to make such pledges and grant such liens and enter into covenants as it may deem necessary or desirable to secure and provide for the payment of Bonds, including the creation of reserves therefor; provided, however, that if the City adopts an amendment to the Trust Indenture that materially affects the method of calculation of Rents, Fees, and Charges as set forth in this Permit, Permittee may terminate this Permit with Notice to the City no later than thirty (30) days after the adoption of such amendment to the Trust Indenture.

B. Permittee understands that the City is and will be the issuer of Bonds. With respect to outstanding Bonds that may be issued in the future, the interest on which is intended to be excludable from gross income of the holders of such Bonds for federal income tax purposes under federal law, Permittee shall not act, or fail to act (and will immediately cease and desist from any action, or failure to act) with respect to the use of the Leased Premises, if the act or failure to act may cause the City to fail to be in compliance with the provisions of federal law with respect to those types of Bonds, as it now exists or may be amended, supplemented, or replaced, or the regulations or rulings issued thereunder, nor will Permittee take, or persist in, any action or omission that may cause the interest on the tax-exempt Bonds either (i) not to be excludable from the gross income of the holders thereof for federal income tax purposes; or (ii) to become subject to the alternative minimum tax for federal income tax purposes.

Section 1205. Certificate in Connection with Issuance of Bonds. In connection with any issuance of Bonds by the City, upon not less than thirty (30) days prior request by the City, Permittee shall deliver to the City a statement in writing certifying:

A. that this Permit is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that the Permit as modified is in full force and effect);

B. that to Permittee's knowledge the City is not in default under any provision of this Permit, or, if in default, the nature thereof in detail; and

C. such further matters as may be reasonably requested by the City, it being intended that any such statement may be relied upon by the parties involved in such issuance of Bonds.

Section 1206. No Third Party Beneficiaries. This Permit is for the sole benefit of the parties hereto and their permitted assigns and nothing herein expressed or implied shall

give or be construed to give to any person or entity other than the parties hereto and their assigns any legal or equitable rights hereunder.

Section 1207. Exhibits. All certificates, documents, exhibits, attachments, riders, and addenda referred to herein, including the exhibits referred hereto, are hereby incorporated into this Permit by reference and made a part hereof as though set forth in full in this Permit to the extent they are consistent with its conditions and terms.

Section 1208. Survival of Warranties. All warranties and covenants set forth in this Permit shall survive the execution and performance of this Permit.

Section 1209. Quiet Enjoyment. Upon payment of all amounts due hereunder and performance of the covenants and agreements on the part of Permittee to be performed hereunder, the City shall not act or fail to act, except as otherwise provided by this Permit, in a manner that will prevent Permittee from peaceably having and, in accordance with the terms hereof, enjoying the Leased Premises and all rights, licenses, services, and privileges of the Airport and its appurtenances and facilities granted herein.

Section 1210. No Personal Liability.

A. The City shall not be liable for any acts or omissions of any tenant or any condition resulting from the operations or activities of tenants or their representatives.

B. No director, officer, employee, or agent of the City or Permittee shall be charged personally or held contractually liable by or to the other party under any term or provision of this Permit or because of any breach hereof or because of its or their execution of this Permit. Any administrative complaint brought against the City relating to any aspect of this Permit shall be brought against the City and not against named individual respondents.

Section 1211. Governing Law and Forum Selection. This Permit is made and entered into in the State of Missouri, and Missouri law shall govern and apply to this Permit. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Permit shall be brought only in a federal or state court in the City of St. Louis, Missouri. Permittee and the City hereby admit and consent to the jurisdiction and venue of such courts. The provisions of this Section shall survive the expiration or termination of this Permit.

Section 1212. Communications and Notices.

A. Except as otherwise expressly provided in this Permit, all communications, including notifications, requests, authorizations, approvals, demands, and consents provided for hereunder shall be in writing.

If to the City, to:        Airport Director  
                                 Lambert-St. Louis International Airport

10701 Lambert International Boulevard  
St. Louis, Missouri 63145

If to Permittee, to: General Manager  
Gate Gourmet, Inc.  
8725 Scudder Rd.  
Berkeley, Missouri 63140

or to such other person or address as either the City or Permittee may hereafter designate by Notice to the other in accordance with Subsection 1112(B).

B. All Notices required by this Permit shall be mailed via certified mail return-receipt requested, via overnight mail with receipt, or personally delivered to the City and Permittee at the addresses set forth in Subsection 1112(A), with copy to:

If to the City: Office of the City Counselor  
Airport Legal Department  
10701 Lambert International Boulevard  
St. Louis, Missouri 63145

If to Permittee: Legal Department  
Gate Gourmet, Inc.  
11710 Plaza America Drive, Suite 800  
Reston, VA 20190

or to such other person or address as either the City or Permittee may hereafter designate by Notice.

Except as otherwise expressly provided hereunder, any such Notice shall be deemed to have been given or made: (i) if sent by certified mail, 5 days after being deposited in the mails, postage prepaid and properly addressed; (ii) if via overnight mail, the next business day; and (iii) if delivered by personal service, when delivered to the addressee.

Section 1213. Force Majeure.

A. Neither party hereto shall be liable to the other for any failure, delay, or interruption in performing its obligations hereunder due to acts, events or conditions beyond its control, including acts of God, weather conditions, shortages of energy or materials, embargoes, riots, rebellions, sabotage, acts of a public enemy, war, terrorism, insurrection, strikes, boycotts, picketing, slow-downs, work stoppages or other labor actions affecting the rights or obligations of the City or Permittee hereunder, their respective contractors or subcontractors, except to the extent that such failure, delay or interruption directly or indirectly results from failure on the part of the City or Permittee to use reasonable care to prevent, or make reasonable efforts to cure, such failure, delay or interruption; provided, however, that, except as herein specifically provided, nothing in this Section is intended

or shall be construed to abate, postpone or in any respect diminish Permittee's obligations to make any payments due to the City pursuant to this Permit.

B. The City and the Permittee shall be under no obligation to supply any service if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any law, ordinance, rule, regulation, requirement, order or directive of any federal, state, county or municipal government having jurisdiction.

Section 1214. Invalid Provisions. If any covenant, condition, or provision in this Permit is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, or conclusively determined to be inconsistent with federal law or FAA grant assurances, such covenant, condition, or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Permit shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Permittee in its respective rights and obligations contained in the valid covenants, conditions, or provisions of this Permit.

Section 1215. No Waiver. No provision of this Permit shall be deemed to have been waived by either party unless such waiver is in writing, signed by the party making the waiver and addressed to the other party, nor shall any custom or practice that may evolve between the parties in the administration of the terms of this Permit be construed to waive or lessen the right of either party to insist upon the performance of the other party in strict accordance with the terms of this Permit.

Section 1216. City's Rights and Remedies are Cumulative. All rights and remedies of the City as provided herein and under law are cumulative in nature.

Section 1217. Construction of Agreement. The parties hereto acknowledge that they have thoroughly read this Permit, including any exhibits or attachments hereto and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein. The parties further acknowledge that this Permit is the result of extensive negotiations between the parties and shall not be construed against the City by reason of the preparation of this Permit by the City.

Section 1218. Timing. The parties expressly agree that time is of the essence in this Permit. Failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the other party, without liability, of any obligation to accept such performance.

Section 1219. Representatives. The City and Permittee shall each designate a representative who, except as otherwise provided hereunder, shall be authorized to act for



the City and Permittee, respectively, with respect to any actions to be taken by either of them under the terms of this Permit. Except as specifically set forth herein, for the purposes of actions to be taken by it or by the City, the City's representative shall be the Airport Director. Permittee's representative shall be designated in a Notice delivered to the City. Any party hereto may change its designated representative by Notice to the other party.

Section 1220. Approvals.

A. Whenever in this Permit any approval is required, such decision shall be promptly rendered and shall not be unreasonably withheld or conditioned. No disapproval shall be valid if such disapproval constitutes an anticompetitive act as described by a federal agency having jurisdiction over such matters.

B. Unless otherwise required by state or local law, wherever in this Permit the approval, authorization, consent, certification, determination, waiver, or any other action of the City is required, it may be performed by the Airport Director, unless otherwise provided herein. In taking such actions, the Airport Director shall act reasonably, and take into consideration the best interest of the traveling public and the operations of the Airport.

C. In all instances in this Permit where consent or approval of one party is required for an action by the other party, such consent shall be in writing unless otherwise agreed by the parties.

Section 1221. Successors and Assigns. The terms, conditions, and covenants of this Permit shall inure to the benefit of, and be binding upon, the parties hereto and upon their permitted successors, assigns and sublessees, if any. This provision shall not constitute a waiver of any conditions regarding assignment or subletting contained in this Permit.

Section 1222. Authority to Execute. The person(s) executing this Permit on behalf of Permittee warrants to the City that Permittee is a duly authorized and existing corporation, that Permittee is qualified to do business in the State of Missouri, that Permittee has full right and authority to enter into this Permit, and that each and every person signing on behalf of Permittee is authorized to do so.

Section 1223. Entire Agreement. This Permit, including the attached exhibits, embodies the entire agreement between the City and Permittee relating to the subject matter hereof, and supersedes all prior agreements and understandings, written or oral, express or implied, between the City and Permittee relating thereto.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Permit the day and year first above written.

The foregoing Permit was approved by the Airport Commission at its meeting on 6<sup>th</sup> day of MARCH, 2013.

THE CITY OF ST. LOUIS BY:

[Signature] 3.6.13  
Commission Chairman  
and Director of Airports

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

[Signature] 3/7/13  
City Counselor  
City of St. Louis

[Signature] 4/23/13  
Comptroller,  
City of St. Louis

ATTEST TO BY:

[Signature] MAY 08 2013  
Register,  
City of St. Louis

COMPTROLLER'S OFFICE  
DOCUMENT NUMBER 65536

The foregoing Permit was approved in substance by the Board of Estimate and Apportionment at its meeting on the 21<sup>st</sup> day of MARCH, 2013.

BY: [Signature]  
Secretary,  
Board of Estimate & Apportionment

GATE GOURMET, INC.

BY: [Signature]  
Title: President  
Date: 2/27/13

GATE GROUP  
[Signature]

GATE GOURMET, INC.

BY: 

Title: CEO

Date: 2/27/13

Confidential  
garvinm@stlouis-mo.gov  
2020-01-16 13:25:08 +0000

## **Exhibit “A”**

### **Premises**

Confidential  
garvinm@stlouis-mo.gov  
2020-01-16 13:25:08 +0000