

HILLSBOROUGH COUNTY AVIATION AUTHORITY

AMENDMENT NO. 2 TO
LEASE AND CONCESSIONS CONTRACT
RETAIL AND DUTY FREE CONCESSIONS
TAMPA INTERNATIONAL AIRPORT

WDFG NORTH AMERICA, LLC

HILLSBOROUGH COUNTY AVIATION AUTHORITY
AMENDMENT NO. 2 TO
LEASE AND CONCESSIONS CONTRACT
RETAIL AND DUTY FREE CONCESSIONS
TAMPA INTERNATIONAL AIRPORT

THIS AMENDMENT NO. 2 to the Lease and Concessions Contract for Retail and Duty Free Concessions at Tampa International Airport (Contract), dated June 4, 2015, by and between Hillsborough County Aviation Authority, an independent special district under the laws of the State of Florida (Authority), and WDFG North America, LLC, a limited liability corporation authorized to do business in the State of Florida (Concessionaire), is entered into this day of _____, 2021.

WITNESSETH:

WHEREAS, on June 4, 2015, Authority and Concessionaire entered into the Contract at Tampa International Airport (Airport); and

WHEREAS, on August 6, 2020, Amendment No. 1 to the Contract allowed for an abatement and relief period of the Minimum Annual Privilege Fee (MAPF) and Premises Rent during the COVID-19 pandemic; and

WHEREAS, in exchange for the Authority's entering into Amendment No. 1, Concessionaire released the Authority from any and all claims, liabilities, and obligations asserted against the Authority or any Released Parties arising out of or in any way related to the Authority's acts or omissions in response to the COVID-19 pandemic; and

WHEREAS, Concessionaire agrees to continue providing the Concession at the Airport in accordance with the terms and conditions of the Contract.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Parties do agree that the Contract is amended as follows:

1. The above recitals are true and correct and are incorporated herein.
2. ARTICLE I. DEFINITIONS, Section 1.01, Definitions, Paragraph W, Minimum Annual Privilege Fee, is deleted in its entirety.
3. ARTICLE I. DEFINITIONS, Section 1.01, Definitions, Paragraph Y, Percentage Fee, is deleted in its entirety and replaced with the following:

Y. Percentage Fee: The annual fee paid by Concessionaire to Authority, calculated in accordance with Section 5.03.

4. ARTICLE I. DEFINITIONS, Section 1.01, Definitions, Paragraph CC, Privilege Fee, is deleted in its entirety and replaced with the following:

CC. Privilege Fee: The annual fee paid by Concessionaire to Authority as consideration for the privilege of concession rights at the Airport comprised of the Percentage Fee.

5. ARTICLE II. SUMMARY OF CONTRACT PROVISIONS, Summary of Contract Provisions Table, Thirteenth row, Initial MAPF, is deleted in its entirety.

6. ARTICLE V, RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS, Section 5.03, Privilege Fee, is deleted in its entirety and replaced with the following:

In consideration of the rights granted herein to operate the Concession at the Airport, Concessionaire agrees to pay to Authority for each Contract Year, or portion thereof, a Privilege Fee equal to the Percentage Fee. The payment of this Privilege Fee is not a payment of rent, but is a payment excluded from the tax imposed by Florida Statute Section 212.02(10)(U).

- A. Percentage Fee. Commencing October 1, 2021, Concessionaire shall pay a Percentage Fee for each Contract Year in an amount equal to Gross Receipts for the Contract Year multiplied by the Percentage Fee Rate stated in the Summary of Contract Provisions.
- B. Payment of Privilege Fee. Within ten (10) days after the end of each month during the Term, Concessionaire shall pay to Authority the Percentage Fee in the amount, of Gross Receipts multiplied by the Percentage Fee Rate, as shown on the Monthly Concession Report required in Section 5.07.

7. ARTICLE V, RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS, Section 5.07, Record Keeping, Reports, Annual Audit, and End of Year Adjustment, Paragraph C, Annual Audit, is deleted in its entirety and replaced with the following:

C. Annual Audit. No later than ninety (90) days after the end of each Contract Year during the Term, Concessionaire shall, at its sole cost and expense, provide an annual audit report by an independent Certified Public Accountant, licensed in the State of Florida and acceptable to Authority, of Concessionaire's monthly Gross Receipts and the amounts paid to Authority as a Privilege Fee for the subject Contract Year or part thereof (said annual audit report hereinafter referred to as Annual Report). There may be no limitation on the scope of the engagement that would preclude the auditor from expressing an unqualified opinion as to the correctness and completeness of the reported Gross Receipts. The engagement will include a Schedule of Gross Receipts and Privilege Fees for each month of the Concessionaire's operations in the Contract Year, prepared in accordance with the comprehensive basis of accounting defined herein and reported in a format acceptable to Authority. The engagement will be conducted in accordance with Generally Accepted Auditing Standards and shall include an opinion on whether the Schedule of Gross Receipts and Privilege Fees has been completely and accurately presented, calculated and reported according to the terms of this Contract.

Authority reserves the right to challenge any findings or conclusions of the Annual Report if it believes an error may have occurred. In such event, Authority may conduct its own audit under the provisions in Section 5.10 or may require production of the supporting documentation used to reach the finding or conclusion in question. The resolution by Authority of any dispute will be final. Delivery of an Annual Report containing a qualified opinion, or an adverse opinion, or a disclaimer of opinion as defined in the Statements on Auditing Standards, as may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, or any successor board or agency thereto, will be deemed a material breach of this Contract.

8. ARTICLE V, RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS, Section 5.09, Form of Payment, second paragraph, is deleted in its entirety and replaced with the following:

Authority may require all payments of Premises Rent, Percentage Fee, and all other fees and charges to be made by Automated Clearing House electronic transfers, or other method as designated in writing by Authority. Concessionaire shall provide Authority with necessary information and authorizations as needed to facilitate such payments.

9. ARTICLE V, RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS, Section 5.10, Authority's Right to Perform Audits, Inspections, or Attestation Engagements, third paragraph, is deleted in its entirety and replaced with the following:

If, as a result of any engagement, it is established that Concessionaire owes additional rents, fees or charges to Authority, Concessionaire will pay such additional rents, fees and charges and Authority may assess interest in accordance with Section 5.05. If it is established that Concessionaire underreported Gross Receipts or underpaid fees related to Gross Receipts by three percent (3%) or more for the period under consideration, the entire expense of the engagement may be billed to Concessionaire. Any additional payments due shall be paid by Concessionaire no later than Concessionaire's next payment of the Privilege Fee to Authority. If it is established that Concessionaire underreported Gross Receipts or underpaid fees related to Gross Receipts by five percent (5%) or more for the period under consideration, Authority shall be entitled to terminate this Contract for cause upon thirty (30) days' written notice, regardless of whether the deficiency is paid. If as a result of any engagement, it is established that Concessionaire has correctly reported or over reported Gross Receipts or has paid fees related to Gross Receipts equivalent to or greater than the sum due, Authority shall refund Concessionaire and the entire expense of the engagement shall be paid by Authority.

10. ARTICLE XVI, SECURITY FOR PERFORMANCE, Section 16.01, Form of Security Deposit, second paragraph, is deleted in its entirety and replaced with the following:

The Security Deposit will be maintained throughout the Term of this Contract and any holdover or extension and will be in an amount equal to the sum of the Premises Rent plus Privilege Fee payable to Authority hereunder for a period of three (3) months. The Security Deposit will be issued by a bank or surety provider acceptable to Authority and authorized to do business in the State of Florida, and will be in a form and content satisfactory to Authority. Each time the Security Deposit expires it shall be renewed at the amount equal to the sum of the Premises Rent plus Privilege Fee payable for a period of three months then in effect. The Concessionaire shall provide the Authority with a renewal or replacement Security Deposit no later than sixty (60) days prior to the date of expiration.

11. ARTICLE XVII, PROPERTY DAMAGE, Section 17.04, Abatement of Fees, is deleted in its entirety and replaced with the following:

In the event of extensive damage or complete destruction as referenced in Section 17.02 and Section 17.03, the Premises Rent attributable to unusable Premises will abate from the date of casualty until such time as Authority issues notice to Concessionaire that the

unusable portion of the Premises can be re-occupied. Notwithstanding the foregoing, in the event the Premises are damaged or destroyed as a result of an act, omission, or negligence of Concessionaire, its employees, agents, representatives, invitees and/or subcontractors, Concessionaire's Premises Rent will not abate and Concessionaire will be responsible for all costs to repair or rebuild that portion of the Premises damaged or destroyed as a result thereof.

12. EXHIBIT B, PERMITTED USES, is revised as attached hereto.
13. EXHIBIT C, Monthly Concession Report, is revised as attached hereto.
14. Except as provided herein, all other terms and conditions of the Contract remain in full force and effect and are hereby ratified and confirmed. The Contract, Amendment No. 1, and this Amendment No. 2 represent the entire understanding between the Parties on the issues contained herein, either written or oral, and may only be amended by written instrument signed by both Parties.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have set their hands and corporate seals on this _____ day of _____, 2021.

HILLSBOROUGH COUNTY AVIATION AUTHORITY

ATTEST: _____
Commissioner Stacy R. White
Assistant Secretary/Assistant Treasurer

BY: _____
Garry Harrod, Chairman

Address: PO Box 22287
Tampa FL

Address: PO Box 22287
Tampa FL

WITNESS: _____
Signature

Printed Name

Approved as to form for legal sufficiency:

BY: _____
David Scott Knight, Assistant General Counsel

HILLSBOROUGH COUNTY AVIATION AUTHORITY

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence or online authorization, this _____ day of _____, 2021, by Gary Harrod, in the capacity of Chairman, and by Stacy R. White, in the capacity of Assistant Secretary/Assistant Treasurer, for Hillsborough County Aviation Authority, a public body corporate under the laws of the State of Florida, on its behalf.

Stamp or Seal of Notary

Signature of Notary

Print, Type, or Stamp Commissioned Name of Notary

Personally Known OR Produced Identification
Type of Identification Produced

WDFG NORTH AMERICA, LLC

Signed in the Presence of:

BY: _____

Signature

Witness

Title

Printed Name

Printed Name

Witness

Printed Address

Printed Name

City/State/Zip

WDFG NORTH AMERICA, LLC

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2021, by _____ as

(Name of person)

_____, for _____.

(type of authority)

(name of party on behalf of whom contract was executed)

Stamp or Seal of Notary

Signature of Notary

Print, Type, or Stamp Commissioned Name of Notary

Personally Known OR Produced Identification

Type of Identification Produced

Exhibit B
Permitted Uses

Concession Location	Trade Name	Store Hours	Permitted Uses
E-2-4667	World Duty Free Tampa	<p>Store hours are from the opening time proposed by the Concessionaire and accepted by the Authority.</p> <p>Unit to Reopen a Minimum of four (4) Hours Daily Effective 8/14/2021, and a minimum of two (2) hours before international flights on Airside E.</p>	<p>Subject to the Product Price List, the sale of duty free and duty paid products to include national and international beauty brands of fragrances, cosmetics, and skin care; premium brands and gift assortments of confectionery, chocolates, gourmet foods/snacks not readily available street-side; tobacco products including cigarettes, chewing tobacco, cigars and e-cigarettes; “top shelf” liquor and bottled adult beverages such as liquors, spirits, champagne and reserve wine; luxury gifts and writing instruments. A limited selection (no more than 5% of total store display area) of jewelry, watches, sunglasses, premium leather goods, and related fashion accessories. Product departments and items will fluctuate based on season and customer demand. Location is prohibited from selling common travel accessories, common souvenirs and electronic accessories typically found in news / convenience stores.</p>
F-2-5687	World Duty Free Tampa	<p>Store hours are from the opening time proposed by the Concessionaire and accepted by the Authority.</p> <p>Unit to Reopen a Minimum of four (4) Hours Daily Effective 8/14/2021, and a minimum of two (2) hours before international flights on Airside F.</p>	<p>Subject to the Product Price List, the sale of duty free and duty paid products to include national and international beauty brands of fragrances, cosmetics, and skin care; premium brands and gift assortments of confectionery, chocolates, gourmet foods/snacks not readily available street-side; tobacco products including cigarettes, chewing tobacco, cigars and e-cigarettes; “top shelf” liquor and bottled adult beverages such as liquors, spirits, champagne and reserve wine; luxury gifts and writing instruments. A limited selection (no more than 10% of total store display area) of jewelry, watches, sunglasses, premium leather goods, and related fashion accessories. Product departments and items will fluctuate based on season and customer demand. Location is prohibited from selling common travel accessories, common souvenirs and electronic accessories typically found in news / convenience stores.</p>

**Exhibit C
Monthly Concession Report**

Airport Concession Department Monthly Concession Report

Concessionaire: _____

Address: _____

Contract Number: _____

Reporting Period: _____

Report Date: _____

Space ID	Concession Location DBA	Gross Receipts	
		Monthly Reporting Period	Fiscal Year to Date
1		\$ -	\$ -
2		0.00	0.00
3		0.00	0.00
Total		\$ _____	\$ _____

Percentage Fee Rate _____ %

Cumulative Privilege Fee Paid Fiscal Year to Date \$ _____

Certification:

Name: _____

Title: _____

Phone: _____

Email: _____