
VENDING CONCESSION AGREEMENT

THIS VENDING CONCESSION AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2025, by and between MISSOULA COUNTY AIRPORT AUTHORITY ("MCAA" or "the Authority"), a municipal airport authority created pursuant to Montana law, and _____, ("Concessionaire"), a _____ Company registered to do business in the State of Montana.

RECITALS

1. The Missoula County Airport Authority (MCAA) owns and operates the Missoula International Airport in Missoula County, Montana ("the Airport");
2. In the spring of 2025, MCAA will complete construction on the second phase of its terminal expansion, which will include space for the operation of an executive Airport Suite;
3. MCAA advertised the availability of the Airport Suite on October 28, 2024 and received one proposal to lease, maintain and operate the Property;
4. At its December 31, 2024, the MCAA Board of Commissioners meeting, the Resort at Paws Up was selected as the as the successful Respondent.

NOW THEREFORE, for and in consideration of the prompt payment of all amounts due under this Agreement and the performance of the covenants, terms and conditions of this Agreement, the sufficiency of which is recognized by the parties, the parties agree as follows:

1. Lease. As of the Effective Date set forth herein, MCAA grants to Concessionaire the non-exclusive right to provide vending services in the Airport, subject to the terms, covenants, conditions and other provisions of this Agreement. All the provisions of the RFP and Concessionaire's response to the RFP are hereby incorporated into and made a part of this Agreement.
2. Location. MCAA agrees to permit Concessionaire to maintain and operate an executive Airport Suite at the location shown on the attached Exhibit A in orange as "Multi-Purpose Room" and consisting of approximately 498 square feet.
3. Term. The term of the Agreement shall commence on June 1, 2025 ("Effective Date") and continue for a term of 3 years and one month, terminating at 11:59 p.m., on June 30, 2028, unless terminated sooner pursuant to the provisions of this Agreement. The Effective Date may be amended upon mutual agreement of MCAA and Concessionaire if conditions require. Amendment of the Effective Date shall be in writing and signed by both parties.
4. Holding Over. With MCAA consent, in the event Concessionaire shall hold possession of the Property after expiration or termination of this Agreement, then such holding over shall be a holdover tenancy from month to month and is otherwise governed by the same conditions, restrictions, limitations and covenants as contained in this Agreement. The intent of this provision is not to extend the term of this Agreement after termination or expiration, but rather to insure that any occupancy or use by Concessionaire after expiration or termination of this

Agreement is in strict compliance with the conditions, restrictions, limitations and covenants of this Agreement. If a month-to-month tenancy results from a holding over by the Concessionaire under this section, the tenancy shall be terminable by either party on not less than 30 days' notice.

5. Airport Rules and Regulations. Concessionaire's use of the Airport and all of Concessionaire's operations on Airport property are subject to all Airport rules and regulations, including MCAA's Primary Guiding Documents, as the same may be amended from time to time. If there is any conflict between the provisions of Airport rules and regulations, the Primary Guiding Documents and this Lease, the Lease shall control.
6. Rents and Fees. Concessionaire shall pay to MCAA, without deduction or set-off, rents and fees as specified below:
 - a. Concessionaire agrees to pay to the MCAA rent of \$10,000 per Lease Year ("Rent").
 - b. For purposes of this Agreement, a Lease Year is defined as each consecutive 12-month period of this Agreement beginning on July 1 and ending on June 30.
 - c. Time and Place of Payment. The Rent shall be paid in a sum equal to one-twelfth (1/12th) of the annual amount on the first day of each and every calendar month, once Rent commences. All payments made under this Agreement will be sent to MCAA at the address set forth in this Agreement, or to whatever other person and/or address MCAA designates in writing.
 - d. Concessionaire shall pay a 10% late charge for each rent payment that is more than twenty (20) days in arrears to cover the extra expense involved in handling delinquent payments. Any payment made after that date will not be considered complete unless it includes this late payment charge. Concessionaire will be in default under this Agreement until the late payment charge is paid.
 - e. All payments made under this Agreement will be sent to MCAA at the address set forth in this Agreement, or to whatever other person and/or address MCAA designates in writing.
 - f. Nothing contained in this section shall be interpreted so as to relieve Concessionaire, its tenants, sub-leases, patrons, invitees, and others from any applicable fees or charges as may be generally levied.
 - g. Rent Offset for In-Kind Services. At the discretion of the Airport, the Airport may accept in-kind services from the Lessee to offset a portion of Rent payments. Such in-kind services may include items such as facility rental costs and catering costs of Airport events hosted by the Resort at Paws Up. Any in-kind services must be invoiced at market rates and must be submitted to the Airport for review. If all or a portion of the invoiced cost for in-kind services is accepted by the Airport, the Airport will issue a credit for the in-kind services on subsequent rental invoices on a dollar per dollar rate of offset within the current fiscal year.
7. Taxes and Assessments. Concessionaire shall timely and promptly pay any and all taxes and assessments, personal property taxes, business taxes and fees, and sales taxes which become due and payable upon or arising from:

- a. Any fixtures, equipment or other property used in Concessionaire's operations;
- b. Concessionaire's operations on or from the Airport.

If requested in writing by MCAA, Concessionaire shall provide MCAA with proof of payment of all such taxes and assessments.

- 8. Records. Concessionaire shall, with respect to business done by it under this Agreement, keep and maintain, and shall require its sublessees, concessionaires and any other person, firm or corporation selling products or services in, upon or for use on the Airport or any part thereof to keep and maintain, in accordance with generally accepted accounting principles and procedures, complete, accurate and customary records and books of account of all Gross Receipts and all business transactions made in, upon or from the Airport during each Lease Year ("Books and Records"). The Books and Records shall be retained intact for a period of not less than three years after the end of the Lease Year to which the Books and Records pertain.
- 9. Concessionaire's Obligations. Concessionaire is responsible for:
 - a. The installation, maintenance and repair of furnishing and fixtures in the executive Airport Suite;
 - b. Providing access to the executive Airport Suite at no cost to MCAA for visiting dignitaries or similar passengers who are in need of a private location post-security;
 - c. Encouraging use of the executive Airport Suite at no cost to members of the public when not needed by the Concessionaire and such use can be accommodated with Concessionaire's on-site staff;
 - d. Concessionaire shall observe and obey all laws, ordinances, rules and regulations of the federal, state, county and city governments or any agency thereof, and those of MCAA, which may be applicable to its operations at the Airport which are in effect now or as may apply in the future.
 - e. In the event MCAA becomes subject to any civil fine or penalty by reason of Concessionaire's violation of any laws, ordinances, governmental rules, regulations or standards, including but not limited to, violations under the Americans with Disabilities Act ("ADA"), or with the Transportation Security Administration ("TSA"), the cost of such fine or penalties shall be borne by Concessionaire. Furthermore, Concessionaire agrees to indemnify, defend and hold MCAA harmless from any and all fines or penalties charged against MCAA by reason of Concessionaire's violation of any laws, ordinances, governmental rules, regulations or standards.
- 10. Restrictions and Conditions on Use of the Airport. Concessionaire's use of the Airport is subject to the following restrictions, limitations and conditions:
 - a. This Agreement is subject to all applicable federal, state and local laws and regulations governing the use of Airport property including those of the FAA, the State of Montana and Missoula County. Concessionaire agrees to comply with all such laws and regulations in all its operations on and uses of the Airport.
 - b. MCAA reserves for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Airport, together with the right to cause

in the airspace such noise as may be inherent in the operations of aircraft now known or hereafter used for navigation of or flight in the airspace and for use of the airspace for landing on, taking off from, and/or operating on the Airport.

- c. This Agreement is subordinate to the provisions and requirements of any existing or future agreement between MCAA and the United States of America, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
 - d. This Agreement is subject to whatever right the United States Government has affecting the control, operation, regulation and/or taking over of the Airport.
11. Non-Discrimination. Concessionaire agrees to comply with all federal and state laws, rules and regulations regarding non-discrimination, including any such laws, rules or regulations of the U.S. Department of Transportation, Title 49, Part 21, and as these regulations may be amended. No person shall be discriminated against in the use of the Airport by reason of race, religion, color, sex, age, political ideas, marital status, physical or mental handicap, creed or national origin.
- a. This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The Concessionaire agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.
 - b. Concessionaire agrees for the term of this Agreement, and any renewals, that all hiring of employees must be on the basis of merit and qualifications, and there shall be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.
 - c. Each year, no later than ninety (90) days following September 30th, Concessionaire shall provide MCAA with the following information:
 - i. The name and address of each Montana certified ACDBE with which it has done business during the past year;
 - ii. A description of the nature of the services performed by and/or items purchased from each firm named;
 - iii. The dollar value of each transaction;
 - iv. Total dollar value for goods and services purchased for use in vending at MCAA.

If Concessionaire fails to achieve MCAA's then current ACDBE goal, it will be required to provide documentation demonstrating that it made good faith efforts in attempting to do so.

- d. Noncompliance with the above provisions shall constitute a material breach of this Agreement. In the event of such noncompliance, MCAA shall have the right to

terminate this Agreement and the estate created without liability therefor or at the election of MCAA or the United States either or both shall have the right to judicially enforce said provisions.

12. Badging Requirement. Concessionaire employees/contractors that require access to secured areas of the Airport shall be obligated to complete all training and comply with all security requirements and directives issued by MCAA, Transportation Security Administration or other entity having security jurisdiction at the Airport. Concessionaire, employees, and contractors will surrender security badges upon request by MCAA. Physical security media (badges and keys) remain the property of MCAA. Concessionaire, employees, and contractors shall comply with all security related audits, inspections, and screenings. Concessionaire will immediately return badges to the Airport Public Safety Office when badge holder's employment is terminated, the badge is no longer needed, or the employee/contractor is on extended leave. Misuse of a badge or security procedures will bring about punitive action including suspension or revocation of one or all badges. Concessionaire shall be invoiced on a regular basis for badging fees. Fees shall be paid within 30 days of invoice.
13. Airport Security Plan. MCAA maintains an approved Airport Security Plan ("ASP") pursuant to 49 CFR Part 1542. Concessionaire shall at all times comply with MCAA security directives and verbal notifications existing now or in the future. Concessionaire shall, to the fullest extent permitted by law, indemnify, defend and hold MCAA harmless for, from and against any security violation committed by agents, employees, invitees, subcontractors, sub-lessees, or independent contractors of Concessionaire.
14. Use of Public Airport Facilities. Concessionaire is granted the nonexclusive use of all public Airport facilities. All such use shall be in accordance with the laws of the United States of America, the State of Montana, and the rules and regulations promulgated by MCAA with reference to aviation, air navigation and general Airport operations.
15. Obligations of MCAA.
 - a. MCAA covenants and agrees that upon execution of this Agreement, the Missoula County Airport Authority is the owner of the Airport and has good title thereto, free and clear of all liens and encumbrances having priority over this Agreement but subject to the normal and customary restrictions and limitations associated with a public airport and/or the limitations and restrictions set forth in this Agreement.
 - b. MCAA covenants and agrees that during the term of this Agreement it will operate and maintain the Missoula Montana Airport and its public airport facilities as a public airport consistent with and pursuant to the assurances given by MCAA to the United States Government under the Federal Airport Act. MCAA shall maintain all roads on the Airport currently giving access to the Terminal building in good and adequate condition for use by cars and trucks and shall maintain such access to the Airport during this Agreement, subject to changes, alterations and interruptions in such access as may be necessary during construction, emergencies or special events.
16. Default by Concessionaire. Time of payment and performance are of the essence in this Agreement. The following shall be events of default:
 - a. Default in Payments. The failure of Concessionaire to pay MCAA when due any

amounts required by this Agreement and such failure continues for a period of ten days after notice from MCAA;

- b. Failure to Abide by Operating Standards. The failure of Concessionaire to perform or abide by or adhere to any Operating Standard and such failure continues for a period of five days after notice from MAA; provided, however, that MCAA shall not be required to give a notice pursuant to this section 28(b) more than two times in any Lease Year with respect to a failure to perform or abide by or adhere to any given Operating Standard, and Concessionaire's third or subsequent failure in a Lease Year to perform or abide by or adhere to any given Operating Standard shall immediately constitute an event of default under this Agreement without requirement of further notice from MCAA. As used in this section 28(b), "Operating Standard" means any covenant or condition described in this Agreement or in the RFP.
 - c. Default in Other Covenants. The failure of Concessionaire to perform any of the covenants and conditions required herein, to be kept and performed by Concessionaire, other than the failures specifically covered by other subsections of this Section 28, and such failure continues for a period of thirty (30) days after notice from MCAA of such failure.
 - d. Insolvency. Insolvency of Concessionaire, an assignment by Concessionaire for the benefit of creditors; the filing by Concessionaire of a voluntary petition in bankruptcy; an adjudication that Concessionaire is bankrupt or the appointment for a receiver of the properties of Concessionaire; the filing of an involuntary petition of bankruptcy and failure of the Concessionaire to secure a dismissal of the petition within thirty days after filing ; attachment of or the levying of execution on the leasehold interest and failure of the Concessionaire to secure discharge of the attachment or release of the levy of execution within ten days of such levy or attachment.
17. MCAA's Rights Upon Default. If the MCAA notifies the Concessionaire in writing that it is in default under this Agreement, and the Concessionaire fails to cure the default within the time set forth in the notice, MCAA may, without making further notice or demand upon the Concessionaire, take any or all of the following actions:
- a. Leave this Agreement in effect and bring an action or actions against the Concessionaire to recover the amounts owed by the Concessionaire under this Agreement as they become due, and to recover any other amounts necessary to compensate the MCAA for all detriment caused by the Concessionaire's failure to perform its obligations under this Agreement.
 - b. Notify the Concessionaire in writing that the Agreement is terminated, and demand that the Concessionaire immediately remove its personal property from the Airport. The MCAA may take this action either as an alternative to or subsequent to exercising the remedies set forth in sub-section (a) of this paragraph. If the Concessionaire does not remove its personal property from the Airport, then MCAA may remove the property of the Concessionaire from the Airport at the expense of the Concessionaire, and may store the Concessionaire's personal property in any reasonable manner and place selected by the MCAA, without liability for any physical damage or financial loss that may be caused to the Concessionaire by such removal. The Concessionaire agrees to reimburse the MCAA for all expenses of and all damage caused by the repossession and the removal and storage of the Concessionaire's property.

- d. Relet to another vending company in any commercially reasonable manner, and apply the proceeds, after deducting all costs and expenses owed in payment of the Concessionaire's obligations under this Agreement, with the Concessionaire remaining responsible for any deficiency.
 - e. If Concessionaire's default consists of failure to obtain, maintain or pay for any of the insurance policies which this Agreement requires it to maintain, or failure to pay any tax, assessment, or other charge which this Agreement requires it to pay, or failure to indemnify the MCAA against any claim, action, damage, loss, injury, demand, liability, cost or expense, MCAA will have the right, but not be obligated, to take that action itself, and to bill the Concessionaire for the costs of taking that action. If the Concessionaire fails to pay such costs with the next payment due under this Agreement, the Concessionaire agrees to pay the late charge and interest on those costs at the rates provided for in paragraphs 6(j) and 6(k), respectively, of this Agreement.
 - f. Pursue any and all other rights or remedies available to the MCAA at law or in equity.
18. Notice of Default Fee. If an event of default occurs and the MCAA sends a notice of default to Concessionaire, Concessionaire must pay the MCAA \$300 per notice to reimburse MCAA for the costs of sending the notice of default. This fee will be set forth in the notice of default, and the default will not be considered cured until this fee is paid.
19. Hold Harmless. Concessionaire agrees to indemnify and hold MCAA and its officers, agents, and employees harmless from and against any and all claims, demands, loss or liability of any kind or nature which MCAA, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons or damage to property arising out of or in any manner connected with the fault, negligence or lack of care of Concessionaire, its officers, agents or employees in its operations at the Airport. MCAA agrees to indemnify and hold Concessionaire and its officers, agents, and employees harmless from and against any and all claims, demands, loss or liability of any kind or nature which Concessionaire, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons or damage to property arising out of or in any manner connected with the fault, negligence or lack of care of MCAA, its officers, agents or employees in the use of the Airport.
20. Insurance. During the term of this Agreement, the Concessionaire will obtain and maintain the following kinds and amounts of insurance with respect to its use of the Airport:
- a. Commercial general liability insurance with a reputable company insuring against liability for bodily injury and property damage occurring in, on or around its use of the Airport, in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit of bodily injury and property damage, and shall name MCAA as an additional insured.
 - b. Property and casualty insurance with a reputable company insuring any personal property on the Airport against all risks in an amount not less than the replacement value of such items.

- c. Any other insurance that is customarily required for the type of business activity conducted by the Concessionaire and that the MCAA may request in writing that the Concessionaire obtain.
 - d. All such insurance policies will be in a form or forms which satisfy the requirements of the Airport's Primary Guiding Documents as the same may exist or be amended from time to time. Concessionaire shall deliver to MCAA a certificate of all required insurance showing it to be in effect and providing that it will not be canceled without at least thirty (30) days prior written notification to MCAA. The procuring of such policy or policies of insurance shall not be construed to be a limitation upon Concessionaire's liability under the hold harmless agreements set forth in this Agreement, nor as full performance of Concessionaire's part of the indemnification provisions of this Agreement. Regardless of the existence of insurance, Concessionaire's obligation is the full and total amount of any damage, injury or loss caused by the fault, negligence or lack of care of Concessionaire, its officers, agents or employees in its operations at the Airport.
21. Notices. All default or termination notices given or to be given by either party to the other shall be given in writing, sent certified mail, return receipt requested, and shall be addressed to the parties at the addresses set forth below or at such other addresses as the parties may by written notice designate. Other notices required under this Agreement may be given in writing by email:
- MCAA:
Brian Ellestad
Airport Director
Missoula Montana Airport
5225 Highway 10 West
Missoula, MT 59808
bellestad@flymissoula.com

Concessionaire:
22. Assignment, Subletting and Encumbrances Concessionaire may not sublet or assign any interest in this Agreement. Concessionaire may grant liens or encumbrances on its interest in any part or portion of this Agreement only upon first obtaining the written approval of MCAA.
23. Time. Time is of the essence in this Agreement.
24. Computation of Time. Whenever the last day for the exercise of any privilege or right or the discharge of any duty under this Agreement will fall upon a Saturday, a Sunday, or any public or legal holiday, whether state or federal, the party having the privilege, right or duty will have until 5:00 p.m. on the next regular business day to exercise the privilege or discharge the duty.
25. Place of Performance, Governing Law and Choice of Venue. The place of performance of this Agreement shall be in Missoula County, Montana. This Agreement shall be construed and interpreted pursuant to the laws of the State of Montana. Venue for any dispute or suit concerning this Agreement shall be in Missoula County, Montana.
26. Amendments. This Agreement may not be modified, altered or amended in any manner unless such modification, alteration or amendment is reduced to writing and executed by all

parties to this Agreement.

27. Merger. This Agreement represents the entire agreement of the parties hereto and NO REPRESENTATIONS, EXPRESS OR IMPLIED, have been made by any party except as contained herein. This Agreement is in substitution of and supersedes any and all prior agreements, discussions, understandings or conversations between the parties, their agents and employees pertaining to this transaction.
28. Attorney's Fees, Expenses and Costs. In any action brought by either party to enforce any of the terms of this Agreement, the prevailing party in such action shall be entitled to costs, out-of-pocket expenses, expert and lay witness fees and expenses, and such reasonable attorney and paralegal fees as the court shall determine just including any such costs, out-of-pocket expenses and fees incurred on any appeals or in any bankruptcy proceeding.
29. Partial Invalidity. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
30. Headings and Captions. The various headings, titles, subtitles, captions and numbers and the groupings of the provisions of this Agreement into separate sections and paragraphs are for the purpose of convenience only and are to be ignored in any construction of the provisions of this Agreement.
31. Waiver. The failure of MCAA or Concessionaire to insist upon strict performance of any of the terms, conditions, or covenants herein shall not be deemed a waiver of any rights or remedies that either may have and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions or covenants contained in this Agreement.
32. Successors in Interest. The terms, covenants and conditions of this Agreement apply to and are binding on the successors and assigns of the parties to this Agreement.
33. Official and Corporate Action. The parties represent and warrant that each has taken all official or corporate action necessary to authorize the execution and performance of this Agreement.

MCAA:

MISSOULA COUNTY AIRPORT AUTHORITY

By: _____
Brian Ellestad, Airport Director

CONCESSIONAIRE:

By: _____