

**AGREEMENT FOR
FOOD & BEVERAGE OPERATIONS
AT CITY OF SAN ANTONIO FACILITIES**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (“City”) acting by and through its Director of Finance or said Director’s designee (“Director”), pursuant to Ordinance No. _____ passed and approved on the _____ day of _____, 20____ and **Compass Group USA, Inc.**, by and through its **Canteen Vending Services Division**, (“Canteen” or “Contractor”). City and Contractor may be referred to herein collectively as the “Parties”.

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

ARTICLE I
DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

- 1.1 “Adjusted Gross Receipts” means the amount of computed receipts, based upon the cash sales readings, that should have been removed from the vending machine and markets at the time of service, less refunds and test vends.
- 1.2 “City” is defined in the preamble of this Agreement and includes its successors and assigns.
- 1.3 “City Council” is the City of San Antonio City Council.
- 1.4 “Contractor” is defined in the preamble of this Agreement and includes its successors.
- 1.5 “Director” is defined in the preamble of this Agreement and shall mean the City’s Finance Department Director / Deputy Chief Financial Officer or designee, unless otherwise specified.
- 1.6 “Day” means calendar day and business day.

- 1.7 “Department Director” as used herein is the Director or designee of a City department who is responsible for ordering, monitoring and payment of coffee services for their respective department, unless otherwise specified. Reference to “Department Director” shall also include Assistant to City Manager for services provided at City Hall.
- 1.8 “Equipment” as used herein shall mean Canteen’s vending and other related equipment to dispense food, beverage, and sundry products supplied by Canteen for this Agreement, including Coffee Brewing Machines, Snack Vending Machines, Beverage Vending Machines and Micro Market equipment.
- 1.9 “Licensed Premises” or “Premises” means those premises made available to Contractor under this Agreement.
- 1.10 “Local Government Record” as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.
- 1.11 “Product” as used in this Agreement shall mean food, beverage, and sundry products supplied by Canteen for purposes of this Agreement.
- 1.12 “Unattended Vending Services” shall mean cashless self-checkout kiosk services Canteen’s vending and other related equipment to dispense food, beverage, and sundry products supplied by Canteen at the sites and facilities specified herein for this Agreement.

ARTICLE IIA

TERM

- 2A.1 Initial Term. This contract shall begin upon the effective date of the ordinance awarding the contract (Effective Date) and remain in full force and effect for a five-year period, unless sooner terminated in accordance with the provisions of this Agreement.
- 2A.2 Renewal Term. At City’s option, this Agreement may be renewed under the same terms and conditions for one, additional five-year period. Renewals shall be in writing and signed by Director, without further action by the San Antonio City Council, subject to and contingent upon appropriation of funding therefor.

ARTICLE IIB
PREMISES, GRANT, PLACEMENT

- 2B.1 Premises. The Premises, as detailed in **Exhibit F**, Premises and Placement (Snack Vending Machine Locations, Beverage Vending Machine Locations, Micro Market Vending Locations) are the initial locations, which locations may be reconfigured, added, or deleted during the term of this Agreement with Director approval. **Exhibit F** shall also contain Coffee Machine services and locations for City Tower and City Hall.
- 2.B.1.1 Coffee Machine Locations, with the exception of City Tower may be changed at the direction of the respective City Department Director upon thirty (30) days' written notice to Contractor. The Director shall be responsible for any changes to Coffee Machine services and locations for City Tower
- 2B.2 Grant of License. For and in consideration of the fees, covenants and promises herein contained to be kept, performed and observed by Contractor, City does hereby grant to Contractor and Contractor does hereby accept from City a license to install and operate Snack Vending Machines, Beverage Vending Machines, Micro Market Vending Equipment and Coffee Machines ("Services") at the Licensed Premises.
- 2B.2.1 This license shall be a **non-exclusive** right to install and operate the Services at the Locations inside the Licensed Premises.
- 2B.2.2 The Licensed Premises shall be occupied and used by Canteen solely for the purpose of providing coffee services, vending services and cashless self-checkout kiosk services and to install vending and other related equipment to dispense food, beverage, coffee, and sundry products supplied by Canteen.
- 2B.2.3 Canteen accepts the Licensed Premises as-is, where-is, with all faults. City disclaims all warranties regarding the Licensed Premises and its suitability for any purpose, including but not limited to the purpose of providing coffee services, vending services and cashless self-checkout kiosk services and to install vending and other related equipment to dispense food, beverage, coffee and sundry products supplied by Canteen.
- 2B.2.4 Canteen agrees to ensure that individuals authorized by it to use said Licensed Premises shall in no way obstruct ingress or egress or limit accessibility to the Licensed Premises by the City or the general public or by others having leasehold interests in or about the Premises.
- 2B.2.5 Canteen agrees that each individual under its control shall abide by, conform to and comply with all applicable laws, ordinances, rules and regulations and will not do or permit to be done anything in violation thereof. If the attention of Canteen is called to any such violation, Canteen or those under Canteen's control will immediately desist from and correct such violation. Further, Canteen covenants that it or those under its control shall not discriminate

against any individual or group on account of race, color, sex, religion, age, national origin or handicap in the use of the Licensed Premises.

2B.2.6 The City reserves the right to enforce all necessary and proper rules for the management and operation of the Licensed Premises and may eject from the Premises any person or persons it deems objectionable.

2B.3 Reserved.

2B.4 Conditions of Grant. The City has the right to make any modifications to City property and City facilities. Contractor acknowledges that the City may change the shape, size, location and number of locations generally shown on **Exhibit F** and may eliminate or add any location to any portion of the Premises at any time without Contractor's consent. The City shall have the right to locate, install, maintain, use, repair and replace pipes, utility lines, conduits, ducts, flues, refrigerant lines drains, sprinkler mains and valves, wires and wiring and structural elements leading through the Premises, serving the Premises, or serving other parts of City property. Contractor, upon approval by the respective Department Director or designee, shall have the right to install those utility lines which exclusively serve the Premises in the area between Contractor's finished ceiling and the roof above at Contractor's sole cost. In the event the City elects to enlarge or alter any City property, the City may include additional area in the definition of such City property for purposes hereof. If possible, City will provide a ten (10) day notice.

2B.5 Holding Over.

2B5.1 Any holding over after expiration of the Term with the consent of Director shall be construed to be a tenancy from month-to-month pursuant to the terms hereof Commission Payments required to paid by Contractor and shall be on the same terms and conditions as herein specified, so far as applicable.

2B5.2 Without City's waiver of any rights, any holding over without the City's consent shall be construed to be a tenancy from month to month pursuant to the terms hereof at one hundred fifty percent (150%) of the Commission Payments payable to the City and shall be on the same terms and conditions as herein specified, so far as applicable.

2B.6 City's Superior Interest. Contractor acknowledges that the license granted under this Agreement is limited in nature, being a personal license only, and that City does not purport to convey any real property interest in the property over, under or upon the Locations on which Contractor's Equipment and any improvements are located. City retains dominion, possession, and control of said premises, including access thereto, at all times. City reserves the right to enter the Locations at any time for the minimum time necessary to prevent an accrual of any rights in any person other than such rights established prior to and pursuant to the license granted under this Agreement and also for the purpose of asserting City's superior fee interest and the exercise of City's superior rights. In addition, City reserves the right to enter the Locations, including the secured portion of the Locations, at any for

any purpose, including but not limited to, asserting such interest and rights, inspecting the Locations or verifying that fire, safety, and sanitation regulations and other provisions contained herein are being adhered to by Contractor; however, City's representative must be accompanied by authorized Contractor's personnel, except for emergencies. If City notifies Contractor of a pending inspection and Contractor fails to respond within twenty-four (24) hours after notice, except for weekends or holidays, whereupon seventy-two (72) hours apply after notice, then City may inspect without authorized Contractor's personnel. Nothing contained herein shall give the City any rights or access to any cash vaults located in any Equipment.

2B.7 Right of Entry. Upon evidence of Contractor having obtained the insurance required herein and subject to Contractor's agreement to be bound in writing by the Indemnity provisions hereof, City grants to Contractor a right of ingress and egress to the Locations for the sole purpose of installing the Coffee Machines, Snack Vending Machines and Beverage Vending Machines and constructing the Micro Markets referenced in this Article IIB, *Premises, Grant, Placement*, and operating and maintaining said Coffee Machines, Snack Vending Machines, Beverage Vending Machines and Micro Markets.

2B.8 Repositioning. Repositioning shall mean any relocation of a Coffee Machine, Snack Vending Machine, Beverage Vending Machine or Micro Market within the Licensed Premises.

2B.8.1 Action Taken / Requested by City. The Parties understand and agree that, upon thirty (30) days prior written notice to Licensee, Director may require the repositioning of the Contractor's Snack Vending Machines, Beverage Vending Machines and Micro Markets at any time and for any reason during the Term of this Agreement, both as defined hereafter, at Contractor's sole cost and expense. Department Directors shall be responsible for repositioning of Coffee Machines with the exception of City Tower.

2B.8.2 Action Taken / Requested by Licensee. Further, Contractor may request a repositioning of the Snack Vending Machines, Beverage Vending Machines and Micro Markets, upon thirty (30) days prior written notice to City, at any time during the Term of this Agreement. Any repositioning of a Snack Vending Machine, Beverage Vending Machine or Micro Market requested by Contractor during either term of this Agreement shall require the prior written approval by the Director. Any repositioning requested by Contractor shall be at Contractor's sole cost and expense. City shall consider:

- If repositioning is approved, will it be in the best interests of both Parties and the public;
- What will be the economic impact of the Parties, if repositioning is approved;
- What is the economic feasibility justifying such repositioning (e.g., has Contractor factually demonstrated to City, within Contractor's ability that

substantial loss in transactional volume will occur if repositioning is not approved); and

- Other factors provided by Contractor which warranted such request.

2B.8.3 Regardless of which party makes the request, Contractor shall be responsible for the cost of repositioning a Snack Vending Machine, Beverage Vending Machine or Micro Market within the Licensed Premises and any related expenses, noted above, plus repairing any damage caused by such repositioning.

2B.9 Criminal Background Checks / Criminal Justice Information Services (CJIS).

2B.9.1 Contractor is responsible for assessing risk and maintaining effective background check policy and procedures for all employees, staff and subcontractors responsible for performing services under this contract. Contractor shall retain all employee records, including any criminal background checks, for the retention period stated in Article VI, Records Retention.

2B.9.2 Contractor is responsible for any costs incurred in conducting criminal background checks.

2B.9.3 Criminal Justice Information Services (CJIS). Contractor will be providing services under this contract for facilities with access to CJIS. Persons with any of the criminal histories shown below are not allowed unescorted access to CJIS Facilities. Since City staff may not be available to provide escorted access, Contractor's employees providing services to CJIS facilities must pass this criminal background check to provide services in these locations.

- A) Felony conviction – permanent disqualifier
- B) Felony deferred adjudication – permanent disqualifier
- C) Class A misdemeanor conviction – permanent disqualifier
- D) Class A misdemeanor deferred adjudication – permanent disqualifier
- E) Class B misdemeanor conviction – disqualifier for ten (10) years
- F) Class B misdemeanor deferred adjudication – disqualifier for ten (10) years
- G) Open arrest for any criminal offense (felony or misdemeanor) – disqualifier until disposition
- H) Family violence conviction – permanent disqualifier

2B.9.4 CJIS Facilities. CJIS Facilities within this contract are: Emergency Dispatch Center (PSAP), Emergency Operations Center (EOC), Frank Wing Building (Municipal Courts), Police Training Academy, Public Safety Headquarters (PSHQ), and SAPD Property & Evidence Facility. Additional CJIS Facilities may be added during the term of the contract.

2B.9.5 Security Addendum for Criminal Justice Information Services (CJIS). Contractor will be required to provide services to City departments that perform criminal justice services. Criminal Justice Agencies, such as the San Antonio Police

Department, are required to comply with the security requirements managed by the Federal Bureau of Investigations (FBI) and state agencies, such as the Texas Department of Public Safety. The Federal Criminal Justice Information Services Security Policy applies to every individual, Contractor, private entity, noncriminal justice agency representative, or member of a criminal justice entity with access to, or who operate in support of, criminal justice services and information. Agency shall comply with the Policy and shall execute the CJIS Security Addendum attached to this agreement. Contractor's employees or agents who are subject to the Policy will be required to sign a Contractor Employee Certification and be fingerprinted. All costs associated with compliance of the CJIS Policy shall be borne by the Contractor. Contractor shall comply with any changes made to the security requirements by law. Refer to **Exhibit G – CJIS Addendum**.

2B.9.6 Contractor shall ensure Contractor's employees who will be directly providing services to City make an appearance at the ID Unit at SAPD Headquarters at 315 S. Santa Rosa, San Antonio, Texas to fill out and submit a Fingerprint Application Form to initiate a background check. Contractor shall ensure Contractor's employees pass a criminal background check and complete CJIS Level 1 Training prior to starting work at CJIS Facilities under this contract.

2B.9.7 Contractor shall immediately remove any employee, staff or subcontractor that does not meet these requirements from performing services under this contract.

ARTICLE III

SCOPE OF SERVICES

- 3.1 Contractor agrees to provide the services described in this Article III entitled Scope of Services in exchange for the fees described in Article IV. Fees and Payment Terms.
- 3.2 Contractor agrees to provide 1) healthy meals, food, snacks and beverages to City staff and visitors at various City facilities for a reasonable cost, and 2) support to the City's employee and community health and wellness programs.
- 3.3 Contractor shall provide all services as set forth in Contractor's Proposal attached hereto as **Exhibit B** and incorporated by reference herein. Contractor understands and agrees that **Exhibit B** is a part of this Agreement, as though fully set out herein, and that all obligations, conditions, tasks, products, and representations set forth in said documents are required to be fulfilled by the Contractor as completely and fully as are the obligations, conditions, tasks, products, and representations imposed by this Agreement.
- 3.4 The terms of this Agreement shall control where there is any conflict between the terms of the Contractor's Proposal and the terms of this Agreement.
- 3.5 All work performed by Contractor hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all

Parties hereto. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should Contractor's work not be satisfactory to Director.

3.6 CANTEEN RESPONSIBILITIES

- 3.6.1 Canteen at its own expense, is responsible for installing, maintaining, and servicing the Equipment, including setting-up, maintaining, cleaning, sanitizing, repairing, and restocking vending machines, micro-market vending sites, and coffee/tea service sites in accordance with industry standards and all federal, state, and local laws and ensuring that all items stocked continue to meet the nutritional guidelines established. Contractor shall provide adequately trained personnel to provide the services.
- 3.6.2 Implementation Schedule. Canteen shall install micro-market equipment within twelve (12) weeks from the effective date of the contract or subsequent amendment. Snack and beverage vending machines shall be installed within ten (10) weeks from the effective date of the contract or subsequent amendment. Coffee equipment shall be installed within ten (10) weeks from date of order.
- 3.6.3 Canteen Liaison. Contractor shall designate and maintain a qualified and experienced representative to manage Contractor's Coffee Machines, Snack Vending Machines, Beverage Vending Machines, and Micro Markets and who will serve as liaison between Contractor and City with full authority to make all necessary decisions for Contractor as may be required under the terms of this Agreement, including the management of the Coffee Machines, Snack Vending Machines, Beverage Vending Machines, and Micro Markets and compliance with the Agreement. On or before the effective date of this Agreement, Contractor shall have provided to City contact information for Contractor's liaison to include name, title, business address, direct telephone number, mobile telephone number, and email address.
- 3.6.4 Canteen's Customer Service. Contractor shall establish and maintain a toll-free customer service phone number, available twenty-four hours a day, seven days a week, for inquiries, maintenance issues, customer service issues, and complaints.
- 3.6.5 Security. Contractor is solely responsible for security of any currency and all associated supplies. Contractor shall install and maintain security cameras in micro-market locations as necessary to protect equipment, minimize loss and for food defense and safety in compliance with applicable Texas food safety health codes. Cameras shall be installed on Contractor-owned equipment and shall only monitor micro-market locations to the extent necessary to protect equipment and minimize loss. Contractor is solely responsible for the cost and expense of security for micro-market locations. For purposes of the Texas Public Information Act, Contractor understands that the general forms in which the media containing public information may exist include a photograph, film, tape, microfiche, microfilm, photostat, sound recording, a voice, data, or video representation held in computer memory, etc. Contractor is responsible for assessing risk and maintaining

effective security policy and procedures, including the management of any stored security media, for performing services under this contract.

- 3.6.6 In the event Contractor is experiencing shrink of its Products greater than two and a half percent (2.5%) of aggregate sales at all micro-market locations during a calendar month, City and Contractor shall work together to develop a plan to correct the issue. If after sixty (60) calendar days, the issue is not resolved, City shall be solely responsible for any Product loss due to shrink of products that is greater than to 2.5% of aggregate sales at all micro-market locations during a calendar month (the “**True Up Payment**”). The True Up Payment will be calculated as the selling price of the Products that were lost due to shrink during that calendar month as determined by Contractor’s records and invoiced to City monthly.
- 3.6.7 **It is agreed between the Parties that the Equipment and machines are and shall remain the property of Canteen and City shall not be liable for damage to the Equipment or their contents for any reason, whether such damage is caused by negligent or intentional acts.** City has no right, title, or interest to Equipment or Products, and shall not assert or disturb rights, title, or interest to any Equipment, vending inventory, or other property furnished or installed by Canteen on the Premises.
- 3.6.8 All vending and coffee equipment installed under this Agreement must comply with all requirements established by all local, state, and federal guidelines and maximize access for the greatest number of persons as reasonably feasible. All Equipment furnished under this Agreement must perform in accordance with the manufacturer’s specifications and with no physical damage other than normal wear and tear. City reserves the right to have Contractor remove/replace Equipment that does not function properly or has physical damage.
- 3.6.9 At no time will vending sites have outdated or expired snack/food items. Each product must be pre-packaged and labeled with a visible date of expiration. The Contractor must comply with all applicable local, state and federal regulations, standards and qualifications regarding packaging, labeling, ingredient listing and standards.
- 3.6.10 All food and beverage items provided under this Agreement shall be standard and nationally name brand items of first class standard grades and of good quality; merchandise of a lesser quality or substantially different type may not be vended without written approval from Director.
- 3.6.11 Contractor endeavors to provide a variety of food, beverage and coffee products prepared and or produced by local companies for consideration, review and approval by the City. Local is defined as Bexar County and any contiguous county.
- 3.6.12 Contractor is encouraged to provide green/sustainable alternatives, as applicable, for products offered.

- 3.6.13 Food Service Guidelines for City of San Antonio Facilities (City's Administrative Directive 11.1). Canteen hereby agrees to comply with the Food Service Guidelines for City of San Antonio Facilities, a true and correct copy of which is included in **Exhibit E** and fully incorporated herein for all purposes. Canteen understands and agrees that the Food Service Guidelines for City of San Antonio Facilities is a part of this Agreement, as though fully set out herein, and that all obligations, conditions, tasks, and representations set forth in said documents are required to be fulfilled by Canteen as completely and fully as are the obligations, conditions, tasks, and representations imposed by this Agreement.
- 3.6.14 The following exhibits contains a list of approved vending products, coffee / tea products and price lists.

Exhibit H - Snack Vending Product and Price List

Exhibit I - Beverage Vending Product and Price List

Exhibit J – Micro-Market Vending Product and Price List

Exhibit K – Coffee / Tea Product and Price List

Product prices in **Exhibits H** and **I** include a \$0.10 credit card processing fee which shall be collected and paid by Contractor. Customers shall incur no additional costs when making purchases utilizing a credit / debit card.

Exhibits may be amended in writing as product selections and pricing are updated during the term of the contract.

- 3.6.15 Consumer Price Index (CPI).

Price Adjustments. The prices shown on the Price Lists (**Exhibits H-K**) may be increased or decreased as follows, using the Consumer Price Index published by the Bureau of Labor Statistics ("BLS") of the United States Department of Labor.

The Base Price that is subject to price adjustment is the selling price shown on the original Price Lists on the Effective Date of the Agreement. New products shall be approved by City prior to stocking and be priced in alignment with current applicable product category pricing. Pricing for items not falling into a current product category shall be individually reviewed and approved by the City.

The Consumer Price Index ("CPI") series that will be used to escalate the base payment is the Consumer Price Index for All Urban Consumers (CPI-U), US City average, not seasonally adjusted, series ID USCPV7LG Food Away From Home.

Base Period for Price Adjustment. The reference period from which changes in the CPI shall be measured is the Effective Date of the month and year of this Agreement.

Date for Price Adjustment. Prices may be adjusted semi-annually or if the CPI rises 5% or more between semi-annual price adjustments (the "Price Adjustment Date").

Method of Calculation for Price Adjustment. To calculate the price adjustment, the following formula shall be used.

Divide the current index value (the value as of the Price Adjustment Date) by the index value for the Base Period. The resulting number is the percentage change in the index value between the current period and the Base Period (the “percentage change in index value”).

Multiply the Sales (Vend Price multiplied by Units Sold) for the time period being adjusted by the percentage change in index value. The sum equals the aggregate price change. Individual prices will be adjusted to reflect the aggregate price change. The City reserves the right to apply the price increase to all items or to items in selected product categories.

Example: (The numbers shown below are for illustration purposes only.)

Current index value at time of calculation	115.5
Divided by index for base period	110.0
Equals percentage change in index value	1.050
Base price	\$1,000.00
Multiplied by the percentage change in index value	1.050
Equals adjusted price	\$1,050.00

The same procedure shall be followed for each price adjustment authorized herein, using the current CPI for the new Price Adjustment Date and the CPI for the Base Period.

Version of Data for Price Adjustment. Calculations of price adjustments shall use the latest version of the CPI data published as of the Price Adjustment Date, without regard to later revisions.

If the CPI index referred to above is discontinued, the Parties shall use a mutually agreeable replacement Consumer Price Index. If this secondary index is discontinued, the Parties shall use the most nearly comparable statistics published by the BLS, or, if the BLS ceases to publish such statistics, those published by a recognized financial authority, as determined solely by City.

Written Notice for Price Adjustments. Parties agree that price adjustments shall be submitted with a minimum of 30 days’ notice from the Contractor to the City’s Finance Department and will be implemented based upon Date for Price Adjustment language above.

City may initiate a price adjustment in the event of falling prices in accordance with the above-referenced CPI Index. City shall notify Contractor with a minimum of 30 days’ notice will be implemented based upon Date of Price Adjustment language above.

Upon receipt of a written notice for price adjustment, parties shall have ten (10) business days to review and report any discrepancies in the request, if any. The City shall revise prices in the affected contract exhibit(s) and annotate with the effective date of the exhibit.

- 3.6.16 Contractor shall work with City to promote City's health and fitness goals by providing fact-based nutrition information for all of its products, including point-of-sale calorie information. In addition, Contractor shall provide point of sale messaging, posters and vending machine clings, as approved by City, tailored to meet City's target audiences. Contractor shall assist City in identifying opportunities to promote nutritional education.
- 3.6.17 Any signage, marketing materials that display food items will be limited to those products that are consistent with the nutritional guidelines for healthier products. At minimum, Contractor shall provide:
- Discounted products and signage for promotions;
 - Messaging through mobile payment applications;
 - A promotion calendar; and
 - Participation in health fairs and provide free products to highlight healthy products.

The City reserves the right to develop content and communications for signage and marketing materials and provide to Contractor in digital format for printing or digital distribution.

- 3.6.18 Contractor will be responsible for the costs associated with the maintenance and installation of any new electrical outlets necessary to operate vending equipment or water supply lines for coffee services. Contractor shall also be responsible for required renovations necessary to provide services described in this agreement and for returning premises to their original condition at the City's direction. No work shall be performed by Contractor without written approval by the respective Department Director or designee.
- 3.6.19 Contractor shall install Energy Star® rated Equipment or the installation of energy management devices on all Equipment provided under this Agreement.
- 3.6.20 Contractor will be responsible for any tax obligations.
- 3.6.21 Quarterly Business Reviews. Contractor and City personnel shall meet on a quarterly basis to discuss financial performance, customer service, opportunities, product promotions, marketing, innovation and agreed upon next steps.
- 3.6.22 Payment Methods. Contractor must accept credit and charge transaction authorization, routing and settlement for all major credit card brands and debit cards, gift cards, and mobile payment applications in addition other payment options. Contractor shall maintain service agreements with credit card processors for the handling of credit card payments and will be responsible for credit card processor fees. Contractor must accept cash at all vending machines and full markets. PICO markets will accept electronic payments only.

- 3.6.23 Payment Card Industry (PCI) Data Security Standards (DSS). Canteen must continuously comply with all laws by maintaining the level of Payment Card Industry (PCI) Data Security Standards (DSS). In the event that Contractor either stores, processes, manages, transmits, and/or is provided physical or logical access to systems, networks or applications that handle City credit card transactions, Contractor shall comply with PCI Security Standards Council (SSC) requirements and standards (i.e., Payment Application (PA), Data Security Standards (DSS) and/or Credit Card Brand Service Provider Registration) and certification as required by applicable laws throughout the term of this Agreement. City may require verification of PCI certification at any time and Contractor shall provide any certification and/or other documentation required to ensure PCI-SSC compliance as requested. Contractor will be required to provide a status report and evidence of validation of compliance at least annually. This provision is applicable to any subcontractors that may be utilized during the term of the contract and Contractor is responsible for ensuring compliance of its subcontractors.
- 3.6.24 In connection with the services being provided hereunder, Canteen may need to operate certain information technology systems not owned by the City (Non-City Systems), which may need to interface with or connect to City's networks, internet access, or information technology systems (City Systems). Canteen shall be responsible for all Non-City Systems, and City shall be solely responsible for City Systems, including taking the necessary security and privacy protections as are reasonable under the circumstances. Canteen agrees to comply with all applicable City Administrative Directives, including but not limited to, Administrative Directive (AD) 7.4A, Acceptable Use of Information Technology, and AD 7.8d, Access Control, true and correct copies of which are included in **Exhibits C and D** and fully incorporated herein for all purposes.

3.7 CITY RESPONSIBILITIES

- 3.7.1 City will provide Canteen access to Premises with sufficient space to properly install, service and maintain Equipment. City shall not be responsible for damage to any Equipment or merchandise contained in the Equipment due to any interruption of electrical service or power failure, or for any other cause.
- 3.7.2 City will furnish Canteen, at no cost to Canteen, with the necessary space, trash removal, extermination services, and utilities to permit the sanitary operation of the Services. City will provide a reasonably secure area within the Premises for the installation of the Equipment.
- 3.7.3 City will maintain its Premises and service the areas around the Equipment in a sanitary manner in accordance with industry standards and all federal, state, and local laws.
- 3.7.4 City will provide Canteen employees the necessary access (and if required, necessary security access) and sufficient time to properly service and maintain the Equipment.
- 3.7.5 Any other provision hereunder notwithstanding, this Agreement does not create nor impose an obligation on City to create space or install utility connections for vending services.

3.7.6 Liaisons. City shall provide Canteen points of contact at each facility.

3.8 SNACK AND BEVERAGE VENDING EQUIPMENT REQUIREMENTS

- 3.8.1 All vending machines must have internal electronic, non-resettable cash sales meters. Upon commencement of the Agreement, meters will be read, recorded and mutually verified with Finance Department personnel at the time of installation. Period ending cash sales meter readings will be required for every vending machine with each monthly Sales and Commission Report. Electronic meter readings will be subject to audit by the City, its representatives, or an authorized third party at any time.
- 3.8.2 Contractor shall not add or remove any vending machines without the City's written consent. Requested changes to the vending machines such as appearance, location and/or change in product offerings, shall be submitted no less than 30 days prior to the effective date of the requested change. Changes to circuit boards shall require new meter readings. The new readings shall be submitted to and validated by the City in appropriate format.
- 3.8.3 All vending machines installed under this Agreement must be Data Exchange (DEX) capable. Serial numbers will be verified with model types to meet DEX capability.
- 3.8.4 Each vending machine must, at a minimum, accept credit/debit cards, dollar bills or be co-located with a bill changer to be provided at Contractor's expense. PICO Markets shall accept electronic payments only.
- 3.8.5 Under no circumstances will City allow sale of alcoholic beverages. No free items and/or giveaways items are allowed unless previous approval received from Director.
- 3.8.6 Contractor shall respond to service requests within 24 business hours. If defective equipment cannot be repaired within 72 hours, the City may request defective equipment be replaced.

3.9 COFFEE/TEA SERVICE REQUIREMENTS

- 3.9.1 Contractor shall provide pour-over (traditional, drip method) machines or plumbed coffee (hooked up directly to a water line) machines. Contractor shall provide all the equipment including coffee brewers and thermal carafes per **Exhibit K**.
- 3.9.2 At minimum, the pour-over or plumbed coffee machines shall be equipped with the following features as applicable:
- Automatic timer that shuts off power to the unit
 - Stainless steel thermal carafes
 - Capable of being connected directly to a water supply
 - A hot water dispenser
 - For plumbed coffee machines, Contractor shall install copper plumbing to prevent overflow or leaks, as required for specific brand machines.

- 3.9.3 No hot plates or burners shall be supplied.
- 3.9.4 Contractor shall supply, deliver and stock pre-packaged coffee packages/filters and supplies (i.e., sweeteners, creamers, cups, lids, stir sticks) identified in **Exhibit K**, Coffee / Tea Product and Price List to all identified locations.
- 3.9.5 Contractor shall provide information on their green/sustainable alternative directive, description on what their program entails, and method to dispose of and recycle used packages, if applicable.
- 3.9.6 Coffee machines shall be pour-over or plumbed into the wall, as indicated by City.
- 3.9.7 Contractor shall offer both standard and premium coffee/tea services. See **Exhibit K** for a list of available standard and premium coffee machines, products, and condiments. This Exhibit may be amended in writing as machines, products and condiments availability and pricing change over the term of the contract.
- 3.9.8 For standard coffee/tea services, Contractor shall provide house branded or equivalent caffeinated and decaffeinated products and condiments identified in **Exhibit K**. Only non-sweetened coffee/tea can be offered. Condiments such as sweeteners, sugar, etc., can be provided for City staff; however, beverages cannot be served as sweetened. Equipment provided shall be house branded or standard commercial brewing equipment.
- 3.9.9 For premium coffee/tea services, Contractor shall provide premium quality caffeinated and decaffeinated products and condiments identified in **Exhibit J**. Only non-sweetened coffee/tea may be provided. Condiments such as sweeteners, sugar, etc., can be provided for City staff; however, beverages cannot be served as sweetened. Equipment provided shall be name branded and/or offer a higher quality finished product.
- 3.9.10 Contractor shall respond to service requests within 24 business hours. If defective equipment cannot be repaired within 48 hours, the City may request defective equipment be replaced.
- 3.10 Reserved.
- 3.11 PROPRIETARY MARKS OF CANTEEN**
- 3.11.1 City acknowledges that the names, logos, service marks, trademarks, trade dress, trade names, and patents, whether or not registered, now or hereafter owned by or licensed to Canteen or its affiliated and parent companies (collectively “Marks”) are proprietary Marks of Canteen, and City will not use the Marks for any purpose except as expressly permitted in writing by Canteen. Upon termination of this Agreement, City shall immediately and permanently discontinue the use and display of any Marks (collectively “De-Image”).

3.12 CITY LOGOS, DESIGNS AND CREATIVE WORK

- 3.12.1 Any and all logos, designs and creative work provided by the City or created and produced by Canteen for City hereunder is the exclusive property of City; and no design, logo or creative work shall be the subject of any copyright or proprietary claim by Canteen. Canteen hereby assigns any and all statutory and common law copyrights to any copyrightable work that in part or in whole is produced from this contract to City, including all moral rights.

3.13 UNIFORM AND ID BADGES

- 3.13.1 Canteen shall ensure that all its personnel, including all subcontractors, wear uniforms and an ID Badge at all times.

ARTICLE IV FEES AND PAYMENT TERMS

- 4.1 Contractor shall pay an annual bonus fee of Twenty Thousand Dollars (\$20,000.00) within thirty (30) days of the Effective Date of the contract and each anniversary of the Effective Date of this contract. This annual bonus fee will be paid for a total of five (5) years, for a cumulative total of One Hundred Thousand Dollars (\$100,000.00).
- 4.2 Vending Commission Schedule. As consideration for the benefits granted under the Agreement, Contractor agrees to and shall pay City the percentage of **Adjusted Gross Receipts** indicated below received each month by Contractor or any subcontractors from the sale of food and beverages in the Vending Equipment and Micro-Market locations that is the subject of this Agreement.

Commission Payment (Percentage of Adjusted Gross Receipts)	Micro-Markets-Markets*	Snack & Beverage Vending**
Year 1	1.5%	8.5%
Year 2	1.5%	8.5%
Year 3	1.5%	8.5%
Year 4	1.5%	8.5%
Year 5	1.5%	8.5%
Renewal Year 1	1.5%	8.5%
Renewal Year 2	1.5%	8.5%
Renewal Year 3	1.5%	8.5%
Renewal Year 4	1.5%	8.5%

Renewal Year 5	1.5%	8.5%
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***If Micro-Market commission payments to the City do not exceed \$5,000.00 annually, Contractor will submit the difference to the City within 15 days after the anniversary date of the contract, including all renewals and extensions.**

****If combined Snack and Beverage commission payments to the City do not exceed \$30,000.00 annually, Contractor will submit the difference to the City within 15 days after the anniversary date of the contract, including all renewals and extensions.**

- 4.3 Marketing Plan Investment. Contractor shall provide a **minimum investment of 1%** of vending and micro-market Adjusted Gross Receipts for marketing. Contractor shall coordinate with City on marketing plan and provide evidence of expenditures on a quarterly basis.
- 4.4 Payment in Arrears. Contractor shall pay City the Commission Payment, due to City for the immediately preceding month, on the fifteenth (15th) day of each month throughout the term of this Agreement and all renewals hereof, beginning with the second month following the effective date of this Agreement.
- 4.5 Reports and Payments. Contractor shall provide Commission Payments and Sales and Commission Reports to City by the fifteenth (15th) of each month for the previous month's transactions. The reports required under this section shall be accompanied by a check be made payable to the "City of San Antonio, Texas" for the total amount of the Commission Payment due from receipts collected from all vending Equipment and micro markets placed under the authority of this Agreement. Monthly Sales and Commission reports for Micro-Markets and Vending Equipment shall include the following information:
- 4.5.1 Micro-Markets monthly sales and commission reports shall include the following information, as applicable:
- a. Point of Sale (POS) Equipment Location
 - b. POS equipment identifier
 - c. Beginning Cash Sales Meter reading for each POS location for the reporting period
 - d. Ending Cash Sales Meter reading for each POS location for the reporting period
 - e. Gross Receipts for each POS equipment location
 - f. Adjustments to Gross Receipts for each POS location (less refunds and test vends)
 - g. Adjusted Metered Gross Receipts for each per POS location
 - h. Commission Rate for each POS location
 - i. Commission Due for each POS location
 - j. Summary of Metered Gross Receipts, Adjustments to Metered Gross Receipts, Adjusted Metered Gross Receipts and Commissions Due for all POS locations
 - k. Summary of product shrink by location.

4.5.2 Snack and Beverage Vending Equipment monthly sales and commission reports shall include the following information, as applicable:

- a. Location
- b. Machine serial number
- c. Machine Type
- d. Beginning Cash Sales Meter reading for the reporting period per machine
- e. Ending Cash Sales Meter reading for the reporting period per machine
- f. Metered Gross Receipts per machine
- g. Adjustments to Metered Gross Receipts per machine (less refunds and test vends)
- h. Adjusted Metered Gross Receipts per machine
- i. Commission Rate for each machine
- j. Commission Due for each machine
- k. Summary of Metered Gross Receipts, Adjustments to Metered Gross Receipts, Adjusted Metered Gross Receipts and Commissions Due for all machines
- l. Explanation if machine is changed to include new serial numbers, etc.

Reports shall be in a form and content approved by the City. At City's request, Contractor shall provide additional or different reports than those stated herein, or as modified by City. Commission Payments and reports shall be sent to the following, unless otherwise notified in writing by City:

City of San Antonio, Finance Department
PO Box 839966
San Antonio, TX 78283-3966

4.6 Reserved.

4.7 Responsibility for Taxes, Fees or License Charges. Contractor agrees and understands that Contractor shall be solely responsible for and shall pay without delinquency any and all applicable Federal, State or Local taxes and fees, as applicable. The Commission Payments paid to City shall not include any taxes, fees or other license charges that may be levied, assessed or charged by any governmental entity. Contractor agrees to pay such taxes, fees or other license charges directly to the appropriate taxing authority.

4.8 No fees or expenses of Contractor shall be charged by Contractor nor be payable by City.

4.9 Audit of Adjusted Gross Receipts. Contractor agrees and understands that, as required and provided in this Agreement, City reserves the right to audit Contractor's and its subcontractors' books and records, these records which the City determines relevant to this Agreement, for the purpose of determining the accuracy of the reported Adjusted Gross Receipts and Contractor's and its subcontractors' compliance with this Agreement. If it shall be determined, as a result of such audit, that there has been a deficiency in the Adjusted Gross Receipts reported to the City or the payments due to City hereunder, then

such deficiency shall become immediately due and payable with interest at the maximum legal rate under applicable law from the date when said payments should have been made. In addition, if Adjusted Gross Receipts have been understated by more than five percent (5%) of the Adjusted Gross Receipts reported to the City during the previous reporting period, then the entire expense of the audit shall be borne by the Contractor. Any audits conducted on Contractor's premises shall be during Contractor's normal business hours.

- 4.10 Independent CPA. If so requested by City, Contractor shall employ an independent Certified Public Accountant, which may be the same auditor that performs ordinary and customary auditing functions for Contractor, who shall furnish an annual written audit to the City stating that in his or her opinion the Commission Payments paid by Contractor to City during the preceding year pursuant to this Agreement were made in accordance with the applicable terms of this Agreement. The Audit shall be completed and delivered to City within one-hundred twenty (120) days after the last day of the preceding calendar year.
- 4.11 Prior Review. Prior to the commencement of operations hereunder, City may require that an independent Certified Public Accountant, whose fees are paid for by Contractor, review the revenue control system(s) to be utilized by Contractor, in conformance with the American Institute of Certified Accounts Statement of Auditing Standards, Inc., Statement on Auditing Standards. At the end of each twelve (12) months of operation during the term of this Agreement, City may require that said independent Certified Public Accountant and/or City conduct all necessary tests for compliance with the revenue control system. Copies of all reports from the independent Certified Public Accountant shall be provided to City by Contractor. City may also require Contractor to provide copies of internal control reports used by Contractor.
- 4.12 Compensation to Contractor for Coffee/Tea Services. In consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Contractor in accordance with **Exhibit K**, Coffee/Tea Services Product List and Price List.
- 4.12.1 Contractor shall submit invoices to City monthly for Coffee/Tea Services in a form acceptable to City, which City shall pay within 30 days of receipt and approval by Department Director. Invoices shall be submitted to: City of San Antonio, Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976. Alternatively, invoices can be submitted electronically to accounts.payable@sanantonio.gov. Payment terms shall be Net 30.
- 4.12.2 In accordance with the Texas Prompt Payment Act, City shall have not less than 30 days to pay for goods or services. Time for payment, including payment under discount terms, will be computed from the later of: (1) the date performance of the service under the contract is completed or (2) the date City receives a correct and valid invoice for the services. Payment is deemed to be made on the date of mailing of the check. Payment is made in US dollars only.

This provision shall not apply where there is a bona fide dispute between City and

Contractor about the service performed that causes the payment to be late, or where the invoice is not mailed to the address provided herein.

4.12.3 No additional fees or expenses of Contractor shall be charged by Contractor nor be payable by City. The parties hereby agree that all compensable expenses of Contractor have been provided for in the total payment to Contractor as specified in this Section 4.12. Total payments to Contractor cannot exceed that amount set forth in this Section 4.12, without prior approval and agreement of all parties, evidenced in writing.

4.12.4 City shall not be obligated or liable under this Agreement to any party, other than Contractor, for the payment of any monies or the provision of any goods or services.

ARTICLE V

OWNERSHIP OF DOCUMENTS

- 5.1 In accordance with Texas law, Contractor acknowledges and agrees that all Local Government Records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such Local Government Records produced by or on the behalf of Contractor pursuant to this Agreement shall be the subject of any copyright or proprietary claim by Contractor.
- 5.2 Contractor acknowledges and agrees that all Local Government Records, as described herein, produced in the course of the work required by this contract will belong to and be the property of City. Contractor will turn over to City all such records. Contractor shall not, under any circumstances, release any records created during the course of performance of this contract to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.
- 5.3 In accordance herewith, Contractor agrees to comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

ARTICLE VI

RECORDS RETENTION

- 6.1 Contractor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder excluding client specific information for private entities other than the City (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

The Parties agree and understand that access to Contractor's records necessarily includes City's access to the Equipment for the purpose of examining and reading meters.

- 6.2 To the extent Contractor utilizes any subcontractor under this Agreement, Contractor agrees to and shall ensure that the terms and conditions of this Article are applicable to each and every subcontractor and Contractor shall further ensure that the City, by and through the Contractor's agreement with the subcontractor, shall have access to said subcontractor's books and records for examination and audit purposes and that the City is allowed to make copies and/or excerpts of same.
- 6.3 Contractor shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Contractor shall retain the records until the resolution of such litigation or other such questions. Contractor acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Contractor to return the documents to City at Contractor's expense prior to or at the conclusion of the retention period. In such event, Contractor may retain a copy of the documents at its sole cost and expense.
- 6.4 Contractor shall notify City, immediately, in the event Contractor receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Contractor understands and agrees that City will process and handle all such requests.
- 6.5 Disclosure Requirements for Certain Government Contracts. For contracts (1) with a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City, or (2) that result in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a given fiscal year, Contractor acknowledges that the requirements of the Texas Public Information Act, Government Code, Chapter 552, Subchapter J, pertaining to the preservation and disclosure of Contracting Information maintained by the City or sent between the City and a vendor, contractor, potential vendor, or potential contractor, may apply to this contract. Contractor agrees that the contract can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
- 6.6 Contractor warrants and certifies, that it, has not knowingly or intentionally failed to comply with this subchapter in a previous contract. City hereby relies on Contractor's certification, and if found to be false, City may terminate this Agreement for material breach.

ARTICLE VII

TERMINATION

- 7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article IIA. Term, or earlier termination pursuant to any of the provisions hereof.
- 7.2 Termination Without Cause. This Agreement may be terminated by City without cause upon 30 calendar days' written notice, which notice shall be provided in accordance with Article VIII. Notice.
- 7.3 Termination for Cause. Should Contractor fail to fulfill in a timely and proper manner, as determined solely by the Director, its material obligations under this contract, or violate any of the material terms of this contract, City shall have the right to immediately terminate the contract in whole or in part. Notice of termination shall be provided in writing to Contractor, effective upon the date set forth in the notice. City may, in City's sole discretion, provide an opportunity for Contractor to cure the default. If City elects to offer an opportunity to cure, City shall provide notice, which notice shall be provided in accordance with Article VIII. Notice, to Contractor specifying the matters in default and the cure period. If Contractor fails to cure the default within the cure period, City shall have the right, without further notice, to terminate the contract in whole or in part. Such termination shall not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor. The occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:
- 7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;
 - 7.3.2 Neglect or failure by Contractor to perform or observe any of the terms, conditions, covenants or guarantees of this Contract or of any amendment between City and Contractor;
 - 7.3.3 Failure by Contractor to correct any deficiency therein within the time allotted, as specified in a written notice from City to Contractor sent pursuant to Article VIII, Notice; or
 - 7.3.4 Any material breach of the terms of this Agreement, as determined solely by City.
- 7.4 Defaults With Opportunity for Cure. Should Contractor default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have 30 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Contractor fails to cure the default within such 30-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against Contractor's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

- 7.4.1 Failure to comply with the terms and conditions stated in Article XIV. SBEDA;
 - 7.4.2 Bankruptcy or selling substantially all of company's assets;
 - 7.4.3 Failing to perform or failing to comply with any covenant herein required; or
 - 7.4.4 Performing unsatisfactorily.
- 7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.
- 7.6 Regardless of how this Agreement is terminated, Contractor shall effect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Contractor, or provided to Contractor, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Contractor in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Contractor's sole cost and expense. Payment of compensation due or to become due to Contractor is conditioned upon delivery of all such documents, if requested by City.
- 7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Contractor shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Contractor to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Contractor of any and all right or claims to collect moneys that Contractor may rightfully be otherwise entitled to for services performed pursuant to this Agreement.
- 7.8 Transition Period. Upon the effective date of expiration or termination of this Agreement, Contractor shall cease all operations being performed by Contractor or any of its subcontractors pursuant to this Agreement. City shall provide Contractor with a removal schedule to enable a smooth transition and Contractor shall remove all Equipment from the Premises. If required by City, Contractor shall remove all equipment from all locations prior to the termination date, starting no sooner than the 10th business day before the effective date of termination. Notwithstanding the foregoing, City may require Contractor to remove all Equipment immediately upon termination within 30 calendar days.

The terms of this Agreement shall survive during this transition period which shall not exceed 90 days. On expiration or termination of this Agreement, commission due the City shall be paid on sales until all Equipment has been removed, and the removal date shall be indicated on the period statement when each piece of Equipment was reviewed, including Equipment reviewed at any time during the contract period prior to expiration or termination.

- 7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Contractor for any default hereunder or other action.

ARTICLE VIII

NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Troy Elliott, Deputy Chief Financial Officer
P.O. Box 839966
San Antonio, Texas 78283-3966

With Copy to:

City of San Antonio
Attn: Melanie Keeton, Assistant Finance Director
P.O. Box 839966
San Antonio, Texas 78283-3966

If intended for Contractor, to:

Compass Group USA, Inc.
Canteen Division
2400 Yorkmont Road
Charlotte, NC 28217

With copy to:

Compass Group USA, Inc.
General Counsel and Secretary
2400 Yorkmont Road
Charlotte, North Carolina 28217
Facsimile: 704.328.7998

And

Compass Group USA, Inc.
President
Canteen Vending Services
2400 Yorkmont Road
Charlotte, NC 28217
Facsimile: 704.424.5037

ARTICLE IX

RESERVED

ARTICLE X

INSURANCE

- 10.1 Prior to the commencement of any work under this Agreement, Contractor must provide a completed Certificate(s) of Insurance to City's Finance Department. The certificate must be:
- 10.1.1 clearly labeled with the name of this Agreement in the Description of Operations block;
- 10.1.2 completed by an agent or broker and signed by a person authorized by the insurer to bind coverage on its behalf (City will not accept Memorandum of Insurance or Binders as proof of insurance); and
- 10.1.3 properly endorsed and have the agent's signature, and phone number.
- 10.2 Certificates may be mailed or sent via email, directly from the insurer's authorized representative. City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by City's Finance Department. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.
- 10.3 If the City does not receive copies of insurance endorsements required herein, then by executing this Agreement, Contractor certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for this Agreement.
- 10.4 The City's Risk Manager reserves the right to modify the insurance coverages, and their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.
- 10.5 Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the Contractor claims to be self-insured, they must provide a copy of their declaration page so the City can review their deductibles:

<i>INSURANCE TYPE</i>	<i>LIMITS</i>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following:	For Bodily Injury and Property Damage \$1,000,000 per occurrence;
a. Premises/Operations	

b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability *e. Independent Contractors *f. Damage to property rented by you	\$2,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage. *f. \$300,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 each accident.
*If Applicable	

10.6 Contractor must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of Contractor and provide a certificate of insurance and endorsement that names Contractor and City as additional insureds. Contractor shall provide City with subcontractor certificates and endorsements before the subcontractor starts work.

10.7 If a loss results in litigation, then the City is entitled, upon request and without expense to the City, to receive redacted copies of the policies, declaration page and all endorsements. Contractor must comply with such requests within 10 days by submitting the requested insurance documents to the City at the following address:

City of San Antonio
Attn: Finance Department
P.O. Box 839966
San Antonio, Texas 78283-3966

10.8 Contractor's insurance policies required herein must contain or be endorsed to contain the following provisions:

- Name City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with City. The endorsement requirement is applicable for the commercial general liability and auto liability policies;
- Endorsement that the "other insurance" clause shall not apply to City where City is an additional insured shown on the policy. City's insurance is not applicable in the event of a claim;
- Contractor shall provide a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of City; and
- Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days

advance notice for nonpayment of premium.

- 10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- 10.10 In addition to any other remedies City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City may order Contractor to stop work and/or withhold any payment(s) which become due to Contractor under this Agreement until Contractor demonstrates compliance with requirements.
- 10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Agreement.
- 10.12 Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self - insurance carried by City for liability arising out of operations under this Agreement.
- 10.13 The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.
- 10.14 Contractor and any subcontractor(s) are responsible for all damage to their own equipment and/or property result from their own negligence.

ARTICLE XI

INDEMNIFICATION

- 11.1 **Contractor covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Contractor's activities under this Agreement, including any acts or omissions of Contractor, any agent, officer, director, representative, employee, consultant or subcontractor of Contractor, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Contract. The indemnity provided for in this**

paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 11.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Contractor shall advise the City in writing within ten (10) business days of any claim or demand against the City or Contractor known to Contractor related to or arising out of Contractor's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at Contractor's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Contractor of any of its obligations under this paragraph.
- 11.3 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.
- 11.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under worker's compensation or other employee benefit acts.

ARTICLE XII

ASSIGNMENT AND SUBCONTRACTING

- 12.1 Contractor shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Contractor. Contractor, its employees or its subcontractors shall perform all necessary work.
- 12.2 It is City's understanding and this Agreement is made in reliance thereon, that Contractor intends to use the following subcontractors in the performance of this Agreement: None.

Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director in writing.

- 12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the Director.
- 12.4 Except as otherwise stated herein, Contractor may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of Director. As a condition of such consent, if such consent is granted, Contractor shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Contractor, assignee, transferee or subcontractor.
- 12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Contractor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement without said written approval City may, at its option, cancel this Agreement and all rights, titles and interest of Contractor shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Contractor shall in no event release Contractor from any obligation under the terms of this Agreement, nor shall it relieve or release Contractor from the payment of any damages to City, which City sustains as a result of such violation.

ARTICLE XIII

INDEPENDENT CONTRACTOR

Contractor covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of “respondeat superior” shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Agreement and that the Contractor has no authority to bind the City.

ARTICLE XIV

SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)

Commercial Nondiscrimination Policy Compliance. As a condition of entering into this Agreement, the Contractor represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, the City's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, Contractor shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the City's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Contractor's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the City pursuant to the solicitation for this contract is hereby incorporated into the material terms of this Agreement. Contractor shall incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to City contracts.

ARTICLE XV

CONFLICT OF INTEREST

- 15.1 The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in Sections 2-42 and 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with the City. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:
- a City officer or employee; his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;
 - an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10 percent or more of the voting stock or shares of the entity, or (ii) 10 percent or more of the fair market value of the entity; or
 - an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.
- 15.2 Pursuant to the subsection above, Contractor warrants and certifies, and this Contract is made in reliance thereon, that by contracting with the City, Contractor does not cause a

City employee or officer to have a prohibited financial interest in the Agreement. Contractor further warrants and certifies that it has tendered to the City a Contracts Disclosure Statement in compliance with the City's Ethics Code.

ARTICLE XVI **AMENDMENTS**

- 16.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Contractor. Director shall have authority to execute amendments on behalf of the City without further action by the San Antonio City Council, subject to and contingent upon appropriation of funds for any increase in expenditures by the City.
- 16.2 It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Contract and that any such changes shall be automatically incorporated into this Contract without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

ARTICLE XVII **COMPLIANCE**

- 17.1 Contractor shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.
- 17.2 Non-Discrimination. As a party to this contract, Contractor understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X. of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

ARTICLE XVIII **INTELLECTUAL PROPERTY**

- 18.1 Contractor shall pay all royalties and licensing fees necessary for performing its obligations under this Agreement. Contractor shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, trademarks, trade secrets, materials and methods used in the Services. Further, if Contractor has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.
- 18.2 Contractor further agrees to:

- 18.2.1 Assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent, copyright, trademark or any other intellectual property rights arising from the use and/or sale of the equipment or software under this Agreement;
- 18.2.2 Assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses; and
- 18.2.3 Indemnify the City against any monetary damages and/or costs awarded in such suit;

Provided that:

- 18.2.4 Contractor is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Contractor agrees to consult with the City Attorney of the City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City;
- 18.2.5 The Software or the equipment is used by the City in the form, state, or condition as delivered by Contractor or as modified without the permission of Contractor, so long as such modification is not the source of the infringement claim;
- 18.2.6 The liability claimed shall not have arisen out of the City's negligent act or omission; and
- 18.2.7 The City promptly provide Contractor with written notice within 15 days following the formal assertion of any claim with respect to which the City asserts that Contractor assumes responsibility under this section.

ARTICLE XVIII

NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

ARTICLE XX
LICENSES/CERTIFICATIONS

Contractor warrants and certifies that Contractor and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

ARTICLE XXI
LAW APPLICABLE & LEGAL FEES

- 21.1 **THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**
- 21.2 Unless this contract provides otherwise, all claims, counterclaims, disputes, and other matter in question between City and Contractor arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.
- 21.3 Unless provided otherwise in this Agreement, the Parties hereto expressly agree that, in the event of litigation, each party hereby waives its right to payment of attorneys' fees.

ARTICLE XXII
LEGAL AUTHORITY

The signer of this Agreement for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

ARTICLE XXIII
PARTIES BOUND

This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

ARTICLE XXIV
CAPTIONS

The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

ARTICLE XXV
CONFIDENTIAL INFORMATION

Contractor shall secure the confidentiality of records and information that Contractor may have access to in accordance with the applicable Federal, State, and local laws and regulations. This provision shall not be construed as limiting City's or its authorized representatives' right of access to records or other information under this Contract.

ARTICLE XXVI
SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

ARTICLE XXVII
STATE PROHIBITIONS ON CONTRACTS

- 27.1 This Article only applies to a contract that:
- (1) is between a governmental entity and a company with 10 or more full-time employees; and
 - (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.
- 27.2 "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.
- 27.3 Prohibition on Contracts with Companies Boycotting Israel. Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit

commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

By executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate this contract for material breach.

- 27.4 Prohibition on Contracts with Companies Boycotting Certain Energy Companies. Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A).

By executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

- 27.5 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries. Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

"Discriminate against a firearm entity or firearm trade association": (A) means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

By executing contract documents with the City of San Antonio, Company hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a

firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

ARTICLE XXVIII
PROHIBITION ON CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS
WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION

Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. Contractor hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on Contractor's certification. If found to be false, or if Contractor is identified on such list during the course of its contract with City, City may terminate this Agreement for material breach.

ARTICLE XXVIII
PROHIBITED CONTRIBUTIONS

- 29.1 Contractor acknowledges that City Code Section 2-309 provides that any person acting as a legal signatory for a proposed contractual relationship that applies for a "high-profile" discretionary contract, as defined by the City of San Antonio Contracting Policy and Process Manual, may not make a campaign contribution to any councilmember or candidate at any time from the time the person submits the response to the Request for Proposal (RFP) or Request for Qualifications (RFQ) until 30 calendar days following the contract award. Contractor understands that if the legal signatory entering the contract has made such a contribution, the City may not award the contract to that contributor or to that contributor's business entity. Any legal signatory for a proposed high-profile contract must be identified within the response to the RFP or RFQ, if the identity of the signatory will be different from the individual submitting the response.
- 29.2 Contractor warrants and certifies, and this Agreement is made in reliance thereon, that the individual signing this Agreement has not made any contributions in violation of City Code section 2-309, and will not do so for 30 calendar days following the award of this Agreement. Should the signor of this Agreement violate this provision, the City Council may, in its discretion, declare this Agreement void.

ARTICLE XXX
EXECUTION IN COUNTERPART

This Agreement and any amendments thereto may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement. In the event that any signature is delivered by facsimile transmission or by email delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

ARTICLE XXXI
AUTOPEN OR ELECTRONIC SIGNATURE

This Agreement and any amendments hereto may be signed by autopen or electronic signature (e.g., DocuSign or similar electronic signature technology) and may be transmitted by electronic means. Copies of this Agreement and any amendments hereto that are so executed and delivered have the same force and effect as if executed with handwritten signatures and physically delivered.

ARTICLE XXXII
INCORPORATION OF EXHIBITS

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below, with this document taking priority over all exhibits:

- Exhibit A** City’s Request for Proposal (RFP) No. 23-041; RFx 6100016027, including any addendums, exhibits, and attachments
- Exhibit B** Contractor’s Proposal submitted in response to RFP No. 23-041; RFx 6100016027 dated March 8, 2023
- Exhibit C** Administrative Directives 7.4A Acceptable Use of Information Technology and 7.8A, Access Control
- Exhibit D** Administrative Directives 7.8A, Access Control
- Exhibit E** Food Service Guidelines for City of San Antonio Facilities
- Exhibit F** Premises and Placement
- Exhibit G** CJIS Addendum

Exhibit H Snack Vending Product and Price List

Exhibit I Beverage Vending Product and Price List

Exhibit J Micro-Market Product and Price List

Exhibit K Coffee / Tea Product and Price List

Exhibit L Sample CPI Adjustment

ARTICLE XXXIII
ENTIRE AGREEMENT

This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and **AGREED** to as of the dates indicated below.

CITY OF SAN ANTONIO

COMPASS GROUP USA, INC.

(Signature)

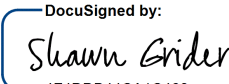
Printed Name: _____

Title: _____

Date: _____

Approved as to Form:

Assistant City Attorney

DocuSigned by:

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(Signature)

Printed Name: **Shawn Grider**

Title: **Division President**

Date: **4/17/24**