



HILLSBOROUGH COUNTY
AVIATION AUTHORITY

AGREEMENT FOR
OFF-AIRPORT PARKING CONCESSION

AT
TAMPA INTERNATIONAL AIRPORT

COMPANY: ESA P PORTFOLIO OPERATING LESSEE, LLC

Term Date: August 2, 2018 through September 30, 2021

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**HILLSBOROUGH COUNTY AVIATION AUTHORITY
OFF-AIRPORT PARKING CONCESSION**

This Agreement for Off-Airport Parking Concession (hereinafter referred to as "Agreement") is made and entered into this 2nd day of August, 2018 by and between the Hillsborough County Aviation Authority, a public body corporate under the laws of the State of Florida ("Authority"), and ESA P Portfolio Operating Lessee, LLC, a limited liability company, organized and existing under the laws of the State of Delaware ("Company") (individually and collectively "Party" or "Parties").

WITNESSETH:

WHEREAS, Authority controls, operates, and maintains an airport in the County of Hillsborough, State of Florida, known as Tampa International Airport ("Airport"); and

WHEREAS, the Legislature of the State of Florida has granted to Authority broad power to adopt regulations; enter contracts including limited and exclusive agreements; lease property; fix and collect rates, fees, and other charges for the use of services or facilities furnished by the Airport or for the privilege of providing services to the Airport passengers; and to exercise and perform all powers and prerogatives conferred to it by Chapter 2012-234, Laws of Florida; and

WHEREAS, Authority finds the provision and regulation of ground transportation services to Airport passengers to be in the public interest and to be a part of, as well as essential to, operation of the Airport and aviation facilities owned by and under the jurisdiction of Authority; and

WHEREAS, Authority finds that businesses providing ground transportation services to Airport passengers derive a special economic benefit from Authority's ongoing Airport operation, such that it is reasonable to raise funds to support the continued and ongoing operations of Authority through fees and charges, or a combination thereof, imposed for the privilege of doing business with customers who use Airport or aviation facilities under Authority's jurisdiction; and

WHEREAS, Company operates a vehicle parking business located Off-Airport; and

WHEREAS, Company has filed with Authority a completed application requesting authorization for a permit to do business at the Airport, arranging access to the Airport, and providing transportation of Airport customers to Company's Off-Airport location.

NOW, THEREFORE, for and in consideration of the use of the Airport in accordance with the Rules and Regulations and Operating Directives of Authority and terms and conditions herein, and in further

consideration of the business benefits received by Company, and other good and valuable considerations, Authority agrees to issue a permit to Company, and Company agrees to abide by all of the following terms and conditions.

ARTICLE 1: RECITALS

The above recitals are true and correct and are incorporated herein.

ARTICLE 2: DEFINITIONS

Unless otherwise defined herein, all definitions set out in the Rules and Regulations and Operating Directives of the Authority will be applicable to this Agreement. For the purpose of this Agreement, the following words and terms used herein are defined as follows:

2.01 Off-Airport Parking Operator

An entity other than the Authority that is engaged in the business of operating parking facilities located off the Airport property and providing transportation to and from the Airport using the Airport's roadway system.

2.02 Airport Customer

Any person who between the time of leaving a motor vehicle with an Off-Airport Parking Operator for parking or storage, and the time of retrieving said vehicle, either: (1) departs from the Airport by aircraft; and/or (2) is transported by an Off-Airport Parking Operator to or from the Airport. For the purpose of this Agreement, all of Company's customers shall be considered Airport Customers except those customers who sign a written statement provided to Company stating that such customer (a) did not depart from the Airport; and/or (b) was not transported by Company to or from the Airport. Such statement is provided for in Exhibit C, entitled "Non-Airport Customer Affirmation Form", which is attached hereto and incorporated herein by reference.

2.03 Courtesy Vehicle

Any commercial vehicle engaged in transporting passengers between the Airport and any facility of a permit holder without any direct charge to the Passengers.

2.04 Parking Ticket

The sequentially numbered ticket received by Airport Customer to track the precise length of vehicle storage.

- 2.05 Per-Trip Fee
The fee established by Authority Board of Directors ("Board") for each Airport Customer pick-up at the Remote Curb at Authority's Rental Car Center, as may be adjusted from time to time by Authority Board.
- 2.06 Rental Car Center
The facility located at the South Terminal Support Area at the Airport that houses on-Airport rental car companies.
- 2.07 Remote Curb
The curbside at the Rental Car Center where commercial ground transportation vehicles designated by Authority pick-up and drop-off Airport Customers.
- 2.08 South Terminal Support Area
The area located south of the Main Terminal that serves as the gateway to the Airport and consists of the Rental Car Center, Remote Curb, Economy Parking Garage, and local roadways.
- 2.09 Tour Voucher
The document sold by Company to a third party travel agency or promoter for inclusion in travel promotions or packages sold or distributed to tour customers of the third party travel agency or promoter affording the tour customer prepaid vehicle storage and/or other Company charges.
- 2.10 Transaction Day
The period of time up to 24 hours from the opening of the parking transaction to the closing of the parking transaction. In the event Company offers a grace period for parking exits, such grace period will be considered the same Transaction Day. If a parking exit exceeds Company's grace period, then another Transaction Day will be applicable even if the Airport Customer is charged hourly and not a full additional day.

ARTICLE 3: TERM

- 3.01 Effective Date
This Agreement will become binding and effective upon execution by Company and approval and execution by Authority.

3.02 Term

The term of this Agreement will commence on August 2, 2018, hereinafter referred to as "Commencement Date", and will continue through September 30, 2021, unless terminated earlier as provided herein. This Agreement supersedes and replaces all other Agreements between Authority and Company.

3.03 Commencement of Rents, Fees and Other Charges

The rents, fees and other charges due hereunder will commence on the Commencement Date and will continue throughout the term of this Agreement unless this Agreement is terminated as provided in this Article.

3.04 Termination

This Agreement may be terminated by Authority, with or without cause, upon 30 days' written notice to Company. This Agreement may be terminated by Company, with or without cause, if Company is not in default of any terms of this Agreement or in the payment of any rents, fees or other charges to Authority, upon 30 days' written notice to Authority. In the event any such notice of termination is given, the termination of this Agreement will be effective 30 calendar days from the date of the notice or such date set forth in the notice of termination.

ARTICLE 4: USES, PRIVILEGES, AND RESTRICTIONS

4.01 Authorization

Company is authorized to do business at the Airport as an Off-Airport Parking Operator under the trade name Extended Stay America and to arrange for or operate Company's own Courtesy Vehicles on public roadways on Airport property by the route authorized by Authority to pick up and drop off Airport Customers, all in accordance with the Rules and Regulations and Operating Directives of Authority.

4.02 Courtesy Vehicle Use

Company agrees that it will provide pickup service only to its Airport Customers and Airport Customers of hotels directly sub-contracted with Company for Courtesy Vehicle service. Company will at all times require that its Courtesy Vehicles and drivers comply with Authority's Rules and Regulations and Operating Directives.

4.03 Courtesy Vehicle Inspection

Every Courtesy Vehicle operating under this Agreement may at any time be subject to inspection and approval by Authority as to size, engine exhaust, radio communication, passenger access,

registration, the vehicle operator's driver license, license tag and Courtesy Vehicle permit, and other matters pertaining to the efficient, safe operation of the Courtesy Vehicle at the Airport.

4.04 Courtesy Vehicle Identification

Courtesy Vehicles will not be painted or display signs intended to solicit business on the Airport. Courtesy Vehicles will display the Courtesy Vehicle permit and will be identified by the name of Extended Stay America or the logo of Extended Stay America, or both, and may include Company's telephone numbers, website, and address.

4.05 Disputes and Solicitation

Company will operate on the Airport in a safe and orderly fashion. Company will not allow its agents or employees to solicit business on the Airport in any way or fashion whatsoever. Company will not allow its agents or employees to engage in open or public disputes or conflicts tending to be incompatible with the best interests of the public at the Airport. Authority will have the right to resolve all such disputes or conflicts, and its determination concerning the manner in which Company will operate will be binding upon Company.

4.06 Non-Exclusive Agreement

It is understood that this Agreement, and any right or privilege granted thereby, is non-exclusive and in no way establishes or vests in Company any priority use of the Airport relative to other commercial users of the Airport, nor does it restrict Authority from assigning exclusive or priority uses of Airport to others.

4.07 Agreement Limitations

This Agreement authorizes Company to pick up and discharge its Airport Customers at the Airport and to enjoy the benefits derived from the use of the Airport in the operation of Company's off-airport parking business. Company will not operate an office or conduct any other kind of parking operations, or any other business, on the Airport without approval of the Authority.

ARTICLE 5: FEES AND PAYMENTS

5.01 Privilege Fee

During the term of this Agreement, Company will pay to Authority a privilege fee in the amount of eight and one half percent (8.5%) of Company's Gross Receipts, as that term is defined in this Article, without offset or demand ("Privilege Fee").

5.02 Automatic Vehicle Identification System

Company acknowledges Authority has installed a new Automatic Vehicle Identification (AVI) System which will provide Authority the ability to charge vehicle Per-Trip Fees. Company agrees that in addition to the Privilege Fee, Company will pay to Authority the Per-Trip Fee then in effect each time Company picks-up an Airport Customer(s) at the Remote Curb at Authority's Rental Car Center, without set-off or demand. Per-Trip Fees may be adjusted from time to time by Authority Board. By the tenth (10th) day of each calendar month, Authority will invoice Company its Per-Trip Fees due for the previous month. Payment of Per-Trip Fees will be due at the same time as payment of the Privilege Fee as provided for in Section 5.01 above.

5.03 Fees and Other Payments a Separate Covenant

Company will not for any reason withhold or reduce its required payments of fees and other charges provided in this Agreement, it being expressly understood and agreed by the Parties that the payment of fees and other charges is a covenant by Company that is independent of the other covenants of the Parties hereunder.

5.04 Delinquent Charges or Fees

Without waiving any other right or action available to Authority in the event of default of Company's payment of charges or fees hereunder, and in the event Company is delinquent in paying to Authority any such charges or fees for a period of seven calendar days after receipt of the "Monthly Gross Receipts Statement", which is attached hereto as Exhibit A and by this reference made a part hereof, Authority reserves the right to charge Company a late fee of \$250 per day until such payments are received.

5.05 Place of Payments

Company will submit all fees and charges and billings required by this Agreement as designated in the Notices and Communications Article.

5.06 Definition of Gross Receipts

A. Amounts to be Included

As used herein, the term "Gross Receipts" will mean all revenues and fees received by Company from its Airport Customers transported by Courtesy Vehicle for parking or services related to parking, regardless of how (cash, credit, or barter) or by whom the payment is made, without deductions, set-offs, or exclusions of any kind. Gross Receipts also include any and all payments by Airport Customers to a third party administrator or aggregator whether or not such fees are remitted to Company, without deductions, set-offs, or exclusions of any kind.. Unless revenues from Company's Off-Airport parking businesses are expressly and particularly excluded from

Gross Receipts under this Agreement, such revenues will be included in Gross Receipts. Revenues derived from sources similar but not identical to those described herein will also be included in Gross Receipts unless expressly excluded by this Agreement. Notwithstanding the above, it is presumed that a Customer utilizing a Tour Voucher is an Airport Customer transported by a Courtesy Vehicle.

Gross Receipts will also include any item or service sold, rented or provided to an Airport Customer, including but not limited to vehicle washing/detailing, oil changes, or any type of insurance now or hereafter offered to Company's Airport Customer.

B. Amounts to be Excluded and Restrictions on Exclusion

The term "Gross Receipts" will not include:

1. The amounts of any federal, state, or municipal sales taxes separately stated and collected from Airport Customers of Company, and that are payable directly to the taxing authority by Company. No exclusion will be allowed for taxes levied on Company's activities, facilities, equipment, or real or personal property, payroll taxes, income taxes, taxes on frequent flyer miles paid directly to an airline, license or tag fees, or other charges that recoup operating costs.
2. Any sums received by Company from insurance carriers for damage to automobiles parked at Company's location or to Company property, or for loss, conversion, or abandonment of such automobiles parked at Company's location.
3. Any sums received by reason of Company's disposal of capital assets or trade fixtures.
4. Per-Trip Fees.

C. Losses

It is understood and agreed that all losses or charge-backs are to be borne solely by Company, and Authority is to be paid on Gross Receipts without charge or reduction for costs of losses.

D. Presentation of Fees and Charges

Except as provided in Article 5.06(B) above, all other fees or charges collected from the Airport Customer will be considered Gross Receipts and will not be withheld from the percentage calculation. Company understands Authority does not support the practice of transferring Company's obligation for payment of the Privilege Fee and Per-Trip Fee due herein to its Airport

Customers. Except as already referenced herein, Company agrees that if such additional charges or fees are collected from the Airport Customer for the purpose of collecting the Privilege Fee and Per-Trip Fee due herein, such fees will be disclosed to the Airport Customer at the time of parking. Such additional charges or fees collected from the Airport Customer for the purpose of collecting the Privilege Fee and Per-Trip Fee must be shown separately on all customer reservation records, receipts, and documents, must be apart from other Company charges (i.e. "below the tax line") and will be no more than eight and one half percent (8.5%) of Gross Receipts (and will not be included in Gross Receipts for purposes of calculation of any such additional charges or fees). Company will neither identify, treat, or refer to such additional charges or fees as a tax or levy, nor state or imply that the Authority is requiring the pass-through or collection thereof.

5.07 Diversion of Gross Receipts

Company will not intentionally divert, through direct or indirect means, any of Company's vehicle parking or related business with Airport Customers to locations of Company or affiliates of Company without including the Gross Receipts of such transactions, as described in the definition of Gross Receipts, in Company's reported Gross Receipts. Any such intentional diversion of Gross Receipts will constitute a breach of this Agreement and Authority will have the right to immediately terminate this Agreement upon determination by Authority or its auditors that an intentional diversion exists or has occurred.

5.08 Misrepresentation

Company will not modify its accounting treatment or rename or redefine services or products that, under the terms of this Agreement, would be subject to the Privilege Fee.

5.09 Monthly Reports

Within 10 days after the close of each calendar month of the term of this Agreement, Company will submit to Authority, in a form as shown on attached Exhibit A or other such Company form with detail satisfactory to Authority, a statement of its Gross Receipts that shows the following:

- A. Detailed Gross Receipts for the prior calendar month;
- B. Separate identification of any exclusions from Gross Receipts as provided herein to calculate Gross Receipts upon which the Privilege Fee payments to Authority are computed;
- C. Lists the number of parked vehicle transactions for the period, the number of transaction days being reported on in the current reporting period, the number of occupied spaces, and average price occurring during the calendar month; and
- D. Is signed and certified by an authorized official of Company.

At the Authority's discretion, Exhibit A may be required in electronic format or utilizing a portal system. In addition, each month Company will provide Authority with an electronic file that details monthly sales information by parking ticket number, in a form as shown on Exhibit B, "Monthly Detail Sales Information", attached hereto and by this reference made a part hereof. The monthly sales detail shown in Exhibit B must agree with the total amounts reported in Exhibit A. Exhibit C must also be provided in electronic format for each non-Airport related transaction for the period with an accounting of any transactions being excluded as non-Airport related.

The Parties recognize that Authority will incur additional administrative costs if Company is late in providing all of the monthly information in the monthly statements and electronic file required by this Article, and the amount of those costs is difficult to determine with certainty. Consequently, the Parties agree Company will pay Authority, in addition to all other financial requirements of this Agreement, fifty dollars (\$50) per report for each calendar day Company is late in submitting all of the monthly information in the formats required by this Article. Said charge will continue until specific performance is accomplished and will not be offset against any other amount due Authority as detailed in this Agreement.

ARTICLE 6: ACCOUNTING, RECORDS AND AUDIT

6.01 Books and Records

The acceptance of monthly reports and payments by Authority does not constitute agreement by Authority with the amounts reported and paid. Company will maintain, during the term of this Agreement, all books of account and records customarily used in this type of business operation, in conformity with Generally Accepted Accounting Principles, and for such period of time thereafter as provided herein, unless otherwise approved by Authority. Company will maintain records and internal controls pertaining to each Off-Airport Parking transaction written at the Tampa Off-Airport location for three (3) years after expiration or termination of the Agreement. The Off-Airport Parking transaction will be identified to indicate the Tampa Off-Airport location is the originating location. All Off-Airport Parking transaction forms used by Company in its Tampa Off-Airport operation will be sequentially numbered, in a numbering series exclusively for its Tampa Off-Airport location. All gaps in numerical sequence must be documented. Any voided tickets must be retained. Accounting records of Company will be stored sequentially, or in such other manner as approved by Authority, to provide reasonable and expeditious access for audit purposes hereunder.

Accounting for Tour Vouchers must specifically detail charges related to a reduced parking and related sales tax for the period of the tour from other services or additional days parked.

6.02 Audit

Within 90 days after the end of each fiscal year ending September 30, Company will provide, at its sole cost and expense, an annual certified statement or an annual audit report of monthly Gross Receipts, as defined herein. The first such annual certified statement or annual audit report will cover the period of the Commencement Date through the following September 30th. If this initial period is less than 90 calendar days, no annual certified statement or annual audit report will be required for the initial period. Each subsequent annual certified statement or annual audit report will cover the successive twelve month period. The last such annual certified statement or annual audit report will include the last day of operations. The annual certified statement may be prepared by the chief financial officer of the Company when payments to the Authority are less than thirty thousand dollars (\$30,000) annually. The annual audit report will be prepared by an independent certified public accountant, licensed in the State of Florida and acceptable to Authority, when payments to the Authority are more than thirty thousand dollars (\$30,000) annually. A \$100.00 per calendar day penalty may be assessed by Authority for every day the annual certified statement or annual audit report is late.

There may be no limitation on the scope of the engagement that would preclude the auditor from expressing an unqualified opinion as to the correctness and completeness of the reported receipts. The engagement will include a schedule of Gross Receipts, Privilege Fees, and Per-Trip Fees for each month of Company's operations under this Agreement, prepared in accordance with the comprehensive basis of accounting defined herein and reported in a format acceptable to Authority. The engagement will be conducted in accordance with Generally Accepted Auditing Standards. In addition, the engagement will also comprehend compliance procedures to determine whether accounting records are being maintained in accordance with this Article. The auditor will report such procedures and findings in a separate letter to Authority. Any change in scope from that described above will be included in the audit report. Any additional fees are due with the audit report. If the fees were overstated and the Authority issues a credit invoice, such credit invoice must be taken against the next invoice billed.

Delivery of an audit report finding containing a qualified opinion, or an adverse opinion, or a disclaimer of opinion as defined in the Statements on Auditing Standards, or as same may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, or any successor board or agency thereto, will be deemed a material breach of this Agreement.

6.03 Authority's Right to Perform Audits, Inspections, or Attestation Engagements

Notwithstanding Company's audit requirement hereunder, Authority or its representative will be permitted to perform audits, inspections or attestation engagements of all or selected operations and examine all such books of accounts and records at any time during normal business hours, including all federal and state tax returns relating to Company's operations hereunder and including franchisee/licensee records and audits of all business transactions and records of sale at any business locations of Company within three (3) miles of the Airport boundary. There may be no limitation in the scope of the engagement that would hinder the Authority in testing the accuracy and completeness of the reported revenue.

If Company utilizes a computerized accounting system, Authority will be allowed to download information from the system for the purpose of verifying Gross Receipts. Company agrees that records and instruments will be available to Authority for at least three years after the termination of this Agreement. If the books of accounts and records are kept at locations other than the Airport, Authority will have the option to have said books of accounts and records brought to a location convenient to Authority's auditors to conduct the engagement as set forth in this Article or to transport Authority's audit team to Company's headquarters for purposes of undertaking said engagement. In such event, Company will pay reasonable costs of transportation, food and lodging for Authority's team. Authority has the right during the engagement to interview Company's employees and make photocopies and inspect any and all records upon request.

Company agrees to deliver or provide access to all records requested by Authority's auditors within 14 calendar days of the request at the initiation of the engagement and to deliver or provide access to all other records requested during the engagement within 7 calendar days of each subsequent request. The parties recognize that Authority will incur additional costs if records requested by Authority's auditors are not provided in a timely manner and that the amount of those costs is difficult to determine with certainty. Consequently, the parties agree that Company will pay Authority liquidated damages of one hundred dollars (\$100.00), in addition to all other contractual financial requirements, for each item in a records request every calendar day for each time Company is late in submitting requested records to perform the engagement. Payment will continue until specific performance is accomplished. Payment will not be offset against any other amount due Authority as detailed in this Agreement.

If as a result of any engagement it is determined that Company owes additional fees or charges to Authority, Company will pay such additional fees and charges and the Authority may assess interest of up to 18% on the amount due from the date the amount was initially due. If as a result of any engagement it is determined that Company under reported Gross Receipts by three percent

or more in any one month or by one and a half percent or more for any 12 month period, an under reporting fee of seven percent (7%) of the amount due to Authority may be assessed against Company and will be due from Company and Company will reimburse Authority for the entire cost of the engagement.

ARTICLE 7: DEFAULT AND TERMINATION RIGHTS

7.01 Events of Default

Company will be deemed to be in default of this Agreement upon the occurrence of any of the following:

- A. The failure or omission by Company to perform its obligations under this Agreement or the breach of any terms, conditions and covenants required herein.
- B. Being in arrears in the payment of the whole or any part of the fees and charges agreed upon hereunder for a period of ten (10) calendar days after notice of such default to Company.
- C. The conduct of any business or performance of any acts at the Airport not specifically authorized in this Agreement, failure to perform any of the provisions of this Agreement or any other agreement between Authority and Company, and Company's failure to discontinue that business or those acts within ten (10) calendar days of receipt by Company of Authority written notice to cease said business or acts.
- D. The divestiture of Company's estate herein by operation of law, by dissolution, or by liquidation, not including a merger or sale of assets.
- E. The appointment of a Trustee, custodian, or receiver of all or a substantial portion of Company's assets or the insolvency of Company; or if Company will take the benefit of any present or future insolvency statute, will make a general assignment for the benefit of creditors, or will seek a reorganization or the readjustment of its indebtedness under any law or statute of the United States or of any state thereof, including the filing by Company of a voluntary petition of bankruptcy or the institution of proceedings against Company for the adjudication of Company as bankrupt pursuant thereto.
- F. Company's violation of Florida Statute Section 287.133 concerning criminal activity on agreements with public entities.

7.02 Authority Remedies

In the event of any of the foregoing events of default enumerated in this Article, and following ten (10) calendar days' notice by Authority and Company's failure to cure, Authority, at its election, may exercise the following options or remedies, the exercise of which will not be deemed to preclude the exercise of any other remedy herein listed or otherwise provided by statute or general law:

- A. Terminate Company's rights under this Agreement and, in accordance with law, Company will remain liable for all payments or other sums due under this Agreement and for all damages suffered by Authority because of Company's breach of any of the covenants of this Agreement;
or
- B. Declare this Agreement to be terminated, ended, null and void.

No waiver by Authority at any time of any of the terms, conditions, covenants, or agreements of this Agreement, or noncompliance therewith, will be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant, or agreement herein contained, nor of the strict and prompt performance thereof by Company. No delay, failure, or omission of Authority to exercise any right, power, privilege, or option arising from any default nor subsequent acceptance of fees or charges then or thereafter accrued will impair any such right, power, privilege, or option, or be construed to be a waiver of any such default or relinquishment. No notice by Authority will be required to restore or revive time is of the essence hereof after waiver by Authority or default in one or more instances. No option, right, power, remedy, or privilege of Authority will be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options, or remedies given to Authority by this Agreement are cumulative and that the exercise of one right, power, option, or remedy by Authority will not impair its rights to any other right, power, option, or remedy available under this Agreement or provided by law. No act or thing done by Authority or Authority agents or employees during the term of this Agreement will be deemed an acceptance of the surrender of this Agreement, and no acceptance of surrender will be valid unless in writing.

7.03 Continuing Responsibilities of Company

Notwithstanding the occurrence of any event of default, Company will remain liable to Authority for all payments payable hereunder and for all preceding breaches of any covenant of this Agreement. Furthermore, unless Authority elects to cancel this Agreement, Company will remain liable for and promptly pay any and all payments accruing hereunder until termination of this Agreement as set forth in this Agreement.

7.04 Company's Remedies

Upon thirty (30) calendar days written notice to Authority, Company may terminate this Agreement and all of its obligations hereunder, if Company is not in default of any term, provision, or covenant of this Agreement or in the payment of any fees or charges to Authority, and only upon or after the occurrence of any of the following events: the inability of Company to use Airport for a period of longer than 90 consecutive days due to war, terrorism, or the issuance of any order, rule or regulation by a competent governmental authority or court having jurisdiction over Authority, preventing Company from operating its business for a period of ninety (90) consecutive days; provided, however, that such inability or such order, rule or regulation is not due to any fault or negligence of Company.

In the event it is determined by a court of competent jurisdiction that Authority has wrongfully terminated this Agreement, such termination shall automatically be deemed a termination for convenience.

ARTICLE 8: INDEMNIFICATION

- A. To the fullest extent permitted by law, in addition to Company's obligation to provide, pay for and maintain insurance as set forth elsewhere in this Agreement, Company will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from and against any and all liabilities, suits, claims, expenses, losses, enforcement actions, costs, fines, and damages (including but not limited to claims for attorney's fees and court costs) caused in whole or in part by the:
1. Presence on, use or occupancy of Authority property;
 2. Acts, omissions, negligence (including professional negligence and malpractice), reckless, intentional wrongful conduct, activities, or operations;
 3. Any breach of the terms of this Agreement;
 4. Performance, non-performance or purported performance of this Agreement;
 5. Violation of any law, regulation, rule ordinance, order or permit;
 6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or

7. Contamination of the soil, groundwater, surface water, storm water, air or the environment by fuel, gas, chemicals or any other substance deemed by the Environmental Protection Agency or other regulatory agency to be an environmental contaminant;

of or by Company or Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by Company, regardless of whether the liability, suit, claim, expense, loss, cost, fine, or damages is caused in part by an indemnified party.

- B. In addition to the duty to indemnify and hold harmless, Company will have the separate and independent duty to defend Authority, its members, officers, agents, employees, and volunteers from all suits, claims or actions of any nature seeking damages, equitable or injunctive relief expenses, losses, costs, fines or attorney's fees in the event the suit, claim, or action of any nature arises in whole or in part from the:

1. Presence on, use or occupancy of Authority property;
2. Acts, omissions, negligence (including professional negligence and malpractice), recklessness, intentional wrongful conduct, activities, or operations;
3. Any breach of the terms of this Agreement;
4. Performance, non-performance or purported performance of this Agreement;
5. Violation of any law, regulation, rule or ordinance;
6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or
7. Contamination of the soil, groundwater, surface water, stormwater, air or the environment by fuel, gas, chemicals or any other substance deemed by the Environmental Protection agency or other regulatory agency to be an environmental contaminant;

of or by Company or Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by Company, regardless of whether it is caused in part by Authority, its members, officers, agents, employees, or volunteers. This duty to defend exists immediately upon presentation of written notice of a suit, claim or action of any nature to Company by a party entitled to a defense hereunder.

- C. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Fla. Stat. § 725.06(2)-(3) or Fla. Stat. § 725.08, then with respect to the part so limited, Company agrees to the following: To the maximum extent permitted by law, Company will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from and against any and all liabilities, damages, losses, and costs (including, but not limited to, reasonable attorneys' fee), to the extent caused by the negligence, recklessness, or intentional wrongful conduct of Company and persons employed or utilized by Company in the performance of this Agreement.
- D. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Fla. Stat. § 725.06 (1) or any other applicable law, then with respect to the part so limited, the monetary limitation on the extent of the indemnification shall be the greater of the (i) monetary value of this Agreement, (ii) coverage amount of Commercial General Liability Insurance required under the Agreement or (iii) \$1,000,000.00. Otherwise, the obligations of this Article will not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.
- E. Company's obligations to defend and indemnify as described in this Article will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that any suit, claim or other action against Authority, its members, officers, agents, employees, and volunteers its fully and finally barred by the applicable statute of limitations or repose.
- F. Nothing in this Article will be construed as a waiver of any immunity from or limitation of liability Authority, or its members, officers, agents, employees, and volunteers may have under the doctrine of sovereign immunity under common law or statute.
- G. Authority and its members, officers, agents, employees, and volunteers reserve the right, at their option, to participate in the defense of any suit, without relieving Company of any of its obligations under this Article.
- H. If this Article or any part of this Article is deemed to conflict in any way with any law, the Article or part of the Article will be considered modified by such law to remedy the conflict.

ARTICLE 9: INSURANCE

9.01 Insurance Terms and Conditions

The following minimum limits and coverages will be maintained by Company throughout the term of this Agreement. In the event Company becomes in default of the following requirements, Authority reserves the right to take whatever actions deemed necessary to protect its interests.

Liability and property policies, other than Workers' Compensation/Employer's Liability, will provide that Authority is an additional insured.

9.02 Limits and Requirements

A. Business Auto Liability

Coverage shall be on a form no more restrictive than ISO Form CA 00 01. The minimum limits of Business Auto Liability insurance (inclusive of any amounts provided by an umbrella or excess policy) covering all owned, hired and non-owned vehicles are:

Each Occurrence – Bodily Injury and Property Damage Combined	\$1,000,000
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B. Commercial General Liability

Coverage shall be on a form no more restrictive than ISO Form CG 00 01. Additional insured coverage shall be on forms no more restrictive than ISO Forms CG 20 10 10 01. The minimum limits of Commercial General Liability insurance (inclusive of any amounts provided by an umbrella or excess policy) covering liability resulting from, or in connection with, operations performed by, or on behalf of, Company under this Agreement or the use or occupancy of Authority premises by, or on behalf of, Company are:

	Agreement Specific
General Aggregate	\$1,000,000
Each Occurrence	\$1,000,000
Personal and Advertising Injury	\$1,000,000

C. Workers' Compensation/Employer's Liability

The minimum limits of Workers' Compensation/Employer's Liability insurance (inclusive of any amount provided by an umbrella or excess policy) are:

Part One:	Florida Statutory
Part Two: (Employer's Liability)	
Each Accident	\$1,000,000
Disease – Policy Limit	\$1,000,000
Disease – Each Employee	\$1,000,000

D. Waiver of Subrogation

Company, for itself and on behalf of its insurers, to the fullest extent permitted by law without voiding the insurance required by the Agreement, waives all rights against Authority, members of Authority's governing body and Authority's officers, volunteers and employees, for damages or loss to the extent covered and paid for by any insurance maintained by Company.

9.03 Conditions of Acceptance

The insurance maintained by Company must conform at all times with Authority Standard Procedure S250.06, Contractual Insurance Terms and Conditions, as may be amended from time to time.

ARTICLE 10: SECURITY FOR PAYMENT

10.01 Security Options

To secure payment for charges and payments required hereunder, Company will comply with one (1) of the following two options prior to commencing operations hereunder and will maintain such security in effect during the term of this Agreement:

- A. Company will post with Authority a separate surety bond to be maintained throughout the term of this Agreement in an amount equal to the fees and charges payable to Authority hereunder for a period of three (3) months or five thousand dollars (\$5,000.00), whichever is greater. Such bond will be issued by a surety company acceptable to Authority and authorized to do business in the State of Florida and will be in a form and content satisfactory to Authority; or
- B. Company will deliver to Authority a separate irrevocable letter of credit drawn in favor of Authority upon a bank that is satisfactory to Authority and that is authorized to do business in the State of Florida. Said irrevocable letter of credit will be in a form and content satisfactory to Authority and shall be in an amount equal to the fees and charges payable to Authority hereunder for a period of three (3) months or five thousand dollars (\$5,000.00), whichever is greater.

10.02 In the event Company fails to perform the payment terms and conditions of this Agreement, Authority, in addition to any other rights and remedies available to Authority at law or in equity, may at any time apply the security or any part thereof toward the payment of Company's obligations under this Agreement. In such an event, within five days after notice, Company will restore the security to its original amount. Authority will not be required to pay Company any interest on the security.

10.03 Satisfactory Performance

Any release of liability of the surety bond or irrevocable letter of credit required pursuant to this Article will be conditioned on the satisfactory performance of all terms, conditions, and covenants contained herein throughout the entire term of this Agreement and will continue for one year thereafter. Notwithstanding the above, security pursuant to the above section shall at all times be current. Upon termination of this Agreement, the release of liability of the surety bond or irrevocable letter of credit will not occur until Authority has accepted the findings of the audit in the Accounting, Records and Audit Article hereof or successfully conducted an audit in accordance with the Accounting, Records and Audit Article hereof and Company has paid Authority all amounts due and owing in full.

ARTICLE 11: COMPLIANCE WITH LAWS, REGULATIONS, ORDINANCES, AND RULES

Company, its officers, employees, agents, subcontractors, or those under its control will at all times comply with applicable federal, state, and local laws and regulations, as amended, as well as all Airport Rules and Regulations, Policies, Standard Procedures and Operating Directives as are now or may hereinafter be prescribed by Authority, all applicable health rules and regulations and other mandates whether existing or as promulgated from time to time by the federal, state, or local government, or Authority, including, but not limited to, permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters related to the operation of the Airport. Company, its officers, employees, agents, subcontractors, and those under its control, will comply with safety, operational, or security measures required of Company or Authority by the Federal Government, including but not limited to, Federal Aviation Administration (FAA) or Transportation Security Administration (TSA). If Company, its officers, employees, agents, subcontractors or those under its control will fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against Authority, then, in addition to any other remedies available to Authority, Company will be responsible and will reimburse Authority in the full amount of any such monetary penalty or other damages. This amount must be paid by Company within fifteen (15) days of written notice.

ARTICLE 12: NON-EXCLUSIVE RIGHTS

This Agreement will not be construed to grant or authorize the granting of an exclusive right within the meaning of 49 USC 40103(e) or 49 USC 47107(a), as may be amended from time to time, and related regulations.

ARTICLE 13: RIGHT TO DEVELOP AIRPORT

It is covenanted and agreed that Authority reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Company and its subcontractors and without interference or hindrance from Company and its subcontractors.

ARTICLE 14: AMERICANS WITH DISABILITIES ACT

Company will comply with the applicable requirements of the Americans with Disabilities Act; the Florida Americans with Disabilities Accessibility Implementation Act; Florida Building Code; "Florida Accessibility Code for Building Construction"; and any similar or successor laws, ordinances, rules, standards, codes, guidelines, and regulations and will cooperate with Authority concerning the same subject matter.

ARTICLE 15: NON-DISCRIMINATION

During the performance of this Agreement, Company, for itself, its assignees and successors in interest, agrees as follows:

15.01 Company will comply with the regulations relative to non-discrimination in federally assisted programs of the Department of Transportation (DOT) Title 49, Code of Federal Regulations, Part 21, as amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by reference and made a part of this Agreement.

15.02 Civil Rights. Company, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Company will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21. During the performance of this Agreement, Company, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- B. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

- C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- F. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- I. The Federal Aviation Administration's Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title

VI, Company must take reasonable steps to ensure that LEP persons have meaningful access to Company's programs (70 Fed. Reg. at 74087 to 74100); and

L. Title IX of the Education Amendments of 1972, as amended, which prohibits Company from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

15.03 In all solicitations either by competitive bidding or negotiation made by Company for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier must be notified by Company of Company's obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, color or national origin.

15.04 Company will provide all information and reports required by the Regulations or directives issued pursuant thereto and must permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Authority or the FAA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Company is in the exclusive possession of another who fails or refuses to furnish this information, Company will so certify to Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

15.05 In the event of Company's non-compliance with the non-discrimination provisions of this Agreement, Authority will impose such contractual sanctions as it or the FAA may determine to be appropriate, including, but not limited to, withholding of payments to Company under this Agreement until Company complies, and/or cancellation, termination or suspension of this Agreement, in whole or in part.

15.06 Company will include the provisions of Paragraphs 15.01 through 15.05 in every subcontract and subconsultant contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued thereto. Company will take such action with respect to any subcontract or procurement as Authority or the FAA may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event Company becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Company may request Authority to enter into such litigation to protect the interests of Authority and, in addition, Company may request the United States to enter into such litigation to protect the interests of the United States.

15.07 Company assures that, in the performance of its obligations under this Agreement, it will fully comply with the requirements of 14 CFR Part 152, Subpart E (Non-Discrimination in Airport Aid Program), as amended from time to time, to the extent applicable to Company, to ensure, among other things, that no person will be excluded from participating in any activities covered by such requirements on the grounds of race, creed, color, national origin, or sex. Company, if required by such requirements, will provide assurances to Authority that Company will undertake an affirmative action program and will require the same of its subconsultants.

ARTICLE 16: ASSIGNMENT AND SUBCONTRACTING / SUBLEASING

Company will not assign, subcontract, sublease, or license this Agreement without the prior written consent of Authority which consent shall not be unreasonably withheld. If assignment, subcontract, sublease, or license is approved, Company will be solely responsible for ensuring that its assignee, subcontractor, sublessee, or licensee perform pursuant to and in compliance with the terms of this Agreement.

In no event will any approved assignment, subcontract, sublease, or license diminish Authority rights to enforce any and all provisions of this Agreement.

Before any assignment, subcontract, sublease, or license becomes effective, the assignee, subcontractor, sublessee, or licensee will assume and agree by written instruments to be bound by the terms and conditions of this Agreement during the remainder of the term. When seeking consent to an assignment hereunder, Company will submit a fully executed original of the document or instrument of assignment to Authority.

ARTICLE 17: CORPORATE TENANCY

If Company is a corporation, the undersigned officer of Company hereby warrants and certifies to Authority that Company is a corporation in good standing, is authorized to do business in the State of Florida, and the undersigned officer is authorized and empowered to bind the corporation to the terms of this Agreement by his or her signature below.

ARTICLE 18: WAIVER OF CLAIMS

Company hereby waives any claim against the City of Tampa, Hillsborough County, State of Florida and Authority, and its officers, Board members, agents, or employees, for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or

by any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying the same, or any part hereof, from being carried out.

ARTICLE 19: VENUE

Venue for any action brought pursuant to this Agreement will be the County or Circuit Court in Hillsborough County, Florida, or in the Tampa Division of the U.S. District Court for the Middle District of Florida.

ARTICLE 20: COMPLIANCE WITH PUBLIC RECORDS LAW

IF COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (813) 870-8721, ADMCENTRALRECORDS@TAMPAAIRPORT.COM, HILLSBOROUGH COUNTY AVIATION AUTHORITY, P.O. BOX 22287, TAMPA, FL 33622.

Company agrees in accordance with Florida Statute Section 119.0701 to comply with public records laws including the following:

- A. Keep and maintain public records required by Authority in order to perform the services contemplated in this Agreement.
- B. Upon request from Authority custodian of public records, provide Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of this Agreement.
- D. Upon completion of this Agreement, keep and maintain public records required by Authority to perform the services. Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Authority, upon request from Authority custodian of records, in a format that is compatible with the information technology systems of Authority.

ARTICLE 21: DATA SECURITY

Company will establish and maintain safeguards against the destruction, loss or alteration of Authority data or third party data that Company may gain access to or be in possession of performing under this Agreement. Company will not attempt to access, and will not allow its personnel access to, Authority data or third party data that is not required for the performance of this Agreement by such personnel.

Company and its employees, vendors, subcontractors, and sub-consultants will adhere to and abide by the security measures and procedures established by Authority and any terms of service agreed to by Authority with regards to data security. In the event Company or Company's subcontractor (if any) discovers or is notified of a breach or potential breach of security relating to Authority data or third party data, Company will promptly:

- A. Notify Authority of such breach or potential breach; and
- B. If the applicable Authority data or third party data was in the possession of Company at the time of such breach or potential breach, Company will investigate and cure the breach or potential breach.

ARTICLE 22: AGENT FOR SERVICE OF PROCESS

Company must designate and maintain a resident agent for service of process in the State of Florida. It is further expressly agreed, covenanted, and stipulated that if Company does not have a duly noted resident agent for service of process, as an alternative method of service of process, Company may be personally served with such process by the registered mailing of any Complaint and process to Company at the address set out hereinafter in this Agreement and that such service will constitute valid service upon Company as of the date of mailing and Company will have 30 calendar days from date of mailing to respond thereto. It is further expressly understood that Company hereby agrees to the process so served, submits to the jurisdiction of the court, and waives any and all obligation and protest thereto, any laws to the contrary notwithstanding.

ARTICLE 23: INVALIDITY OF CLAUSES

The invalidity of any part, portion, sentence, Article, paragraph, provision, or clause of this Agreement will not have the effect of invalidating any other part, portion, sentence, Article, paragraph, provision, or clause of this Agreement, and the remainder of this Agreement will be valid and enforced to the fullest extent permitted by law.

ARTICLE 24: NOTICES AND COMMUNICATIONS

All notices or communications whether to Authority or to Company pursuant hereto will be deemed validly given, served, or delivered, upon receipt by the party by hand delivery, or three (3) days after depositing such notice or communication in a postal receptacle, or one (1) day after depositing such notice or communication with a reputable overnight courier service, and addressed as follows:

**TO AUTHORITY:
(MAIL DELIVERY)**

Hillsborough County Aviation Authority
Tampa International Airport
P.O. Box 22287
Tampa, Florida 33622-2287
Attn: Chief Executive Officer

OR

(HAND DELIVERY)

Hillsborough County Aviation Authority
Tampa International Airport
4160 George J. Bean Pkwy
Suite 2400, Administration Building
Tampa, Florida 33607-1470
Attn: Chief Executive Officer

**TO COMPANY:
(MAIL DELIVERY)**

ESA Management, LLC
11525 N. Community House Round
Suite 100
Charlotte, NC 28277

With a Copy to

(HAND DELIVERY)

Extended Stay America
1805 N. Westshore Boulevard
Tampa, FL 33607
Attn: Adam Jones, District Manager

or to such other address as either Party may designate in writing by notice to the other Party delivered in accordance with the provisions of this Article.

If the notice is sent through a mail system, a verifiable tracking documentation such as a certified return receipt or overnight mail tracking receipt is encouraged.

ARTICLE 25: HEADINGS

The headings contained herein, including the Table of Contents, are for convenience in reference and are not intended to define or limit the scope of any provisions of this Agreement. If for any reason there is a conflict between content and headings, the content will control.

ARTICLE 26: RELATIONSHIP OF THE PARTIES

Company is and will be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and Authority will in no way be responsible therefore.

ARTICLE 27: MISCELLANEOUS

Wherever used, the singular will include the plural, the plural the singular, and the use of any gender will include all genders.

ARTICLE 28: AUTHORITY APPROVALS

Except as otherwise indicated elsewhere in this Agreement, wherever in this Agreement approvals are required to be given or received by Authority, it is understood that Authority Chief Executive Officer or designee is hereby empowered to act on behalf of Authority.

ARTICLE 29: CONTRACT MADE IN FLORIDA

This Agreement has been made in and shall be construed in accordance with the laws of the State of Florida. All duties, obligations and liabilities of Authority and Company related to this Agreement are expressly set forth herein and this Agreement can only be amended in writing and agreed to by both Parties.

ARTICLE 30: SUBORDINATION OF AGREEMENT

It is mutually understood and agreed that this Agreement will be subordinate to the provisions of any existing or future agreement between Authority and the United States of America, its Boards, Agencies, Commissions, and others, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport, and this Agreement will be subordinate to the license or permit of entry which may be granted by the Secretary of Defense.

ARTICLE 31: SUBORDINATION TO TRUST AGREEMENT

This Agreement and all rights of Company hereunder are expressly subject and subordinate to the terms, covenants, conditions and provisions of any Trust Agreements or other debt instruments executed by Authority to secure bonds issued by, or other obligations of, Authority. The obligations of Company hereunder may be pledged, transferred, hypothecated, or assigned at any time by Authority to secure such obligations. Conflicts between the terms of this Agreement and the provisions, covenants and requirements of the debt instruments mentioned above will be resolved in favor of the provisions, covenants and requirements of such debt instruments.

ARTICLE 32: SEVERABILITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, the validity of the other provisions of this Agreement which are severable shall be unaffected.

ARTICLE 33: RIGHT TO AMEND

In the event that the United States Government including, but not limited to, the FAA and TSA, or their successors, Florida Department of Transportation, or its successors, or any other governmental agency requires modifications or changes to this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, Company agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required to obtain such funds; provided, however, that in no event will Company be required, pursuant to this paragraph, to agree to an increase in the charges provided for hereunder.

ARTICLE 34: ORGANIZATION AND AUTHORITY TO ENTER INTO AGREEMENT

The undersigned representative of Company hereby warrants and certifies to Authority that Company is an organization in good standing in its state of registration, that it is authorized to do business in the State of Florida, and that the undersigned officer is authorized and empowered to bind the organization to the terms of this Agreement by his or her signature thereto and neither Company, its officers or any holders of more than five percent (5%) of the voting stock of Company have been found in violation of Florida Statute Section 287.133, concerning Criminal Activity on Contracts with Public Entities.

ARTICLE 35: TIME IS OF THE ESSENCE

Time is of the essence of this Agreement.

ARTICLE 36: COMPLETE AGREEMENT

This Agreement represents the complete understanding between the Parties, and any prior agreements or representations, whether written or verbal, are hereby superseded. This Agreement may subsequently be amended only by written instrument signed by the Parties hereto, unless provided otherwise within the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and corporate seals on this 2nd day of August, 2018

**HILLSBOROUGH COUNTY
AVIATION AUTHORITY**

ATTEST: _____
Victor D. Crist, Secretary

BY: _____
Robert I. Watkins, Chairman

Address: PO Box 22287
Tampa, FL 33622

Address: PO Box 22287
Tampa, FL 33622

LEGAL FORM APPROVED:

WITNESS: _____
Signature

BY: _____
David Scott Knight, Assistant General Counsel

Printed Name

HILLSBOROUGH COUNTY AVIATION AUTHORITY

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 2nd day of August, 2018, by Robert I. Watkins, in the capacity of Chairman of the Board of Directors and Victor D. Crist, in the capacity of Secretary of the Board of Directors, HILLSBOROUGH COUNTY AVIATION AUTHORITY, a public body corporate under the laws of the State of Florida, on its behalf. They are personally known to me and they did not take an oath.

Stamp or Seal of Notary

Signature of Notary

Printed Name

Date Notary Commission Expires (if not on stamp or seal)

ESA P PORTFOLIO OPERATING LESSEE, LLC

Signed in the Presence of:

Brian King
Witness

Brittini Pickering
Printed Name

John Miller
Witness

Johna Miller
Printed Name

BY: [Signature]
Signature

Vice-President & Secretary
Title

Christopher N. Dekle
Printed Name

11525 N. Community House Rd., Ste. 100
Printed Address

Charlotte, NC 28277
City/State/Zip

ESA P PORTFOLIO OPERATING LESSEE, LLC

STATE OF North Carolina

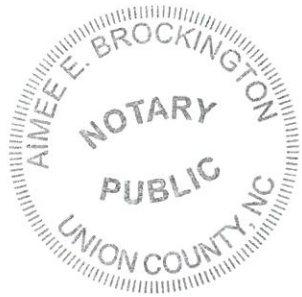
COUNTY OF Mecklenburg

The foregoing instrument was acknowledge before me this 18th day of July, 2018, by Christopher N. Dekle in the capacity of Vice-President & Secretary

at ESA P Portfolio Operating Lessee LLC, a limited liability company corporation, on its behalf He is

Personally known to me and has produced n/a

Stamp or Seal of Notary



[Signature]
Signature of Notary

Aimee E Brockington
Printed Name

6/25/23
Date Notary Commission Expires (if not on stamp or seal)

EXHIBIT A: MONTHLY GROSS RECEIPTS STATEMENT (PAGE 1 OF 2)

Company:
 Month:
 Year:

Gross Receipts Per Article 5.06	
Gross Parking Revenue	
Services	
Sales Tax	
Other Revenue	
Total Gross Receipts	
Exclusions Per Article 5.06	
Non-Airport Customer Gross Receipts	
Federal, state, or municipal sales taxes or fees	
Insurance Payments	
Capital Asset Disposal	
Total Exclusions	
Net Receipts	
Privilege Fee	8.5%
Total Due	
Number of Parked Vehicle Transactions	
Number of Transaction Days	
Average Price	

DUE BY THE 10TH DAY OF THE MONTH FOLLOWING THE REPORT MONTH

I hereby certify that the above amounts are true, correct, and completely in accord with the definition of Gross Receipts, to the best of my knowledge, and that I am a responsible account officer.

 Signature

 Date

EXHIBIT A: MONTHLY GROSS RECEIPTS STATEMENT (PAGE 2 OF 2)

Day of Month	Number of Occupied Spaces	Number of Transactions	Revenue
1			
2			
3			
4			
5			
6			
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EXHIBIT C: NON-AIRPORT CUSTOMER AFFIRMATION FORM

I hereby certify that I did not use Tampa International Airport nor a Courtesy Vehicle during the time period my vehicle was parked at _____ facility.

Signature: _____

Printed Name: _____

Date: _____

E-mail: _____

Phone Number: _____