



ARMY AND AIR FORCE EXCHANGE SERVICE

CONTRACT FOR T-Shirt Shop At Fort Sill

CONTRACT#: SIL 20-11526

(b)(6) Contracting Officer

3911 S. Walton Walker Blvd.
Dallas, Texas 75236

ONLY AN EXCHANGE CONTRACTING OFFICER HAS THE AUTHORITY TO BIND THE ARMY AND AIR FORCE EXCHANGE SERVICE TO THIS CONTRACT, ALTERATIONS, AND AMENDMENTS. ALL TERMS TO THE CONTRACT, ALTERATIONS, AND AMENDMENTS MUST BE IN WRITING AND MADE PART OF THIS CONTRACT. THE CONTRACTING OFFICER MAY MAKE UNILATERAL AMENDMENTS TO THE CONTRACT TO INCORPORATE ADMINISTRATIVE CHANGES THAT DO NOT AFFECT THE RIGHTS OR OBLIGATIONS OF THE PARTIES.

Table of Content

1. INTRODUCTION.....	5
A. Parties	5
B. Legal Status.....	5
C. Business Description.....	5
D. Type of Contract.....	5
E. Restrictions.....	5
2. SPECIFICATIONS	6
A. Detail Description of Goods or Services	6
1) PRICING	6
2) EQUIPMENT STANDARDS.....	7
3) OPERATIONS STANDARDS	9
B. Fee Schedule including Payment Terms	11
1) General.....	11
2) Fee Deposit and Payment.....	11
3) Settlement Reports	11
3. TERMS AND CONDITIONS	11
A. General Provisions	11
1) Notices	11
2) Order of Precedence.....	11
3) Procurement Integrity.....	12
4) Examination of Records	12
5) Subcontracting	12
6) Indemnify and Hold Harmless.....	12
7) Disputes	13
8) Termination	13
9) Taxes.....	14
10) Exchange Rights in Intellectual Property	14
11) Trademarks	14
12) Customer Data	14
13) Environmental	14
14) Warranty.....	15
15) Prices	16
16) Force Majeure	16

17) Concessionaire Liability	16
18) Surveillance.....	16
19) Withholding.....	16
20) Non-Waiver of Defaults	16
21) Restrictions on Purchases of Foreign Goods	16
22) Compliance with Applicable Laws.....	17
23) Choice of Law and Forum	17
24) Privacy Act	17
25) Green Clause	17
26) Combating Trafficking In Persons	17
27) Payment Card Industry Compliance	18
28) Personal Identity Verification of Concessionaire Personnel	18
29) Concessionaire Personnel and Representatives	18
30) Notification of Debarment/Suspension Status	19
31) Insurance.....	19
32) Permits, Licenses and Applicable Laws.....	19
33) Payment by Electronic Funds Transfer	19
34) Electronic Signature Counterparts	19
35) Change in Ownership.....	20
36) Time of the Essence	20
B. Labor Provisions.....	20
1).....	20
1) Equal Employment Opportunity	20
2) Contract Work Hours and Safety Standards Act.....	20
3) Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.....	21
4) Affirmative Action for Individuals with Disabilities	21
5) Convict Labor	21
6) Fair Labor Standards Act of 1938 as Amended.....	21
7) Service Contract Act	21
8) Establishing a Minimum Wage for Concessionaires.....	21
9) Establishing Paid Sick Leave for Concessionaires	21
C. Insurance Requirements	21
1) General Requirements	21
2) State and Installation Requirements	22
3) Exchange Requirements.....	22

4) COI Delivery Method and Customer Owned Property	22
D. Special Provisions	22
1) Activity	22
2) Equipment, Furniture, and Movable Trade Fixtures.....	23
3) Prohibited Activities	24
4) Scope of Service/Minimum Quality	24
5) License for Exchange Trademarks	24
6) Prices	24
7) Authorized Customers.....	24
8) Customer Complaints and Claims.....	24
9) Signs Identity and décor Standards	25
10) Utilities.....	25
11) Internal Controls.....	25
12) Fee Payment and Fee Deposit	31
13) Taxes.....	32
14) Concessionaire and Concessionaire's Employees (Concession Personnel)	32
15) Actions to be taken upon Termination (Including Expiration)	33
16) Unclaimed Customer Property	33
17) Lost and Abandoned Property	34
18) Inventory Transfer	34
19) Indebtedness.....	34
20) Exchange Tabloid/Special Sales Coupons, Exchange Gift Card Redemption.....	34
21) Refunds	35
22) Customer Checks.....	35
23) Safeguarding of Concessionaire Funds on Army and Air Force Installations	35
24) Military Star Card and Charge Card Sales.....	36
25) Inspections	37
26) Heavy Metal Leaching.....	37
27) Exchange/Vendor Partnership Marketing Program	37
28) Organizational Sales	38
4. U.S. DEPT OF LABOR WAGE DETERMINATION	38
5. SIGNATURES	38

1. INTRODUCTION

A. Parties

This contract is entered into by and between the Army and Air Force Exchange Service (The Exchange) and Fast Break Sportswear, Inc. If the Concessionaire is comprised of more than one legal entity, each such entity shall be jointly and severally liable for the obligations of Concessionaire.

B. Legal Status

The Army and Air Force Exchange Service (the Exchange), including its activities, offices, and individual facilities, is an integral part of the Departments of the Army and Air Force, and an instrumentality of the United States Government. Exchange Contracts are United States Contracts; however, they do not obligate appropriated funds of the United States. Exchange procurement policy is established by applicable directives and instructions promulgated by the Department of Defense. The Federal Acquisition Regulation does not apply to the Exchange.

C. Business Description

The Exchange operates retail facilities on military installations all over the world. The facilities include direct operated retail outlets, convenience stores with gasoline, fast food operations (concessionaire operated name brand and non-name brand), and concessionaire-run commodity and service concession operations. The Exchange also operates an ecommerce website that sells goods and services to eligible patrons and honorably discharged veterans of the United States military.

D. Type of Contract

This concession contract is to provide T-Shirt Shop service at Fort Sill. The Contract will commence on **3/19/2021 and will end 3/18/2026, 60 months** from the date of commencement. A detailed description of the required goods and/or services is in Section 2A of this Contract.

E. Restrictions

Concessionaire will operate at an Exchange facility. Since the Exchange is an instrumentality of the United States Government, there are certain restrictions on Concessionaire's activities. Specifically, Concessionaire will not represent itself to be an agent or representative of the Exchange, another instrumentality, or an agency of the United States. All Concessionaire advertisements that refer to the Exchange or military exchanges will contain a statement that the advertisement was neither paid for nor sponsored, in whole or in part, by the Exchange, the military exchange system, or the United States Government.

2. SPECIFICATIONS

A. Detail Description of Goods or Services

This Contract is to provide T-Shirt Shop service at Fort Sill Exchange, OK.

1) PRICING

a) The concessionaire will stock merchandise in the concession consistent with the T-shirt selections available in the better retail shops in the local market area. Concessionaire will survey the local shops to determine the item selections and customer prices. Concessionaire will merchandise the T-shirt concession to conform to local custom and meet the requirements of the military community.

b) The concessionaire's stock assortment will not duplicate any items sold in an Exchange retail store on the same installation. Prior to the commencement date of services under this contract, the successful offeror will submit to the local exchange management a stock assortment which includes stock/style number, description, cost price and/or suggested retail price and the proposed Exchange sell price computed in accordance with the pricing method outlined in paragraph d) of this section. The stock assortment is subject to acceptance of the local exchange management. The concessionaire will provide any proposed stock assortment changes to the local exchange management at least 10 days prior to the requested implementation date of such changes. The actual items to be stocked will be mutually agreed upon between the concessionaire and local exchange management.

c) The concessionaire may offer items for sale from the categories of merchandise listed below. Merchandise cost price limitations applicable to the Exchange direct operations apply equally to concession operations. Guidance on specific item limitations (if any) will be provided for use in developing the stock assortment subsequent to contract award. Merchandise for sale in the concession will be priced in accordance with paragraph d) of this section. All items listed below will be sold only in conjunction with appliquéing, embossing, embroidering, monogramming, silk screen and/or heat transfer.

T-shirts	Sweat Clothing
Jerseys	Unisex Shirts
Sleep Shirts	Tank Tops
Printable Sportswear	T-Dresses
Lettered Caps and Uniforms	Tote Bags
Officially Licensed NFL, MLB, NBA, USSL and NCAA Sport Wear	
Custom Designs, Transfers, Embroidery and Self Screen Prints	

d) Concessionaire merchandise will be priced as follows:

1. For those items included in a published Manufacturer's Suggested Price List, the price will be 20% below the suggested retail price. (Example: Suggested Retail Price \$19.95 - 20% = \$15.96 calculated sell price.) Price may be rounded to the nearest 5 cents. (Same example: \$15.96 calculated sell price is rounded to \$15.95 actual sell price.)

2. For those items for which no Suggested Retail Price has been published, but for which an invoice is available, the price will be 175% of concessionaire's landed cost. (Example: Landed cost \$27.85 X 175% = \$48.73 calculated sell price.) Price may be rounded to the nearest 5 cents. (Same example: \$48.73 calculated sell price is rounded to \$48.75 actual sell price.)

3. For those items for which no Suggested Retail Price has been published, and for which no invoice is available (e.g.: cottage industry items, items that are manufactured in whole or in part by the contractor), the price will be as mutually agreed by the concessionaire and the local exchange management. The concessionaire will submit a listing of those items and the method used to determine the price to the local exchange management for approval.

4. Regardless which of the above three pricing methods are used, the price must reflect an overall customer savings of at least 20% in comparison to local community pricing for comparable items.

5. Ten or more of the same item may be offered to clubs and organizations as a "volume sale". Concessionaire is strongly encouraged to negotiate volume discount sales based upon industry standard.

6. Merchandise may be sold at a lesser price to clear obsolete or excess merchandise, to meet the competition of the local economy, or to provide special promotional events.

7. Merchandise that becomes shopworn or damaged may be offered for clearance sale except where an item's performance or serviceability is affected. Prices will be reduced sufficiently to insure early clearance from inventory.

e) Supplier invoices and published commercial resale activity sell price list will be available on the premises of the concession activity at all times for inspection by the contracting officer or his representative. Available documentation must be sufficient to provide a clear audit trail to determine compliance with the pricing procedures established in this contract.

f) Deposits: Customers placing special orders may be required to make a deposit of 50% of the value of the order, and to pay the balance due at least 7 working days prior to the delivery or pickup date. If the order is canceled 7 or more working days prior to the scheduled delivery or pickup date the deposit should be refunded. Otherwise, cancellation may result in forfeiture of all payments.

g) Unlisted and Other Services:

1. Other services (for example logo design services) not specified above, may be performed upon agreement between customer and concessionaire. This agreement must take place prior to the concessionaire's acceptance of the item(s). On the reverse side of the sales ticket, concessionaire will enter the service(s)/price(s) and customer will indicate acceptance by signing.

2. Prices for services in paragraph a above will be established by one of the three pricing methods in paragraph 4 above.

h) State Taxes: Applicable state taxes for concessionaire owned merchandise will be treated in accordance with the Prices and Taxes Clause, Section 3.D, Special Provisions (Concession Contracts).

i) Additional Authorized Services/Merchandise: Services and merchandise appropriate to this contract may be added upon approval of the contracting officer by contract amendment.

2) EQUIPMENT STANDARDS

a) The concessionaire must furnish the following equipment which meets the stated specifications in the quantities indicated. Equipment will be new or in "like new" condition, acceptable to the contracting officer. Refer to the clause entitled "Equipment, Furniture, and Movable Trade Fixtures," in Section 3.D, Special Provisions.

Quantity	Item
1	Heat Transfer Press Capable of transferring rubber based and sublimating ink transfers. Insta Model 515 or equivalent.
As Needed	<u>Transfer Machine</u> Capable of transferring decals to caps/hats. Insta model 412 or equivalent.
1	<u>Display Cases/Merchandisers</u> Glass top, glass front with display shelves, gray formica or high pressure laminate finish.
As Needed	<u>Fixture Accessory</u> Fixture accessories for slat walls such as brackets, shelves, slant arms, etc.
As Needed	<u>Round Clothing Display Rack</u> Mirrored chrome finish, 36" diameter, 9 1/2' of 1/2" x 1 1/2" rectangular hang rail, base made of 1" sq. tubing, height adjust from 48" to 66" every 3".

1	Credit Card Machine Industry Standard, capable of accepting a minimum of two (2) major credit cards.
1	Embroidery Machine Computerized. Capable of multiple colored threads to create custom made embroidering for hats, patches, logos, etc.

b) **Department Keys** – Electronic POS system will have the following required department keys available in addition the Internal Controls paragraph in Section 3.D, Special Provisions.

Key 1 – Sales(Cash/Check)
Key 2 – Credit Card
Key 3 – Military Star Card/Exchange Gift Card

c) **Decor:** Concessionaire is required to provide a reasonable amount of decor treatment to interior sales area of the facility. Wall decorations, artificial or live plants, removable decorative shelving, curios, trinkets, figurines, mirrors and wall clocks are normal approaches to area treatment. Care must be exercised to insure against potential safety and health hazards which is the responsibility of the concessionaire. A decor plan must be submitted to the exchange manager for approval prior to commencement of services.

d) Exchange Furnished Equipment:

1. Refer to Internal Controls, Section 3.D, Special Provisions, the Concessionaire will have the option to either provide their own electronic Point of Sale (POS) system or use the Exchange provided electronic POS system. A monthly rental charge is associated with the Exchange provided POS system. Locations unable to support an electronic POS system due to technical ability will be noted in Exhibit G, Concessionaire Furnished Equipment. Offerors with intent to use their own POS system must submit a request for equipment substitution through the Contracting Officer, at the time of proposal submittal.

2. Equipment Listing:

CPOS Equipment (if available):

Qty	Description	Acquisition Cost/Year	Rental Charge	Total Rental Charge
1	Tablet with Retail Case and Key injector	\$916.41	\$18.32	\$18.32
1	Tablet Expansion Dock	\$201.00	\$4.02	\$4.02
1	Cash Drawer	\$92.00	\$1.84	\$1.84
1	Receipt Printer w/cable	\$215.15	\$4.30	\$4.30
1	Keyboard	\$17.00	\$0.34	\$0.34
1	Signature Capture Device	\$308.00	\$6.16	\$6.16
EQUIPMENT RENTAL GRAND TOTAL				\$34.98

Non-CPOS Equipment

Qty	Description	Acquisition Cost/Year	Total Rental Charge
1	Reception Counter	N/A	N/A
1	Cash Register Stand	N/A	N/A
1	Verifone VX 520	N/A	N/A
EQUIPMENT RENTAL GRAND TOTAL			N/A

a. Concessionaire will be responsible for the Exchange-furnished equipment while in possession. Concessionaire will be liable for any damage to or loss of the items resulting from acts or omissions of concessionaire, his employees, or agents. Concessionaire will reimburse the Exchange for any repair and/or replacement of the tablet and/or accessories as listed (acquisition cost).

b. Equipment Rental Charge: Concessionaire agrees to pay all applicable monthly rental charges. The monthly rental charge(s) will be listed separately on the Concessionaire Settlement Report and will be paid at the time the monthly fee payment is made in accordance with section 3.D. Equipment Inventory: Concessionaire and the Exchange shall conduct an inventory of Exchange Furnished Equipment prior to the commencement date and at the time of expiration/termination of the contract. Quantity, item description, and condition shall be agreed upon between concessionaire and the Exchange, noted on a custodial receipt, and signed by both parties. A copy of the inventory shall be provided to the contractor by the Exchange.

3) OPERATIONS STANDARDS

Campus	Property	Suite	MON	TUE	WED	THUR	FRI	SAT	SUN
FT SILL	PRP-SHOPPING CENTER	STE-T-SHIRT SHOP	1000-1700	1000-1700	1000-1700	1000-1700	1000-1700	1000-1700	Closed

a) Clothing Merchandise: Concessionaire will provide clothing merchandise to Exchange customers equal to the highest quality service available in comparable commercial facilities. All clothing will be sold in conjunction with regular or custom designs with appliquéing, embossing, embroidering, monogramming, silk screen and/or heat transfers or bonding.

1. Heat pressed items will be offered on a while-you-wait-basis.
2. Concessionaire will assist customers in selecting clothing merchandise suitable for the use intended by the customer.
3. All services must be performed in a first class workmanship manner. All materials must be first-quality and acceptable to the customer.
4. Items from the concessionaire's regular inventory determined to be shopworn or damaged may be offered for clearance sale, except where the performance or serviceability of an item is affected.

b) Related Merchandise: Concessionaire will provide related merchandise to Exchange customers equal to the highest quality service available in comparable commercial facilities.

c) Authorized Products: On a direct sell basis, concessionaire will offer shirt transfers applied to T-shirts and other items authorized in Exhibit D, by methods common to the state-of-the-art, including, but not limited to, any of the following methods:

1. Rubber based heat transfer
2. Sublistatic ink transfer
3. Custom printing, transfers and embroidery
4. Concessionaire may use their own or customer owned merchandise for design application.

d) Designs may be applied on any other type of customer owned garments (piece work such as linens, tote bags, shirts, jackets, pants, etc.).

e) Concessionaire will at all times maintain a wide variety of merchandise within the categories authorized in Exhibit D. A full range of sizes for men, women and children in sufficient quantities to satisfy customer demand will be maintained during the operation. Merchandise will be displayed in a manner similar to that found in high quality commercial stores and the exchange retail facilities.

f) All merchandise offered for sale will be saleable, fit and sufficient for the use intended and will not be "seconds" as the term is normally understood in the trade.

g) Concessionaire warrants that all merchandise offered for sale which displays copyrighted (trademark) logos or designs will be properly licensed in accordance with applicable laws and regulations. Counterfeit or "bootleg" items will not be sold in the concession operation.

h) All merchandise displayed for sale will be price-marked for ready identification by the customer. Price tags/labels will be prepared to project a professional image.

i) Concessionaire will offer for sale only merchandise of good taste and will not offer any item(s) which:

1. Depicts the flag of the United States or any other country in a manner other than authorized by applicable laws.
2. Promote, condone, or otherwise acclaim the use, benefits or accessibility of drugs or alcohol.
3. Contain racial/ethnic slurs or advocate racial/ethnic supremacy.
4. Include words, symbols or scenes, which are lewd, profane or vulgar.

j) Label requirements for clothing items:

1. All wearing apparel furnished under the contract will have a permanent care label attached to the garment in accordance with Federal Trade Commission (FTC) regulations of trade rule, "Care Labeling of Textile Wearing Apparel."

2. Pins and metal parts on all garments (to include size and/or price tags) shall be non-tarnishable and rustproof.

3. All clothing shall bear the brand name of the manufacturer's label.

k) All equipment shall meet industry safety and fire standards as prescribed by the industry, to include UL, etc.

l) Items offered for sale under this contract are subject to inspection and/or quality analysis, at the option of the contracting officer or designated representative. Quantities sufficient for such inspection and/or quality analysis may be removed at the option of the contracting officer, if deemed necessary for this purpose.

m) Concessionaire will not provide items failing to meet the above cited specifications.

n) LOSS/DAMAGE/DEFECTS: Notwithstanding any other provisions of this contract, the concessionaire agrees that at the time of delivery to the customer all articles and services provided pursuant to the terms of this contract will be free from any defect in material or workmanship. Notice of any defect or nonconformance may be given the concessionaire by the customer or the Exchange. Concessionaire will be liable for loss or damage to the customer's property in the amount of the value established by the customer on the customer order form, provided such value does not exceed \$500 per item.

o) Registered Logo/Trademark: It is the concessionaire's responsibility to purchase items only from sources of supply that have the necessary approval, as evidenced by licenses, permits or grants from the professional league or association, institution or representative agency. Concessionaire will provide validation of authority to the contracting officer upon request. Contractor will not introduce additional items bearing registered logos or trademarks into stock without prior approval of the contracting officer. Documentation will be retained on site and contractor will immediately remove from sale any item for which authorization cannot be provided the contracting officer or their authorized representative.

p) Promotional Events:

1. Concessionaire will conduct a sales promotion program featuring **Two (2)** promotional events per calendar year, one of which will be the Exchange Anniversary Sale. Refer to Promotional Events, Section 3.D, Special Provisions.

2. Concessionaire will promote sales to military activities and provide special items to respond to customer uses at local activities, i.e., dances, awards, holidays, anniversaries, etc.

B. Fee Schedule including Payment Terms

1) General

This Contract is awarded for 1 location(s) for at least a base period of 60 months.

a) Concessionaire will pay the fee(s) below for the entire base period for each location. The fee is based on fee percentage times Net Sales. Historical Monthly Gross Sales average \$87,000.00.

b)

Campus	Property	Suite	Fee %
FT SILL	PRP-SHOPPING CENTER	STE-T-SHIRT SHOP	(b)(4)

2) Fee Deposit and Payment

The fee deposit for this Contract is \$19,618.50 at time of award. The fee deposit must be made prior to the commencement of service.

3) Settlement Reports

Reports and fee payment must arrive as specified in Section 3. D, Special Provisions.

Location 1: Fort Sill Exchange
ATTN: GM ADMIN ASST.
1712 Macomb Rd. (PXtra)
Fort Sill, OK 73503

3. TERMS AND CONDITIONS

A. General Provisions

1) Notices

All notices, consents, waivers, and other communications under this Contract must be in writing and will be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), (b) sent by email (with confirmation of receipt), (c) sent by an overnight delivery service (with confirmation of receipt), or (d) sent by certified or registered mail, return receipt requested, to the designated Contracting Officer and to the Concessionaire's representative identified below (or to such other persons and addresses as a party may designate by written notice to the other party).

Concessionaire:
Fast Break Sportswear, Inc.
3029 Termaine Drive
Flower Mound, Texas 75022

The Exchange:
Attn: (b)(6) on
3911 S Walton Walker Blvd
Dallas, Texas, 75236
(b)(6)@aafes.com

2) Order of Precedence

In the event of an inconsistency or conflict between or among the provisions of this Contract, the inconsistency or conflict shall be resolved by giving precedence to the various provisions in the following

order as applicable: (a) cover page and section one; (b) section two; (c) section three; (d) other sections; (e) any attached exhibits.

3) Procurement Integrity

a) By submission of an offer and, separately, by performance of this Contract, Concessionaire warrants:

1. that no discussion, offer, or promise of future employment or business opportunity has been or will be made to the Exchange civilian or military personnel who participated personally and substantially in this purchase action;
2. that no offer, promise, or gift of any gratuity, entertainment, money, or other thing of value has been or will be made to any Exchange civilian or military personnel, any other employee of the United States Government, or any member of their family or household;
3. that no information proprietary to other Concessionaire or other purchasing information (e.g., Concessionaire list, prices offered, technical evaluations, rankings, etc.) is sought or obtained until it is available to the public under Exchange procedures;
4. that no person or entity has been employed or retained to secure this Contract upon an agreement for a fee of any type except employees of established commercial agencies retained by Concessionaire for the purpose of securing business; and
5. that all document submissions made to the Exchange during the Contract solicitation process and Concessionaire's representations herein, whether oral or in writing, are true, accurate, and complete, and do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statement not misleading. Concessionaire further understands that breach of this warranty is or any act of dishonesty in the performance hereunder will be grounds for immediate termination for default.
6. Concessionaire will add this requirement to all agreements with subcontractors that perform work under this Contract.

b) Concessionaire will report in writing to the Director, Loss Prevention, of the Exchange, any possible violation under this provision when Concessionaire has reasonable grounds to believe a violation may have occurred. Concessionaire shall cooperate fully with all Exchange and federal agency investigations of possible violations under this provision.

c) The Exchange may terminate this Contract for default and deduct from amounts due under this or other contracts with Concessionaire, or charge Concessionaire for, the total value of any loss to the Exchange arising out of the breach of this provision.

4) Examination of Records

Concessionaire has the obligation to produce and provide access for personnel designated by the Exchange to all records directly pertaining to compliance with any term or condition of this Contract. If the audit or examination is conducted because the Exchange reasonably believes, a discrepancy has occurred regarding payments made under this Agreement by Concessionaire's fault, the cost of such an audit shall be borne by the Concessionaire. This obligation continues during the term of the Contract and for three years past the date of expiration or termination of the Contract.

5) Subcontracting

In the performance of this contract, Concessionaire shall not subcontract any part of the work without the prior written consent of the contracting officer. Any subcontractor used in connection with this contract is the agent of the concessionaire and not the agent of the Exchange.

6) Indemnify and Hold Harmless

a) Concessionaire shall fully indemnify and hold harmless the Exchange and all other U.S. agencies and instrumentalities, their agents, representatives, and employees from any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, and judgments, including those established by or pursuant to court decisions, international agreements, or duly promulgated U.S. Government regulations, and all charges, costs, and expenses incident thereto (including, but not limited

to, reasonable attorneys' fees and costs), which arise out of or relate to any of the following: (a) the alleged or established violation or infringement of any patent, copyright, or trademark rights asserted by any third party with regard to items or services provided by Concessionaire, (b) loss, damage, or injury alleged or established to have arisen out of or in connection with items or services provided by Concessionaire, unless such loss, damage, or injury was caused by or resulted solely from the acts or omissions of the Exchange, its agents, representatives, or employees, (c) any loss, damage, or injury alleged or established to have arisen out of or in connection with any other acts or omissions of Concessionaire, its agents, representatives or employees, (d) loss and/or breach of customer and/or Exchange data, and (e) any other loss, damage, or injury alleged or established to have arisen out of or in connection with any breach of this Contract by Concessionaire.

7) Disputes

a) All disputes arising under or relating to this Contract shall be resolved under this clause

b) "Claim" as used in this clause means a written demand or written assertion by one of the contracting parties seeking the payment of money in a sum certain or other relief arising under or relating to this contract. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim.

c) A Claim by Concessionaire shall be made in writing and submitted to the Contracting Officer for a written decision. A Claim by the Exchange against the Concessionaire shall be made in writing by the Contracting Officer.

d) For all Claims made by Concessionaire, Concessionaire shall submit with the Claim a signed certification that:

1. The Claim is made in good faith;

2. Supporting data are accurate and complete to the best of Concessionaire's knowledge and belief; and

3. The amount requested accurately reflects the amount for which Concessionaire believes the Exchange is liable.

4. The Contracting Officer will furnish a written decision in response to a Claim by Concessionaire, within a reasonable time period given the nature and complexity of the Claim. Such decision will be final and conclusive unless, within 30 calendar days from the date of the Concessionaire's receipt of the final decision, Concessionaire appeals the decision to the Armed Services Board of Contract Appeals.

e) Pending final resolution on any request for relief, claim, appeal, or action arising under or relating to this Contract, Concessionaire will proceed diligently with the performance of this Contract and will comply with the Contracting Officer's decisions. This clause will not apply if either party terminates the contract pursuant to Provision 7 under this contract.

f) Submission of false claims to the Exchange is a violation of federal law and may result in civil and/or criminal penalties. If Concessionaire cannot support all or part of its Claim as a result of fraud or misrepresentation of fact, then, in addition to other remedies or penalties provided for by law, Concessionaire will pay the Exchange an amount equal to the unsupported part of the Claim and all the Exchange's costs attributable to reviewing that part of the Claim.

8) Termination

a) This Contract may be terminated in whole or in part by either party upon **30 days** written notice to the other party.

b) This Contract may be terminated immediately upon written notice to Concessionaire that the Exchange facility is inactivated or no longer available for use by the Exchange or Concessionaire, or that the installation at which the Exchange facility is located is inactivated.

c) In the event of a breach of this Contract, the non-breaching party may give written notice of the breach and the requirement to cure to the breaching party. If the breach is not cured to the reasonable satisfaction of the non-breaching party within ten (10) calendar days after the date of receipt

of written notice of breach, then the non-breaching party may immediately terminate the Contract. Notwithstanding the foregoing, in the event of any breach of this Contract by Concessionaire involving dishonesty or misrepresentation to the Exchange prior to or after the effective date of this Contract, or an unauthorized assignment of the Contract, the Exchange will have the right to terminate the Contract immediately upon written notice to Concessionaire.

d) Termination of this Agreement will not relieve Concessionaire or any of its employees, representatives, agents, or subcontractors from liability for any default under the terms of this Agreement or any other act or omission.

9) Taxes

Concessionaire assumes complete and sole liability for all federal, state and local taxes applicable to the property, income and transactions of Concessionaire. The prices charged the Exchange will be deemed to include all applicable taxes. The prices charged will not include any amount for taxes that are not applicable because of:

- a)** the Exchange's legal status as an instrumentality of the U.S. Government;
- b)** use of the Exchange's immunity from direct state or local taxation;
- c)** federal, state or local tax exemptions for sales to the federal government; or
- d)** any other reason, such as items purchased for export.

It will be the sole responsibility of Concessionaire to explain to the reasonable satisfaction of the Contracting Officer the applicability and amount of any taxes they have included in the prices charged. The Contracting Officer, upon request, will furnish additional documentation to support tax exemptions if required by an appropriate tax authority.

10) Exchange Rights in Intellectual Property

Concessionaire agrees that the Exchange exclusively retains all right, title, and interest in all deliverables and works, including drawings, designs, specifications, notes, data, information, reports, analyses, recommendations, customer lists, derivative works, and other products, developed in the performance of this Contract (Deliverables). Concessionaire is granted a limited license in the Deliverables for the sole and exclusive purpose of performance hereunder. Concessionaire shall have no rights to use Exchange furnished data or information supplied to Concessionaire by the Exchange or Deliverables developed pursuant to this Contract for any purpose other than performance hereunder.

11) Trademarks

The Exchange is the holder and owner of numerous trademarks. All Exchange trademarks are the exclusive property of the Exchange. Concessionaire has no right and no authority to use Exchange trademarks other than as explicitly granted herein.

12) Customer Data

Under no condition will Concessionaire sell or otherwise disseminate Exchange Customer personal information to other persons, firms, or entities. Concessionaire agrees to restrict its use of such information to the performance of this Contract. Concessionaire agrees to comply with all federal and state security and breach laws and regulations that cover the collection and use of customer personal information or data. Concessionaire represents, warrants, and agrees that it will: (a) hold all customer records and data in strict confidence and will not use or disclose except as (i) permitted or required by this Agreement, (ii) required by Applicable Laws, or (iii) otherwise authorized by the Exchange in writing; (b) safeguard and continually monitor its operations and take any action necessary to assure the confidentiality of the records and data. Upon termination or cancellation of the contract, per request of the Exchange, Contract shall immediately either: (1) Provide or Return customer records or data back to Exchange; or (2) Destroy or Erase the Customer data or information in Concessionaire's possession.

13) Environmental

a) Concessionaire agrees that its activities arising under or relating to this Contract will comply with all applicable local, state, and federal environmental laws, rules, regulations, and permits.

Concessionaire should assume that all laws applicable outside of the installation also apply on the installation.

b) Concessionaire is responsible for the management of its own solid and hazardous waste in accordance with all federal, state, and local laws or regulations at its own cost and expense. If Concessionaire contemplates the generation of hazardous waste, a waste management plan for each location shall be submitted to the installation not later than 30 days after commencement of service. Any revision or modification of the waste management plan shall be subject to review and approval by the installation environmental office. To the extent reasonably practicable, Concessionaire will use materials, processes, and techniques that minimize the creation of hazardous waste.

c) Concessionaire's activities on the installation are subject to installation and Exchange environmental, health, and safety audits. Manifests, health and safety data, training records, and any other data required to be maintained by Concessionaire for its activities at the concession site are subject to review and inspection by the Exchange and installation personnel.

d) Concessionaire will inform in writing the General Manager and Contracting Officer within 24 hours if it receives any notices of deficiency, noncompliance, violation, or any other notice from a local, state, or federal regulator that operations at the concession site are not compliant with applicable local, state, or federal environmental laws, rules, regulations, or permits. Concessionaire will promptly notify the installation environmental office of the presence at the concession site of any local, state, or federal environmental inspector.

e) In the event any local, state, or federal regulator issues any notice of deficiency, noncompliance or violation against Concessionaire as a result of the operations of Concessionaire, the Concessionaire will indemnify and hold harmless and defend the Exchange and the installation, their officers, and employees from any and all enforcement actions, administrative or judicial, to include citizen suits, suits, judgments, claims, fines, and penalties, including expenses of removal, remedial actions, and all expenses incident thereto which arise out of the activities of Concessionaire pursuant to this Contract.

f) Concessionaire is responsible for paying any fines or penalties assessed against the Exchange or the installation or the Army or Air Force for violations of the Clean Air Act, Clean Water Act, Solid Waste Disposal Act (including the Resource Conservation and Recovery Act), Comprehensive Environmental Response, Compensation and Liability Act, Toxic Substances Control Act, Federal Insecticide Fungicide and Rodenticide Act, Coastal Zone Management Act, Endangered Species Act, National Historic Preservation Act, Safe Drinking Water Act, Emergency Planning and Community Right to Know Act, Oil Pollution Act, Archeological Resources Protection Act, Pollution Prevention Act, and related state laws enacted under these federal statutes, resulting from acts or omissions of Concessionaire or its employees, subcontractors, or agents. This obligation is in addition to any fines or penalties that may be assessed against Concessionaire for the same conduct. Concessionaire may either reimburse these fines or penalties through the Contracting Officer or with the consent of the installation environmental management office, conveyed through the Contracting Officer, Concessionaire may pay such fines or penalties directly to the court or regulatory agency or agencies concerned.

g) Concessionaire shall promptly notify the General Manager and Contracting Officer in writing of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, or delegate, indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities.

h) Concessionaire will include the requirements of this paragraph in every nonexempt subcontract and take such actions the Contracting Officer may direct as a means of enforcing such provisions.

14) Warranty

Concessionaire warrants to the Exchange that all goods and services provided by Concessionaire pursuant to this Contract will, at the time of delivery (a) conform to the Specifications as set forth in Section 2; (b) be free from material defects; (c) be manufactured in accordance with industry standard

manufacturing practice and applicable law; (d) are adequately contained, packaged, and labeled in accordance with applicable law; and (e) conform to the promises or affirmations of fact made on the container or label.

15) Prices

Concessionaire warrants that the net prices charged for goods and services (considering all discounts, rebates, and other price reductions) under this Contract will be the same or better than the net price charged to any of Concessionaire's other customers for goods of like kind and quality or comparable services in the same geographic area.

16) Force Majeure

"Force Majeure" refers to a material event beyond the reasonable control of a party that makes it impossible or entirely impractical for the party to perform some or all of its obligations under the Contract. Such an event can create an excuse for a delay in performance of the party's obligations under the Contract. If Concessionaire is unable to perform due to a Force Majeure event, then the Exchange will have the right to procure the products and/or services from another source during the period of the Force Majeure event. Examples of a Force Majeure event include industry-wide labor strikes, lock-outs, industry-wide inability to procure materials, new and extraordinarily restrictive government laws or regulations, mass riots, war, military power, terrorist acts, sabotage, material fire or other material casualty, severe weather, and an extraordinary and material act of God such as a tornado or earthquake. However, it excludes inadequacy of insurance proceeds, litigation or other disputes, financial inability, lack of suitable financing, delays caused by subcontractors or business partners, and failure to obtain approvals or permits. Strikes, walkouts or other labor troubles incurred only by the Concessionaire shall not constitute an event of Force Majeure. The party asserting a Force Majeure event must provide immediate notice to the other party. The other party's excuse from performance may extend for a reasonable time beyond the Force Majeure event.

17) Concessionaire Liability

Except as set out specifically elsewhere in the Contract, Concessionaire will be liable for costs and damages to the Exchange and/or other agencies of the United States resulting from a breach by Concessionaire including, but not limited to, expenses incurred in connection with repurchase of the goods or services and any other expense incident to the breach, lost fees resulting from lapses in service, unscheduled facility closures, sales declines, and lower fees received on repurchase.

18) Surveillance

The Exchange may perform electronic or other types of surveillance in Exchange facilities. Concessionaire will inform its employees in accordance with applicable laws that such surveillance may be conducted, and individuals implicated in improprieties may be found unacceptable for employment at any Exchange facility and prosecuted for violations of law. Concessionaire is liable and shall reimburse the Exchange for losses under this Contract detected by surveillance or otherwise discovered.

19) Withholding

The Exchange may withhold payment for amounts due or creditable to the Exchange under this Contract. In conjunction with any withholding, the Exchange will retain the benefit of all earned discounts, rebates, and allowances if such would have been earned except for the withholding.

20) Non-Waiver of Defaults

Any failure by the Exchange to enforce or require strict performance of any terms or conditions shall not constitute waiver thereof, and shall not affect or impair such terms or conditions or the Exchange's right at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.

21) Restrictions on Purchases of Foreign Goods

a) Concessionaire will not acquire for use in the performance of this Contract any merchandise, equipment, supplies or services originating from, processed in, or transported from or through, the countries prohibited from commerce by the United States Government. This restriction includes merchandise, equipment, supplies or services from any country that is restricted by law,

regulation or executive order at any time during performance of the Contract. A current list of prohibited countries is available at <https://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>

b) Concessionaire agrees to insert the provisions of this clause, including this paragraph, in its subcontracts.

22) Compliance with Applicable Laws

Concessionaire is responsible for compliance with all laws, rules, and regulations applicable to this Contract and the activities conducted hereunder. Failure to comply may be a basis for termination for default.

23) Choice of Law and Forum

This Contract will be interpreted in accordance with the applicable federal laws of the United States. Disputes will be resolved in the applicable federal forum.

24) Privacy Act

a) Concessionaire agrees to:–

1. Comply with the Privacy Act of 1974 (the Act), as applicable, and the Department of Defense rules and regulations issued pursuant to the Act in the design, development, or operation of any system of records on individuals that accomplish an Exchange function. The system of records under the Contract is any information collected, compiled, and/or utilized to build a customer database from which information can be retrieved by individuals' names or other personal identifiers. Instruments used to collect information in written or electronic formats include, but are not limited to, application for services, verification of credit rating, customer inquiries or comments, data for invoicing current customers, change of address notification, information used for marketing purposes, etc.; and

2. Include this clause in all subcontracts which require the design, development, or operation of a system of records.

b) In the event of violations of the Act, a civil action may be brought against Concessionaire when the violation concerned the design, development, or operation of a system of records on individuals that accomplish an Exchange function. Criminal penalties also apply to Concessionaire if it is accomplishing an Exchange function. For the purposes of applying the criminal penalties section of the Act only, Concessionaire is considered to be an employee of the Exchange.

c) Subcontracting and outsourcing customer data outside the United States is not allowed.

d) Concessionaire will ensure that all personnel receive Privacy Act training, prior to handling Personally Identifiable Information. Concessionaire may be asked to provide verification. Concessionaire shall not retain, use, memorize, or otherwise collect information on any customer for use other than as authorized by the Exchange. The Department of Defense provides free Privacy Act training and a certification at <http://iatraining.disa.mil/eta/piiv2/launchPage.htm>.

25) Green Clause

The Exchange encourages concessionaires to embrace, establish, and promote environmentally "Green Initiatives." The Exchange looks to Concessionaire to accomplish this by:

a) utilizing environmentally friendly products;

b) promoting energy-efficiency and water conservation; and

c) eliminating or reducing the production or generation of hazardous waste and the need for special material processing (including special handling, storage, treatment, and disposal).

26) Combating Trafficking In Persons

The United States Government and the Exchange have adopted a zero-tolerance policy regarding trafficking in persons.

a) Concessionaire and its employees shall not:

1. Engage in any form of trafficking in persons during the period of performance of the Contract;

2. Procure commercial sex acts during the period of performance of the Contract; or

3. Use forced labor in the performance of the Contract.

b) Concessionaire shall include the substance of this clause in all subcontracts.

c) Concessionaire shall inform the Contracting Officer immediately of:

1. Any information it receives from any source (including host country law enforcement) that alleges a Concessionaire employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and

2. Any actions taken against Concessionaire employees, subcontractors, or subcontractor employees pursuant to this clause.

d) The Contracting Officer may consider whether the Concessionaire had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>

27) Payment Card Industry Compliance

If payment cardholder data is processed via Concessionaire's processor or via an Exchange point of sale terminal, or if card data is shared with concessionaires, subcontractors, merchants, or service providers under the terms and conditions of this Contract, the concessionaires, subcontractors, merchants and service providers with whom card data is shared must adhere to the most current version of the Payment Card Industry Data Security Standards requirements. Concessionaire will also include this clause in any subcontract that provides access to cardholder data. These requirements are available at <https://www.pcisecuritystandards.org>.

28) Personal Identity Verification of Concessionaire Personnel

This clause is to provide guidance concerning compliance with Homeland Security Presidential Directive 12 and Policy for Common Identification Standard for Concessionaires and Subcontractors when contract performance requires routine physical access to a federally controlled facility and/or routine access to a federally controlled information system. (As processes and procedures could change over time, go to <http://www.aafes.com/Images/doingbusiness/authorization1.pdf> for the most up-to-date instructions. Questions should be directed to the Exchange HQ Director of Staff, Force Protection or the Contracting Officer.)

29) Concessionaire Personnel and Representatives

a) This Contract does not create an employment or joint employer relationship between an employee of the Concessionaire and the Exchange. Concessionaire is the sole employer of its employees. Personnel employed by Concessionaire under this Contract are not employees of the Exchange. The Exchange affirmatively disclaims control over the terms and working conditions of Concessionaire's employees, including but not limited to the ability to hire, fire, discipline, train, set work hours, taxes, determine compensation and benefits, and exercising day-to-day supervision.

b) Concessionaire is responsible for compliance with labor, employment and tax laws, and is liable for breach of applicable labor, employment and tax laws and terms of this Contract.

c) Concessionaire will discontinue using any individual in Exchange facilities upon Contracting Officer's written notice that the individual is not acceptable for performance under this Contract. Concessionaire will not use any such person to perform other Exchange contracts or work in other Exchange facilities without the prior written consent of the Contracting Officer. These requirements are not requests by the Exchange for the termination of the individual's employment with Concessionaire, but a requirement only not to use any such individual under this Contract, other Exchange contracts or work in Exchange facilities without prior written consent.

d) Concessionaire personnel will abide by applicable laws, regulations, and military command directives and conduct themselves so as not to reflect discredit on the Exchange.

30) Notification of Debarment/Suspension Status

Concessionaire shall provide immediate notice to the Contracting Officer in the event of Concessionaire or its owners being suspended, debarred or declared ineligible by any other federal department or agency, or upon receipt of a notice of proposed debarment from another federal department or agency during the performance of this Contract.

31) Insurance

a) Concessionaire will maintain in full force and effect, during the Contract, at least the insurance coverage contained in Section 3.C herein.

b) Concessionaire will be liable for damage, loss or injury to property or persons resulting from acts or omissions of Concessionaire, Concessionaire's employees or agents, whether or not covered by required insurance.

32) Permits, Licenses and Applicable Laws

a) Concessionaire warrants that all necessary permits and licenses have been obtained and that the merchandise, services, supplies, and/or equipment provided under this Contract comply with applicable laws.

b) Concessionaire agrees to comply with all federal and state privacy laws and regulations that cover the collection and use of personal information and data, including but not limited to the Health Insurance Portability and Accountability Act, 42 U.S.C. § 1301 et seq.

33) Payment by Electronic Funds Transfer

The following will apply for all payments made by the Exchange to Concessionaire under the terms of this Contract.

a) Method of payment:

1. Unless otherwise noted in this Contract, all payments by the Exchange under this Contract shall be made by electronic funds transfer (EFT). The term "EFT" refers to the funds transfer and may also include the payment information transfer.

2. If the Exchange is unable to release payment by EFT, Concessionaire agrees to either

- a. accept payment by check or some other mutually agreeable method of payment,

or

- b. allow the Exchange to extend the payment due date until such time as the Exchange can make payment by EFT.

- c. The Exchange shall make payment to Concessionaire using the EFT information provided by Concessionaire to the Exchange. In the event that the EFT information changes, Concessionaire shall be responsible for providing the updated information to the Exchange not less than thirty days prior to the effective date.

- d. If Concessionaire's EFT information in the Exchange database is incorrect, the Exchange need not make payment to Concessionaire under this Contract until correct EFT information is entered into the Exchange database; and any invoice shall be deemed not to be a proper invoice for the purpose of prompt payment under this Contract.

- e. If Concessionaire has identified multiple payment receiving points in the Exchange database and the Concessionaire has not notified the Exchange of the payment receiving point applicable to this Contract, the Exchange shall make payment to the first payment receiving point listed in the Exchange database.

- f. The payment or disbursing office shall forward to Concessionaire available payment information. The Exchange shall send the payment information to the remittance address contained in the Exchange database.

34) Electronic Signature Counterparts

This Contract may be executed in one or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed and delivered shall constitute one and the same document. Each party agrees that the electronic signatures of authorized representatives of the parties to

this Contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this Contract or any other document contemplated hereby bearing an original or electronic signature by facsimile transmission, by electronic mail in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

35) Change in Ownership

Concessionaire shall give the Contracting Officer at least ten business days' written notice of any sale, reorganization, merger, consolidation, or any other change that results in a change of control or substantial change in ownership interest in Concessionaire. This Contract may not be assigned.

36) Time of the Essence

Time is of the essence of this Contract. When calculating the period of time within which or following which any contract action is to be done or step taken pursuant to this Contract, the day which is the reference date for calculating the period shall be excluded. If the last day of the period is a non-business day, then the period shall end on the next business day.

B. Labor Provisions

1) Equal Employment Opportunity

Concessionaire will comply with applicable EEO Laws.

2) Contract Work Hours and Safety Standards Act

The following clause is applicable to concession, agency, and vending machine contracts where the total gross receipts from sales or services under the Contract will exceed \$2,500 and to management and direct service contracts where total payments to the Concessionaire will exceed \$2,500. This Contract is subject to all applicable provisions of the Contract Work Hours and Safety Standards Act as amended, and the regulations of the Secretary of Labor thereunder (29 CFR 5).

a) Overtime Requirements: No Concessionaire or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek to work in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives such compensation at a rate not less than one and one-half times the basic rate of pay for all such hours worked in excess of 40 hours in such workweek.

b) Violation; liability for unpaid wages; liquidated damages: In the event of any violations of provisions of Paragraph a., Concessionaire and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, Concessionaire and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of Paragraph a. in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of his standard workweek of 40 hours without payment of the overtime wages required by Paragraph a).

c) Withholding for unpaid wages and liquidated damages: The Contracting Officer may withhold from Concessionaire from any monies payable on account of work performed by Concessionaire or subcontractor such sums as may administratively be determined to be necessary to satisfy any liabilities of Concessionaire or subcontractor for unpaid wages and liquidated damages as provided in the provisions of Paragraph b).

d) Subcontracts: Concessionaire shall include Paragraphs a) through d) of this clause in all subcontracts and shall require their inclusion in all subcontracts of any tier.

e) Records: Concessionaire shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the Contract.

3) Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

If this contract equals or exceeds \$25,000, and is not otherwise exempt, the contractor agrees to comply with the regulations of the Department of Labor and the Office of Federal Contract Compliance Program, and the Affirmative Action clause as set out in 41 CFR Part 60-250, which are incorporated herein by reference

4) Affirmative Action for Individuals with Disabilities

If the contract or the total of all orders issued during a calendar year equals or exceeds \$10,000 and is not otherwise exempt, the contractor agrees to comply with the regulations of the Department of Labor and the Affirmative Action clause as set forth in Title 41, Code of Federal Regulation, Part 60-741, which are incorporated herein by reference.

5) Convict Labor

In connection with the performance of work under this Contract, Concessionaire agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 USC 4082(c)(2)) and Executive Order 11755, December 29, 1973, as amended by Executive Order 12608, September 9, 1987.

6) Fair Labor Standards Act of 1938 as Amended

Except to the extent that an exemption, variation or tolerance would apply if this were a Contract in excess of \$2,500, Concessionaire and any subcontractor are required to pay all of their employees engaged in performing work on the Contract no less than the minimum wage specified under applicable provisions of the Fair Labor Standards Act of 1938, as amended, and the regulations of the Secretary of Labor thereunder.

7) Service Contract Act

The McNamara-O'Hara Service Contract Act ("SCA") applies to all contracts exceeding \$2,500, if the principal purpose of the Contract is to furnish services through the use of service employees. Unless otherwise provided, service contracts that are indefinite in amount are deemed to exceed \$2,500. The applicable contract clause in the implementing regulations of the SCA, found in 29 CFR 4.6, is incorporated by reference into this Contract as if fully set forth in this Contract.

8) Establishing a Minimum Wage for Concessionaires

(Applicable to Contracts of \$2,500 or more.) Executive Order 13658 - Establishing a Minimum Wage for Concessionaires, and its implementing regulations, including the applicable contract clause, are incorporated by reference into this Contract as if fully set forth in this Contract. The full text of the contract clause in Appendix A to 29 CFR Part 10 is located at <https://www.gpo.gov/fdsys/pkg/FR-2014-10-07/pdf/2014-23533.pdf#page=98>.

9) Establishing Paid Sick Leave for Concessionaires

Executive Order 13706 - Establishing Paid Sick Leave for Federal Concessionaires, and its implementing regulations, including the applicable contract clause, are incorporated by reference into this contract as if fully set forth in this contract. The full text of the contract clause in Appendix A to 29 CFR Part 13 is published at <https://www.gpo.gov/fdsys/pkg/FR-2016-09-30/pdf/2016-22964.pdf#page=126>.

C. Insurance Requirements

1) General Requirements

The concessionaire will maintain, during any contract period, insurance coverage specified below. The insurance company/ies providing coverage must meet the minimum AM Best rating of B++ unless otherwise acceptable to the Exchange. Upon the Contracting Officer's request, the concessionaire will furnish the Contracting Officer with a current ACORD Form 25 or equivalent Certificate of Insurance,

showing the insurance is in effect. All liability insurance coverage will name the United States and the Exchange as additional insureds with respect to claims, demands, suits, judgments, costs, charges, and expenses arising out of or in connection with any loss, damage, or injury resulting from the negligence or other fault of concessionaire, or concessionaire's agents, representatives, or employees. The "INSURED" block for the ACORD Form 25 or equivalent Certificate of Insurance must list the concessionaire's name. The Exchange contract number can be listed in the Description of Operations box on the ACORD Form 25 or equivalent Certificate of Insurance. Additionally, the concessionaire must ensure each subcontractor obtains the same insurance coverage.

2) State and Installation Requirements

a) The concessionaire will maintain coverage in amounts complying with state, federal or military installation requirements, whichever is greater, where this contract is performed:

1. Worker's Compensation and Employer's Liability Insurance.
2. Automobile Bodily Injury and Property Damage Liability for vehicles operated in performance of this contract by concessionaire, the concessionaire's agents or employees on the military installation, whether or not owned by concessionaire.

3) Exchange Requirements

a) The concessionaire will maintain the coverage listed below and will furnish a current ACORD Form 25 or equivalent Certificate of Insurance in accordance with paragraph one above.

b) Commercial General Liability in minimum limits for Bodily Injury and Property Damage:

- 1,000,000.00 Each Occurrence Limit**
- 2,000,000.00 General Aggregate Limit**
- 1,000,000.00 Products/Completed Operations**

c) This insurance policy will be written on an "Occurrence" basis. A policy written on a "Claims-Made" basis is not acceptable.

4) COI Delivery Method and Customer Owned Property

The concessionaire will list the following information in the Certificate Holder box and, if requested, will deliver the ACORD Form 25 Certificate of Insurance to the contract specialist by casonda@aafes.com or mail to:

Army and Air Force Exchange Service
Attention: (b)(6) [REDACTED], Contract Specialist
3911 S Walton Walker Blvd
Dallas, Texas, 75236

D. Special Provisions

1) Activity

a) The Exchange grants Concessionaire a nonexclusive right to operate the activity described in the Specifications section of this Contract. The assignment of space for concession is a revocable license, not a tenancy.

b) The Exchange makes no warranty or representation, express or implied that merchandise or services sold in the concession are free of competition. During the Contract period, other activities may sell the same or similar merchandise or services. The Exchange will not be liable for any income, sales, profit or other loss of Concessionaire attributed to competition.

c) If premises furnished by or through the Exchange are destroyed either in whole or in substantial part, so as to significantly hinder or prevent normal operations by Concessionaire, by acts of God (such as, but not limited to, fire, flood, hurricane, unusually severe weather conditions) or unusual occurrence (unless solely and directly caused by the Exchange's negligence), the Exchange will not be responsible to Concessionaire for repair/restoration of the premises, lost income, sales, or lost profits, damage to Concessionaire's property, employee salaries, or any consequential costs incurred, or be

obligated to relocate Concessionaire. Concessionaire should consider obtaining business insurance to cover risks to its property and concession activity.

d) During the Contract period, the Contracting Officer may require the concession to relocate to better meet the Exchange's needs or those of the installation, as determined by the Contracting Officer. The concessionaire will be given reasonable advance notice. The Exchange will pay for moving and installing the Exchange furnished equipment and fixtures and hooking up utility lines. The Exchange will reimburse the reasonable cost of moving and installing Concessionaire's furnished equipment and fixtures. The Exchange will not be liable for lost income, profit and/or salaries associated with relocating.

2) Equipment, Furniture, and Movable Trade Fixtures

a) Exchange Furnished: When there is Exchange furnished equipment, furniture or fixtures, the following terms will apply. The item list, agreed value, and condition of equipment, furniture and trade fixtures furnished by the Exchange are stated in this Contract. Concessionaire will sign a custody receipt for the items furnished. Repairs of and replacement parts for the Exchange furnished equipment, furniture, and fixtures will be provided by the Exchange, or at the Exchange's option, by Concessionaire at the Exchange's expense.

1. Concessionaire will perform routine preventive maintenance and keep the equipment, furniture, and fixtures clean, sanitary, and secure. Broken or malfunctioning equipment must be reported, in writing, to the Exchange General Manager or Services Business Manager immediately upon discovery. The Exchange will not be liable for Concessionaire losses caused by malfunction of equipment. Exchange property will not be removed from the premises without the prior written approval of the Contracting Officer. Exchange property will only be used for this Contract. Concessionaire will be liable for any damage to or loss of the items resulting from acts or omissions of Concessionaire, his employees, or agents. The Exchange may inspect the Exchange furnished equipment, furniture, and fixtures at any time.

2. Concession Point-Of-Sale (CPOS) Tablet:

a. Periodic Commodity Concessions: Concessionaire will sign out/in the CPOS tablet and accessories daily at the Exchange-designated location.

b. Full-time Concessions: Concessionaire will sign for a CPOS tablet that will remain in the facility for the length of the Contract.

c. Concessionaire will be responsible for the Exchange-furnished CPOS tablet and accessories while in Concessionaire's possession. Concessionaire will be liable for any damage to or loss of the items resulting from acts or omissions of Concessionaire, its employees, or agents. Concessionaire will reimburse the Exchange for any repair or replacement of the CPOS tablet and/or accessories as stated in this contract. Concessionaire may also be required to pay a fee for the use of Exchange furnished equipment.

b) Concessionaire Furnished: Concessionaire will provide and install all the equipment, furniture and movable trade fixtures required by this Contract. All Concessionaire furnished property is subject to approval of the contracting officer. All electrical equipment will carry the Underwriters' Laboratories (UL) Seal of Approval. At the request of the Contracting Officer, and prior to the commencement date of services under this Contract, Concessionaire will give the Contracting Officer a typed list of all equipment, furniture and movable trade fixtures to be used for this Contract. Each item will be identified by manufacturer, model name/number, and serial number, as appropriate. Concessionaire will not sell or remove any equipment, furniture, or fixtures from the concession premises without the prior written approval of the Contracting Officer. Concessionaire will maintain and repair or replace, as necessary, all Concessionaire furnished equipment, furniture and fixtures. Title to Concessionaire furnished equipment, furniture, and fixtures remain with Concessionaire. If Concessionaire uses leased equipment in the performance of the Contract, Concessionaire must notify the Contracting Officer of the name and address of the lessor. Concessionaire investment in equipment, inventory, furniture and fixtures for this Contract is a business risk of Concessionaire. It is expressly understood and agreed that neither the Exchange nor any other agency or instrumentality of the United States is or will be liable to

Concessionaire for costs of Concessionaire's investing in equipment, inventory, furniture or movable trade fixtures in the event of termination or expiration of this Contract without extension.

3) Prohibited Activities

a) Concessionaire will not, in or about the premises of the military installation, engage in or permit gambling or the use of any device which suggests gambling (such as punch cards or slot machines), engage in loan operations, or sell merchandise or services on credit unless otherwise provided for in the Contract. Concessionaire is responsible for all deferred charges. Concessionaire will take no actions counter to the purpose of the Contract or which have the effect of diverting sales from the concession activity to Concessionaire's commercial business activities. Solicitations in support of the purposes of this Contract must be approved by the Contracting Officer. Facilities will not be used for performance or support of other Exchange contracts or commercial business activities.

b) Concessionaire will not provide free or discounted merchandise or services except in conjunction with promotional programs approved by the Contracting Officer.

4) Scope of Service/Minimum Quality

Concessionaire will only sell merchandise and services specifically set out in the Specifications section of this Contract. Items sold under this Contract will be in good taste. Merchandise and services provided under this Contract will be equal to or better than those provided by first quality commercial establishments.

5) License for Exchange Trademarks

a) Should Concessionaire be granted permission to use an Exchange trademark, Concessionaire agrees that it becomes a temporary licensee of such mark and warrants that it shall use the licensed mark only for the purposes of and pursuant to this Contract. Concessionaire agrees that it has no claim, option, or other right whatsoever express or implied, to any like license for any geographic area or location other than the licensed location(s) in this Contract.

b) Upon cancellation, termination or expiration of this Contract, Concessionaire shall immediately discontinue all use of the licensed mark or any derivation thereof in any form, including by removing the Licensed Trademarks from any and all assets, inventories, advertisements, communications, website content, other internet or electronic communication vehicles and other documents and materials, including any and all business Items and promotional materials. Concessionaire will be deemed to have automatically and irrevocably assigned back to the Exchange any rights, equities, good will, titles or other rights in the mark which Concessionaire may have obtained or had vested in pursuance of any endeavors under this Contract. Any such assignment shall be without consideration, other than the mutual covenants of this Contract.

6) Prices

a) Articles stocked for sale will be individually price marked.

b) Concessionaire will only charge the prices established in this Contract.

c) Where a state law imposes a sales tax on the sale of the item and/or service, the sales tax will be stated separately from the sales price, added to the price identified in the Specifications section of this Contract, and collected from the customer.

7) Authorized Customers

Concessionaire will sell service or merchandise only to personnel authorized to use the Exchange facilities. Concessionaire will comply with the Exchange patron identification procedures. Photocopying military identification cards or recording customer's social security numbers is strictly prohibited.

8) Customer Complaints and Claims

Concessionaire will adhere to the Exchange's policy of customer satisfaction guaranteed. All customer complaints and claims will be resolved at Concessionaire's expense. Any disagreement that cannot be resolved between Concessionaire and the customer will be decided by the Contracting Officer, whose

decision will be final and not subject to the Disputes clause in Section 3.A. If Concessionaire fails to process complaints and claims timely, the Exchange may, in addition to other rights and remedies available under this Contract, settle customer complaints and claims and charge them to Concessionaire's account. The Exchange shall not be required to expend funds prior to charging the cost of settling customer complaints and claims to Concessionaire. The Contracting Officer's final decision on the matter shall serve as settlement of such complaints and claims, which shall give rise to a debt owed by Concessionaire to the Exchange on account of such complaints and claims. The Exchange may use Concessionaire's fee deposit to cover the cost of settling customer complaints and claims. Customer complaints or claims based on merchandise or services sold by a predecessor Concessionaire will be referred to the Contracting Officer.

9) Signs Identity and décor Standards

Concessionaire will post only those signs and décor items approved by the Contracting Officer.

a) Concessionaire will post all signs and décor items furnished by the Exchange, including, but not limited to, those that provide customer information and those that set identity and décor standards.

b) In the event Concessionaire owns and operates an existing business under a commercially recognized brand, it may request approval from the Exchange to use the recognized brand image, signing and store décor.

1. All requests for approval of Concessionaire furnished commercially recognized brand image, signing and store décor must be made in writing to the Contracting Officer and include sufficient detail to fully identify the proposed brand or image.

2. Concessionaire will not take any action to implement or install the brand image until it receives written approval from the Contracting Officer.

3. The decision of the Contracting Officer to accept or reject Concessionaire's proposed brand image is final and not subject to the disputes clause.

10) Utilities

a) The Exchange will pay for all utilities, to include heat, power, water, sewage service, and trash removal unless otherwise provided in the Contract. The Exchange will not be liable for losses caused by interruptions of utility service.

b) Concessionaire will pay for connecting and disconnecting utilities to Concessionaire furnished equipment.

c) Concessionaire will pay all costs for telephone service used in performance of this Contract. Concessionaire will publish the phone number in all listings by identifying the type of business or the Exchange Corporate Identity, as applicable, followed by the installation name (e.g., Barber Shop, Hill AFB, or Stripes the Alterations Place, Hill AFB).

d) Concessionaire and Concessionaire's employees will comply with the Exchange energy conservation programs. Concessionaire furnished equipment requiring utilities hookup will comply with the Exchange energy conservation policy. Concessionaire furnished equipment determined by the Contracting Officer to be energy inefficient will be replaced with acceptable equipment at Concessionaire's expense.

11) Internal Controls

Concessionaire will keep a complete and accurate accounting of all transactions including, but not limited to, facility sales, route sales, organization sales, etc. When a Concessionaire provides its own Exchange approved Electronic POS system, upon request from the Contracting Officer, Concessionaire will provide an Electronic File Transfer (ETF) of the data in a format and methodology acceptable to the Exchange. Failure to comply may result in immediate termination of Contract.

a) Cash Registers. Concessionaire will provide and maintain cash registers, either Electronic Cash Registers (ECR) or an Electronic POS System as required in section 2.A.2, and as described below. Cash register procedures follow:

1. Concessionaire will obtain the written approval of the Exchange Representative on Exchange Form 6550-27, Concessionaire's Cash Register Record, before a cash register is placed into or removed from service. The approval will document the information listed on Exchange Form 6550-27 and be signed by the Exchange Representative and Concessionaire. Concessionaire will immediately notify the Exchange Representative if a cash register becomes inoperative. Sales will be recorded on Exchange Form 6550-9, Customer Daily Sales Register, until the inoperative register is repaired or replaced. An Exchange Form 6550-27 must be completed when the inoperative register is removed from service and again before it is returned to service or replaced.

2. All sales (cash, charge card or deposit) will be recorded on the cash register when the transaction is made. Service and merchandise sales will be recorded separately on the designated keys of the cash register. The customer will be given a cash register receipt for the sale.

3. Refunds, over-rings, void transactions and readings before and after test rings made for other than recording sales (e.g., repair) will be documented using Concessionaire Cash Register Adjustment Voucher, Exchange Form 6550-24. If the Contract requires a cash register with a sales form validation feature, Concessionaire will validate the adjustment vouchers. Attach one copy of completed vouchers, signed by the customer or repairman and Concessionaire or Concessionaire's designee, to the Z reading receipt tape submitted with Concessionaire's Settlement Report, Exchange Form 6550-10. All other deductions from sales must be supported as required by the Contracting Officer.

4. Concessionaire will X read cash registers daily at close of business. At the monthly cut-off, Concessionaire will Z read the register and remove the register tape. Write the activity/branch number on the tape, Z read, then X read the register again to put the opening readings on the next month's tape. Submit Z reading receipt tapes for each settlement period with Concessionaire's Settlement Report, Exchange Form 6550-10, to the supporting exchange accounting office. Cash register journal tapes will be retained by Concessionaire for six (6) months.

5. Only cash, checks, and other cash instruments received from sales, and established change and petty cash funds will be placed in cash registers. All cash register disbursements such as customer refunds or petty cash purchases must be supported by an appropriate refund or petty cash voucher. Over-rings must be reported on the Exchange form 6650-10, Concessionaire's Settlement Report in accordance paragraph 14.a. below.

b) Electronic Cash Register (ECR) - The ECR will be a general-purpose unit for use in a small business environment. General Specifications:

1. Key functions: The following key functions are required:

a. Department Keys: A sufficient number of department keys to accommodate the number of services and/or different fee percentages is required by this Contract.

b. Numeric Keys: Includes 0-9 keys that are used in entering quantity, price and other values as required. Decimal point will be automatic where required.

c. No Sale Key: Other than the emergency release feature, the "no sale" key must be the only key that opens the cash drawer when the machine is outside of a transaction. No other keys may be used in conjunction with the no sale key. The no sales feature must produce a transactional counter printout on the X and Z readout tapes.

d. Refund Key: Used to refund a completed transaction. Must have separate resettable totalizer which will not subtract nor add to the non-resettable grand totalizer.

e. Tax Key: A tax key programmable for various tax rates in accordance with the particular state law. Taxes must totalize on the X and Z readout tape. The register should provide for manual entry of tax amounts different than the programmed amount.

f. Item Correct/Void Key: Used to void item operations within a transaction. Must have a separate resettable totalizer which will not subtract nor add to the non-resettable grand totalizer.

g. Validation Key: A validation key and slip printer capability. Validation print will be on an item basis, not a transaction basis, printing only a single line of data on a single or multiple copy form.

h. Exchange Coupons: Use for coupon redemption. Coupons must totalize on the X and Z readout tape.

i. Cash: Used to document tender type. Cash must totalize on the X and Z readout tape.

j. Checks: Used to document tender type. Checks must totalize on the X and Z readout tape.

k. Charge: Used to document tender type. Charges must totalize on the X and Z readout tape.

l. Exchange Gift Cards (Optional): Used to document gift card redemption and is an option key, however, total amount of gift cards redeemed must be reported on the Exchange Form 6650-10, Contract Settlement Report in accordance with paragraph 14.a. below.

m. Other Keys: Other keys may be used as determined by the Contract. Registers with received-on-account, paid out, or other features that subtract from the department total and non-resettable grand totalizer must have those features blocked for non-use. Charge: Used to document tender type.

2. Physical: The ECR may be unified or modular in design with overall uniform dimensions not to exceed 21" deep x 20" wide x 18" high. The cabinet will be made of durable molded plastic type material or other heavy duty construction that is stain resistant and easy to clean with general purpose household cleaners. All hinges, locks, latches, mounting brackets and other cabinet hardware will be constructed of metal or other equally durable material that is rust resistant and designed for heavy daily use. The register will be designed to ensure that miscellaneous items such as paper clips, metal staples, coins and etc. cannot accidentally enter or fall into the register.

3. Cash Drawer: The cash drawer will be of heavy duty construction designed for constant daily use. It will have an emergency release mechanism preferably located under the drawer. The ECR must have a closed drawer feature to prevent register operation unless the drawer is closed and fully latched.

4. Keyboard: The keyboard shall be the basic mode of information entry. It shall consist of 10-numeric value keys arranged in standard adding machine configuration, functional keys as required to perform all cash register functions and transaction keys to perform all required cash register transactions. An audible tone will sound when a key is depressed or an error is made.

5. Displays: Operator and customer displays are required. Both will be large, easy to read panels having a minimum character height of 1/2 inch. It will display a minimum of 8 numeric values and required transaction indicators. The customer display must be viewable by customers at all times.

6. Printer Tapes: Must print a Customer Receipt Tape and a Journal Tape.

a. Customer Receipt Tape will print header, proper descriptors (including department number) next to amounts and the date. Receipt print shall be legible and self-explanatory and be identified with a cash register number and a transaction number.

b. Journal Tape will contain the date, each transaction total, no sales, voids, refunds, over-rings, coupons, tender type, X and Z readings and a non-resettable customer or transaction counter printed on it. It shall be legible and self-explanatory. Changing of receipt and journal tape will not require removal of any part of the print mechanism or electroplate.

c. ECRs will have a Customer Receipt and Journal Tape (two station) alpha/numeric dot matrix printer units. Unified ECRs will have a "fixed" self-contained, 2-station printer unit with either a drum or alpha/numeric, dot matrix print element.

d. The 2-station printer receipt and journal paper will be single-ply rolls having identical dimensions to allow one size roll to fit both printers. Paper will be either 38MM or 44MM wide. The receipt and journal will space and feed paper independent of the other.

e. The journal tape will be automatically rolled and stored in a compartment

7. Grand Totalizer: Must have a non-resettable grand totalizer, non-resettable Z reset counter and non-resettable transaction counter. It must produce an X and Z readout tape totaling each/all functions of the register. The non-resettable grand totalizer and Z reset counter need not print on the X tape. The Z readout, after initial printing, must clear all totals except the three non-resettable totalizers.

8. Electronic Memory Unit: Will identify by letter abbreviation or numerical identification department numbers, total, change, amount tendered, X and Z operations and any other salient features of the ECR.

9. Totals and Counters:

a. The register shall have the capability to total all departments with each having a separate total that accumulates net sales, i.e., sales minus refunds and voids.

b. Grand Totals: The grand total shall be the result of accumulating gross sales data unaffected by refund and void key entries, i.e., it shall not be decreased by refund and void key transactions. The grand total will be non-resettable, nine-digit capacity and will print on the receipt and journal when read (X read operation).

c. Counters: All counters will be four-digit capacity and non-resettable providing a continuous count for customers or transactions.

10. Power Requirements: The equipment will have a factory installed, internal power supply that is designed to operate using the commercially available power within the Exchange facility.

11. Memory Protection: The register will be fully operational after power interruptions or outages without any loss of programming parameters or accumulated totals for a minimum of 125 hours. Register with operating memory on/off switch is not acceptable.

c) Electronic POS System. Concessionaires who have not previously obtained the Exchange approval of their Electronic POS System must send a request to the Exchange Representative with adequate information demonstrating the capabilities of the system and its compatibility with paragraph 13, Internal Controls, of Section 3 D 13, herein. If the request is not approved, Concessionaire must provide the Electronic Cash Register as identified in paragraph 13.b. above. When an Electronic POS System is approved in writing by the Exchange Representative, the requirements of 13.a. (3) and 13.a. (4) above are not waived. However, in lieu of Exchange Form 6650-24, Concessionaire's Cash Register Adjustment Voucher, Concessionaire may use a printed POS form completed in accordance with paragraph 13.a.(3). The requirements of paragraph 13.a.(4) are waived only if the POS system has an electronic journal tape. All other requirements of this Special Provision still apply. Concessionaire must supply all documents described in their approved system procedures with each settlement report. Modifications of the approved procedures and reports will require written approval of the Contracting Officer prior to implementation.

d) Forms. The following procedures apply if customer property is accepted for servicing, a deposit is collected, an item is rented, an item is sold on layaway, an item is purchased to be delivered, or an item is ordered for customers.

1. Concessionaire will provide pre-numbered claim tickets, work orders, sales forms, or order forms as appropriate, acceptable to the Contracting Officer. Forms will list Concessionaire's name, followed by the phrase "Exchange Service Concessionaire." Where the Contract specifies that Concessionaire will perform under an Exchange Corporate Identity, the phrase "Exchange Service Contract" will be replaced with the name and logo of the Exchange Corporate Identity. A separate number series will be used for each outlet and forms will be numbered to preclude repetition of numbers during the Contract. Concessionaire will submit a list of forms assigned for use by each outlet or route to the supporting exchange office. Distribution of copies will be prescribed by the Contracting Officer.

2. Concession activities accepting customer property for servicing or processing will use claim tickets providing spaces for the following information as applicable: (a) date of order, (b) customer's name, rank, organization or address, and telephone number, (c) description of customer property, (d) list of each service performed, (e) charge(s) for each service, (f) sales tax if applicable, and (g) the following: "If the property identified on this order is not picked up within 90 days after the item is ready, the customer donates and transfers all right, title, and interest in the property to the Army and Air Force Exchange Service." (In case of privately-owned vehicles left for servicing, the customer will be required to sign adjacent to the clause on Concessionaire copy of the order.)

3. Forms will be used in numerical sequence. Voided forms will be annotated with the number of the form used to replace it and processed as a completed transaction. Customer identification and a full description of each product sold, or service performed, will be listed on the form and the charge for each item listed separately. Parts and/or products will not be included with service as a single charge. If the Contract requires a cash register with a sales form validation feature, Concessionaire will validate each form for every sales transaction.

4. The customer will be furnished a copy of completed form. If a customer calls for property without a claim ticket, require identification, obtain the customer's signature on the control copy, countersign, and indicate the date of pickup.

5. Route sales will be shown separately on the settlement report.

6. If a customer picks up a portion of the items listed on a claim ticket, the unclaimed items will be listed on a new claim ticket, and the customer furnished a copy.

7. Completed forms will be retained in the originating activity for 90 days (1 year for automotive activities) after the applicable settlement report date. After this period, Concessionaire will remove forms from the concession activity and maintain at Concessionaire's records storage area for three (3) years after final payment under the Contract.

e) Customer Daily Sales Register. If a cash register is not required, Concessionaire must use Exchange Form 6550-9, Customer Daily Sales Register. The register will be prepared in duplicate, showing the applicable sales data and signed by the customer. Each sale will be recorded on the sales register at the time payment is made. Customers will be given a receipt showing the name of Concessionaire, item purchased, purchase price, and date of sale. Customer refunds will also be recorded on the sales register. Refund amount will be enclosed in brackets and deducted from register totals. Each refund entry must contain the customer's name, address, telephone number, and signature. Attach a copy of all completed register pages to the settlement report.

f) CPOS Tablet.

1. Periodic Commodity Concessions:

a. When used by periodic commodity concessions, all sales transactions will be recorded on an Exchange-furnished CPOS tablet.

b. Concessionaire or authorized concession personnel shall review the sales event data displayed on the tablet for accuracy and completeness prior to confirmation. Concessionaire will inform the Services Business Manager of any discrepancies or inaccuracies which need correction prior to confirmation. By clicking the Confirmation box on the tablet, Concessionaire agrees to be solely responsible for the accuracy and completeness of the sales event data and will pay any and all fees or costs associated with or arising from any inaccuracy or incompleteness of data that Concessionaire or concession authorized personnel confirms.

c. Privacy Act Training: Concessionaire and authorized concession personnel who are working an Exchange sales event must complete the DoD Privacy Act Training prior to the commencement of the Contract, annually at the anniversary date of the Contract, and anytime new concession personnel is hired. Concessionaire must print and keep all Privacy Act training certificates of completion on file for review upon Exchange request. During the CPOS tablet login process, Concessionaire will confirm the completion of the Privacy Act training.

d. During downtime, sales transactions will be recorded on a Customer Daily Sales Register (CDSR) Exchange Form 6550-009. When the system is back online, Concessionaire will enter the transactions into the CPOS tablet from the CDSR, void the CDSR and return it to the Services Business Manager.

e. Concessionaire will be responsible for the following:

(1) Concessionaire will record all sales transactions including refunds at the time of the transaction on the Exchange-furnished CPOS tablet.

(2) Concessionaire will document refunds, over-rings, void transactions and readings before and after test rings made for other than recording sales (e.g., repair) using the Concessionaire Cash Register Adjustment Voucher, Exchange Form 6550-24.

(3) Concessionaire will offer customers electronic (e-) sales receipts; when customers decline an e-receipt, Concessionaire will provide a sales receipt showing the name of Concessionaire, item(s) purchased, purchase price, and date of sale.

(4) Concessionaire will provide a cash drawer in lieu of a cash register.

(5) Concessionaire will post the Privacy Act statement in the proximity of the CPOS tablet for customers to review.

2. Full-time Concessions:

a. The Exchange will provide a CPOS tablet, docking station, cash drawer, magnetic strip reader, and a receipt printer. Concessionaire or authorized concession personnel shall review Concessionaire data displayed on the tablet for accuracy and completeness prior to confirmation. Concessionaire or authorized concession personnel will inform the Services Business Manager of any discrepancies or inaccuracies which need correction prior to confirmation. By clicking the Confirmation box on the tablet, Concessionaire agrees to be solely responsible for the accuracy and completeness of Concessionaire data and will pay any and all fees or costs associated with or arising from any inaccuracy or incompleteness of data that Concessionaire or authorized concession personnel confirms.

b. Privacy Act Training: Concessionaire and authorized concession personnel must complete the DoD Privacy Act Training prior to the commencement of the Contract, annually at the anniversary date of the Contract, and anytime new concession personnel is hired. During the CPOS tablet login process, Concessionaire will confirm the completion of the Privacy Act training. Concessionaire must print and keep all Privacy Act training certificates of completion on file for review upon Exchange request.

c. Concessionaire will be responsible for the following:

(1) Concessionaire will record all sales transactions including refunds at the time of the transaction on the Exchange-furnished CPOS tablet.

(2) Concessionaire will document refunds, over-rings, void transactions and readings before and after test rings made for other than recording sales (e.g., repair) using the Contract Cash Register Adjustment Voucher, Exchange Form 6550-24.

(3) An e-sales receipt will be offered to customers. When the customer declines an e-sales receipt, Concessionaire will print the receipt.

(4) Concessionaire and authorized concession personnel will have access to the following Admin Menu items and enter the information as follows:

(a) Concessionaire Details: to review and confirm the accuracy of Exchange fee, equipment rental fee, Mil Star processing fee and other contract details.

(b) Associate Maintenance: to set up associate information and reset employee personal identification number (PIN).

(c) Key and Tax Setup: to enter the item description, item price, and tax in accordance with Clause 16, Taxes. Concessionaire or authorized concession personnel will immediately enter price changes into the CPOS tablet in accordance with Clause 23, Price Revisions.

(d) Cash Drawer: to calculate the variance between cash and check transactions entered into the tablet and the actual amount in the cash drawer.

(e) Receipt Setup: Add receipt header information.

(f) Reports. Review reports.

(5) Concessionaire will post the Privacy Act statement in the proximity of the CPOS tablet for customers to read.

(6) Concessionaire will furnish the supplies (paper and ink) required for the CPOS tablet receipt printer.

g) For Concessionaires using an approved Cash Register, Electronic Cash Register, Electronic POS System or a Customer Daily Sales Register, the following shall apply:

1. Concessionaire will prepare Exchange Form 6550-10, Concessionaire Settlement Report, or other reporting format approved by the contracting officer, in triplicate, for each reporting period, listing each facility separately on the report. Copies of the Z reading receipt tapes (originals only), Concessionaire Cash Register Adjustment Vouchers, Exchange Form 6550-24, and Customer Daily Sales Register, Exchange Form 6550-9 (if authorized for use), for the reporting period will be attached.

2. The reporting period will be by calendar month.

3. An original Concessionaire's Settlement Report must be forwarded to arrive in the supporting exchange accounting office or Exchange Headquarters/FA and one copy of the original to the Exchange Representative no later than the 15th calendar day of the month following the reporting period.

h) CPOS tablet:

1. Periodic Commodity Concessions: Concessionaire may obtain end-of-day and end-of-sales event summary reports at the conclusion of the sales event via email or from the Exchange-designated location. Concessionaire will pay the fee income due the Exchange at the end of the sales event at the Exchange-designated location. At the conclusion of the sales event or as specified in the contract, Concessionaire will submit the fee payment, Concessionaire Cash Register Adjustment Vouchers, Exchange form 6550-024, and Exchange sponsored coupons to the designated Exchange office.

2. Full time Concessions: The (Settlement report will be available on the 1st day of the following month. Concessionaire or authorized concession personnel will review the monthly settlement report without undue delay. Concessionaire will pay the fee income due the Exchange as calculated on the report. Concessionaire will submit all supporting documents, such as Concessionaire's Cash Register Adjustment Vouchers, Exchange form 6550-024, and Exchange sponsored coupons to the designated Exchange office by the payment due date.

12) Fee Payment and Fee Deposit

a) The required fee deposit for this Contract is identified in Section 2.C of this Contract.

b) Fee to be paid to the Exchange will be calculated based on Net Sales, which is Gross Sale minus any contract and/or Exchange or other authorized deducted listed on the Settlement Report. All applicable taxes collected by the Concessionaire, returns and refunds will not be included in the calculation of the fees to be paid to Exchange and will be separately reported on the Settlement Report, with supporting documentations to be reviewed and approved by the local general manager.

c) Fee (and settlement report) for less than a full reporting period upon termination or expiration of the Contract will be forwarded to arrive no later than 10 calendar days after termination or expiration of the Contract. Payment of flat fees will be prorated based on calendar days.

d) The regular fee payment will be due on the 15th day of each month. When the 15th day of the month falls on Saturday, Sunday, or a national holiday, payment will be due the next working day.

e) A late charge equal to the greater of \$150.00 or 5% of the amount owed for that month will be assessed on all fee payments not received at the designated payment office by close of business on the date due. This charge will be in addition to other remedies provided by the Contract.

13) Taxes

a) Concessionaire is responsible for determining the applicability of and for payment of all federal, state, and local taxes applicable to the property, income, and transactions of Concessionaire. If required by applicable laws and regulations, Concessionaire will collect and remit sales taxes to the state or other applicable taxing authority. Sales taxes which have been collected as required herein will be excluded from the computation of fees to be paid to the Exchange. The amount excluded will be listed on Concessionaire Settlement Report. The amount of taxes excluded will not exceed the actual sum payable to the state or other applicable taxing authority. If required by state law or regulation, Concessionaire will obtain and conspicuously display the state sales tax permit.

b) Concessionaire warrants that the contract prices or other consideration do not include any tax or duty from which Concessionaire is exempt under the laws or agreements of the United States Government, or state where this Contract is performed. If any such tax or duty has been included in the pricing or consideration through error or otherwise, the contract pricing or consideration will be correspondingly reduced or adjusted. If for any reason after the Contract date, Concessionaire is relieved, in whole or in part, from the payment or the burden of any tax or duty included in the contract pricing or other consideration, the contract pricing and/or other consideration will be correspondingly reduced or adjusted.

c) If this Contract covers an activity involving a Federal Occupational Tax, Concessionaire agrees as a condition precedent to engaging in or operating such activity, to tender to the Exchange the amount of any Federal Occupational Tax applicable thereto if payment has not been accomplished by Contract, or to reimburse the Exchange the amount of any such tax the Exchange has paid as a result of the operation of such activity by Concessionaire. As between the parties of this Contract, notice or demand for payment from an office of the U.S. Internal Revenue Service will be conclusive that the Federal Occupational Tax is payable and in the amount so specified to be due.

d) CPOS Tablet:

1. Periodic Commodity Concessions: Concessionaire is solely responsible for the proper collection and payment of all applicable taxes regardless of the functionality of the POS application.

2. Full-time Concessions: Concessionaire is solely responsible for entering the tax rate, tax exemption, and other tax information into the CPOS tablet and proper collection and payment of all applicable taxes regardless of the functionality of the POS application.

14) Concessionaire and Concessionaire's Employees (Concession Personnel)

a) Responsible management will be provided during all hours of operation at the concession activity. The designated person with management authority will be knowledgeable of contract terms and conditions and will have authority to conduct business as required by this Contract. Authority will include, but will not be limited to, purchase of operating supplies, maintenance and repair of equipment, training of employees, maintaining prescribed hours of operation, supervision of Concessionaire's employees, and settlement of customer complaints and claims. Concessionaire will provide written notice to the Contracting Officer naming the person with management authority.

b) Concessionaire will furnish a sufficient number of trained and qualified employees to ensure the efficient performance of this Contract. New Concessionaires will give first consideration for employment to employees of the previous Concessionaire or if direct operated Exchange employees.

c) All Concessionaire employees having customer contact must be able to read, write, and speak English at a fluency level sufficient for efficient performance of the Contract.

d) Concessionaire will, at Concessionaire's expense, make employees available for any applicable training according to training dates determined by Exchange management.

e) Concession personnel must meet the health and security standards prescribed by the Contract and applicable regulations, and must obtain installation passes, permits, and security clearances when applicable.

f) Concession personnel will be neat and clean. Customer contact personnel will wear attire typical of styles commonly used by the better local commercial facilities of the same trade and as approved by the Contracting Officer. Nameplates will be worn by all customer contact personnel. For branded facilities the logo nameplate will be provided by Concessionaire. For non-branded facilities, the standard Exchange nameplate will be worn in the manner prescribed by current directives. Standard Exchange Nameplates will be furnished by the Exchange to Concessionaire at a nominal cost.

g) Concession personnel will give prompt and courteous treatment to authorized customers.

15) Actions to be taken upon Termination (Including Expiration)

a) The Exchange may purchase Concessionaire furnished property and inventory at terms agreed to by the parties.

b) Concessionaire will promptly pay all amounts due to the Exchange; vacate the premises leaving installed property and fixtures, and all the Exchange furnished property in the condition in which Concessionaire took possession, except for ordinary wear and tear, and damage caused by acts beyond the control of Concessionaire. Additionally, Concessionaire must surrender all installation passes, decals, etc., for all concession personnel and satisfy all customer complaints and claims. Termination and/or expiration of this Contract does not relieve Concessionaire of its obligation to satisfactorily settle all customer complaints and claims.

c) Concessionaire will promptly remove all Concessionaire furnished property not purchased by the Exchange including equipment, furniture and movable trade fixtures, tools of the trade and supplies. Property will be removed after the close of business on the final day of the Contract unless other arrangements have been approved by the local exchange. Upon failure to yield up the premises or remove Concessionaire's property as required, the Contracting Officer may enter the premises, have Concessionaire's property removed and stored in a warehouse at Concessionaire's expense, and have the premises cleaned and restored at Concessionaire's expense. In this event the Exchange will exercise due care in the removal and storage of Concessionaire's property, however the Exchange assumes no liability for any loss or damage to Concessionaire's property under these circumstances. If Concessionaire is indebted to the Exchange, or does not promptly remove Concessionaire property, Concessionaire authorizes and empowers the Contracting Officer or their representative to take possession of Concessionaire's property and dispose of same by public or private sale without notice, and out of proceeds of sale, satisfy all costs to the Exchange including the costs of sale, handling, storage, etc., and any other indebtedness to the Exchange.

d) If Concessionaire is not awarded a follow-on contract, Concessionaire will arrange transfer of the activity's telephone number to the new Concessionaire unless prohibited by the servicing telephone company.

e) Where Concessionaire performed the Contract under an Exchange Corporate Identity, Concessionaire will cease use of all the Exchange names and identity standards upon the termination or expiration of the Contract.

16) Unclaimed Customer Property

Customer property not claimed within 90 days from the date identified as the "Ready Date" will be regarded as "unclaimed customer property." When receiving customer property, Concessionaire shall provide a receipt to the customer which shall include the Ready Date and the following statement: "Property not claimed within 90 days of the Ready Date shall become the property of the Exchange and may be disposed of by sale or other means." Unclaimed customer property will be disposed of as follows:

a) Concessionaire will contact the customer if the property is not claimed within a reasonable time after the Ready date and keep a record of the contacts. If required by the Contracting Officer, then Concessionaire will provide a list of unclaimed customer property indicating the order/ticket number, customer name, description of the item(s), and amount due.

b) The General Manager will determine disposition of unclaimed customer property valued at more than \$100. Concessionaire may sell unclaimed property valued at \$100 or less. Fees will be paid on the sale to the Exchange.

17) Lost and Abandoned Property

Personal property left in the concession area will be promptly returned if the owner can be identified. If prompt return is not possible, the items will be turned over to the appropriate military office for lost and abandoned items. (Example: a customer leaves an umbrella in the concession.)

18) Inventory Transfer

a) If this Contract is not awarded to the incumbent Concessionaire or is for converting an Exchange direct operated service activity to concession operation, the new Concessionaire will purchase all unclaimed finished customer orders-which involve processing or repair of customer-owned property-from the previous Concessionaire or the Exchange. This does not include unclaimed customer property, as defined in Clause 18 herein. The unclaimed finished customer orders are to be purchased by the commencement date of service under this Contract, and the purchase price will be the full charge(s) in effect at time customer(s) turned the item(s) in for processing or repair, less any cash deposit(s) and less the Exchange's fee under any previous Contract. The outgoing Concessionaire will deliver at no charge all unprocessed orders to the new Concessionaire. The new Concessionaire assumes full responsibility for servicing unprocessed orders and delivering the finished orders to customers at the original price. Payment of fee to the Exchange will be at the rate in either the previous Concessionaire or, if previously an Exchange direct operation, this Contract. Before starting service under this Contract, a listing of transferred inventory-by finished and unfinished work-signed by both the outgoing and incoming Concessionaires will be given to the Contracting Officer.

b) Upon expiration or termination of this Contract, Concessionaire will transfer all undelivered customer orders to any new Concessionaire or to the Exchange, as determined by the Contracting Officer. Payment to Concessionaire will be on the basis of the full charge(s) under this Contract, less any cash deposit(s) and less the Exchange's fee. Contracting Officer will determine appropriate disposal for unclaimed customer orders. Any monies received from the sale of unclaimed customer property will be remitted by the Exchange to Concessionaire, to the extent of Concessionaire's share of the customer charges for services rendered.

19) Indebtedness

a) Concessionaire will pay promptly according to the terms of this Contract all indebtedness incurred in connection with performing the Contract including any funds expended by the Exchange to resolve customer complaints against Concessionaire. If a due date is not specified, payments due the Exchange must be received no later than 15 days after receipt of notice of amounts due. If all amounts due under this or other Contracts are not received, at any time thereafter the Contracting Office may direct by written order that daily receipts be turned over to the Exchange until all amounts owing the Exchange are paid.

b) The Exchange may charge Concessionaire for a dishonored check received from Concessionaire except when (i) the bank acknowledges the dishonor to be a bank error or (ii) the return is the result of an Exchange error. The charge will not exceed the administrative amount the Exchange normally charges its customers for dishonored checks. The Contracting Officer may require payment to be made in cash, certified check, or cashier's check.

20) Exchange Tabloid/Special Sales Coupons, Exchange Gift Card Redemption

a) Exchange Tabloid/Special Sales Coupons:
1. Concessionaire will enter the total face value amount of the Exchange Tabloid and Special coupons redeemed during a reporting period on the Concessionaire Settlement Report, Exchange Form 6550-10. The coupons received and redeemed will be submitted to the supporting exchange accounting office with the settlement report. The supporting exchange accounting office will verify the coupon amount.

2. Concessionaire will deduct the total face value of the coupons redeemed from fee payment unless otherwise specified by the contract.

b) Exchange Gift Cards:

1. Concessionaires will follow all current the Exchange policies and procedures regarding acceptance and processing of gift cards, as set out in Exchange EOP 40-11 (Special Retail Programs).

2. Concessionaire will honor Exchange Gift Cards and redeem for merchandise. Cash back from the gift card is not authorized in concession activities nor can they be redeemed for cash only at concession activities.

3. Ring the merchandise selected and total the sale in the cash register or POS system.

4. Enter the dollar amount of sale in the VeriFone, swipe gift card on the VeriFone or manually enter number from back of card.

5. If the amount of the sale is greater than the face value of the card(s), collect additional amount due from customer.

6. The Exchange will reimburse Concessionaire for amount of the Exchange Gift Card(s) redeemed by exchange customers as follows:

a. For Verifone: Concessionaire must use ONLY the assigned Verifone to process Gift Cards to eliminate the possibility of not being reimbursed for Gift Cards redeemed. Gift Cards will not be accepted during periods of downtime, or if Verifone is not active or available. The Exchange Gift Card(s) need to be listed on a transaction log, Exchange Form 4200-007, which will be submitted weekly to the Exchange HQs FA office. The Exchange HQs FA office will reimburse Concessionaire the amount on a weekly basis.

b. For CPOS Tablet: Concessionaire will process the Exchange Gift Card tender through the CPOS tablet and either swipe the Exchange Gift Card or manually enter the card number when the tender type is Exchange Gift Card. The Exchange will reimburse Concessionaire for Exchange Gift Card transactions when using the Exchange-furnished CPOS tablet.

21) Refunds

a) Concessionaire will be responsible for refunds to customers for customer dissatisfaction with an item or service or for any overcharges to customers. Should Concessionaire refuse or fail to promptly make any refund of overcharges to a customer, the Exchange may make the refund and charge the amount to Concessionaire's account. If a customer cannot be located or if refund to a customer is otherwise not practicable as determined by the Contracting Officer, Concessionaire will pay the amount of the overcharge to the Exchange within 15 calendar days from date of demand by the Exchange.

b) Requests for refunds not promptly honored are considered complaints or claims subject to the provisions of the Customer Complaints and Claims clause herein.

22) Customer Checks

a) Concessionaires are strongly encouraged to accept both local and out-of-town checks in payment for merchandise and services.

b) Concessionaires may charge the customer for a dishonored check except when (i) the bank acknowledges the dishonor to be a bank error or (ii) the return is the result of a Concessionaire error. Concessionaire may not charge more than the administrative amount charged by the Exchange for dishonored checks. Losses from dishonored checks are Concessionaire's responsibility.

c) Under no circumstances will Concessionaire record the customer Social Security Number (SSN) on the check.

23) Safeguarding of Concessionaire Funds on Army and Air Force Installations

a) When more than \$100 are kept in Concessionaire's facility during non-operational hours, funds will be secured in a steel safe equipped with a three-position combination tumbler locking device.

b) When more than \$500 are held in the Concessionaire facility during non-operational hours, the safe must:

1. be secured to the premises by being encased in a concrete bed; or

2. be bolted or steel-strapped to a floor beam or an internal wall support beam with the bolts or straps concealed to prevent cutting or prying; or
3. weigh in excess of 1,000 pounds.

24) Military Star Card and Charge Card Sales

a) Military Star Card:

1. Concessionaire will accept the MILITARY STAR® Card for products/services as authorized in this contract. Primary responsibilities are as follows:
 - a. Concessionaire will report such sales on the Concessionaire Settlement Report in the same manner as other credit card sales.
 - b. The Exchange will provide procedures and forms required to process the MILITARY STAR® Card credit transactions.
 - c. Concessionaire will be charged a processing fee of 2.0% of all MILITARY STAR® Card transactions, to include sales tax, less merchandise refunds or adjustments, which will be deducted from the Exchange reimbursement to the Concessionaire. The fee percentage may be administratively reduced by the Exchange without contract amendment.
 - d. The Exchange will pay the concessionaire in accordance with the Payments clause shown below.
 - e. The Exchange will be responsible for collection of MILITARY STAR® Card account balances from customers.
 - f. Concessionaire will handle refunds and adjustments under the MILITARY STAR® Card program in the same manner as other credit card sales.
 - g. The term "daily sales receipts" in Special Provision 22, "Indebtedness", is expanded to include any funds payable to the Concessionaire under the MILITARY STAR® Card program.
 - h. CPOS Tablet: Concessionaire will process the MILITARY STAR® Card tender through the CPOS tablet and either swipe the MILITARY STAR® Card or manually enter the card number when the tender type is MILITARY STAR®.
2. Payment:
 - a. Payment will be made within three (3) business days of the MILITARY STAR® Card transaction. Electronic funds transfer or virtual card are the only methods of payment; therefore, Concessionaire is required to provide information necessary for the Exchange to make such electronic funds transfers or virtual card payments to Concessionaire.
 - b. Date of payment is determined to be the earliest of the following:
 - (1) Date an electronic funds transfer or virtual card payment is received by the Concessionaire regardless of the date the financial institution posts the transfer, or
 - (2) Date a withholding authorized by the contract is initiated by the Exchange.
 - c. Payment will be made by electronic funds transfer or virtual card payment in accordance with the electronic funds transfer or virtual card payment information provided by Concessionaire.
 - (1) If Concessionaire wishes to change its electronic funds transfer or virtual card payment information, the request must be made in writing, signed by a responsible official of Concessionaire, and submitted to the Contracting Officer. Any such request must clearly establish which division or subsidiary of a corporation such changes apply to and the electronic funds transfer or virtual card payment information that is superseded by the changes. These changes will become effective when approved by the Contracting Officer and on the date determined by the Exchange. Changes will be done on an accommodation basis only, with the understanding that no legal obligation is imposed on the Exchange for failure to make payment to the new electronic funds transfer or virtual card payment recipient. Concessionaire may revoke such changes in similar manner.

(2) Any request by the Concessionaire to change the name shown on the contract or to assign payment must be sent to the Contracting officer.

d. Any questions or inquiries concerning payments should be directed to the Contracting officer. Unidentified and duplicate payments must be brought to the attention of the Contracting officer immediately upon discovery. The Concessionaire is required to monitor the electronic or virtual card payments received from the Exchange, and in the event of unidentified or duplicate payments, Concessionaire shall provide documentation highlighting any such unidentified or duplicate payments to the Exchange to facilitate investigation and resolution of the matter. Under no circumstances should unidentified payments be applied against other amounts due.

e. Concessionaires are to wait at least fourteen (14) days past the due date of the payment before writing the Contracting officer. Any interest penalties due to concessionaire will be computed in accordance with the Prompt Payment Act, 31 U.S.C. 3901-3906 as amended.

b) Charge Cards:

1. Concessionaire will accept Visa and MasterCard. Concessionaire may also accept other recognized U.S. commercial charge cards.

2. Concessionaire will accept the GSA Smart Pay Card and Government Purchase Card (GPC) from authorized customers and DoD civilians for official purchases upon presentation of the charge card and a Government Identification Card.

3. Concessionaire is responsible for the payment of any fees, charge backs, and other arranged costs levied by the charge card issuing companies.

25) Inspections

a) The Exchange Contracting Officer, or any person designated by Contracting Officer, may conduct inspections to ensure compliance by Concessionaire with all provisions of this Contract.

b) The Exchange may perform surveillance to verify Concessionaire and Concessionaire's employee compliance with contract terms and to detect theft of government funds. Surveillance may include the use of electronic equipment. Concessionaire will inform employees that such surveillance may be conducted and that individuals implicated may be prosecuted in Federal courts.

c) Concessionaire is liable and will pay the Exchange for losses under this Contract detected by surveillance or otherwise discovered or incurred.

26) Heavy Metal Leaching

If there are products furnished under this Contract that can reasonably be used to carry food or liquid for human consumption and made of a substance prone to heavy metal leaching such as, and to include, pewter ware, earthenware, ceramic ware, chinaware, ironware, lacquerware, bronzeware, brassware, leaded crystal ware, and coated/plated items with a heavy metal base, Concessionaire warrants that any such product contains no leachable levels of metals dangerous to users. Maximum leachable levels and test methods are established by the U.S. Food and Drug Administration. The Exchange reserves the right to test Concessionaire's products on an unannounced basis. If a heavy metal leaching failure is found, Concessionaire agrees to reimburse the Exchange for all follow-up costs to sample test the remainder of his items for the duration of the Contract. This provision does not supersede, replace, or cancel other remedial provisions allowed by the Contract. Concessionaire further warrants that products have been tested by either the U.S. Food and Drug Administration or a nationally recognized independent test laboratory and found to be in compliance with the current U.S. Food and Drug Administration action levels and test methods. Test data will be furnished to the Exchange upon request by the Contracting Officer.

27) Exchange/Vendor Partnership Marketing Program

The Exchange Marketing Program consists of numerous elements to enhance the sale of consumer products and services. At Concessionaire's request, the Exchange will give Concessionaire the opportunity to participate in selected elements of the Program. All participation will be in conjunction with the sale of authorized products and services to authorized customers. The Exchange reserves the right to

limit the degree of participation based on availability, designated themes of special events, and the overall goals of the program.

28) Organizational Sales

Concessionaire may sell items to authorized official organizations and activities of the U.S. Armed Forces. Sales will be recorded on the cash register at the time the sales transaction is made. Any losses incurred as a result of organizational sales are Concessionaire's responsibility.

4. U.S. DEPT OF LABOR WAGE DETERMINATION

U.S. DEPARTMENT OF LABOR WAGE DETERMINATION LISTING				
Wage Determination No.	Revision No.	Last Revision Date	Applicable Locality/County	
2015-5314	12	29 Jun 2020	Oklahoma	Comanche
SEE THE ACTUAL U.S. DOL WAGE DETERMINATION WEBSITE FOR COMPLETE DETERMINATION DOCUMENTS BY STATE AND COUNTY.				
https://wdol.gov/sca.aspx				

5. SIGNATURES

Concessionaire signature below certifies that the entity, its subsidiaries, affiliates, or any of its principals is not suspended, debarred, or otherwise prohibited from contracting with ANY governmental entity. Signature further certifies that the person signing below has full authority to bind the entity and the entity understands and accepts that if it is discovered at any time that any of the information provided is false, misleading, and/or incomplete, then the Exchange will have the right to immediately terminate the contract.

Fast Break Sportswear, Inc.

Name (b)(6)
 Signature [Redacted]
 Title President
 Date 2/26/21

Exchange

Name (b)(6)
 Signature [Redacted]
 Title Contracting Officer
 Date 4 March 2020

Proposal Response Form for SIL 20-11526

<u>Full Name and Business Address</u> FAST BREAK SPORTSWEAR INC 3029 TERMAINE DRIVE Flower Mound TX 75022	<u>Telephone Number/Email Address</u> Phone (b)(6) Fax Email: FBSPORTSWEAR@YAHOO.COM
Signature of Person Authorized to Sign Proposal (b)(6)	<u>Date</u> 2/23/21
<u>Printed Name and Title</u> (b)(6) President	

Proposals are solicited for merchandise, supplies, equipment or services described in this solicitation. Written proposals must be received at the issuing office by 1400, local time on **16 February 2021**. The offeror agrees, if awarded all or part of the items and/or services solicited, to furnish them according to the price(s)/fee(s), terms and conditions contained in the solicitation and proposal. This proposal will be valid for 60 calendar days after the date for receipt of proposals established above.

OFFEROR REPRESENTATION

1. That it is is not a manufacture or producer of; is is not a regular dealer in; the items provided. (Commodity Contracts only)
- OR
2. That it is is not engaged in furnishing of service of the type called for herein. (Service Contracts only)
 3. That it operates as an Individual Partnership Corporation, incorporated in the State or Country of TEXAS.
 4. That it is is not a minority business enterprise.
 5. That it is is not a woman-owned business.
 6. That an owner or officer of the firm or the firm or a related firm:
 - a. has has not been convicted of a felony related to a business transaction
 - b. has has not been suspended or debarred
 7. That the information provided is full, accurate and complete. For breach of this warranty, the Exchange may terminate for default any contract resulting from this solicitation and all other Exchange contracts.

Proposal Response Form for SIL 20-11526

The use of an electronic POS system is a requirement for performance of this contract. The Exchange will provide the CPOS system (excludes credit card machine) in accordance with Section 2.A.2 in the contract. The monthly rental charge for the CPOS will be paid in addition to the fee percentage. Any POS substitution request must be approved through the Contracting Officer prior to award and submitted on this form. If approved, the Concessionaire will provide an electronic POS system, with credit card reader/machine and its own independent connectivity at each location where contract performance is required. All electronic POS systems must comply with Section 3.D.3 in the contract.

Proposal Information

Fort Sill, OK

<u>Service</u>	<u>Contract Period</u>	<u>Fee% To the Exchange</u>
<u>T-Shirt Shop</u>	<u>19 Mar 2021 to 18 Mar 2026</u>	(b)(4) <i>of sales</i>

CPOS (Not Applicable to Vending Machines)

- I desire to use the Exchange Concession POS equipment listed below and agree to pay the applicable monthly rental charge.
- I desire to provide my own POS equipment and have listed the equipment and software types below in the applicable section that will be used during performance of this contract.

Computer Type: _____

Software Type: _____

Operating System (Windows, Mac): _____

Credit Card Processor (Verifone): _____

Receipt Printer Type: _____

Ticket Printer (Laundry/Dry Cleaning/Alterations): _____

Other Equipment: _____

Approval for use

by (b)(6)

JBM

DEFINITIONS:

a. The term "minority business" means a business concern (1) which is at least 51 percent owned by minority group members; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority group members, and (2) whose management and daily business operations are controlled by one or more such minority group members. For purposes of this definition, minority group members include Black Americans, Hispanic Americans, Asian-Pacific Americans, Asian-Indian Americans, and Native Americans (such as American Indians, Eskimos, Aleuts and Native Hawaiians).

Proposal Response Form for SIL 20-11526

b. The term "women-owned business" means that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

PROPOSAL PREPARATION:

a. You are encouraged to contact the contracting officer if you have a question concerning this solicitation. Information about the solicitation furnished to any prospective offeror will be furnished to all prospective offerors.

b. Furnish all information required by the solicitation on the forms provided. Failure to do so may result in the proposal being considered non-responsive and excluded from consideration for award.

c. Erasures or changes must be initialed by the person signing the proposal.

d. The person signing the proposal must have authority to obligate the firm contractually.

e. Unless otherwise authorized by the solicitation, any alteration to the terms and conditions contained in the solicitation may render offeror's proposal non-responsive.

SUBMISSION - Proposals and modifications, if any, must be sent by email reply to the Contracting Officer using the same subject as the request. Proposals may be modified by email notice provided it is received before the time and date set for receipt of proposals. The Exchange contracting officer is not responsible to ensure the receipt of proposals or modifications.

LATE PROPOSALS - The Exchange reserves the right to consider proposals or modifications received late, but before award is made, should such action be to the Exchange's advantage.

WITHDRAWAL - Proposals may be withdrawn by written notice received at any time prior to award.

NO PROPOSAL - If you don't submit a proposal, please let us know your company will not be responding and business reasons why.

ADDITIONAL GUIDANCE:

a. Proposals for merchandise, supplies or equipment will not be considered for award unless submitted by manufacturers or producers of, prime sources, or regular dealers, in the items required.

b. Proposals for services will not be considered unless submitted by persons or firms who, currently or within the preceding six (6) years, have successfully owned, operated, or managed in a full time capacity, for over twelve consecutive months, a business identical or having similar technical and operational characteristics as the service solicited. The phrase operated or managed means the offeror has/had a direct involvement in the day-to-day operation of the business to include responsibility for employment, supervision, scheduling production/services, payroll, and purchasing. The monthly sales volume of the offeror's business must equal or exceed the estimated monthly sales of the proposed concession activity. The Exchange reserves the right to waive all or part of the qualification requirements in the event it is determined to be in the Exchange's best interests.

c. Proposals will not be considered if submitted by brokers, active duty military personnel or U.S. Government employees. This prohibition includes immediate family members of these personnel residing in the same household, unless approved before award of contract.

d. The offeror must have adequate resources to perform the resulting contract and, upon request, furnish proof of same to the contracting officer. The contracting officer may request a financial statement, a cost breakdown, a projected operating statement, or other data from any offeror. Failure to furnish the data requested within the time specified may cause a firm to be determined non-responsive or that their offer does not represent

Proposal Response Form for SIL 20-11526

the best value to the Exchange. The Exchange further reserves the right to determine the responsibility of the offerors based on factors including but not limited to the offeror's financial resources, business capacity, performance record, integrity, management/business acumen, technical ability and facilities/equipment.

DISCOUNTS (Not applicable to procurements of edible meat, meat food products, dairy products, edible fats or oils, or concession services.) - Prompt payment discounts will be included in the evaluation of proposals provided the period of the offered discount is 20 days or more. Even if not evaluated for award, all discount terms offered will become a part of any resulting contract.

ACCEPTANCE AND AWARD

a. The Exchange reserves the right to reject any or all proposals, to waive or correct informalities and minor irregularities in proposals received, and to conduct further negotiations with any or all offerors.

b. Unless otherwise stated in the solicitation (and in the absence of any express limitation made by the offeror), the Exchange may accept all or any part of any proposal, without further negotiations. Proposals should therefore contain the offeror's most favorable terms. Any further negotiations undertaken will not constitute a rejection or counteroffer on the part of the Exchange.

c. When quantities for merchandise, supplies or equipment stated in the solicitation are estimated, the Exchange reserves the right to make an award on any item for the quantity less than the quantity proposed at the unit price offered unless the offeror's proposal specifies otherwise.

d. The Exchange plans to award a contract to the responsive, responsible offeror whose proposal is of best value to the Exchange, price/fee and other factors set out in the solicitation considered. The Exchange reserves the right to accept other than the lowest price/highest fee proposal, and to make multiple awards unless otherwise provided in the Schedule.

e. Contracting Officer will award the contract by signing the contract and furnishing the successful offeror a copy of the completed contract within the time allowed for acceptance of the offer.

CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION - Offeror certifies that this proposal or any change thereto is made without consultation, communication, or agreement, for the purpose of restricting competition or manipulating awards, and this proposal has not been disclosed and will not be disclosed prior to award.

PROPRIETARY INFORMATION - The Exchange will not be bound by any language in any offer purporting to limit the Exchange's right to use or disclose any offer or any part of an offer because of proprietary information in it, unless the contracting officer specifically agrees in writing to such limitations.