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**WINTRUST**  
**ARENA**

[wintrustarena.com](http://wintrustarena.com)



**McCORMICK PLACE®**  
C H I C A G O

[mccormickplace.com](http://mccormickplace.com)



**ARIE CROWN**  
THEATER

[ariecrown.com](http://ariecrown.com)

AN  **MANAGED FACILITY**

McCormick Place | ASM Global  
Request for Proposal (“RFP”)  
Event Merchandise Sales  
#S2022-02

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**McCORMICK PLACE | ASM GLOBAL  
PURCHASING DEPARTMENT**

**REQUEST FOR PROPOSAL (RFP)  
FOR  
EVENT MERCHANDISE SALES  
#S2022-02**

All documents relating to this procurement are available for download by clicking on “Doing Business” at McCormick Place’s website at [www.mccormickplace.com](http://www.mccormickplace.com) under “Current Opportunities”

**KEY DATES:**

<b>RFP Issued:</b>	Monday, September 27, 2021
<b>Requests for Interpretation:</b>	3:00 PM (CST) on Friday, October 1, 2021
<b>Proposal Due Date:</b>	2:00 PM (CST) on Friday, October 8, 2021

**Purchasing Contact:**

Alex Buckles, Purchasing & Supplier Diversity Manager  
McCormick Place | ASM Global  
Corporate Center  
301 East Cermak Road  
Chicago, Illinois 60616  
Phone: 312.791.6324  
E-Mail: [abuckles@mccormickplace.com](mailto:abuckles@mccormickplace.com)

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## SECTION I. BACKGROUND INFORMATION, DEFINITIONS AND INTERPRETATIONS

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### 1.1 OBJECTIVE

ASM GLOBAL is seeking proposals from companies interested in providing event merchandise services at the Wintrust Arena and Arie Crown Theater. Event Merchandise Services consist of selling event approved merchandise throughout the respective facility. Contractor must provide all personnel and supervision necessary to provide the Event Merchandise Services at the Wintrust Arena and Arie Crown Theater. The Successful Proposer must provide these services at the Wintrust Arena and Arie Crown Theater for concerts, stage plays and special events on an as-needed basis. ASM Global will have final determination on which events merchandise will be sold.

### 1.2 BACKGROUND

The Metropolitan Pier and Exposition Authority (the "Authority") has transferred the operations of the McCormick Place Convention Center to ASM GLOBAL, a private management company, doing business under the name of McCormick Place | ASM Global .

Chicago's McCormick Place is North America's premier convention facility. The McCormick Place Complex consists of nine million square feet in six buildings: North, South, Lakeside Center, West, the Energy Center, and the Corporate Center.

The McCormick Place convention facility includes four state-of-the-art exhibit halls, the South, West, North buildings and the Lakeside Center. The exhibit halls have a combined total of more than 2.6 million square feet of exhibit space, and over 600,000 square feet of meeting rooms, making McCormick Place the nation's largest convention center. The Authority also has three parking lots that accommodate approximately 5,000 cars. McCormick Place hosts approximately 125 to 150 events and attracts more than four million trade and public show visitors annually.

The newest addition to the McCormick Place Complex is the Wintrust Arena. This 10,000 seat, multi-purpose facility features twenty two (22) suites and 479 club seats. The Wintrust Arena can serve as a general session hall for large business meetings and conventions as well as a venue for concerts, sporting events and other major special events. The Arena is the home court for DePaul University basketball teams and the WNBA's Chicago Sky

The Arie Crown Theater is a 4,249-seat proscenium arch theatre located in Lakeside Center at McCormick Place. The Theater hosts concerts, trade show activities, stage plays commencement ceremonies and special events.

### 1.3 DEFINITIONS

The following terms in this Solicitation shall be defined as follows:

**"Agreement"** or **"Contract"** means the **Event Merchandise Sales** Agreement that is to be entered into between McCormick Place | ASM GLOBAL and the Selected Proposer(s) pursuant to this RFP.

**"Arena or Wintrust Arena"** means the 10,000 seat, multi-purpose facility.

**"Arie Crown Theatre"** means the 4,249 seat theatre located in the Lakeside Center at McCormick Place.

**"Authority"** or **"MPEA"** means the Metropolitan Pier and Exposition Authority.

**"Contractor"** means the individual or entity that enters into a Contract with McCormick Place | ASM Global to provide the Services.

**"Customer"** means anyone that purchases services from the Contractor.

**“Include”** in any of its forms means “include, without limitation.”

**“Laws”** shall mean City, State and Federal statutes, ordinances, codes, rules and regulations.

**“MBE”** means Minority Business Enterprise.

**“McCormick Place Campus”** means the McCormick Place Complex®, the world class multi-purpose convention and meeting facility consisting of the Energy Center, Lakeside Center, North, South and West Buildings, the Arie Crown Theater®, the Corporate Center and the new Wintrust Arena. The term “McCormick Place” does *not* include the Hyatt Regency McCormick Place Hotel and/or the Marriott Hotel.

**“Proposal”** means all materials submitted in response to this RFP, including, without limitation, all exhibits, attachments, addenda, renderings and drawings.

**“Proposer(s)”** means the firm(s), individual(s), corporation(s), partnership(s) and joint venture(s) that submit Proposals pursuant to this RFP.

**“Responsive”** Responsiveness is determined by McCormick Place | ASM Global and relates to compliance with the provisions of the solicitation, including specifications, and contractual terms and conditions.

**“Responsible”** Responsibility is determined by McCormick Place | ASM Global and relates primarily to the ability of a Proposer to successfully carry out a proposed contract, and whether it has the character, reputation, and integrity to receive an award. Considerations bearing on a determination of responsibility can include experience, past performance, business and financial capabilities, skills, technical organization and reliability. Some of the mechanisms available to measure a Proposer’s responsibility are the utilization of reference checks, vendor performance on previous contracts and availability of financial credit information.

**“RFP”** means this Request for Proposals, including all exhibits and addenda.

**“Selected Proposer”** means the individual, partnership, corporation or joint venture that McCormick Place | ASM GLOBAL selects for award of the Agreement.

**“Services”** means all Work for which McCormick Place | ASM GLOBAL engages the Selected Proposer.

**“Trade Reference”** means a reference concerning the creditworthiness of the Proposer given by another business that extends credit to the Proposer, such as a supplier.

**“WBE”** means Women Business Enterprise.

#### **1.4 INTERPRETATIONS**

- A.** Any headings in this RFP are for convenience of reference only and do not define, limit, control or affect the meaning of the RFP’s provisions. In this RFP, unless the context otherwise requires, the terms "hereby," "herein," "hereof," "hereto," "hereunder" and any similar terms used in this RFP refer to this RFP. All section references, unless otherwise expressly indicated, are to sections of this RFP. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words indicating the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to

any such exhibits or documents entered into in accordance with the terms and conditions of this RFP and such documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this RFP.

- B.** Unless a contrary meaning is specifically noted elsewhere, the words “as required,” “as directed,” “as permitted” and similar words used in the RFP mean that requirements, directions of and permission of McCormick Place | ASM GLOBAL are intended; similarly, the words “approved,” “acceptable,” “satisfactory” or words of like import mean “approved by,” “acceptable to” or “satisfactory to” McCormick Place | ASM GLOBAL. Words “necessary,” “proper” or words of like import as used with respect to extent, conduct or character of Services specified shall mean that the Services must be conducted in a manner or be of character which is “necessary” or “proper” in the option of McCormick Place | ASM GLOBAL.
  
- C.** Unless a contrary meaning is specifically noted elsewhere, the words “approved,” “reasonable,” “suitable,” “acceptable,” “properly,” “satisfactory” or words of like effect and import used in the RFP mean reasonable, suitable, acceptable, proper or satisfactory in the judgment of McCormick Place | ASM GLOBAL.

## SECTION II. GENERAL REQUIREMENTS AND DETAILED SPECIFICATIONS

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### 2.1 SCOPE OF SERVICES

ASM GLOBAL is seeking proposals from qualified Contractors to provide Event Merchandise Services for the Wintrust Arena and Arie Crown Theater. Event Merchandise Services consist of selling event approved merchandise throughout each respective venue. Contractor must provide all equipment, personnel and supervision necessary to provide the Services. The Successful Proposer must provide these services at the Wintrust Arena and Arie Crown Theater for sporting events, concerts, stage plays, trade shows, and special events on an as-needed basis. McCormick Place | ASM Global will maintain the right accept merchandise sale buyouts when in our best interests, as well as the authority to allow other parties to sale merchandise on campus when necessary.

#### A. CONTRACTOR RESPONSIBILITIES

##### 1. EQUIPMENT

Contractor must provide all equipment and materials required to perform the Services required under this Agreement, and shall be the property of the Contractor. ASM GLOBAL will provide staffing areas and storage space for the use of the Contractor's personnel and for the on-site storage of the equipment and supplies. ASM Global will provide tables, chairs, electricity and internet access. Contractor will, minimally, be required to provide the following equipment, necessary to perform the Services:

- i. Merchandise Racks
- ii. Hangers
- iii. Credit Card Machines
- iv. All necessary on-site equipment for providing Merchandising Services, both inside and outside of the Arena.
- v. Carts/Dollies

##### 2. SETTLEMENT REQUIREMENTS

Contractor will coordinate with the events designee to facilitate tracking merchandise inventory before and after the event.

Contractor will not deviate on predetermined prices of merchandise items.

Inventory must be counted in/out and reconciled with the promoter.

Settlement reports and reconciled inventory count are due to ASM at the close of each event.

All drawer overages/shortages are the responsibility of the third party.

Contractor is responsible for remitting all applicable sales tax.

Contractor is responsible for all merchandise sales pre/post event communications.

##### 3. STAFFING REQUIREMENTS

Contractor will provide the appropriate number of staff and merchandise resellers for each event. Sellers should be staffed by trained, qualified and competent professional personnel.

McCormick Place | ASM Global reserves the right to interview Contractor's personnel to determine suitability for assignments.

Contractor must maintain staffing levels required to successfully perform Services as described herein. All training required to provide adequate staffing levels shall be administered at Contractor's expense.

Contractor must comply with rules, regulations, terms and conditions as set forth by McCormick Place | ASM Global . Contractor will ensure that its employees will comply with all rules and regulations applicable to employees working at the venues.

Contractor will be responsible for the purchase and upkeep of all uniforms for its staff. Uniform standards and employee appearance must be maintained in a first class manner. Employees must be in uniform at all times when on the clock.

The Contractor and the Onsite Manager or Supervisor will report to and take direction from ASM GLOBAL's designated management personnel. Staffing requests, event times, pre and post times and duties will be communicated to the Contractor in writing. Such information will be given to the contractor as soon as possible. ASM GLOBAL retains the right to make adjustments in the number of staff requested, times, locations and duties five (5) days prior to the actual commencement of coverage.

**B. SERVICE LOCATION(S):**

All Services shall be performed at:

Wintrust Arena  
200 E. Cermak Road  
Chicago, IL 60616

Arie Crown Theater  
Lakeside Center/McCormick Place  
2301 South Lake Shore Drive  
Chicago, IL 60616

**C. STANDARD OF PERFORMANCE:**

All Services required must be performed with the degree of skill, care, and diligence normally shown by a professional Contractor performing work of comparable scope, purpose and magnitude.

The Contractor must at all times use its best efforts to assure timely and satisfactory rendering and completion of its Services. The Contractor must at all times act in a manner consistent with the Contractor's professional obligations assumed by it in entering into this Agreement. Contractor must perform all Services in accordance with the terms and conditions of this Agreement.

The Contractor must assure that all Services that require the exercise of professional skills or judgment must be accomplished by professionals qualified and competent in Event Merchandising Services and appropriately licensed, as required herein, and by law if applicable. The Contractor remains responsible for the professional and technical accuracy of all Services and deliverables furnished, whether by the Contractor or subcontractor or others on its behalf.

The Contractor shall establish and maintain procedures and controls that are acceptable to McCormick Place | ASM Global for the purpose of assuring that no information contained in its records or obtained from



McCormick Place | ASM Global shall be used by or disclosed by Contractor or subcontractors, except as required to efficiently perform duties under the Contract.

#### **D. LABOR REQUIREMENTS**

In response to this Request for Proposals (RFP) Contractor hereby warrants and represents that, as a condition of the award of a contract to provide services at the Theater and Arena it agrees to, and will comply with, the following terms and conditions pertaining to its employment of its employees at the Arena and Theater and the services that Contractor will provide there.

- a. Contractor will be responsible for hiring, training, supervising, and directing its employees. Contractor will not by any statement, act or omission express or imply to any of its employees or job applicants that ASM GLOBAL is an employer, co-employer, or joint employer of such individuals. Contractor will compensate its own employees and comply with all applicable tax and other legal requirements for their employment.
- b. Contractor will use its best efforts to recruit and employ employees who will be proficient and productive in their jobs and courteous to patrons, and to others working at the Arena and Theater.
- c. Contractor will assign a competent, full-time management employee to be Contractor's liaison with ASM GLOBAL's Manager. If at any time ASM GLOBAL determines in its sole discretion that Contractor's management employee is not acceptable for any lawful reason, Contractor will assign a new such person within five (5) calendar days.
- d. Contractor will make every effort to employ women and members of minority communities when hiring and for employment at the Arena and Theater and services that Contractor will provide there.
- e. Contractor will adopt and comply with equal employment opportunity policies that prohibit discrimination and harassment against applicants and employees on the basis of race, creed, color, age, sex (including sexual orientation), pregnancy (including childbirth and related medical conditions), national origin, disability, religion, ancestry, familial status, status with regard to public assistance, gender identity, marital status, membership or activity in a local commission, military status, veteran status, or any other classification protected by applicable law. Contractor's policy will also include that it will reasonably accommodate the known disability of a qualified person with a disability unless Contractor can demonstrate that the accommodation would impose an undue hardship. Contractor's policy will also include that it will reasonably accommodate an employee's religious beliefs or practices, unless doing so would cause more than a minimal burden on the operations of Contractor's business, which will allow an employee to practice his or her religion. Contractor's policy will also include strict prohibitions against retaliation against any individual for reporting a violation of the policy, cooperating in Contractor's investigation of a reported violation of the policy, or being associated with a person who reported a violation of the policy.
- f. Contractor will undertake measures designed to eliminate discriminatory barriers based on the protected classifications in (e) above, including measures to ensure equal opportunity in hiring, upgrading, demotion or transfer, recruitment, layoff or termination, rate of compensation, and in any service or apprenticeship programs.
- g. Contractor will adopt and enforce policies that prohibit the use, possession, transfer, sale, or being under the influence of illegal drugs or alcohol during working time, and off working time but in working areas of the Arena and Theater. Such policies will include termination of employment and removal from the venue for violations, or such other disciplinary action that Contractor determines is suitable under its policies, as

long as such action ensures that there will not be another violation. Contractor's staff will be prohibited from bringing any firearms or other deadly weapons into the facilities.

- h. Contractor will implement, and demonstrate to the satisfaction of ASM GLOBAL its compliance with, a policy regarding labor peace. This includes, without limitation, a policy that minimizes the potential for labor disputes that might interrupt services at the venue or inconvenience fans, by undertaking the following:

- i. Contractor will be or become a party to a labor peace agreement with any labor organization seeking to represent Contractor's employees when working at the venues, and which contains at a minimum provisions during the labor organization's organizing efforts:

- 1. Prohibiting the labor organization from engaging in or encouraging picketing, strikes, work stoppages, sympathy strikes, slowdowns, or any other economic interference of any kind or nature whatsoever at the venues; and prohibiting Contractor from engaging in a lockout of Contractor's employees at the Arena and Theater;

- 2. for final and binding arbitration of any dispute over the labor organization's organizing efforts, the economic conditions of the employees, and other mandatory subjects of bargaining and the negotiation thereof;

- 3. for a duration of at least three years from commencement of Contractor's services at the venues

- i. When a labor organization represents Contractor's employees who are or will be employed at the venues, being a signatory to a collective bargaining agreement or other valid contract with such labor organization which contains at a minimum provisions:

- 1. Prohibiting the labor organization and Contractor's employees from engaging in picketing, strikes, work stoppages, sympathy strikes, slowdowns, or any other economic interference of any kind or nature whatsoever at the venue; and prohibiting Contractor from engaging in a lockout of Contractor's employees at the Arena and Theater;

- 2. For final and binding arbitration of any dispute involving the interpretation, application, or enforcement of the collective bargaining agreement or other valid contract;

- 3. for a duration of at least three years from commencement of Contractor's services at the venue.

### III. RFP PROCESS AND SUBMISSION REQUIREMENTS

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#### 3.1 The RFP Submittal Process

Requirements and procedures for providing submittals in response to this RFP are described herein.

Proposer's written response, which includes all required information as outlined herein, are due no later than **2:00 PM (CST) on Friday, October 8, 2021**. McCormick Place is committed to initiatives designed to conserve energy, protect vital resources and promote ecologically-efficient policies and procedures. In an effort to achieve this goal, McCormick Place | ASM Global will not request multiple hard copies of Proposals. Interested parties must submit **One (1) COMPLETE ORIGINAL hard copy or one electronic copy** of the RFP submittal that includes all information in the format outlined in this RFP (Section 3.2). *The electronic copy must be saved as a searchable PDF document on a USB drive.* Required Form G – Proposed Revenue Share and Fee Structure and Required Form must be saved as a separate document and identified as such in the electronic copy.

Original copy submittals and supporting documentation must be labeled "Proposal for McCormick Place | ASM Global Event Merchandising Services" and submitted to:

McCormick Place | ASM Global  
Attention: Alex Buckles, Purchasing Manager  
301 East Cermak Road  
Chicago, Illinois 60616

McCormick Place | ASM GLOBAL will accept pre-submittal questions, in writing via e-mail only to Alex Buckles, Purchasing Manager at: [abuckles@mccormickplace.com](mailto:abuckles@mccormickplace.com), until **3:00 PM (CST) on Friday, October 1, 2021**. A summary of questions received and answers will be issued as an addendum to all potential Proposers.

If it becomes necessary to revise or amend any part of this RFP, McCormick Place | ASM Global will publish a revision by written addendum and notify all prospective Proposers (via e-mail) who have registered as document holders to [abuckles@mccormickplace.com](mailto:abuckles@mccormickplace.com). It will be the responsibility of the Proposer to obtain all such addenda and to acknowledge receipt of any addenda that have been issued by visiting the McCormick Place website at [www.mccormickplace.com](http://www.mccormickplace.com) under the 'Doing Business' link. If none are issued, indicate "NONE" on Required Form A - Form of Transmittal Letter.

Proposers are to contact only the McCormick Place | ASM GLOBAL Purchasing Manager, Alex Buckles, via e-mail at [abuckles@mccormickplace.com](mailto:abuckles@mccormickplace.com), concerning this RFP and should not rely on verbal representations, statements, or explanations other than those made in this RFP or in any written addendum to this RFP.

The responsibility for submitting a response to this RFP on or before the stated time and date will be solely and strictly that of the Proposer. McCormick Place | ASM Global will in no way be responsible for delays caused by the U.S. Post Office or caused by any other entity or by any occurrence. *Proposals received after the proposal due date will be non-responsive and ineligible for consideration.*

#### 3.2 RFP Submittal Requirements and Contents

Interested Proposers are to provide a thorough submittal using the guidelines presented herein. Submittals should be straightforward and concise in providing evidence of the Proposer's ability to meet the requirements of the RFP. Emphasis should be on conforming to the RFP instructions, responsiveness to the RFP requirements,

and the completeness and clarity of content. The following provides an outline of the information to be included in the submittal.

### **Proposal Contents**

In its Proposal the Proposer must provide information about the following:

- a) **Executive Summary:** An executive summary of the Proposer's organization and team, including key personnel and how this project fits in with other areas of your company's operations.
- b) **Organizational Chart/Key Personnel:** Summarize the experience of key personnel and managers who will be assigned to this Contract. Onsite Manager must be identified in the Proposal and must have three (3) years of experience performing event merchandise sales at Arena and theatre venues. ASM Global reserves the right to interview and approve the Onsite Manager.
- c) **Experience & Qualifications:** A brief description of at least three (3) relevant agreements for which your company currently provides services similar in scope and complexity to McCormick Place | ASM Global's requirements as described herein, within the last three (3) years. Provide the following information for each facility, for reference purposes: the Owner Name, Address, Phone, E-Mail and contact number; a detailed description of services performed. Proposers should have at least three (3) years' experience performing event merchandise services for large venues and events.
- d) **Description of Subcontractors:** Identify any portion of the Scope of Services that will be subcontracted, if applicable. Include firm qualifications and key personnel, telephone number, e-mail and contact person for all subcontractors. Provide a list of three (3) relevant projects for which each subcontractor has performed the Services relevant to this contract including: a) project name and location, b) a brief description of the work performed by the sub-contracting firm, and c) contact information for the project client including name, phone number and e-mail address.
- e) **Proposed Work Plan:** Provide a general plan of approach for meeting the event merchandise specifications, as outlined herein, including but not limited to:
  1. Organize tasks and job duties to be performed
  2. Provide an approximate number of staff, supervisors and event managers assigned to different tasks.
  3. Number of proposed merchandise stands per crowd size.
  4. An overview of your firms hiring process.
  5. A detailed description of your inventory sheets, including samples.
  6. A recommendation on accounting procedures as it relates to settlement, cash, credit cards, any short or overage that may exist, final settlement night of show, etc.
  7. A detailed list of equipment to be utilized
  8. A detailed list of carts, tugs, pallet jacks, etc. to be utilized
  9. A description of your firms ability and proposed plan to set up outside stands, if requested.
- f) **Financial Information:** Financial statements, such as balance sheets and/or profit and loss statements, for the last three (3) years demonstrating that the Proposer has the financial viability and ability to perform the services. The Proposer must also provide written disclosure advising of any pending litigation against the Proposer that may have a material effect upon the Proposer's ability to provide the services.

g) **Required Forms:** In addition to the information required above, Proposals must contain the following completed items, included as attachments to this RFP:

1. **Required Form A – Form of Transmittal Letter**
2. **Required Form B – Statement of Business Organization**
3. **Required Form C – Statement of Qualifications**
4. **Required Form D – Insurance Requirements**
5. **Required Form E – Notification of Exceptions**
6. **Required Form F – Proposed Revenue Share and Fee Structure**

Proposers shall provide their proposed percentage split with McCormick Place | ASM Global , based on the scope of work, as outlined herein, and the staffing plan for a sold out 7,000 person event. The Contractor shall cover all costs for wages, benefits, fees, insurance, fringe benefits, equipment, miscellaneous charges, and Contractor's profit and incidental costs for providing the Services as outlined herein. ASM GLOBAL will not accept additional allowances or separate charges.

## IV. RFP EVALUATION CRITERIA

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### 4.1 Evaluation Process

McCormick Place | ASM Global intends to conduct a comprehensive and impartial evaluation of proposals received in response to this RFP. McCormick Place | ASM Global will use an Evaluation Committee to review and evaluate the proposals. At the conclusion of the evaluation process, the Evaluation Committee shall recommend the award be made to the Proposer whose proposal is determined to be the most advantageous to McCormick Place | ASM Global based on the proposal and the outcome of the negotiation process.

### 4.2 Evaluation Criteria

In evaluating the Proposals, McCormick Place | ASM Global will consider the administrative compliance, Proposer Responsibility and Responsiveness, as well as the following criteria:

- a. **Experience and Qualifications:** Experience, qualifications and performance on past projects of the same quality, complexity and size. Whether the Proposer has demonstrated previous experience of similar scope as described in the RFP.
- b. **Subcontractor Experience and Qualifications:** Proposed subcontractors experience, qualifications and performance on past service agreements of the same quality, complexity and size.
- c. **Detailed Work Plan:** The Proposers detailed Work Plan, inclusive of all required information as outlined in Section 3.2.e.
- d. **Management and Key Personnel:** Experience and qualifications of proposed representatives that will perform the necessary services under this Contract.
- e. **Special Conditions Regarding Minority and Women Business Enterprises:** The strength of the Proposer's MBE/WBE utilization plan and their compliance with the RFP requirements.
- f. **Proposed Revenue Share and Fee Structure:** The reasonableness of the proposed pricing to perform the Services.
- g. **Financial Capability:** Whether the Proposer has provided sufficient evidence of their company's financial abilities to perform the work.
- h. **Responsiveness:** Completeness, thoroughness and detail of response as reflected by the Proposals coverage of all requirements as outlined herein.

## V. CONDITIONS, DISCLAIMERS AND DISCLOSURES

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This RFP does not represent a commitment or offer by McCormick Place | ASM Global to enter into an agreement with a Proposer or to pay any costs incurred in the preparation of a response to this RFP. McCormick Place | ASM Global also reserves the right to seek new submittals when such a request is in the best interest of McCormick Place | ASM Global and to reasonably request additional information or clarification of information provided in the response without changing the terms of the RFP. The Proposer assumes the responsibility for all costs incurred in responding to this RFP. It is understood and agreed that McCormick Place | ASM Global assumes no liability for the Proposer's costs incurred in responding to this RFP. The RFP and the Selected Proposer's response to the RFP will, by reference, become a part of the final Agreement between the selected Proposer and McCormick Place | ASM Global resulting from this solicitation process.

By submitting a Proposal, Proposer agrees to accept and abide by the terms of this RFP. McCormick Place | ASM GLOBAL reserves the right to reject any or all submittals, to waive any informality or irregularity, and to accept any submittals which it may deem to be in the best interest of McCormick Place | ASM GLOBAL. Only submittals from those complying with the provisions of this RFP will be considered. The submittals can be withdrawn at any time, if requested in writing, until the deadline date at which time it will be considered final.

### 5.1 General Agreements

The Successful Proposer agrees that he has had an opportunity to examine the site and that he has carefully prepared his Proposal upon the basis thereof, and that he has carefully examined and checked this Proposal and the materials, equipment, and labor required there under, and cost thereof, and his figures therefore, and hereby states that the amount or amounts set forth in this Proposal is, or are, correct and that no mistake or error has occurred in this proposal or in the Proposer's computations upon which this Proposal is based. Submission of this Proposal indicates the awareness and full acceptance of existing conditions by the Proposer.

### 5.2 Signing Forms

Proposal forms must be properly completed and the Form of Transmittal Letter (See REQUIRED FORM A) must be in the required form and signed by persons with the authority to bind the Proposer(s). Special requirements apply depending on the nature of the Proposer's organization. The Proposal and Form of Transmittal Letter shall be signed as follows:

- If the Proposer is a corporation or limited liability company, the Proposal and Form of Transmittal Letter shall be signed in the name and under the seal of the corporation by a duly authorized officer of the corporation or manager of the company, with the designation of his/her official capacity, and attested properly. The Response and Form of Transmittal Letter shall show the state in which the corporation is chartered. If it is a foreign corporation, the Response shall show whether or not the Proposer is licensed to transact business in the State of Illinois.
- If the Proposer is a firm or partnership, the Proposal and Form of Transmittal Letter shall be signed in the name or style under which the organization is doing business and by the partner, proper officer, or officers whose official capacity shall be designated. The name and address of each member of the organization shall be shown on the Proposal and Form of Transmittal Letter.
- If the Proposer is an individual, he/she shall sign the Proposal and Form of Transmittal Letter in person or by representative, stating the name or style, if any, under which he/she is doing business. If the signing is by representative, the representative's Power of Attorney or other authorization shall be stated and shall be proven if requested.

- If the Proposer is a joint venture, the Proposal and Form of Transmittal Letter shall be signed by each of the persons or firms that are a party to the joint venture agreement. A certified copy of the joint venture agreement shall be attached to the Proposal and Form of Transmittal Letter. A joint venture will not be accepted unless the joint venture agreement or some other signed and legally binding instrument is certified and attached to the Proposal Form sheet and Form of Transmittal Letter and contains provisions for one of the parties to the joint venture to be in full direction of the services and to exercise this direction through a single individual to be appointed manager of operations with the consent of all parties to the joint venture agreement.
- In every case, the Proposal and Form of Transmittal Letter shall show the present business address of the Proposer at which address communications shall be received and service of notices accepted.
- Where the Proposal and Form of Transmittal Letter are signed by an agent of the Proposer, evidence of the agent's authority to sign must accompany the Proposal. If the Proposer is a corporation, such evidence shall be a certified copy of that section of corporate bylaws or other authorization such as a Resolution by the Board of Directors, which permits the person to sign the offer on behalf of the corporation. The name of each person signing the Proposal shall be typed or printed below his/her signature.

### **5.3 Ownership of Proposals**

The timely submittals and any information made a part of the Proposals will not be returned to the sender. McCormick Place | ASM Global reserves the right to retain all submittals and to retain any ideas in a submittal regardless of whether a Proposer is selected. Submittal of a response to this RFP indicates acceptance by the Proposer of the conditions contained within the RFP document.

### **5.4 Improper Practices**

The Proposer shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the McCormick Place | ASM Global, McCormick Place | ASM Global's appointed evaluation committee, the City of Chicago, CCTB, State of Illinois, or any other organization that may have a clear interest in the outcome of the selection process, for the purposes of influencing the outcome of the RFP response selection process.

The Proposer shall not collude in any manner or engage in any practices with any other Proposer(s), which may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause the Proposer(s) submittal(s) to be rejected by McCormick Place | ASM Global. The prohibition is not intended to preclude joint ventures or subcontracts.

### **5.5 Interpretation**

Should any question arise as to the proper interpretation of the terms and conditions contained in this RFP, McCormick Place | ASM Global's decision shall be final.

### **5.6 Multiple Awards**

It is the intent of McCormick Place | ASM Global to award to one Proposer. However, McCormick Place | ASM Global reserves the right to award the Contract to one or more Proposers as it deems to be in its best interest.



## **5.7 Contract Terms**

This Agreement is for an **initial term of one (1) year**. McCormick Place | ASM Global reserves the right to extend the contract for an **additional two (2) one (1) year options**. McCormick Place | ASM Global has the right to terminate any Contract upon 30 day's written notice to the Provider.

## **5.8 No Criminal/ Civil Liability and Not In Arrears Certification**

Submission of a proposal shall include a representation that neither the Proposer, nor any of its joint venture participants, partners, members, affiliates, subsidiaries, officers, directors, managerial employees, or any individual who, directly or indirectly, holds an ownership interest in the Proposer's organization has been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with a governmental entity in the State of Illinois, or has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the entity's or individual's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes or similar laws.

## **5.9 Vendor Ethics**

McCormick Place | ASM Global is prohibited by law from contracting with certain persons and entities. Accordingly, ownership interests must be disclosed. Proposers must also comply with the prohibitions on political contributions that are set forth in the MPEA Act, as amended. Proposers must complete the Required Forms provided.

## **5.10 Insurance Requirements**

At all times during the term of the Agreement and during the time period following final completion if the Proposer is required to return and perform any additional work, Proposer is required to maintain the minimum insurance coverage and requirements specified in Required Form D, insuring all operations related to the Agreement. McCormick Place | ASM Global reserves the right to modify insurance requirements based on the nature of the services rendered or the projects required under the Agreement.

## **5.11 Taxes**

The Successful Proposer is responsible for all existing and future applicable federal, state, and local taxes, whether direct or indirect, incurred in connection with the Management Contract. ASM GLOBAL, as acting agent for the Authority, is exempt by law from Illinois Retailers Occupation Tax, Use Tax, Service Occupation Tax, Service Use Tax, and Municipal and Regional Transportation Authority Retailers Occupation Tax on materials or services purchased in connection with the Services.

## **5.12 Rejection of Proposals**

Proposals that do not comply with the submittal requirements of the RFP, or that contain omissions, erasures, alterations or additions not called for, or that are irregular in any way, may be rejected as informal and insufficient. McCormick Place | ASM Global, however, reserves the right to waive any or all informalities when it considers a waiver to be in its and the public's best interest.

In addition to all other basis for rejection, any Proposer found to have falsified any information to McCormick Place | ASM Global in relation to this or any other procurement, or which has been barred from doing business with the Authority, the City of Chicago or State of Illinois, or which has been convicted of a felony related to procurement contracting with any unit of government, may be rejected.

## **5.13 Protests**

Any and all protests or challenges with respect to the selection of the successful Proposer and this RFP, any of the procedures or requirements stated herein, or any other terms and conditions related to the transactions stated or contemplated herein must be asserted in writing to:

McCormick Place | ASM Global  
Attn: Alex Buckles, Purchasing Manager  
301 E. Cermak Rd.  
Chicago, IL 60616  
[abuckles@mccormickplace.com](mailto:abuckles@mccormickplace.com)

All protests or challenges concerning the process, ambiguities or defects of the RFP must be submitted within five (5) calendar days after publication of the RFP. All protests or challenges concerning the selection of the Successful Proposer must be asserted within five (5) calendar days after the notification of award of the Successful Proposer. Failure to file any action, protest or challenges within the time frames set forth above shall constitute a full and absolute waiver to take action against, protest or challenge the RFP process or selection of the Successful Proposer.

**5.14 Freedom of Information Act**

This RFP and any subsequent agreement are subject to disclosure pursuant to the Illinois Freedom of Information Act, 5 ILCS 140 (FOIA) and other applicable laws and rules. The Proposal may be made available for public inspection and copying and if the Proposer believes certain information is exempt from public disclosure under FOIA, the Proposer must clearly mark those portions of its Proposal as being “Confidential” and request confidential treatment. The Proposer must show the specific grounds under FOIA or other law or rule that support exempt treatment. McCormick Place | ASM Global is not obligated to honor requests for confidential treatment, even if the information is exempt from public disclosure. The Proposer will be responsible for any costs or damages associated with McCormick Place | ASM Global ’s defending the Proposer’s request for exempt treatment.

**5.15 Confidentiality**

Except with the McCormick Place | ASM Global 's approval, the Proposer shall not directly or indirectly disclose, divulge or communicate to any person, firm or corporation, other than McCormick Place | ASM Global or its designated representatives, or as required by law, any non-public information which it may have obtained during the RFP process concerning any matter relating to the work or regular business of McCormick Place | ASM Global .

**5.16 Prevailing Wage Act**

Wages of laborers, mechanics and other workers employed under this Agreement shall be subject to the provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/1 et. seq.

REQUIRED FORM A – FORM OF TRANSMITTAL LETTER

[Insert Date]

McCormick Place | ASM GLOBAL
301 East Cermak Road
Chicago, Illinois 60616

Re: Event Merchandise Sales #S2022-02

Mr. Alex Buckles, Purchasing Manager:

On behalf of \_\_\_\_\_(Full legal name of Proposer), I submit with this letter its response to McCormick Place | ASM GLOBAL’s Request for Proposals (“RFP”) for EVENT MERCHANDISE SALES #S2022-02. In this connection, I state the following:

- 1. I have full authority to bind Proposer with respect to this response to the Request for Proposals and any oral or written presentations and representations made to McCormick Place | ASM GLOBAL.
2. I have read and understand the Request for Proposals (RFP) and am fully capable and qualified to provide the goods and/or services as described within this Request for Proposals (RFP).
3. I have read and understand the Request for Proposals, including addenda numbers \_\_\_\_\_.
4. I understand that McCormick Place | ASM GLOBAL will rely on my firms response to the Request for Proposals and I agree to be bound by its representations and statements made in its response and in any oral or written presentation(s) made during the evaluation and selection process.
5. I agree to hold my Proposal open for a period of 90 days from the date and time established for notification of award, and, if requested by McCormick Place | ASM GLOBAL, for an additional 30 days thereafter.
6. If requested by McCormick Place | ASM GLOBAL, Proposer agrees to furnish additional information or documentation or to make one or more oral presentations or demonstrations to assist McCormick Place | ASM GLOBAL in evaluating its Proposal.
7. Neither I nor Proposer has any beneficial interest in or relationship with any other party working or performing services for or otherwise affiliated with McCormick Place | ASM GLOBAL and no conflict of interest which could interfere with the provision of services to McCormick Place | ASM GLOBAL.
8. Proposer understands that McCormick Place | ASM GLOBAL will rely upon the material representations set forth in the Request for Proposals and that Proposer has a continuing obligation to update any information which changes or which Proposer learns to be incorrect.
9. It is understood that an original and multiple copies of the Request for Proposals have been submitted for consideration. Proposer warrants that all electronic copies are identical to the original in all respects.
10. If selected by McCormick Place | ASM GLOBAL, Proposer agrees to negotiate and enter into an Agreement for EVENT MERCHANDISE SALES with McCormick Place | ASM GLOBAL.
11. I declare that all Required Forms A through F have been examined by me and to the best of my knowledge and belief are true, correct, and complete.

Signed: \_\_\_\_\_

(Typed name of signatory)

as: \_\_\_\_\_

(Relationship to Proposer/Title/etc.)

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ Notary Public Signature (Notary Seal)

REQUIRED FORM B – STATEMENT OF BUSINESS ORGANIZATION

**PROJECT DESCRIPTION:** Event Merchandise Sales

**PROJECT NUMBER:** #S2022-02

**CONTRACTOR:** \_\_\_\_\_

**Note:** Each Proposer is obligated to notify McCormick Place | ASM GLOBAL of any changes in its ownership or in its officers and directors at the time such changes occur if the change occurs during bid evaluation or during the Contract term.

**INDIVIDUAL**

If the Proposal is submitted by an <b>individual</b> , complete the information listed below:			
Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN:	
Is the <b>individual</b> authorized to do business in Illinois? [ ] YES [ ] NO			

**PARTNERSHIP**

If the Proposal is submitted by a <b>partnership</b> , complete the information listed below:			
Firm Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN:	
Is the <b>partnership</b> authorized to do business in Illinois?			

List each individual or business entity having a beneficial interest directly or indirectly, of more than seven and one half (7½%) in the business organization.

**Holding Firms:** Where owners are themselves a corporation, LLC, partnership or other business entity, list the business entity’s name and each individual or business entity having a beneficial interest directly or indirectly, of more than seven and one half percent (7½%) in such “holding firm”. (Use a separate page if necessary).

**Affiliated Entities:** List each individual or business entity having a beneficial interest directly or indirectly of more than seven and one half percent (7½%) in any affiliated entities. (Use a separate page if necessary).

Name	Percentage Ownership

List the names of all managing partners:
--

**CORPORATION OR LIMITED LIABILITY COMPANY**

If the Proposal is submitted by a <b>corporation</b> or <b>limited liability company (LLC)</b> , complete the information listed below:			
Corporate or Company Name:			
Date of Incorporation:		State of Incorporation:	
Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN	
If incorporated in another State, are you authorized to do business in the State of Illinois?			

List each individual or business entity having a beneficial interest directly or indirectly, of more than seven and one half (7½%) in the business organization. (Holding Firms and Affiliated Entities to complete as instructed above).

Name	Percentage Ownership

List the names of all officers and directors/managers:
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REQUIRED FORM C – STATEMENT OF QUALIFICATIONS

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**PROJECT DESCRIPTION:** Event Merchandise Sales  
**PROJECT NUMBER:** #S2022-02  
**CONTRACTOR:** \_\_\_\_\_

Proposer **must** furnish all of the following information relative to its ability, experience, and financial resources available for the fulfillment of the Contract.

1. The number of consecutive years that Proposer has been engaged in the business under the present firm name.

Number of consecutive years at this location: \_\_\_\_\_.

Date when business was organized \_\_\_\_\_.

2. List all pertinent organizations and associations of which Proposer is currently a member:

\_\_\_\_\_  
\_\_\_\_\_

3. Provide the overall ratio of managers to personnel. \_\_\_\_\_

4. List below two (2) references:

A. Company Name \_\_\_\_\_

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

Length of Relationship \_\_\_\_\_

B. Company Name \_\_\_\_\_

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

Length of Relationship \_\_\_\_\_

5. List below one (1) bank reference:

Company Name \_\_\_\_\_

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

Length of Relationship \_\_\_\_\_

6. Identify all union contracts to which you are a signatory.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Has Proposer ever refused to sign a contract? Y \_\_\_ N \_\_\_ At the original price? Y \_\_\_ N \_\_\_

If yes to either question, provide details. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8. Has Proposer ever been terminated for cause? \_\_\_\_\_ If yes, provide details. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

9. Has Proposer ever defaulted on a contract? \_\_\_\_\_ If yes, provide details. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

10. Has Proposer or any related or affiliated entity ever been adjudged bankrupt, been subject to a receivership or an order of reorganization, or other similar action involving the rights of creditors against vendors? If yes, provide details.

\_\_\_\_\_  
\_\_\_\_\_

11. Is Proposer or any related or affiliated entity at this time subject to any court order relating to bankruptcy, receivership, liquidation, reorganization, or similar relief? If yes, provide details.

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12. Detail any criminal or civil investigation or pertinent litigation pending or that has concluded within the last three (3) years against Proposer's organization or individuals within the organization.

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13. Has Proposer ever forfeited a performance bond? \_\_\_\_ If yes, provide details. \_\_\_\_\_

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14. Identify below the Proposer's contact person for purposes of responding to any questions McCormick Place | ASM GLOBAL may have:

Contact Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

## REQUIRED FORM D – INSURANCE REQUIREMENTS

***Proposer must provide evidence of the ability to provide insurance coverage as specified in this RFP.***

1. The Selected Contractor must procure and maintain, at its own expense, until final completion of the Services covered by this Contract and during the time period following final completion if required to return and perform additional Services, for any reason whatsoever, the types of insurance specified below, in amounts specified by McCormick Place | ASM Global's Risk Manager. The Selected Contractor must provide McCormick Place | ASM Global with certificates of insurance evidencing such coverage prior to receiving the contract:

**a. Commercial General Liability**

Coverage	Limit
General Aggregate	\$ 5,000,000.00
Products Liability/Completed	
Oper. Aggregate	\$ 5,000,000.00
Each Occurrence	\$ 5,000,000.00
Personal & Advertising Injury	\$ 5,000,000.00
Medical payment	\$5,000.00
Assault and Batter	
Extended Bodily Injury	

**b. Workers' Compensation and Employer's Liability**

Coverage	Limit
Workers' Compensation	Statutory
Employer's Liability	
Each Accident	\$ 1,000,000.00
Per Employee - Disease	\$ 1,000,000.00
Annual Aggregate – Disease	\$ 1,000,000.00

**c. Automobile Liability**

Coverage	Limit
Covering all owned, non-owned hired vehicles	\$1,000,000.00 combined single limit each accident for bodily injury and property damage.

This Policy must provide coverage for all owned, non-owned, and hired autos.

**d. Umbrella Coverage** \$ 1,000,000.00

Coverage must be in excess of Commercial General Liability, Auto Liability and Employers Liability. It must be no more restrictive than the primary coverage listed.

**e. Errors & Omissions Liability** \$ 5,000,000.00 each claim



2. All insurance companies must be rated A-VIII or better by the A. M. Best Company.
3. Contractor's assumption of liability is independent from, and not limited in any manner by, the Contractor's insurance coverage obtained pursuant to this Contract, or otherwise. All amounts owed by Contractor to McCormick Place | ASM Global as a result of the liability provisions of the Contract shall be paid on demand.
4. Contractor expressly understands and agrees that any insurance or self-insurance programs maintained by McCormick Place | ASM Global shall apply in excess of and not contribute with insurance provided by them under the Agreement.
5. Policies should be written on an occurrence basis with the exception of professional liability coverage.
6. All coverages must contain a Waiver of Subrogation in favor of McCormick Place | ASM Global .
7. All policies must amend the other insurance clause to be Primary and Non Contributory for any liability arising directly or indirectly from the Services.
8. The Metropolitan Pier and Exposition Authority, its trustees, facilities, agents, officers, board members and employees, and ASM GLOBAL are named as an additional insured. Additional insured endorsement form ISO form CG 20 11 or CG 20 26 must accompany the Certificate of Insurance.
9. Subcontractors performing services for the selected contractor shall maintain coverage terms and limits equal to or greater than the contractor.
10. If policies are canceled for any reason, immediate notice is required to be given to the Risk Management Department via certified mail to:

McCormick Place | ASM Global  
301 East Cermak Road  
Chicago, Illinois 60616

REQUIRED FORM E – NOTIFICATION OF EXCEPTIONS

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The Undersigned understands and agrees that:

**PLEASE CHECK ONLY ONE**

Proposer acknowledges that there are **NO EXCEPTIONS** to the Form of Agreement, Exhibit I, or any other requirements stated in this procurement S2022-02.

Signed: \_\_\_\_\_

\_\_\_\_\_  
(Typed name of signatory)

As: \_\_\_\_\_  
(Relationship to Bidder/Title/etc.)

Date: \_\_\_\_\_

Proposer acknowledges that **THERE ARE EXCEPTIONS** to the Form of Agreement, Exhibit I, including conflicts of interest, or any other requirements stated in this procurement S2022-02 and has attached them to this Required Form E Notification of Exceptions.

Signed: \_\_\_\_\_

\_\_\_\_\_  
(Typed name of signatory)

As: \_\_\_\_\_  
(Relationship to Bidder/Title/etc.)

Date: \_\_\_\_\_

REQUIRED FORM F – PROPOSED REVENUE SHARE

Proposed percentage split with McCormick Place | ASM Global, based on the scope of work, as outlined herein, and the staffing plan for Wintrust Arena and Arie Crown Theatre:

	<u>McCormick Place   ASM Global Percentage Revenue Share:</u>	<u>Proposer's Percentage Revenue Share:</u>
<b>Merchandise</b>	_____ %	_____ %
<b>Media &amp; Novelty</b>	_____ %	_____ %

Proposed percentage split with McCormick Place | ASM Global, based on the scope of work, as outlined herein, and the staffing plan for Wintrust Arena and Arie Crown Theatre:

<b><u>Proposed Credit Card Fee</u></b>
Proposer must provide the proposed credit card fee for all cashless transactions:
_____ %

[INSERT CONTRACTOR NAME]  
[INSERT CONTRACT DESCRIPTION]  
[INSERT CONTRACT NUMBER]

**THIS AGREEMENT** (together with the Exhibits attached hereto, the “Agreement”) is dated as of the [*insert day*] day of [*insert month*], [*insert year*] (“Effective Date”) by and between ASM GLOBAL, a Pennsylvania general partnership, with an address at 301 East Cermak Road, Chicago, Illinois 60616 (“ASM GLOBAL”), and [*insert Contractor*], a(n) [State and Type of Entity] whose current address is [*insert address of Contractor*] (the “Contractor”).

### **BACKGROUND**

The Metropolitan Pier and Exposition Authority, a unit of local government, political subdivision, body politic and municipal corporation organized and existing under Illinois law (“Owner”) owns the McCormick Place® Complex (the “Facility”) located at 2301 South Lake Shore Drive, Chicago, IL 60616. Owner has retained ASM GLOBAL to act as Owner’s agent for the operation of the Facility. Contractor is prepared to provide the Services for ASM GLOBAL as more particularly described herein, in accordance with the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises, covenants, and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

- 1. Contract Documents.** The Contract shall be deemed to include this document and the following exhibits and attachments, all of which are incorporated into and made a part of this Contract as the Contract Document. In the event of a conflict between this document and any Exhibit, the provisions of this document shall control. The Exhibits are as follows:

- Exhibit 1 – Scope of Services
- Exhibit 2 – Pricing
- Exhibit 3 – Insurance Requirements
- Exhibit 4 – Request for Proposals (RFP) document
- Exhibit 5 – Special Conditions Regarding Minority and Women Business Enterprises

- 2. Term.** This Contract begins on the Effective Date and shall remain in effect, unless earlier terminated pursuant to Section 18 hereof, until [*insert contract expiration date*]. ASM GLOBAL shall have the option to extend any expiration date for a period of [*insert renewal term*] by giving no less than thirty (30) days prior written notice to Contractor. In each such event, the terms of this Agreement during the then current term shall be the terms for the renewal term, unless ASM GLOBAL and Contractor otherwise mutually agree in writing.

- 3. Scope of Contract.**

- (a) Description of Services.** Contractor shall perform the Services as described in Exhibit 1 attached hereto (collectively, the “Services”). All orders for Services will be initiated by ASM GLOBAL and submitted to Contractor via a purchase order (the “Purchase Order”) setting forth the description of services and delivery terms of such Services. All terms and conditions contained in this Agreement shall be deemed incorporated into and made a part of each Purchase Order.

- (b) **Materials.** The Contractor shall at all times during this Contract, have all necessary materials in sufficient amounts and capabilities and properly maintained, as needed to comply with the terms of this Agreement. The Contractor shall use and supply only materials of the highest quality and consistency and, where applicable, within budget allowance. Contractor shall identify the source for any materials, to be used at ASM GLOBAL's facility as part of the Services. Contractor shall only use Providers approved from time to time by ASM GLOBAL related to integrity, quality and market rates. ASM GLOBAL shall have the absolute right to review and approve such material providers, and may reject any such providers at any time in its sole and unlimited discretion.
  - (c) **Equipment.** The Contractor shall at all times during this Agreement, have and maintain all necessary equipment in sufficient amounts and capabilities, and properly maintained, as needed to perform all Services. On signing this Agreement, and subsequent thereto as changes in equipment are made, Contractor shall identify the equipment to be used under this Agreement. ASM GLOBAL shall have the right to review and approve such equipment, and may require additional or different equipment in the event ASM GLOBAL determines, in its sole discretion, that the equipment provided is inadequate in amount, quality or capability.
  - (d) **Standard of Care.** Contractor shall perform the Services with due care in a manner consistent with industry standards for the type of Services provided hereunder.
  - (e) **Contractual Relationship.** In performing its Services under this Agreement, Contractor is an Independent Contractor and does not and must not act as or represent itself as an agent or employee of ASM GLOBAL.
  - (f) **Time is of the Essence.** Contractor shall proceed to perform the Services under the terms of this Contract promptly and diligently, in accordance with the Contract Documents.
  - (g) **Additional Services.** No change increasing or decreasing the quantity or price of any Services, revenue share or change from the terms set forth in the Contract Documents for any such shall be made unless previously authorized by ASM GLOBAL as required by law, and no claim for extra compensation will be considered unless such prior authorization has been obtained. The Contractor shall not deliver any Additional Services until it has received prior written approval from ASM GLOBAL authorizing the Contractor to proceed with such Additional Services. The Contractor acknowledges that Additional Services involving costs may require the prior approval of Management. Upon approval of Additional Services by ASM GLOBAL, ASM GLOBAL and the Contractor shall execute an amendment to Exhibit 1, or such other portions of this Contract as may be necessary the Contract evidencing the Contract of the parties regarding such Additional Services.
4. **Standard of Performance.** Contractor shall perform all activities as set forth in the Contract Documents with that degree of skill, care and diligence customarily required of a professional performing services of comparable scope, purpose and magnitude in the Chicago area, and in conformance with the applicable professional standards. Contractor shall at all times use its best efforts on behalf of ASM GLOBAL to assure timely and satisfactory rendering and delivery of the required Services. Contractor and all of Contractor's employees or subcontractors providing Services under this Contract shall be qualified and competent in the applicable discipline or industry, shall be appropriately licensed as required by law, shall comply with all City of Chicago, State of Illinois, and federal laws as applicable and shall conform to the terms of the Contract Documents and this Contract. Contractor remains responsible for the professional and technical accuracy of all Services and other deliverables furnished, whether by the Contractor or others on its behalf. No review, approval, acceptance, nor payment for any and all of the Services by ASM GLOBAL shall relieve the Contractor from its responsibilities.

- 5. Approvals.** The Services purchased by ASM GLOBAL are subject to approval by ASM GLOBAL to determine compliance with the provisions of this Contract. Provided, under no circumstances shall such approval relieve Contractor from any obligation set forth in this Contract, including, without limitations, all obligations mandated by law or industry safety requirements, or latent defects. Further, such approval is for the purpose of determining the quality and completeness of the Services, including materials used, and is not for the purpose of determining compliance with applicable laws or industry safety requirements.
- (a) Services determined by ASM GLOBAL to be non-compliant with this Contract shall be corrected or replaced within five (5) days after notification to Contractor. Payment for any Services ordered hereunder prior to inspection and approval shall not constitute acceptance thereof and is without prejudice to any and all claims that ASM GLOBAL may have against Contractor.
  - (b) Services determined by ASM GLOBAL to be compliant with this Contract shall be accepted upon proper completion.
- 6. Shipping.** Unless otherwise set forth on Exhibit 1 or any Purchase Order delivered by ASM GLOBAL hereunder, all costs, fees, and expenses arising in connection with the delivery and shipment to ASM GLOBAL of Goods furnished in connection with the Services shall be borne by Contractor. Contractor guarantees that all merchandise now being sold or delivered to ASM GLOBAL will be, at the time of its delivery as required by this Agreement, packaged, marked, labeled, and shipped in accordance with all applicable federal, state, and local statutes, regulations, ordinances, and orders. All shipments must be packed in a manner that will provide for efficient handling and prevent damage in transit. Goods must conform to the description, quantity, and other specifications set forth in this Agreement.
- 7. Risk of Loss.** The risk for loss shall remain with the Contractor until any Goods that may be required to be delivered pursuant to this Contract or the Contract Documents are delivered to ASM GLOBAL in accordance with the terms hereof. Contractor shall carry on the work of furnishing and delivering the Goods at Contractor's own risk and expense until the same is fully completed and accepted by ASM GLOBAL and shall be solely liable and responsible for the safety and security thereof.
- 8. Contractor Representations and Warranties.** Contractor hereby represents and warrants to ASM GLOBAL, and agrees as follows:
- (a) Contractor warrants that it is fully staffed, equipped, trained and otherwise capable to perform this Contract. Contractor further represents that, by its own independent investigation it has ascertained the nature of the Services required, the conditions involved in delivering the Services, and Contractor's obligations under this Contract. Contractor is responsible to verify all information furnished by ASM GLOBAL as to the correctness and accuracy of that information. Any failure by Contractor to investigate independently and become fully informed will not relieve Contractor from its responsibilities under this Contract;
  - (b) Contractor warrants that all Services provided (a) shall be compliant with the standards set forth in Section 4 hereof, (b) shall comply with all City of Chicago, State of Illinois, and Federal laws applicable to the Services, and (c) shall conform to the terms of this Contract;
  - (c) The Contractor further warrants that it is either the original manufacturer of any Goods furnished in connection with the Services and is capable of providing genuine parts, assemblies and/or accessories, or is capable of transferring and/or assigning original warranties to ASM GLOBAL. ASM GLOBAL may return any nonconforming or defective Goods to Contractor or require replacement of the materials at the time the

defect is discovered, all at the Contractor's expense. Contractor must replace any nonconforming or defective Goods within ten (10) days of notification from ASM GLOBAL's designated representative. Acceptance of Goods and Services by ASM GLOBAL by payment shall not relieve Contractor of the responsibilities herein;

- (d) Contractor warranty shall survive the termination or expiration of this Contract;
- (e) Contractor has the full power and authority to enter into this Agreement and perform each of its obligations hereunder;
- (f) No litigation or pending or threatened claims or litigation exist which do or might adversely affect Contractor's ability to fully perform its obligations hereunder or the rights granted by Contractor to ASM GLOBAL under this Agreement.

**9. Event Settlement.** Contractor shall abide by the following settlement standards set forth by ASM Global.

- (a) Contractor will coordinate with the events designee to facilitate tracking merchandise inventory before and after the event.
- (b) Contractor will not deviate on predetermined prices of merchandise items.
- (c) Inventory must be counted in/out and reconciled with the promoter.
- (d) Settlement reports and reconciled inventory count are due to ASM at the close of each event.
- (e) All drawer overages/shortages are the responsibility of the third party.
- (f) Contractor is responsible for remitting all applicable sales tax.

**10. Compensation.** Contractor shall deliver to ASM GLOBAL an invoice for all requested services covered in this Agreement. Contractor shall receive compensation in the amount and schedule as set forth on Exhibit 2. Under no circumstances shall the Compensation exceed the agreed upon revenue share set forth in Exhibit 2 without a prior written amendment to this Contract.

- (a) It is understood that the revenue share percentage set forth in Exhibit 2 is a firm revenue share percentage for the term of this Agreement.
- (b) Most Favored Nations: The Contractor shall provide a revenue share percentage for Services at a rate not greater than the rate offered to the State of Illinois or any other unit of local government. In the event that the Contractor agrees to provide Services to the State of Illinois or any other unit of local government at a rate lower than that then in effect under this Agreement, Contractor shall offer to adjust the revenue share percentage to ASM GLOBAL accordingly.
- (c) Contractor shall be solely responsible to ensure that any of its sub-contractors and consultants are timely paid all amounts due them in connection with the performance of this Contract. After the first partial payment under the Contract, ASM GLOBAL may withhold later partial payments until Contractor submits evidence satisfactory to ASM GLOBAL that all amounts Contractor owes in connection with performance of this Contract have been paid. Further, ASM GLOBAL is entitled, after giving notice to Contractor, to pay all persons who have not been paid the monies due to them in connection with the Contract, whether or

not a claim or lien has been filed, unless Contractor, within ten (10) calendar days after notice is given either (i) demonstrates to ASM GLOBAL's reasonable satisfaction that these sums are not due or (ii) provides ASM GLOBAL adequate security.

- (d) Each Party shall have the right to set-off and net against any amounts owed to it by the other Party under this Contract, including without limitation any termination payment.
- (e) **Payment for Changes.** If ASM GLOBAL and Contractor agree to change the Services in accordance with the provisions set forth under this Agreement, and the change(s) cause an increase or decrease in Contractor's costs of, or time required for, performance of some portion of the Services, than an equitable adjustment will be made and the Agreement will be amended. Any claim by Contractor for adjustments under this clause must be submitted in writing to ASM GLOBAL within thirty (30) days of receipt by Contractor of the notification of change unless ASM GLOBAL grants a further period of time, which will be subject to ASM GLOBAL's approval. No change increasing or decreasing the quantity or price of the Services or revenue share shall be made unless previous authorized by ASM GLOBAL, and no claim for extra compensation will be considered unless such prior authorization has been obtained.

**11. Taxes.** The Contract revenue share percentage include all applicable federal and state taxes in effect as of the Effective Date. The acquisition of supplies and materials under this Contract is to be completed in a manner that, to the extent permitted by law, such purchase is exempt from taxes, including manufacturers' and retailers' state sales and occupation taxes. Upon the request of the Contractor ASM GLOBAL shall provide a copy of the appropriate tax exemption certificate with respect to such excluded taxes.

- (a) If, after the Effective Date, there shall be imposed or charged any tax other than a tax upon the income of the Contractor and said imposition or charge shall be made applicable directly on the use, production, manufacture, sale, or transportation of the items covered hereby, which is applicable to the Contractor because of a specific contractual obligation or by the operation of law, and ASM GLOBAL is not otherwise exempt from such tax, then:
  - (i) The Contract revenue share percentage herein stated shall be accordingly adjusted and any amount due to the Contractor as a result of the adjustment in such revenue share percentage shall be charged to ASM GLOBAL and entered upon such invoices as a separate item; or,
  - (ii) At its option, when exempt from the payment of such tax, ASM GLOBAL, in lieu of payment of such increase shall furnish to the Contractor appropriate tax exemption certificates or furnish other proof of exemption with respect to such tax or charge.
- (b) If the Contractor is relieved from the payment of any tax imposed, or portion thereof, included in the Contract revenue share percentage herein stated, by reason of the decrease or elimination of such tax, the Contractor shall promptly submit to ASM GLOBAL a statement showing the amount of such decrease or elimination and the Contract revenue share percentage herein stated shall be adjusted to reflect such decreases or elimination.

**12. Coordination.** Contractor shall coordinate its activities with ASM GLOBAL's designated personnel, Contractors, tenants and customers, if any, so no delays or interference will occur in completion of any part or all of ASM GLOBAL's projects or operations.



**13. Clean Condition.** The Contractor shall, at all times, keep MPEA premises free from accumulations of waste materials or rubbish caused by its employees or work and shall remove all its rubbish at the completion of its work.

**14. Report Review and Audit Privileges.** ASM GLOBAL shall have the right, but not the obligation, to inspect all records of the Contractor in relation to the Services under this Contract. Contractor shall make such records reasonably available to ASM GLOBAL, including its authorized representatives. Contractor shall keep and preserve, for at least three (3) years following the sale of each and every Service hereunder, full and accurate accounting records relating to such Service. Contractor shall give ASM GLOBAL and its designated representatives (which representatives may include, without limitation, independent auditors) access to such records during such period of time to review and/or audit the records, from time to time, upon request. Contractor shall also provide, at Contractor's own expense, copies of all or a portion of the records when so requested by ASM GLOBAL. In the event any audit conducted by an independent auditor demonstrates a variance of more than five percent (5%) on an annual basis in the amount determined by such auditor to represent the fair purchase cost of any Service purchased hereunder and the amount actually paid to Contractor for such Service, Contractor shall pay to ASM GLOBAL the reasonable cost of such audit. In any event, Contractor shall promptly pay to ASM GLOBAL the amount of any such variance which results in an overpayment by ASM GLOBAL to Contractor.

**15. Insurance.** Contractor shall procure and maintain at all times during the term of this Contract and at Contractor's expense, the insurance coverage set forth in Exhibit 3 – Insurance Requirements, and shall provide ASM GLOBAL with original certificates evidencing the required coverage. Contractor's insurance policies shall name the following as additional insured on all certificates of insurance: "Metropolitan Pier and Exposition Authority, its trustee, facilities, agents, officers, board members, employees, ASM GLOBAL and Contractors". Contractor's duty to indemnify ASM GLOBAL is independent from, and not limited in any manner by, Contractor's insurance coverage obtained pursuant to this Section or otherwise.

**16. Wages and Personnel.**

(a) **Prevailing Wage Act.** Wages of laborers, mechanics and other workers employed under this Agreement shall be subject to the provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/1 *et. seq.*

(b) **Personnel.** Contractor shall assign and maintain, and update as needed, a staff of competent personnel which is fully equipped and qualified to perform the Services required by this Agreement, including designation of the person on Contractor's behalf to serve as the day-to-day liaison for contractual matters. Provided, ASM GLOBAL shall have the right to review and approve such personnel selections, and may reject any such personnel at any time whenever ASM GLOBAL, in its sole and unlimited discretion, determines that such personnel is not qualified or otherwise unfit for such work. In accordance with the foregoing, Contractor shall, within three (3) days of the effective date of this Agreement, subject to ASM GLOBAL's approval which shall not be unreasonably withheld, appoint a management representative who shall be authorized by Contractor to promptly render decisions pertaining to all matters relating to the Services, in order to avoid delay in the orderly progress of the Services.

**17. Indemnification.**

(a) Contractor shall, at its sole cost and expense, indemnify, defend, and hold harmless ASM GLOBAL, Owner, and their agents, officials, employees, and consultants (individually referred to as "Indemnified Party" and collectively as, the "Indemnified Parties") against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, of any kind and nature, including but not limited to reasonable attorney fees and expert witness fees, which may in any way accrue against any such Indemnified Party

(collectively, for purposes of Indemnification, referred to as the "Loss") in consequence of this agreement or the performance thereof, or which may in any way result therefrom, whether or not it shall be alleged or determined that the Loss arose from (i) Contractor's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, and constitutional provisions applicable to Contractor's performance of this Agreement; (ii) any unlawful acts on the part of Contractor or its officers, directors, agents, employees, or subcontractors; (iii) personal or bodily injury to or death of persons or damage to the property of ASM GLOBAL or Owner to the extent caused by the negligent acts, errors, and/or omissions or the willful misconduct of Contractor or its officers, directors, agents, employees, or subcontractors; (iv) personal or bodily injury to or death of persons or damage to the property of ASM GLOBAL, Owner or the other ASM GLOBAL Parties as a result of any use or sale of the Goods and/or Additional Goods, whether or not the Contractor is the manufacturer of such Goods and/or Additional Goods or, (v) the material breach or default by Contractor or its officers, directors, agents, employees, or subcontractors of any provisions of this Agreement.

- (b) Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, regardless of the merit of such claim. If any judgment shall be rendered against such Indemnified Party in any such action, Contractor shall, at its sole cost and expense, satisfy and discharge the same. Contractor expressly understands and agrees that the insurance required by this Agreement or the other related documents of any Indemnified Party or Contractor, or otherwise provided by Contractor or such Indemnified Party shall in no way limit the responsibility to indemnify, defend and hold harmless the Indemnified Parties as herein provided.
- (c) Contractor's defense, indemnification and hold harmless obligations to any Indemnified Party will remain an affirmative obligation of Contractor unless and until a court of competent jurisdiction finally determines otherwise and all opportunities for appeal have been exhausted or have lapsed.
- (d) Contractor's indemnification obligation set forth herein shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Contractor under workers' compensation acts, workers' occupational disease acts, disability benefit acts, or other employee benefit acts or insurance policy coverage. To the extent permissible by law, Contractor waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due pursuant to Contractor's obligations under this Article, including any claim by any employee of Contractor that may be subject to the Workers' Compensation Act, 820 ILCS 305/1 *et. seq.*, or any other law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The Indemnified Parties, however, do not waive any limitations they have on liability under the Illinois Workers' Compensation Act, the Illinois Local Government and Governmental Employees Tort Immunity Act, or any other statute.
- (e) The provisions set forth in this Section shall survive the termination of his Agreement.

**18. Equal Employment Opportunity/Non-Discrimination and Minority and Women Owned Business Enterprise Goals.**

- (a) **Equal Employment Opportunity/Non-Discrimination.** Throughout the term of this Contract, Contractor agrees as follows:
  - (i) Contractor will comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, and the rules and regulations of the Illinois Department of Human Rights ("IDHR") and all other applicable federal, state and local laws, rules and regulations which prohibit unlawful discrimination and

discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination.

- (ii) Contractor, in performing its obligations under this Contract shall comply with the procedures and requirements of the Illinois Department of Human Rights' (IDHR) regulations concerning equal employment opportunities and affirmative action.
  - (iii) Provide such information, with respect to its employees and applicants for employment, and assistance as ASM GLOBAL and the IDHR may reasonably request.
  - (iv) Contractor shall have written sexual harassment policies that shall include those requirements as set forth by the IDHR:
  - (v) Contractor will send to each labor organization or representative or workers with which it has or is bound by a collective bargaining or other Contract or understanding, a notice advising such labor organization or representative of Contractor's obligations under the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and the IDHR's rules and regulations. If any such labor organization or representative fails or refuses to cooperate with Contractor in its efforts to comply with such Act and rules and regulations, Contractor will promptly so notify the IDHR and ASM GLOBAL, and will recruit employees from other resources when necessary.
  - (vi) Contractor further agrees that it shall not commit an unfair labor practice.
  - (vii) Contractor shall include, verbatim or by reference, the provisions of this Section in every contract it awards under which any portion of its obligations under this Contract are undertaken or assumed, so that such provisions shall be binding upon each such sub-Contractor. Contractor shall be responsible and liable for compliance with the pertinent provisions of this Section by such sub-Contractors, and, further Contractor shall promptly notify ASM GLOBAL and IDHR if any sub-Contractor fails or refuses to comply therewith. In addition, Contractor will not utilize any sub-Contractor declared ineligible by IDHR or the Illinois Human Rights Commission for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
  - (viii) In the event of Contractor's non-compliance with any provision of this Section, the Illinois Human Rights Act, or the rules and regulations of IDHR, Contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Contract may be canceled or voided, in whole or in part, or such other sanctions or penalties that may be imposed or remedies invoked as provided by law.
- (b) **Minority and Women Business Enterprise Goals.** ASM GLOBAL has adopted and maintains an affirmative action program with respect to its contracts. The purpose of ASM GLOBAL's affirmative action program is to promote the ability of Minority Business Enterprises ("MBE") and Women-Owned Business Enterprises ("WBE") to have the maximum possible opportunity to participate in ASM GLOBAL contracts. As a minimum, ASM GLOBAL strives to ensure that, for Services necessary for the performance of this Contract, 25% of total contract amount is payable to MBE firms and 5% of the total contract amount is payable to WBE firms. Unless and only to the extent ASM GLOBAL grants an expressed waiver, Contractor shall comply with the Special Conditions Regarding Minority and Women-Owned Business Enterprises, as outlined in Exhibit 5, throughout the term of this Contract.

- (i) **Compliance.** As part of its review and approval of Contractor's monthly payment requests, ASM GLOBAL will monitor Contractor's performance to reasonably satisfy itself that Contractor will meet its commitment and use its good faith efforts to achieve the maximum MBE/WBE allocation. In order for ASM GLOBAL to ensure that Contractor complies with its MBE/WBE commitment, Contractor shall submit certified monthly statements with its invoices that include information on the level and scope of MBE and WBE participation in monetary terms as well as a description of the Services provided by each MBE and WBE.
  
- (ii) **Remedies for Noncompliance.** In the event Contractor fails to fulfill its obligations under this Section 17, ASM GLOBAL shall have available to it appropriate remedies at law or in equity, including the right to withhold amounts due to Contractor for any Work until Contractor submits a corrective action plan which has been approved by ASM GLOBAL or demonstrates to ASM GLOBAL's satisfaction that all good faith efforts to comply with the goals set forth herein have been exhausted, together with the ability to disqualify Contractor from future work that may, from time to time, be undertaken by ASM GLOBAL as well as all unfinished Work on the Project.

## 19. Default and Termination.

- (a) **Termination for Convenience.** ASM GLOBAL has the right to terminate this Contract, in whole or in part, for any reason, including the convenience of ASM GLOBAL, by providing Contractor with written notice specifying the date of termination. On the date specified in the notice, this Contract will terminate. ASM GLOBAL will pay Contractor the amount earned or reimbursable to it (if any) up to the termination date. After termination, Contractor has no further claim against ASM GLOBAL based upon this Contract.
  
- (b) **Termination for Cause.** This Contract may be terminated if an event of default occurs. The following constitute events of default by Contractor:
  - (i) Refusal of failure to provide sufficient properly skilled workers, adequate supervision, or adequate materials and equipment of proper quality;
  
  - (ii) Failing in any material respect to deliver the Services according to ASM GLOBAL's schedule;
  
  - (iii) Causing, by an action or omission, the stoppage or delay of or interference with the services or work of any employee or other Contractor or subcontractor;
  
  - (iv) Failure to comply with any provision of this Contract or the Specifications described in the IFB, including, but not limited to matters pertaining to insurance, indemnification and MBE/WBE use;
  
  - (v) Becoming insolvent, making a general assignment for the benefit of its creditors, or having a receiver appointed;
  
  - (vi) Inability to deliver the Goods and/or Services under the Contract as a result of insolvency, bankruptcy, or having a receiver appointed;
  
  - (vii) Conviction in a criminal court or finding of liability in civil court relating to the Services or involving fraud or misconduct adversely affecting any governmental entity;
  
  - (viii) Any other acts or omissions specifically identified in this Contract as an event of default.

- (c) **Curable and Incurable Defaults.** Time-sensitive defaults (e.g. failure to meet deadlines) are not curable unless ASM GLOBAL, in its sole and absolute discretion extends the deadline; an extension, however, does not relieve Contractor of liability for any damages ASM GLOBAL suffers on account of Contractor's failure to meet required deadlines. Contractor must cure any default that is not time sensitive within ten (10) calendar days after Contractor is given notice of the default in accordance with the terms of this Agreement. In the event a default cannot be reasonably cured within ten (10) calendar days after notice, in the sole opinion of ASM GLOBAL, Contractor must begin to cure the default promptly within the ten-day period and continue diligent efforts to complete the cure until accomplished.
- (i) ASM GLOBAL, in its sole discretion, shall determine whether a default is material and whether it can be cured. In the event ASM GLOBAL determines that an event of default can be cured, it shall provide Contractor with notice setting for the event of default and cure requirements, including the time period permitted for cure. Contractor shall cure any event of default as provided in the notice.
  - (ii) If Contractor fails to cure a default as provided in the notice, ASM GLOBAL may, at its sole option, declare Contractor in default. ASM GLOBAL will give Contractor written notice of the default and ASM GLOBAL's termination of this Contract. ASM GLOBAL's decision is final and takes effect when notice is given or such time as set forth in the termination notice. Contractor shall discontinue all activities under this Agreement, unless otherwise directed in the notice, and deliver all materials accumulated in performing under this Contract, whether completed or in the process, to ASM GLOBAL.
- (d) **Remedies.** In the event of default, ASM GLOBAL may invoke any or all of the following remedies. These remedies are not intended to be exclusive of any other remedies available. Rather, every remedy is cumulative and in addition to any other remedies, existing now or later at law, in equity or under the Contract.
- (i) The right to acquire Goods and/or Services from an alternate source. Contractor shall pay all additional costs incurred by ASM GLOBAL.
  - (ii) The right to terminate this Contract as to any or all of the Services yet to be performed effective at a time specified by ASM GLOBAL.
  - (iii) The right to monetary damages.
  - (iv) The right to deem Contractor non-responsive in future contracts to be awarded by ASM GLOBAL.
  - (v) The right to take assignment of any or all of Contractor's subcontracts and acquire the Goods, by itself or through others, by whatever method ASM GLOBAL considers expedient.
  - (vi) The right to set-off against any sums owing Contractor.
  - (vii) Such other remedies as permitted by law.
- (e) No delay or omission to exercise any right or power occurring upon any event of default impairs the right or power nor is it a waiver of or acquiescence in any event of default. Every right and power may be exercised from time to time and as often as ASM GLOBAL considers expedient.

- (f) In a court of competent jurisdiction determines that ASM GLOBAL wrongfully terminated Contractor, then the termination shall be treated as a termination for convenience.

**20. No Damages for Delay.** Contractor is not entitled to and must not include charges or claims for damages for any delays or hindrances from any cause whatsoever during the progress of any portion of the Services specified in this Agreement and agrees to waive any right to bring any claim for excess costs or damages that may be caused by delays or hindrances in the performance of the Services, regardless of the nature of the delay or hindrance, absent bad faith, fraud or direct tortious interference by ASM GLOBAL. If Contractor's performance of the Services is delayed by causes beyond Contractor's reasonable control, ASM GLOBAL may extend the time to complete the Services to reflect the extent of the delay (if extension is feasible given the project deadlines and the expectations of public performances), provided that Contractor has given ASM GLOBAL written notice within ten (10) days of the beginning of the delay. The notice by Contractor must include a description of the reasons for the delay and the steps Contractor has taken or will take to mitigate the effects of the delay. ASM GLOBAL does not waive any of its rights by permitting Contractor to proceed to complete the Services or any part thereof after the revised completion date.

**21. Cooperation.** The Parties shall cooperate in good faith to implement the terms of this Contract. At such time as this Contract is terminated or expires, the Parties shall undertake in good faith efforts to assure an orderly transition to another Contractor of the Services, if any. Contractor shall make an orderly demobilization of its own operations, provide, uninterrupted, the Services until the effective date of termination or expiration, and otherwise comply with the reasonable requests and requirements of ASM GLOBAL in connection with the termination or expiration.

**22. Authority's Proprietary Rights.**

- (a) **Names and Logos.** Owner owns all rights to the name "Navy Pier," "Navy Pier Chicago," certain Navy Pier and McCormick Place likenesses, and to certain logos and service mark(s). Contractor shall not use the Navy Pier or McCormick Place name as part of Contractor's business or trade name, and Contractor shall not use Owner's logos or service marks or sell merchandise with the Navy Pier or McCormick Place name or likeness or with Owner's logos or service marks without the Owner's express written consent. Also, Contractor shall not permit anyone else to do so.
- (b) **Sponsorship Program.** In addition, Owner has entered into Contracts to grant exclusive sales or advertising rights ("Sponsorship Contracts") to certain products, brands or services ("Official Brands") on Owner's property. Accordingly, to the extent permitted by law Contractor shall not advertise, promote, or display at any competing products, brands, or services at the facilities, including through displays or signs in or on any equipment, visible through or on any windows facing onto any part of the facilities or in advertisements, promotional material, or displays referring to facilities or utilizing (if Owner has not given its express written consent to it) Owner's logos or service marks. Contractor shall not interfere with Owner's sponsors' events.

**23. Confidentiality.**

- (a) All reports, data or information in any form prepared, assembled or encountered by or provided to Contractor under this Contract are confidential, and Contractor shall not disclose these (or make them available) to any other individual or organization without the prior written approval of ASM GLOBAL, except as specifically authorized in this Contract or as may be required by law. Contractor shall implement whatever measures are necessary to ensure that its staff and its sub-Contractors are bound by these confidentiality provisions.

- (b) Contractor shall not issue publicity news releases or grant press interviews, or, except as may be required by law during or after the performance of this Contract, disseminate any information regarding its Goods or the project to which the Goods pertain without the prior written consent of ASM GLOBAL.
- (c) If Contractor is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any records, data or documents that are in Contractor's possession by reason of this Contract, Contractor shall immediately give notice to ASM GLOBAL with the understanding that ASM GLOBAL will have the opportunity to contest the process by any means available to it before the records or documents are submitted to a court or other third party. Contractor, however, is not obligated to withhold delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended

**24. Changes.** No changes to this Contract are effective unless in a written amendment signed by the authorized representatives of the parties.

**25. Assignment and Subcontracting.**

- (a) ASM GLOBAL may assign this Agreement upon 30 days written notice to the Contractor. Provided, any assignee shall be obligated to provide written acceptance and commitment to be bound by all terms and conditions as set forth herein. Upon such assignment, ASM GLOBAL shall be relieved from any further liability or obligation under this Agreement, it being understood that the assignee shall have all of ASM GLOBAL's rights, duties and obligations. In the event of such assignment, the term "ASM GLOBAL" as used herein shall mean the assignee.
- (b) Contractor shall not assign or subcontract this Agreement, or any part thereof, without the prior written consent of ASM GLOBAL which consent may be granted, denied or conditioned in the sole, unfettered discretion of ASM GLOBAL.

**26. Covenants.** Contractor hereby covenants as follows:

- (a) Contractor shall not occupy or use the Facility, nor shall interfere with the activities of the Facility, except as is reasonably necessary to perform its obligations hereunder.
- (b) Contractor shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and from the Facility. "**Hazardous Material**" shall mean, without limitation, those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in any applicable state or federal environmental law.
- (c) Contractor shall not make any alterations or improvements to the Facility without the prior written consent of ASM GLOBAL.
- (d) Contractor shall not operate any equipment or materials belonging to ASM GLOBAL or Owner without the prior written approval of ASM GLOBAL.
- (e) No portion of any passageway or exit at the Facility shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked, or bolted while the Facility is in use. Moreover, all designated exit ways shall be maintained in such manner as to be visible at all times.

**27. Accuracy and Update of Information.** In connection with this Agreement, Contractor has furnished and will continue to furnish various certifications, affidavits and other information and reports. Contractor represents that

any such material and information furnished in connection with the IFB/RFP or this Agreement is truthful and complete. Contractor shall promptly update such material and information to be complete and accurate as needed due to events or changes occurring after the date of this Agreement.

**28. Notices.** Any notice, consent, or other communication given pursuant to this Agreement shall be in writing and shall be given by e-mail, by personal delivery, by United States registered or certified mail, or by a courier service with all delivery and postage charges paid. A notice shall be considered effective either (i) when delivered personally or via e-mail to the party for whom intended, (ii) upon delivery by an overnight courier service that is generally recognized as reliable, and the written records maintained by the courier shall be prima facie evidence of delivery, or (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt; in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith. Any such communication intended for ASM GLOBAL shall be addressed:

**McCormick Place | ASM Global**  
301 East Cermak Road  
Chicago, Illinois 60616  
Attention: Alex Buckles, Purchasing Manager  
E-Mail: [abuckles@mccormickplace.com](mailto:abuckles@mccormickplace.com)

With a copy to:

**ASM GLOBAL**  
300 Four Falls Corporate Center Conshohocken State Road  
West Conshohocken, Pennsylvania 19428  
Attention: Executive Director of Operations

Any such communication intended for Contractor shall be addressed to:

**[Insert Successful Proposer]**  
Address  
City, State, Zip  
Attention:  
E-Mail:

**29. Construction of this Agreement.**

**(a) Compliance with Laws.**

- (i) Contractor shall at its own expense comply with all federal, state and local laws, codes, ordinances and regulations applicable to this Contract and the Services whether by reason of general law or the specific Services required. Contractor shall pay all contributions, premiums, or taxes of whatever nature (including any interest or penalties) that are required of it under any federal, state or local laws arising out of the performance of this Contract.
- (ii) Contractor shall comply with applicable licenser or permit requirements and hold ASM GLOBAL harmless against any liability in connection with licenser, permitting, or taxes. Contractor shall obtain and pay for all permits, licenses, and fees which may be necessary for the prosecution and completion of its duties and obligations under the Contract, including royalties for playing, using, or delivering the Services. To the extent required, Contractor shall be duly licensed to operate in Chicago, Illinois. Contractor is liable to ASM GLOBAL for all losses, expenses, including attorney's fees, attributable to any acts of commission or omission by Contractor, its employees and agents, and sub-Contractors



resulting from failure to comply with any federal, state or local laws, codes, ordinances or regulations including, but not limited to, any fines, penalties, or corrective measures.

- (b) **Applicable Law/Venue.** This Contract shall be governed by the laws of the State of Illinois. Any suit regarding this Contract or any alleged breach thereof shall be brought only in courts located in Chicago, Illinois, and the parties consent to the jurisdiction and venue of the courts located in the County of Cook, State of Illinois.
- (c) **Independent Contractor; No Partnership.** ASM GLOBAL and Contractor shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, ASM GLOBAL or Contractor a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein.
- (d) **Singular and Plural.** Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.
- (e) **Entire Agreement.** This Agreement constitutes the complete and entire agreement between ASM GLOBAL and Contractor, and supersedes any and all other communications or agreements, whether written or oral, between the parties hereto relating to the subject matter hereof.
- (f) **Force Majeure.** If any casualty or unforeseeable cause beyond the control of ASM GLOBAL, including, without limitation, acts of God, fires, floods, epidemics, quarantine restrictions, strikes, failure of public utilities, or unusually severe weather, prevents the performance of this Agreement by ASM GLOBAL, ASM GLOBAL is hereby released by Contractor from any damage so caused thereby.
- (g) **Severability and Waiver.**
  - (i) The partial or complete invalidity of any one or more provisions of this Contract shall not affect the validity or continuing force and effect of any other provision. If any provision is invalid, in whole or in part, the provision shall be considered reformed to reflect the intent thereof to the greatest extent possible consistent with law.
  - (ii) The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Contract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.
- (h) **Interpretation.** Headings of this Contract are for convenience of reference only and do not modify, define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments thereto entered into in accordance with the terms of this Contract. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such person or entity in accordance with the terms of this Contract.

**IN WITNESS WHEREOF**, this Agreement has been duly executed by the parties hereto as of the day and year first written above.

ASM GLOBAL, AS AGENT FOR MPEA, OWNER OF  
MCCORMICK PLACE,  
301 EAST CERMAK ROAD,  
CHICAGO, ILLINOIS 60616

[INSERT SUCCESSFUL PROPOSER]

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_