

NINTH AMENDMENT TO AGREEMENT

THIS NINTH AMENDMENT TO AGREEMENT (“Ninth Amendment”) is entered into as of the date stated on the City’s signature page below, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, for and on behalf of its Department of Aviation (the “City”), Party of the First Part, and **TRUGOY, INC.**, a Colorado corporation (“Concessionaire”), d/b/a **TCBY Yogurt**, Party of the Second Part (collectively, the “Parties”).

RECITALS

- A. The Parties entered into an agreement dated May 14, 1993 (AC38001) for the operation of a concession at Denver International Airport (“Airport” “DIA” or “DEN”), which expired by its term on August 31, 2014 and which together with amendments to the Agreement is hereafter referred to as the “Original Agreement.”
- B. Concessionaire is enrolled in the DEN Premium Value Program, which operates pursuant to Rule 45 of the Airport Rules and Regulations. At the time of enrollment Concessionaire’s Minor Merchandise Category for PVC purposes was as follows: **Food Court**.
- C. On or about October 1, 2015 PVC Rule 45 was amended, which has necessitated a change to certain Minor Merchandise Categories.

NOW, THEREFORE, for the foregoing reasons and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties hereby agree to amend the Original Agreement as follows:

1. All references in the Original Agreement to “Manager” or Manager of Aviation” are hereby deleted and replaced with “Chief Executive Officer” or “CEO” as the context may require. “Chief Executive Officer” or “CEO” means the Chief Executive Officer of the City’s Department of Aviation having jurisdiction over the management, operation, and control of the Airport. Whenever reference is made to the “CEO or the CEO’s authorized representative,” or words of similar import are used such reference shall mean the officer or employee of the City designed in writing by the CEO as the CEO’s delegated authorized representative.

2. Effective as of the date this Ninth Amendment is executed, Concessionaire’s Minor Merchandise Category for PVC purposes is hereby changed to the following: **Snack**.

3. Except as provided herein, all of the provisions, terms and conditions of the Original Agreement are hereby revived and ratified and shall remain in full force and effect as if fully set forth herein.

4. This Ninth Amendment shall not be or become effective or binding on the City until approved by the Denver City Council, if required by the City’s Charter, and fully executed by all signatories of the City and County of Denver. This Ninth Amendment may be signed in two or more counterparts, each of which shall be deemed to be an original signature page and further may be signed electronically by the Parties in the manner specified by the City.

[SIGNATURE PAGES FOLLOW]

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: PLANE-AC38001-09

Contractor Name: Trugoy, Inc.

By: Colleen A Forst

Name: COLLEEN A. FORST
(please print)

Title: PRESIDENT
(please print)

ATTEST: [if required]

By: Gregory A Forst

Name: GREGORY A. FORST
(please print)

Title: SECRETARY
(please print)

