

THIRD AMENDMENT TO AGREEMENT

THIS THIRD AMENDMENT TO AGREEMENT (“Amendment”) is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, for and on behalf of the Department of Aviation (the “City”), and **SMARTE CARTE, INC.** (the “Concessionaire”) (collectively, the “Parties”).

WITNESSETH:

WHEREAS, the Parties entered into Concession Agreement No. AC15021 (the “Agreement”) for the operation of a concession at Denver International Airport (“DEN”); and

WHEREAS, the Parties want concession employees at DEN to have free access to public transportation, as a benefit to employment and to encourage eco-friendly transportation to and from DEN; and

WHEREAS, the Regional Transportation District (“RTD”) offers an EcoPass Program (the “EcoPass Program”) which makes certain RTD transit services available to eligible employees; and

WHEREAS, the City and RTD intend, without obligation, to annually enter into master contracts that allow eligible DEN concessionaires to pool their employees together and receive the lowest effective pricing for the EcoPass Program; and

WHEREAS, Concessionaire will reimburse the City for the Concessionaire’s proportional cost of the EcoPass Program under the RTD Master Contract; and

NOW, THEREFORE, for and in consideration of the privileges herein and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties hereto agree as follows:

1. The attached Exhibit, “**Exhibit RTD**” is hereby attached to and incorporated in the Agreement.
2. Except as provided herein, all provisions, terms and conditions of the Agreement shall remain in full force and effect as if fully set forth herein.
3. This Amendment to the Agreement shall not be effective or binding on the City until approved and fully executed by all signatories of the City and County of Denver.

**END OF AMENDMENT
SIGNATURE PAGES AND EXHIBIT TO FOLLOW**

Contract Control Number: PLANE-202367501-03 / Alfresco AC15021-03
Contractor Name: Smarte Carte, Inc.

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

SEAL **CITY AND COUNTY OF DENVER:**

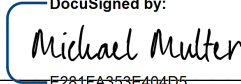
ATTEST: By: _____

APPROVED AS TO FORM: **REGISTERED AND COUNTERSIGNED:**
Attorney for the City and County of Denver
By: _____ By: _____

By: _____

Contract Control Number:
Contractor Name:

PLANE-202367501-03 / Alfresco AC15021-03
Smarte Carte, Inc.

By:  _____
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Name: Michael Multer
(please print)

Title: VP
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit RTD

EcoPass Program

1. The City may, in its discretion, annually execute a contract (the “**RTD Master Contract**”) with the Regional Transportation District (“**RTD**”) to allow Concessionaire and other eligible DEN concessionaires to enroll their Eligible Employees in RTD’s EcoPass Program (as the terms “**Eligible Employee**” and “**EcoPass Program**” are defined in the applicable RTD Master Contract). The City will execute these contracts for the benefit of the concessionaires who the City and RTD determine are eligible to participate in the EcoPass Program, on the condition that each eligible concessionaire participates in the EcoPass Program and compensates the City for its proportional number of Eligible Employees. The City is under no obligation to execute an RTD Master Contract and may at its sole discretion elect not to.

2. Every RTD Master Contract that the City executes for the above purpose will by its existence obligate the Concessionaire to participate in the EcoPass Program under the terms of this Exhibit. Concessionaire will enroll all Eligible Employees at DEN in the EcoPass Program. Concessionaire agrees that this obligation extends to all Eligible Employees that are employed by Concessionaire at DEN, including Eligible Employees that work at concession locations that are not under this Agreement, regardless of whether these obligations are found in the respective contracts for such other concession locations.

3. Any terms or conditions from an RTD Master Contract that by their nature implicate Concessionaire and require certain performance by Concessionaire for the City to fulfill its obligations under the RTD Master Contract are by reference incorporated in this Exhibit. Any dispute or ambiguity regarding Concessionaire’s obligations in connection with any RTD Master Contract will be resolved by the City in the City’s reasonable discretion.

4. Within 30 days after notice from the City, Concessionaire will provide the City with the total number of Eligible Employees to be enrolled in the following year’s EcoPass Program.

5. Concessionaire will pay in full the amount billed for its Eligible Employees within 30 days from the date of the City’s invoice. Late payments are subject to accrued interest according to the Agreement’s terms for late payment. Payments that are over 10 days late may be treated as a default, permitting the City to draw from the applicable Surety, Performance Bond, or Letter of Credit, or exercise any other right or remedy available for default under the Agreement.

6. Concessionaire will promptly provide any relevant documentation requested by the City or RTD in connection with Concessionaire’s Eligible Employees’ participation in the EcoPass Program.

7. Concessionaire is solely responsible for administering the EcoPass Program for its Eligible Employees in accordance with RTD’s guidance and requirements.

8. The City makes no guarantee or warranty regarding Concessionaire’s satisfaction with or use of the EcoPass Program. Concessionaire will hold the City harmless for any loss, damage, injury, or claim that may arise from Concessionaire’s participation in the EcoPass Program, including but not limited to early termination by the City or RTD of the EcoPass Program.

9. Because the form and substance of a given RTD Master Contract and the EcoPass Program may change over time, if any ambiguity arises in this Exhibit due to changes in party names, program titles, definitions, or other terms in an RTD Master Contract, the ambiguity will be resolved by the City in its reasonable discretion.

10. The Parties agree that unforeseen changes to the EcoPass Program or the terms and conditions of the RTD Master Contract may require the Parties to modify their obligations under this Exhibit to give effect to its intent. Therefore, the Parties agree that the City may amend this Exhibit by letter executed by the CEO or the CEO's Authorized Representative, without the need for formal amendment.