

OPERATING AGREEMENT FOR  
CONSOLIDATED DEICING SERVICES  
APPLETON INTERNATIONAL AIRPORT

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OPERATING AGREEMENT FOR  
CONSOLIDATED DEICING SERVICES

APPLETON INTERNATIONAL AIRPORT

APPLETON, WISCONSIN

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2026, between the APPLETON INTERNATIONAL AIRPORT, ("Airport") and \_\_\_\_\_

RECITALS

WHEREAS, Appleton International Airport ("Airport") owns certain Consolidated Deicing Facilities; and

WHEREAS, Airport distributed a Request for Qualifications seeking a qualified company to manage and operate the Consolidated Deicing Facilities; and

WHEREAS, in response to airport's Request for Qualifications, Operator submitted a Proposal dated \_\_\_\_\_ ("Proposal"); and

WHEREAS, Airport's evaluation committee evaluated all proposals received, and determined Operator's to be the best overall proposal; and

WHEREAS, Operator warrants that it is able and experienced in operating and managing consolidated deicing facilities, and is ready, willing and able to undertake and manage the Consolidated Deicing Facilities.

NOW, THEREFORE, the parties agree as follows:

Article 1  
DEFINITIONS

- 1.01 Definitions. The following words and phrases, wherever used in this Agreement, shall have the following meanings:
- (a) "Airport" means the Appleton International Airport.
  - (b) "Carriers" means the individual aircraft operators, including air carriers and cargo carriers, who will utilize deicing services from Operator.
  - (c) "Consolidated Deicing Facilities" means the centralized deicing pads, and all equipment and structures associated with those areas, including but not limited to the storage tank piping infrastructure, fluid mixing equipment, and storage tanks.
  - (d) "Deicing Season" means the period of Carrier deicing operations generally occurring between October 1 and May 1 of each year.
  - (e) "Director" means the Director of the Airport or his designee.
  - (f) "FAA" means the Federal Aviation Administration of the United States Government or any federal agencies succeeding to its jurisdiction.
  - (g) "FAR" means Federal Aviation Regulations adopted by the FAA.
  - (h) "Deice Pads" means the centralized deicing pads located on the south end of the terminal ramp.
  - (i) "Proposal" means the response submitted by Operator to the Airport. Request for Qualifications, which response is included as Exhibit C to this Agreement.
  - (j) "Rates and Charges" means rates and charges approved by the airport from time to time and charged by the airport for the use of certain areas and privileges provided to tenants and operators.
  - (k) "Rules and Regulations" means those policies, ordinances, rules and regulations promulgated from time to time by airport or the Director for the orderly use of Airport by air transportation companies, tenants and users of Airport.
  - (l) "Transportation Security Administration" ("TSA") means the Transportation Security Administration of the U.S. Government or any federal agencies succeeding to its jurisdiction.
  - (m) "TSR" means Transportation Security Regulations adopted by the Transportation Security Administration of the U.S. Government or federal agencies succeeding to its jurisdiction.

- 1.02 Agreement. This Agreement includes: (a) this document, Operating Agreement for Consolidated Deicing Facilities, together with its exhibits; (b) the Airport Request for Qualifications, dated \_\_\_\_\_, including its attachments and exhibits; and (c) the Operator's Proposal dated \_\_\_\_\_. The listed documents are to be interpreted so as to give effect to all terms of each and to harmonize their provisions. To the extent there are provisions in the listed documents that are irreconcilable, then the order of precedence is as listed in this section.

Article 2  
PURPOSE AND DESCRIPTION

2.01 Description of Consolidated Deicing Facilities.

- (a) A description of the Consolidated Deicing Facilities is included as Exhibit A to this Agreement.
- (b) Airport hereby engages Operator to manage and operate the Consolidated Deicing Facilities pursuant to the terms of this Agreement.

2.02 Modification of Consolidated Deicing Facilities.

- (a) Airport reserves the right to increase or decrease the Consolidated Deicing Facilities to accommodate the deicing requirements of the Airport, all as may be determined at the sole discretion of Airport. Any such amendment shall be subject to an equitable adjustment based upon additional fees and costs agreed in advance with Airport.
- (b) No alterations, reductions or additions to the Consolidated Deicing Facilities may be made except at the direction of and with the written approval of Airport.

Article 3  
DUTIES OF OPERATOR

3.01 Duties and Responsibilities. Subject to the provisions of this Agreement, Operator shall have decision-making ability in the day-to-day operation, direction, management, and supervision of the Consolidated Deicing Facilities. Operator's ability and obligations include:

- (a) Hiring, training, compensation, supervision, and termination of Consolidated Deicing Facilities' personnel, and determining number of staff required;
- (b) Maintaining and operating the Consolidated Deicing Facilities in accordance with the operating standards set from time to time by the Airport and the Carriers. As to matters relating to the operation or management of the Consolidated Deicing Facilities that are not provided for in this Agreement, Operator agrees to consider the Airport's observations and requests from time to time with respect thereto,

provided that the airport will not make any such requests which would be inconsistent with the operating standards. At the airport's request, Operator will meet with the airport from time to time to discuss such observations and requests;

- (c) Purchasing and maintaining all inventories of SAE AMS compliant Type I and Type IV deicing fluid and operating supplies for the Consolidated Deicing Facilities. Minimum deicing fluid levels will meet all Carrier requirements and the airport will be kept informed of deicing fluid levels;
- (d) Obtaining, and keeping in full force and effect, in the name of the airport or Operator as appropriate (or as expressly provided herein), all necessary licenses and permits as may be required by law, rule, regulation or ordinance to operate the Consolidated Deicing Facilities. Operator shall not take any actions which could jeopardize or otherwise adversely affect any of such licenses or permits. Operator shall comply with the conditions set forth in any such licenses and permits and at all times shall manage and operate the Consolidated Deicing Facilities in accordance with such conditions and other applicable laws, rules, regulations or ordinances;
- (e) Applying sound administrative, accounting, cash management, budgeting, operational, sales, advertising, legal, personnel, and purchasing policies and procedures in accordance with the terms of this Agreement;
- (f) Providing all equipment and vehicles necessary to perform deicing services at the Airport;
- (g) Entering into a uniform contract with the Carriers and other users of deicing services at the Airport, pursuant to Rules and Regulations to be adopted by the airport. The Operator shall consult with the Airport Director, or his designee, regarding any material change to the proposed contract and any issues that arise with any Carrier with respect to the proposed contract terms. The Airport Director, or his designee, shall have the right to approve or disapprove material changes to the form of contract and shall be provided with a copy of each such contract executed by a Carrier;
- (h) Ramp control services including aircraft queuing and Air Traffic Control Tower coordination provided by a mobile deicing boss in an equitable and efficient manner, including radio frequency acquisition, procedure development and monitoring;
- (i) Reclamation and disposal of spilled deicing/anti-icing fluids utilizing Operator's equipment. Adequate spill prevention and response equipment will be maintained at all times by Operator;

- (j) Management of deicing equipment, vehicles, inventories, Carriers' usage, personnel access and reporting as required by the airport. These items include but are not limited to:
  - 1. Inventory accounting, usage, billing, accounts receivable and payments;
  - 2. Usage data collection, reporting and invoicing;
- (k) Providing aircraft deicing / anti-icing services to each Carrier, in compliance with each Carrier's service agreement with Operator. The Operator shall maintain the staffing levels necessary to meet the Airport's anticipated departure rate of all Carriers;
- (l) Ordering, testing, accepting, storing and managing an inventory of Type I and Type IV Glycol in accordance with Carriers' requirements. The Operator must keep the Carriers informed of inventory on-site, deliveries and maintain records available for inspection as required by Carriers and FAA regulations;
- (m) Applying deicing, anti-icing and defrosting fluids to Carrier aircraft using Operator owned or leased mobile deicing vehicles capable of being operated by a single person and with hot air capability; the airport may request the Application of deicing, anti-icing and defrosting fluids for General Aviation ("GA") aircraft.
- (n) Reducing generation of waste materials to minimize risks to the environment, customers, the general public and Airport tenants. The Operator must ensure proper disposal of any and all hazardous as well as non-hazardous wastes produced as a result of their contractual duties. Such waste shall include but are not necessarily limited to waste or "spent" deicing fluids, used petroleum oils, lubricants, fluids, coolants, or other non-water liquid substances, acids, batteries, and general solid wastes;
- (o) Scheduling and management of pre and post event briefings with Carriers and Airport;
- (p) Notifying the Airport, in writing within 24 hours, if it has actual knowledge relating to, and promptly forwarding to the Airport within 24 hours, any notices or communications it delivers or receives with respect to:
  - 1. The occurrence of damage or destruction to the Consolidated Deicing Facilities;
  - 2. Any litigation, claim, or proceeding affecting the Airport, Operator, or the operation of the Consolidated Deicing Facilities in which the amount claimed or in controversy is \$5,000 or more or otherwise which is material to the operation of the Consolidated Deicing Facilities, and any written threat to institute any of the same which is likely to give rise to any such litigation, claim, or proceeding;
  - 3. Any notice of violation (or alleged violation) of any law, rule, regulation

or ordinance relating to ownership or operation of the Consolidated Deicing Facilities which could expose the Airport or Operator to any criminal or civil penalty, or which is otherwise material to the ownership or operation of the Consolidated Deicing Facilities; and

4. Any strikes or other material labor unrest relating to the Consolidated Deicing Facilities.

3.02 Limitations on Operator's Airport. Management and operation of the glycol treatment piping/tank system, pavement markings and snow removal are excluded from Operator's services and will be performed by the Airport. In addition to any other limitations on Operator's airport set forth in this Agreement, Operator shall not, without the Airport's prior written approval, take any of the following actions with respect to the Consolidated Deicing Facilities, unless otherwise expressly permitted by the terms hereof and except if the specific terms of such action shall have been expressly provided for in the annual operating budget or otherwise have received the prior written approval of the Airport:

- (a) Enter into any sublease, sublicense, or other agreement with respect to the Consolidated Deicing Facilities; or
- (b) Enter into any arrangement for the employment of any professional firm in the regular course of operating the Consolidated Deicing Facilities except as set forth in the annual operating budget; or
- (c) Enter into, renew, modify, amend, or terminate any union contract or collective bargaining agreement affecting the Consolidated Deicing Facilities; or
- (d) Settle any litigation or claims for more than \$5,000 unless the settlement solely involves the payment of an amount in cash which is covered by insurance proceeds for which the deductible amount does not exceed \$500; or
- (e) Extend more than \$5,000 of credit to a single Carrier or group of related Carriers; or
- (f) Sell, transfer, grant a security interest in, or otherwise dispose of any Airport property used in the operation of the Consolidated Deicing Facilities; or
- (g) Take any other action that is prohibited under the terms of this Agreement or requires the prior written approval of the Airport.

3.03 Operations Schedule. Operator shall begin performing deicing services under this Agreement beginning approximately on October 1, 2026.

- (a) Operator shall perform deicing services at terminal South Pads beginning approximately on October 1, 2026.

(b) Operator shall be required to enter into a lease agreement with the Airport for a deicing service facility. Operator shall consult with the Airport regarding the specifications for the facility. The Base Rent payable to Airport under this agreement for the Initial Term shall be set according to the lease rates identified in Exhibit E and may be adjusted annually based on the enactment date of the agreement. Rent shall be due and payable on or before the first (1<sup>st</sup>) day of the month.

(c) Operator shall be responsible for constructing/installing glycol storage tank(s) and mixing/distribution equipment for deicing fluid by October 1, 2026.

#### Article 4 TERM OF AGREEMENT

4.01 Initial Term. The term of this Agreement shall be for a period of Five (5) years, commencing on October 1, 2026, and ending on September 30, 2031.

4.02 Optional Terms. At the expiration of the Initial Term stated in Section 4.01, upon one hundred eighty (180) days prior written notice, this Agreement may be renewed for up to two (2) additional three (3) year terms, by mutual agreement between Operator and the Airport.

#### Article 5 OPERATOR COMPENSATION & RATES

5.01 Operator's Compensation. Operator shall be compensated by the users of deicing services at the Airport. Operator shall enter into contracts for deicing services with Carriers and other users of deicing services.

5.02 Permitted Fees. Subject to the approval of the Airport, which approval shall not be unreasonably withheld, conditioned or delayed, Operator shall be permitted to charge the following fees to deicing service users:

- (a) Management Services Fee ("Fixed Fee") – The fees paid by Carriers under this section will be related to the costs and expenses incurred as fixed expenses required to stand-up the operation required under this Agreement. The Operator shall invoice each Carrier monthly, based on an established budget and rate methodology, setting forth the costs required to provide the availability of services. Costs, plus fixed profit, shall be paid on an agreed upon method with the Carriers and as amended year-to-year.

The following are example costs to be allocated to the Fixed Fee which include but are not limited to:

1. Deicing Service Facility Lease with Airport (Exhibit E)
2. Bio-filter maintenance with Airport (Exhibit E)

2. Amortization of Trucks/Vehicles
  3. Amortization of Glycol Tanks and Distribution System
  4. Fixed Staffing Expenses
  5. Insurance and Operation Overhead Expenses
  6. Materials, Office Supplies, Licensing, Taxes, and Administrative Expenses
  7. Fixed Profit
- (b) Aircraft Deicing Services Fee (“Variable Fee”) – The fees paid by Carriers under this section will be related to the costs and expenses, plus percentage profit, actually incurred by the Operator for the actual provision of services as accomplished with the de-icing, anti-icing, or defrosting of an aircraft on demand by a Carrier. The charges included under this scope will be calculated using the following methodology:

Costs attributed to active deicing including deicer/lead labor, deicing fluid, and fuel will be included within the Variable Fee. Carriers will be billed a price, as approved in accordance with this Agreement, per aircraft de-iced based on the Aircraft Design Group of the aircraft for either frost, snow, or anti-ice application as follows:

Aircraft Design Group	Frost	Snow	Anti-Ice
II	\$	\$	\$
III	\$	\$	\$
IV	\$	\$	\$
V	\$	\$	\$

The Operator shall provide costs associated with variable fees. The Operator shall explain an accountability process for recording fluids actually used per aircraft/carrier. Where an individual Carrier contracts for a gallons sprayed method, that alternative billing will be used for that Carrier. In all cases, each Carrier will be afforded a best pricing where all Carriers receive a competitive price. The term Services in this section shall be defined as any anti-icing or deicing event, regardless of location on the Airport, that requires the use of deicing fluids stored in the storage tanks, managed by the Operator’s personnel and equipment.

The following are example costs to be allocated to the Variable Fee:

1. Glycol and Water Expenses
2. Variable Staffing Expenses Related to Deicing Services
3. Fuel Expenses
4. Trucks/Vehicles Maintenance Expenses
5. Variable Profit (Cost Plus Percentage Method)

- 5.03 Rate Setting. The specific rates to be charged by Operator for deicing services shall be set on an annual basis. Each year, the Operator shall provide a proposed Fixed Fee, and estimated Variable Fee, with pro forma supporting detail no later than July 1 to the Airport, including all of the Operator's profits. The Airport Director, or designee, will communicate the proposed rate structure to the Carriers and establish the deicing Fixed Fee and Variable Fee rates for the year starting October 1 through September 30 of the following year. Written notice of the rate determination shall be provided to Operator by September 1. Variable Fee will be based on a not-to-exceed rate methodology and may include market rates paid for certain materials. Variable Fee may be amended during the year based on substantiated changes to variable expenses with any requests being provided to the Airport no later than 30-days prior to the desired fee change.
- 5.04 Appeal. Should Operator disagree with the Airport's established rates for any given year, Operator may appeal such determination by filing a written objection to the Airport within seven (7) days of receipt of the Airport's rate determination. Such objections may be filed in person, by mail, or e-mail but must be received within the appeal deadline. In its written objection, the Operator shall set forth all of its objections to the proposed rates and all arguments in support of its objections and shall attach all documentation supporting its objections upon which it intends to rely.

The appeal shall be considered by the Airport. The Airport's decision will be final.

- 5.05 Monthly Account Billing. Operator is responsible for all monthly billings and collection of deicing charges, and for keeping the Airport apprised as to the status of accounts receivable, including any delinquencies which would impact fixed or variable fees.

## Article 6 HOURS OF OPERATION

Operator shall operate the Consolidated Deicing Facilities 24 hours a day every day of the year during Deicing Season unless otherwise directed by Airport.

## Article 7 OPERATIONS

- 7.01 Operations Manual. At least 90 days prior to commencing operations under this Agreement, Operator shall prepare and submit to Airport for its approval, a written operations manual describing the specific procedures it will use to manage and operate the Consolidated Deicing Facilities.

The operations manual must include, but is not to be limited to, the following sections:

- Organizational Chart

- Personnel Administration (including, but not limited to, job descriptions, application and hiring process, termination, orientation, scheduling, performance review, employee discipline, vacation and sick time policies, overtime, operational rules and policies, sexual harassment policy, and timekeeping procedures)
- Employee training (including, but not limited to, training schedules by position, training manuals by position, and customer service training)
- Purchasing and Inventory (including, but not limited to, product specifications, vendor policy/approved vendors, inventory levels, ordering procedures, receiving procedures, inventory control, handling of spoilage, and physical inventory counts)
- Safety and Security (including, but not limited to, safety management, emergency procedures, security policies and procedures, safety rules and practices, fire prevention, and first aid)
- Deice pad operational procedures including frequencies to be utilized, coordination with Air Traffic Control Tower, coordination with Airport Operations, and procedures for the sequencing of aircraft.
- Business and Financial Management (including, but not limited to, cash deposit procedures and controls, point-of-sale procedures and controls, discounts and comp policy, payroll processing procedures, accounts payable, weekly reports, financial statements, monthly reports, expense reimbursement procedures, and insurance)
- Vehicle and Equipment Management (including, but not limited to, vehicle and equipment maintenance schedule, handling breakdowns and repairs, repair vendor management, vehicle and equipment replacement procedure, and new vehicle and equipment request procedure)

Airport may from time to time require modifications to the procedures set forth in the operations manual to promote efficient operation, increased customer service, and customer convenience. Operator agrees to promptly make such modifications as may be requested by Airport. Operator shall diligently comply with the procedures set forth in the operations manual.

7.02 Independent Contractor. Operator agrees that no authority has been conferred upon it by the Airport to hire any person or persons on behalf of the Airport, and the Airport undertakes no obligation of any sort to Operator's employees. It is understood that Operator shall select, engage, and discharge its employees, agents or servants and otherwise direct and control their services. It is further understood that for all purposes of this Agreement, Operator is an independent contractor and, as such, Operator agrees to

comply with and shall be responsible for all requirements of Federal, State and Local laws and regulations, including Workers' Compensation.

Article 8  
CLEANING, MAINTENANCE, AND REPAIR

- 8.01 General Maintenance and Cleaning. Operator is responsible for the cleaning and maintenance of the Consolidated Deicing Facilities. Operator will provide sufficient and qualified staff to perform the assigned maintenance and cleaning of the Consolidated Deicing Facilities.
- (a) Cleaning. Operator is responsible for daily cleaning and trash pick-up in the Consolidated Deicing Facilities. The operations manual must specify the appropriate schedule for cleaning.
  - (b) Facility Maintenance. Operator will maintain and repair the Consolidated Deicing Facilities exclusive of pavement infrastructure. Operator is responsible to promptly report all maintenance and repair requirements to the Airport. Operator shall be responsible for the costs to repair or refurbish the Consolidated Deicing Facility only if such repair results from Operator's failure to clean or maintain, negligence, damage, or neglect.
  - (c) Equipment Maintenance and Repair. Operator is responsible for the daily cleaning and maintenance of the equipment provided by the Operator for the operation of the Consolidated Deicing Facilities.

Article 9  
RIGHT TO INSPECT AND MAKE REPAIRS

- 9.01 Airport has the right to:
- (a) Inspect the Consolidated Deicing Facilities at any time to determine whether Operator has complied and is complying with the terms of this Agreement.
  - (b) Perform maintenance and make repairs and replacements for items set forth in Section 8.01(b), regardless of whether such was reported by Operator. The Airport may, at its discretion, charge an administrative fee of up to fifteen percent (15%) of the cost of any such repairs.
  - (c) Perform maintenance and make repairs and replacements, whenever Airport determines it necessary or desirable to do so, to preserve the safety of the Consolidated Deicing Facilities or to correct any condition likely to cause injury or damage to persons or property.

Operator waives any claim to lost revenues resulting from the Airport performing repair and maintenance on the Consolidated Deicing Facilities.

Article 10  
USE OF CONSOLIDATED DEICING FACILITIES

- 10.01 Consolidated Deicing Facilities. Operator shall use the Consolidated Deicing Facilities for the principal purpose of providing deicing services to air carrier aircraft and charging fees. The South Pads may be used jointly by the airport and other Airport approved general aviation operators, with Operator controlling coordination, on a fair and equitable basis.
- 10.02 Office and Storage Areas. Operator may, at no additional cost to Operator, use other locations as assigned by the Airport Director, for the storage of materials and for the administrative use of Operator in connection with the operation of the Consolidated Deicing Facilities.

Article 11  
VEHICLE OPERATIONS, MAINTENANCE, AND RESPONSIBILITY

- 11.01 Vehicle Ownership and Maintenance.
- (a) Operator shall provide and maintain all necessary support vehicles needed to operate the Consolidated Deicing Facilities. Ownership of all vehicles shall remain with Operator. All costs associated with the purchase, lease, maintenance, insurance, taxes, licensing and registration, or repair of vehicles owned by Operator are to be paid solely by Operator.
  - (b) Operator shall keep all of its vehicles in good repair and roadworthy at all times. Operator may choose to provide maintenance services itself or subcontract for maintenance services.
  - (c) Operator shall provide a minimum of \_\_\_\_\_ ( ) deice / anti-ice vehicles for deicing and anti-icing operations. Vehicles must be no more than five (5) years old at the time of initial service and no more than fifteen (10) years old at any point during the term of the Agreement.
  - (d) No less than \_\_\_\_\_ ( ) deice / anti-ice vehicles must be in service at all times during the duration of the Agreement. No deice / anti-ice vehicle from the minimum of eight (8) required deice / anti-ice vehicles may be out of service for a period longer than 30 days. Vehicles at a minimum must be capable of Type I and Type IV application and accountability, hot air application, boom capabilities, single driver operation, radio and communication. Vehicle glycol tanks shall be capable of meeting deicing needs of Carriers at all times. Deice / anti-ice vehicles must be permitted through the Airport Operations division.
  - (e) The Operator may be required at the sole direction of the airport director to supply a minimum of \_\_\_\_ ( ) functioning glycol recovery vehicle at all times and must

develop spill response procedures for the use of and recovery of spilled glycol.

- (f) Operator shall provide sufficient support vehicles to fulfill its obligations to the Airport under this Agreement.
- (g) All of Operator's vehicles shall comply with the following requirements:
  - 1 All vehicles shall comply with applicable federal, state, and local laws, rules, regulations, and guidelines.
  - 2 All of Operator's vehicles shall be subject to inspection by Airport at any time to determine compliance with this Agreement.
  - 3 An operable amber flashing beacon installed on the roof.
  - 4 Obtain and maintain an Airport purchased vehicle tracking device in operable condition.
  - 5 Graphics on the exterior of the vehicles will be limited to the following:
    - (A) Operator's legend and logo;
    - (B) Any required safety or operational markings; and
    - (C) A tracking number assigned to the vehicle by Operator, if applicable.

No other exterior markings will be allowed. Advertising on the interior or exterior of the vehicles is prohibited. All exterior graphics are subject to the approval of the Airport.

#### 11.02 Vehicle Operations.

- (a) Operator shall provide qualified and appropriately licensed drivers to operate the deicing vehicles.
- (b) Operator shall ensure that all of its employees, agents, or contractors observe all posted speed limits and traffic rules on Airport grounds.
- (c) Operator shall maintain the interior and exterior of the vehicles in a safe, clean, sanitary, attractive, and fully functional condition at all times, and shall repair all body and graphics damage within thirty (30) calendar days of occurrence.
- (d) Operator shall be responsible for fueling its vehicles in coordination with the Appleton Flight Center. Operator shall be responsible for providing sufficient staff properly badged to work in the SIDA to maintain operations. Operator shall be responsible for all environmental compliance.

Article 12  
STANDARDS OF SERVICE AND PERSONNEL

- 12.01 Service Standards. It is the policy of the Airport that the Consolidated Deicing Facilities be operated in an efficient manner, giving the best possible service to all customers using the facilities. The Operator will maintain operational readiness including personnel and equipment to attain aircraft deicing performance based on SAE guidelines. If for any reason these service times cannot be met, the Operator will immediately notify the Carriers and advise them of expected service times and anticipated return to expected standards. Further, following any substandard service event, the Operator will provide a written corrective action plan to affected Carriers. Operator further agrees to operate the Consolidated Deicing Facilities and to manage its employees and programs in accordance with the procedures set forth in the Proposal, the terms and conditions of this Agreement, and under the rules, regulations, and control of Outagamie County and the Airport Director in order to provide both an efficient, well-maintained facility and a high level of customer service.
- 12.02 Manager. Operator shall employ a qualified employee designated as its local general manager to supervise the operation of the Consolidated Deicing Facilities on an exclusive, full-time basis. The Airport must approve the manager and any successor, which approval shall not be unreasonably withheld, conditioned or delayed. Operator shall provide the manager with sufficient airport and responsibility to ensure proper management and operation of the Consolidated Deicing Facilities in compliance with this Agreement. When the local general manager is not on duty, a qualified employee shall be delegated with the responsibility to supervise the operation of the Consolidated Deicing Facilities.
- 12.03 Employee Qualifications. Operator shall select honest, competent, and courteous personnel, and shall train, supervise and maintain proper oversight over all its employees to ensure their integrity and the maintenance of an honest and high standard of service to its customers, which standard will be determined at the sole discretion of the Airport. Operator shall follow the hiring processes set forth in its Proposal or as approved by Airport in Operator's operations manual, and shall perform reasonable pre-employment screening, including criminal background checks, on newly hired employees. Operator's employees, while on duty, shall wear neat, clean, and properly cared for uniforms. Should an employee, subcontractor, or other personnel representing the Operator be observed performing in an unsatisfactory manner or should an accident, damage or injury result from less than satisfactory performance by such personnel, the Operator, upon notice thereof, shall take whatever steps necessary, including removal of such personnel, to ensure (i) that such performance is not repeated, and (ii) that all personnel perform at a satisfactory level.
- 12.04 Employee Salaries and Benefits. Employee salaries and benefits shall be comparable in all respects to the benefits and per employee costs provided to employees who are involved in operation of other deicing facilities managed by Operator under separate management agreements. Employee salaries and benefits shall be reviewed and approved

as part of the Annual Budget process identified in Article 15.

Article 13  
ENVIRONMENTAL REGULATIONS

13.01 Operator's Responsibilities

- (a) Operator shall be responsible for not only its activities on Airport property but also the activities of its contractors, employees and agents for any activities conducted on behalf of Operator on Airport property.
- (b) Operator shall at all times comply with all applicable federal, state and local environmental laws and regulations ("Environmental Laws") with regard to the Airport. In furtherance of this provision, at a minimum, Operator shall:
  - (1) Apply for, obtain and maintain any and all necessary permits, licenses, identification numbers and notices as required by applicable law, making timely and full payment of any fees therefore.
  - (2) Comply with Appleton Internationals Storm Water Pollution Prevention Plan (SWPPP) compatible with the Airlines SWPPP sufficient to comply with the Wisconsin Department of Natural Resources National Pollutant Discharge Elimination System (NPDES) Discharge Permit for the co-permittees of the Airport. Operator shall sign the WPDES Certification Statement attached as Exhibit D to this Agreement and submit it with this Agreement, and shall update and re-execute the WPDES Certification Statement as may be required by the Wisconsin Department of Natural Resources. By doing so, Operator becomes a co-permittee to Wisconsin Department of Natural Resources WPDES Individual Permit No. WI-S067857-5, for storm water discharge associated with industrial activity from the Airport or aircraft, ground vehicle maintenance, cleaning, or deicing areas located at the Airport. Operator shall comply and ensure the compliance of its employees, subcontractors, and agents with the terms and conditions of WPDES permit and the storm water pollution prevention plan(s) developed under the WPDES permit.
- (c) Operator shall not cause or permit any hazardous substances to be generated, manufactured, refined, treated, disposed of, produced or released on the Airport, except for propylene glycol when used in de-icing operations. Hazardous Substance has the meaning defined under Wisconsin Code section 455B.381(5). This section does not relieve Operator of any liability it may have if the release of propylene glycol and ethylene glycol causes a violation of the WPDES Permit, the Federal Clean Water Act (33 U.S.C. section 1251 et seq.) and its

implementing regulations, or Wisconsin Code chapter 455B, Division III and its implementing regulations.

- (d) The restriction set forth in paragraph (c) does not preclude the creation, use or storage of a Hazardous Waste by Operator in the ordinary course of Operator's business provided such activities are done in accordance with the appropriate federal and state laws and any Hazardous Waste that is generated, used or stored is disposed of in accordance with the applicable federal and state laws. Hazardous Waste has the meaning defined under Wisconsin Code section 455B.411(3) and 42 USC section 6903.
- (e) Operator shall immediately report to the Airport any claim, demand, action, or notice made against Operator with regard to any violation or alleged violation of any Environmental Law relative to Operator's use and occupancy of the Airport, and will immediately provide the Airport with copies of any written claims, demands, actions or notices.

### 13.02 Allocation of Environmental Responsibility

Without waiving any rights of Airport or Operator with respect to third parties, all environmental responsibility shall be allocated between Airport and Operator as follows:

- (a) Operator shall be responsible for any Environmental Condition on Airport property to the extent it is or has been caused or contributed to by Operator's activities. Environmental Condition means any condition that exists or has existed with respect to soil, storm waters, surface or ground waters, stream sediments, or air and every other environmental media, which condition requires investigation or response action pursuant to applicable environmental federal, state or local statutes, regulations, ordinances or permits or which could result in claims, demands, orders, penalties, fines or liabilities by or to third parties, including without limitation all applicable governmental entities.
- (b) If Operator causes an Environmental Condition, Operator shall promptly and immediately notify the Airport and, to the extent required by law, the governmental agency having jurisdiction over the condition. Operator shall take immediate action to report, investigate and remediate the Environmental Condition as required by applicable law and the governmental agency having jurisdiction over the Environmental Condition. Notwithstanding the previous sentence, the Airport reserves the right to require that Operator conduct remedial activities that place the property in a condition required by the government agency having jurisdiction over the property for the reasonably anticipated future commercial use of the Airport property.
- (c) In the event Airport determines that one or more Operator(s) is responsible for an Environmental Condition, Operator or such tenants shall assume responsibility and liability for all reasonable clean-up and remediation costs, and for all

penalties and fines assessed for that Environmental Condition and shall fully indemnify Airport for all penalties and fines asserted against or imposed upon Airport and all of Airport's reasonable costs and expenses directly related to the Environmental Condition (including without limitation, legal and consulting expenses, attorney fees, litigation and expert witnesses). Prior to the issuance of any invoice for the above-referenced sums, Airport will provide a written explanation of why it was determined that Operator and or other tenants were responsible for the Environmental Condition. Operator shall then have 60 days to respond to Airport with any additional information for Airport's review and consideration. Airport shall then make its final determination as to responsibility. Airport shall invoice Operator for its share of the sums referred to in this subsection and such invoice shall be due within 30 days of the invoice date. If Operator does not pay the invoice in accordance with this provision, Airport may, in addition to all remedies provided in this Agreement, commence a suit for breach of contract.

- (d) In the event Airport cannot determine the party(ies) responsible for the Environmental Condition, or if all or a portion of the costs and expenses cannot be allocated among or recovered from responsible parties, then Operator assumes its proportional share, as reasonably determined by Airport, of liability for the costs and expenses of investigation, clean-up, and remediation, and for fines and penalties. Prior to the issuance of any invoice for the above-referenced sums, Airport will provide a written explanation of why it was determined that Operator was responsible for a proportional share. Operator shall then have 60 days to respond to Airport with any additional information for Airport's review and consideration. Airport shall then make its final determination as to responsibility. Airport shall invoice Operator for its proportional share and such invoice shall be due within 30 days of the invoice date. If Operator does not pay the invoice in accordance with this provision, Airport may in addition to all remedies provided in this Agreement commence a suit for breach of contract.

### 13.03 Indemnity for Environmental Conditions

Operator shall indemnify, defend and hold Airport harmless against and with respect to any and all damages, claims, losses, liabilities, fines and penalties, and reasonable expenses, including without limitation, reasonable legal and consulting expenses (including attorney fees, litigation expenses and expert witness fees), incurred by Airport or which are asserted against or imposed upon Airport by any other party (including any governmental entity) to the extent the event or Environmental Condition was caused or contributed to by Operator's activities on or use of Airport property or breach of sections 13.01 and 13.02.

### 13.04 Hazardous Materials Inventory

- (a) Operator shall provide a list of all chemicals and Hazardous Substances used or

stored on and all Hazardous Waste generated or stored on the Consolidated Deicing Facilities in accordance with the SWPP as may be requested by the Airport from time to time.

- (b) Operator shall provide an updated Spill Prevention, Control, and Countermeasure (SPCC) plan to the Airport on an annual basis prior to January 1 of each year.

#### 13.05 Survival of Provisions

- (a) The provisions of this Article 13 will survive the expiration or termination of this Agreement for the period of the applicable statute of limitations.
- (b) Operator will be liable to Airport, under every applicable federal, state or local law, for all Environmental Conditions that become known after the expiration or termination of this Agreement for the period of the applicable statute of limitations.

### Article 14 INSURANCE AND INDEMNIFICATION

14.01 General. Operator shall purchase and maintain insurance to protect Operator and Airport throughout the duration of this Agreement. Said insurance shall be provided by insurance companies, "admitted" and "nonadmitted" to do business in the state of Wisconsin, that have no less than an A.M. Best Rating of "A-,VII", or have a recognized reputation satisfactory to Airport. All policies shall be written on a per occurrence basis, not a claims-made basis, and in form and amounts and with companies satisfactory to Airport. Certificates of Insurance confirming adequate insurance coverage shall be submitted to Airport prior to agreement execution or commencement of work and/or services.

#### 14.02 Insurance Requirements.

- (a) **Workers' Compensation Insurance:** Operator shall procure and maintain during the life of this Agreement, Worker's Compensation Insurance, including *Employer's Liability Coverage*, in accordance with all applicable statutes of the state of Wisconsin. The coverage limits shall include \$1,000,000 each accident for Bodily Injury by Accident, \$1,000,000 each accident for Bodily Injury by Disease, and \$1,000,000 policy limit for Bodily Injury by Disease. This requirement does not apply if Operator is a sole proprietor or partnership with no part-time or full-time employees and has chosen not to carry Workers Compensation Insurance as allowed under the provisions of the Code of Wisconsin.
- (b) **Commercial General Liability Insurance:** Operator shall procure and maintain during the life of this Agreement, Commercial General Liability coverage written on a per occurrence basis with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit, Personal Injury,

Bodily Injury and Property Damage. Coverage shall include the following extensions: (1) Contractual Liability, (2) Premises and Operations, (3) Products and Completed Operations, (4) Independent Contractors Coverage, (5) Personal and Advertising Injury and (6) deletion of Explosion, Collapse and Underground (XCU), where applicable. Coverage shall be no less comprehensive and no more restrictive than the coverage provided by a standard form Commercial General Liability Policy (ISO CG 0001, Ed 07/98 with standard exclusions "a" through "o" or any subsequent ISO equivalent or a non-ISO equivalent form). Any additional exclusion shall be clearly identified on the Certificate of Insurance and shall be subject to the review and approval of Airport. The policy shall be endorsed to provide an Aggregate Per Location Endorsement. Any fellow employee exclusion shall be deleted as it applies to supervisory and managerial personnel.

- (c) Umbrella/Excess Insurance: Operator shall carry Umbrella/Excess Insurance of not less than \$10,000,000. The Umbrella/Excess Insurance shall be written on a per occurrence basis and shall include the same endorsements as required of the primary policies.
- (d) Automobile Liability Insurance: Operator shall procure and maintain during the life of this Agreement, Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence combined single limit including Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles. If Operator does not own any vehicles, coverage is required on non-owned and hired vehicles. Any fellow employee exclusion shall be deleted as it applies to supervisory and managerial personnel.
- (e) Property Insurance: Operator shall procure and maintain during the life of the Agreement, Property Insurance, providing fire and lightning, extended coverage, vandalism and malicious mischief and "all risk" insurance, excluding earthquake and flood but including debris removal, in a form at least as broad as the standard Insurance Services Office's Special Cause of Loss form covering all structural or other improvements installed by Operator in the premises, and all fixtures, furnishings, equipment and decoration kept, furnished or installed by Operator.
- (f) Environmental Liability: Operator shall procure and maintain during the life of the Agreement, Environmental Liability Insurance, with limits of liability of not less than \$1,000,000, providing coverage for any Environmental Condition, as defined in Section 13.02A, caused by the Operator. This insurance does not relieve any liability for Environmental Conditions as stated in Section 13 of this Agreement.
- (g) Subcontractors: Operator shall require that any of its agents and subcontractors who perform any of Operator's management and oversight responsibilities pursuant to the provisions of this contract meet the same insurance requirements as is required of Operator.

- (h) **Additional Insured and Governmental Immunity:** Except for Workers Compensation Insurance, the insurance policies providing the coverages specified in section 14.02, paragraphs (b), (c), and (d) above shall include Airport's Additional Insured and Governmental Immunities Endorsements attached as part of Exhibit B. Airport shall have no liability for any premiums charged for such coverage, and the inclusion of Airport as an Additional Insured is not intended to, and shall not make, the Airport a partner or joint venturer with Operator in its operations at the Airport.
- (i) **Cancellation or Material Change Notice:** The insurance policies providing the coverages specified in (a) through (f) above shall include Airport's Cancellation Notice Endorsement. A copy of the required endorsement is attached as part of Exhibit B. Operator will bear responsibility for ensuring such notices are provided to Airport.
- (j) **Proof of Insurance:** Operator shall provide to Airport a Certificate(s) of Insurance evidencing all required insurance coverage as provided in (a) through (f) above utilizing the latest version of the ACORD form. The Certificate(s) of Insurance shall specify under "Description of Operations/ Locations/ Vehicle/Special Items": (1) the title of the contract or permit or license, etc.; and (2) the following statement, *"Where required, Additional Insured, Governmental Immunities, and Cancellation and Material Change endorsements have been included as per attached."* These endorsements shall be attached to the Certificate(s) of Insurance so as to evidence their inclusion in the coverages required. Operator may not operate under the terms of the resulting contract or agreement until all required certificates and endorsements have been submitted and approved by Airport. All certificates and endorsements shall be submitted to the Executive Director at least 14 days prior to the effective date of the contract or agreement.
- (k) **Changes in Coverage Limits:** If during the term of this Agreement Airport determines that the limits of coverage are insufficient through either change or erosion due to other losses, Airport shall provide Operator with 60 days written notice of any required changes. Operator shall submit to the Executive Director, within 10 days, new Certificate(s) of Insurance indicating that the required changes have been effected.

#### 14.03 Indemnification.

- (a) To the fullest extent permitted by law, Operator agrees to defend, pay on behalf of, indemnify, and hold harmless Airport, its appointed officials, employees and volunteers and others working on behalf of Airport against any and all claims, demands, suits, or loss, including any and all outlay and expense connected therewith, and for any damages, including but not limited to compensatory, general, special or punitive damages, which may be asserted, claimed or

recovered against or from Airport its appointed officials, employees, volunteers or others working on behalf of Airport, by reason of personal injury, including bodily injury or death, and property damages, including loss or use thereof, which arises out of or is in any way connected or associated with the work and/or services provided by Operator to Airport pursuant to the provisions of this Agreement, unless such claims, demands, suits, or loss have been specifically determined by the trier of fact to be caused in whole or in part by the negligence or willful misconduct of Airport. It is the intention of the parties that Airport, its appointed officials, employees, volunteers or other working on behalf of Airport shall not be liable or in any way responsible for injury, damage, liability, loss or expense incurred by Operator, its officers, employees, subcontractors, and others affiliated with Operator due to accidents, mishaps, misconduct, negligence or injuries either in person or property resulting from the work and/or services performed by Operator pursuant to the provisions of this Agreement, except for and to the extent caused by the negligence or willful misconduct of Airport.

- (b) Operator expressly assumes full responsibility for any and all damage or injuries which may result to any person or property by reason of or in connection with the work and/or services provided by Operator to Airport pursuant to this Agreement, and agrees to pay Airport for all damages caused to Airport's premises resulting from the activities of Operator, its officers, employees, subcontractors, and others affiliated with Operator.
- (c) Operator represents that its activities pursuant to the provisions of this Agreement will be performed and supervised by adequately trained and qualified personnel, and Operator will observe, and cause its officers, employees, subcontractors and others affiliated with Operator to observe all applicable safety rules.

14.04 Waiver of Subrogation Provision. To the extent permitted by law, Operator hereby releases Airport, its appointed officials, its agents, employees and volunteers and other working on behalf of Airport from and against any and all liability or responsibility to Operator or anyone claiming through or under Operator by way of subrogation or otherwise, for any loss or damage to property caused by fire or any other casualty, unless such fire or casualty shall have been caused by the negligence or willful misconduct of Airport, its appointed officials, its agents, employees and volunteers and others working on behalf of Airport. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this Agreement. Operator's policies of insurance shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of Operator to recover thereunder.

Article 15  
ACCOUNTING AND RECORDS

15.01 Accounting System.

- (a) Operator agrees to install and maintain at its own expense and with approval of Airport, a bookkeeping, accounting, and revenue control system covering the Consolidated Deicing Facilities, which books and accounts must be prepared in accordance with the procedures set forth in the operations manual and must, at all reasonable times, be open to the inspection of Airport and its representatives. Operator's bookkeeping, accounting and control system shall provide detailed books, records and accounts for all income, revenues and receipts for the Consolidated Deicing Facilities. A record of all receipts and disbursements must be contained in such books and accounts, with copies being maintained within Polk County, Wisconsin. This system must incorporate the financial reporting and auditing procedures set forth in the Operator's operations manual, and must maintain records in accordance with Generally Accepted Accounting Principles (GAAP). In addition to any internal and third party audits performed by Operator, Airport may at any time perform audits of Operator's financial records and operations related to Operator's performance pursuant to this Agreement to determine compliance with the terms of this Agreement. The bookkeeping, accounting and control system including procedures and reporting methods must be satisfactory to the Airport Finance Director and the Airport Director.
- (b) Operator shall make its books, records and supporting documentation related to Operator's performance pursuant to this Agreement available to Airport for at least three (3) years after the termination of this agreement.
  - (1) Operator shall store accounting records in such manner so as to provide reasonable and expeditious access for audit purposes.
  - (2) Operator shall comply with all audit requests from Airport or its authorized representative within ten (10) business days. In the event that Operator fails to comply, Operator will be responsible for Airport's cost of the audit, including, but not limited to, Airport staff's time. Airport shall have sole discretion to waive or extend this time frame as circumstances require.
  - (3) Operator shall pay Airport ten dollars (\$10.00) for each calendar day of delinquency in producing any report specified within this Agreement, including, but not limited to, the audit requests described in subsection (b)(2) above. The charge will continue until specific performance is accomplished.
  - (4) Operator shall ensure that its financial or accounting subcontractors (e.g. armored car service, payroll processor, etc.), comply with the requirements of this section.

- (5) In accordance with Article 17, failure to comply with these provisions may be grounds for termination of this Agreement.

15.02 Additional Services for Operator. Operator agrees to perform for the Consolidated Deicing Facilities the following services, at its own expense:

- (a) All posting, billing and collections of accounts receivable.
- (b) All accounts payable records and supplies inventory control.
- (c) Completion of payroll, social security, withholding tax, workers compensation, and all other related required forms.
- (d) All auditing of deposits and reconciling of bank accounts.
- (e) Preparing and holding for review by Airport the following records and reports for Consolidated Deicing Facilities:
  - (1) Written reports for each damage, theft or injury claim arising from the operation of the Consolidated Deicing Facilities, to be submitted to Airport within twenty-four (24) hours of occurrence.
  - (2) Substantiating records for payrolls, payroll taxes, and other expenditures, as may be required for audit purposes by Airport, to be submitted within ten (10) days after Airport has made a request.
  - (3) A monthly report containing information on daily deicing activities and daily revenues and deposits, to be submitted to Airport within ten (10) days after the end of each month.
- (f) Provide managerial supervision of monthly accounting and billing processes.

15.03 Correctness of Reports. Operator is charged with the responsibility of exercising proper care and accuracy in the preparation of required reports and records.

15.04 Preservation of Reports. Operator will keep and preserve for a minimum of three (3) years after the termination of this Agreement (or longer if required by law) all sales slips, cash register tapes, sales books, bank books, or duplicate deposit slips and other evidence of gross receipts and business transacted. Operator shall furnish Airport copies of any such records upon request.

15.05 Approval of Operator's Annual Budget. Not less than thirty (30) days prior to the beginning date of this Agreement, Operator and Airport will collaborate to establish an annual budget for the first year of the Agreement. In subsequent years, Operator shall prepare and submit for approval by Airport, which approval shall not be unreasonably

withheld, conditioned, or delayed, a proposed annual budget, broken down by type and amount of projected revenues and expenses, for the Consolidated Deicing Facilities. The final budget for the first year of operation under this Agreement must be submitted to Airport no later than thirty (30) days after the commencement of the Agreement. The budget for subsequent years must be submitted ninety (90) days prior to the beginning of each agreement year. Operator shall promptly submit any modifications to the proposed budget as requested by Airport.

On a monthly basis, operator shall submit a budget variance report detailing revenues and operating expenses budgeted, actually experienced, and any variances. If possible, a fourth column detailing the previous year's budget will also be included.

#### Article 16 ASSIGNMENT

- 16.01 Airport Consent. Operator shall not, at any time, assign this Agreement or any part hereof, without the prior written consent of Airport. Failure to obtain approval will be cause for immediate termination of this Agreement.
- 16.02 Transfer of Stock. A transfer of ten percent (10%) or more of Operator's corporate stock, or a transfer of ten percent (10%) of the control of Operator to another individual or entity is considered an assignment of this Agreement and Airport's written approval of such transfer is required. This provision will not apply when Operator's corporate stock is traded on the New York Stock Exchange or the NASDAQ Exchange.
- 16.03 Change in Corporate Name. Operator shall notify Airport of any change in corporate name, whether in accordance with Section 16.02 above or a simple name change.
- 16.04 Subcontracting. Operator shall not subcontract for the provision of any management or operation services under this Agreement without the prior written consent of Airport, which consent shall not be unreasonably withheld, conditioned, or delayed.

#### Article 17 TERMINATION

- 17.01 Termination.
- (a) In the event that one of the following occurs, Airport may terminate this Agreement upon giving Operator thirty (30) days' notice in writing of such intention:
- (1) Operator fails to perform any provision or covenant of this Agreement, and Operator does not commence remedying the default within five (5) days of the receipt of written notice of the default from Airport; or
  - (2) Repeated failure to perform one or more of the provisions or covenants of this Agreement, which leads the Airport to deem the Consolidated Deicing

Facilities as not being operated in a manner that is satisfactory or in accordance with this Agreement; or

- (b) If for any reason beyond Airport's control, Airport deems the Consolidated Deicing Facilities, or a substantial portion thereof to be inoperable, then Airport may terminate this Agreement by giving Operator thirty (30) days' notice in writing of such intention.

17.02 Bankruptcy. If a petition in bankruptcy or a petition for a receiver is filed against Operator, then Airport may terminate this Agreement.

17.03 Termination for Cause by Operator. Operator may terminate this Agreement upon giving Airport sixty (60) days' notice in writing of such intention if Airport fails to perform any provision or covenant of this Agreement, and Airport does not commence remedying the default within five (5) days of the receipt of written notice of the default from Operator.

17.04 Final Decision. The decision of Airport as to any matters in this Article will be final and conclusive and Airport will not be liable for any loss or damage to Operator by reason thereof, or for the payment of any compensation to Operator following such termination.

## Article 18 FAA PROVISIONS

18.01 Compliance with Non-Discrimination Requirements. During the performance of this contract, the Operator, for itself, its assignees, and successors in interest (hereinafter referred to as the "Operator") agrees as follows:

- (a) Compliance with Regulations: The Operator (including consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- (b) Non-discrimination: The Operator, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Operator will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- (c) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Operator for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or

supplier will be notified by the Operator of the Operator's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

- (d) Information and Reports: The Operator will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a subcontractor is in the exclusive possession of another who fails or refuses to furnish the information, the Operator will so certify to the Airport or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- (e) Sanctions for Noncompliance: In the event of the Operator's noncompliance with the Non-discrimination provisions of this contract, the Airport will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
1. Withholding payments to the Operator under the contract until the Operator complies; and/or
  2. Cancelling, terminating, or suspending this Agreement, in whole or in part.
- (f) Incorporation of Provisions: The Operator will include the provisions of paragraphs A through E in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Operator will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Operator becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Operator may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Operator may request the United States to enter into the litigation to protect the interests of the United States.

18.02 List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, the Operator, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

18.03 Civil Rights. The Operator and its successors agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the Operator or its successors for the period during which

Federal assistance is extended to the airport through the Airport Improvement Program. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

- 18.04 Exclusive Rights. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, and as said act may be amended from time to time.
- 18.05 Subordination to Agreements. This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between the Airport and the United States of America or the state of Wisconsin relative to the operation, maintenance, development, or administration of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to Airport for Airport purposes, or to the expenditure of federal or state of Wisconsin funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, and as said act may be amended from time to time. Contractor shall abide by requirements of agreements entered into between the Airport and the United States, and shall consent to amendments and modifications of this Agreement if required by such agreement or if required as a condition of the Airport's entry into such agreements. Any such amendment shall be subject to an equitable adjustment based upon such additional fees and costs agreed in advance with Airport.
- 18.06 Federal Fair Labor Standards Act. All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.
- The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.
- 18.07 Occupational Safety and Health Act. All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.
- 18.08 Clauses for transfer of real property acquired or improved under the airport improvement program

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, Outagamie County will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the Outagamie County will have the right to enter or re-enter the lands and facilities thereon, and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of the Outagamie County and its assigns.

18.09 Clauses for construction/use/access to real property acquired under the activity, facility or program.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Outagamie County will have the right to

terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.

- C. With respect to deeds, if applicable, in the event of breach of any of the above Non-discrimination covenants, Outagamie County will there upon revert to and vest in and become the absolute property of Outagamie County and its assigns.

Article 19  
GENERAL PROVISIONS

- 19.01 Rules, Regulations, and Policies. Operator shall observe and obey all rules, regulations, and policies that the Airport may adopt, from time to time, with respect to the use of the Airport. Operator shall not violate and shall not knowingly permit its agents, contractors, invitees or employees acting on Operator's behalf to violate any such rules, regulations, or policies.
- 19.02 Compliance with Law. Operator shall comply, at all times, at its own cost and expense, with all applicable ordinances and laws of city, county and state government and of the United States Government, and of any political division, subdivision, agency, airport or commission that has jurisdiction to pass laws or ordinances with respect to the Consolidated Deicing Facilities or to the activities permitted in this Agreement. Operator shall not allow any illegal activity to be conducted or operated on any Airport area.
- 19.03 Reservation of Rights. Any and all rights and privileges not expressly granted to Operator by this Agreement are hereby reserved for and to Airport.
- 19.04 Successors and Assigns Bound by Covenant. All the terms, covenants, and agreements herein contained will be binding upon and shall inure to the benefit of successors, permitted assigns, and legal representatives of the respective parties hereto.
- 19.05 Warranty. Operator warrants that it has at least five years successful experience in the management and operation of a commercial service airport deicing facility with a FAA categorization of Small Hub or larger.
- 19.06 Governing Law, Forum and Disputes. This Agreement and all claims or disputes arising out of or relating to this Agreement or its subject matter are governed by the laws of the State of Wisconsin, without regard to its conflict of laws provisions, and any action, claim or proceeding arising out of or relating to this Agreement must be brought only in the Wisconsin Circuit Court for Outagamie County, Wisconsin or the United States District Court for the Eastern District of Wisconsin. Each party hereby waives any objection, including any objection based upon improper venue or *forum non conveniens*, that it may have, now or in the future.

- 19.07 Nonwaiver of Rights. No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the other party will be construed as, or operate as, a waiver of the terms, covenants, or conditions unless expressly agreed to by the party in writing, and any such waiver shall not operate as a waiver of any other terms, covenants, and conditions herein contained or any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.
- 19.08 Severability. If one or more clauses, sections, or provisions of this Agreement, or the application thereof, shall be held to be unlawful, invalid, or unenforceable, then such clauses, sections, and provisions shall be construed in a manner to best effectuate the intent of the parties and be lawful, valid, and enforceable, and the remainder of this Agreement and the application of its remaining provisions will not be affected thereby.
- 19.09 Force Majeure. Neither Operator nor Airport will be liable for delays in performance caused by acts of God or government regulatory airport, war, riot, sabotage, storm, flood, inclement weather, strike or work stoppage, or other cause beyond the control of Operator or Airport. However, this provision does not excuse Operator from paying those fees set forth in the Airport rules and regulations, nor does it excuse compliance with Section 19.12, Taxes and Assessments.
- 19.10 Amendments. Any and all changes or amendments to this Agreement must be in writing and duly executed by all parties.
- 19.11 Licenses and Permits. Operator shall obtain and/or maintain all applicable licenses and permits required by federal, state, or local law.
- 19.12 Taxes and Assessments. Prior to the effective date of this Agreement, the Consolidated Deicing Facilities are tax exempt. Operator shall be fully responsible for payment of any and all taxes, assessments, and charges levied against any taxable interest of Operator acquired in this Agreement from and after the date of this Agreement. Operator shall also be responsible for payment of any and all personal property taxes levied against any personal property placed upon the Consolidated Deicing Facilities by Operator. Operator shall pay all such taxes, assessments and charges as the same become due and payable. Such taxes, assessments and charges shall not be included in Operating Expenses. Upon request, Operator shall deliver to Airport duplicate receipted tax statements showing such taxes, assessments and charges as having been paid prior to delinquency. Taxes for the fiscal year in which this Agreement is terminated shall be paid upon such termination in a prorated amount equal to one-twelfth of the taxes due and payable for the preceding fiscal year multiplied by the number of months in the fiscal year of such termination which elapsed prior to and including the month of such termination.
- 19.13 Compliance with Federal Aviation and Transportation Security Regulations.
- (a) Operator agrees to comply at all times with Federal Aviation Regulations (FAR) Part 139, and Transportation Security Regulations (TSR) Parts 1500, 1520 1540

and 1542, Airport's policies, regulations and ordinances, Airport's Transportation Security Administration approved Airport Security Program, and any other applicable laws, regulations and rules as such currently exist and are amended from time to time. Operator further agrees that any fines levied upon Airport, its officers, employees, agents, and members of Airport's boards and commissions and employees, agents or officers of Airport's boards and commissions pursuant to enforcement of FAR Part 139 and TSR Parts 1500, 1520, 1540, and 1542 due to acts or omissions by Operator, Operator's agents, servants, officers, employees, independent contractors, or patrons shall be borne by Operator. Operator further agrees to indemnify and hold harmless Airport, its officers, employees, agents, and members of Airport's boards and commissions, and employees, agents, or officers of Airport's boards and commissions from any and all fines so levied and from any and all claims, demands, liabilities, or expenses of every kind or nature related to such levy or defense to such levy (including, but not limited to, salary of attorneys employed by Airport) which Airport or any of its officers, employees, or other persons set out above shall or may at any time sustain or incur by reason of or in consequence of such acts or omissions by Operator. Operator further agrees to indemnify and hold harmless Airport, its officers, employees, agents, and members of Airport's boards and commissions, and employees, agents, or officers of Airport's boards and commissions from any and all claims, demands and or lawsuits arising out of Operator's or Operator's employees' failure to comply with FAR Part 139 and TSR Parts 1500, 1520, 1540 and 1542, the Airport Security Program or any other applicable law, regulation or rule.

- (b) Operator agrees to control all persons and vehicles entering any Airport restricted area (including aircraft movement area) through the Consolidated Deicing Facilities in accordance with the Appleton International Airport Security Program and in compliance with TSR Parts 1500, 1520, 1540, and 1542 as such currently exist and are amended from time to time.

19.14 Right to Amend. In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of Airport, Operator agrees to consent to such amendments, modifications, revisions, supplements or deletions or any of the terms, conditions, or requirements of this Agreement as may be required to obtain such funds; provided, however, that in no event will Operator be required, pursuant to this paragraph, to agree to a decrease in the fees and charges provided for herein. Any such amendment shall be subject to an equitable adjustment based upon such additional fees and costs agreed in advance with Airport.

19.15 War or National Emergency. During the time of war or national emergency, Airport shall have the right to lease the landing area of the Airport or any part thereof to the United States Government for military or naval use, and, if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the Government shall be suspended.

19.16 Subordination to funding approval.

(a) This Agreement is made subject and subordinate to any sufficient annual funding being approved by the Outagamie County board.

19.17 Americans with Disabilities Act. Operator shall comply with the Americans with Disabilities Act and the Rehabilitation Act, and any administrative rules promulgated to implement the Acts, with regard to Operator's operations in the Consolidated Deicing Facilities.

19.18 Agreement Construction. Words and phrases used in this Agreement are to be construed as in the singular or plural number, and as masculine, feminine, or neuter gender, and as disjunctive or conjunctive, according to the context. Any rule to the effect that ambiguities are to be resolved against the drafting party will not apply to the interpretation of this Agreement or any amendments or exhibits.

19.19 Representations of Parties. Airport and Operator represent that each has the full power and proper airport to make and execute this Agreement, to exercise its rights, powers and privileges as described herein, and to perform the agreements and covenants set forth herein. Operator further warrants that it has the airport to enter into and be bound by the terms of this Agreement and no order of any bankruptcy or other court, and no agreement with others, prohibits or limits such airport.

19.20 No Third Party Beneficiaries. This Agreement is for the benefit of Operator and the Airport only. This Agreement shall not create any rights in any person not a party to this Agreement.

19.21 Notices.

(a) Notices required herein must be given by registered or certified mail, return receipt requested, by depositing the same in the United States mail in the United States, postage prepaid, or by certified overnight delivery via a commercial carrier. Either party has the right, by giving written notice to the other in accordance with this Section 19.22, to change the address at which its notices are to be received. Until any change is made, notices are to be delivered as follows:

Airport:  
Airport Director  
Appleton International Airport  
W6390 Challenger Drive, Suite 201  
Appleton WI, 54914

Operator:

- (b) All notices are effective on the date of mailing and/or delivery to a commercial courier. Notwithstanding, nothing contained in this Subsection shall be construed to restrict the transmission of routine communications between representatives of the Airport and Contractor.

19.22 Waiver of Visual Artists Rights Intentionally left blank

- 19.23 Liens. Neither the Operator nor anyone claiming by, through, or under the Operator shall have the right to file or place any mechanic's liens, security interests or other lien of any kind or character whatsoever, upon the Consolidated Deicing Facilities or upon any improvement thereon, or upon any other Airport property, or upon the interest of the Operator, and notice is hereby given that no contractor, subcontractor, or anyone else who may furnish any material, service or labor for any improvements, alterations, repairs or any part thereof shall at any time be or become entitled to any lien on the Consolidated Deicing Facilities, or any other Airport property, and for the further security of the Airport, the Operator covenants and agrees to give actual notice thereof in advance to any and all contractors, subcontractors, and anyone else who may furnish or agree to furnish any such material, service or labor.

Airport shall have, in addition to any lien given by law, a security interest as provided by the Uniform Commercial Code of Wisconsin upon all of Operator's personal property, whether now owned or hereafter acquired, kept and used on the Consolidated Deicing Facilities by Operator. Airport may proceed at law or in equity with any remedy provided by law or by this Agreement because of Operator's default in its performance.

- 19.24 Airport's Right to Make Good Default. If Operator should commit any default in the performance of, or compliance with, any of the terms or conditions of this Agreement, then, in addition to all other remedies now or hereafter provided by law, Airport may, but need not, perform such term or condition, or make good such default and any amount advanced shall be repaid forthwith on demand, together with interest at the maximum rate permitted by law, from date of advance.

- 19.25 Rights and Remedies Cumulative. The various rights, powers, options, elections and remedies of either party provided in this Agreement shall be construed as cumulative and no one of them as exclusive of the others, or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of either party to pursue any other equitable or legal remedy to which either party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

- 19.26 Certification. Operator certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or

instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Operator hereby agrees to defend, indemnify and hold harmless Airport from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

- 19.27 Survival. The representations, warranties, and indemnities contained in this Agreement shall survive the termination or expiration of this Agreement. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.
- 19.28 **WAIVER OF JURY TRIAL. EACH OF THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**
- 19.29 Independent Contractor. Operator and its employees are not an employee or agent of Airport by reason of this Agreement, or otherwise. Operator is an independent contractor and, as between Airport and Operator, Operator shall be solely responsible for its acts or omissions arising from or relating to this Agreement.
- 19.30 Legal Fees. In the event of litigation both parties shall be responsible for their own costs attorney's fees and litigation expenses

**SIGNATURES ARE ON THE FOLLOWING PAGE**

The parties have executed this Agreement as of the date first above written.

AIRPORT DIRECTOR

[SUCCESSFUL PROPOSER]

By \_\_\_\_\_

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

Name: \_\_\_\_\_  
(Type or Print)

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

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

Name: \_\_\_\_\_  
(Type or Print)

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

Exhibit A  
CONSOLIDATED DEICING FACILITIES

The final site selection shall be established by the Airport following the appointment of the successful respondent to the RFP. Once determined, the finalized location and associated operational details will be incorporated into this Agreement through a written amendment or updated exhibit.

Exhibit B  
INSURANCE ENDORSEMENTS  
Appleton International Airport

APPLETON AIRPORT  
CANCELLATION AND MATERIAL CHANGES ENDORSEMENT

Thirty days Advance Written Notice of Cancellation, Non-Renewal, Reduction in insurance coverage and/or limits and 10 days written notice of non-payment of premium shall be sent to: Contracts Manager, Appleton Airport, 5800 Fleur Drive, Suite 201, Appleton, Wisconsin 5321. This endorsement supersedes the standard cancellation statement on the Certificate of Insurance to which this endorsement is attached.

APPLETON AIRPORT  
ADDITIONAL INSURED ENDORSEMENT

The Appleton Airport, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees, and volunteers, are included as Additional Insureds with respect to liability arising out of Operator's operations on or use of the Airport. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage be primary, contributing or excess.

APPLETON AIRPORT  
GOVERNMENTAL IMMUNITIES ENDORSEMENT

1. Non-Waiver of Government Immunity. The insurance carrier expressly agrees and states that the purchase of this policy and the including of the Appleton Airport as an Additional Insured does not waive any of the defenses of governmental immunity available to the Appleton Airport under Code of Wisconsin Section 670.4 as it now exists and as it may be amended from time to time.
2. Claims Coverage. The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Wisconsin Section 670.4 as it now exists and as it may be amended from time to time.
3. Assertion of Government Immunity. The Appleton Airport shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier. Nothing contained in this endorsement shall prevent the carrier from asserting the defense of governmental immunity on behalf of the Appleton Airport.
4. Non-Denial of Coverage. The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the Appleton Airport under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the Appleton Airport.
5. No Other Change in Policy. The insurance carrier and the Appleton Airport agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

Exhibit C  
OPERATOR'S RESPONSE  
TO  
MANAGEMENT SERVICES  
CONSOLIDATED DEICING FACILITIES  
REQUEST FOR PROPOSALS

**(UNDER SEPARATE COVER)**

Exhibit D  
WPDES Certification Statement

**(UNDER SEPARATE COVER)**

**EXHIBIT E**  
**BASE RENT PAYABLE**

**Office and Storage Space**

Office/Indoor storage	_____ Monthly
Ground Storage (outdoor storage)	_____ /Monthly

**Bio-Filter Maintenance**

Select One
<input type="checkbox"/> Flat Rate per aircraft deiced \$ _____
<input type="checkbox"/> Percentage of gross = _____ %, Minimum Annual Guarantee: \$ _____