

**REQUEST FOR
BIDS / QUOTES
FOR
FORKLIFT PURCHASE
AT THE HAWAII CONVENTION CENTER
HONOLULU, HAWAI'I
RFB 2023-8

February 2023**

Proposal Due Date: March 10, 2023

For Information, Contact: Mari Tait

HCC's Contracting Officer at hccrfp@hccasm.com

Request for Bids / Quotes for
Forklift Purchase
for the Hawai'i Convention Center

1. PURPOSE/OBJECTIVE

AEG Management HCC, LLC ("HCC") is seeking to obtain bids/quotes from bidders/vendors to purchase four (4) 5K Forklifts for use at the Hawai'i Convention Center.

2. CONDITIONS AND LIMITATIONS

The bids/quotes and any information provided by prospective vendors shall be made a part of HCC's official files without obligation on HCC's part to return them to the original bidder(s) ("vendor, bidder" or "supplier").

This request for bids/quotes and the selected bidder's responses may, by reference, become part of the formal Agreement for Goods and Services between HCC and the selected bidder resulting from this solicitation.

Bidder(s) shall not offer any gratuities, favors, or anything of monetary value to any official or employee of HCC or the State for the purpose of influencing consideration of a proposal.

3. SCOPE OF PROCUREMENT

The Hawaii Convention Center is seeking bids/quotes to procure and supply four (4) Forklifts meeting the following specifications:

New 5K Forklifts to be delivered to HCC:

1. Maximum 5,000 LB lifting capacity
2. Weighs maximum 9600 lbs and mast no higher than 8'10"
3. Rollover Protective Structure (ROPS)
4. Cushioned tires
5. Four wheels
6. Non marking tires
7. Side shift and mast tilt
8. Fork positioner
9. Minimum fork length of forty-eight (48) inches
10. Propane powered engine, or electric powered
11. Headlights
12. Backup alarm
13. Strobe Light
14. Side Mirrors
15. Speed Control
16. Seatbelt
17. Fire Extinguisher

18. Complete and Comprehensive Warranty covering repair and/or replacement of Forklift from the bidder/vendor, as well as the manufacturer.

The bids/quotes must include all costs for delivery of the forklifts to the Hawai'i Convention Center, including shipping, delivery, set up, and comprehensive training for the HCC staff in the proper operation and in-house maintenance of the forklifts.

In addition, to providing quotes for the equipment, each bidder/vendor shall provide a proposal for a comprehensive maintenance or service plan to maintain and service the forklifts at a monthly or yearly cost. The HCC shall be under no obligation to accept the bidder/vendor's maintenance or service plan even if it decides to purchase the forklifts from that vendor.

4. BID/QUOTE EVALUATION and AWARD

Bids/quotes shall be submitted with conditions, alterations or corrections. Bids shall be evaluated based on several criteria, including the forklifts meeting the specifications set forth in the foregoing "Scope of Procurement" section of this document. Price, compliance with specifications, and delivery date will be three key factors for determining the contract award. Bids/quotes that are deemed non-responsive may be rejected.

5. TIMELINE OF THIS PROCUREMENT

The following is the proposed timetable for this procurement. The HCC reserves the right to adjust this timetable as it deems necessary throughout the course of this procurement.

Issue Request for Bids/Quotes	February 27, 2023
Questions regarding bid/quote proposal	March 3, 2023
HCC's response to questions, and issuance of addendum, if necessary	March 6, 2023
Bids/quotes due date	March 10, 2023
Award Contract	March 2023
Execution of Agreement for Goods and Services	March 2023
Delivery of Forklifts	No later than May 31, 2023

6. INVOICING

Upon award of the contract for the supplying of the forklifts, the vendor/supplier shall execute an Agreement for Goods and Services which will set forth the specific obligations of the vendor/supplier and payment process (i.e. terms and conditions). The Agreement for Goods and Services shall incorporate this document and the bids/quotes provided by bidder/vendor.

7. USE OF SUPPLIES AND EQUIPMENT

If the scope of work requires the bidder/vendor/supplier to utilize and operate HCC equipment, an "Agreement for Rental of Equipment", and appropriate training and certification will be required before that equipment can be used. Rental rates may also apply.

8. RESERVATION OF RIGHTS

HCC reserves the right to reduce, amend, or expand the “Scope of Procurement” as provided herein.

9. SERVICE CONDUCT

A. SERVICE PERFORMANCE

The supplier shall be solely responsible for the satisfactory delivery, set up, and training of HCC staff in the use of the forklifts as determined by HCC.

1. All work, services, or products provided pursuant to this procurement must comply with ALL applicable City and County of Honolulu, State of Hawaii, and Federal rules, regulations, codes, and guidelines.
2. HCC shall hold the vendor/supplier liable for all the acts of its employees.
3. Vendor/Supplier shall ensure compliance with the Health & Safety Procedures – Section 1 –Supplier Policy provided as an attachment.
4. Once the purchase contract is awarded, the vendor/supplier shall communicate directly with HCC’s Point of Contact and vendor/supplier shall cooperate fully with HCC’s Point of Contact in every way.
5. When a disagreement arises between the vendor/supplier and HCC regarding compliance with specifications and services required herein, the directives of HCC shall prevail. Vendor/Supplier’s failure to comply with HCC’s directives shall be deemed cause for corrective action and subject to contractual remedies.
6. If the vendor/supplier discovers any discrepancy or inconsistency in the specifications, the vendor/supplier shall immediately notify HCC’s Point of Contact before proceeding with providing a bid or quote, otherwise, the vendor/supplier will be held responsible for any cost involved in correction of such discrepancy.
7. If any equipment or goods supplied pursuant to this procurement is not in full compliance with these specifications, the vendor/supplier shall make all necessary corrections to the full satisfaction of HCC and at no additional cost to HCC. The vendor/supplier shall perform corrective work within the period allowed by HCC’s Point of Contact.
8. The vendor/supplier shall immediately remedy any damages and defects caused by negligence of the vendor/supplier or its employees.

B. SAFE PERFORMANCE OF SERVICE

1. While providing goods and/or services while at the Hawai'i Convention Center, the vendor/supplier shall exercise due care and shall provide all necessary protection to prevent injury and/or damage.
2. The vendor/supplier shall be required to protect the HCC occupants and the general public from any unsafe conditions while providing goods and/or services at the Hawai'i Convention Center.
3. The vendor/supplier shall report any and all unsafe working conditions at HCC.
4. The vendor/supplier agrees to comply with all Federal Occupational Safety and Health (OSHA) and Hawai'i Occupational Safety and Health (HIOSH) laws, regulations, training and reporting while providing goods and/or services at the Hawai'i Convention Center.
5. The Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes, effective May 16, 1972, as amended, is applicable and made a part of this solicitation by reference. The vendor/supplier shall carefully read and strictly comply with its requirements.

C. ORIENTATION, SUPERVISION AND TRAINING

The vendor/supplier is responsible for providing adequate orientation, supervision and training of all employees who provide goods and/or services at the Hawai'i Convention Center. All employees must be familiar with the Hawai'i Convention Center's and Health and Safety Procedures - Section 1 - Supplier Policy after this orientation.

D. IDENTIFICATION

All vendor/supplier's employees who will be at Hawai'i Convention Center longer than to drop off the equipment or goods, will be required to carry a supplier issued, picture ID which will be required to be worn at all times while working at the HCC. Supplier is to provide each employee with a plastic sleeve with clip to hold the ID and a lanyard. An HCC-issued identification badge or daily wristband will also be required to be worn at all times. This badge will be issued on a daily basis through the HCC Security Base office, upon check-in, and must be turned back in at the end of the labor shift, upon check-out at the HCC Security Base.

E. UNIFORMS

HCC requires vendor/supplier's employees to wear proper work attire at all times when on HCC property. Additionally, employees must wear closed-toe shoes as well as any necessary personal protective equipment.

F. PERFORMANCE AND DISCIPLINE

The performance of vendor/supplier's employees who serve HCC clients reflects directly upon the HCC. HCC reserves the right to monitor the vendor/supplier's employee's job performance at any time. In some cases, it may be necessary for the supplier to remove the employee from the facility as described herein.

10. REQUIREMENTS FOR AWARD OF CONTRACT

Prior to the execution of the Agreement, vendor/supplier must furnish proof of compliance with the requirements of HRS 103D-310(c), including, without limitation, the following:

- a. Chapter 237, tax clearance;
- b. Chapter 383, unemployment insurance;
- c. Chapter 386, worker's compensation;
- d. Chapter 392, temporary disability insurance;
- e. Chapter 393, prepaid health care; and
- f. Proof that Contractor is:
 - a. Registered and incorporated or organized under the laws of the State, hereinafter referred to as a "Hawai'i business"; or
 - b. Registered to do business in the State, hereinafter referred to as a "compliant non-Hawai'i business".

Vendor/supplier must furnish a Certificate of Vendor Compliance and a certificate of insurance demonstrating compliance with any HRS vendor insurance requirements.

11. INDEMNIFICATION

Vendor/Supplier agrees to indemnify, defend and forever save and hold harmless The Hawai'i Convention Center, ASM Global Parent Inc., AEG Venue Management Holding LLC, Anschutz Entertainment Group, Inc., Levy Restaurants, Hawai'i Tourism Authority, the State of Hawaii, and each of its and their respective boards, commissions, agents, owners, members, shareholders, directors, officers, servants, employees, subsidiaries, and affiliates (hereinafter referred to as "Company Indemnitees"), unless not permitted by applicable law. Employees and volunteers (sometimes collectively referred to herein as the "Company Indemnitees" and individually as a "Company Indemnitee"), from and against any and all damages, claims, losses, demands, costs, expenses (including attorneys, fees and costs), obligations, liens, liabilities, actions and causes of action, threatened or actual, which any one of the Company Indemnitees may suffer or incur arising directly or indirectly out of or in connection with the Goods, performance of the Services or the failure of supplier to perform the Services in accordance with the terms of this Agreement or any act or omission of the vendor/supplier, including its employees, officers, or agents. The foregoing indemnification shall survive any termination or the expiration of the term of this Agreement.

12. INSURANCE

Without in any way limiting or altering the indemnification requirements of vendor/supplier under or pursuant to this Agreement, vendor/supplier shall, at its sole expense, procure and at all times maintain during the relevant term of this Agreement for Goods and Services all of the following insurance:

- a. Vendor/Supplier agrees, at its sole expense, to procure and maintain during the Term of this Agreement: (i) Commercial General Liability insurance, on an occurrence form, including blanket contractual liability, products and completed operations coverage, fire legal liability coverage, personal & advertising injury coverage (including but not limited to libel, slander, defamation of character, and discrimination) for the mutual benefit of supplier, Company successors and assigns, against all claims for personal injury, death or property damage in or about the Areas arising in the amount of \$1,000,000 per occurrence, \$5,000,000 in the aggregate, (ii) Commercial Automobile Liability insurance, on an occurrence basis covering all owned, non-owned, hired and leased vehicles with a limit of not less than \$1,000,000 per occurrence covering bodily injury and property and physical damage; and (iii) following form Umbrella or Excess Liability coverage with a limit of \$4,000,000 per occurrence in excess of \$1,000,000. (iv) Professional Liability/Errors & Omissions Insurance shall be for protection of claims arising out of negligent acts, professional services/errors and omissions by or for the supplier and will be for \$5,000,000.
- b. The insurance policies set forth in (a) above shall name as Additional Insureds each of the Vendor/Supplier Indemnitees (as set forth in Section 9 above), their respective affiliates, vendors, lenders, as well as each of their respective officers, directors, partners, members, shareholders, employees, agents, representatives, successors, and assigns. All such insurance shall be primary and non-contributing to insurance maintained by vendor/supplier.
- c. Vendor/Supplier agrees, at its sole expense, to procure and maintain during the term of this Agreement, Workers Compensation insurance in accordance with statutory limits and Employers Liability at a limit of \$1 million per occurrence covering all employees, performers, participants and other personnel of supplier (other than such persons as are employed by supplier and its respective affiliates), which shall be evidenced on the certificate of insurance required to be provided in accordance with Section 10(f & g) below. Such insurance shall include a waiver of subrogation in favor of the vendor/supplier.
- d. To the extent applicable, vendor/supplier shall obtain and maintain a Personal Property Floater and/or Miscellaneous Equipment insurance coverage on all of supplier's personal property, trade fixtures, and supplier's owned alterations, utility installations and third-party property damage. Such insurance shall be full replacement cost coverage with a deductible of not more than \$2,500.00 per occurrence. The proceeds from any such insurance shall be used by supplier for the replacement of personal property, tools & equipment. Vendor/supplier shall provide Company with written evidence that such insurance is in force and shall causes its insurers to a waiver of subrogation in favor of Company.
- e. Company makes no representation that the limits or terms of coverage of insurance specified herein are adequate to cover supplier's property, business operations or obligations under this Agreement.

- f. The insurance shall provide for coverage from commencement of work or occupancy of the premises. There will be no charge to Company for such coverage and a certificate of insurance evidencing such coverage shall be furnished to Company. Said policy of insurance and endorsements shall provide that the policy of insurance cannot be canceled without 15 days prior written notification to Company. Said insurance shall not restrict or limit the coverage of the additional insureds. If vendor/supplier fails to provide the required certificate of insurance at least five (5) business days prior to the commencement of work or occupancy of premises, Company may, in its sole and absolute judgment, either (i) acquire, at vendor/supplier's expense, such insurance as Company determines in its sole judgment to be necessary in order to protect the Company Indemnitees from any of the matters to be covered under subparagraph (a) above, or (ii) treat such failure as a default by supplier and terminate the Agreement.
- g. All insurance shall be affected by valid and enforceable policies issued by insurers of responsibility, licensed to do business in the Hawaii, such responsibility, and the insuring agreements to meet with the reasonable approval of Company. An insurer with a current A.M. Best rating of at least AVI or better shall be deemed to be acceptable. Receipt by Company of a certificate of insurance, endorsement or policy of insurance which is more restrictive than the contracted for insurance shall not be construed as a waiver or modification of the insurance requirements above or an implied agreement to modify same nor is any verbal agreement to modify same permissible or binding. Any agreement to amend this provision of this Agreement must be in writing signed by the parties.
- h. At the request, vendor/supplier shall promptly furnish loss information concerning all liability claims brought against company (or any other insured under company required policies), that may affect the amount of liability insurance available for the benefit and protection of the Company Indemnitees under this Agreement. Such loss information shall include such specifics and be in such form as Company.
- i. All insurance coverage available to vendor/supplier and any available proceeds in excess of specified minimum limits shall be available to Company.

APPENDIX A

HCC HEALTH SAFETY PROCEDURES

HAWAII CONVENTION CENTER
HEALTH & SAFETY PROCEDURES - CONTRACTOR POLICY

OVERVIEW:

Provide contractors of the Hawaii Convention Center (“HCC” or Facility) with the HCC/AEG Management HCC, LLC (“AEG”) rules, regulations and requirements when working at the Facility.

POLICY:

The policy of HCC/AEG is to provide a safe and secure environment for our clients, guests, visitors, contractors and employees.

PROCEDURE:

All contractors and sub-contractors are expected to abide to all HCC/AEG polices as listed:

- I. Health, Safety and Environment
- II. Access to Facility
- III. Fire, Health, and Safety - General Rules
- IV. Equipment Safety
- V. Hazardous Works and Materials
- VI. Special Requirements
- VII. General Do's and Don'ts

I. **HEALTH, SAFETY AND ENVIRONMENT**

A. **Compliance**

The Contractor, their employees and agents will comply with all relevant statutory and HCC/AEG's regulations pertaining to health, safety and environmental protection.

The Contractor shall ensure that all materials and equipment used in the project, regardless of the owner, comply with all relevant regulations and statutory requirements of HCC/AEG, the Government, local and other authorities with jurisdiction for occupational safety and health. All equipment requiring certification by authorizing agencies will be certified before brought onto Facility premises.

The Contractor is required to present license/certification of specific individuals who will operate any of HCC's lift equipment, in accordance with applicable state and federal OSHA regulations and HCC Safety Policies.

The Contractor is required to ensure proper license/certification is current, lawful and held by any individual operating lift equipment not owned by HCC.

B. **Responsibilities**

The Contractor is wholly responsible for the safety and safe working practices of its employees and agents. The Contractor will ensure their staff is trained and certified, as applicable, on the equipment required for the job, safety precautions and safe working practices before the job commences. HCC/AEG has the right to request the Contractor to provide certification, licensing or credentialing that is required by government regulation.

The Contractor shall report to HCC/AEG (Security Department) any incident or accident occurring, which involves any employee or agent of the Contractor. In cases of injuries or non-injuries incidents judged to be serious by HCC/AEG, the Contractor will carry out a full investigation without additional cost to HCC/AEG. A detailed report is submitted to HCC/AEG within three (3) working days, stating events relating to the incident or accident: the primary and contributory causes, conclusions, and recommendations to prevent reoccurrence.

The Contractor affirms that it has a written safety policy which is comparable to the HCC/AEG Safety Policy. The written safety policy is acknowledged, supported, and endorsed by HCC/AEG management. The Contractor further affirms that its safety policy has been disseminated and Contractor Employees and agents have been trained and signed off as completed.

The Contractor's safety policy will include a description of the Contractor's safety organization, procedures, and methods of communication to and from its employees and agents.

Contractors, their subcontractors, suppliers, and delivery vendors to all have appropriate and active Insurance Certificates and personal Medical Coverage for all employees or representatives.

C. **Health and Safety Site Control**

The Contractor will permit HCC/AEG access to any equipment, personnel, materials, and records involved in any job on the work site at HCC/AEG to enable HCC/AEG to:

1. Ensure the Contractor complies with all provisions presented herewith.
2. Ensure the Contractor is carrying out its responsibility under its Safety Policy.
3. Ensure the Safety Policy of the Contractor complies with all provisions presented.
4. Conduct, if required, independent investigations into an incident arising out of/or in connection with the job performance.

D. **Violation of Health and Safety Regulation**

If the Contractor is performing the job in an unsafe manner, or if its equipment requires modification to meet statutory or HCC/AEG safety standards, **HCC/AEG reserves the right to immediately suspend all or part of the job.**

The suspension notice shall include reasons for HCC/AEG issuing such notice and will outline the steps required to be taken by the Contractor to rectify the hazard.

The Contractor shall be considered inoperable of its obligations under this situation until the unsafe working condition hazard is remedied to the satisfaction of HCC/AEG.

The refusal or inability of the Contractor to remedy any hazardous working practice or to perform the required modification to its equipment within seven (7) days shall constitute a breach of Contract. HCC/AEG may, in addition to and without prejudice to any other rights the Contractor may have, terminate the Contract in accordance with the Contract.

E. **Personal Protective Clothing and Equipment**

The Contractor, at its own expense, supplies all its employees or agents, adequate personal protective clothing and equipment that will satisfy accepted industry standards as advised by HCC/AEG. Such protective equipment is supplied and always maintained in good condition at the Contractor's expense. The equipment must be worn on all relevant occasions as required by law, notice, instruction and in good sense.

F. **Security Checks**

HCC/AEG reserves the right to require the Contractor and their employees or agents to produce acceptable evidence of identification, such as a driver's license or identification card or badge, to HCC/AEG for the purpose of entering any premises of HCC/AEG. The Contractor and their employees and agents shall consent to the searching of any package, toolbox, or suitcase in their possession.

Contractors and their staff unwilling to comply with such requirement will not be permitted entry into any premises of HCC/AEG and, consequently, HCC/AEG will not be liable for any cost arising directly or un-directly out of such circumstances. The Contractor and their employees or agents shall also comply with such request prior to leaving the premises of HCC/AEG.

II. **ACCESS TO THE FACILITY**

A. **Access Control**

The Contractor must issue a list of all workers who will enter the Facility's premises by a company official. The list is provided to the Security Department prior to an employee or agent being authorized access to the premises.

Workers must identify themselves at the Security checkpoint entrance to the Facility. Verification will be by the submitted name list. Contractors should provide their workers with a nametag with the following information:

Name of company
Name and surname of worker
Position
Photograph of worker
Number of tag

Workers will be issued a colored wristband to verify they have checked in with HCC Security and are authorized to be on property.

The Facility, at its discretion, can object and require the Contractor to remove any person(s) employed by the Contractor or agent from the site who, in the opinion of the Facility is incompetent or negligent in the proper performance of their duties or whose employment or behavior is otherwise considered by the Facility as undesirable. Such persons are not employable or can continue work at the Facility.

B. **Means of Access**

Workers must only enter and exit the Facility through the Security Check-In on the Intermediate Level. It is accessible by walking along the Ala Wai Terrace Promenade past the Grand Staircase. When entering through the parking level, take service elevators 4 and 5 located in Section F, to the Intermediate Level "2" to Security Check-in. Contractors are not allowed to use guest elevators.

On the first day of work, all workers are to meet at the designated entrance for the identified management personnel to direct them to the work site.

C. **Daily Responsibility**

A responsible person designated by the Contractor will report their daily scope of work to the designated management in charge before commencing work. The Chief Engineer is the main point of contact should it be necessary to isolate or shut down any of the Facility plant equipment or systems.

D. **Event Contractor Use of Wristbands**

Should a contractor doing business on HCC decide to use a wristband system to ensure security within their area of operation, The Event Manager will be responsible for informing HCC Security of the use of wristbands and the color the contractor will be using. This will enable Security to select a different color than the contractor so there is no confusion.

E. **Before/After Shift**

Contractors are only allowed to be on site ½ hour prior and ½ hour after a scheduled shift. Contractors are not allowed on site when not scheduled.

III. **FIRE, HEALTH AND SAFETY - GENERAL RULES**

SMOKING IS STRICTLY PROHIBITED IN ALL AREAS OF THE FACILITY EXCEPT IN THE DESIGNATED SMOKING AREA.

Contractors and contractor's employees must abide by the Facility current COVID-19 protocols and procedures.

The contractor MUST appoint a responsible person to coordinate and ensure all safety measures and MUST be present at the project site at all times.

HCC/AEG designated management personnel will brief the contractor on the facility's firefighting system, fire detection system and evacuation routes and the Facility work safety guidelines.

All working areas must be cleaned, and debris removed from the Facility premises on a daily basis at the end of each day.

All work areas are to be properly secured prior to departure at the end of a day.

A fully supplied first aid kit must be provided by the Contractor and kept at the work site.

All workers are to be properly dressed based on the safety guidelines with proper shoes or boots.

All electrical equipment is to be properly wired, grounded with correct fitting plugs. Items inoperable or hazardous must be handled under the lockout tag out guidelines.

IV. **EQUIPMENT SAFETY**

Any moving vehicle (electric carts, scooters, bicycles, tricycles, etc.) must be pre-approved in writing for use by the Facility Director of Operations prior to use in the Facility. Use of approved vehicles is restricted to work areas only.

Approved personnel using a scissor or boom lift must wear a hardhat and eye protection. A safety harness is required when using lifts at all times.

Workers operating equipment, such as forklifts and aerial lifts must be certified in the use of such equipment and carry proof of such current certification while operating equipment. Operators must present current certification at Security Check-in and obtain a wristband authorizing use of lifts owned by HCC.

Transporting lifts to another level, through the Facility freight elevators require pre-approval and scheduling of an elevator operator through the Facility.

No vehicles or pallet jacks are allowed to be operated on the green, slate tile floor areas without pre-approval. Necessary preparations are required.

V. **HAZARDOUS WORK AND MATERIALS**

A special Work Permit must be filed with the Chief Engineer or designated department prior to commencement of hazardous work for:

- Welding
- Cutting
- Scaffolding work
- Spray painting or varnishing
- High suspension cleaning

Note: A separate fire extinguisher must be provided at location of all welding or cutting work.

All hazardous materials e.g. solvents, pressurized canisters, gasoline, oils, fuels, paints, varnishes etc. shall be stored in approved designated areas and in OSHA approved storage containers. All containers will be metallic and properly sealed. All containers will be properly labeled. Proper respiratory masks must be used. NO SMOKING must be enforced. All materials are identified in the MSDS sheets available in each department and Security Base. Contractors are responsible for disposing of any hazard chemical brought onto HCC property.

VI. **SPECIAL REQUIREMENTS**

A. **Noise Control**

The Contractor shall note that no noisy Work will be allowed to be carried out before 8 a.m. and after 5 p.m.

Due to "business as usual" factor for the Facility, it is further required that noise levels be maintained at a low level to minimize the disturbance/noise nuisance to the Facility occupants. This will include cutting of holes, drilling/fixing to structures, alterations and demolition, grinding of steel, removal of existing elements, finishes, fittings, fixtures, hacking/hammering etc. This type of work should be effectively reduced to an absolute

minimum by adoption of alternative methods/fixings and containment on the carrying out of all such noisy operations within limited periods daily.

Should noise levels in the opinion of the Facility become excessive and unacceptable under the above conditions, the Contractor will be requested to take immediate action to cease all operations giving rise to the unacceptable noise levels and to amend his methodology to allow him to continue within the acceptable noise limits.

B. Construction Barricades

The Contractor may be required to provide a section of boarding or construction barricades to match the surrounding area to separate the work areas from the Facility public areas and to prevent all unauthorized public access to all work areas. This boarding will require adaptation and relocation to suit the phasing/staging of the project work.

Before erection/ alteration of boarding, the Contractor will submit a detailed plan showing the proposed form/ location of boarding for approval by the Facility.

C. Quarterly Meeting

The Contractor is required to attend HCC Quarterly Contractor's meeting, held at the Facility. A minimum of one company representative must sign-in for attendance. Notification of the meeting schedule will be sent via email to the designated contact. It is the Contractor's responsibility to ensure that the most current email address and contact information is provided to the Facility.

VII. GENERAL DO'S AND DON'T'S

1. Only authorized subcontractors and their employees are permitted to operate and conduct business within the Facility. The Director of Operations will determine authorized contractors.
2. Children under eighteen (18) years of age are not permitted in work areas.
3. This is a State-owned building and therefore it is a NO SMOKING facility. Smoking is prohibited in all areas of the Facility except in the designated smoking areas. The designated smoking area is located in the ma uka/Waikikī corner of the parking garage. Contract employees are prohibited from using the Porte Cochere or Kahakai Drive as a smoking or break area.
4. Contractor must stay in designated job site areas only and must not stray to any other areas of the Facility under any circumstances. At the end of the shift, contractors are not allowed to remain on property or at their vehicles.
5. No Contractor is allowed, at any time, in the client, guest/public areas of the Facility nor be allowed to use any guest elevator or restroom in the Facility.
6. ALL contractor workers are required to sign in and out of the building at Security Check-In located on the intermediate level. Workers are required to sign in and obtain an identification wristband while on Facility property. Workers are required to return to Security Control and sign out at the end of their work shift.
7. All signs and traffic markings must be obeyed in the parking garage.

8. There is no overnight parking allowed unless prior arrangements have been made with the Director of Security. If authorization is given, an overnight permit will be issued and must be displayed on the dashboard of the vehicle it is issued to. Parking cost will be charged for each day the vehicle is parked. Vehicles left overnight without authorization will be towed at owner's expense.
9. Contract workers who are dropped off and picked up at the start and end of their shift need to arrange these pick-ups and drop offs on Kalakaua Avenue ONLY. Kahakai Drive is not to be used as a waiting area for pick up.
10. Contractor will maintain complete separation of construction areas for existing functions for airborne contaminants, dust control, noise, waste and all OSHA safety standards.
11. Contractor is responsible for the protection of his work and adjoining areas.
12. Contractor will maintain clear egress in corridors at all times during construction until completed or approved alternative route is established.
13. Under no circumstances may any exterior door be blocked open
14. Contractor shall use designated loading dock area only for the receiving of goods. Loading docks will be used for active unloading and loading only. Dock reservations are required and can be made through docres@hccasm.com. No vehicles will be parked in the loading dock. No deliveries through the front entrance are allowed.
15. Contractor must park in the area designated by the Facility.
16. There will be no alcohol, beer, wine or drugs consumed on the job site or during the workday whatsoever.
17. Meals are to be consumed only in the Lunch Room located on the Parking Level to the rear of Elevators 4 & 5.
18. All bags or boxes are subject to security check upon entering or leaving the building. Any refusals will cause the person to be barred from the Facility premises.
19. Contractor is to furnish their own tools. Under no conditions will a non-Facility employee be allowed to use a Facility tool. By the same token, Facility employees are not to use Contractor's tools.
20. The Facility is not responsible for the Contractor's property.
21. All work areas must be kept clean at all times. Contractor is responsible for the removal of all debris and excess material during and at the completion of the project. Contractor is not to use Facility telephones at any time for any reason.
22. Contractor must wear clothing, which is in good taste. Any attire which causes unwarranted distractions is unauthorized. Lack of a shirt or wearing muscle, fishnet, sleeveless shirts, cut-offs, shorts or sandals are not permitted. Clothing with offensive wording is prohibited.
23. Proper protective safety equipment shall be worn at all times. (No open toe shoes, slippers, etc.)
24. Contractors must conduct themselves in a professional manner and are subject to the same rules as Facility Employees. No shouting, profanity, "cat calling" or confrontation with Facility guests or with Facility employees will be tolerated.

25. Contractors are not permitted to fraternize with Facility employees, clients, guests or patrons.
26. The use of portable radios, stereos is strictly prohibited.
27. Violation of these policies will be documented and reported to Facility management for appropriate action

Revised: 2/2023

APPENDIX B
PROPOSAL FORM – RATE CARD

Forklift Procurement
for Hawai'i Convention Center

PROPOSAL FORM - Rate Card

Quote						
(4) 5K Forklift (Propane)	\$ -					
(4) 5K Forklift (Electric)		\$ -				
Delivery Fee	\$ -	\$ -				
Warranty	\$ -	\$ -				
Shipping	\$ -	\$ -				
Training	\$ -	\$ -				
Other (Please specify)	\$ -	\$ -				
	\$ -	\$ -				
	\$ -	\$ -				
Total cost Forklift	\$ -	\$ -				
Recurring Fee	Cost	Year 1	Year 2	Year 3	Year 4	Year 5
Maintenance-Service Plan	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

NOTE: HCC shall be under no obligation to accept the bidder/vendor maintenance or service plan even if it decides to purchase the forklifts from that vendor.
Please complete yellow highlighted cells

APPENDIX C

Agreement for Goods and Services

AGREEMENT FOR GOODS AND SERVICES

THIS AGREEMENT FOR GOODS AND SERVICES (this "Agreement") is made effective as of **DATE** by and between, AEG Management HCC, LLC ("**Company**") and **NAME OF COMPANY** ("**Contractor**").

RECITALS

A. Company is the manager of the Hawaii Convention Center in Honolulu, Hawaii (the "Facility") pursuant to that certain Contract for Professional Services (the "Management Agreement") effective as of January 1, 2014 between the Hawai'i Tourism Authority ("HTA"), a duly organized authority of the State of Hawai'i (the "State") and Company.

B. Contractor provides the following goods and services: banquet chairs, tables and related equipment. Company desires to engage Contractor for goods and services, and Contractor desires to provide such goods and services, on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the mutual covenants that are contained in this Agreement, the parties hereby agree as follows:

1. **SCOPE OF GOODS AND SERVICES.** Company hereby engages Contractor, and Contractor hereby agrees, to provide the goods and services as set forth more fully on Exhibit A attached hereto (the "Goods and Services"). With regard to the provision of the Goods and Services, Contractor shall:

1.1 Provide all goods set forth in the Goods and Services to the Facility (the "Goods").

1.2 Perform all services set forth in the Goods and Services at the Facility (the "Services").

1.3 Provide all personnel required in order to provide the Goods and Services at the Facility.

1.4 Except for those items, if any, expressly required by this Agreement to be furnished by Company, Contractor shall furnish or provide all of the materials (including equipment and supplies, uniforms, communication equipment and any other equipment) and all other items necessary to perform and provide the Goods and Services and to carry out and perform all of Contractor's obligations under or pursuant to this Agreement.

1.5 Upon request from Company, Contractor shall immediately reassign or remove from the performance of the Goods and Services hereunder any of its employees or personnel supplied by Contractor, including any supervisory personnel, who, in the sole judgment of Company, engage in improper conduct, are not suitably attired or neatly groomed, do not conduct themselves in an ethical, businesslike or professional manner, or are not otherwise, in the reasonable judgment of Company, suitable or acceptable to perform the Goods and Services or any tasks assigned to them.

1.6 Comply with and conform to all rules, regulations and directives issued by Company or their designees from time to time, and shall cause all of its employees, personnel, agents, independent Contractors (if any) and invitees at all times to abide by and conform to all of the same.

1.7 Comply with all terms and conditions of this Agreement applicable to the Goods and Services, as such this Agreement may be modified, amended or superseded from time to time.

1.8 At all times and in all situations, Contractor shall act in the best interests of HTA and the State of Hawai'i, commensurate with the highest standards of its profession and industry and in a manner that promotes and supports the public images, policies, programs and goals of the HTA and the State of Hawai'i, and their working relationships with all other persons, and with a long term view toward fulfilling the mission and objectives of the HTA.

1.9 Contractor shall keep and preserve for at least three (3) years following the final payment under this Agreement, all financial and accounting books, records and reports, including any personal information, and any cost or pricing related to the performance of the Goods and Services at the Facility. Personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the retention period as set forth above, the files, book, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS, or returned to the State at the request of the State.

1.10 AEG, the State of Hawai'i and/or HTA may audit the books and records of Contractor relating specifically to its performance of Services under this Agreement, related to cost or pricing data, or any state contract, including subcontractors, other than a firm fixed-price contract.

1.11 No person performing work under this Agreement shall engage in any discrimination that is prohibited by any applicable federal, state or county law.

1.12 To the extent applicable to the Goods and Services, Contractor shall comply with the provisions of the Hawai'i Convention Center Health and Safety Procedures Section 1 – Contractor Policy as set forth on Exhibit B attached hereto and made a part hereof.

1.13 Prior to the execution of the Agreement, Contractor must furnish proof of compliance with the requirements of HRS § 103D-310(c), including, without limitation, the following:

- a. **Chapter 237, tax clearance;**
- b. **Chapter 383, unemployment insurance;**
- c. **Chapter 386, workers' compensation;**
- d. **Chapter 392, temporary disability insurance;**
- e. **Chapter 393, prepaid health care; and**
- f. **Proof that Contractor is:**
 - i. **Registered and incorporated or organized under the laws of the State, hereinafter referred to as a "Hawaii business"; or**
 - ii. **Registered to do business in the State, hereinafter referred to as a "compliant non-Hawaii business".**

Contractor must furnish a Certificate of Vendor Compliance and a certificate of insurance demonstrating compliance with any HRS vendor insurance requirements.

2. **TERM.** The term of this Agreement shall commence as of the effective date hereof and shall terminate on **DATE** ("Term"), unless extended by the written agreement of the parties or this Agreement is sooner terminated in accordance with the terms and conditions of this Agreement.

3. **COMPENSATION.** As full and complete compensation and consideration for all of the Goods and Services to be provided by Contractor under or pursuant to this Agreement, Company shall pay to Contractor the compensation as set forth on Exhibit A attached hereto.

All sums due to Contractor under this Agreement shall be paid by Company to Contractor within thirty (30) days following receipt by Company of an invoice from Contractor fully describing the work performed, including the number of hours worked by Contractor personnel, if applicable, rates pursuant to this Agreement, taxes, if any, and the compensation due to Contractor.

4. **SAFETY AND LEGAL REQUIREMENTS; AUTHORITY; WARRANTIES.** Without in any way limiting any other term or provision of this Agreement or any obligation of Contractor hereunder, Contractor shall do or cause to be done all of the following:

(a) perform all services set forth in the Goods and Services in a first-class manner that shall protect the health and safety of all patrons, employees and other users of the Facility; (b) adhere to all laws, policies, rules, and regulations applicable to the Contractor and to the Services to be provided by Contractor pursuant to this Agreement; (c) if an authorized management person of Company is not available, then contact the proper local authorities for assistance at the Facility when such assistance is appropriate for safety; (d) obtain, maintain and comply with all licenses, permits and franchises or approvals from any governmental authority that may be required to enable Contractor to perform all of the requirements set forth in the Goods and Services and fulfill all of its obligations under this Agreement, which may include a Certificate of Vendor Compliance and (e) comply with the provisions of the Hawai'i Convention Center Health and Safety Procedures Section 1 – Contractor Policy as set forth on Exhibit B

Contractor further represents and warrants that (A) it is a licensed contractor; (B) it holds all requisite licenses to perform the work contemplated hereby in the jurisdiction in which the Facility is located; (C) it has the full right and authority to enter into and fully perform this Agreement in accordance with its terms; (D) this Agreement constitutes a valid, binding and enforceable agreement of Contractor; and (E) the execution, delivery and performance of this Agreement by Contractor will not violate the provisions of any agreement to which it is a party or by which it is bound.

All Goods shall be owned by Company and any and all warranties applicable to such Goods shall be enforceable by Company or shall be transferred by Contractor to Company. If applicable.

Contractor warrants to Company the following:

(a) **General Warranty.** All Goods and Services furnished under this Agreement shall be of good quality, free from faults and defects and in conformance with this Agreement and all plans, specifications, drawings or other supplements concerning the Goods and Services

approved in writing by Company. Contractor shall promptly make good at its cost any and all defects that appear during the Term (or such longer time as may be set forth Agreement from the date of final completion, including any punch list work. The terms of this warranty shall not be construed to limit any other remedies available to Company at law or in equity, under specific warranties, or under this Agreement. Contractor certifies that it has reviewed, observed and accepted as suitable for its work the existing conditions at Facility and the Agreement, and warrants that the Compensation (as defined in Exhibit A) includes all sums necessary to perform the Goods and Services under the conditions indicated by Contractor's review and observation of Facility and the Agreement.

(b) Equipment Warranty. If the furnishing or provision of equipment is part of the Goods and Services, Contractor hereby represents, warrants and covenants to Company that: (a) all equipment and materials will be free from defects in workmanship and material and conform in all material respects to all specifications provided by Company, (b) all equipment and materials shall be new and of high quality material and shall be free of faults, defects, liens and encumbrances except for liens or encumbrances arising in the normal course of business by operation of law that are not at the particular time in question due and delinquent, (c) the equipment and materials shall comply with all laws and regulations applicable to the same, and (d) the equipment and materials are fit for its intended purpose.

5. **INDEMNIFICATION.** Contractor agrees to indemnify, defend and forever save and hold harmless Company, AEG Management HCC, LLC, AEG Venue Management Holdings, LLC, ASM Global Parent, Inc., State of Hawaii, Hawaii Tourism Authority (HTA), and their respective affiliates, licensees, lenders and contractors, as well as each of their respective officers, directors, partners, members, shareholders, employees, agents, representatives, successors and assigns, (sometimes collectively referred to herein as the "Company Indemnitees" and individually as a "Company Indemnitee"), from and against any and all damages, claims, losses, demands, costs, expenses (including attorneys, fees and costs), obligations, liens, liabilities, actions and causes of action, threatened or actual, which any one of the Company Indemnitees may suffer or incur arising directly or indirectly out of or in connection with the Goods, performance of the Services or the failure of Contractor to perform the Services in accordance with the terms of this Agreement or any act or omission of the Contractor, including its employees, officers, agents or subcontractors. The foregoing indemnification shall survive any termination or the expiration of the term of this Agreement.

6. **INSURANCE.** Without in any way limiting or altering the indemnification requirements of Contractor under or pursuant to this Agreement, Contractor shall, at its sole expense, procure and at all times maintain during the term of this Agreement all of the following insurance:

- (a) Contractor agrees, at its sole expense, to procure and maintain during the Term of this Agreement: (i) Commercial General Liability insurance, on an occurrence form, including blanket contractual liability, products and completed operations coverage, fire legal liability coverage, personal & advertising injury coverage (including but not limited to libel, slander, defamation of character, and discrimination) for the mutual benefit of Contractor, Company and their Contractors, successors and assigns, against all claims for personal injury, death or property damage in or about the Areas arising in the amount of \$1,000,000 per occurrence, \$5,000,000 in the aggregate, (ii) Commercial Automobile Liability insurance, on an occurrence basis covering all owned, non-owned, hired and leased vehicles with a limit of not less than \$1,000,000 per occurrence covering bodily injury and property and physical damage; and (iii) following form Umbrella or Excess Liability coverage with a limit of \$4,000,000 per occurrence in excess of \$1,000,000.
- (b) The insurance policies set forth in (a) above shall name as Additional Insureds each of the Company Indemnitees (as set forth in Section 5 above), their respective affiliates, vendors, lenders and Contractors, as well as each of their respective officers, directors, partners, members, shareholders, employees, agents, representatives, successors and assigns. All such insurance shall be primary and non-contributing to insurance maintained by Company.
- (c) Contractor agrees, at its sole expense, to procure and maintain during the term of this Agreement, Workers Compensation insurance in accordance with statutory limits and Employers Liability at a limit of \$1 million per occurrence covering all employees, performers, participants and other personnel of Contractor (other than such persons as are employed by Company and its respective affiliates), which shall be evidenced on the certificate of insurance required to be provided in accordance with Section 10(f & g) below. Such insurance shall include a waiver of subrogation in favor of Company.
- (d) To the extent applicable, Contractor shall obtain and maintain a Personal Property Floater and/or Miscellaneous Equipment insurance coverage on all of Contractor's personal property, trade fixtures, and Contractor's owned alterations, utility installations and third party property damage. Such insurance shall be full replacement cost coverage with a deductible of not more than \$2,500.00 per occurrence. The proceeds from any such insurance shall be used by Contractor for the replacement of personal property, tools & equipment. Contractor shall provide Company with written evidence that such insurance is in force and shall cause its insurers to a waiver of subrogation in favor of Company.
- (e) Company makes no representation that the limits or terms of coverage of insurance specified herein are adequate to cover Contractor's property, business operations or obligations under this Agreement.
- (f) The insurance shall provide for coverage from commencement of work or occupancy of the premises. There will be no charge to Company for such coverage and a certificate of insurance evidencing such coverage shall be

furnished to Company. Said policy of insurance and endorsements shall provide that the policy of insurance cannot be canceled without 15 days prior written notification to Company. Said insurance shall not restrict or limit the coverage of the additional insureds. If Contractor fails to provide Company with the required certificate of insurance at least five (5) business days prior to the commencement of work or occupancy of premises, Company may, in its sole and absolute judgment, either (i) acquire, at Contractor's expense, such insurance as Company determines in its sole judgment to be necessary in order to protect the Company Indemnitees from any of the matters to be covered under subparagraph (a) above, or (ii) treat such failure as a default by Contractor and terminate the Agreement.

- (g) All insurance shall be effected by valid and enforceable policies issued by insurers of responsibility, licensed to do business in the Hawaii, such responsibility and the insuring agreements to meet with the reasonable approval of Company. An insurer with a current A.M. Best rating of at least AVI or better shall be deemed to be acceptable. Receipt by Company of a certificate of insurance, endorsement or policy of insurance which is more restrictive than the contracted for insurance shall not be construed as a waiver or modification of the insurance requirements above or an implied agreement to modify same nor is any verbal agreement to modify same permissible or binding. Any agreement to amend this provision of this Agreement must be in writing signed by the parties.
- (h) At the request by Company, Contractor shall promptly furnish loss information concerning all liability claims brought against Contractor (or any other insured under Contractor's required policies), that may affect the amount of liability insurance available for the benefit and protection of the Company Indemnitees under this Agreement. Such loss information shall include such specifics and be in such form as Company.
- (i) Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements as broad as stated herein and that they name Contractor and Company Indemnitees as Additional Insureds.
- (j) All insurance coverage available to Contractor and any available proceeds in excess of specified minimum limits shall be available to Company.

7. **LIENS.** Contractor shall be responsible for the satisfaction or payment of any liens for any provider of, among other things, work, labor, material or services claiming by, through or under Contractor. Contractor shall also indemnify, hold harmless and defend the Company Indemnitees against any such liens, including attorneys' fees and costs. Contractor shall not cause, suffer or authorize any lien, claim, or other encumbrance to be filed against the Facility or underlying property in connection with Contractor's Services or the exercise of any right or privilege of Contractor under this Agreement. If Company notifies Contractor that such a lien has been filed against the Facility or underlying property by Contractor or any Contractor performing work at the Facility at Contractor's request, then Contractor shall promptly have the lien bonded or removed and released of record at Contractor's sole cost and expense, no later than ten (10) days after notice thereof.

If Contractor fails to do so, Company has the right to retain out of any payment then due or thereafter to become due, an amount sufficient to discharge the lien and reimburse Company for all of its costs and expenses in connection therewith, including reasonable attorneys' fees and costs. Notwithstanding the foregoing, Contractor shall defend, indemnify and hold harmless Company and all other Company Indemnitees from all such mechanic's or similar liens, claims and encumbrances arising out of Contractor's performance of the Services. Upon request of Company, Contractor shall furnish evidence satisfactory to Company regarding payment of all of Contractor's obligations under this Agreement by supplying Company with appropriate releases of liens executed by all applicable materialmen, suppliers and subcontractors and proof of payment of all Federal, state and local taxes and other required fees. Company reserves the right to check with the materialmen, suppliers and subcontractors to determine the current status of indebtedness, and may, upon reasonable evidence of a claim of non-payment by a subcontractor, supplier or materialman, make checks jointly payable to Contractor and the materialmen, subcontractor or supplier, said sums to be deducted from amounts owing to Contractor. This contractual right of Company to pay Contractor by joint check is solely to protect Company from mechanics' lien rights and shall not be construed to create any rights in third parties against Company, or any obligations of Company to any third parties. Contractor shall furnish from time to time, upon request of Company, an affidavit specifying the names of all materialmen, suppliers and subcontractors furnishing labor, services or materials in connection with the Goods and Services.

8. **WAIVER BY CONTRACTOR.** Contractor agrees that Company shall not be responsible for any loss or damage to any property of Contractor resulting from fire, theft or any other cause unless due to the gross negligence or willful misconduct of Company and, except to the extent expressly provided herein, Contractor expressly assumes all risks of loss, damage or destruction of or to any of its property resulting from any such causes.

9. **TERMINATION.** This Agreement may be terminated by (i) Company at any time, with or without cause, upon 30 days' written notice to Contractor, (ii) Company immediately upon notice to Contractor if Company determines, in its sole discretion, that Contractor has failed to deliver any of the Goods required by this Agreement, any of the Services performed or to be performed by Contractor are unsatisfactory, or if Contractor fails, refuses or neglects to perform each and every one of the Services to be performed by Contractor under or pursuant to this Agreement or upon the breach by or failure of Contractor to perform any of its obligations or covenants under this Agreement, or (iii) Contractor upon the failure of Company to perform any of its material covenants and conditions hereunder which has not been cured within 30 days following written notice from Contractor to Company, or, if cure is not possible within said 30-day period, if Company has not taken meaningful steps within such time period to cure such default. Further, if the

Management Agreement is terminated, this Agreement shall automatically terminate. Following any termination of this Agreement, Company shall only be required to pay to Contractor any compensation earned by Contractor for any Goods and Services satisfactorily delivered or performed by Contractor prior to the date of such termination.

10. **INDEPENDENT CONTRACTOR STATUS.** Contractor is engaged hereunder as an independent Contractor and as such shall be solely responsible for full compliance with all requirements under all laws and regulations now or in the future applicable to Contractor, its business affairs and its performance of its duties under or pursuant to this Agreement, including, without limitation, state and federal taxes applicable to this Agreement (including payroll taxes), unemployment insurance and other insurance applicable and necessary with respect to its employees and all of its duties and obligations as an employer. The relationship created by this Agreement is that of independent Contractors, and nothing contained in this Agreement shall be deemed or construed as creating any partnership, joint venture, employment relationship, agency or other relationship between the parties or to make Company liable for the debts or obligations of Contractor. No officer, employee, agent, or servant of Contractor shall be deemed at any time to be an employee, servant, or agent of Company for any purpose whatsoever. Contractor shall require all of its personnel to refrain from making any representation by word or conduct whereby any other person might understand or believe that such persons are employees, agents, or servants of Company.

11. **INTELLECTUAL PROPERTY.** Contractor agrees that (i) nothing in this Agreement is intended to convey any ownership or other rights in the trademarks, service marks, copyrights or other intellectual property rights of Company, its affiliates' intellectual property rights or to the Facility or any of the events taking place at the Facility (the "Trademarks"), (ii) ownership of all such Trademarks shall remain the property of Company, its affiliates, or the Trademark owner, as the case may be, and (iii) Contractor will not use any Trademarks under any circumstances without the prior written consent of Company or Trademark owner, which consent Company or Trademark owner may withhold in its sole and absolute discretion.

Contractor hereby irrevocably assigns to Company all of his right, title, and interest in and to the products and results of the Services and all other obligations furnished or rendered by Contractor hereunder of whatever kind and nature, including all audio, audiovisual and photographic materials produced by Contractor in connection herewith, all underlying elements and versions thereof, and all works of authorship of whatever kind and nature contained therein or created in connection therewith (the "Works") created by Contractor pursuant to this Agreement (the "Copyrights"), together with all extensions and renewals of the Copyrights, throughout the world. Contractor represents and warrants to Company that it is the sole author of all Works created pursuant to this Agreement and the sole owner of the Copyrights therein, and that to the extent that it uses any employees or other personnel to provide the Services under Section 1 of this Agreement, such persons will have no interest in and to any of the Copyrights. Contractor agrees to provide to Company, at Company's request, any further and separate assignments of the Copyrights in the Works or other documents, and to take such other and further actions, as may be necessary or useful to confirm, record, or otherwise manifest Company's sole ownership of the Copyrights in the Works. Contractor agrees that any invoice sent to Company pursuant to Exhibit A to this Agreement shall contain no language inconsistent with Company's sole ownership of the Copyrights in the Works. Company shall be deemed for all purposes the author of the Works and shall own all rights, title and interests therein (including, without limitation, all Copyrights and all renewals and extensions thereof) and the exclusive right, throughout the universe in perpetuity, to distribute, perform, exhibit and otherwise use and exploit any and all such rights in any and all media by any and all methods now known or hereafter devised.

12. **CONFIDENTIAL INFORMATION.** During the Term of this Agreement, Contractor and its officers, directors, shareholders, employees, agents, Contractors and representatives may gain access or be exposed to certain confidential and proprietary information relating to the business of Company or its affiliates. Contractor agrees, for itself and its officers, directors, shareholders, employees, agents and representatives, that all such confidential and proprietary information shall remain and be kept in strictest confidence and shall not be disclosed to or used by any person or entity without the prior written consent of Company, which consent may be withheld by Company in its sole and absolute discretion. The obligation to maintain confidentiality provided herein shall survive any termination or expiration of the Term of this Agreement and may be enforced by injunctive relief or other equitable or legal remedies without the necessity of proving inadequacy of legal remedies and without proving that Company or any of its affiliates or any of their respective officers, directors, shareholders, partners, employees, agents, Contractors or representatives would suffer irreparable harm as a result of a violation of such confidentiality obligation.

Pursuant to 18 USC § 1833(b), an individual may not be held liable under any criminal or civil federal or state trade secret law for disclosure of a trade secret: (a) made in confidence to a government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law or (b) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Additionally, an individual suing an employer for retaliation based on the reporting of a suspected violation of law may disclose a trade secret to his or her attorney and use the trade secret information in the court proceeding, so long as any document containing the trade secret is filed under seal and the individual does not disclose the trade secret except pursuant to court order.

13. **EFFECT OF AGREEMENT/ASSIGNMENT.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective permitted successors and assigns; provided, however, that this Agreement may not be assigned by Contractor, nor may any of Contractor's duties hereunder be delegated, without the prior written consent of Company. Notwithstanding

any other term or provision of this Agreement, it is expressly understood and agreed by Contractor that Company shall have the right to designate another entity, including, without limitation, one of its affiliated or related entities, the State of Hawai'i, or HTA, to manage, direct and control the Goods and Services to be provided by Contractor hereunder, and Contractor agrees to fully cooperate with and comply with all directives and directions of any such other entity.

14. **NOTICES.** Except as otherwise expressly provided in this Agreement, any and all notices or other communication required or permitted under or pursuant to this Agreement shall be in writing and shall be delivered either by personal delivery or by certified or registered mail, return receipt requested, postage prepaid by United States mail, addressed as follows:

Company: AEG Management HCC, LLC
800 W. Olympic Blvd., Ste. 305
Los Angeles, CA 90015
Attention: General Counsel

With a copy to Hawaii Convention Center
1801 Kalakaua Avenue
Honolulu, HI 96813
Attention: General Manager

Contractor: **COMPANY**
ADDRESS
Attention: **COMPANY CONTACT**

All notices shall be deemed delivered either upon actual receipt thereof if personally delivered or, if mailed, on the third day following deposit in the United States mails as provided above. Either party may change the address at which it receives notices by notifying the other party of such change in the manner provided herein.

15. **WAIVER.** No course of dealing or delay by either party to this Agreement in exercising any right, power or remedy under this Agreement will operate as a waiver of any right, power or remedy of that party, and no waiver by a party of a breach of any provision of this Agreement will not be considered or constitute a waiver of any succeeding breach of the provision or a waiver of the provision itself.

16. **CHOICE OF LAW.** The validity, interpretation, construction and enforcement of this Agreement shall be governed and controlled by the laws of the State of Hawai'i, without regard to that State's rules with respect to choice of law. Any action at law or in equity shall be brought in a state court of competent jurisdiction in Honolulu, HI.

17. **ENTIRE AGREEMENT / MISC.** This Agreement, including any exhibits and schedules, expresses and contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes and replaces any and all prior agreements and understandings, either oral or written, with respect to the subject matter hereof. If any covenant, term or provision of this Agreement is deemed to be contrary to law, that covenant, term or provision will be deemed separable from the remaining covenants, terms and provisions of this Agreement and will not effect the validity, interpretation or effect of the remainder of this Agreement. This Agreement may not be modified, altered or amended-except by a written instrument signed by both parties. This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement. The parties agree to take such further acts and to execute such further documents that may be necessary or convenient to carry out the intents and purposes of this Agreement. Should either party to this Agreement commence any legal action or proceeding to enforce or interpret any term or provision of this Agreement, the prevailing party in such action or proceeding shall be entitled to collect and recover from the losing party the prevailing party's reasonable attorneys' fees and costs incurred in connection therewith, in addition to any other remedy or damages to which the prevailing party may be entitled or awarded.

18. **DOCUMENTS AND REPORTS.** Company shall have all ownership rights in all written, recorded, photographic, or visual materials, and all computation, sketches, reports, test data, survey results, photographs, renderings, and other materials pertaining to the Goods and Services, whether prepared by Contractor or Contractor's agents, produced in performance of this Agreement (collectively, the "Documents and Reports"). To the extent there are any Documents and Reports to which all rights are not deemed to be owned by Company, Contractor hereby assigns and transfers to Company all right, title and interest of Contractor and any of its employees, vendors, subcontractors or any third party engaged by Contractor in connection with the Goods and Services, in all projects and matters which embody all or part of the Documents and Reports. All Documents and Reports shall be for Company's exclusive use and re-use at any time without further compensation to Contractor and without any restrictions. Contractor shall retain no ownership, interest, or title in the Documents and Reports. Contractor shall not use any Documents and Reports for any purposes not necessary to the performance of the Goods and Services without the prior written consent of Company. Contractor agrees to execute such further

documents and take such additional actions, which are consistent with the terms of this Agreement, as are necessary or required in order to perfect the rights granted herein.

IN WITNESS WHEREOF, the parties have executed this Agreement and have made it effective as of the day and year first above written.

CONTRACTOR:

By: _____

Name: _____

Title: _____

COMPANY:

By: _____

Name: _____

Title: _____

Exhibit A

Goods and Services and Compensation

Goods

Contractor shall deliver the following Goods to the Facility as further described in Schedule 1 attached hereto and made a part hereof:

OR

Contractor shall deliver Goods to the Facility as further described in Schedule 1 attached hereto and made a part hereof.

Services

Contractor shall perform the following Services as further described in Schedule 1:

To include, but not limited to:

1. Coordinate delivery, assembly and set-up of goods
2. Provide management/supervision and staff to receive, assemble and set-up/transfer of goods
3. Arrange and coordinate proper disposal of packing material

Compensation

- For full and complete compensation for the Services, Company shall pay Contractor in the total amount of \$xxx for the Services.
- Company shall provide a 10% deposit to Contractor upon full execution of this Agreement.
- Contractor shall provide finalized invoices to Company throughout the Term of the Agreement, and Company shall pay Contractor within thirty (30) days upon receipt of all invoices. The final invoice (which shall reflect the final 10% of the total compensation) shall be provided by Contractor to Company within thirty (30) days after the final delivery of the Goods. Company shall determine and confirm with Contractor that the Goods are of good quality, and free from any faults and defects prior to receiving the final invoice.

SCHEDULE. Time is of the essence.

COMMENCEMENT. Contractor agrees to begin providing the Goods and Services as soon as possible after the execution of this Agreement, and to complete the Goods and Services according to Company's work schedule, as may be amended from time to time.

(i) SUBSTANTIAL COMPLETION. Unless otherwise expressly agreed to in writing, Contractor shall achieve substantial completion of the Goods and Services no later than end of business on March 31, 2020 (the "Substantial Completion Date"). Substantial completion of the Goods and Services shall occur upon Contractor's completion of the Goods and Services in good and workmanlike manner; in compliance with all applicable laws, this Agreement and all plans, specifications, drawings or other supplements concerning the Goods and Services approved in writing by Company; subject only to punch list items which do not impair the use of the improvements constructed as part of the Goods and Services; upon receipt of all applicable governmental approvals and sign-offs permitting the legal use and occupancy of the improvements constructed as part of the Goods and Services; and upon the Contractor causing Facility to be free from all construction debris, materials and other waste, as well as all tools, construction equipment and machinery

(ii) DELAY DAMAGES. Contractor shall not be entitled to monetary or consequential damages of any kind for delay in the project, regardless of cause, however, Contractor shall be responsible to Company for damages resulting from delay caused by Contractor or any of Contractor's subcontractors or materials. Contractor shall pay Company as liquidated damages the amount of revenue lost by Company by reason of failure to provide seating for paid, ticketed guests (the "Liquidated Damages") if Contractor does not complete the Goods and Services by the Substantial Completion Date or Final Completion Date, as applicable.

SUBMITTALS. Contractor shall prepare, review, stamp with approval (or obtain such stamped approval as required) and submit all samples, structural calculations, plans, shop drawings and product data (the "Submittal") as may be directed by Company and shall not perform Goods and Services without approved/stamped Submittals. Contractor shall submit the Submittal to Company prior to commencement of installation.

CHANGES IN THE GOODS AND SERVICES. Contractor shall provide additional Goods and Services only with prior written authorization from Company. Contractor shall not modify the Goods and Services without the prior written authorization of Company. Contractor shall not perform any additional work without express written approval of Company.

SCHEDULE 1

See attached