

File No. 200332

Committee Item No. 6

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: May 7, 2020

Board of Supervisors Meeting:

Date: _____

Cmte Board

- | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Airport Commission Reso No. 18-0342 – October 16, 2018</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Airport Letter – March 30, 2020</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: John Carroll

Date: May 1, 2020

Prepared by: John Carroll

Date: _____

1 [Lease Agreement - Enterprise Rent-A-Car Co of San Francisco, LLC - On-Airport Rental Car
2 Operations - \$16,087,548 Minimum Annual Guarantee]

3 **Resolution approving the On-Airport Rental Car Operations Lease No. 18-0342,**
4 **between Enterprise Rent-A-Car Co of San Francisco, LLC, and the City and County**
5 **of San Francisco, acting by and through its Airport Commission, for a term of five**
6 **years with two two-year options to extend, and a minimum annual guarantee of**
7 **\$16,087,548 for the first year of the Lease, to commence following Board approval.**

8
9 WHEREAS, Upon completion of a competitive selection process, the Airport
10 Commission adopted Resolution No. 18-0342 on October 16, 2018, awarding the On-Airport
11 Rental Car Operations Lease to Enterprise Rent-A-Car Co of San Francisco, LLC; and

12 WHEREAS, The On-Airport Rental Car Operations Lease has a term of five years with
13 two 2-year options to extend, and an initial minimum annual guarantee of \$16,087,548; now,
14 therefore, be it

15 RESOLVED, That this Board of Supervisors hereby approves the On-Airport Rental
16 Car Operations Lease No. 18-0342, a copy of which is on file with the Clerk of the Board of
17 Supervisors in File No. 200332; and, be it

18 FURTHER RESOLVED, That within 30 days of the lease being fully-executed by all
19 parties, the Airport Commission shall provide the final lease to the Clerk of the Board for
20 inclusion into the official file.

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

May 1, 2020

TO: Government Audit and Oversight Committee

FROM: Budget and Legislative Analyst



SUBJECT: May 7, 2020 Government Audit and Oversight Committee Meeting

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5, 6, 7, 8	20-0331 Lease Agreement - Avis Budget Car Rental, LLC - On-Airport Rental Car Operations - \$11,076,378 Minimum Annual Guarantee	
	20-0332 Lease Agreement - Enterprise Rent-A-Car Co of San Francisco, LLC - On-Airport Rental Car Operations - \$16,087,548 Minimum Annual Guarantee	
	20-0333 Lease Agreement - The Hertz Corporation - On-Airport Rental Car Operations - \$16,501,462 Minimum Annual Guarantee	
	20-0334 Lease Agreement - Sixt Rent a Car, LLC - On-Airport Rental Car Operations - \$3,501,004.32 Minimum Annual Guarantee	10

<p>Items 5, 6, 7 & 8 Files 20-0331, 20-0332, 20-0333 and 20-0334</p>	<p>Department: San Francisco International Airport (Airport)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolutions would approve rental car leases between San Francisco International Airport (Airport) as landlord and the following tenants: (i) Avis Budget Car Rental, LLC (Avis), with initial Minimum Annual Guaranteed (MAG) rent of \$11,076,378 (File 20-0331); (ii) Enterprise Rent-A-Car Co of San Francisco, LLC (Enterprise), with initial MAG rent of \$16,087,548 (File 20-0332); (iii) The Hertz Corporation (Hertz), with initial MAG rent of \$16,501,462 (File 20-0333); and (iv) Sixt Rent a Car, LLC (Sixt), with initial MAG rent of \$3,501,004 (File 20-0334). Each lease would have an initial term of five years, from August 2020 through July 2025, with two 2-year options to extend. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • In 2018, the Airport issued a Request for Bids (RFB) to select up to nine rental car brands to operate and lease space at the Airport. The Airport received 10 bids from five companies, and the following four companies were awarded leases for their nine brands: (i) Avis (for the brands Avis and Budget); (ii) Enterprise (for the brands Alamo, National, and Enterprise); (iii) Hertz (for the brands Hertz, Dollar, and Thrifty); and Sixt (for the brand Sixt). In October 2018, the Airport Commission approved the four leases., the leases did not come forward for Board of Supervisors approval due to litigation filed by the rental car operators related to the City’s prevailing wage laws, which has now been settled. • Each lease would have an initial term of five years, with two 2-year options to extend. Under the leases, the rental car operators would pay the greater of the MAG rents or the concession fee, which is 10 percent of gross revenues. They would also pay structure and surface space rent, as well as AirTrain fees of \$16 per rental contract. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • Over the initial five-year terms of the leases, the Airport would receive at least \$343,482,770 in MAG rent and structure and surface space rent. If the options to extend are exercised, the Airport would receive total rent of \$618,268,986 over the total nine-year term. Due to the impact of COVID-19 on air travel, the MAG rent will be suspended upon commencement of the lease. The rental car operators would still pay the concession fee and surface and structure rent. AirTrain fee revenue totaled approximately \$30 million per year in FY 2017-18 and FY 2018-19, but cannot be reliably projected in future years. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> • Approve the proposed resolutions, subject to approval by the Board of Supervisors of the ordinance in File 20-0330. 	

MANDATE STATEMENT

City Charter Section 9.118(c) states that any modification, amendment or termination of a lease that had an initial term of ten years or more, including options to extend, or that had anticipated revenues of \$1 million or more is subject to Board of Supervisors approval.

BACKGROUND

In March 2018, the San Francisco International Airport (Airport) Commission authorized Airport staff to initiate a Request for Bids (RFB) process for up to nine rental car brands to operate and lease space at the Airport. In August 2018, the Airport Commission approved the minimum requirements and lease specifications and authorized Airport staff to receive bids. Minimum bids, specified as the initial Minimum Annual Guaranteed (MAG) rent in the lease, were set at 8.5 percent of gross revenues in calendar year 2017 for existing operators and \$450,000 for non-existing operators. The Airport received 10 bids¹ from five companies, as shown in Table 1 below.

Table 1: RFB Bids Received

Bidding Company	Operating Brand	Bid Amount
The Hertz Corporation	Hertz	\$10,101,154
Avis Budget Car Rental, LLC	Avis	6,420,453
Enterprise Rent-A-Car Co of San Francisco, LLC	Alamo Rent A Car	5,961,600
Enterprise Rent-A-Car Co of San Francisco, LLC	National Car Rental	5,079,913
Enterprise Rent-A-Car Co of San Francisco, LLC	Enterprise Rent-A-Car	5,046,035
Avis Budget Car Rental, LLC	Budget	4,655,925
Sixt Rent a Car, LLC	Sixt rent a car	3,501,004
The Hertz Corporation	Dollar Rent A Car	3,300,154
The Hertz Corporation	Thrifty Car Rental	3,100,154
Fox Rent a Car, Inc.	Fox Rent A Car	2,730,000

The Hertz Corporation (Hertz), Avis Budget Car Rental, LLC (Avis), Enterprise Rent-A-Car Co of San Francisco, LLC (Enterprise), and Sixt Rent a Car, LLC (Sixt) provided the nine highest bids and were awarded leases. In October 2018, the Airport Commission awarded leases to these four companies. According to Ms. Cheryl Nashir, Airport Director of Revenue Development and Management, the leases did not come forward for Board of Supervisors approval due to litigation filed by the rental car operators, which has now been settled.²

¹ An 11th bid was received from Green Motion SAN LLC, but it was disqualified for lack of a bid bond.

² According to Ms. Nashir, the RFB terms stated that rental car operators would be subject to the City's Minimum Compensation Ordinance (MCO). However, the Office of Labor Standards and Enforcement (OLSE) determined that the City's Prevailing Wage law applied, which sets employee wages higher than the MCO. The Airport informed the rental car operators that the leases would be rescinded and the RFB would be reissued. The operators filed a lawsuit, and the court granted their request for a preliminary injunction, prohibiting the Airport from rescinding the leases and finding that OLSE had misapplied the Prevailing Wage law. The City and rental car operators have reached a settlement agreement (the subject of File 20-0330) for which approval is pending before the Board of Supervisors. The settlement agreement provides a payment of \$500,000 to Sixt Rent a Car but not to the other three rental car companies.

DETAILS OF PROPOSED LEGISLATION

The proposed resolutions would approve rental car leases between the Airport as landlord and the following tenants: (i) Avis (File 20-0331); (ii) Enterprise (File 20-0332); (iii) Hertz (File 20-0333); and (iv) Sixt (File 20-0334). Each lease would have an initial term of five years with two 2-year options to extend. Under the leases, the tenants would pay the greater of the MAG or the Concession Fee, which is 10 percent of gross revenues.³ The key terms of the leases are shown in Table 2 below.

Table 2: Key Terms of Proposed Leases

	Avis (File 20-0331)	Enterprise (File 20-0332)	Hertz (File 20-0333)	Sixt (File 20-0334)
Rental Car Brands	Avis, Budget	Alamo, National, Enterprise	Hertz, Dollar, Thrifty	Sixt
Term	5 years, from August 1, 2020 through July 31, 2025			
Options to Extend	Two 2-year options to extend			
Structure Space	289,582 square feet	437,295 square feet	420,158 square feet	94,605 square feet
Surface Space	163,543 square feet	238,518 square feet	251,742 square feet	52,368 square feet
MAG Rent	\$11,076,378	\$16,087,548	\$16,501,462	\$3,501,004
MAG Adjustment	Adjusted annually to 8.5% of gross revenues of previous year			
Concession Fee	10% of gross revenues			
Space Rent	\$13.23 per square foot per year for structure space, \$2.62 per square foot per year for surface space (adjusted annually based on Consumer Price Index (CPI)) ⁴			
Deposit	Equal to ½ of initial MAG (subject to mid-term adjustment)			
AirTrain Fee	\$16 per rental car contract, per the Airport's FY 2019-20 Rates and Charges ⁵			
Hours of Operation	Must operate 24 hours per day, 7 days per week, including holidays			

FISCAL IMPACT

Under the proposed leases, the rental car operators would pay the greater of the MAG rent or the concession fee, which is 10 percent of gross revenues. The operators would also pay structure and surface space rent. Over the initial five-year terms of the leases, the Airport would receive at least \$343,482,770 in total revenue. If the two 2-year options to extend each lease are exercised, the Airport would receive at least \$618,268,986 in total revenue. Revenue projections are shown in Table 3 below.

³ The rental car operators may apply this amount as a surcharge on customer contracts, labeled as the "Concession Recovery Fee."

⁴ For structure space, tenants pay both structure and surface space rent, a total of \$15.85 per square foot per year. According to Ms. Nashir, the surface space rent is eligible for the Airport Service Payment, which returns 15 percent of concession revenues to the City's General Fund, but the structure space rent is not.

⁵ Customers arriving at the Rental Car Facility by means besides the AirTrain are not required to pay the AirTrain fee. However, for each tenant, the number of waivers may not exceed one percent of the total signed rental contracts.

Table 3: Rental Car Lease Revenue Projections

	Avis	Enterprise	Hertz	Sixt	Total
MAG Rent	\$11,076,378	\$16,087,548	\$16,501,462	\$3,501,004	\$47,166,392
Structure Rent	3,831,170	5,785,413	5,558,690	1,251,624	16,426,897
Surface Rent	1,187,188	1,770,630	1,760,378	385,069	5,103,265
Total Annual Rent	<i>\$16,094,735</i>	<i>\$23,643,591</i>	<i>\$23,820,530</i>	<i>\$5,137,697</i>	<i>\$68,696,554</i>
Total Rent, Initial Term	\$80,473,677	\$118,217,955	\$119,102,652	\$25,688,487	\$343,482,770
Total Rent, Option Terms	64,378,941	94,574,364	95,282,121	20,550,790	274,786,216
Total Rent Paid	\$144,852,618	\$212,792,318	\$214,384,773	\$46,239,277	\$618,268,986

MAG Suspension

The leases contain provisions that suspend the MAG rents if Airport enplanements drop below 80 percent of 2017 levels for three consecutive months. The MAG is then reinstated if enplanements increase back to at least 80 percent of 2017 levels for two consecutive months. When the MAG is suspended, the operators continue to pay the concession fee and space rent. With the impact of COVID-19 on air travel, the MAG rents will be suspended upon lease commencement and likely remain so for the foreseeable future.

AirTrain Fees

Under each lease, the rental car operators charge each customer an AirTrain fee of \$16 per rental contract. In the past two full fiscal years, FY 2017-18 and FY 2018-19, the Airport received \$30,224,051 and \$29,490,444, respectively, in AirTrain fees. Due to the impact of COVID-19 on air travel, AirTrain fee revenue cannot be reliably projected at this time.

RECOMMENDATION

Approve the proposed resolutions, subject to approval by the Board of Supervisors of the ordinance in File 20-0330.

ORIGIN ID: LVKA (925) 464-5100
DENISE BERKOWITZ
ENTERPRISE RENT A CAR
2633 CAMINO RAMON STE. 400

SAN RAMON, CA 94583
UNITED STATES US

SHIP DATE: 13MAR20
ACTWGT: 1.00 LB
CAD: 100090266/INET4220

BILL SENDER

TO **SFO - RDM**

575 N. MCDONNELL RD

#3-329

SAN FRANCISCO CA 94128

(925) 464-5220

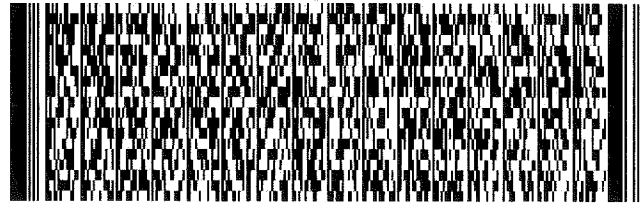
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PRIORITY OVERNIGHT

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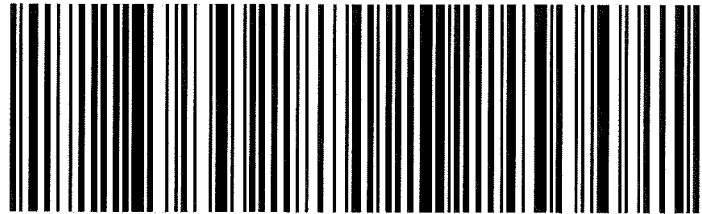
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94128

CA-US SFO



**LEASE AGREEMENT
FOR THE
ON-AIRPORT RENTAL CAR OPERATIONS
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

by and between

Enterprise Rent-A-Car Co of San Francisco, LLC,
as tenant

and

CITY AND COUNTY OF SAN FRANCISCO
ACTING BY AND THROUGH ITS AIRPORT COMMISSION,
as landlord

London N. Breed
Mayor

AIRPORT COMMISSION

Hon. Larry Mazzola, President
Hon. Eleanor Johns
Hon. Richard J. Guggenlime
Hon. Malcolm Yeung

Ivar C. Satero
Airport Director

October 16, 2018

Lease No. 18-0342

AIRPORT COMMISSION

MAR 16 2020

Revenue Develop & Management

**LEASE AGREEMENT
FOR THE
ON-AIRPORT RENTAL CAR OPERATIONS
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

by and between

Enterprise Rent-A-Car Co of San Francisco, LLC,
as tenant

and

CITY AND COUNTY OF SAN FRANCISCO
ACTING BY AND THROUGH ITS AIRPORT COMMISSION,
as landlord

London N. Breed
Mayor

AIRPORT COMMISSION

Hon. Larry Mazzola, President
Hon. Eleanor Johns
Hon. Richard J. Guggenlime
Hon. Malcolm Yeung

Ivar C. Satero
Airport Director

October 16, 2018

Lease No. 18-0342

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List of Exhibits

- Exhibit A – Description of Premises
- Exhibit B – City’s Maintenance Responsibility and Tenant’s Operational Requirements
- Exhibit C-1 – Form of Performance Bond for Airport Leases
- Exhibit C-2 – Form of Letter of Credit for Airport Leases

**LEASE AGREEMENT
FOR THE
ON-AIRPORT RENTAL CAR OPERATIONS
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

MAJOR LEASE TERM SUMMARY

For the convenience of Tenant and City (as such terms are defined below), this Major Lease Term Summary (this "**Summary**") summarizes certain terms of this Lease (as defined below). This Summary is not intended to be a detailed or complete description of this Lease, and reference must be made to the other Sections below for the particulars of this Lease. In the event of any inconsistency between the terms of this Summary and any other provision of this Lease, such other provision shall prevail. Capitalized terms used elsewhere in this Lease and not defined elsewhere shall have the meanings given them in this Summary.

Effective Date: _____, 20__.

Tenant: Enterprise Rent-A-Car Co of San Francisco, LLC
a Delaware limited liability company.

Tenant's Notice 2633 Camino Ramon, Suite 400
Addresses: San Ramon, CA 94583
Attn: Kevin Bass, Vice President/General Manager
Fax No. (925) 464-5100
Tel. No. (925) 464-5101.

Enterprise Rent a Car
778 Burlway Rd
Burlingame Ca 94010
Attn: Regional Vice President

Enterprise Holdings
600 Corporate Park Drive
St Louis, Mo 63105
Attn: Airport Properties

City: The City and County of San Francisco, a municipal corporation,
acting by and through its Airport Commission.

City's Notice San Francisco International Airport
Address: International Terminal, North Shoulder Bldg., 5th Floor
Attn: Airport Director
P. O. Box 8097
San Francisco, CA 94128
Fax No. (650) 821-5005
Tel. No. (650) 821-5000

City's Rent Payment Address: San Francisco Airport Commission
Attn: Accounting
P.O. Box 59753
Los Angeles, CA 90074-9753

Overnight Delivery via Courier:
Lockbox LAC-059753
2706 Media Center Drive
Los Angeles, CA 90065

Federal Wire System or ACH:
Bank of America
555 Capitol Mall, Suite 765
Sacramento, CA 95814
Branch Locator #148
Bank Account No: 14997-21907
FedWire Bank ABA: 026-009-593
ACH Bank ABA: 121-000-358
SWIFT code: BOFAUS3N

City's Sales Report Address: SFOConcessReport@flysfo.com

City's Deposit/Annual Report Notice Address: San Francisco International Airport
Attn: Revenue Development and Management
575 N. McDonnell Road, Suite 3-329
P. O. Box 8097
San Francisco, CA 94128
Fax No. (650) 821-4519
Tel. No. (650) 821-4500

Premises: (§ 1) Approximately 437,295 square feet of Structure space, and 238,518 square feet of Surface space in the Rental Car Facility, as described in Section 1.1 and on the attached *Exhibit A*.

Relevant Boarding Area: Total of all boarding areas.
(§ 4.17)

Term: (§ 2) Five (5) years commencing on the Commencement Date.

The Airport Commission shall have two (2) options to extend the term by two (2) years each, exercisable by the Airport Commission in its sole and absolute discretion.

Commencement Date: (§ 2.1) Sixty (60) days following the BOS Approval Date (defined below), provided if the BOS Approval Date does not occur on the first day of a calendar month, then the Commencement Date shall be the first day of the calendar month immediately following the expiration of such sixty (60) day period. The “**BOS Approval Date**” shall be the effective date of the Resolution of the San Francisco Board of Supervisors approving this Lease pursuant to San Francisco Charter Section 9.118. *For example only*, if the BOS Approval Date is April 15, 2020, then the Commencement Date will be July 1, 2020.

Actual Commencement Date to be Inserted Upon Determination: _____

Rent Commencement Date: (§ 4) The same date as the Commencement Date.

Expiration Date: (§ 2.1) The last calendar day of the calendar month during which the fifth (5th) anniversary of the Commencement Date occurs, as the same may be extended by the Airport Commission pursuant to Section 2.3 of this Lease, in its sole and absolute discretion.

Initial Expiration Date to be Inserted Upon Determination: _____

Reference Year: (§ 4.17) The calendar year immediately prior to the year in which this Lease is awarded: 2017.

Permitted Use: (§ 3) Tenant shall use the Premises for the operation of a rental car business pursuant to the Lease and for no other purpose. Without limiting the generality of the foregoing, Tenant shall operate the Premises in strict conformity with the requirements herein, including those set forth in Section 3 of the Lease. Tenant is authorized the operate only the following brands under the Lease:

Alamo Rent A Car; National Car Rental; Enterprise Rent-A-Car.

Concession Fee: (§ 4) For each Lease Year (as defined below), the greater of the MAG (as defined below) or ten percent (10%) of Gross Revenues (as defined below).

Subject to adjustments upward as further described in the Lease.

Space Rent: (§ 4) Space Rent is based on the following rates:

- Structure Rate is \$13.23 per square foot per year;
- Surface Rate is \$2.62 per square foot per year.

Subject to adjustments upward as further described in the Lease.

Lease Year: The period commencing on the Rent Commencement Date and terminating on December 31st of the year in which the Rent Commencement Date occurs, and each subsequent 12 month period.
(§ 4)

Minimum Annual Guarantee (“MAG”): Sixteen Million Eighty Seven Thousand Five Hundred Forty-Eight Dollars (\$16,087,548.00) per annum; (One Million Three Hundred Forty Thousand Six Hundred Twenty-Nine Dollars (\$1,340,629.00) per month), (a) subject to adjustments upward as described below and (b) suspension and reinstatement under certain circumstances as described herein.
(§ 4)

MAG Adjustment Date: The first MAG adjustment shall occur on January 1st following the first full Lease Year and every January 1st thereafter.
(§ 4.5)

Rent: Concession Fee, Space Rent, and all other amounts owed by Tenant to City hereunder.
(§ 4)

Deposit Amount: Equal to one-half (1/2) of the initial MAG (subject to mid-term adjustment).
(§ 12)

Resolution: Number 18-0342, approved by the Airport Commission on October 16, 2018.

Initial Tenant Representative: Robert L. Hunsinger, Director, Airport Properties and Relations
Tel. No. (925) 382-4259
(§ 3.13)

Other Agreements: None.
(§ 12.4)

Exhibits: A – Premises
B – City’s Maintenance Responsibility and Tenant’s Operational Requirements
C-1 – Form of Performance Bond
C-2 – Form of Letter of Credit

All such exhibits are incorporated into this Lease and made a part hereof.

Initial of Authorized Representative of City _____

Initial of Authorized Representative of Tenant _____

**LEASE AGREEMENT FOR
ON-AIRPORT RENTAL CAR OPERATIONS
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS LEASE AGREEMENT (this "**Lease**"), dated as of the Effective Date, is entered into by and between Tenant, and the City and County of San Francisco, a municipal corporation, acting by and through its Airport Commission ("**City**"). This Lease is made with reference to the following facts:

A. City owns the San Francisco International Airport (the "**Airport**") located in the County of San Mateo, State of California, which Airport is operated by and through the Airport Commission (the "**Commission**"), the chief executive officer of which is the Airport Director ("**Director**"). The Airport's "**Rental Car Facility**" is comprised of a five-story garage and associated quick turnaround facilities ("**QTA**"), vehicle staging and storage space, all as described in Exhibit A hereto, and satellite buildings now or hereafter constructed. Tenant acknowledges that, from time to time, the Airport may undergo certain construction and renovation projects. Unless otherwise specified, the term "Airport" or "Rental Car Facility" as used herein shall mean the Airport or the Rental Car Facility, respectively, as the same may be expanded, retracted, improved, modified, renovated, or changed in any way. Unless otherwise specified below, references to the "City" shall mean the City, acting by and through its Airport Commission.

B. The operation of vehicle rental services at Airport is a desired service for the accommodation and convenience of the airline passengers and the public, and it is the intent of City that this service be available at Airport.

C. Following a Request for Bids ("**RFB**") competitive process in accordance with Section 2A.173 of the San Francisco Administrative Code, the Airport has determined that Tenant is among the highest-ranking responsive and responsible bidders, on and that basis, the Commission has awarded this Lease. On _____, 2020, by Resolution No. _____, the Board of Supervisors approved this Lease under San Francisco Charter Section 9.118.

Accordingly, Tenant and City agree as follows:

1. PREMISES

1.1 Extent of Leasehold. On the terms, conditions, and covenants in this Lease, City hereby leases to Tenant and Tenant hereby leases from City, the Premises. In addition, Tenant shall possess the non-exclusive right of ingress and egress to and from the Premises as may be necessary on areas designated by Director, subject to Airport Rules and Regulations, as amended from time to time (as amended, the "**Airport Rules**"), provided that Tenant's exercise of such right shall not impede or interfere unduly with the operation of the Airport by City, its tenants, customers, and other authorized occupants. Tenant shall not place or install any racks, stands or other display of merchandise or trade fixtures in any Airport property outside the Premises, without the express prior consent of Director. In no event will Tenant engage in any activity on the Airport outside the Premises for the recruitment or solicitation of business. For purposes of this Lease relating to Tenant's responsibilities, the "**Premises**" shall mean the areas shown on Exhibit A, comprised of "**Exclusive Space**", "**Common Use Space**" and "**Limited Common Use Space**". As used in this Lease, the term "Premises" shall be inclusive of all Common Use Space and Limited Common Use Space used by Tenant, not just the portion of such space

allocated to Tenant on Exhibit A for the purpose payment of Space Rent under the Common Use Formula and the Limited Common Use Formula.

- (a) Exclusive Space: Exclusive Space is space leased by Tenant for its exclusive use. Tenant is solely responsible for payment of rent on Exclusive Space. Exclusive Space includes the following space designations:
 - (i) Quick Turn-Around Space (“**QTA**”) (which includes the QTA stacking and staging area and the QTA fuel/wash canopy area);
 - (ii) Ready/Return Space;
 - (iii) Counter Space (which includes back office space);
 - (iv) Administrative Space; and
 - (v) Fifth & First Floor Vehicle Storage Space.
- (b) Common Use Space: Common Use Space is space used in common with all tenants of the Rental Car Facility. Tenant is responsible for a portion of rent attributable to Common Use Space as described in Section 4.7 herein.
- (c) Limited Common Use Space: Limited Common Use Space is space used in common with a limited number of companies leasing a specific area (“**Shared Area**”). Tenant is responsible for a portion of rent allocable to the Limited Common Use Space as described in Section 4.8 herein.

1.2 Space Reallocation. The number (but not the location) of vehicle spaces assigned to each brand in the Ready/Return Space, the Fifth & First Floor Vehicle Storage Space, and the QTA stacking and staging area will be reallocated according to brand market share on the following dates: (i) the first day of month thirty-one (31) of the initial Term (such point being the halfway point of the initial Term) (the “**First Reallocation Date**”); (ii) if the first extension option is exercised, then the first calendar day of month one (1) of the first two-year extension term (the “**Second Reallocation Date**”) and (iii) if the second extension option is exercised, then the first calendar day of month one (1) of the second two-year extension term (the “**Third Reallocation Date**”, and together with the First Reallocation Date and the Second Reallocation Date, each a “**Reallocation Date**”), only if the overall market share for any one on-airport rental car brand has changed by 3% or more during the Reallocation Determination Period (as defined below) prior to the applicable Reallocation Date. Space reallocation shall be determined in accordance with the overall market share based upon the twelve-month period ending six (6) months prior to the scheduled Reallocation Date (the “**Reallocation Determination Period**”). The Airport Director may stipulate a different twelve-month period should it be appropriate. Beginning four (4) months prior to the Reallocation Date, Tenant and the other rental car companies will have 45 days to agree on a reallocation plan. If the rental car companies are unable to agree on a plan, City will establish a reallocation plan with which Tenant and the other rental car companies must comply. All costs for reallocation will be paid for by the rental car companies. Administrative Space, Counter Space and the QTA fuel/ wash canopy area shall not be subject to such reallocation.

1.3 Changes in Tenants. In the event space becomes available in the Rental Car Facility, the Airport will, in its sole discretion, either allocate the space based on overall market share or re-bid the available space.

1.4 Relocation, Expansion, Contraction.

(a) At any time during the Term, City may require that (i) Tenant relocate and surrender all or part of the Premises (such change to the Premises referred to as a “**Required Relocation**”), and/or (ii) the Premises be contracted or expanded (such change to the Premises referred to as a “**Premises Change**”) on the terms set forth in this Section 1.4. City shall give notice (the “**Change Notice**”) setting forth a description of the Required Relocation or the Premises Change, as applicable, the approximate effective date thereof (the “**Target Effective Date**”), and with respect to a Required Relocation, the location of comparable on-Airport replacement premises. The Change Notice shall be given no less than six (6) months prior to the Target Effective Date.

(b) With respect to a Required Relocation, if the replacement premises are deemed unsatisfactory to Tenant, then Tenant may terminate this Lease by giving notice thereof to City within thirty (30) days after the Change Notice is given. In the event Tenant gives such notice of termination, then this Lease shall terminate on the Target Effective Date, and on such date, Tenant shall surrender the Premises in the condition required by this Lease. Provided Tenant does not terminate this Lease pursuant to the foregoing, Tenant shall surrender the Premises and relocate to the replacement premises on a date (the “**Surrender Date**”) determined by City (which shall be no earlier than the Target Effective Date). On the Surrender Date, Tenant shall surrender the Premises in the condition required below. In the event of a relocation pursuant to this Section 1.4(b), Tenant shall refurbish, redecorate, and modernize the interiors and exteriors of the replacement premises, such that the replacement premises are of at least the same quality as the original premises. As part of City’s approval of Tenant’s plans and specifications and Tenant’s budget for its remodeling, City may specify a maximum dollar amount to be reimbursed (the “**Maximum Reimbursement Amount**”). Once the remodeling of the replacement premises is completed, and City has approved the work, Tenant must submit to City (i) a certificate from Tenant’s architect certifying that the remodeling was completed in strict compliance with the plans and specifications approved by City, (ii) copies of paid invoices showing the costs actually paid by Tenant for the remodeling of the replacement premises and Tenant’s out-of-pocket moving costs, and (iii) lien releases from all contractors, subcontractors, and material suppliers entitled to payment in connection with the remodeling of the replacement premises. Following its review and approval of those submissions, City will reimburse Tenant for all reasonable costs of remodeling the replacement premises and moving its merchandise and other personal property to the replacement premises from the original Premises; provided that in no event will City be required to reimburse Tenant for more than the Maximum Reimbursement Amount and further provided that City may, in City’s sole discretion, make such reimbursement by issuing Tenant a rent credit. In no event will City be obligated to pay or reimburse Tenant for any other costs or expenses, including business interruption costs.

(c) With respect to a Premises Change where the aggregate square footage of the original Premises will be expanded or contracted by more than ten percent (10%), Tenant may terminate this Lease by giving notice thereof to City within thirty (30) days after the Change Notice is given. In the event Tenant gives such notice of termination, then this Lease shall terminate on the Target Effective Date and on such date, Tenant shall surrender the Premises in the condition required below. Provided Tenant does not terminate this Lease pursuant to the foregoing, Tenant shall cause the Premises to be expanded or contracted as described in the Change Notice on or before the date described therein. As part of City’s approval of Tenant’s plans and specifications and Tenant’s budget for its expansion/contraction work, City may specify a Maximum Reimbursement Amount. Once the expansion/contraction work is completed, and City has approved the work, Tenant must submit to City (i) a certificate from Tenant’s architect certifying that the expansion/contraction work was completed in strict compliance with the plans and specifications approved by City, (ii) copies of paid invoices

showing the costs actually paid by Tenant for the remodeling and Tenant's out-of-pocket moving costs, and (iii) lien releases from all contractors, subcontractors, and material suppliers entitled to payment in connection with the expansion/contraction work. Following its review and approval of those submissions, City will reimburse Tenant for all reasonable costs of the expansion/contraction work; provided that in no event will City be required to reimburse Tenant for more than the Maximum Reimbursement Amount and further provided that City may, in City's sole discretion, make such reimbursement by issuing Tenant a rent credit. In no event will City be obligated to pay or reimburse Tenant for any other costs or expenses, including business interruption costs.

(d) With respect to a Required Relocation, Space Rent shall be increased, or decreased, as the case may be, pro rata, to reflect the increase or decrease, as the case may be, in the size of the replacement premises compared to the original premises.

(e) With respect to a Premises Change where the aggregate square footage of the original premises will be expanded or contracted by more than ten percent (10%), Space Rent shall be increased, or decreased, as the case may be, pro rata to reflect the increase or decrease, as the case may be, in the size of the expanded or contracted premises compared to the original premises.

(f) Any Required Relocation or Premises Change described herein can be effected on the terms and conditions set forth above without need for a formal amendment of this Lease.

(g) Notwithstanding anything to the contrary herein, City shall not require a Required Relocation or a Premises Change unless City shall have considered other reasonable alternatives and rejected them.

1.5 Remeasurement of Premises. At any time and from time to time, Director may cause City to conduct a space audit pursuant to which City remeasures the Premises using the Airport's then-current measurement specifications, and in such event, the Lease terms based on square footage shall be deemed automatically adjusted to reflect such remeasurement.

1.6 Changes to Airport. Tenant acknowledges and agrees that City shall have the right at all times to change, alter, expand, and contract the Airport, including the Rental Car Facility, the terminal buildings, and that City has made no representations, warranties, or covenants to Tenant regarding the design, construction, pedestrian traffic, enplanements, airline locations, or views of the Airport or the Premises. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that the Airport is currently undergoing, and may from time to time hereafter undergo, renovation, construction, and other Airport modifications, and may from time to time adopt rules and regulations relating to security and other operational concerns that may affect Tenant's business. Although City will use reasonable efforts to minimize the effect of such changes on Tenant's business, Tenant acknowledges that such activity may have some effect on its operations located at the Airport. Such construction and renovation programs might involve barricading, materials storage, noise, the presence of workers and equipment, rearrangement, utility interruptions, and other inconveniences normally associated with construction and renovation. Although City will use reasonable efforts to minimize the effect of such changes on Tenant's business, Tenant acknowledges that such activity may have some effect on its operations located at the Airport, and Tenant shall not be entitled to any rent credit or other compensation therefor. At any time and from time to time, City may, without the consent of Tenant, and without affecting Tenant's obligations under this Lease, at City's sole discretion, (a) change the shape, size, location, number and extent of the improvements in any portion of the Airport, including without limitation the concourses, piers, boarding areas, concession areas and security areas located within the terminal building, as well as the Rental Car Facility, (b) build additional stories above or below the

Airport buildings, including of the terminal building and the Rental Car Facility, (c) eliminate or relocate public entrances to the Premises so long as there is at all times one public entrance to the Premises, (d) construct multi-level, elevated or subterranean parking facilities, and (e) expand or contract the Airport, including redefining the Airport boundaries so as to include additional lands within the Airport or exclude lands from the Airport or both. Without limiting waivers set forth elsewhere in this Lease, Tenant hereby waives all claims against City and releases City from all Losses (as defined below) that Tenant suffers or incurs arising out of or in connection with any changes to the Airport or any portion of the Airport and Tenant further agrees that Tenant will not be entitled to any rent abatement or any other rent relief in connection with any changes to the Airport or any portion of the Airport.

1.7 Common Areas. The term “**common areas**” means all areas and facilities located within the Airport that are designated by City from time to time for the general use and convenience of the tenants of the Airport and other occupants of the airport, and airline passengers and other visitors to the Airport such as concourses, sidewalks, elevators, escalators, moving walkways, parking areas and facilities, restrooms, pedestrian entrances, driveways, loading zones and roadways. City may, in its sole discretion, and without any liability to Tenant (a) change the common areas, (b) increase or decrease the common areas (including the conversion of common areas to leaseable areas and the conversion of leaseable areas to common areas), and (c) impose parking charges. City will, in its sole discretion, maintain the common areas, establish and enforce Airport Rules concerning the common areas, close temporarily portions of the common areas for maintenance purposes, and make changes to the common areas including changes in the location of security check points, driveways, entrances, exits, parking spaces, parking areas, and the direction of the flow of traffic. City reserves the right to make additional Airport Rules affecting the Airport throughout the Term, including the requirement that Tenant participate in a parking validation program.

2. **TERM**

2.1 Commencement and Expiration. The Term shall commence on the Commencement Date and expire on the Expiration Date, unless terminated prior thereto as provided herein. If for any reason (including, without limitation, the existing tenant’s failure to vacate timely the Premises) City cannot deliver possession of the Premises to Tenant on the Commencement Date, this Lease shall remain in effect, City shall not be subject to any liability, and such failure shall not extend the Term hereof. In such event, and provided such delay is not caused by the act or omission of Tenant, or Tenant’s principal, affiliate, contractor, employee, agent, licensee or invitee (a “**Tenant Entity**”), the Rent Commencement Date shall be extended day for day to reflect such delay.

2.2 Tenant Improvements and Required Opening Day. Tenant may at its own expense and subject to the requirements of the Lease, construct, place or erect its own tenant improvements, furnishings and equipment, including, without limitation, its counter inserts, communication systems, car fueling and washing systems, individual signage, and finishes within its Exclusive Space. Tenant shall (a) take possession of the Premises on the Commencement Date, and (b) cause the initial improvements necessary and appropriate to commence or continue operations in the Premises (the “**Initial Improvements**”) to be substantially completed on or before the one hundred twentieth day following the Commencement Date. Tenant shall continue its operations during its construction of the Initial Improvements and shall not receive any free or reduced Rent during such period. The Commencement Date and the Rent Commencement Date shall be the same day.

2.3 City’s Right to Extend Term. City shall have two (2) options to extend the Term by two (2) years each (each, an “**Extension Option**”). To exercise an Extension Option, City must give notice (an “**Exercise Notice**”) to Tenant on or before the date that is one hundred and eighty (180) days prior to the

Expiration Date of the then current term. In no event will City be required to exercise an Extension Option.

2.4 Holding Over. If, without objection by City, Tenant holds possession of the Premises after the Expiration Date, Tenant shall become a tenant from month to month, upon the terms of this Lease except that, the MAG shall not be applicable, and Concession Fee shall be ten percent (10%) of Gross Revenues during any such holdover period. No such holdover shall be deemed to operate as a renewal or extension of the Term. Such month-to-month tenancy may be terminated by City or Tenant by giving thirty (30) days' notice of termination to the other at any time. Tenant shall have no rights to renew or extend the Term of this Lease.

3. USE AND OPERATION

3.1 Permitted Use. Tenant shall use the Premises for the operation of a rental car business in accordance with the terms and conditions of this Lease and for no other purpose ("**Permitted Use**"). Tenant understands and agrees that it is restricted under this Lease to activities deemed necessary to the operation of a vehicle rental service only. In the event Tenant desires to use the Premises for any purpose other than the Permitted Use (including selling an item or service outside the scope of the Permitted Use), Tenant must submit a request to Director. Director may, in his/her sole and absolute discretion approve or deny such request. Any such decision shall be binding on Tenant. Without limiting the generality of this Section 3.1 or any of the requirements set forth on Exhibit B, Tenant shall not operate any Facility under any name or brand other than a name or brand specifically permitted or required herein, or as otherwise approved by Director. Without limiting Section 5 [Assignment or Subletting], Tenant shall not, without the prior consent of Director, engage a third-party operator to conduct the Permitted Use or otherwise operate on the Premises.

3.2 No Exclusivity. Tenant acknowledges and agrees that Tenant has no exclusive rights to conduct the business of the Permitted Use and that City may arrange with others for similar activities at the Airport.

3.3 Operation of Business. Subject to the terms of this Lease, Tenant will operate Tenant's business using the operating brands specified in the Major Lease Term Summary in the Premises so as to maximize Gross Revenues (as defined below and with the requirements set forth in Exhibit B. Without limiting the generality of the foregoing, Tenant shall (a) conduct the business in a first-class, businesslike, safe, efficient, courteous and accommodating manner; (b) carry a wide-range stock of vehicles, including both sufficient quantity and quality, and quality late models; (c) maximize the provision of environmentally friendly vehicles for rent; and (d) employ sufficient and experienced staff. In the event Director shall give notice to Tenant that any of the foregoing covenants (a) - (d) are not being satisfied, Tenant shall immediately discontinue or remedy the objectionable practice. Tenant shall take all reasonable measures in every proper manner to maintain, develop, and increase the business conducted by it. Tenant will not divert or cause to be diverted any business from the Airport. Tenant further understands and agrees that its operation at Airport necessitates the rendering of public services such as giving directions and assisting the public generally. The Director shall have the right to make reasonable objections to the cleanliness, safety and model year of automobiles available for rental, the character of the service rendered to the public, and the appearance and condition of the Premises. Tenant agrees to promptly discontinue or remedy any such objectionable practice. Failure to comply with the foregoing shall constitute a material breach of this Lease. The Director shall have the right to establish additional operational requirements from time to time.

3.4 AirTrain Fee. Tenant shall collect and remit to City an AirTrain Fee on a per transaction basis from rental car customers using the Rental Car Facility in such an amount as the City may determine in its sole discretion. Customers arriving at the Rental Car Facility by means other than the AirTrain are not required to pay the AirTrain Fee. In no event shall the number of Tenant's waivers of the AirTrain Fee exceed one percent (1%) of Tenant's total number rental contracts. City reserves the right to adjust the AirTrain Fee at any time during the Term of the Lease.

3.5 Customer Facility Charge. In the event City requires collection of a Customer Facility Charge, City shall provide written notice to Tenant no less than sixty (60) days prior to date on which Tenant shall be required to collect such Customer Facility Charge from Tenant's customers and remit such Customer Facility Charge to City in accordance with applicable law. City reserves the right to adjust the amount or basis (i.e., per contract or per day) of any such Customer Facility Charge at any time during the Term of the Lease.

3.6 Hours of Operation. Tenant's vehicle rental service shall be operated not less than twenty-four (24) consecutive hours each day, seven (7) days per week, including holidays unless otherwise permitted by written consent from Director. The Director reserves the right to approve and change hours of operation.

3.7 Customer Transactions. As established by Airport Commission Resolution No. 96-0146, all on-Airport rental car transactions will take place at the Rental Car Facility. Off-Airport rental car companies will also be permitted to pick-up and drop-off customers at the Rental Car Facility.

3.8 References to Airport. Tenant shall not, without the prior written consent of Director, reference City or the Airport for any purpose other than the address of the business to be conducted by Tenant in the Premises, nor will Tenant do or permit anything in connection with Tenant's business or advertising which in the judgment of City may reflect unfavorably on City or the Airport, or confuse or mislead the public as to the relationship between City and Tenant.

3.9 Reservations by City. City shall have emergency access to the Premises at all times, and Tenant shall provide an emergency telephone number at which Tenant or Tenant's agent can be reached to provide such access on a 24-hour basis.

3.10 Other Operational Requirements.

(a) Tenant must dispose of all trash and debris in areas and in containers designated by Director. If City provides common trash areas, Tenant may request a permit to use the same for a charge determined by Director from time to time. Tenant may not place or leave or permit to be placed or left in or upon any part of the common areas or corridors adjacent to the Premises any garbage, debris or refuse.

(b) Tenant acknowledges that the operational requirements of the Airport as an airport facility, including without limitation security requirements, are of paramount importance. Tenant acknowledges and agrees that it must conduct its business in a manner that does not conflict with the operational requirements of the Airport as an airport facility and that fully accommodates those requirements. Without limiting other waivers herein, Tenant waives all claims for any Losses arising out of or connected to the operation of the Airport as an airport facility. Without limitation on the foregoing, Tenant must:

- (i) comply with the Airport Rules;

- (ii) cause all deliveries and dispatches of merchandise, supplies, fixtures, equipment and furniture to be made and conveyed to or from the Premises by means and during hours established by Director in Director's sole discretion. City has no responsibility regarding the delivery or dispatch of Tenant's merchandise, supplies, fixtures, equipment and furniture. Tenant may not at any time park its trucks or other delivery vehicles in common areas; and
- (iii) not park within the parking areas of the Airport except in those areas, if any, designated by City pursuant to permits obtained from the Airport's Permit Bureau. Nothing herein shall imply that Tenant shall be able to secure any on-Airport parking privileges.

3.11 Prohibited Activities. Without limiting any other provision herein, Tenant shall not, without the prior written consent of Director: (a) use or permit the use of the Premises to sell vehicles; (b) operate any vending machines, newspaper racks, pay telephones, or other coin, token, or credit card-operated devices; (c) cause or permit anything to be done, in or about the Premises, or bring or keep anything thereon which might (i) increase in any way the rate of fire insurance on the Rental Car Facility or any of its contents; (ii) create a nuisance; (iii) in any way obstruct or interfere with the rights of others in the Rental Car Facility or injure or annoy them; (d) use, or allow the Premises to be used for employee parking; (e) commit or suffer to be committed any waste upon the Premises; (f) use, or allow the Premises to be used, for any improper, immoral, unlawful or objectionable purpose; (g) place any loads upon the floor, walls or ceiling which endanger the structure or obstruct the sidewalk, passageways, stairways or escalators, in front of, within, or adjacent to the Rental Car Facility; (h) use any advertising or promotional medium that may be seen, heard, or otherwise experienced outside the Premises (such as searchlights, barkers or loudspeakers); (i) distribute handbills or circulars to Airport patrons or to cars in the parking lots, or engage in any other advertising in the Airport; (j) engage in any activity on the Airport outside the Premises for the recruitment or solicitation of business; or (k) do or permit to be done anything in any way tending to injure the reputation of City or appearance of the Airport.

3.12 Audit of Operations. At any time and from time to time, City may conduct an audit of Tenant's operations at the Airport (in addition to City's right to audit pursuant to Section 4.12 [Books and Records; Audit Rights]) to confirm that such operations comply with the requirements set forth in this Lease. Tenant shall cooperate with such audit. In the event such audit shows that Tenant is not complying with such requirements, without limiting City's ability to call a default hereunder, City may require that Tenant reimburse City for the costs of such audit. Tenant shall promptly remedy any noncompliance shown in any such audit.

3.13 Representative of Tenant. Tenant shall at all reasonable times retain in the Rental Car Facility at least one qualified representative authorized to represent and act for it in matters pertaining to its operation, and shall keep Director informed in writing of the identity of each such person. The initial person so designated is the Initial Tenant Representative.

3.14 Investigation Reports. Tenant shall, if required by Director, employ, at its own cost and expense, an investigative organization mutually agreed upon by Tenant and the Director for the purpose of making investigations and observations and preparing a written report of the carrying out of any pricing policies, revenue control, and operational techniques being used on the Premises. Tenant shall cause such investigation and observation to be made at such reasonable times and in the manner directed by Director, and the investigator shall deliver forthwith to Director a true and complete written copy of any such reports made to Tenant.

3.15 Compliance with Laws. Tenant shall promptly, at its sole expense, cause the Premises (including any permitted Alterations (as defined below)), and Tenant's and any Tenant Entity's use of the Premises and operations at the Airport under the Lease, to comply at all times with all Laws (as defined below). Notwithstanding the foregoing, this Section 3.15 shall not impose on Tenant any liability to make any structural alterations to the Rental Car Facility's roof, foundation, bearing and exterior walls and subflooring; or heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems of the Rental Car Facility (collectively "**Building Systems**"), except to the extent the same is (i) installed by Tenant or Tenant Entity, or (ii) necessitated by Tenant's Alterations or by any act or omission of Tenant or any Tenant Entity. As used herein, the term "**Laws**" shall mean all applicable present and future laws, ordinances, rules, judgments, decrees, injunctions, regulations, permits, authorizations, orders and requirements, to the extent applicable to Tenant or the Premises or any portion of any of them whether or not in the contemplation of the parties, including, without limitation, all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, board of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, including the Occupational Safety and Health Act and all other applicable laws relating to workplace safety or toxic materials, substances or wastes, Title XV (commencing with Section 3082) of the California Civil Code relating to works of improvement and all other applicable laws relating to construction projects, the provisions of the American with Disabilities Act, 42 U.S.C. Section 12101 et seq. and any governmental regulations with respect thereto (the "**ADA**") (including, without limitation, the requirements under the ADA for the purposes of "public accommodations", as that term is used in the ADA), the provisions of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794 et seq.) and any governmental regulations with respect thereto, Title 24 of the California Administrative Code, all Environmental Laws, the Airport Rules, the Tenant Improvement Guide (including any design criteria) as the same may be amended from time to time (the "**TI Guide**"), and the requirements referenced in Section 18 [City and Other Governmental Provisions] hereof.

4. RENT

4.1 Definitions. For purposes of this Lease, the following capitalized terms shall have the following meanings:

- (a) "**Gross Revenues**" means all monies paid or payable to or considerations of determinable value received by the Tenant, after discounts and/or coupons deducted at the completion of rental. Gross Revenues shall be determined by the total of charges on the face of the customer's receipt at the time of rental. Included in Gross Revenues are a single or combination of the following:
 - (i) All charges, including, but not limited to, time and mileage charges and separately stated fees for rental of Vehicles and other related or incidental services, and any other items or services which may be authorized by Airport, made at or from the Airport, regardless of where the Vehicles or services are delivered to or returned;
 - (ii) All amounts charged to any person(s) or entity(ies) entering into a rental agreement with Tenant (the "**Customer**") for insurance offered by Tenant incidental to the rental of such Vehicles, including but not limited to personal accident insurance;

- (iii) All charges attributable to any “**Vehicle**”, which includes but is not limited to any car, van, bus, truck or sport utility vehicle, originally rented at the Airport which is exchanged at any other location of Tenant;
- (iv) All proceeds from the long-term lease of Vehicles from any location on the Airport;
- (v) The amount charged to Tenant’s Customers and which is separately stated on the rental agreement as an optional charge for waiver by Tenant of its right to recover from customer for damage to or loss of the Vehicle rented;
- (vi) The amount charged to Tenant’s Customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/ or replacing fuel provided by Tenant; and
- (vii) The amount charged by Tenant, as allowed by current legislation, that represents all rent payable to the Airport for operation at the Rental Car Facility allocable to individual customers. Tenant shall list this amount separately on any customer rental agreements, contracts or invoices, and label it “Concession Recovery Fee”. Tenant agrees that at no time will the Concession Recovery Fee listed on the customer rental agreement, contract or invoice, exceed eleven and eleven one-hundredths percent (11.11%).

The following shall not be included in Gross Revenues:

- (i) Any Federal, State, County or City sales or other similar taxes or surcharges separately stated to and collected from any customer of Tenant; or
- (ii) Any amounts received as insurance proceeds or otherwise for damage to automobiles or other property of Tenant, or for loss, conversion or abandonment of such automobiles; or
- (iii) Revenues from the wholesale transfer of salvage vehicles; or
- (iv) Any amount received as payment and administration of parking tickets, tolls, towing, impounds, traffic tickets, and red light tickets; or
- (v) All non-revenue rentals to employees of Tenant; or
- (vi) The AirTrain Fee and Customer Facility Charge.
- (vii) The retroactive adjustment by Tenant of Gross Revenues designated as volume discounts or any other designation or for any other purpose is prohibited.
- (viii) Revenues from Carbon Offset Fees or other similar environmental fees, as approved by the Airport Director.

- (b) “**Concession Fee**” has the meaning given it in the Summary.
- (c) “**MAG Adjustment Date**” has the meaning given it in the Summary.
- (d) “**Enplanements**” means the total number of passengers boarding airline carriers.
- (e) “**First Month**” means the month in which the Rent Commencement Date occurs.
- (f) “**Lease Year**” means the period commencing on the Rent Commencement Date and terminating on December 31st of the year in which the Rent Commencement Date occurs, and each subsequent 12 month period.

(g) “**Consumer Price Index**” means that index published by the United States Department of Labor, Bureau of Labor Statistics known as “*All Urban Consumers-All Items for the San Francisco-Oakland-San Joes Area (1982-84=100), Series Id: CUURA22SAO*”. In the event such index is discontinued, then “**Consumer Price Index**” shall mean an index chosen by Director that is, in Director’s reasonable judgment, comparable to the index specified above.

(h) “**Base Index**” means the most recent Consumer Price Index published immediately prior to the Rent Commencement Date.

(i) “**Comparison Index**” means the most recent Consumer Price Index available at the time of MAG Adjustment review.

(j) “**Space Rent**” means rent for the Exclusive Space, Common Use Space and Limited Common Use Space comprising the Premises based on the Structure Rate and the Surface Rate, as applicable.

(k) “**Rent**” means Concession Fee, Space Rent, and all other amounts owed by Tenant to City under this Lease.

4.2 Monthly Rent Payments.

(a) All payments hereunder shall be paid to City’s Rent Payment Address, or at such other place as City may from time to time designate in writing.

(b) All Rent shall be paid in lawful money of the United States, free from all claims, demands, setoffs, or counterclaims of any kind.

(c) Any Rent not paid when due shall be subject to a service charge equal to the lesser of the rate of one and one-half percent (1½%) per month, and the maximum rate permitted by law. Acceptance of any service charge shall not constitute a waiver of Tenant’s default on the overdue amount or prevent City from exercising any of the other rights and remedies available to City.

4.3 Monthly Concession Fee Payments. Tenant shall pay estimated monthly Concession Fee in advance, on or before the first (1st) day of each calendar month of the Term, as set forth below:

(a) On or before the Rent Commencement Date and the first (1st) day of each calendar month thereafter, Tenant shall pay the current monthly Minimum Annual Guarantee to the City’s Rent Payment Address.

(b) On or before the twentieth (20th) day of each calendar month after the First Month, concurrently with its submission of the Sales Report described below covering the prior calendar month, Tenant shall pay to City the deficiency, if any, between the Concession Fee payable by Tenant with respect to such prior calendar month and the amount actually paid by Tenant pursuant to the foregoing subsection (a) with respect to such month.

4.4 Monthly Space Rent Payments. On or before the Rent Commencement Date and the first (1st) day of each calendar month thereafter, Tenant shall pay Space Rent for its Exclusive Space, Common Use Space and Limited Common Use Space as follows:

- (a) Ready/Return Space – Structure Rate plus Surface Rate.
- (b) Counter Space (including back office) – Structure Rate plus Surface Rate.
- (c) Administrative Space – Structure Rate plus Surface Rate.
- (d) QTA fuel/wash canopy area – Structure Rate plus Surface Rate.
- (e) QTA stacking and staging area – Surface Rate.
- (f) Fifth & First Floor Vehicle Storage Space (including the designated storage space on the first floor) – Surface Rate.

4.5 Adjustments to Minimum Annual Guarantee. On each MAG Adjustment Date, the Minimum Annual Guarantee will be adjusted such that the Minimum Annual Guarantee shall equal 8.5% of the Tenant’s Gross Revenues with respect to the twelve-month period immediately preceding such MAG Adjustment Date. Notwithstanding anything to the contrary herein, in no event will the Minimum Annual Guarantee for any Lease Year be lower than the Minimum Annual Guarantee with respect to the first Lease Year.

4.6 Adjustments to Annual Space Rent. On each MAG Adjustment Date, the annual Space Rent will be adjusted as follows: if the Comparison Index exceeds the Base Index, then the annual Space Rent with respect to the upcoming Lease Year shall be increased to equal the following amount:

$$\text{Initial Annual Space Rent} \quad \times \quad \frac{\text{Comparison Index}}{\text{Base Index}}$$

Notwithstanding anything to the contrary herein, in no event will the annual Space Rent for any Lease Year of the Term be lower than the annual Space Rent with respect to the prior Lease Year. If City exercises an Extension Option, the land value portion of both the Structure Rate and the Surface Rent will be adjusted to reflect the then-current market value of unimproved land in the vicinity of the Airport. Unimproved land value shall be determined by a market value appraisal performed by City’s Director of Property, using comparable sales and/or rental data, adjusted to reflect any particular physical and environmental characteristics and regulatory limitations, which distinguish the Premises from comparable land.

4.7 Common Use Formula. “**Common Use Formula**” is a formula for calculating the appropriate charges to be levied on each tenant occupying the Rental Car Facility, whereby each tenant of the Rental Car Facility shall pay that proportion of the rent attributable to the Common Use Space as its Exclusive Space bears to the total amount of Exclusive Space leased by all tenants of the Rental Car

Facility. The Common Use Formula will be reflected as a certain square footage of Common Use Space attributable to Tenant (as further described in Exhibit A), as to which Tenant shall pay Space Rent at the Structure Rate and/or Surface Rate, as applicable. For the purposes of calculating Space Rent for Common Use Space under the Common Use Formula, if any tenant at the Rental Car Facility has a overall market share of less than 2%, its individual overall market share allocation will be 2%, and the distribution of the remaining 98% will be based on overall market share.

4.8 Limited Common Use Formula. “**Limited Common Use Formula**” is a formula for calculating the appropriate charges to be levied on tenants leasing Limited Common Use Space, whereby each tenant utilizing a Shared Area shall pay that proportion of the rent attributable to the Limited Common Use Space as its Exclusive Space in said Shared Area bears to the total amount of Exclusive Space in said Shared Area leased by all tenants of said Shared Area. The Limited Common Use Formula will be reflected as a certain square footage of Shared Area attributable to Tenant (as further described in Exhibit A), as to which Tenant shall pay Space Rent at the Structure Rate and/or Surface Rate, as applicable.

4.9 Sales Reports. On or before the twentieth (20th) calendar day of each month after the First Month, Tenant shall submit to City, at City’s Sales Report Address, a report (the “**Sales Report**”) showing all Gross Revenues achieved with respect to the prior month by location, segregated by each source or general type of article sold or service rendered. Such report shall be certified as being true and correct by Tenant and shall otherwise be in form and substance satisfactory to Director. As described below, City shall have the right, in addition to all other rights herein, to impose a fine in the event Tenant shall fail to submit such Sales Report timely. Tenants with multiple brands must detail each brand’s sales on their Sales Report.

4.10 Annual Certification of Sales and Adjustment. Within ninety (90) days after the end of each Lease Year, Tenant shall submit to Director at City’s Deposit/Annual Report Notice Address a year-end compilation report prepared by an independent Certified Public Accountant or a senior officer of Tenant showing Gross Revenues achieved with respect to the prior Lease Year (“**Annual Report**”). If such report shows that the total Concession Fee actually paid by Tenant with respect the prior Lease Year was less than the Concession Fee payable with respect to such year, then Tenant shall immediately pay to City such deficiency. If such report shows that the total Concession Fee actually paid by Tenant with respect to such prior Lease Year exceeded the Concession Fee payable with respect to such year, then such excess shall be applied as a rent credit to amounts next coming due. Notwithstanding anything to the contrary herein, in no event will the Concession Fee payable to City be less than the Minimum Annual Guarantee. In addition, Tenant shall submit to City such other financial or other reports as Director may reasonably require. Tenant shall also certify any Gross Revenues earned prior to the Rent Commencement Date and a true-up for that period alone will take place in the manner stated immediately above.

4.11 Point of Sale Requirements. Tenant shall install in the Premises a Point of Sale (POS) system with at least one POS unit, which includes mobile POS or other similar electronic devices. All POS used on the Premises shall meet current industry standards for transmitting, capturing and recording transactions and data in a secure fashion while protecting Card Holder Data, and shall register every transaction made in, on, about or from the Premises, including every type of Gross Revenue in real time, and an electronic or hard copy record of each. Tenant shall comply and remain current with all Payment Card Industry Data Security Standard (PCI-DSS) requirements as detailed in Exhibit B hereto. Said POS shall be accessible to and subject to inspection or audit by Director or his/her designee upon request. All receipts must include Tenant’s identification thereon. Each sale or other transaction from the Premises must be recorded at the time of each sale or other transaction, in the presence of the customer, unless

otherwise approved by the Director. Each customer must be offered a receipt for each transaction, which transaction must be recorded on a digital record produced by the POS. The POS may also provide customer the option of having receipts emailed, in addition or in lieu of a printed receipt, at the option of the customer. City shall have the right to: (a) examine during business hours the totals of any POS used on the Premises and to inspect such POS for compliance with this Section; (b) implement an hourly or daily reporting system with which Tenant shall comply; and (c) implement a common-use POS, in which event, Tenant must, at its cost, purchase and install the necessary equipment, train its employees, and thereafter use, such equipment to take part in such system. Additionally, Tenant shall ensure a capability within its mobile POS for the installation of Airport and Airport partner applications that can be integrated with Tenant's POS to exchange data and make possible future opportunities to support passengers and airlines with vouchers, coupons and other mutually beneficial marketing programs.

4.12 Books and Records; Audit Rights.

(a) Tenant shall maintain for a period of five (5) years after the Expiration Date, or, in the event of a claim by City, until such claim of City for payments hereunder shall have been fully ascertained, fixed and paid, separate and accurate daily records of Gross Revenues, whether for cash, credit, or otherwise. Tenant must require each subtenant, concessionaire, licensee, and assignee to maintain the same records. All such books and records shall be kept in accordance with "generally accepted accounting principles," consistently applied, showing in detail all business done or transacted in, on, about or from or pertaining to the Premises, and Tenant shall enter all receipts arising from such business in regular books of account, and all entries in any such records or books shall be made at or about the time the transactions respectively occur. The books and source documents to be kept by Tenant must include records of inventories and receipts of merchandise, daily receipts from all sales and other pertinent original sales records and records of any other transactions conducted in or from the Premises by all persons or entities conducting business in or from the Premises. Pertinent original sales records include: (i) cash register tapes, including tapes from temporary registers, (ii) serially pre-numbered sales slips, (iii) the original records of all mail and telephone orders at and to the Premises, (iv) settlement report sheets of transactions with subtenants, concessionaires, licensees and assignees, (v) original records indicating that merchandise returned by customers was purchased at the Premises by such customers, (vi) memorandum receipts or other records of merchandise taken out on approval, (vii) detailed original records or any exclusions or deductions from Gross Revenues, (viii) sales tax records, and (ix) all other sales records, if any, that would normally be examined by an independent accountant pursuant to generally accepted auditing standards in performing an audit of Gross Revenues. Tenant must keep the required books, source documents and records of Gross Revenues available for inspection by City and its agents and employees at the Premises or at another location within the continental United States at all times during regular business hours. In addition, Tenant shall maintain monthly and annual reports of Gross Revenues derived from its operation under this Lease, using a form and method as is directed by Director. Such forms and methods shall be employed by Tenant throughout the term of this Lease. Upon Director's written request, Tenant shall make available immediately to City and/or its auditors any and all books, records and accounts pertaining to its operations under this Lease. The intent and purpose of the provisions of this section are that Tenant shall keep and maintain records which will enable City and City's Controller to ascertain, determine and audit, if so desired by City, clearly and accurately, Gross Revenues achieved, and the adequacy of the form and method of Tenant's reporting thereof.

(b) Should any examination, inspection, and audit of Tenant's books and records by City disclose an underpayment by Tenant of the total Concession Fee due, Tenant shall promptly pay to City such deficiency, and if such deficiency exceeds two percent (2%) of the total Concession Fee due, Tenant shall also promptly reimburse City for all costs incurred in the conduct of such examination, inspection, and audit. Further, should any examination, inspection, and audit of Tenant's books and

records by City disclose an underpayment by Tenant of the total Concession Fee due and such deficiency exceeds five percent (5%) of the total Concession Fee due, City shall have the right to terminate this Lease. In the event that City deems it necessary to utilize the services of legal counsel in connection with collecting the reimbursement for such examination, inspection, and audit, then Tenant shall reimburse City for reasonable attorneys' fees and litigation expenses as part of the aforementioned costs incurred.

4.13 Other Reports and Submissions. Tenant shall furnish City with such other financial or statistical reports as Director or his/her representative from time to time may reasonably require. Upon request by Director, Tenant shall furnish to City copies of its quarterly California sales and use tax returns covering the Premises operations as well as that pertinent portion of both the California and Federal income tax returns and possessory interest tax returns on the Premises operations at the time of filing, and any amendments thereto. All copies of such returns must be certified as exact copies of the original documents by a Certified Public Accountant. Tenant and all subtenants (to the extent permitted) shall also promptly notify Director of and furnish to City copies of any audit reports covering this facility conducted by the California Franchise Tax Board or the Board of Equalization.

4.14 Additional Rent. Tenant shall pay to City any and all charges and other amounts under this Lease as additional rent, at the same place where Rent is payable. City shall have the same remedies for a default in the payment of any such additional charges as for a default in the payment of Rent.

4.15 Prepay Rent. Notwithstanding anything to the contrary herein, in the event Tenant shall fail to pay any Rent when due hereunder, Director shall have the right to require Tenant to pay estimated monthly Rent (including Concession Fee, Space Rent, utility charges, and all other amounts) one (1) month in advance of when such payment would otherwise be due. Such prepayment would be based on the highest monthly Rent previously due from Tenant. Such right shall be exercised by a notice from Director to Tenant, which notice may be given any time after such default by Tenant, regardless of whether the same is cured by Tenant.

4.16 Nature of Lease. Under no circumstances will City be expected or required to make any payment of any kind with respect to Tenant's use or occupancy of the Premises, except as may be otherwise expressly set forth herein. Except as may be specifically and expressly provided otherwise in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, shall relieve Tenant from its liability to pay all of the sums required by this Lease, or relieve Tenant from any of its other obligations under this Lease, or give Tenant the right to terminate this Lease in whole or in part. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction, or suspension of payment of such sums, on account of such occurrence or situation. Except as otherwise expressly provided herein, this Lease shall continue in full force and effect, and the obligations of Tenant hereunder shall not be released, discharged or otherwise affected, by reason of: (a) any damage to or destruction of the Premises or any portion thereof or any improvements thereon, or any taking thereof in eminent domain; (b) any restriction or prevention of or interference with any use of the Premises or the improvements or any part thereof; (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to City, Tenant or any constituent partner of Tenant or any sublessee, licensee or concessionaire or any action taken with respect to this Lease by a trustee or receiver, or by any court, in any proceeding; (d) any claim that Tenant or any other person has or might have against City; (e) any failure on the part of City to perform or comply with any of the terms hereof or of any other agreement with Tenant or any other person; (f) any failure on the part of any sublessee, licensee, concessionaire, or other person to perform or comply with any of the terms of any sublease or other agreement between Tenant and any such person; (g) any termination of any sublease,

license or concession, whether voluntary or by operation of law; or (h) any other occurrence whatsoever, whether similar or dissimilar to the foregoing in each case whether or not Tenant shall have notice or knowledge of any of the foregoing. The obligations of Tenant hereunder shall be separate and independent covenants and agreements. Tenant hereby waives to the full extent permitted by applicable law, all rights now or hereafter conferred by statute, including without limitation the provisions of Civil Code Sections 1932 and 1933, to quit, terminate or surrender this Lease or the Premises or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of any rent hereunder.

4.17 Severe Decline in Enplanements.

(a) Defined Terms. For purposes of this Section, the following capitalized terms shall have the following meanings:

- (i) **“Relevant Boarding Area”** shall have the meaning given it in the Summary.
- (ii) **“Enplanements”** shall mean the total number of passengers boarding airline carriers. For purposes of this Section 4.17, all Enplanement comparisons shall be done by Relevant Boarding Area.
- (iii) **“Reference Month(s)”** shall mean the corresponding month in the Reference Year.
- (iv) **“Reference Year”** shall have the meaning given it in the Summary.
- (v) **“Percentage Rent”** shall have the meaning given it in the Summary.
- (vi) **“Severe Decline in Enplanements for Three Months”** shall mean that the actual Enplanements achieved during a one month period is less than 80% of the actual Enplanements of the same Reference Month in the Reference Year, and such shortfall continues for three (3) consecutive months.
- (vii) **“Enplanement Stabilization for Two Months”** means that actual Enplanements for a particular month equals or exceeds 80% of the actual Enplanements of the same Reference Month in the Reference Year, and such threshold is achieved for two (2) consecutive months.

(b) MAG Suspension. If at any time during the term, there is a Severe Decline in Enplanements for Three Months, then the MAG shall be temporarily suspended as follows:

- (i) The MAG suspension shall be effective on the first day of the month immediately following the Severe Decline in Enplanements for Three Months.
- (ii) During such MAG suspension period, Tenant shall be required to pay only the Percentage Rent, unless and until the MAG is reinstated as provided below. On or before the 20th day of each month, Tenant will submit to City a Sales Report showing Tenant’s Gross Revenues achieved with respect to the prior month, together with the Percentage Rent calculated on such Gross Revenues, cumulated by Lease Year.

- (iii) If the Lease provides that the Percentage Rent is based on a tiered gross revenue structure, for purposes of determining the Percentage Rent payable, the annual Gross Revenues shall continue to cumulate as provided in the Lease. For example, if Tenant's Lease Year is November 1 through October 31, then for purposes of calculating Percentage Rent for April 2003, all gross revenues achieved to date (from November 1 through April 30) will be cumulated.

(c) MAG Reinstatement. Once there is Enplanement Stabilization for Two Months, then the MAG is reinstated, and will continue unless and until there is another Severe Decline in Enplanements for Three Months, as follows:

- (i) Such MAG reinstatement will be effective on the first day of the month following an Enplanement Stabilization for Two Months.
- (ii) In the event the MAG is reinstated after the commencement of a "Lease Year" or other period of time for annual gross revenue accumulation specified in the Lease, the MAG will be pro-rated accordingly.

(d) Determination of Enplanements and "True-Ups". The parties acknowledge that Enplanements for a particular month are not usually determined as of the first day of the following month. Accordingly, unless and until the MAG is suspended as provided herein, Tenant shall continue to pay the MAG as and when required hereunder. If and when a MAG is later suspended pursuant to Section 4.17(b), then City shall issue a rent credit to reflect any resulting overpayment in rent. If and to the extent Tenant has any outstanding obligations to City hereunder, City may decline to issue such rent credit or reduce the rent credit by the amount outstanding. If and when the MAG is reinstated, Tenant shall pay to City within five (5) days after City shall have given notice to Tenant of such reinstatement, the deficiency, if any, between the Percentage Rent paid by Tenant and the MAG, for the month(s) following such reinstatement.

(e) Enplanement Determinations. Director shall have the sole discretion as to the Enplanement calculations, and whether there exists a Severe Decline in Enplanements for Three Months and/or an Enplanement Stabilization for Two Months.

(f) No Effect. The MAG suspension shall have no effect on (i) any adjustments specified in this Lease to be made to the MAG; or (ii) the Deposit Amount.

(g) Effect of Default. Notwithstanding anything to the contrary herein, in the event Tenant shall default under this Lease or any Other Agreement, the Director may immediately reinstate the MAG, without giving to Tenant the benefit of any notice or right to cure as may otherwise be provided under this Lease or Other Agreement.

(h) Subtenants. Without limiting the provisions of Section 5 [Assignment or Subletting] if Tenant subleases any portion of the Premises, Tenant shall offer to such subtenant(s) the same types of MAG suspension as are provided herein.

(i) Example. The following is intended merely to provide an example of the mechanics of the foregoing provisions, and the numbers provided are not intended to be projections or guarantees. Assume (a) the Premises are in Boarding Area F, (b) the Lease is awarded on February 15,

2003, and (c) Reference Year Enplanements for Boarding Area F, by Reference Month in the Reference Year (January 1- December 31, 2002) are:

	<u>Jan</u> <u>2002</u>	<u>Feb</u> <u>2002</u>	<u>Mar</u> <u>2002</u>	<u>Apr</u> <u>2002</u>	<u>May</u> <u>2002</u>	<u>Jun</u> <u>2002</u>	<u>Jul</u> <u>2002</u>	<u>Aug</u> <u>2002</u>	<u>Sep</u> <u>2002</u>	<u>Oct</u> <u>2002</u>	<u>Nov</u> <u>2002</u>	<u>Dec</u> <u>2002</u>
Enp (‘000)	800	800	800	900	1,100	1,200	1,300	1,200	1,100	900	800	900

Assume further that actual Enplanements for Boarding Area F by Reference Month for 2005 are as follows:

	<u>Jan</u> <u>2005</u>	<u>Feb</u> <u>2005</u>	<u>Mar</u> <u>2005</u>	<u>Apr</u> <u>2005</u>	<u>May</u> <u>2005</u>	<u>Jun</u> <u>2005</u>	<u>Jul</u> <u>2005</u>	<u>Aug</u> <u>2005</u>	<u>Sep</u> <u>2005</u>	<u>Oct</u> <u>2005</u>	<u>Nov</u> <u>2005</u>	<u>Dec</u> <u>2005</u>
Enp (‘000)	900	900	700	700	800	800	900	1100	700	800	700	800
% of Ref. Month	112.5	112.5	87.5	77.8	72.2	72.2	69.2	91.7	63.6	88.9	87.5	88.9

(j) Then, there occurs a Severe Decline in Enplanements for Three Months with respect to the months April 2005 – June 2005, and the MAG shall be suspended effective July 1, 2005. There occurs an Enplanement Stabilization for Two Months with respect to the months October 2005 – November 2005, and the MAG shall be reinstated effective December 1, 2005.

5. ASSIGNMENT OR SUBLETTING

5.1 No Assignment. Tenant shall not assign, sublet, encumber, or otherwise transfer, whether voluntary or involuntary or by operation of law, the Premises or any part thereof, or any interest herein, without City’s prior written consent, which consent may be granted or denied in City’s sole and absolute discretion (the term “**Transfer**” shall mean any such assignment, subletting, encumbrance, or transfer). City’s consent to one Transfer shall not be deemed a consent to subsequent Transfers. Any Transfer made without City’s consent shall constitute a default hereunder and shall be voidable at City’s election. Any transfer made without the City’s consent shall constitute a default hereunder and shall be voidable at the City’s election.

5.2 Changes in Tenant. The merger of Tenant with any other entity or the transfer of any controlling ownership interest in Tenant, or the assignment or transfer of a substantial portion of the assets of Tenant, whether or not located on the Premises, shall constitute a Transfer. Without limiting the generality of the foregoing, if Tenant is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law of the partner or partners owning twenty-five percent (25%) or more of the partnership, or the dissolution of the partnership, or the sale or transfer of at least twenty-five percent (25%) of the value of the assets of Tenant, shall be deemed a Transfer. If Tenant is a corporation or limited liability company, any dissolution, merger, consolidation or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock or membership interests of Tenant, or the sale or transfer of at least twenty-five percent (25%) of the value of the assets of Tenant, shall be deemed a Transfer. The phrase “**controlling percentage**” means the ownership of, and the right to vote, stock or interests possessing at least twenty-five percent (25%) of the total combined voting power of all

classes of Tenant's capital stock or interests issued, outstanding and entitled to vote for the election of directors. Without limiting the restrictions on asset transfers, this paragraph shall not apply to stock or limited liability company interest transfers of corporations or limited liability companies the stock or interests of which is traded through an exchange or over the counter.

5.3 No Release. In no event will City's consent to a Transfer be deemed to be a release of Tenant as primary obligor hereunder.

5.4 Subleasing. Without limiting City's discretion in approving or disapproving a proposed Transfer, if and to the extent City permits Tenant to sublease the Premises, the following shall apply: (a) Prior to negotiating a sublease agreement, Tenant must submit to City a sublease proposal for City's approval, which approval may be granted or withheld in City's absolute and sole discretion; (b) Every sublease must be in a form approved by the Director; (c) Each and every covenant, condition or obligation imposed upon Tenant by this Lease and each and every right, remedy or benefit afforded City by this Lease will not be impaired or diminished as a result of any sublease agreement; (d) No subtenant shall be obligated to pay to Tenant, and Tenant shall not be permitted to charge any rent, percentage rent, bonus rent, key money, administration fee, or the like, which exceeds, in the aggregate, the total sums that Tenant pays to City under this Lease for the portion of the Premises subleased by the subtenant under its sublease agreement (the "**Sublease Excess Rent**"). If, notwithstanding the foregoing prohibition, Tenant receives any Sublease Excess Rent, Tenant shall pay the same to City; (e) Tenant assigns to City all rent and other payments due from all subtenants under any sublease agreements; provided however, Tenant is hereby granted a license to collect rents and other payments due from subtenants under their sublease agreements until the occurrence of an Event of Default, regardless of whether a notice of that default has been given by City. At any time, at Director's option, City may notify a subtenant of this assignment and upon such notice the subtenant will pay its rent other payments directly to City. City will credit Tenant with any rent received by City under such assignment, but the acceptance of any payment on account of rent from any subtenants as a result of an Event of Default will in no manner whatsoever serve to release Tenant from any liability under this Lease. No payment of rent or any other payment by a subtenant directly to City or other acceptance of such payments by City, regardless of the circumstances or reasons therefor, will in any manner whatsoever be deemed an attornment by the subtenants to City in the absence of either a specific written agreement signed by City to such an effect.

5.5 Excess Rent. Subject to Section 5.4 with respect to Sublease Excess Rent, City shall receive fifty percent (50%) of all Excess Rent payable in connection with any Transfer. "**Excess Rent**" means the excess of (a) all consideration received by Tenant from a Transfer over (b) Rent payable under this Lease after deducting reasonable tenant improvements paid for by Tenant, reasonable attorneys' fees and any other reasonable out-of-pocket costs paid by Tenant as a result of the Transfer (but specifically excluding any Rent paid to City while the Premises is vacant).

5.6 Acceptance of Rent. The acceptance of rent by City from any person or entity does not constitute a waiver by City of any provision of this Lease or a consent to any Transfer. City's consent to one Transfer will not be deemed to be a consent to any subsequent Transfer. If Tenant defaults in the performance of any of the terms of this Lease, City may proceed directly against the transferor (or if there has been more than one Transfer, then each transferor) without necessity of exhausting remedies against Tenant. City may consent to subsequent Transfers or amendments or modifications to this Lease with transferees, without notifying transferor (or if there has been more than one Transfer, then each transferor) and without obtaining its or their consent thereto and such action shall not relieve any transferor of liability under this Lease as amended.

5.7 Waiver. Tenant waives the provisions of Civil Code Section 1995.310 with respect to remedies available to Tenant should City fail to consent to a Transfer.

6. TAXES, ASSESSMENTS AND LIENS

6.1 Taxes.

(a) Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. Tenant further recognizes and understands that any Transfer permitted under this Lease and any exercise of any option to renew or other extension of this Lease may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Tenant shall pay all taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises, all of which shall be paid when the same become due and payable and before delinquency.

(b) Tenant shall report any Transfer, or any renewal or extension hereof, to the County of San Mateo Assessor within sixty (60) days after such Transfer transaction, or renewal or extension. Tenant further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements under applicable law with respect to possessory interests and any applicable rules and regulations of the Internal Revenue Service and the Securities and Exchange Commission in connection with any tax-exempt Airport revenue bonds financing the property leased to Tenant hereunder. Tenant agrees to make an irrevocable election not to claim depreciation or an investment credit with respect to any property leased hereunder.

6.2 Other Liens. Tenant shall not permit or suffer any liens to be imposed upon the limitation, mechanics', material suppliers' and tax liens, as a result of its activities without promptly discharging the same. Notwithstanding the foregoing, Tenant may in good faith contest any such lien if Tenant provides a bond in an amount and form acceptable to City in order to clear the record of any such liens. Tenant shall assume the defense of and indemnify and hold harmless City against any and all liens and charges of any and every nature and kind which may at any time be established against said premises and improvements, or any part thereof, as a consequence of any act or omission of Tenant or as a consequence of the existence of Tenant's interest under this Lease.

7. INVESTMENTS; ALTERATIONS

7.1 Minimum Investment. Tenant, at Tenant's sole cost and expense, shall complete its Initial Improvements in accordance with Section 2.2 above. As-Built drawings of fire sprinkler and fire alarm systems must be submitted to Building Inspection and Code Enforcement ("BICE") in AUTOCAD ".DWG" format within 30 days of issuance of a Temporary Certificate of Occupancy (TCO). Within ninety (90) days after substantial completion of the Initial Improvements, Tenant must provide to City an AUTOCAD file and an electronic PDF file in accordance with the requirements as specified in the Tenant Improvement Guide and an affidavit, signed under penalty of perjury by both Tenant *and* Tenant's general contractor, architect or construction manager, stating the hard construction costs paid by Tenant to complete the Initial Improvements, together with copies of paid invoices and lien waivers substantiating the costs stated in the affidavit. Such "hard construction costs," may include architectural and engineering fees. The minimum investment may not include financial costs, interest, inventory, pre-opening expenses, inter-company charges related to construction, business interruption, overhead, or debt service on any construction loan, or any charges paid by Tenant to an affiliate.

7.2 City's Approval Rights. Tenant shall not make or suffer to be made any alterations, additions, or improvements to the Premises or any part thereof or attach any fixtures or equipment thereto, including the Initial Improvements (collectively, "Alterations") without City's prior written consent. Without limiting the generality of the foregoing, the initial layout and design of all Alterations shall conform to Commission's established architectural design scheme for the Rental Car Facility, the Airport's Concessions Design Guidelines and the provisions of Airport's TI Guide. Prior to the construction of any Alterations (including the Initial Improvements), Tenant shall submit detailed plans and specifications to the Airport's Design Review Committee and BICE for approval. Tenant shall include with its plans and specifications schematic renderings of the public retail area, materials, a color board(s) and a detailed layout of the overall merchandising plan. All decisions by the Airport's Design Review Committee shall be made subject to the approval of the Airport Commission. City's approval rights will extend to and include architectural and aesthetic matters and City reserves the right to reject any designs submitted and to require Tenant to resubmit designs and layout proposals until they meet City's approval. The Rent Commencement Date shall not be extended if City elects to reject any designs or layout proposals submitted. In the event of disapproval by City of any portion of the plans and specifications, Tenant will promptly submit necessary modifications and revisions thereof. No changes or alterations will be made in said plans or specifications after approval by City. City agrees to act within a reasonable period of time upon such plans and specifications and upon requests for approval of changes or alterations in said plans or specifications. One copy of plans for all improvements or subsequent changes therein or alterations thereof will, within fifteen (15) days after approval thereof by City, be signed by Tenant and deposited with City as an official record thereof. All Alterations shall be effected through the use of contractors approved by City who shall furnish to City upon demand such completion bonds and labor and material bonds as City may require so as to assure completion of the Alterations on a lien-free basis. If the estimated cost of any Alterations exceeds \$750,000 per building permit, unless otherwise exempt, Tenant agrees to comply with the Local Hiring Requirements as described in Section 18.27 of this Lease. Without limiting the requirements set forth above, Tenant acknowledges and agrees that Tenant may be required to obtain approvals for any desired Alterations from BICE.

7.3 Structures and Fixtures. Tenant shall, at its sole cost and expense, design, erect, construct and install all fixtures, furnishings, carpeting, decorations, finishings, equipment, counters, or other necessary Alterations for its operation under this Lease. All construction shall be in conformity with the latest edition of the Airport TI Guide, and in conformity with the approved plans and specifications submitted by Tenant, and shall meet all applicable local building codes and ordinances as well as all other Laws. Tenant shall submit complete plans and specifications to Director, and prior to the commencing any construction work, obtain Director's written approval of said plans and specifications. Tenant shall make no change or alteration in the plans and specifications without prior written approval of Director. If Tenant fails to construct, furnish or decorate the premises in accordance with the approved plans and specifications, Tenant shall be given up to sixty (60) days to bring the Premises to the condition described in the plans and specifications after which time the Director may impose a two hundred fifty dollars (\$250) per day fine until such time that the Premises, fixtures and furnishings are brought in accordance with the approved plans and specifications. In the event that Tenant fails to submit plans and specifications which meet the approval of City within thirty (30) days after the Effective Date, City may terminate this Lease. Nothing herein contained shall be construed to delay or otherwise affect the Commencement Date or the Rent Commencement Date.

7.4 Notice and Permits. Tenant shall give written notice to Director not less than seven (7) days prior to the commencement of any work in construction, alteration or repairs of the Premises, in order that City may post appropriate notices of non-responsibility, and agrees that such notices may remain posted until the acceptance of such work by City. Tenant shall obtain, and pay all fees for all

permits required by the City or other legal jurisdictions, for improvements that it is required to construct or install, and it shall furnish copies of all such permits to City prior to the commencement of any work.

7.5 Title to Alterations. All Alterations of such a nature as cannot be removed without damage to the Rental Car Facility, including all permanent buildings, structures, and improvements, pipelines, storage tanks, pumps, electric controls, and other like facilities and appurtenances, erected or by installed by Tenant during the Term of this Lease or any prior lease, shall not be deemed trade fixtures, but shall become part of the Premises and title thereto shall vest in City on the Expiration Date, subject to Tenant's rights of possession, use and occupancy during the Term of this Lease. City retains the rights to require Tenant to remove at the expiration or earlier termination of this Lease any such buildings, structures, and improvements installed by Tenant, at Tenant's sole cost and expense. All other equipment of such nature as to constitute trade fixtures shall remain the property of Tenant. On the Expiration Date, Tenant may remove said trade fixtures or Director may require that Tenant remove the same at Tenant's expense. Prior to the Rent Commencement Date, Tenant shall submit to Director a proposed list of such trade fixtures; said list may be subsequently amended during the term of this Lease to reflect any changes in said trade fixtures. Tenant agrees and understands that "fixture" is defined as a thing affixed to premises that is bolted, nailed, screwed, cemented and/or plastered. For the purpose of this Lease, fixtures shall include slat wall, counters, carpeting, decorations, finishings, and the like, attached to the physical structure of the Premises in any matter whatsoever. On the Expiration Date, all fixtures, other than those deemed trade fixtures by City, shall become the property of City. Tenant shall be liable to City for City's costs for storing, removing and disposing of Tenant's personal property, and of restoration of the Premises.

7.6 Effect of Alterations on Airport. If and to the extent that Tenant's activities or proposed Alterations trigger an obligation or requirement on the part of City to make changes to the Airport premises (including ADA requirements), Tenant shall indemnify, defend, and hold harmless City from and against any and all Losses (as defined below) arising out of such activities or Alterations.

7.7 Labor Harmony. The parties acknowledge that it is of the utmost importance to City, Tenant, and all those occupying or to occupy space in the Rental Car Facility that there be no interruption in the progress of the construction work. Accordingly, City and Tenant agree as follows:

(a) In any contract or undertaking which Tenant may make with a contractor for work in the Premises, provision shall be made for the dismissal from the job of workmen whose work is unskilled or otherwise objectionable, in the Director's (and, for this purpose, "the Director" shall include a reference to the Airport's Architect) reasonable judgment. Tenant shall cause any such workmen to be discharged from the project within twenty-four (24) hours after Director shall give notice to Tenant requiring such discharge.

(b) Tenant shall use, and Tenant shall require its contractor and subcontractors to use, their respective best efforts to prevent work stoppages on the Premises, and/or elsewhere on the Airport, to the extent attributable to work being performed on the Premises, irrespective of the reason of any such stoppage. In the event that the conduct or presence of any employee(s) of Tenant or Tenant's contractor(s) or subcontractor(s) causes a labor dispute or work stoppage, Tenant shall have such employee(s) immediately removed from the Airport upon Director's request.

(c) Tenant shall include, and shall cause its contractor to include, the following clause in all contracts with its general contractors and subcontractors:

Harmony Clause

There shall be no manifestations on the project of any dispute between any labor organization and any Tenant contractor or subcontractor, including but not limited to, any area standards picketing against said contractor or subcontractor. Should there be any manifestation of a labor dispute between any Tenant contractor or subcontractor and any union, which results in a stoppage of work on the part of said contractor or subcontractor's employees or the employees of any other employer or supplier on the project or at the Airport, which in the sole judgment of the Director will cause, or is likely to cause, unreasonable delay in the progress of construction or operation of any business at the Airport, then upon written notice from Director, Tenant shall declare the contractor or subcontractor in default of its contract, and upon such notice, Tenant shall have the right to take such steps as are necessary to finish the uncompleted portion of the work to be performed by the contractor or subcontractor.

(d) Without limiting the generality of indemnities elsewhere in this Lease, Tenant shall indemnify, defend, and hold harmless City and each City Entity for any and all Losses which arise from the actions taken pursuant to this Section 7.7.

8. UTILITIES

8.1 Services Provided. City shall provide in the Rental Car Facility the following utility services: reasonable amounts of water, electricity, telephone, sewage outlets, heating, ventilation, and air conditioning, to a point determined by the Director. All extensions of the facilities requested by Tenant for said utility services from said points shall be at the sole cost and expense of Tenant. In the event of any change desired by Tenant as to said points of supply by City, the expense of making such changes or alterations shall be at the sole cost of Tenant.

8.2 Utility Costs. Tenant shall pay the whole cost for all utility services as invoiced to Tenant by City and for such other special services which it may require in the Premises, and Tenant hereby expressly waives the right to contest any utility rates.

8.3 Shared Telecommunications Services. Tenant acknowledges that City has implemented a shared telecommunications service program ("**STS Program**") to provide telecommunications services. The STS Program may involve City's provision of telephone, telefacsimile, local access, long distance service, internet, intranet, and other computer and telecommunications services. In such event, at City's option, Tenant shall participate in the STS Program by engaging City or its agent to provide such services at Tenant's expense, provided that the charges for such services are generally competitive. Further, Tenant shall pay to City when invoiced, the Airport Communication Infrastructure Charge, as the same may be modified from time to time. All payments for STS services shall be due and payable when invoiced by City.

8.4 Waiver of Damages. Tenant hereby expressly waives any and all claims for damages arising or resulting from failures or interruptions of utility services to the Premises, including electricity, gas, water, plumbing, sewage, telephone, communications, heat, ventilation, air conditioning, or for the failure or interruption of any public or passenger conveniences. Without limiting the generality of the foregoing, Tenant shall have no rights to abate Rent or terminate this Lease in the event of any interruption or failure of utility services.

9. MAINTENANCE AND REPAIR

9.1 “As-Is” Condition. TENANT SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS LEASING THE PREMISES TO TENANT ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT TENANT IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THE PREMISES, INCLUDING: (i) the quality, nature, adequacy and physical condition and aspects of the Premises, including, but not limited to, landscaping, utility systems, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises, (iv) the development potential of the Premises, and the use, habitability, merchantability, or fitness, suitability, value or adequacy of the Premises for any particular purpose, (v) the zoning or other legal status of the Premises or any other public or private restrictions on use of the Premises, (vi) the compliance of the Premises or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Premises or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the real property, (ix) the condition of title to the Premises, and (x) the agreements affecting the Premises, including covenants, conditions, restrictions, ground leases, and other matters or documents of record or of which Tenant has knowledge.

9.2 Accessibility Disclosure. California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist (“CASp”) to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises have not been inspected by a CASp. Pursuant to California Civil Code Section 1938(e), City provides the following disclosure to Tenant: “A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.” In the event Tenant elects to obtain a CASp inspection of the Premises, Tenant shall provide notice of such to City, and Tenant agrees that Tenant shall bear the cost of the inspection and any necessary repairs within the Premises.

9.3 Tenant’s Maintenance Obligations. Except as provided in Section 9.4 below, Tenant, at all times during the Term and at Tenant’s sole cost and expense, shall keep the Premises and every part thereof in good condition and repair, and in compliance with applicable Laws, including the replacement of any facility of City used by Tenant which requires replacement by reason of Tenant’s use thereof, excepting (a) ordinary wear and tear, and (b) damage due to casualty with respect to which the provisions of Section 13 [Damage or Destruction] shall apply. Tenant hereby waives all right to make repairs at the expense of City or in lieu thereof to vacate the Premises as provided by California Civil Code Section 1941 and 1942 or any other law, statute or ordinance now or hereafter in effect. In addition, except as provided in Section 9.4 below, if it becomes reasonably necessary during the term of this Lease, as determined by Director, for the maintenance and repair of the improvements, equipment and facilities used in common with other tenants of the Rental Car Facility, described as Common Use Space or Limited Common Use Space, Tenant shall be jointly and severally responsible for such maintenance and

repair, with all other tenants of the Rental Car Facility, at their own expense. Tenant's maintenance and repair obligations under this Section shall include the facilities in the QTA fuel/wash canopy area, including fuel tanks and systems and car wash systems. Tenant shall also be solely liable for the facade of the Premises separating the Premises from the Facility common areas, including the external face thereof, all windows and display areas therein, and all finishes thereon. Tenant shall be responsible for cleaning and other cosmetic maintenance and repair of its Exclusive Space, Common Use Space and Limited Common Use Space, including those structural elements maintained by City pursuant to Section 9.4. As provided below in Section 14.4 [City's Right to Perform], in the event Tenant fails to perform its maintenance and repair obligations hereunder, City shall have the right to do so, at Tenant's expense. The parties acknowledge and agree that Tenant's obligations under this Section are a material part of the bargained-for consideration under this Lease. Tenant's compliance obligations shall include, without limitation, the obligation to make repairs and alterations to the Premises (including Initial Improvements), regardless of, among other factors, the relationship of the cost of benefit of the repairs to Tenant or City, the degree to which curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular requirement involved, or the relationship between the requirement involved and Tenant's particular use of the Premises.. No occurrence or situation arising during the Term, nor any present or future requirement, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Lease in whole or in part or to otherwise seek redress against City. Tenant waives any rights now or hereafter conferred upon it by any existing or future requirement to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel City to make any repairs to comply with any such requirement, on account of any such occurrence or situation.

9.4 City's Responsibilities. City's maintenance and repair responsibilities with respect to the Rental Car Facility shall be limited to the following:

(a) City shall provide major structural maintenance, repair and replacement (if necessary) of the Rental Car Facility structure, foundations, load bearing walls, non-load bearing walls, ramps, stairs, floor slabs, roof, and the exterior surfaces of walls.

(b) City shall maintain, repair and replace (if necessary) the Rental Car Facility's: 1) heating, air conditioning and ventilation central supply units; 2) electrical, water and sewer main supply lines and distribution system including central plumbing risers; 3) fire detection systems, sprinkler systems, alarm/security systems, elevators, escalators, automatic doors and public address system. The maintenance, repair and replacement of all other systems including all systems installed by Tenant, and/or located within the Premises shall be the obligation of Tenant.

(c) Exhibit B, attached hereto, further details the maintenance responsibilities of City. Notwithstanding anything to the contrary herein, City shall have no obligation to perform any maintenance or repair if such maintenance or repair arises from the conduct of Tenant, as to which Tenant shall be solely liable.

10. SIGNS AND ADVERTISING

10.1 Signs and Advertising. Tenant may, at its own expense, install and operate necessary and appropriate identification signs on the Premises, subject to the approval of Director and the requirements of the TI Guide, including but not limited to, the approval of the number, size, height, location, color and general type and design. Such approval shall be subject to revocation by Director at any time. Without

express written consent of Director, Tenant shall not display any advertising, promotional, or informational pamphlets, circulars, brochures or similar materials.

10.2 Prohibition of Tobacco Advertising. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

10.3 Prohibition of Alcoholic Beverage Advertising. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this Section, “**alcoholic beverage**” shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

11. **WAIVER; INDEMNITY; INSURANCE**

11.1 Waiver. Tenant, on behalf of itself and its assigns, waives its rights to recover from and releases and discharges City and all City Entities and their respective heirs, successors, personal representatives and assigns, from any and all Losses whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way connected with (a) the physical or environmental condition of the Premises or any law or regulation applicable thereto, (b) any damage that may be suffered or sustained by Tenant or any person whosoever may at any time be using or occupying or visiting the Premises, or in or about the Airport, or (c) any act or omission (whether negligent, non-negligent or otherwise) of Tenant or any Tenant Entity, whether or not such Losses shall be caused in part by any act, omission or negligence of any of City, Commission, its members, or any officers, agents, and employees of each of them, and their successors and assigns (each, a “**City Entity**”), except if caused by the sole gross negligence or willful misconduct of City. In connection with the foregoing waiver, Tenant expressly waives the benefit of Section 1542 of the California Civil Code, which provides as follows: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

11.2 Indemnity. In addition to, and not in limitation of the foregoing, Tenant shall forever indemnify, defend, hold and save City and each City Entity free and harmless of, from and against any and all Losses caused in whole or in part by or arising out of (a) any act or omission of Tenant or any Tenant Entity, including Tenant’s contractors and/or agents, (b) Tenant’s use of the Premises or operations at the Airport, or (c) any default by Tenant or any Tenant Entity hereunder, whether or not Losses shall be caused in part by any act, omission or negligence of City or any City Entity. The foregoing indemnity shall not extend to any Loss caused by the sole gross negligence or willful misconduct of City.

11.3 Losses. For purposes hereof “Losses” shall mean any and all losses, liabilities, judgments, suits, claims, damages, costs and expenses (including reasonable attorneys’ fees, investigation costs, remediation costs, and court costs), of any kind or nature.

11.4 Immediate Obligation to Defend. Tenant specifically acknowledges that it has an immediate and independent obligation to defend City or the City Entity from any claim which is actually or potentially within the scope of the indemnity provision of this Section 11 or any other indemnity provision under this Lease, even if such allegation is or may be groundless, fraudulent or false, and such obligation arises at the time such claim is tendered to Tenant and continues at all times thereafter.

11.5 Notice. Without limiting the foregoing waiver and indemnity, each party hereto shall give to the other prompt and timely written notice of any Loss coming to its knowledge which in any way, directly or indirectly, contingently or otherwise, affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest.

11.6 Insurance. Tenant shall procure and maintain during the Term the following insurance:

(a) Workers’ Compensation Insurance with Employer’s Liability limits not less than \$1,000,000 each accident.

(b) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products Liability and Completed Operations Coverages.

(c) Commercial Automobile Liability Insurance with limits not less than \$2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including owned, non-owned, and hired auto coverages.

(d) Property Insurance on all causes of loss-special form covering all Premises tenant improvements, fixtures, and equipment insuring against the perils of fire, lightning, extended coverage perils, vandalism and malicious mischief in the demised premises in an amount equal to the full replacement value of tenant improvements, fixtures and equipment.

(e) Business Interruption Insurance, with City to be named a loss payee to the extent its insurable interests may appear, insuring that the Rent will be paid to City for a period of at least one (1) year if Tenant is unable to operate its business at the Premises. Said insurance shall also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion. To calculate Concession Fee during any such interruption of business, the Gross Revenues for the 12-month period immediately preceding the incident causing the business interruption shall be used.

(f) Tenant may self-insure to meet its insurance requirements, provided that such self-insurance plan is approved by City’s Risk Manager.

11.7 Form of Policies. Before commencing the Initial Improvements or other operations under this Lease, Tenant shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Tenant’s liability hereunder. City may, upon reasonable notice and reasonable grounds increase or change the required insurance

hereunder, in which event Tenant shall obtain such required insurance. Without limiting the generality of the foregoing, all Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies shall be endorsed to provide the following:

(a) Name as additional insured the City and County of San Francisco, the Airport Commission and its members, and all of the officers, agents, and employees of each of them (collectively, “**Additional Insureds**”);

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(c) That the insurance company shall give thirty (30) days prior written notice to City of cancellation, non-renewal or reduction in scope of limits or coverage, except for 10 days prior written notice of cancellation for nonpayment of premiums.

11.8 Subrogation. Notwithstanding anything to the contrary herein, Tenant waives any right of recovery against City for any loss or damage to the extent the same is required to be covered by Tenant’s insurance hereunder. Tenant shall obtain from its insurer a waiver of subrogation the insurer may have against City or any City Entity in connection with any Loss covered by Tenant’s property insurance and worker’s compensation insurance policies.

12. DEPOSIT

12.1 Form of Deposit. On or before the date specified by the Director, Tenant will deliver to Director, at City’s Deposit/Annual Report Notice Address, a security deposit (the “**Deposit**”) in the Deposit Amount. Such Deposit shall be in the form of (a) a surety bond payable to City, naming City as obligee, in the form attached as Exhibit C-1, and otherwise in form satisfactory to City’s City Attorney, and issued by a surety company satisfactory to Director, or a (b) letter of credit naming City as beneficiary, in the form attached as Exhibit C-2, and otherwise in form satisfactory to City’s City Attorney, issued by a bank satisfactory to Director. Notwithstanding the foregoing, as may be provided in the Airport Commission Policy on Concession Deposits (Resolution No. 04-0153, August 3, 2004) as the same may be amended from time to time, Tenant shall be permitted to submit as the Deposit alternative forms of deposit as specified therein. Such Deposit shall be kept in full force and effect during the Term to ensure the faithful performance by Tenant of all covenants, terms, and conditions of this Lease, including payment of Rent. The sum designated as the “Deposit” is and will remain the sole and separate property of City until actually repaid to Tenant (or at City’s option, the last assignee (if any) of Tenant’s interest hereunder), said sum not being earned by Tenant until all provisions precedent for its payment to Tenant have been fulfilled. For Deposits in the form of a bond or letter of credit, Tenant shall cause the surety company or bank issuing such bond or letter of credit to give Director notice in writing by registered mail at least forty-five (45) days prior to the expiration date of such bond or letter of credit of its intention not to renew said bond or letter of credit.

12.2 Maintenance of Deposit. Tenant shall cause the Deposit to be increased on January 1st following the third (3rd) full Lease Year to an amount equal to one-half (1/2) of the adjusted MAG, all at Tenant’s cost, except that during any holdover period, the Deposit Amount shall equal one-half (1/2) of Tenant’s previous 12 months’ Rent. Tenant shall cause the bond or letter of credit to be kept in full force and effect during the Term and any holdover period to ensure the faithful performance by Tenant of all covenants, terms, and conditions of this Lease, including payment of Rent. If and to the extent City accepts a Deposit which has an expiration date or cancellation/termination provision, Tenant shall cause

the surety company or bank issuing such bond or letter of credit to give Director notice in writing by registered mail at least forty-five (45) days prior to the expiration date of such bond or letter of credit of its intention not to renew or to cancel or terminate said bond or letter of credit. Tenant shall cause such bond or letter of credit to be renewed, extended, or replaced, at Tenant's sole cost, at least thirty (30) days before the expiration date or cancellation date of the bond or letter of credit, with another bond or letter of credit that complies with the requirements herein. If Tenant fails to do so, City may, without notice to Tenant, draw on the entirety of the Deposit and hold the proceeds thereof as security hereunder. Tenant shall cause all notices to be given to City under this Section 12 to be given to City at City's Deposit/Annual Report Notice Address.

12.3 Use of Deposit. If Tenant fails to pay Rent or otherwise defaults with respect to any provision of this Lease, City may use, apply or retain all or any portion of the Deposit for the payment of Rent or other charge in default or for the payment of any other sum to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. If City so uses or applies all or any portion of the Deposit, Tenant, within ten (10) days after request therefore, shall deposit other security acceptable to Director with City in an amount sufficient to restore the Deposit to the full amount thereof, and Tenant's failure to do so shall be a breach of this Lease. City shall not be required to keep the Deposit or any proceeds thereof, as applicable, separate from its general accounts. Any proceeds of the Deposit is and will remain the sole and separate property of City until actually repaid to Tenant, said sum not being earned by Tenant until all provisions precedent for its payment to Tenant have been fulfilled. If Tenant performs all of Tenant's obligations hereunder, the Deposit, or the proceeds thereof, or so much thereof as has not theretofore been applied by City, shall be returned, without payment of interest or other increment for its use, to Tenant (or, at City's option, to the last assignee, if any, of Tenant's interest hereunder) within sixty (60) days after the expiration of the Term, and after Tenant has vacated the Premises. No trust relationship is created herein between City and Tenant with respect to the Deposit or any proceeds thereof. Tenant waives to the fullest extent permitted by law the provisions of California Civil Code Section 1950.7 or other similar laws, which provide that a landlord may claim from a security deposit only those sums reasonably necessary to remedy a default in the payment of rent, to repair damage caused by a tenant, or to clean the premises.

12.4 Other Agreements. If Tenant defaults with respect to any provision of any other agreement between City and Tenant, including the Other Agreements, City may use, apply or retain all or any portion of the Deposit for payment of any sum owing to City or to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. Likewise, if Tenant defaults with respect to any provision under this Lease, City may use, apply, or retain all or any portion of any deposit provided under any other agreement between City and Tenant, including the Other Agreements, for payment of any sum owing to City or to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. In the event the Deposit or any other deposit is so used, Tenant shall deposit other security acceptable to Director with City in an amount sufficient to restore the Deposit to the full amount thereof.

13. DAMAGE OR DESTRUCTION

13.1 Partial Destruction of Premises.

(a) In the event the improvements on the Premises for which Tenant bears all maintenance and repair responsibilities under Section 9.3 are damaged by any casualty which is required to be insured against pursuant to this Lease, then Tenant shall repair such damage as soon as reasonably possible, at its own cost, and this Lease shall continue in full force and effect.

(b) In the event such improvements for which Tenant bears all maintenance and repair responsibilities under Section 9.3 are damaged by any casualty not covered under an insurance policy required to be maintained pursuant to this Lease, then City may, at City's option, either (i) repair such damage as soon as reasonably possible at City's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within sixty (60) days after the date of occurrence of such damage of City's intention to terminate this Lease. Such termination shall be effective as of the date specified in such notice.

(c) Notwithstanding the foregoing, if such damage is caused by an act or omission to act of Tenant or a Tenant Entity, then Tenant shall repair such damage, promptly at its sole cost and expense.

(d) In the event City elects to terminate this Lease pursuant to this Section 13.1, Tenant shall have the right within ten (10) days after receipt of the required notice to notify City of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from City, in which event this Lease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as reasonably possible. If Tenant does not give such notice within the ten (10) day period, this Lease shall be terminated as of the date specified in City's notice. City shall not be required to repair any injury or damage by fire or other cause, or to make any restoration or replacement of any paneling, decorations, office fixtures, partitions, railings, ceilings, floor covering, equipment, machinery or fixtures or any other improvements or property installed in the Premises by Tenant or at the direct or indirect expense of Tenant. Tenant shall be required to restore or replace same in the event of damage.

13.2 Total Destruction of Premises. If the improvements on the Premises are totally destroyed during the Term from any cause whether or not covered by the insurance required herein (including any destruction required by any authorized public authority), this Lease shall automatically terminate as of the date of such total destruction.

13.3 Partial Destruction of Rental Car Facility Building. If fifty percent (50%) or more of the Rental Car Facility Building shall be damaged or destroyed by an insured risk, or if fifteen percent (15%) or more of the Rental Car Facility Building shall be damaged or destroyed by an uninsured risk, notwithstanding that the Premises may be unaffected thereby, each of City and Tenant may elect to terminate this Lease by giving notice to the other within ninety (90) days from the date of occurrence of such damage or destruction, in which event the Term of this Lease shall expire on a mutually agreed upon date and Tenant shall thereupon surrender the Premises to City as required hereunder.

13.4 Damage Near End of the Term. If during the last year of the Term the improvements on the Premises are partially destroyed or damaged, City may at City's option terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of City's election to do so within thirty (30) days after the date of occurrence of such damage. In the event City elects to terminate this Lease pursuant hereto, Tenant shall have the right within ten (10) days after receipt of the required notice to notify City in writing of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from City, in which event this Lease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as reasonably possible.

13.5 No Abatement of Rent; Tenant's Remedies.

(a) If the Premises are partially destroyed or damaged, Tenant shall have no claim against City for any damage suffered by reason of any such damage, destruction, repair or restoration.

Tenant waives California Civil Code Sections 1932(2) and 1933(4) providing for termination of hiring upon destruction of the thing hired.

(b) In no event will Tenant be entitled to an abatement of Rent resulting from any damage, destruction, repair, or restoration described herein.

14. DEFAULT; REMEDIES

14.1 Event of Default. The occurrence of any one or more of the following events shall constitute a breach of this Lease and an “**Event of Default**” hereunder:

(a) Tenant shall fail duly and punctually to pay Rent, or to make any other payment required hereunder, when due to City, and such failure shall continue beyond the date specified in a written notice of such default from Director, which date shall be no earlier than the third (3rd) day after the effective date of such notice. Notwithstanding the foregoing, in the event there occurs two (2) defaults in the payment of Rent or other payment during the Term, thereafter Tenant shall not be entitled to, and City shall have no obligation to give, notice of any further defaults in the payment of Rent or other payment. In such event, there shall be deemed to occur an Event of Default immediately upon Tenant’s failure to duly and punctually pay Rent or other payment hereunder; or

(b) Tenant shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or of any state thereof, or consent to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or

(c) A petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, shall be filed against Tenant and shall not be dismissed within thirty (30) days after the filing thereof; or

(d) There shall occur a Transfer without the prior approval of the City; or

(e) Tenant shall voluntarily abandon, desert or vacate the Premises; or

(f) Any lien shall be filed against the Premises as a result of any act or omission of Tenant, and shall not be discharged or contested by Tenant in good faith by proper legal proceedings within twenty (20) days after receipt of notice thereof by Tenant; or

(g) Tenant shall fail to provide, maintain, increase, or replace, the Deposit as required herein; or

(h) Tenant shall fail to obtain and maintain the insurance required hereunder, or provide copies of the policies or certificates to City as required herein; or

(i) Tenant shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Lease, and such failure shall continue for a period of more than three (3) days after delivery by Director of a written notice of such failure (the “**First Notice**”); or if satisfaction of such obligation requires activity over a period of time, if Tenant fails to commence the cure of such failure within three (3) days after receipt of the First Notice, or thereafter fails to diligently

prosecute such cure, or fails to actually cause such cure within one hundred twenty (120) days after the giving of the First Notice; or

(j) Tenant shall use or give its permission to any person to use any portion of Airport or the Rental Car Facility used by Tenant under this Lease for any illegal purpose, or any purpose not approved by Director; or

(k) There shall occur a default under any other agreement between Tenant and City, including the Other Agreements, if any, and such default is not cured as may be provided in such agreement; provided, however, that nothing herein shall be deemed to imply that Tenant shall be entitled to additional notice or cure rights with respect to such default other than as may be provided in such other agreement.

14.2 Statutory Notices. Notwithstanding anything to the contrary in this Section 14, any written notice, other than as specifically set forth in this Section 14, required by any statute or law now or hereafter in force is hereby waived by Tenant to the fullest extent available under law. Any notice given by City pursuant to Section 14.1 may be the notice required or permitted pursuant to Section 1161 *et seq.* of the California Code of Civil Procedure or successor statutes, and the provisions of this Lease will not require the giving of a notice in addition to the statutory notice to terminate this Lease and Tenant's right to possession of the Premises. The periods specified in Section 14.1 within which Tenant is permitted to cure any default following notice from City will run concurrently with any cure period provided by applicable laws.

14.3 Remedies. Upon the occurrence and during the continuance of an Event of Default, City shall have the following rights and remedies in addition to all other rights and remedies available to City at law or in equity:

(a) City shall have the rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant's right to possession of the Premises. In the event this Lease is so terminated, City may recover from Tenant the following damages:

- (i) The "**worth at the time of the award**" of the unpaid Rent earned to the time of termination hereunder;
- (ii) The "**worth at the time of the award**" of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided;
- (iii) The "**worth at the time of the award**" of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and
- (iv) Any other amount necessary to compensate City for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

For purposes of the foregoing, the “**worth at the time of award**” of the amounts referred to in clauses (i) and (ii) above is computed by allowing interest at the lower of 18% per annum and the highest rate legally permitted under applicable law. The “**worth at the time of award**” of the amount referred to in clause (iii) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1% (one percent). Notwithstanding any other provisions hereof, any efforts by City to mitigate damages caused by Tenant’s breach of this Lease shall not constitute a waiver of City’s right to recover damages hereunder and shall not affect the right of City to indemnification pursuant to the provisions of Section 11 [Waiver; Indemnity; Insurance] hereof. For purposes of calculating City’s damages comprising Concession Fee based on Gross Revenues, that amount will be computed by determining the highest Concession Fee accruing in any Lease Year during the immediately preceding three Lease Years or such shorter period if the Term prior to termination was less than three Lease Years. Tenant agrees that Tenant’s obligations under this Lease, including the payment of Concession Fee, are independent covenants and are not conditioned on the covenants or warranties of City.

(b) City shall have the right and remedy described in California Civil Code Section 1951.4. City may elect not to terminate this Lease and let this Lease continue, in which case City may enforce all its rights and remedies under this Lease, including the right to recover Rent as it becomes due under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon the initiative of City to protect City’s interest under this Lease shall not constitute a termination of Tenant’s right to possession.

(c) City shall have the right and power, as attorney in fact for Tenant, to enter and to sublet the Premises, to collect rents from all subtenants and to provide or arrange for the provision of all services and fulfill all obligations of Tenant (as permitted in accordance with the terms of this Lease) and City is hereby authorized on behalf of Tenant, but shall have absolutely no obligation, to provide such services and fulfill such obligations and to incur all such expenses and costs as City deems necessary in connection therewith. Tenant shall be liable immediately to City for all costs and expenses City incurs in collecting such rents and arranging for or providing such services or fulfilling such obligations. City is hereby authorized, but not obligated, to relet the Premises or any part thereof on behalf of Tenant, to incur such expenses as may be necessary to effect a relet and make said relet for such term or terms, upon such conditions and at such rental as City in its sole discretion may deem proper. Tenant shall be liable immediately to City for all reasonable costs City incurs in reletting the Premises required by the reletting, and other costs. If City relets the Premises or any portion thereof, such reletting shall not relieve Tenant of any obligation hereunder, except that City shall apply the rent or other proceeds actually collected by it as a result of such reletting against any amounts due from Tenant hereunder to the extent that such rent or other proceeds compensate City for the nonperformance of any obligation of Tenant hereunder. Such payments by Tenant shall be due at such times as are provided elsewhere in this Lease, and City need not wait until the termination of this Lease, by expiration of the Term hereof or otherwise, to recover them by legal action or in any other manner. City may execute any lease made pursuant hereto in its own name, and the lessee thereunder shall be under no obligation to see to the application by City of any rent or other proceeds, nor shall Tenant have any right to collect any such rent or other proceeds. City shall not by any reentry or other act be deemed to have accepted any surrender by Tenant of the Premises or Tenant’s interest therein, or be deemed to have otherwise terminated this Lease, or to have relieved Tenant of any obligation hereunder, unless City shall have given Tenant express written notice of City’s election to do so as set forth herein.

(d) City shall have the right to have a receiver appointed upon application by City to take possession of the Premises and to collect the rents or profits therefrom and to exercise all other rights and remedies pursuant to this Section 14.3.

(e) City shall have the right to enjoin, and any other remedy or right now or hereafter available to a landlord against a defaulting tenant under the laws of the State of California or the equitable powers of its courts, and not otherwise specifically reserved herein.

(f) City may elect to terminate any other agreement between Tenant and City, including the Other Agreements, if any.

14.4 City's Right to Perform. All agreements and provisions to be performed by Tenant under any of the terms of this Lease shall be at its sole cost and expense and without any abatement of Rent. If Tenant shall fail to make any payment or perform any act on its part to be performed hereunder and such failure shall continue for ten (10) days after notice thereof by City, City may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by City and all necessary incidental costs shall be deemed additional rent hereunder and shall be payable to City on demand, and City shall have (in addition to any other right or remedy of City) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of Rent.

14.5 Rights Related to Termination. In the event of any termination based on any breach of the covenants, terms and conditions contained in this Lease, City shall have the option at once and without further notice to Tenant to enter upon the Premises and take exclusive possession of same. City may remove or store any personal property located therein, at the sole cost and expense of Tenant without City being liable to Tenant for damage or loss thereby sustained by Tenant. Upon such termination by City, all rights, powers and privileges of Tenant hereunder shall cease, and Tenant shall immediately vacate any space occupied by it under this Lease, and Tenant shall have no claim of any kind whatsoever against City or any City Entity by reason of such termination, or by reason of any act by City or any City Entity incidental or related thereto. In the event of the exercise by City of such option to terminate, Tenant shall have no right to or claim upon any improvements or the value thereof, which may have been previously installed by Tenant in or on the Premises.

14.6 Cumulative Rights. The exercise by City of any remedy provided in this Lease shall be cumulative and shall in no way affect any other remedy available to City under law or equity.

14.7 Prepayment. As provided in Section 4.15 [Prepay Rent], if Tenant defaults in the payment of Rent, City may require prepayment of Rent. Such right shall be in addition to and not in lieu of any and all other rights hereunder, or at law or in equity.

14.8 Fines. If Tenant defaults under any of the Lease terms specified below, Director may elect to impose the fines described below on the basis of per violation per day:

<u>Violation</u>	<u>Section</u>	<u>Fine</u>
Violation of Premises Clause	1	\$300
Violation of Use Section	3	\$300
Failure to open Facility by the Rent Commencement Date	2.2	\$500

<u>Violation</u>	<u>Section</u>	<u>Fine</u>
Failure to cause operations or Premises to comply with Laws	3.15	\$300
Failure to submit required documents and reports, including Sales Reports and Annual Reports	4	\$100
Construction or Alterations without City approval	7	\$500
Failure to obtain DRC and BICE approval 30 days prior to Rent Commencement Date	7.2	\$250
Failure to make required repairs	9	\$300
Unauthorized advertising or signage	10	\$100
Failure to obtain/maintain insurance	10	\$300
Failure to obtain or maintain Deposit	12	\$300
Failure to abide by any other term in this Lease		\$300

Director's right to impose the foregoing Fines shall be in addition to and not in lieu of any and all other rights hereunder, in the Airport Rules, or at law or in equity. City shall have no obligation to Tenant to impose Fines on or otherwise take action against any other tenant at the Airport. Such Fines shall constitute "**Additional Rent.**"

14.9 City Lien. Tenant hereby grants to City a lien upon and security interest in all fixtures, chattels and personal property of every kind now or hereafter to be placed or installed in or on the Premises, and agrees that in the event of any default on the part of Tenant City has all the rights and remedies afforded the secured party by the chapter on "Default" of the Uniform Commercial Code in the state wherein the Premises are located on the date of this Lease and may, in connection therewith, also (a) enter on the Premises to assemble and take possession of the collateral, (b) require Tenant to assemble the collateral and make its possession available to the City at the Premises, (c) enter the Premises, render the collateral, if equipment, unusable and dispose of it in a manner provided by the Uniform Commercial Code on the Premises. Tenant agrees to execute such instruments as City may request to perfect such lien, and designates also Director his attorney-in-fact for purposes of executing such documents.

14.10 Commencement of Legal Actions. Any legal action by City to enforce any obligation of Tenant or in the pursuit of any remedy hereunder shall be deemed timely filed if commenced at any time prior to one (1) year after the expiration or termination of the Term hereof or prior to the expiration of the statutory limitation period that would be applicable except for this Section 14.10, whichever period expires later.

14.11 Waiver of Notice. Except as otherwise expressly provided in this Section 14, Tenant hereby expressly waives, so far as permitted by law, the service of any notice of intention to enter or re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 or 1179, or under any other present or future law, if Tenant is evicted or City takes possession of the Premises by reason of any default by Tenant hereunder.

15. SURRENDER

Tenant shall at the end of the Term surrender to City the Premises in “broom clean” condition with all Alterations, additions and improvements thereto in the same condition as when received, ordinary wear and tear and damage by fire, earthquake, act of God, or the elements excepted. Tenant shall abide by the vacating instructions in the Tenant Improvement Guide and shall remove all trade dress, signage inserts, equipment and furnishings not permanently affixed to the base building or chattels. Additionally, Tenant shall be responsible for ensuring that its telecommunications cables and all other low voltage special systems cables are capped off and service discontinued. If Tenant utilized a hood, grease receptacle, or grease interceptor in the operation of its business, all items must be professionally cleaned with a receipt for same submitted to City. Subject to City’s right to require removal pursuant to Section 7 [Investments; Alterations] hereof, all Alterations and improvements installed in the Premises by Tenant (other than Tenant’s trade fixtures), shall, without compensation to Tenant, then become City’s property free and clear of all claims to or against them by Tenant or any third person. In the event that Tenant shall fail to remove its personal property, including trade fixtures, on or before the Expiration Date, such personal property shall become City’s property free and clear of all claims to or against them by Tenant or any third person. In such event, City shall not be responsible for any Losses related to such personal property, and City may sell or otherwise dispose of such personal property. If any of the surrender requirements of this Section are not met, City may at its sole discretion deduct reasonable costs for the work from the Tenant’s Deposit..

16. HAZARDOUS MATERIALS

16.1 Definitions. As used herein, the following terms shall have the meanings hereinafter set forth:

(a) “**Environmental Laws**” shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.)

(b) “**Hazardous Material**” shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. “Hazardous Material” includes, without limitation, any material or substance defined as a “hazardous substance,” or “pollutant” or “contaminant” pursuant to any Environmental Law; any asbestos and asbestos containing materials; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and any materials listed in the Airport’s TI Guide.

(c) “**Release**” when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Building, or in, on, under or about the Property.

(d) **“Pre-Existing Condition”** means the existence of any Hazardous Materials on the Premises immediately prior to the Commencement Date.

16.2 Tenant’s Covenants.

(a) Neither Tenant nor any Tenant Entity shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Airport, or transported to or from the Premises or the Airport; provided that Tenant may use such substances as are customarily used in a rental car operation so long as such use is in compliance with all applicable Environmental Laws and the Airport’s TI Guide.

(b) Tenant shall handle Hazardous Materials discovered or introduced on the Premises during the Term in compliance with all Environmental Laws and the Airport’s TI Guide. Tenant shall protect its employees and the general public in accordance with all Environmental Laws.

(c) In the event Tenant becomes aware of the actual or possible Release of Hazardous Materials on the Premises or elsewhere on the Airport, Tenant shall promptly give notice of the same to City. Without limiting the generality of the foregoing, Tenant shall give notice to City of any of the following: (i) notice of a Release of Hazardous Materials given by Tenant, any subtenant, or other occupant to any governmental or regulatory agency; (ii) notice of a violation or potential or alleged violation of any Environmental Law received by Tenant, any subtenant, other occupant on the Premises from any governmental or regulatory agency; (iii) any inquiry, investigation, enforcement, cleanup, removal, other action that is instituted or threatened by a government or regulatory agency; (iv) any claim that is instituted or threatened by a third party against Tenant, any subtenant, or other occupant on the Premises that relates to Hazardous Materials; and (v) any notice of termination, expiration, or material amendment to any environmental operating permit or license necessary for the use of the Premises.

(d) Any items containing Hazardous Materials in use by Tenant, which are customarily used in rental car operations, must be disposed of in a manner consistent with all applicable Environmental Laws.

(e) At Director’s request, Tenant shall provide information necessary for City to confirm that Tenant is complying with the foregoing covenants.

16.3 Environmental Indemnity. Tenant shall indemnify, defend, and hold harmless City from and against any and all Losses arising during or after the Term as a result of or arising from: (a) a breach by Tenant of its obligations contained in the preceding Section 16.2 [Tenant’s Covenants], or (b) any Release of Hazardous Material from, in, on or about the Premises or the Airport caused by the act or omission of Tenant or any Tenant Entity, or (c) the existence of any Hazardous Materials on the Premises, except to the extent that Tenant can demonstrate that such Hazardous Materials constitutes a Pre-Existing Condition.

16.4 Environmental Audit. Upon reasonable notice, Director shall have the right but not the obligation to conduct or cause to be conducted by a firm acceptable to Director, an environmental audit or any other appropriate investigation of the Premises for possible environmental contamination. Such investigation may include environmental sampling and equipment and facility testing, including the testing of secondary contamination. No such testing or investigation shall limit Tenant’s obligations hereunder or constitute a release of Tenant’s obligations therefor. Tenant shall pay all costs associated

with said investigation in the event such investigation shall disclose any Hazardous Materials contamination as to which Tenant is liable hereunder.

16.5 Closure Permit. Prior to the termination or expiration of this Lease, Director shall have the right to require Tenant to file with the City an application for a Closure Permit for decontamination of the site and investigation and removal of all Hazardous Materials in compliance with the Airport's TI Guide, the Airport Rules, and all Laws. The Closure Permit may require a plan for long-term care and surveillance of any contamination allowed to remain at the Premises or Airport property and an acknowledgment of responsibility and indemnification for any and all Losses associated with any such contamination. Without limiting the foregoing provision, City reserves the right to require Tenant to, and in such event Tenant shall, at Tenant's sole cost and expense, decontaminate the Premises and remove any Hazardous Materials discovered during the Term, except those Hazardous Materials which constitute Pre-Existing Conditions. Such removal shall be performed to the Director's reasonable satisfaction.

16.6 Environmental Compliance Requirements. Tenant shall comply with all City, Airport, San Mateo County, State of California, and Federal environmental laws and regulations applicable to Tenant's operations. Compliance with specific laws, regulations, and ordinances will be required for items including, but not limited to, wastewater discharges into Airport's wastewater collection systems; storm water pollution prevention; underground and above ground storage tanks for petroleum products and other hazardous materials; hazardous materials business plan; spill prevention, control, and countermeasure plan; and facility emergency response plan. Tenant shall obtain all required environmental permits, including but not limited to, underground storage tank permits and air quality permits from the appropriate regulatory agencies and shall prepare and submit all required environmental compliance plans such as a storm water pollution prevention plan and a spill prevention, control, and countermeasure plan to the appropriate regulatory agencies. Tenant shall provide to Airport Environmental Operations at the address shown below a copy of all environmental permits and environmental compliance plans, together with a summary of all such permits and plans, within 60 days from the start of the Lease, to the extent not previously provided, and within 30 days from the date of renewal or modification of such permits or plans. Tenant shall also submit a copy of any Notices of Violations or other communications received from any government agency relevant to noncompliance with environmental laws, regulations, permits, etc. to Airport Environmental Operations within five working days from the date of receipt of such notices to:

Airport Environmental Operations
Facilities Division
P.O. Box 8097
San Francisco, CA 94128

Tenant shall bear responsibility for any fines imposed on the Airport or compliance costs borne by the Airport as a result of a violation of any environmental laws and regulations by Tenant.

17. EMINENT DOMAIN

17.1 Definitions. For purposes of this Section 17, the following capitalized terms shall have the following meanings:

(a) "*Award*" means all compensation, sums or value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

(b) **“Date of Taking”** means the earlier of: (a) the date upon which title to the portion of the Premises taken passes to and vests in the condemnor, and (b) the date on which Tenant is dispossessed

(c) **“Taking”** means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under applicable Laws. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

17.2 General. If during the Term or during the period between the execution of this Lease and the Commencement Date, any Taking of all or any part of the Premises or any interest in this Lease occurs, the rights and obligations of the parties hereunder shall be determined pursuant to this Section 17. City and Tenant intend that the provisions hereof govern fully in the event of a Taking and accordingly, the Parties each hereby waives any right to terminate this Lease in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar Law now or hereafter in effect.

17.3 Total Taking; Automatic Termination. If a total Taking of the Premises occurs, then this Lease shall terminate as of the Date of Taking.

17.4 Partial Taking; Election to Terminate.

(a) If a Taking of any portion (but less than all) of the Premises occurs, then this Lease shall terminate in its entirety if all of the following exist: (i) the partial Taking renders the remaining portion of the Premises untenable or unsuitable for continued use by Tenant for the Permitted Use; (ii) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but City is unwilling or unable to cure such condition; and (iii) City elects to terminate.

(b) If a partial Taking of a material portion of the Rental Car Facility occurs, City shall have the right to terminate this Lease in its entirety.

(c) City’s elections to terminate this Lease pursuant to this Section 17 shall be exercised by City’s giving notice to Tenant on or before the date that is one hundred twenty (120) days after the Date of Taking, and thereafter this Lease shall terminate upon on the thirtieth (30th) day after such notice is given.

17.5 Tenant’s Monetary Obligations; Award. Upon termination of this Lease pursuant to an election under Section 17.4 [Partial Taking; Election to Terminate] above, then: (a) Tenant’s obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, and (b) City shall be entitled to the entire Award in connection therewith (including any portion of the Award made for the value of the leasehold estate created by this Lease), and Tenant shall have no claim against City for the value of any unexpired term of this Lease, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant’s relocation expenses or the interruption of or damage to Tenant’s business or damage to Tenant’s personal property.

17.6 Partial Taking; Continuation of Lease. If a partial Taking of the Premises occurs and this Lease is not terminated in its entirety under Section 17.4 [Partial Taking; Election to Terminate] above, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the Parties shall be as follows: (a) the Minimum Annual Guarantee shall be adjusted by Director to reflect the Taking, and (b) City shall be

entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease). Tenant shall have no claim against City for the value of any unexpired Term of this Lease, provided that Tenant may make a separate claim for compensation. Tenant shall retain any Award made specifically to Tenant for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's personal property.

17.7 Temporary Takings. Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of one hundred eighty (180) consecutive days, this Lease shall remain unaffected thereby, and Tenant shall continue to pay Rent, and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, City shall be entitled to receive any Award.

18. CITY AND OTHER GOVERNMENTAL PROVISIONS

18.1 MacBride Principles - Northern Ireland. Pursuant to San Francisco Administrative Code §12.F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Tenant acknowledges that he or she has read and understood this section.

18.2 Charter. The terms of this Lease shall be governed by and subject to the budget and fiscal provisions of the Charter of the City and County of San Francisco.

18.3 Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environmental Code, Tenant shall not provide any items to the construction of Alterations, or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Tenant fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environmental Code, Tenant shall be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

18.4 No Representations. Tenant acknowledges and agrees that neither City nor any person on behalf of City has made, and City hereby disclaims, any representations or warranties, express or implied, regarding the business venture proposed by Tenant at the Airport, including any statements relating to the potential success or profitability of such venture. Tenant represents and warrants that it has made an independent investigation of all aspects of the business venture contemplated by this Lease and the Permitted Use.

18.5 Effect of City Approvals. Notwithstanding anything to the contrary herein, Tenant acknowledges and agrees that City is entering into this Lease as a landowner, and not as a regulatory agency with police powers. Accordingly, any construction, alterations, or operations contemplated or performed by Tenant hereunder may require further authorizations, approvals, or permits from governmental regulatory agencies, including the Airport's Quality Control Department. Nothing in this Lease shall limit Tenant's obligation to obtain such other authorizations, approvals, or permits. No

inspection, review, or approval by City pursuant to this Lease shall constitute the assumption of, nor be construed to impose, responsibility for the legal or other sufficiency of the matter inspected, reviewed, or approved. In particular, but without limiting the generality of the foregoing, in approving plans and specifications for Alterations, City (a) is not warranting that the proposed plan or other action complies with applicable Laws, and (b) reserves its right to insist on full compliance in that regard even after its approval has been given or a permit has been issued.

18.6 Limitation on Damages. Notwithstanding anything to the contrary herein, in no event will City or any City Entity be liable to Tenant or any Tenant Entity for any consequential, incidental, or special damages, or or lost revenues or lost profits.

18.7 Sponsor's Assurance Agreement. This Lease shall be subordinate and subject to the terms of any "**Sponsor's Assurance Agreement**" or any like agreement heretofore or hereinafter entered into by City and any agency of the United States of America.

18.8 Federal Nondiscrimination Regulations.

(a) Tenant understands and acknowledges that City has given to the United States of America, acting by and through the Federal Aviation Administration, certain assurances with respect to nondiscrimination, which have been required by Title VI of the Civil Rights Act of 1964, as effectuated by Title 49 of the Code of Federal Regulations, Subtitle A - Office of the Secretary of Transportation, Part 21, as amended, as a condition precedent to the government making grants in aid to City for certain Airport programs and activities, and that City is required under said Regulations to include in every agreement or concession pursuant to which any person or persons other than City, operates or has the right to operate any facility on the Airport providing services to the public, the following covenant, to which Tenant agrees as follows: "*Tenant in its operation at and use of San Francisco International Airport, covenants that (1) no person on the grounds of race, color, or national origin shall 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 grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that the grantee, licensee, permittee, etc., shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation Effectuations of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.*"

(b) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23. (i) The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR part 23. (ii) The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23 that it enters and cause those businesses to similarly include the statements in the further agreements.

(c) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 27, which require, among other things, that all televisions and audio-visual displays installed in passenger areas have high-contrast captioning capability, which is at all times enabled.

18.9 Federal Affirmative Action Regulations. Tenant assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Tenant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Tenant assures that it will require that its covered sub-organizations provide assurances to Tenant that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

18.10 City's Nondiscrimination Ordinance.

(a) In the performance of this agreement, Tenant agrees not to discriminate against any employee, City and County employee working with Tenant, applicant for employment with Tenant, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Tenant shall include in all subleases and other subcontracts relating to the Premises hereunder a nondiscrimination clause in substantially the form of subsection (a) above. In addition, Tenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subtenants and other subcontractors to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco, where the work is being performed for the City, or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Tenant hereby represents that prior to execution of this Lease (i) Tenant executed and submitted to the Contract Monitoring Division of the City and County of San Francisco (the "CMD") the Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits form (Form CMD-12B-101), with supporting documentation, and (ii) the CMD approved such form.

(e) The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to nondiscrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Tenant shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section 12B.2(h) of the San Francisco

Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

18.11 Conflict of Interest. Through its execution of this Agreement, Tenant acknowledges that it is familiar with the provisions of section 15.103 of City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and sections 87100 et seq. and sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that if it becomes aware of any such fact during the term of this Agreement it shall immediately notify Landlord.

18.12 Prevailing Rates of Wage. Tenant shall abide by Airport Commission Policy No. 80-0031, requiring that Tenant pay prevailing rates of salaries, wages, and employee benefits, to its employees working at San Francisco International Airport pursuant to this Lease.

18.13 Declaration Regarding Airport Private Roads. Tenant hereby acknowledges and agrees that all roads existing at the date of execution hereof within the boundaries of the Airport, as shown on the current official Airport plan and as it may be revised, are the private property and private roads of the City and County of San Francisco, with the exception of that portion of the old Bayshore Highway which runs through the southern limits of the City of South San Francisco and through the northern portion of the Airport to the intersection with the North Airport Road as shown on said Airport Plan, and with the exception of that portion of the North Airport Road which runs from the off and on ramps of the State Bayshore Freeway to the intersection with said old Bayshore Highway as shown on said Airport Plan. It further acknowledges that any and all roads hereafter constructed or opened by City within the Airport boundaries will be the private property and road of City, unless otherwise designated by appropriate action.

18.14 No Relocation Assistance; Waiver of Claims. Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully releases, waives, and discharges forever any and all claims or other Losses, against and covenants not to sue City or any City Entity under any Laws, including any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws. Without limiting Section 5 [Assignment or Subletting], Tenant shall cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease. Tenant shall indemnify, defend, and hold harmless City for any and all Losses arising out of any relocation assistance or benefits payable to any Transferee.

18.15 Drug-Free Workplace. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Any violation of this prohibition by Tenant or any Tenant Entity shall constitute a default hereunder.

18.16 Compliance with Americans With Disabilities Act. Tenant acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity, whether directly or through a contractor, must be accessible to the disabled public. Tenant shall provide the services specified in this Lease in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation, including but not limited to, Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794 et seq.), 28 CFR Parts 35 and 36, and 49 CFR Parts 27, 37 and 38. Tenant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided

under this Lease, and further agree that any violation of this prohibition on the part of Tenant, its employees, agents or assigns shall constitute a material breach of this Lease.

18.17 Sunshine Ordinance. In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

18.18 Pesticide Prohibition. Tenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Tenant to submit to the Airport an integrated pest management ("**IPM**") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the terms of this Lease, (b) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as Tenant's primary IPM contact person with the City. In addition, Tenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

18.19 First Source Hiring Ordinance. Tenant shall comply with the San Francisco First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98, as amended by Board of Supervisors Ordinance Nos. 32-09 and 149-09) in cooperation with the Airport Commission Office of Employment and Community Partnerships pursuant to the First Source Hiring Agreement entered into between the Airport Commission and the Tenant concurrently herewith, and incorporated herein by reference.

18.20 Labor Peace/Card Check Rule. Without limiting the generality of other provisions herein requiring Tenant to comply with all Airport Rules, Tenant shall comply with the Airport's Labor Peace/Card Check Rule, adopted on February 1, 2000, pursuant to Airport Commission Resolution No. 00-0049 (the "**Labor Peace/Card Check Rule**"). Capitalized terms not defined in this provision are defined in the Labor Peace/Card Check Rule. To comply with the Labor Peace/Card Check Rule, Tenant shall, among other actions: (a) Enter into a Labor Peace/Card Check Agreement with any Labor Organization which requests such an agreement and which has registered with the Director or his/her designee, within thirty (30) days after the Labor Peace/Card Check Agreement has been requested; (b) Not less than thirty (30) days prior to the modification of this Lease, Tenant shall provide notice by mail to any Labor Organization or federation of labor organizations which have registered with the Director or his/her designee ("**registered labor organization**"), that Tenant is seeking to modify or extend this Lease; (c) Upon issuing any request for proposals, invitations to bid, or similar notice, or in any event not less than thirty (30) days prior to entering into any Subcontract, Tenant shall provide notice to all registered labor organizations that Tenant is seeking to enter into such Subcontract; and (d) Tenant shall include in any subcontract with a Subcontractor performing services pursuant to any Covered Contract, a provision requiring the Subcontractor to comply with the requirements of the Labor Peace/Card Check Rule. If the Director determines that Tenant shall have violated the Labor Peace/Card Check Rule, the Director shall have the option to terminate this Lease, in addition to exercising all other remedies available to him/her.

18.21 Requiring Minimum Compensation.

(a) Tenant agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (**MCO**), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Tenant's obligations under the MCO is set forth in this Section. Tenant is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

(b) The MCO requires Tenant to pay Tenant's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Tenant is obligated to keep informed of the then-current requirements. Any subcontract entered into by Tenant shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Tenant's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Tenant.

(c) Tenant shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(d) Tenant shall maintain employee and payroll records as required by the MCO. If Tenant fails to do so, it shall be presumed that the Tenant paid no more than the minimum wage required under State law.

(e) The City is authorized to inspect Tenant's premises and conduct interviews with employees and conduct audits of Tenants.

(f) Tenant's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Tenant fails to comply with these requirements. Tenant agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Tenant's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(g) Tenant understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(h) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(i) If Tenant is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Tenant later enters Tenant an agreement or agreements that cause Tenant to exceed that amount in a fiscal year, Tenant shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Tenant and this department to exceed \$25,000 in the fiscal year.

18.22 Airport Intellectual Property. Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, without the Director's prior consent.

18.23 Requiring Health Benefits for Covered Employees. Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Tenant is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) Tenant's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Tenant if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Subcontract entered into by Tenant shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Tenant shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Tenant shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Tenant based on the Subcontractor's failure to comply,

provided that City has first provided Tenant with notice and an opportunity to obtain a cure of the violation.

(e) Tenant shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Tenant's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) Tenant shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

(h) Tenant shall keep itself informed of the current requirements of the HCAO.

(i) Tenant shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) Tenant shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

(k) Tenant shall allow City to inspect Tenant's premises and have access to Tenant's employees in order to monitor and determine compliance with HCAO.

(l) City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with City when it conducts such audits.

(m) If Tenant is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and the City to be equal to or greater than \$75,000 in the fiscal year.

18.24 Notification of Limitations on Contributions. By executing this Agreement, Tenant acknowledges its obligations under Section 1.26 of the City's Campaign and Governmental Conduct Code (the "**Conduct Code**"), which prohibits any person who leases, or seeks to lease, to or from any department of the City, any land or building, from making a contribution to: (a) a City elected official if the lease must be approved by that official; (b) a candidate for that City elective office, or (c) a committee controlled by that elected official or a candidate for that office, at any time from the submission of a proposal for the lease until the later of either the termination of negotiations for the lease or twelve (12) months after the date the City approves the lease. Tenant acknowledges that the foregoing restriction applies only if this Agreement or a combination or series of leases or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars (\$100,000) or more. Tenant further acknowledges that: (i) the prohibition on contributions

applies to each prospective party to the lease; any person on Tenant's board of directors, any of Tenant's principal officers (including its chairperson, chief executive officer, chief financial officer, chief operating officer) and any person with an ownership interest of more than 10 percent (10%) in Tenant; any subtenant listed in the lease; and any committee that is sponsored or controlled by Tenant; and (ii) within thirty (30) days of the submission of a proposal for the lease, the City department with whom Tenant is leasing is obligated to submit to the Ethics Commission the parties to the lease and any subtenant. Additionally, Tenant certifies that it informed any member of its board of directors and any of its principal officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 10% in Tenant, and any subtenant listed herein of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for this Agreement, and has provided the names of the persons required to be informed to the City department with whom it is leasing. .

18.25 Food Service Waste Reduction Ordinance. San Francisco's Food Service Waste Reduction Ordinance, Ordinance No. 295-06, SF Environment Code Chapter 16 (Ordinance) requires restaurants, retail food vendors, City departments, City contractors and City lessees to use biodegradable/compostable or recyclable disposable food service ware when selling or distributing prepared foods, unless there is no "affordable" alternative. The Ordinance also prohibits such businesses and the City from using disposable food service ware made from polystyrene (Styrofoam™). Violation of the Ordinance may result in contractual damages, a criminal fine, administrative penalty, or other civil enforcement action.

18.26 Worker Retention Policy. Tenant acknowledges the Airport's Worker Retention Policy and agrees to comply with its requirements.

18.27 Local Hire Policy. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). All Alterations under this Lease are subject to the Local Hiring Requirements unless the cost for such work is (a) estimated to be less than \$750,000 per building permit or (b) meets any of the other exemptions in the Local Hiring Requirements. Tenant agrees that it shall comply with the Local Hiring Requirements to the extent applicable. Before starting any Alteration, Tenant shall contact City's Office of Economic Workforce and Development ("**OEWD**") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "Covered Project"). Tenant shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant shall cooperate, and require its subtenants to cooperate, with City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

18.28 Green Building Requirements. Tenant acknowledges that the City and County of San Francisco has enacted Chapter 7 of the San Francisco Environment Code relating to green building requirements. Tenant hereby agrees that it shall comply with all applicable provisions of Chapter 7, including but not limited to those relating to Leadership in Energy and Environmental Design (**LEED**) certification, Construction and Demolition Debris Management, and Toxics Reduction and Pollution Prevention. Before commencing any alterations or improvement work to the Premises, Tenant shall

submit an application to SFO's Zero Committee, on the form provided by the Airport, to enable the Airport to monitor Tenant's compliance with applicable green building requirements.

18.29 Rental Car Disclosure Requirements. The Airport has launched a campaign to curb rental car burglaries through consumer education, which includes posting signs within the Rental Car Center warning of the risks of leaving valuables in rental vehicles, providing rental car companies written materials for distribution to customers advising customers of the risk, and playing audio announcements on the AirTrain connecting the Airport terminals to the Rental Car Center. Tenant agrees to participate in the Airport's program, provide disclosures as requested, and incur reasonable costs associated with the program, including but not limited to, printing costs associated with the written materials distributed to rental car customers.

18.30 Rental Car Restrictions to Reduce Burglaries. Tenant shall comply with the requirements under the San Francisco Police Code, Article 13.4, which restricts visible barcodes and advertising on rental cars rented at the Airport. Failure to comply with these requirements shall constitute a material breach of this Lease and shall render Tenant liable for liquidated damages as provided under Section 977.6 of the San Francisco Police Code.

19. GENERAL PROVISIONS

19.1 Notices. Except as otherwise specifically provided in this Lease, any notice, consent, request, demand, or other correspondence given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or overnight courier, return receipt requested, with postage prepaid or by electronic mail (if an electronic mail address is provided), to: (a) Tenant at Tenant's Notice Address; or (b) City at City's Notice Address; or (c) such other address as either Tenant or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received and effective two (2) days after the date when it is mailed, if sent by first-class, certified mail, one day after the date when it is mailed if sent by overnight courier, or upon the date personal or electronic mail delivery is made. For convenience of the parties, copies of notices may also be given by facsimile to the number set forth in the Summary or such other number as may be provided from time to time; provided, however, neither party may give binding notice by facsimile.

19.2 No Implied Waiver. No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver.

19.3 Entire Agreement. The parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease.

19.4 Amendments. Except as specifically provided herein, neither this Lease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought.

19.5 Interpretation of Lease. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days. Use of the word "**including**" shall mean "including, without limitation." References to statutes, sections, ordinances or regulations are to be construed as including all statutory, ordinance, or regulatory provisions consolidating, amending, replacing, succeeding or supplementing the statute, section, ordinance or regulation. Whenever the singular number is used in this Lease and when required by the context, the same includes the plural, the plural includes the singular, and the masculine gender includes the feminine and neuter genders, and the word "**person**" shall include corporation, partnership, firm, limited liability company, and association.

19.6 Successors and Assigns. Subject to the provisions of Section 5 [Assignment or Subletting], the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Tenant and City and, except as otherwise provided herein, their personal representatives and successors and assigns.

19.7 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Lease.

19.8 No Joint Venture. It is expressly agreed that City is not, in any way or for any purpose, a partner of Tenant in the conduct of Tenant's business or a member of a joint enterprise with Tenant, and does not assume any responsibility for Tenant's conduct or performance of this Lease.

19.9 Brokers. Neither party has had any contact or dealings regarding the leasing of the Premises, nor any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his/her claim shall be responsible for such commission or fee and shall indemnify, defend, and hold harmless the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination or expiration of this Lease.

19.10 Severability. If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law.

19.11 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of California and the Charter of the City and County of San Francisco.

19.12 Attorneys' Fees. In the event that either City or Tenant fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of

any provision of this Lease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Lease, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. Without limiting the generality of the foregoing, Tenant shall also pay all costs and expenses incurred by City related to City's participation in or monitoring of any Tenant bankruptcy, insolvency, or similar proceeding involving creditors' rights generally and any proceeding ancillary thereto. This Section shall survive expiration or earlier termination of this Lease.

19.13 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

19.14 Time of Essence. Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

19.15 Reservations by City. City may (a) at any time, upon reasonable advance written or oral notice, enter the Premises to show the Premises to prospective tenants or other interested parties, to post notices of non-responsibility, to re-measure the Premises, to repair any part of the Premises or adjoining areas, to install equipment for adjoining areas, and for any other lawful purpose; (b) without advance notice, enter the Premises to conduct an environmental audit, operational audit, or general inspection, or in an emergency. City shall use reasonable efforts to minimize disruption in Tenant's business. Such entry shall not constitute a forcible or unlawful entry into or a detainer of the Premises, or an eviction, actual or constructive of Tenant from the Premises. City reserves the exclusive right to use all areas of the Airport not comprising the Premises, and the exterior walls and roofs the Premises. City reserves the exclusive right to use such areas together with the right to install, maintain, use, repair, and replace pipes, ducts, conduits, wires, columns, and structural elements serving other parts of the Airport in and through the Premises. This reservation in no way affects maintenance obligations imposed in this Lease.

19.16 Survival of Indemnities. Expiration or termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it effect any provision of this Lease that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee. Further, Tenant's obligation to make payments to City in respect of accrued charges (including those which have not yet been billed) and to make repairs (including those relating to the return of the Premises to City) which are accrued at the expiration or earlier termination of this Lease shall survive the expiration or earlier termination of this Lease.

19.17 Quiet Enjoyment and Title. Tenant, upon paying the Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full Term as against all persons or entities claiming by and through City. Tenant expressly acknowledges that Tenant's right to quiet possession of the Premises does not preclude City's right to

make changes and additions to the Airport, including the Premises, and to do work in the Premises as permitted by this Lease.

19.18 No Right of Redemption. Tenant waives any right of redemption or reinstatement of Tenant under any present or future case law or statutory provision (including Code of Civil Procedure Sections 473 and 1179 and Civil Code Section 3275) in the event Tenant is dispossessed from the Premises for any reason. This waiver applies to future statutes enacted in addition or in substitution to the statutes specified herein.

19.19 Accord and Satisfaction. The payment by Tenant or the receipt by City of a lesser amount than the rent stipulated in this Lease may be, at City's sole option, deemed to be on account of the earliest due stipulated rent, or deemed to be on account of rent owing for the current period only, notwithstanding any instructions by or on behalf of Tenant to the contrary, which instructions shall be null and void, and no endorsement or statement on any check or any letter accompanying any such check or payment will be deemed an accord and satisfaction, and City may accept such check or payment without prejudice to City's right to recover the balance of such rent or payment or pursue any other remedy available in this Lease, at law or in otherwise, including possession of the Premises. City may accept any partial payment from Tenant without invalidation of any contractual notice required to be given herein (to the extent such contractual notice is required) and without invalidation of any notice given or required to be given pursuant to applicable law. In such event, if City shall receive any such partial payment after it shall have commenced an action against Tenant, City may amend its action as contemplated by Section 1161.1(c) of the California Civil Code to reflect any such partial payment, and no such payment shall limit any of City's rights to continue the action.

19.20 Joint and Several Liability. The liabilities hereunder of the entities and/or person(s) comprising Tenant shall be joint and several.

19.21 Estoppel Statements. Within ten (10) business days after receipt of request therefor by City, Tenant shall deliver, in recordable form, an estoppel statement certifying that this Lease is in full force and effect; the date of Tenant's most recent payment of Rent, and that Tenant has no defenses or offsets outstanding, or stating those claimed, and any other information reasonably requested. Failure to deliver said statement within the specified period shall be conclusive upon Tenant that: (i) this Lease is in full force and effect, without modification except as may be represented by City; (ii) there are no uncured defaults in City's performance and Tenant has no right of offset, counterclaim or deduction against Rent hereunder; and (iii) no more than one month's Rent has been paid in advance. Notwithstanding the conclusiveness of Tenant's failure to deliver such statement, Tenant's failure shall constitute a breach of this Lease.

19.22 Authority. If Tenant signs as a corporation, a limited liability company, or a partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is duly qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon City's request, Tenant shall provide City evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

19.23 Consents. If City is required to reasonably grant consent or approval, but does not do so, Tenant's sole and exclusive remedy is to seek specific performance and in no event will City be liable for any monetary damages.

19.24 Options Personal. If and to the extent Tenant has an option to extend the Term of this Lease, such option is personal to the original Tenant and may be exercised only by the original Tenant while occupying the Premises who does so without the intent of thereafter making any Transfer, and may not be exercised by or assigned, voluntarily or involuntarily, by or to any person or entity other than Tenant, unless the foregoing prohibition is waived by Director. The options, if any, herein granted to Tenant are not assignable separate and apart from this Lease, nor may any option be separated from this Lease in any manner, either by reservation or otherwise.

19.25 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

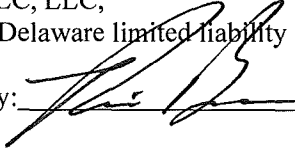
19.26 Most Favored Nations. In the event that any contract granted by City to any other on-airport automobile rental operator shall contain any terms and conditions more favorable to such operator than the terms and conditions herein described (other than the number of allocated parking spaces and the location of the concession area, etc.), then, at the option of Tenant, this Lease shall be amended to include such favorable terms and any offsetting burdens that may impose on any such other Tenant. The intent of this provision is to ensure that Tenant will be able to compete on terms as equal as possible with all other on-airport automobile rental car operators and to ensure that no other Tenant shall enjoy any rights or privileges more favorable to such Tenant than those enjoyed by the Tenant herein.

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IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date.

TENANT: Enterprise Rent-A-Car Co of San Francisco,
[signatories to also initial Summary] LLC, LLC,
a Delaware limited liability company

By:  _____

Name: Kevin Bass
Title: Vice President/General Manager

CITY: CITY AND COUNTY OF SAN FRANCISCO,
[signatories to also initial Summary] a municipal corporation,
acting by and through its Airport Commission

Ivar C. Satero
Airport Director

AUTHORIZED BY
AIRPORT COMMISSION

Resolution No.: 18-0342

Adopted: October 16, 2018

Attest: _____
Secretary
Airport Commission

APPROVED AS TO FORM:
DENNIS J. HERRERA,
City Attorney

By: _____
Deputy City Attorney

LIST OF EXHIBITS

EXHIBIT A – Description of Premises

EXHIBIT B – City’s Maintenance Responsibility and Tenant’s Operational Requirements

EXHIBIT C-1 – Form of Performance Bond for Airport Leases

EXHIBIT C-2 – Form of Letter of Credit for Airport Leases

EXHIBIT A
DESCRIPTION OF PREMISES

A. Exclusive Space:

9,267 square feet of Counter and Administrative Space (which includes back office space)

96,337 square feet of QTA Space in the stacking and staging area

40,640 square feet of QTA Space in the fuel/wash canopy area

327,601 square feet of Ready/Return Space

78,048 square feet of Fifth & First Floor Vehicle Storage Space

B. Common Use Space:

33,345 square feet of space on Levels 1 through 4 of the Rental Car Facility

64,133 square feet of QTA Space, Fifth & First Floor Vehicle Storage Space

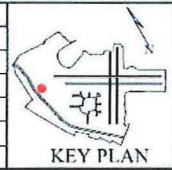
C. Limited Common Use Space:

26,442 square feet of space on Level 2 of the Rental Car Facility

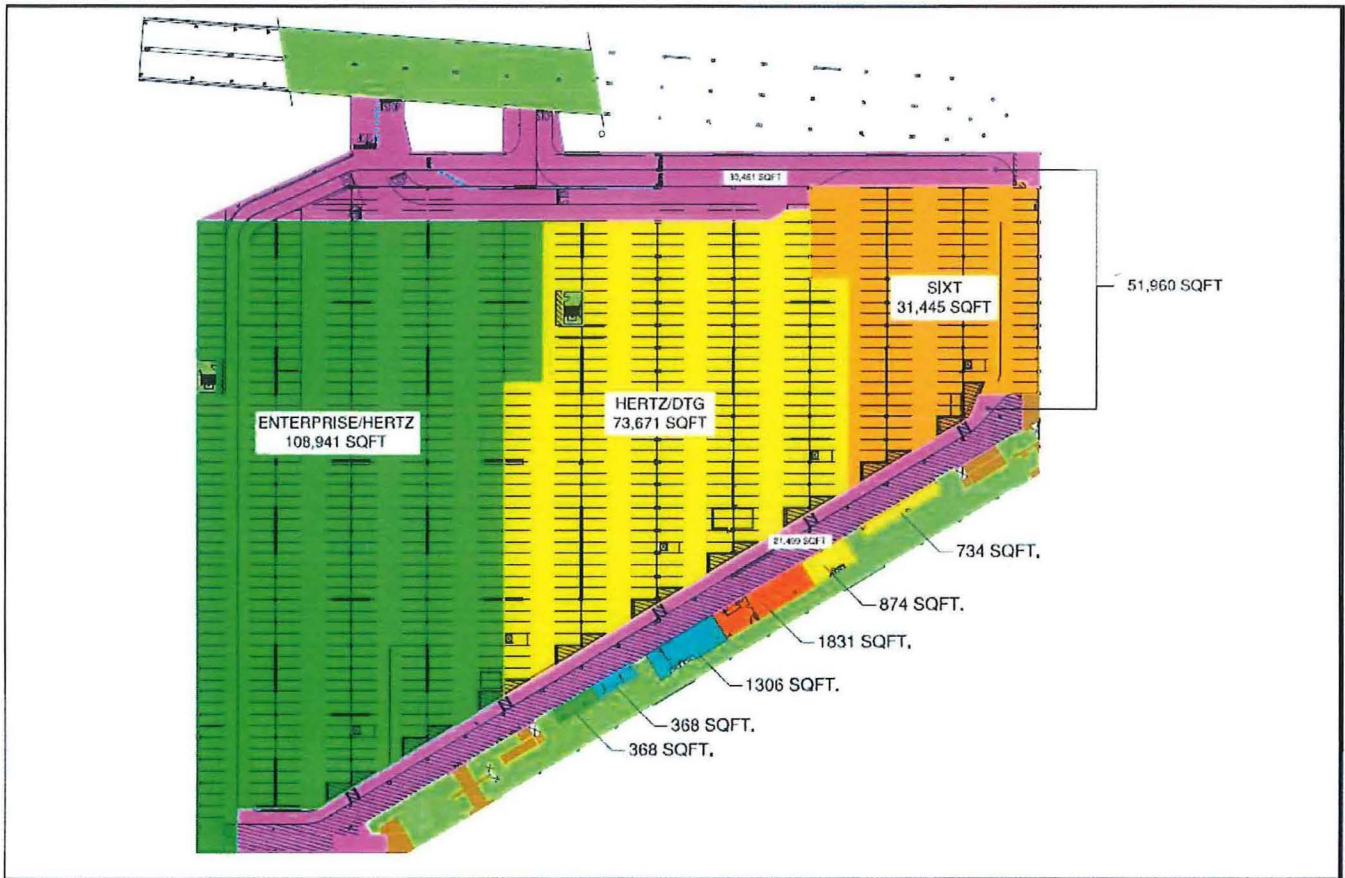
**EXHIBIT A
DESCRIPTION OF PREMISES**



LEASE DRAWING		RAC	AREA	CAT	CONTRACT	EFF. DATE
		HERTZ - STRCT	235,837'			
LOCATION: BUILDING 780 RENTAL CAR FACILITY LEVEL 1		HERTZ - STOR	85,657'			
TENANT:						
AIRPORT COMMISSION	DWG: B7801RC					
CITY & COUNTY OF SAN FRANCISCO	DATE: 02/12/2020					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					



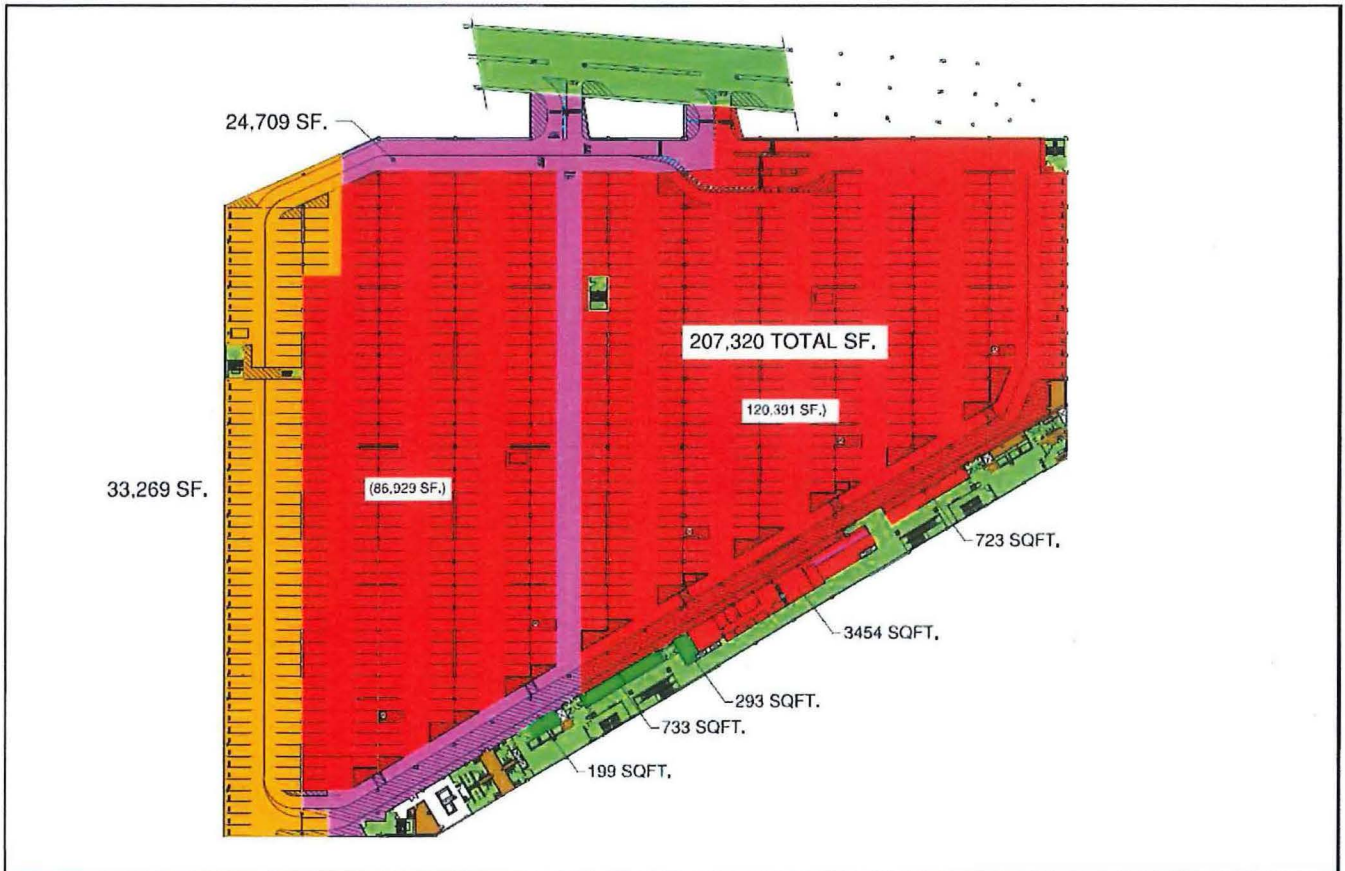
**EXHIBIT A
DESCRIPTION OF PREMISES**



LEASE DRAWING		RAC	AREA	CAT	CONTRACT	EFF. DATE
LOCATION: BUILDING 780 RENTAL CAR FACILITY LEVEL 2		EH	108,841'			
TENANT:		H/DTG	73,671'			
AIRPORT COMMISSION		SIXT	31,445'			
CITY & COUNTY OF SAN FRANCISCO						
SAN FRANCISCO INTERNATIONAL AIRPORT						
DWG: B7802RC						
DATE: 02/12/2020						
SCALE: NTS						



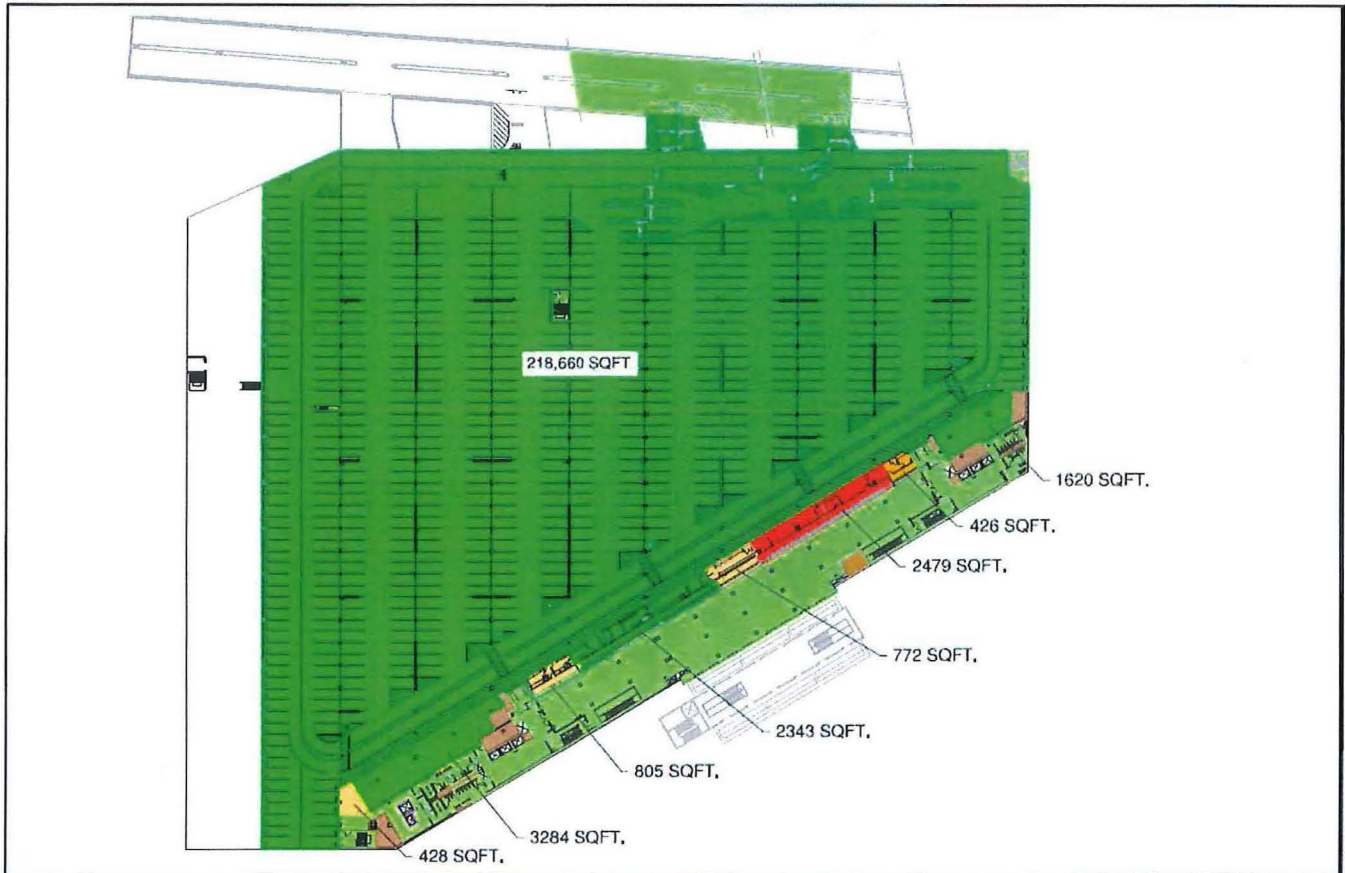
**EXHIBIT A
DESCRIPTION OF PREMISES**



LEASE DRAWING		RAC	AREA	CAT	CONTRACT	EFF. DATE
		AB	207,320'			
LOCATION: BUILDING 780 RENTAL CAR FACILITY LEVEL 3		SIXT	33,269'			
TENANT:						
AIRPORT COMMISSION	DWG: B7803RC					
CITY & COUNTY OF SAN FRANCISCO	DATE: 02/12/2020					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					



**EXHIBIT A
DESCRIPTION OF PREMISES**



LEASE DRAWING		RAC	AREA	CAT	CONTRACT	EFF. DATE
		ENTERPRISE	218,660'			
LOCATION: BUILDING 780 RENTAL CAR FACILITY LEVEL 4						
TENANT:						
AIRPORT COMMISSION	DWG: B7804RC					
CITY & COUNTY OF SAN FRANCISCO	DATE: 02/12/2020					
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS					



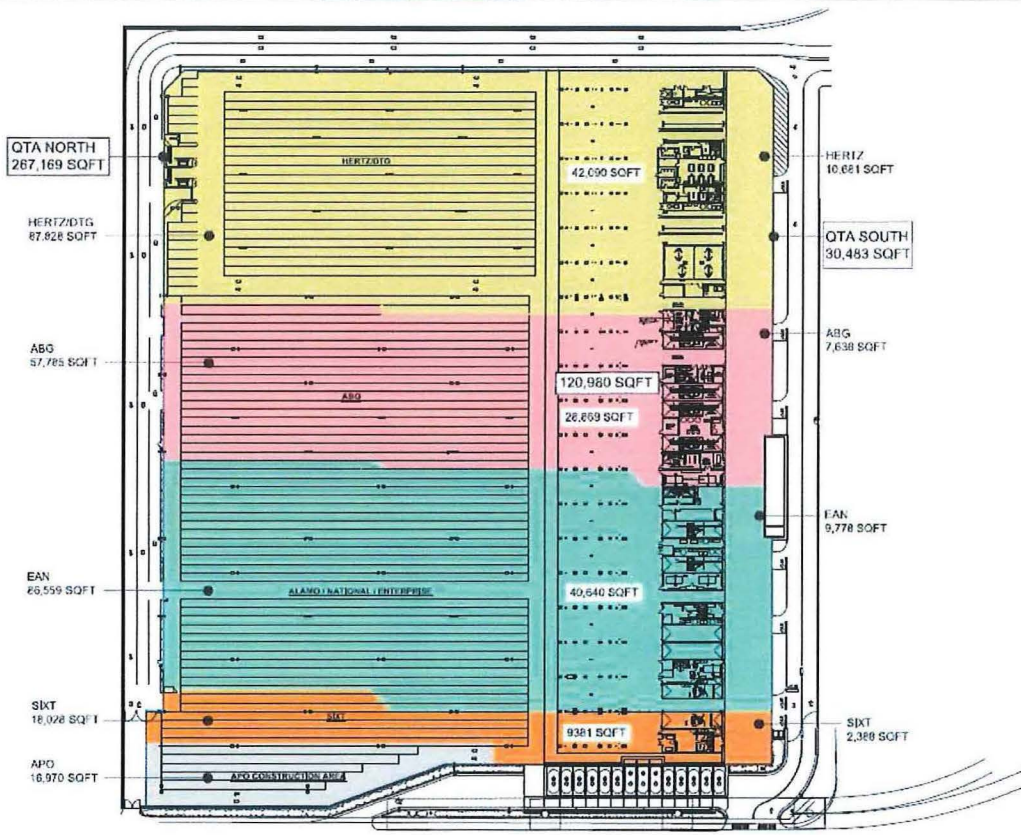
**EXHIBIT A
DESCRIPTION OF PREMISES**



LEASE DRAWING		RAC	AREA	CAT	CONTRACT	EFF. DATE
LOCATION: BUILDING 780 RENTAL CAR FACILITY LEVEL 5		EAN	78,048'			
TENANT:		AB	53,929'			
AIRPORT COMMISSION		SIXT	17,817'			
CITY & COUNTY OF SAN FRANCISCO		HERTZ	15,795'			
SAN FRANCISCO INTERNATIONAL AIRPORT						
DWG: B7805RC						
DATE: 02/12/2020						
SCALE: NTS						



EXHIBIT A DESCRIPTION OF PREMISES



LEASE DRAWING		RAC	QTA SURFACE	QTA STRUCT	CAT	CONTRACT	EFF. DATE
		LOCATION: BUILDING 782 QTA	HERTZ/DTG	98,509'	42,090'	1	
TENANT:	ABG	65,421'	28,869'	1			
AIRPORT COMMISSION	DWG: B7802QTA	A/N/E	96,337'	40,640'	1		
CITY & COUNTY OF SAN FRANCISCO	DATE: 02/12/2020	SIXT	20,416'	9,381'	1		
SAN FRANCISCO INTERNATIONAL AIRPORT	SCALE: NTS						



EXHIBIT B
CITY'S MAINTENANCE RESPONSIBILITY AND TENANT'S
OPERATIONAL REQUIREMENTS

Public Areas are limited to the public lobbies, public bathrooms, public elevators and escalators, public stairwells, the emergency tunnel, and the Police substation in the Garage. No public areas exist in the QTA.

Airport Exclusive Areas are limited to Airport dedicated rooms, i.e., mechanical rooms, inventory and storage rooms, electrical distribution rooms, selected janitorial closets, elevator and escalator machine rooms, and special monitoring systems for all fixed equipment.

The Airport's obligation to maintain the facility components, as specified below, is limited to Public Areas and/or Airport Exclusive Areas, unless otherwise stated in the column titled, "All Areas". Tenant is obligated to maintain all facility components located within the Premises, including the Common Use Space and the Shared Areas, except as otherwise stated below.

	Public Areas	Airport Exclusive Areas	All Areas
Acoustical Tile, Hangers, Frame work	X	X	
ADA Signage and Visual Communication Systems	X		
Airport Closed Circuit Television Systems (ACCTB)	X		
All preconditioned Air, Air Handling Units	X	X	
All Utility Mains			X
Automatic Doors	X		
Building Management System			X
Bus Canopy	N/A		
Ceilings	X	X	
Custodial Cleaning	X	X	
Doors, Closets, Hinges, Hardware, Locks	X	X	
Drainage Exterior Building			X
Duct Smoke Detectors	X	X	
Electrical Distribution System	X	X	
Electrical Inspections			X
Electrical Rooms			X
Elevator Machine Rooms	X		
Emergency Generator System			X
Emergency Lighting	X	X	
Entrance, Exit, Site, Roadway Repairs on McDonnell Road			X
Escalators	X		
Exhaust Pans in Public Restrooms	X		
Exit Signage	X	X	
Expansion and Seismic Joints and Thresholds			X
Exterior Lighting and Signage on Garage	X	X	
Filter Changes	X	X	
Fire Detection Systems	X	X	

	Public Areas	Airport Exclusive Areas	All Areas
Fire Hydrants			X
Fire Safety Inspections			X
Fire Sprinklers	X	X	
Fire Valves and Alarms			X
Floor Drains, Gutters	X	X	
Floors, Carpet, Vinyl Tile, Terrazzo, Ceramic Tile, Concrete	X	X	
Hot and Chilled Water Systems			X
Hot Water Heaters, Boilers			X
Exterior Landscaping & Irrigation on McDonnell Road	X		
Lighting (Mass and Spot Re-lamping)	X		
Locks	X	X	
Public Elevators and Elevator Emergency Communications Systems			X
Mechanical Inspections			X
Mechanical Room Equipment	X	X	
Mixing Boxes (VAV)	X	X	
Panic Hardware	X	X	
Plumbing Inspections			X
Pumps, Sewage, Drainage (Excludes Industrial Waste)	X		
Re-striping and Re-painting Bus Staging Areas	X		
Restroom Plumbing	X		
Roofing, Flashing			X
Public Stairwells			X
Structural Maintenance			X
Touch-Up Painting, Interior and Exterior	X	X	
Windows Interior and Exterior	X	X	
Water Fountains	X		
Water Main			X

TENANT'S OPERATIONAL REQUIREMENTS

- 1) **AIRPORT WASTE MANAGEMENT PROGRAM.** Tenant shall divert as much waste generated through its operations from the landfill as possible by maximizing the rate of onsite composting, recycling and source separation. Unless otherwise provided by City, Tenant shall provide recycling, composting and landfill receptacles within its Premises and shall ensure these source separated materials are deposited in the appropriate collection container within the designated Materials Recovery Area.
- 2) **SUSTAINABILITY.** The Airport is committed to prudent environmental stewardship and has integrated sustainable planning, design, construction, and operational strategies into its physical facilities, which will result in exceptional project outcomes that provide long-term positive environmental, social, and financial benefits. Tenant is encouraged to contribute to these sustainable development efforts, and to use creative and innovative design, construction, and operational strategies to create aesthetically pleasing and environmentally responsible space in alignment with SFO's sustainability goals.
- 3) **GREEN BUSINESS PROGRAM.** Tenant is encouraged to register its business with the California Green Business Program (<http://greenbusinessca.org/>), complete all applicable requirements for certification, including but not limited to those related to energy conservation and performance, and provide a checklist to SFO's ZERO Committee. Tenants that are certified through the Green Business Program will be recognized on program websites, receive a certificate to display and electronic logo for use, and be recognized at an annual Airport event.
- 4) **GREEN CLEANING.** Tenant shall use green cleaning methods in conformance with the product manufacturers' recommendations and in compliance with SFO's Green Cleaning Program. Tenant shall develop a Green Cleaning Plan in compliance with the San Francisco International Airport's Green Cleaning Program and shall provide regular staff training in the implementation of this program.
- 5) **FLEET REPORTING.** Tenant shall work in good faith with the Airport to create a report to be submitted periodically detailing the percentages of Tenant's transaction counts using vehicles with EPA combined city/highway MPG(e) ratings in the ranges of 30-40, 40-50, 50-90, and 90+, and other such information as the Airport may from time to time require in order to study greenhouse gas emissions in connection with Rental Car Center operations and to support the use of alternative fuel and zero emissions vehicles at SFO.
- 6) **WATER CONSERVATION.** Tenant shall take measures to reduce water usage in its operations and shall comply with all water conservation measure instituted by the Airport.
- 7) **PAYMENT CARD INDUSTRY (PCI) DATA SECURITY STANDARD REQUIREMENTS.**
 - A. For purposes of this subsection, the term "Cardholder Data" means personally identifiable data about the cardholder (i.e. the plastic card number, card expiration date in combination with the plastic card number, cardholder name in combination with the plastic card number and/or sensitive authentication data (track data/magnetic stripe, verification numbers CVV2, CVC2, CID, and PIN Block). This term also accounts for other personal insights gathered about the cardholder (i.e., addresses, telephone numbers, and so on), assigned by the card issuer that identifies the cardholder's account or other cardholder personal information. For

purposes of this section, a "Tenant" means any person or entity that stores, processes, transmits or otherwise is permitted access to Cardholder Data, while performing the Permitted Uses authorized in this Lease. Customer Information shall include cardholder data and such other customer information as may be defined elsewhere in this Lease.

- B. As a Merchant or Service Provider as defined by the PCI Security Council, Tenant must be familiar with and adhere to the Payment Card Industry Data Security Standards (PCI DSS). This requirement includes, but is not limited to, full compliance with the twelve (12) DSS Security Standards as published by the PCI Security Standards Council at all times. The current standards may be found at <https://www.pcisecuritystandards.org/index.php>. Tenant is responsible for keeping informed about any and all modifications to the PCI DSS, and shall validate yearly compliance with PCI DSS by completing the appropriate Self-Assessment Questionnaire (SAQ) or Report On Compliance (ROC) and accompanying Attestation of Compliance (AOC). Tenant must provide copy of the compliance validation documentation to San Francisco International Airport Revenue Development and Management office every 12 months. Should any assessment result in evidence of non-compliance with PCI DSS standards, Tenant shall immediately: (1) provide written notification to the Airport regarding the specific compliance failures and a Remediation Action Plan Tenant intends to undertake to come into compliance; and (2) immediately remediate operations to come into compliance.

i. Tenant represents and warrants that it shall implement and maintain Payment Card Industry Data Security Standard Requirements ("PCI Data Security Standard Requirements") for Cardholder Data, as they may be amended by the PCI Security Standards Council from time to time. The current PCI Data Security Standard Requirements are available on the following internet site; <https://www.pcisecuritystandards.org/>. As evidence of compliance with PCI DSS, Tenant shall provide current evidence of compliance with these data security standards certified by a third party authority recognized by the payment card industry for that purpose.

ii. Tenant shall maintain and protect in accordance with all applicable federal, state, local and PCI laws, rules and regulations the security of all Cardholder Data when performing the Permitted Uses under this Lease. Tenant will use reasonable precautions, including but not limited to, physical, software and network security measures, employee screening, training, and supervision and appropriate agreements with employees, to prevent anyone other than City or its authorized employees from monitoring, using, gaining access to or learning the import of the Cardholder Data; protect appropriate copies of Cardholder Data from loss, corruption or unauthorized alteration; and prevent the disclosure of passwords and other access control information to anyone.

iii. Tenant shall indemnify, defend, protect and hold City harmless from and against any and all claims, losses, damages, notices and expenses, including without limitation, any fines which City may be required to pay, which result from Tenant's breach of the provisions of this Section. Without limiting the generality of the foregoing, it is expressly agreed that if City pays any fine in connection with a breach by Tenant of the provisions of this Section, the foregoing indemnity obligation shall require Tenant to reimburse City the full amount of such fine within thirty (30) days of City delivering written notice to Tenant of City's payment of such fine. Tenant, at its sole

cost and expense, shall fully cooperate with any investigation of any data loss or other breach of Tenant's obligations under this Section.

iv. The use of Cardholder Data is specifically restricted to only those applications directly pertaining to payments, including transaction authentication, or as required by applicable law.

v. If there is a breach or intrusion of, or otherwise unauthorized access to Cardholder Data stored at or for Tenant, Tenant shall immediately notify City and the acquiring financial institution, in the manner required by the PCI Data Security Standard Requirements, and provide City and the acquiring financial institution and their respective designees access to Tenant's facilities and all pertinent records to conduct an audit of Tenant's compliance with the PCI Data Security Standard Requirements. Tenant shall fully cooperate with any audits of their facilities and records provided for in this paragraph. Any costs incurred as a result of the breach or audit shall be the responsibility of Tenant.

vi. Tenant shall maintain appropriate business continuity procedures and systems to ensure availability and security of Cardholder Data in the event of a disruption, disaster or failure of Tenant's primary data systems.

vii. Tenant's and its successors' and assigns' compliance with the PCI Data Security Standard Requirements expressly survives termination or expiration of this Lease.

viii. Destruction of Cardholder Data must be completed in accordance with section 9 of the PCI DSS.

EXHIBIT C-1
FORM OF PERFORMANCE BOND FOR AIRPORT LEASES

_____ (Surety)

KNOW ALL MEN BY THESE PRESENT:

That we, _____, as Principal, and _____, a corporation duly organized and existing under and by virtue of the laws of the State of _____, as Surety, are held and firmly bound unto the City and County of San Francisco, acting by and through its Airport Commission, as Obligee, in the sum of _____ Dollars (\$ _____) lawful money of the United States of America, to be paid to the City and County of San Francisco, acting by and through its Airport Commission, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into one or more leases, permits, or agreements with the City and County of San Francisco, Airport Commission (collectively, the "**Agreements**").

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall perform all terms of the Agreements (which by reference are made a part hereof), including the payment of rent or fees, in accordance with the terms of such Agreements, then this obligation shall be null and void, otherwise to remain in full force and effect; and shall be effective _____.

This bond may be called upon by Obligee by a notice sent to the Surety in person or by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at: _____.

Any such call by Obligee shall include a statement signed by the Airport Director of the Airport Commission of the City and County of San Francisco, or his/her designee, to the effect that any of the following events has occurred or is continuing:

- a) Principal has defaulted under one or more of the Agreements; or
- b) Principal has become insolvent, or has taken the benefit of any present or future insolvency statute, or has made a general assignment for the benefit of creditors, or has filed a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or any state thereof, or any jurisdiction available to Principal, or has consented to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or
- c) A petition under any of the federal bankruptcy laws or an action under any present or future insolvency law or statute has been filed against Principal.

We shall honor and pay on such call within ten (10) days after receipt.

We shall give you notice in writing by registered mail at least forty-five (45) days prior to the cancellation date, termination date or expiration date of this bond, if any is stated, of our intention to cancel, terminate, or non-renew this bond. In the event we fail to give such notice promptly, then this bond shall be deemed renewed for an additional one-year period.

Signed, sealed and dated this ___ day of _____, 20__.

Principal: By: _____

Title: _____

Seal: _____

Surety By: _____
Company:

Title: _____

Seal:

(Attach Notary Public Certificate and Attorney-in-Fact form)

EXHIBIT C-2
FORM OF LETTER OF CREDIT FOR AIRPORT LEASES

Date _____

Irrevocable Letter of Credit No. _____

Airport Commission
City and County of San Francisco
Attn: Chief Business and Finance Officer
San Francisco International Airport
International Terminal, No. Shoulder Bldg., 5/F
PO Box 8097
San Francisco, CA 94128

Ladies and Gentlemen:

We hereby establish an irrevocable letter of credit in your favor in the amount of _____ United States Dollars (US\$ _____) for the account of _____ (“**Account Party**”), available by your draft at sight, when accompanied by the following document:

A statement signed by the Airport Director of the Airport Commission of the City and County of San Francisco, or his/her designee, to the effect that any of the following events has occurred or is continuing:

- a) Account Party has defaulted under the one or more agreements with the City and County of San Francisco, acting by and through its Airport Commission at San Francisco International Airport; or
- b) Account Party has become insolvent, or has taken the benefit of any present or future insolvency statute, or has made a general assignment for the benefit of creditors, or has filed a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or any state thereof, or any jurisdiction available to Account Party, or has consented to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or
- c) A petition under any of the federal bankruptcy laws or an action under any present or future insolvency law or statute has been filed against Account Party.

Drafts drawn under and in compliance with the terms of this letter of credit will be duly honored by us upon presentation and delivery of the statement specified above. Partial draws are permitted. Such drafts may be presented in person or by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at:

We shall give you notice in writing by registered mail at least forty-five (45) days prior to the cancellation date or expiration date of this letter of credit, if any is stated, of our intention to cancel or non-renew this letter of credit. In the event we fail to give such notice promptly, then this letter of credit shall be deemed renewed for an additional one-year period. Subject to the foregoing, this letter of credit shall expire on _____, 20__.

Sincerely,

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 18-0342

AWARD OF LEASE FOR THE ON-AIRPORT RENTAL CAR OPERATIONS TO ENTERPRISE RENT-A-CAR CO OF SAN FRANCISCO, LLC FOR A COMBINED MINIMUM ANNUAL GUARANTEE OF \$16,087,548.00 FOR THE FIRST YEAR OF THE LEASE AGREEMENT

WHEREAS, on March 20, 2018, the Airport Commission (the "Commission") adopted Resolution No. 18-0076, authorizing Airport Staff ("Staff") to commence the competitive selection process and to issue a Request for Bids ("RFB") for Lease Agreements for On-Airport Rental Car Operations (each a "Lease Agreement"); and

WHEREAS, on August 21, 2018, the Commission adopted Resolution No. 18-0267, approving the minimum requirements and Lease Agreement specifications, and authorizing Staff to accept bids; and

WHEREAS, in response to the RFB, Staff received 11 bids, including the three separate bids below for the following operating brands from Enterprise Rent-A-Car Co of San Francisco, LLC:

- | | |
|--|-----------------------|
| 1. Enterprise Rent-A-Car Co of San Francisco, LLC
(Alamo Rent A Car) | \$5,961,600.00 |
| 2. Enterprise Rent-A-Car Co of San Francisco, LLC
(National Car Rental) | \$5,079,913.00 |
| 3. Enterprise Rent-A-Car Co of San Francisco, LLC
(Enterprise Rent-A-Car) | <u>\$5,046,035.00</u> |
| | \$16,087,548.00 |

WHEREAS, Enterprise Rent-A-Car Co of San Francisco, LLC met the RFB minimum qualifications and has been determined to be responsive and responsible; now, therefore, be it

RESOLVED, that this Commission hereby awards a Lease Agreement for the Rental Car Center Operations to Enterprise Rent-A-Car Co of San Francisco, LLC for the operation of the brand(s) specified above for an initial term of five years with two (2), two-year options to extend the term, exercisable at the sole discretion of the Commission, with the conditions set forth in the Staff memorandum on file with the Commission Secretary, including but not limited to a combined Minimum Annual Guarantee of \$16,087,548.00 for the first year of the Lease Agreement, and subject to its compliance with the Nondiscrimination in Employment Program and Equal Benefits Ordinance; and be it further

RESOLVED, that the Commission hereby directs the Commission Secretary to request approval of the Lease Agreement by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of **OCT 16 2018**


Secretary



MEMORANDUM

October 16, 2018

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Linda S. Crayton, Vice President
Hon. Eleanor Johns
Hon. Richard J. Guggenhime
Hon. Peter A. Stern

FROM: Airport Director

SUBJECT: Award of Four Lease Agreements for On-Airport Rental Car Operations

DIRECTOR’S RECOMMENDATION: (1) AWARD THE LEASE AGREEMENTS FOR ON-AIRPORT RENTAL CAR OPERATIONS TO THE HERTZ CORPORATION; ENTERPRISE RENT-A-CAR CO OF SAN FRANCISCO, LLC; AVIS BUDGET CAR RENTAL, LLC; AND SIXT RENT A CAR, LLC AND (2) DIRECT THE COMMISSION SECRETARY TO REQUEST APPROVAL OF THE LEASES FROM THE BOARD OF SUPERVISORS.

Executive Summary

On September 26, 2018, Airport Commission staff (“Staff”) concluded the competitive selection process for the Lease Agreements for On-Airport Rental Car Operations (each a “Lease” or collectively the “Leases”) and recommends award to the following parties: (1) The Hertz Corporation; (2) Enterprise Rent-A-Car Co of San Francisco, LLC; (3) Avis Budget Car Rental, LLC; and (4) Sixt Rent a Car, LLC. These four entities will operate nine brands among them including the following, in order of bid amount: Hertz, Avis, Alamo Rent A Car, National Car Rental, Enterprise Rent-A-Car, Budget, Sixt rent a car, Dollar Rent A Car and Thrifty Car Rental. Each Lease has an initial term of five years with two (2), two-year extensions, exercisable at the sole discretion of the Commission. A breakdown of the companies and each of their respective brands is set forth below.

Background

On March 20, 2018, the Airport Commission (“Commission”) adopted Resolution No. 18-0076, authorizing Staff to commence the competitive selection process and to issue a Request for Bids (the “RFB”) for the Leases. The RFB established minimum acceptable bid amounts (expressed as the first year’s Minimum Annual Guarantee (“MAG”) for each Lease), of (i) 8.5% of reported gross revenues for calendar year 2017 for incumbents and (ii) \$450,000.00 for non-incumbents.

THIS PRINT COVERS CALENDAR ITEM NO. 8

The RFB allowed for award to no more than nine rental car brands to operate in the Airport's Rental Car Center and Quick Turnaround Area. In addition to the base concession fee, which is the greater of the MAG or 10% of gross revenues (the "Concession Fee"), the Leases also include space rent for the various types of premises and the payment of Air Train Fees. The various premises include rental counters, office space, common use areas, ready/return parking, fueling stations, car washes and vehicle staging areas. The Air Train Fee is a per-contract fee of \$18.00 and is passed through directly to the Airport. The initial term of each Lease is five years, with two (2), two-year options to extend the term, exercisable at the sole discretion of the Commission.

On August 21, 2018, the Commission adopted Resolution No. 18-0267, approving the minimum requirements and lease specifications, and authorizing Staff to accept bids. In response to the RFB, Staff received the following bids:

	Bidding Company	Operating Brand	Bid Amount
1	The Hertz Corporation	Hertz	\$10,101,154.00
2	Avis Budget Car Rental, LLC	Avis	\$6,420,453.00
3	Enterprise Rent-A-Car Co of San Francisco, LLC	Alamo Rent A Car	\$5,961,600.00
4	Enterprise Rent-A-Car Co of San Francisco, LLC	National Car Rental	\$5,079,913.00
5	Enterprise Rent-A-Car Co of San Francisco, LLC	Enterprise Rent-A-Car	\$5,046,035.00
6	Avis Budget Car Rental, LLC	Budget	\$4,655,925.00
7	Sixt Rent a Car, LLC	Sixt rent a car	\$3,501,004.32
8	The Hertz Corporation	Dollar Rent A Car	\$3,300,154.00
9	The Hertz Corporation	Thrifty Car Rental	\$3,100,154.00
10	Fox Rent a Car, Inc.	Fox Rent A Car	\$2,730,000.00

An eleventh bid was received from Green Motion SAN LLC, however, it was disqualified for lack of a bid bond.

The first nine bids in the above chart are the successful offers and they were tendered by four separate companies including The Hertz Corporation; Enterprise Rent-A-Car Co of San Francisco, LLC; Avis Budget Car Rental, LLC; and Sixt Rent a Car, LLC. All are incumbents with the exception of Sixt Rent a Car, LLC.

The total aggregate MAG for the new Leases for the first Lease Year, calendar year 2019, totals \$47,166,392.32, which is a \$6.9 million increase over the total aggregate MAG of the current leases for 2018 which will total \$40,261,980.90.

For calendar year 2017, the total of Concession Fees and space rent received from the on-airport rental car operators was \$62,049,283.00. An additional \$31,170,493.00 was collected in the form of Air Train Fees. In total, the on-airport rental car operators paid the Airport \$93,219,776.00 for calendar year 2017. For the first year of the new Leases, the total aggregate MAGs and space rent for the Leases total \$69,186,416.00. Air Train Fees are expected to see little change as passenger growth slows and the transportation network companies continue to fill the transportation needs of passengers who formerly rented vehicles for short periods.

Recommendation

I recommend award of the Leases to: (1) The Hertz Corporation, with a combined MAG for its three brands of \$16,501,462.00 for the first year of the Lease Agreement; (2) Enterprise Rent-A-Car Co of San Francisco, LLC, with a combined MAG for its three brands of \$16,087,548.00 for the first year of the Lease Agreement; (3) Avis Budget Car Rental, LLC, with a combined MAG for its two brands of \$11,076,378.00 for the first year of the Lease Agreement; and (4) Sixt Rent a Car, LLC, with a MAG of \$3,501,004.32 for the first year of the Lease Agreement. Additionally, I recommend directing the Commission Secretary to request approval of the Leases from the Board of Supervisors.

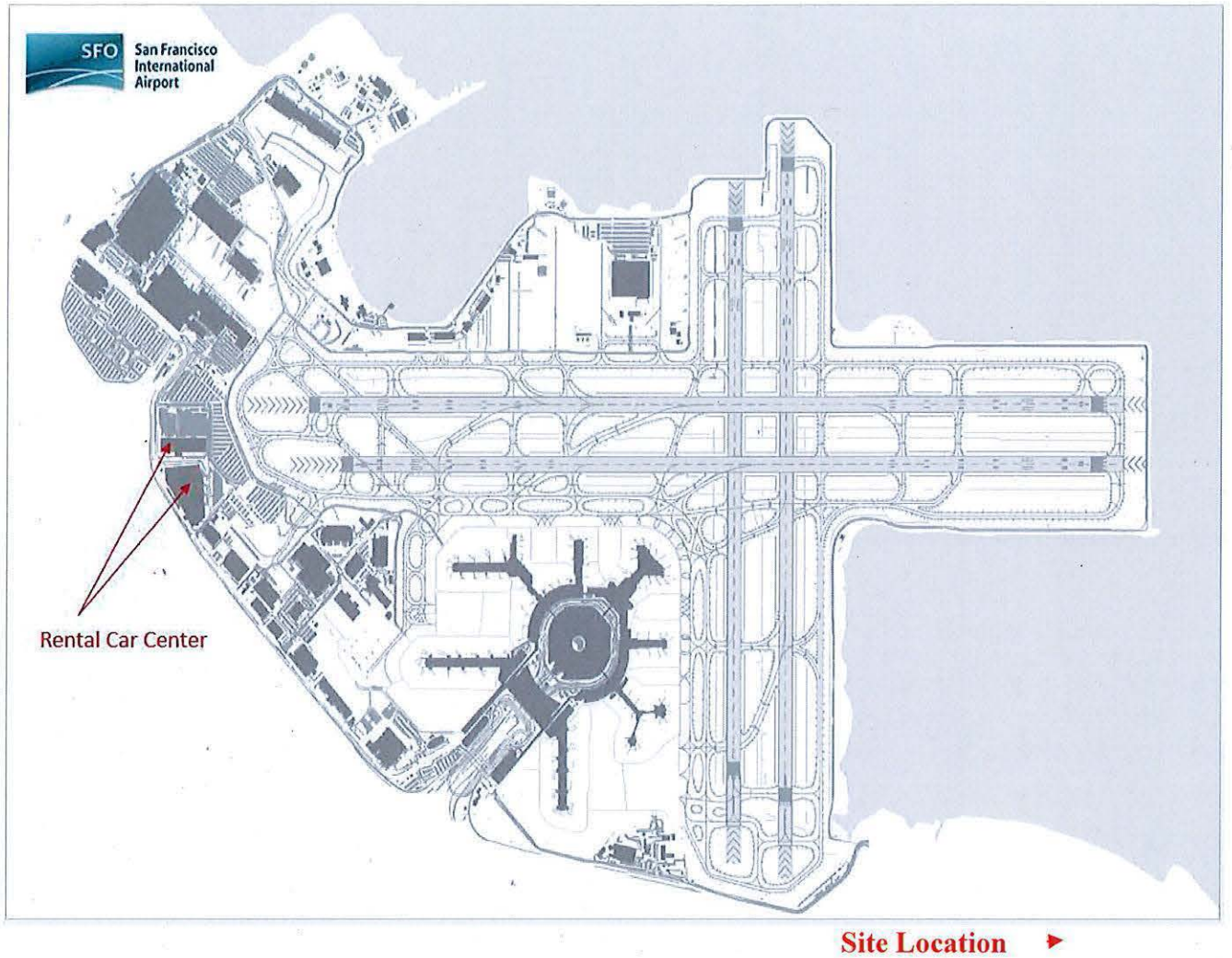


Ivar C. Satero
Airport Director

Prepared by: Leo Fermin
Chief Business & Finance Officer

Attachments

Exhibit A
On-Airport Rental Car Leases





San Francisco International Airport

March 30, 2020

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Subject: Award of the On-Airport Rental Car Operations No. 18-0342 between Enterprise Rent-A-Car Co of San Francisco, LLC, and the City and County of San Francisco, acting by and through its Airport Commission

Dear Ms. Calvillo:

Pursuant to Section 9.118 of the City Charter, I am forwarding for the Board of Supervisors' approval the proposed Resolution, which approves the award of the On-Airport Rental Car Operations Lease No. 18-0342 between the City and County of San Francisco, acting by and through its Airport Commission, and Enterprise Rent-A-Car Co of San Francisco, LLC.

The following is a list of accompanying documents:

- Board of Supervisors Resolution (one original and one copy);
- Approved Airport Commission Resolution No. 18-0342;
- Memorandum accompanying Airport Commission Resolution No. 18-0342;
- SFEC-126(f)4 (Board of Supervisors) for Enterprise Rent-A-Car Co of San Francisco, LLC;
- A copy of Lease for the On-Airport Rental Car Operations No. 18-0342.

The following person may be contacted regarding this matter:

Cheryl Nashir
Director
Revenue Development and Management
(650) 821.4500
cheryl.nashir@flysfo.com

Very truly yours,



Corina Monzon
Commission Secretary

Enclosures

cc: Cheryl Nashir, Revenue Development and Management
Cathy Widener, Governmental Affairs

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

LARRY MAZZOLA
PRESIDENT

ELEANOR JOHNS
VICE PRESIDENT

RICHARD J. GUGGENHIME

MALCOLM YEUNG

IVAR C. SATERO
AIRPORT DIRECTOR



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #:

200332

Bid/RFP #:

18-0342

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
office of the clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Cheryl nashir	650-821-4500
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
RDM Airport Commission	Cheryl.nashir@flysfo.com

5. CONTRACTOR	
NAME OF CONTRACTOR Enterprise Rent-A-Car Co of San Francisco, LLC	TELEPHONE NUMBER 925-464-5105
STREET ADDRESS (including City, State and Zip Code) 2633 Camino Ramon, Ste 400, San Ramon, CA 94583	EMAIL kevin.L.Bass@ehi.com

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER 18-0342	FILE NUMBER (If applicable) 200332
DESCRIPTION OF AMOUNT OF CONTRACT \$16,087,548		
NATURE OF THE CONTRACT (Please describe) Lease for the On-Airport Rental Car Operations at SFO's Rental Car Center		

7. COMMENTS
Lease was awarded through a Request for Bids process by the Airport Commission.

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Airport Commission
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Taylor	Chrissy	CEO
2	Short	Rick A	CFO
3	taylor	Andrew C	Other Principal Officer
4	Kindle	Jo Ann Taylor	Other Principal Officer
5	Bertz	Carolyn Kindle	Other Principal Officer
6	Adamson	Brice	Other Principal Officer
7	Narike	Adam	Other Principal Officer
8	Nestor	David	Other Principal Officer
9	Bass	Kevin	Other Principal Officer
10	Perkins	Meredith	Other Principal Officer
11	Andrew	Mike	Other Principal Officer
12	Brackney	Steve	Other Principal Officer
13	Kennedy	Graig	Other Principal Officer
14	Willey	Russ	Other Principal Officer
15			
16			
17			
18			
19			

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
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41			
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44			
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49			
50			

Check this box if you need to include additional names. Please submit a separate form with complete information. Select “Supplemental” for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<p>SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK</p> <p>BOS Clerk of the Board</p>	<p>DATE SIGNED</p>
---	---------------------------