

**SPACE/USE PERMIT
FOR NON-EXCLUSIVE
RENTAL CAR
CONCESSION**

TABLE OF CONTENTS

Paragraph A.	Permittee.	1
Paragraph B.	Permitted Uses.	1
Paragraph C.	Term and Commencement Date.	2
Paragraph D.	Assigned Space; Common Areas.....	3
Paragraph E.	Consideration.	6
Paragraph F.	Performance Deposit.....	9
Paragraph G.	Insurance Requirements.....	9
Paragraph H.	Reallocation, Relocation and Reassignment Rights.	11
Paragraph I.	Operation of Assigned Space.....	13
Paragraph J.	Permittee’s Operating Hours.....	16
Paragraph K.	Administrative Fees.	17
Paragraph L.	Due Diligence; No Representations or Warranties by Port.	17
Paragraph M.	Compliance with Port and DOT Non-Discrimination Requirements	18
Paragraph N.	Additional Terms and Conditions.	21
Paragraph O.	Amendments.	21
Paragraph P.	Waiver of Jury Trial.....	20
ATTACHMENT “A” OTHER TERMS AND CONDITIONS OF SPACE/USE PERMIT		1
Section 1.	Other Operational Requirements.	1
Section 2.	Maintenance, Repair and Alteration of Assigned Space; Signage.	5
Section 3.	Permittee’s Property.....	10
Section 4.	Advertising.....	10
Section 5.	Utilities.....	10
Section 6.	[Reserved].	11
Section 7.	Port’s Right to Enter; Permittee’s Right of Access.	11
Section 8.	Taxes and Assessments.....	12
Section 9.	Compliance with Laws, Rules, Policies and Regulations.....	13
Section 10.	Percentage Fees.....	15
Section 11.	Indemnification.	27
Section 12.	Waiver of Damage.	27
Section 13.	Insurance Requirements.....	28

Section 14.	Assignment and Licensing.....	31
Section 15.	Default.....	36
Section 16.	End of Term.	38
Section 17.	Holding Over.	39
Section 18.	Notices, Approvals and Consents.	40
Section 19.	Sums Paid by Port.	40
Section 20.	Delinquency Charge.....	40
Section 21.	Performance Deposit.....	41
Section 22.	Brokerage Commissions.....	42
Section 23.	Port’s Reserved Rights.....	42
Section 24.	Discrimination Not Permitted.	43
Section 25.	Federal Aviation Administration Requirements.	43
Section 26.	Environmental Responsibilities.	44
Section 27.	Prevailing Wage Requirements.....	45
Section 28.	Emergency and Public Contacts.	45
Section 29.	No Accord and Satisfaction.	45
Section 30.	Maritime and Aviation Project Labor Agreement.	45
Section 31.	Right to Modify.....	45
Section 32.	Security Mandates.....	46
Section 33.	Miscellaneous.	46
Section 34.	Force Majeure..	49
Section 35.	Damage or Destruction; Condemnation.....	50
Section 36.	Tax Treatment.....	52
Section 37.	Defined Terms.	52

ATTACHMENT “B” Discrimination Not Permitted 1

ATTACHMENT “C” Environmental Responsibilities 1

ATTACHMENT “D” Prevailing Wage Requirements..... 1

ATTACHMENT “E” Maritime and Aviation Project Labor Agreement..... 1

EXHIBIT “1” ASSIGNED SPACE..... 1

EXHIBIT “2” ADMINISTRATIVE FEES 1

EXHIBIT “3” RESERVED 1

EXHIBIT “4” FORM OF LETTER OF CREDIT 1

EXHIBIT “4-A” SIGHT DRAFT..... 1

EXHIBIT “5” FORM OF QUARTERLY REPORT CERTIFICATE 2

EXHIBIT “6” ENVIRONMENTAL CONDITION OF PROPERTY..... 1

Permittee: _____ Rev. ___/___/___

**SPACE/USE PERMIT
FOR NON-EXCLUSIVE
RENTAL CAR CONCESSION**

For the better promotion of commerce and navigation and the development of Port of Oakland and Metropolitan Oakland International Airport for the benefit of the public, the City of Oakland, a municipal corporation acting by and through its Board of Port Commissioners, by its execution hereof, hereby authorizes the person or entity identified in Paragraph A below, hereinafter referred to as “**Permittee**,” to conduct business and/or occupy space at Metropolitan Oakland International Airport, hereinafter referred to as the “**Airport**,” for the purpose or purposes and on the terms and conditions hereinafter stated in this Space/Use Permit for Non-Exclusive Rental Car Concession (“**Permit**”) dated as of July 1, 2017.

As used in this Permit, the term “**Port**” shall mean Port of Oakland, which consists of the Port Department of the City of Oakland (“**City**”), under the exclusive control and management of the Board of Port Commissioners (the “**Board**”). In any case under this Permit that Port may or shall take any action, Port’s Director of Aviation (sometimes hereafter the “**Director**”) is authorized to take such action unless this Permit provides for action by the Board or by resolution or ordinance, and except as otherwise provided now or hereafter by law, the Charter of the City or by resolution or ordinance of the Board. The locations of the definitions of capitalized terms used in this Permit are set forth in Section 37 of Attachment “A” attached hereto and incorporated herein

Paragraph A. Permittee.

The name, address, telephone number, e-mail address, fax number and contact of Permittee hereunder are as follows: **[TO BE COMPLETED BY BIDDER]**

Name: [REDACTED]
Address: [REDACTED]
Telephone: [REDACTED] Contact: [REDACTED]
E-Mail: [REDACTED]
Fax Number: [REDACTED]

Paragraph B. Permitted Uses.

Except with the prior written consent of the Board, Permittee shall only use the Assigned Space, as described in Paragraph D below, to conduct and operate an automobile rental concession at the Airport in accordance with the terms and conditions of this Permit. Licensee shall use the Assigned Space solely for the rental of Automobiles, support functions such as the washing, fueling and storage of Automobiles held for rental, and the related provisions of gasoline, collision damage waiver protection, insurance (including but not limited to personal injury insurance), the rental of children’s car seats, mobile telephones, and such other services, items

and equipment reasonably associated with the rental of Automobiles (the “**Permitted Uses**”). The Assigned Space shall be used by Permittee and all of the rental car companies that have or hereafter enter into a permit with the Port on terms similar to this Permit and that have or hereafter become a party to the Industry Agreement (as defined in Paragraph I.3 below) and that have or hereafter become a member of the Committee (as defined in Paragraph I.3 below) (such rental car companies are collectively the “**Other Permittees**” and such Permits, together with this Permit, are collectively, the “**Permits**”), only for operation of a consolidated customer service facility containing rental car counters, waiting areas, restrooms, and office space (the “**Customer Service Building**”); and Ready/Return Area designated for parking spaces located on approximately 14.81 acres of land located in the North Field of the Airport; and additional land (known as the “Ryan St. site”), located on an adjacent 4.36 acres of land located in the North Field of the Airport (collectively the “**Rental Car Facility**”), and for uses incidental and reasonably related thereto. The Assigned Space shall not be used for any other purpose, and specifically shall not be used for, among other things, assembly or, retail purposes (other than the rental of Automobiles, children’s car seats, mobile telephone and other services, items and equipment reasonably associated with the rental of Automobiles as may be expressly approved in writing from time to time by the Director).

In addition, the Assigned Space shall not be used for sales of new or used vehicles or auctions or liquidation sales. The term “**Automobile**” shall mean any passenger motor vehicles, including pickup trucks, vans, sports utility vehicles and station wagons, but the term “Automobile” shall not include trucks (except pickup trucks), motorcycles or any vehicles of a length that would obstruct vehicle circulation within the passenger terminal complex at the Airport. Permittee may only rent vehicles from the Assigned Space that are defined as Automobiles. Permittee is only authorized to conduct at the Airport, and only from the Assigned Space, the Permitted Uses and no other business or uses.

Paragraph C. Term and Commencement Date.

Paragraph C.1 Term. Except as otherwise provided in Paragraph C.2 below, the period of use or occupancy permitted under this Permit (the “**Term**”) will commence July 1, 2017, subject to execution by the Permittee and the Port and signed by the Port Attorney and, unless earlier terminated or cancelled as provided in this Permit, will expire on June 30, 2022; provided however, that at the mutual option of the Port and Permittee, the Term may be extended for (2) additional five (5) year periods. The first additional five (5) year period commences on July 1, 2022 and expires on June 30, 2027. The second additional five (5) year period commences on July 1, 2027 and expires on June 30, 2032 (the “**Extended Terms**”). To exercise the option to extend the Term of this Permit, the Permittee shall provide written notice to the Port no less than one hundred eighty (180) days prior to the end of the Term (or, 1st Extended Term) and shall not be in default of any of the terms and conditions of this Permit, and subject to:

1. Reallocation of Assigned Space(s) in accordance with methodology and implementation schedule (described in Reallocation, as referenced in Paragraph H).
2. Appraisal of fair market rental value for the Customer Service Building, Ready/Return Area, and Overflow/Storage and Employee Parking Area (“Ryan St. site”) at the commencement of each Extended Term(s)
3. Re-establishing the Minimum Annual Guarantee (MAG) at the first year of each Extended Term (described in Minimum Annual Guarantee as referenced in Section E.1).
4. Mutual execution of an appropriate amendment to this Permit.

In the event that the Port and Permittee cannot agree on the aforementioned terms in this Section C.1 as it relates to a mutually agreed upon 1st or 2nd Extended Term within ninety (90) days of the date of Permittee’s written notice of intent to extend, the current term of this Permit shall expire, the Permit shall terminate at the end of such term, and the Permittee will vacate its Assigned Space on the date of expiration of the applicable term.

Paragraph C.2 Commencement Date. The date on which the term of this Permit shall commence (the “**Commencement Date**”) shall be July 1, 2017

Paragraph D. Assigned Space; Common Areas.

Assigned Space – Initial Description. The Assigned Space is described on attached Exhibit “1” (such space, as it may be reallocated pursuant to Paragraph H below, is the “**Assigned Space**”). The Assigned Space is located within approximately 19.17 acres (834,900 square feet) of real property located at the North Field of the Airport (situated between Doolittle Drive/Earhart Road, and between Ryan Street/Langley Street), in the Port area of the City of Oakland, County of Alameda, State of California. The Assigned Space consists of the following components illustrated in the table below (table below shows total square footage that includes common areas, Exclusive areas for Permittee and Other permittees):

	Exclusive Use Area	Common Area	Totals
Ready/Return Area	440,200s.f.	184,100s.f.	624,300s.f.
Customer Service Bldg.	15,355s.f.	5,445s.f.	20,800s.f.
Additional Land (“Ryan St.”) site	156,700s.f.	33,100s.f.	189,800s.f.
Totals:	612,255s.f.	222,645s.f.	834,900s.f.

(a) The portions of the Assigned Space described in paragraph 5(a) of attached Exhibit “1” shall be available only to Permittee and no other for Permittee’s exclusive use (“**Exclusive Use**”), subject to reallocation (except for counter and office space) as provided in Paragraph H below. Following such reallocation, the Port shall provide a revised Exhibit “1” to Permittee and the Other Permittees and, upon no less than ninety (90) days written notice, Permittee and the Other Permittees shall relocate their operations, at their own expense, shown as being from a portion of their respective Assigned Space to the portion of their respective reallocated Assigned Space.

(b) Permittee, together with the Other Permittees, shall have use in common (“**Common Use**”) of all portions of the Rental Car Facility not assigned to Permittee or the Other Permittees on an Exclusive Use basis, as described in paragraphs 5(a) and 5(b) of attached Exhibit “1”.

Notwithstanding any provisions of this Permit to the contrary, Permittee shall have no right to use any portion of the Rental Car Facility not referred to in paragraphs 5(a) or 5(b) of attached Exhibit “1”.

Use of the Rental Car Facility shall be limited to Permittee and the Other Permittees. If the Assigned Space is reallocated by the Port as provided in Paragraph H below, the Exhibits to this Permit that are affected by such reallocation shall be superseded by replacement Exhibits provided by the Port to Permittee and the Other Permittees.

This Permit is subject to (1) all easements, covenants, conditions, restrictions, reservations, rights of way, liens, encumbrances and other matters of record, (2) all matters discoverable by physical inspection of the Assigned Space, or that would be discovered by an accurate survey of the Assigned Space, (3) all matters disclosed in the Environmental Condition of the Property – Exhibit 6 of this Permit, and (4) all matters known to Permittee or of which Permittee has notice, constructive or otherwise including, without limitations, those shown on Exhibit 6. Furthermore, the Port shall not be liable to Permittee in any manner for a failure to deliver any portion of the Assigned Space on or after the Commencement Date due to the failure of any third party to vacate such Assigned Space or, any other holdover occupancy of such Assigned Space not authorized by the Port; provided, however, that the Port shall use reasonable efforts to terminate any such unauthorized holdover occupancy and, provided, further, that the Rent Commencement Date shall not occur with respect to any such portion of the Assigned Space until possession of such portion of the Assigned Space is delivered to Permittee.

Paragraph D.1 Assigned Space – As-Built Condition. Port shall have the right, at any time within one hundred twenty (120) days after the Commencement Date to measure the “as-built” size of the Assigned Space. In determining such “as-built” size for interior space and in determining Permittee’s responsibilities for the Assigned Space, the exact boundaries of the Assigned Space shall be deemed to be three (3) inches inside each wall separating the Assigned Space from the adjacent space or an external wall, and, with respect to the facade and/or wall on the front of the Assigned Space separating the Assigned Space from the Common Areas, the exact boundary shall be deemed to be the external face of the facade and/or wall.

If the Port exercises its rights under this Paragraph D.2, it shall notify the Permittee in writing of the “as-built” size of the Assigned Space. Permittee may at its expense within ten (10) days of its receipt of such written notice from the Port, have the Assigned Space remeasured and submit such re-measurement and/or its objections to the Port’s re-measurement in writing to the Port. The Port shall in good faith review any such timely submittals and determine what changes, if any, it will make in the “as built” size of the Assigned Space, but the Port shall not be required to make any changes and the Port’s decision shall be final and binding on Permittee. The Monthly Rent applicable to the Assigned Space shall be recalculated by multiplying such “as-built” size, as determined by the Port pursuant to the foregoing provisions of this paragraph, by the then applicable Monthly Rent per square foot set forth in Paragraph E.3 below, with any increase in the amounts that were previously payable by Permittee to Port for that calendar year due with the next installment or installments of the Rent payable to Port under Paragraph E below, and with any decrease in the amounts that were previously payable by Permittee to Port for that calendar year deducted from the next installment or installments of the Rent otherwise payable to Port under Paragraph E below.

Paragraph D.2 Common Areas. Permittee shall have the right, in common with others authorized by the Port, to use all Common Areas (as hereafter defined in this Paragraph D.3); provided, however, that Port may, in its sole discretion, and without liability to Permittee, change the size or location of the Common Areas, including without limitation, converting Common Areas to leaseable areas and leaseable areas to Common Areas, and close Common Areas. Port may, in its sole discretion, maintain the Common Areas, establish and enforce Airport Rules, Policies and Regulations (as hereinafter defined) concerning the Common Areas, temporarily close portions of the Common Areas for maintenance purposes, and make changes to the Common Areas, including without limitation, changes in the location of security check points, driveways, entrances, exits, parking spaces and the direction of the flow of traffic. As used in this Permit, “**Common Areas**” means those portions of the Rental Car Facility not assigned to Permittee or any of the Other Permittees on an Exclusive Use basis and all areas and facilities located within the Airport that are designated by Port from time to time for the general use and convenience of permittees, tenants and other occupants at the Airport, airline passengers and other visitors to the Airport, such as concourses, sidewalks, landscaped areas, constructed bio-swale and greenspace areas, elevators, escalators, moving sidewalks, parking areas and facilities, restrooms, pedestrian entrances, driveways, loading zones and roadways.

In the event the Port makes a change to the Common Areas that the Port determines, in the exercise of its sole discretion, negatively impacts the Assigned Space’s access and/or visibility so as to materially and adversely affect the Assigned Space’s ability to generate Gross Receipts, then the Port will exercise its rights under Paragraph H below with respect to the Assigned Space; provided, however, that the Port shall provide the Permittee with at least thirty (30) days prior written notice of any such change.

Paragraph E. Consideration.

In consideration for the rights granted hereunder by Port, including without limitation the right to use and occupy the Assigned Space for the Permitted Uses, Permittee hereby agrees to pay to Port monthly, in advance, on the first (1st) day of each calendar month during the Term hereof, one-twelfth (1/12th) of the Minimum Annual Guaranty set forth in Paragraph E.1 below and Monthly Rent as specified in Paragraph E.3 below. In the event that the Term of this Permit shall commence or end on any day other than the first and last day, respectively, of a calendar month, such consideration due hereunder for a portion of such month shall be prorated on a per-diem basis, and the first payment shall be due on or before the Commencement Date (as defined in Paragraph C.2 above). As additional consideration for the rights granted hereunder by Port, Permittee hereby agrees to pay to Port the Percentage Fees, if any, as specified in Paragraph E.2 below and in accordance with the provisions of Section 10 of Attachment “A” to this Permit. Amounts payable by Permittee under Paragraphs E.1, E.2 and E.3 are referred to as “**Rent.**”

Paragraph E.1 Consideration – Minimum Annual Guaranty. Permittee agrees to pay to the Port for the automobile rental concession rights and privileges herein granted, the Minimum Annual Guaranty, which shall be payable in twelve (12) equal monthly installments, commencing on the Rent Commencement Date (as hereafter defined), and subject to adjustment (for each year of the Initial term, 1st and 2nd Extended Term(s)) as shown in the following structure of this Paragraph E.1.

Initial Term – July 1, 2017 through June 30, 2022

Year 1: 1st Year MAG as bid
Year 2 -5: Greater of, 85% of prior year Concession Fees paid, or MAG for Agreement Year 1.

1st Extended Term – July 1, 2022 through June 30, 2027

Year 6: Re-established MAG in proportion to concessionaire’s gross revenues reported to Port (Car Rental Summary) for Agreement Year 4 (July 1, 2020 through June 30, 2021).
Year 7 – 10: Greater of, 85% of prior year Concession Fees paid, or MAG for Agreement Year 6.

2nd Extended Term – July 1, 2027 through June 30, 2032

Year 11: Re-established MAG in proportion to concessionaire’s gross revenues reported to Port (Car Rental Summary) for Agreement Year 9 (July 1, 2025 through June 30, 2026).
Year 12-15: Greater of, 85% of prior year Concession Fees paid, or MAG for Agreement Year 11.

The Minimum Annual Guaranty for the first twelve (12) months, commencing on the Rent Commencement Date (the “**First Year’s Minimum Annual Guaranty**”) is set forth on paragraph 1 of the attached Exhibit “1”. In each subsequent twelve (12) month period during the Term of this Permit, the “**Minimum Annual Guaranty**” shall be an amount equal to eighty-five percent (85%) of the total amount payable to the Port under Paragraphs E.1 and E.2 for the previous Agreement Period (as defined in Section 10.1(a)

of Attachment “A”) (pro-rated for any Agreement Period of less than 12 full calendar months and including any Percentage Fees payable to the Port for such period), but in no event less than the amount of the First Year’s Minimum Annual Guaranty, payable in equal monthly installments. All monthly installments of the Minimum Annual Guaranty shall be made in advance and without previous demand, on the first day of each and every calendar month during the term hereof; provided that in any partial month of said Term the said Minimum Annual Guaranty shall be prorated. For purposes of this Permit, subject to Paragraph D.1, the “**Rent Commencement Date**” shall be defined as the Commencement Date. In the event the Rent Commencement Date shall occur on other than the first day of a calendar month, or the Term of this Permit shall end on any day other than the last day of a calendar month, the monthly installment of the Minimum Annual Guaranty shall be pro-rated on a per diem basis for that month.

Paragraph E.2 Consideration - Percentage Of Gross Receipts. In addition to the Minimum Annual Guaranty payable under Paragraph E.1 hereof, Permittee shall also pay to the Port for the Term hereof not later than thirty (30) days after the end of each calendar month during the Term of this Permit, commencing after the end of the calendar month that contained the Rent Commencement Date, a sum in the amount, if any, by which the Percentage Fees due through the end of the previous calendar month exceeds the installments of the Minimum Annual Guaranty payable to the Port through the end of such month. The percentage of Airport Gross Receipts derived from Permittee’s business at the Airport (“**Percentage Fees**”) payable by Permittee is an amount equal to ten percent (10%) of Permittee’s Airport Gross Receipts.

Paragraph E.3 Consideration - Monthly Rent. In addition to the Minimum Annual Guaranty payable under Paragraph E.1 and the Percentage Fees payable under Paragraph E.2 hereof, Permittee shall be obligated to pay “**Monthly Rent**”, consisting of Land Rent, which initially shall be \$0.32 per rentable square foot, and shall increase annually by the increase in CPI, as described below, and Building Rent, which initially shall be \$1.23 per rentable square foot, and shall increase annually by the increase in CPI, as described below, which shall be payable in monthly installments in advance and without previous demand on the first day of each and every calendar month of the Term, commencing on the Rent Commencement Date; provided that in any partial month of the Term the Monthly Rent shall be pro-rated. The Monthly Rent shall include as a portion of the monthly installment of the Land Rent consideration for the Assigned Space subject to Common Use, which shall be allocated among the Permittee and the Other Permittees based on their respective percentage of the space in the Rental Car Facility that they each lease on an Exclusive Use basis, as conclusively determined by the Port. The Monthly Rent for the first Agreement Period is shown on paragraph 2 of attached Exhibit “1”.

The Monthly Rent shall be adjusted annually on each July 1 (the “**Adjustment Date**”) following the Rent Commencement Date, to increase (but not decrease) such Monthly Rent by the same percentage of increase that occurred in the Index for the twelve (12) month period that ended three (3) months prior to the Adjustment Date (such increase being referred to herein as the “**Annual CPI Adjustment**”). The percentage increase in the Index so derived, if positive, shall be multiplied by the current Monthly

Rent and the increased amount shall be the Monthly Rent for the succeeding twelve (12) month period; provided, however, if the change in Index on any Adjustment Date is negative, then the Monthly Rent following such Adjustment Date shall remain the same for the succeeding twelve months as the Monthly Rent for the prior twelve (12) months. “Consumer Price Index” or “Index” as used in this Permit means the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items, San Francisco-Oakland-San Jose (1982-84 equals 100), of the Bureau of Labor Statistics of the United States Department of Labor, or the official successor of said Index. If said Index is changed so that the base year differs from the base year used in the last index published prior to the commencement of the Term, the former Index shall be converted to the new Index in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics.

Paragraph E.4 Airport Commercial Charges. In addition to the Rent and any other charges provided elsewhere in this Permit, Permittee agrees to pay all commercial and other charges due under this Permit or otherwise incurred by Permittee in the use of the Airport or its facilities and at the rates prescribed therefor by the Port.

Paragraph E.5 Remitting Payments. All paper payments due under this Paragraph E shall be made payable to: Port Department of the City of Oakland, and mailed to P.O. Box 12545, Oakland, California 94604. Electronic payments must be relayed as follows:

Credit to: J.P. Morgan Chase Bank, NA
San Francisco, California U.S.A.
Account#: 571803670
ABA/ACH Routing#: 322271627

In favor of: Port Department of the City of Oakland
Account Type: Checking

Questions: cashier@portoakland.com
(or point(s) of contact as provided on Port invoice)

or to such other address as shall be designated by Port by written notice to Permittee in accordance with the requirements of Section 18 of Attachment “A” to this Permit. To ensure proper credit for electronic transfers, Permittee shall notify the Port by facsimile transmission promptly after any such remittance, at (510) 832-7924, attention Cashier / Finance Division, including the amount of the transfer, the date of the transfer and the invoice number or other identifying information. All such payments shall be made in lawful money of the United States, without demand, set-off or deduction of any kind.

Paragraph E.6 Tenant Improvement Administration Fee. For Tenant Improvements costing in excess of \$25,000, the Tenant Improvement Administration Fee (“TIA Fee”) shall be the greater of \$1,000 or 1% of the cost of the alterations or improvements to the Assigned Space, up to \$1,000,000 in such cost, plus .05% of such cost over \$1,000,000. Permittee shall pay to Port the applicable TIA Fee and Port’s cost

for outside consultants at the time and in the manner described in Section 2.4 of Attachment “A” to this Permit.

Paragraph F. Performance Deposit.

Permittee shall maintain with the Port a performance deposit in the initial amount stated on paragraph 3 of Exhibit “1”, which has been calculated to be equal to three (3) times Permittee’s estimated average monthly billings and payments of Rent in connection with this Permit, complying with and subject to the provisions of Section 21 of Attachment “A” to this Permit, including without limitation the provisions of Section 21 of Attachment “A” relating to adjustments to the amount of Permittee’s performance deposit (the “**Performance Deposit**”). The existence or amount of the Performance Deposit shall not limit Permittee’s liability or the Port’s rights in the event Permittee fails to make any payments to the Port required by this Permit or to comply with any of Permittee’s other obligations under this Permit.

Paragraph G. Insurance Requirements.

Permittee shall maintain in force during the Term of this Permit Workers Compensation/Employees Liability, Comprehensive or Commercial General Liability Occurrence Form (CGL) Insurance for Bodily Injury and Property Damage Liability, and such other insurance required by this Paragraph G and Section 13 of Attachment “A” including:

Paragraph G.1 Comprehensive or Commercial General Liability occurrence form insuring Bodily Injury and Property Damage Liability, including:

- (X) Premises and Operations
- (X) Owned, Non-owned and Hired Automobile Liability
- (X) Completed Operations
- (X) Products Liability including Completed Operations
- (X) Blanket Contractual
- (X) Broad Form Property Damage
- (X) Personal Injury
- (X) Liquor Liability
- (X) Advertising
- (X) Independent Contractor’s Coverage
- () Aircraft Liability (\$_____00)
- () Underground, Explosion and Collapse Hazard (XCU)
- (X) Fire Legal Liability (\$100,000.00)
- (X) Builder’s Risk – 100% of Replacement Cost
- () Contractor’s Pollution Legal
- () Asbestos Removal

with such coverage and limits as may be reasonably requested by the Port from time to time, but in no event for less than (check one):

- ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00)
- FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00)
- TEN MILLION AND 00/100 DOLLARS (\$10,000,000.00)
- OTHER: _____

Paragraph G.2 Permittee shall also provide to the Port evidence of:

Statutory Workers' Compensation coverage under California law.

Employer's Liability coverage for no less than

- One Hundred Thousand Dollars (\$100,000.00)
- One Million Dollars (\$1,000,000.00)

Endorsements evidencing Longshoreman and Harbor's coverage and Jones Act coverage

Evidence must show these endorsements:

- Port of Oakland, its Board of Port Commissioners, Officers, Agents and Employees, as Additional Insureds by SIGNED ENDORSEMENT TO THE GENERAL LIABILITY POLICY
- Subrogation Waiver in favor of Port of Oakland, its Board of Port Commissioners, Officers, Agents and Employees
- Firm (unconditional) 30-day Advance Notice of Cancellation
- Cross-Liability (Severability of Interest) Clause.
- Coverage is Primary & Non-Contributory.
- Deductible or Self-Insured Retentions Over \$100,000.00 Must be Approved in writing by Port's Risk Manager.

Original signature is required on additional insured endorsement; no copies, sign bys or facsimiles are acceptable.

Written binders are acceptable as interim evidence. Operations or occupancy may be interrupted without proper evidence. Send certificates to:

Port of Oakland
 Attn: Risk Manager
 530 Water Street
 Oakland, CA 94607
 Fax #:510-627-1535

Evidence of insurance coverage required by this Paragraph G or by Section 13 of Attachment "A" to this Permit is to be kept on file with Port in accordance with the requirements of Section 13 of said Attachment "A".

Paragraph G.3. Pollution Legal Liability Insurance. The Port may purchase Pollution Legal Liability insurance coverage on behalf of Permittee and the Other Permittees. The Port agrees that it will initially bill the cost of this insurance to Permittee

and the Other Permittees based upon their respective percentage of the space in the Rental Car Facility that the each occupy on an Exclusive Use basis, as conclusively determined by the Port, and such bill is payable by Permittee and the Other Permittees upon receipt. However, Permittee and the Other Permittees are obligated, jointly and severally, to pay the cost of this insurance, and the Port shall have the right to change the allocated share of this premium charged to Permittee and the Other Permittees in order to collect the full amount owed, and any adjusted amount will be payable by Permittee and the other Permittees on receipt of the Port's billing.

Paragraph H. Reallocation, Relocation and Reassignment Rights.

Ready/Return parking spaces in the Rental Car Facility and the Additional Land Area ("Ryan St." site) located adjacent to the Rental Car Facility will be allocated among the Permittee and the Other Permittees in accordance with Permittee's bid and calculated concession blocks that are sized in approximate proportion to the full measure of Gross Revenues reported to the Port by the existing Permittees for the period commencing on July 1, 2015 through June 30, 2016. No Permittee shall have Assigned Space consisting of less than 20,000 square feet of space in the Ready/Return area of the Rental Car Facility.

Ready/Return spaces in the Rental Car Facility and Additional Land ("Ryan St." site) will be reallocated during the Term and Extended Term(s) on a cycle of every thirty (30) months from the Commencement Date of the Initial Term and through each of the additional Extended Term(s). Reallocation of customer service counters and office space within the Rental Car Facility will occur prior to the commencement of the 1st and 2nd Extended Term.

The necessity for Reallocation shall be determined by the Aviation Director, in his or her sole discretion, when there has been a change or shift in market share among the Permittee and the Other Permittees during each 30-month period after the Commencement Date, measured by: i) at least a two and one-half (2 ½) or more percentage points change in Market Share for any two (2) Permittees, or: ii) at least a five (5) or more percentage points change in Market Share for any one (1) Permittee. Such shifts in Market Share are known as (the "**Market Share Percentage**")

Example:

Reallocation that takes effect at month 31 of the Initial Term (January 1, 2020) will be measured by percentage point changes in market share, shall be measured between Initial MAG Bid share, shall be measured between Initial MAG Bid share (as of July 1, 2017) and reported market share of concessionaires at the end of month 24 (June 30, 2019) – affects Ready Return Area and Storage/Overflow Area only.

Reallocation that takes effect at month 61 – commencing July 1, 2022, (1st Extended Term) will be measured by percentage point changes in reported market shares as of January 1, 2020, and reported market share of concessionaires as of December 31, 2021. Reallocation affects Ready/Return Area, Storage/Overflow Area, along with Rental Car Facility.

Upon any such reallocation, the Port shall provide to Permittee and each Other Permittee a notice (the “**Reallocation Notice**”) including revised Exhibits to each Permit reflecting the reallocated Assigned Space to be occupied by Permittee and each Other Permittee and the resulting recalculated Monthly Rent, and on the first day of the succeeding calendar month which is at least ninety (90) days after the date of such notice (the “**Reallocation Date**”), Permittee’s Assigned Space, the space assigned to each Other Permittee, and the Monthly Rent, shall be deemed amended consistent with such revised Exhibits. In addition, on the Reallocation Date, the Land Rent component of the Monthly Rent to be paid by Permittee under Paragraph E.3 of this Permit shall be adjusted as set forth in the Reallocation Notice to reflect the adjusted square footage of the Assigned Space. Upon receipt of the Reallocation Notice, Permittee shall cooperate with the Other Permittees and submit a joint Reallocation Plan to the Port by the date(s) set forth in the table of timelines illustrated below. The timeline of measuring, noticing and implementing Reallocation for Assigned Space(s) is as follows:

Bid/market share date for reallocation evaluation	Reallocation Notice Date	Deliver Reallocation Plan to Port	Port final Notice of Reallocation	Reallocation Effective Date
July 1, 2017	June 30, 2019	August 14, 2019	September 30, 2019	January 1, 2020
January 1, 2020	December 31, 2021	February 14, 2022	March 31, 2022	July 1, 2022 (*)
July 1, 2022	June 30, 2024	August 14, 2024	September 30, 2024	January 1, 2025
January 1, 2025	December 31, 2026	February 14, 2027	March 31, 2027	July 1, 2027 (*)
July 1, 2027	June 30, 2029	August 14, 2029	September 30, 2029	January 1, 2030

* Reallocation to include Rental Car Facility.

Such reallocation shall not reduce the amount of Assigned Space in the Ready/Return area occupied by Permittee or any other Permittee to less than 20,000 square feet. The cost of implementing such Reallocation Plan or reassignment, if any, shall be paid by the affected Permittees as follows:

- Fifty percent (50%) shared equally, and:
- Fifty percent (50%) by market share in effect at the time of evaluation

Permittees that do not fully comply with implementing the Reallocation Plan, reassignment, or (if applicable) the Port Reallocation Plan, will be subject to fines and liquidated damages, or other appropriate action(s) as determined at the sole discretion of the Aviation Director.

The Port shall in no event be liable to any Permittee for any inconvenience, damages or loss of business resulting from a change in Assigned Space(s) including Permittee being required to move to other Assigned Space(s) including Permittee being required to move to other Assigned Spaces, or to surrender all, or any portion of its Assigned Spaces.

Paragraph I. Operation of Assigned Space.

Paragraph I.1 Personnel.

(a) Manager. The management, maintenance, and operation of the Permittee's operations at the Assigned Space shall be under the supervision and direction of an active, qualified, competent, and experienced manager, who shall at all times be authorized to represent and act for Permittee. Permittee shall cause such manager to be assigned a duty station or office in the Assigned Space at which he or she shall be available during normal business hours, and Permittee will at all times during the absence of such manager, assign or cause to be assigned a qualified subordinate to assume and be directly responsible for the carrying out of the manager's supervising duties. Permittee will provide to Port and update as necessary, contact information for Permittee's managers to allow Port to contact them in emergencies or during non-business hours.

(i) Adequate and Competent Staff. Permittee shall employ a sufficient number of properly trained personnel to manage and operate the Assigned Space at its maximum capacity and efficiency at all times that the Assigned Space is opened for business. Sufficient number is a number which consistently provides customers with no unreasonable delay or inconvenience, as determined by Port. All personnel shall be clean, neat in appearance and attired in proper uniform, if required, with name tag clearly visible. Permittee must ensure that all employees can adequately communicate with customers and are professional and courteous in interactions with customers.

(ii) English Language. Permittee understands and agrees that its operation at the Airport may necessitate contact with the public, both in the course of normal business operations and in rendering public services such as making reasonable change, giving directions, and providing general assistance to the public. Employees in positions that involve contact with the public must be capable of speaking and understanding the English language at a high level consistent with the effective and efficient performance of the duties of the position.

(iii) Port Objections. Port shall have the right to object to the demeanor, conduct, and appearance of any employee of Permittee or those doing business with Permittee, subject to applicable Laws. Permittee shall take all steps reasonably necessary to remedy the cause of the objection. After written notice from Port, Permittee shall ensure the immediate removal from the Airport of any employee or other representative of Permittee who participates in improper or illegal acts on the Airport, who violates any of the Airport Rules, Policies and Regulations or any provision of this Permit, or whose continued presence on the Airport is, in the opinion of Port, deemed not to be in the best interests of Port. However, in certain situations, Port shall have the right to request Permittee to take immediate action via a telephone call. Permittee shall not allow any of its agents, servants, contractors, or employees to conduct business in a loud, noisy, boisterous, offensive, or unlawful manner, and shall confine their business on the Airport to that of operating the Assigned Space unless otherwise approved in writing by Port.

(iv) Port Not Liable for Employment Issues. This Permit is not one of agency by Permittee for Port, but one with Permittee engaged independently in the business of managing the Assigned Space on its own behalf. All employment arrangements and labor agreements are, therefore, solely Permittee's rights, obligations and liabilities, and Port shall have no obligations or liability with respect thereto. Permittee shall defend, indemnify, and hold harmless, Port from any claims or causes of action of whatever nature that may be brought by present or former employees, present or former independent contractors, present or former labor unions, including any labor unions seeking to represent the employees or applicants for employment by Permittee.

(b) Port Living Wage Requirements. Permittee shall comply with all of the provisions of Section 728 of the Charter of the City and Port Ordinance No. 3666 and any amendments thereto (the "**Living Wage Law**").

Paragraph I.2 Quality of Products and Services

(a) First Class. It is an express condition of this Permit that Permittee conduct the Permitted Uses under this Permit in a first class, business like, safe, efficient, courteous and accommodating manner, in accordance with all of the requirements of this Permit, including without limitation, Paragraph I.2(b) below. Permittee shall ensure that a decor is established and maintained substantially in accordance with Port design and facility plans, that the Assigned Space is maintained and operated in a first-class manner and that at all times the Assigned Space is kept in a safe, clean, orderly and inviting condition, satisfactory to Port. To accomplish these desires, Permittee must periodically review or cause to be reviewed operations of the Assigned Space operated by Permittee at the Airport.

(b) Adequate Automobiles and Service. Permittee agrees to furnish good, prompt and efficient service and to maintain a sufficient number and variety of Automobiles on its parking area in the Assigned Space on the Airport or that it leases or owns on or off the Airport adequate to meet all reasonable demands for its services at the Airport; to furnish services on a fair, equal and nondiscriminatory basis to all users thereof, and to charge fair, reasonable and nondiscriminatory prices for each unit of service; and Permittee further agrees that its rental Automobiles shall be maintained in good operating order, free from known mechanical defects, and in good, clean, neat and attractive condition, inside and outside, all at Permittee's own cost and expense.

Permittee shall offer for rental in its operations under this Permit only Automobiles of recent manufacture (no more than two years older than the current model year) and antique, vintage, classic or other luxury or prestige Automobiles authorized in writing by the Director.

If Port identifies any problem areas with respect to operation of the Assigned Space, including without limitation quality and quantity of Automobiles or services offered, Permittee shall be notified in writing by Port and shall correct, or cause to be corrected, such problem or problems within one (1) day, unless a longer period of time is required, but in no event shall the time-period extend beyond ten (10) days after transmission of written notice by Port, unless Port permits a longer period. Failure of

Permittee to so correct problem areas constitutes a default under Section 15 of Attachment “A” to this Permit.

(c) Concession Rates and Prices: Permittee shall not misrepresent to the public its prices or the terms, provisions and availability of its Automobiles or those of its competitors. Permittee shall fully inform each customer, prior to the execution of such customer’s rental agreement, of all rates and fees applicable to such customer’s rental. Permittee shall, upon receipt of written notice, immediately cease any business practices that the Director determines to be deceptive.

(d) Rental Agreements: Permittee shall at all times keep a copy of its current form of rental agreement covering the rental of Permittee’s Automobiles on file with the Port.

(e) Common Use Busing System: Permittee acknowledges that it has no right to transport any of its rental car customers between the Assigned Space and the two existing terminal buildings and any future terminal buildings at the Airport that are open to the public for the purpose of flight ticket purchase, public lobby, waiting, baggage check-in and other services related to air travel (“the **Passenger Terminal Buildings**”) at the Airport except by use of the busing system required by Section 1.2 of Attachment “A” (the “**Common Use Busing System**”) to be operated pursuant to Section 1.2 of Attachment “A”.

Paragraph I.3 The Committee. At least thirty (30) days before the Commencement Date, Permittee, together with each Other Permittee, shall enter into an agreement (the “**Industry Agreement**”), which agreement and any amendments thereto shall be subject to the Port’s approval. Pursuant to the Industry Agreement, a committee (the “**Committee**”) shall undertake the duties of the Committee set forth herein and the Committee shall hire a third party manager reasonably approved by the Port (the “**Manager**”). Permittee and the Other Permittees shall cause the Manager to operate the Rental Car Facility in compliance with the terms and conditions of the Permits, and to distribute the costs of operation and maintenance of the Rental Car Facility (and the Common Use Busing System (as defined in Section 1.2(a) of Attachment “A” to this Permit), if operated by the Committee), among the Permittee and the Other Permittees, based on the cost allocation formula contained in the Industry Agreement, and shall cause the Manager to provide the Port with regular reports, as requested by the Port, concerning the operation of the Common Use Busing System and the Rental Car Facility, including but not limited to operation and maintenance of the fuel system, if any.

Paragraph I.4 Joint and Several Liability; Performance by Committee on Behalf of Permittee. Pursuant to the terms of their respective Permits, the Permittee, together with the Other Permittees, are obligated, jointly and severally, to operate, maintain and repair the Rental Car Facility, and are liable, jointly and severally, for the performance of all obligations relating to the operation, maintenance and repair of the Rental Car Facility. The Port agrees to accept performance of any of Permittee’s obligations under this Permit by the Committee as fully as it would have accepted performance of such obligations by Permittee.

Paragraph I.5 CFCs. Permittee agrees to collect and remit CFCs (as defined in Section 10.1(d) of Attachment “A” to this Permit) to the Port and to comply with the terms of the CFC Ordinance (as defined in Section 10.1(e) of Attachment “A” to this Permit). Permittee also agrees that all CFCs that it collects from its customers are trust funds held by Permittee for the benefit of the Port, and that while any CFCs are in Permittee’s possession or the possession of its agents, Permittee or its agents hold only a possessory interest and no legal or beneficial interest therein, and that until such CFCs are paid to the Port pursuant to the CFC Ordinance, they will be held in a separate account into which no funds that are not CFCs will be deposited, and that Permittee shall describe the CFCs in its financial statements as trust funds held for the benefit of the Port. Permittee further agrees that it shall not grant to any third party any liens or encumbrances on CFCs, and that any lien or encumbrance on CFCs granted by Permittee to a third party or otherwise purported to be obtained by a third party shall be void and of no force or effect. Permittee further agrees that Permittee’s chief financial officer shall provide the Port with his or her written certification of Permittee’s compliance with the provisions of this Paragraph I.5 in July of each calendar year during the term of this Permit, and promptly after any written request by the Port for such certification.

Paragraph I.6 Credit/Charge Cards and Traveler’s Checks. At all times during the Term of this Permit and any holdover period, Permittee shall accept as payment for goods and services nationally recognized credit or charge cards, including without limitation American Express, MasterCard, and VISA, as well as internationally recognized Traveler’s Checks. Such cards shall be accepted for all purchases greater than five dollars (\$5.00).

Paragraph I.7 Brand Names. Permittee shall operate at the Airport only under the brand name(s) set forth on paragraph 4 of Exhibit “1” (the “**Brand Names**”) and no others without the express, written consent of the Port, which may be granted or withheld at the Port’s sole discretion. Permittee represents and warrants to Port that Permittee has full right, title and interest in and to the Brand Names or has duly been granted a license to use the Brand Names and that Permittee will maintain ownership of or a valid license to use such Brand Names at all times during the Term of this Permit. Permittee hereby indemnifies Port to the fullest extent under Section 11 of Attachment “A”, agrees to hold Port harmless and will defend Port against and pay all of Port’s costs (including without limitation attorney’s fees) arising from any claim that Permittee’s use of a Brand Name is unauthorized or in violation of any Law.

Paragraph J. Permittee’s Operating Hours.

Permittee agrees that its automobile rental services shall be available at the Rental Car Facility at the Airport each day commencing at least one and one half (1-1/2) hours before the first passenger flight is scheduled to depart the Airport and ending at least one (1) hour after the last scheduled passenger flight has arrived at the Airport, and during such additional hours as the Assistant Director of Aviation, or such other Port employee in lieu thereof as maybe designated by the Director by notice to the Permittee (hereinafter the “*Assistant Director*”), may direct.

Paragraph K. Administrative Fees.

The parties agree that Permittee's performance of its obligations under this Permit are extremely important to Port and that Permittee's failure to perform those activities will result in administrative and monitoring expenses to the Port and its staff. Therefore, the parties agree that the Administrative Fees described on attached Exhibit "2" are reasonable estimates of such expenses and shall be imposed on Permittee at the sole discretion of the Director or his or her designee for any of the violations described on said Exhibit "2". The Director may elect to waive an assessment of Administrative Fees for a particular violation, but no such waiver shall apply to prior or subsequent violations of the same or any other provision of this Permit, and such waiver shall not be deemed to set a precedent for further waivers. If the Permittee disputes the violation that resulted in the imposition of an Administrative Fee, it may submit, within ten (10) days of its receipt of written notice of the Administrative Fee, a written request for a review of such Administrative Fee, to the Assistant Director pursuant to Article 11.3 of Port Ordinance No. 4362 (or any successor thereto), in which event the hearing procedures set forth in said Article 11.3 shall be applicable to Port and Permittee with respect to such Administrative Fee.

The Port's right to impose the foregoing Administrative Fees shall be in addition to and not in lieu of any and all of Port's rights under this Permit, in the Airport Rules, Policies and Regulations, or at law or in equity. Port's decision to impose an Administrative Fee on Permittee for one of the violations described on attached Exhibit "2" shall not preclude Port, in the event Permittee subsequently commits the same or a different violation, from exercising any of such other rights of the Port, including, without limitation, its right to terminate this Permit pursuant to Section 15 of Attachment "A" to this Permit. Port shall have no obligation to Permittee to impose Administrative Fees or fines on or otherwise take any action against any other tenant or permittee at the Airport.

During the term of this Permit the Director may reasonably adjust upward the amount of the Administrative Fees set forth in Exhibit "2" by providing Permittee six months advance written notice.

Paragraph L. Due Diligence; No Representations or Warranties by Port.

Permittee acknowledges that it has conducted its own due diligence investigation of its prospects for successfully operating its Permitted Uses at the Airport, and has made its own determination of the accuracy of any information provided by Port, including without limitation, any information with respect to passenger traffic at the Airport, carriers serving the Airport, and the financial results of any prior operator of any similar business at the Airport, that Port has made no representations or warranties to Permittee with respect to any of such matters, and that all prior discussions between Port and Permittee with respect to such matters are superseded by this Permit pursuant to Section 33.9(a) of Attachment "A" to this Permit. In addition, Permittee must perform its own due diligence on all matters relating to the Assigned Space, including all technical and construction matters. Any "as-built" drawings, utility matrixes, or other technical information (including, but not limited to, architectural drawings or autoCAD or other computer files) provided by the Port may not be accurate or complete. Permittee's use of or reliance on any such information shall be at its sole risk, and the Port shall have no liability arising therefrom.

Paragraph M. Compliance with Port and DOT Non-Discrimination Requirements.

The Port strictly prohibits all unlawful discrimination and preferential treatment in contracting, subcontracting and purchasing, including the Permitted Uses or any subcontracting or purchasing under this Permit (the “**Port Non-Discrimination Policy**”).

Compliance with ACDBE Policies. Permittee understands that the Port desires that Airport Concession Disadvantaged Business Enterprises (“ACDBEs”) as defined in 49 CFR Part 23, which are certified by an authorized certifying entity, should have the maximum practical opportunity, in compliance with Federal law, to participate in the process of supplying services and goods to the Port as owners, managers, and contractors to the Airport. Accordingly, Permittee must, to the fullest extent provided by law, comply with all applicable laws, regulations, and programs relating to ACDBEs including (without limitation) those in 49 CFR Part 23 and in the Oakland International Airport’s ACDBE Program.

Non-Discrimination (49 CFR § 23.9)

(a) This agreement is subject to the requirements of the U.S. Department of Transportation’s regulations, 49 CFR Part 23. Permittee 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.

(b) The Permittee agrees to include the above statements in any subsequent agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

Oakland International Airport ACDBE Program – Required Contract Provisions. (49 CFR § 23.29)

(a) Permittee has advised the Port that it will use the ACDBEs listed on Attachment 13 of its Bid in providing the services described thereon. Permittee agrees that within 30 days after the expiration of each calendar quarter during the term of this Permit, it will provide a report to the Port, in a form acceptable to the Port, describing the gross receipts of each ACDBE listed on Attachment 13 of its Bid (and each substitute ACDBE obtained pursuant to paragraph (C) below), or in the case of a rental car concession, the dollar value of vehicles and other goods and services purchased by the Permittee from each such ACDBE, in each case calculated in accordance with the requirements of 49 CFR Part 23.

(b) Permittee agrees that it will also submit within the same period described in (A) above, a report to the Port, in a form acceptable to the Port, describing the permittee’s total gross receipts for the entire contract, or in the case of a rental car concession, the total value of vehicles and other goods and services purchased by the Permittee. Permittee will have no right to terminate an ACDBE for convenience without the Port’s prior written consent.

(c) If an ACDBE is terminated by the Permittee with the Port's consent or because of the ACDBE's default, then the permittee must make a good faith effort, in accordance with the requirements of 49 CFR Part 23.25 (e) 1(III) and (iv), and 49 CFR § 26.53, to find another ACDBE to substitute for the original ACDBE to perform the same estimated gross receipts (or in the case of a rental car concession, to sell the same amount of vehicles and other goods and services) under the contract as the ACDBE that was terminated.

(d) The Permittee's breach of its obligations under (A) (B) and (C) above shall be in default by Permittee under this Permit and shall entitle the Port to exercise all of its contractual and legal remedies, including termination of this Permit.

Civil Code 1938 Statement

As required by Section 1938 of the California civil Code, Permittee is hereby informed that the Assigned Space being permitted pursuant to this Permit have not been inspected by a certified Access Specialist (as defined in Section 55.52 of the California Civil Code). Permittee acknowledges the foregoing information and agrees that such statement is merely a statement of fact and is not an admission, covenant, representation, or warranty made by the Port for the benefit of permittee and permittee's employees, agents, contractors, customers or other invitees as to the condition of the Assigned Space or any other property owned or controlled by the Port. This paragraph K does not modify, and shall not be used to interpret or construe the meaning of any other provision of this Permit.

Paragraph N. Additional Terms and Conditions.

Permittee does hereby further agree to abide fully by all of the Additional Terms and Conditions set forth in Attachments "A" through "F" to this Permit, which are incorporated herein and form a part of this Permit.

Paragraph O. Amendments.

Except as otherwise expressly provided in this Permit, modifications to this Permit may only be made by a written addendum thereto executed by Permittee and Port.

[Remainder of page intentionally left blank.]

Paragraph P. Waiver of Jury Trial.

TO THE FULLEST EXTENT PERMITTED BY LAW, PERMITTEE AND PORT DO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATED TO, ARISING OUT OF OR IN CONNECTION WITH THE TERMS, CONDITIONS AND COVENANTS OF THIS PERMIT.

**CITY OF OAKLAND, a municipal corporation,
acting by and through its Board of Port
Commissioners**

By: _____
Executive Director

**Note: Please also initial
Page A-53 of Attachment "A"**

PERMITTEE:

a _____

By: _____

Name: _____

Title: _____

**THIS PERMIT SHALL NOT BE
VALID OR EFFECTIVE FOR ANY
PURPOSE UNLESS AND UNTIL IT IS
SIGNED BY PORT ATTORNEY**

If corporation: Chairman, President or Vice
President

Attest:

Approved as to form and legality this
___ day of _____, 2017.

By: _____

Name: _____

Title: _____

Port Attorney
Port Ordinance No. _____
P.A. # _____

If corporation: Secretary, Assistant Secretary,
Chief Financial Officer, Treasurer or Assistant
Treasurer

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared _____.

Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

-----**OPTIONAL**-----

Though the information below is not require by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer - Title(s): _____
- Partner - Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

**ATTACHMENT “A”
OTHER TERMS AND CONDITIONS OF SPACE/USE PERMIT**

Section 1. Other Operational Requirements.

Section 1.1 Permittee shall not do or permit to be done anything in connection with Permittee’s business or advertising which in the judgment of Port may reflect unfavorably on Port or the Airport, or confuse or mislead the public as to the relationship between Port and Permittee.

Section 1.2

(a) Permittee shall transport all of its rental car customers between the Rental Car Facility and the Passenger Terminal Buildings by use of the common use busing system that will use the common bus stops designated by the Port to serve the Rental Car Facility and the Passenger Terminal Buildings (the “**Common Use Busing System**”), and not oppose in any way the Port’s efforts to impose this requirement on all of the Other Permittees and Off-Airport Rental Car Companies. Permittee, together with the Other Permittees, agree that they shall, pursuant to the Industry Agreement, in writing, continuously contract with a qualified third party operator approved by the Port (the Port shall be provided with a copy of the proposed contract when its approval is requested), to operate the Common Use Busing System, to promptly provide the Port with a copy of such written, executed contract, and to require such operator either (x) to provide the required buses that comply with the requirements of applicable law, including without limitation the ADA Requirements (as defined in Section 2.4 below) or (y), at the election of the Port, to use buses provided by the Port for such use, to operate the Common Use Busing System in compliance with the terms and conditions of the Permits, the requirements of all applicable Laws (as defined in Section 9.1 below), the Airport Rules, Policies and Regulations (as defined in Section 9.1 below), and standards and criteria (such as frequency of service, cleanliness, age of vehicles, number of vehicles) and an operating plan approved by the Port, to operate and maintain the buses as part of the Common Use Busing System, and to permit all Off-Airport Rental Car Companies, without discrimination and at no additional charge, to use the Common Use Busing System to transport their passengers between the Rental Car Facility and the Passenger Terminal Buildings, subject only to the payment by such Off-Airport Rental Car Company to the Port of the applicable fees specified by Port Ordinance or Airport Rules, Policies and Regulations. Permittees and the Other Permittees shall cause such operator to cause each of the required buses to be equipped with an automatic vehicle identification device (a “**Transponder**”), which shall be obtained from and installed by the Port for a non-refundable fee of \$50.00 per bus (or such other uniform amount as may be established by the Board from time to time), and if any such Transponder is lost or damaged for any reason, to cause such operator to obtain a replacement Transponder which shall be obtained from and installed by the Port for an additional non-refundable fee of \$50.00 (or such other uniform amount as may be established by the Board from time to time). Permittees agrees that the Port shall have no liability or responsibility for any costs, damages or expenses arising out of the operation, maintenance, insurance, replacement or other care or upkeep of the buses or for the operation of the Common Use

Busing System. Any buses purchased for the Common Use Busing System after the Commencement Date must be fueled by alternative fuel as approved by the Port at the time of purchase.

(b) To the extent the Port is legally authorized to impose CFCs and that CFCs are available to make such payment, the Port has authorized CFCs to be used to pay any of the costs of operation and maintenance of the Common Use Busing System. However, the Port reserves the right, in its sole discretion, to allocate CFCs to pay for any legally permissible costs, and there can be no assurance that CFCs will be available in sufficient amounts at any given time to pay such costs of the Common Use Busing System. The payment of such costs shall be subject to the Port's receipt of a certificate, in form acceptable to the Port, from the operator of the Common Use Busing System designated pursuant to Section 1.2(a) above, certifying that such costs of operating and maintaining the Common Use Busing System to be reimbursed with CFCs were properly incurred and have not been previously reimbursed by the Port, and requesting that the Port pay the amounts described in the certificate to the parties named in the certificate, and certifying that such amounts have not previously been paid to such parties (or if to be reimbursed to the operator, certifying that such amounts have been paid to such parties by such operator from sources other than the Port and are now to be reimbursed to such operator), which certificate in each case shall be accompanied by invoices from the parties to be paid in the amount and describing the costs to be paid, together with such other documentation as the Port shall reasonably require. The Port shall advise the operator in writing, with reasonable promptness after Port's receipt of such certificate and other documentation, if such certificate and other documentation is not in form and with detail acceptable to the Port. The Port shall have sixty (60) days from its receipt of such certificate and other documentation, in a form and with detail acceptable to the Port, to pay the amount requested by such certificate, but solely from and to the extent that proceeds of CFCs are then available to the Port to make such payment, and the Port shall have no obligation to make any such payment from any other source, nor can there be any assurance that CFCs will be available in sufficient amounts at any given time to pay the requested amount. The Port shall promptly advise the operator and the Permittee and the Other Permittees if CFCs are not then available to make such payment, in which event such costs shall be paid by Permittee and the Other Permittees upon thirty (30) days' notice, and, if and when CFCs become available to make such payment, reimbursed by the Port within sixty (60) days after sufficient CFCs become available, as determined in the Port's discretion.

(c) The Permittee and the Other Permittees shall cause the operator of the Common Use Busing System to maintain such books and records as would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing an audit or examination of the costs of operating and maintaining the Common Use Busing System. The Port shall have the right, at any time until the expiration of 36 months after the end of any calendar year in which the expenditure of any CFCs to pay any of the costs of operating and maintaining the Common Use Busing System occurred (or such longer period as is reasonably required for the Port to conclude an audit commenced within such 36 month period), to audit and copy such books and records, and any other records the Port reasonably determines it

should audit to satisfy the Port's obligations under the California law authorizing the Port to impose a Customer Facility Charge. If the Port determines within such audit period that any CFCs were disbursed pursuant to Section 1.2(b) above to pay any amount other than costs properly incurred by the operator in operating and maintaining the Common Use Busing System not previously paid or reimbursed by the Port, then the amount of such improper disbursement, plus the delinquency charge provided for in Section 20 below, from the date of disbursement to the date of repayment to the Port, shall be repaid to the Port by Permittee and the Other Permittees promptly after the Port's written demand. Further, if such audit establishes that three percent (3%) or more of the amounts disbursed by the Port pursuant to Section 1.2(b) above in any calendar year are repayable to the Port pursuant to the prior sentence, then the entire expense of the audit shall be paid by Permittee and the Other Permittees.

(d) The Port agrees that (i) it will not permit any rental car service counters in the Passenger Terminal Buildings, (ii) it will require Permittee, the Other Permittees and all other rental car companies that serve the Airport (such other rental car companies are the "**Off-Airport Rental Car Companies**") to transport all of their respective rental customers between the Rental Car Facility and the Passenger Terminal Buildings by use of the Common Use Busing System, and (iii) no rental car company, either on or off-Airport, will be allowed to pickup or drop off its customers at the Passenger Terminal Buildings except by use of the Common Use Busing System.

Section 1.3 Permittee must keep the Assigned Space free of pests and vermin, and must dispose of all trash and debris in a sanitary manner using covered, leak-proof containers, including recycling containers, approved by the Port and in locations designated by the Port. Permittee 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 Assigned Space any boxes, barrels, trash, garbage, debris or refuse.

Section 1.4 Permittee acknowledges that the operational requirements of the Airport as an airport facility, including without limitation security requirements, are of paramount importance. Permittee 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, Permittee waives all claims for any and all losses, liabilities, judgments, suits, claims, damages, costs and expenses (including attorneys fees, investigation costs, remediation costs, and court costs) of any kind or nature (collectively "**Losses**") arising out of or connected to the operation of the Airport as an airport facility. Without limitation on the foregoing, Permittee must:

(a) cause all deliveries of products, supplies, fixtures, equipment and furniture to be made and conveyed to or from the Assigned Space by means and during hours established by Director in Director's sole discretion. Port has no responsibility regarding the delivery or dispatch of Permittee's products, supplies, fixtures, equipment and furniture. Permittee may not at any time park its trucks or other delivery vehicles in Common Areas; and

(b) not park within the parking areas of the Airport except in those areas of the Assigned Space designated by Port pursuant to permits obtained from the Airport. Nothing herein shall imply that Permittee shall be able to secure any on-Airport parking privileges except within the Assigned Space.

Section 1.5 Without limiting any other provision herein, Permittee shall not: (a) use or permit the use on the Assigned Space of any pinball machines, videogames, computer or electronic games, or other devices or equipment for amusement or recreation; (b) cause or permit anything to be done, in or about the Assigned Space, 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; (c) commit or suffer to be committed any waste upon the Assigned Space; (d) use, or allow the Assigned Space to be used, for any improper, immoral, unlawful or objectionable purpose; (e) place any loads upon the floor, walls or ceiling of the Assigned Space which endanger the structure or obstruct the sidewalk, passageways, stairways or escalators, in front of, within, or adjacent to the Rental Car Facility; (f) place, construct or maintain in or about the Assigned Space any searchlights, flashing lights, loudspeakers, phonographs, televisions, radios, antennas or other similar media or device; (g) solicit business or distribute handbills or other advertising or promotional materials outside of the Assigned Space, or distribute handbills or circulars to cars in the parking lots, or engage in any other advertising at the Airport and outside of the Assigned Space, except that Permittee shall be entitled to engage in radio, television and newspaper advertising as is customarily used for Permittee's type of business and except as expressly authorized pursuant to Section 4 below; (h) keep or permit animals of any kind in or about the Assigned Space except dogs trained to assist sight-impaired or other disabled persons; (i) use or permit any portion of the Assigned Space to be used as living or sleeping quarters; (j) sell, distribute, display or offer for sale any item which, in the Port's good faith judgment, is inconsistent with the quality of operation of the Airport, or which may tend to detract from the image of the Airport; (k) do or permit to be done anything in any way tending to injure the reputation of Port or appearance of the Airport.

Section 1.6 In the event Permittee receives a written or formal customer complaint with respect to Permittee's operations in the Assigned Space, Permittee shall promptly respond in writing to the complainant, with a copy to the Director, and shall make a good-faith attempt to explain, resolve or rectify the cause of the complaint. If Port establishes a toll free customer complaint telephone number, Permittee shall be required to participate and shall respond to complaints immediately. All other issues regarding the quality of service and/or prices raised on Port's own initiative may be submitted to Permittee for response, which response shall be provided by Permittee to the Port's Director within two (2) days.

Section 1.7 Permittee shall not indulge in, nor permit nor suffer others to indulge in, smoking within the Customer Service building or in any fueling facility, nor at any place in the vicinity or within fifty (50) feet of explosive or inflammable substances, or within any more restrictive area as may be specified in the Airport Rules, Policies and Regulations or any Law, and any breach of the provisions of this Section shall vest in the Port the right to remove Permittee, and Permittee's agents and employees and any property from said premises.

Section 1.8 Permittee and Port agree that a primary purpose and an essential consideration for this Permit is for the Port to promote, facilitate, aid and enhance commerce, aviation, shipping and navigation in the Port area, by providing for the development and operation of the Assigned Space pursuant to this Permit. Permittee and the Port agree that consistent with that primary purpose and essential consideration, Permittee under this Permit has an affirmative obligation during the entire term of the Permit to use the Assigned Space for the mandatory purposes specified. Permittee acknowledges that this Permit is a part of the Port's overall planning efforts to better promote and accommodate commerce, aviation and navigation in the Port and that the terms and conditions specified herein concerning use of the Assigned Space are and will in the future be an integral part of the Port's overall planning. Permittee further acknowledges that any uses of the Assigned Space inconsistent with the uses specified herein will contravene the primary purpose of this Permit and interfere with the promotion and accommodation of commerce, aviation and navigation in the Port Area.

Section 2. Maintenance, Repair and Alteration of Assigned Space; Signage.

Section 2.1 PERMITTEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT PERMITTEE IS USING AND OCCUPYING THE ASSIGNED SPACE ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT PERMITTEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM PORT OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THE ASSIGNED SPACE, INCLUDING: (i) the quality, nature, adequacy and physical condition and aspects of the Assigned Space, including, but not limited to, landscaping, (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 Assigned Space, (iv) the development potential of the Assigned Space, and the use, habitability, merchantability, or fitness, suitability, value or adequacy of the Assigned Space for any particular purpose, (v) the zoning or other legal status of the Assigned Space or any other public or private restrictions on use of the Assigned Space, (vi) the compliance of the Assigned Space or its operation with all applicable Laws including without limitation, the ADA Requirements, (vii) the presence of Toxic Materials (as defined in Port Environmental Ordinance No. 4345) on, under or about the Assigned Space or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements in the Assigned Space, (ix) the condition of title to the Assigned Space, and (x) the agreements affecting the Assigned Space, including covenants, conditions, restrictions, ground leases, and other matters or documents of record or of which Permittee has knowledge or would have knowledge with due investigation. The taking possession of the Assigned Space by Permittee shall, in itself, constitute acknowledgement by Permittee that the Assigned Space is in a condition satisfactory for its use; provided, however, that notwithstanding the foregoing acknowledgment, the Port acknowledges that the Permittee has not conducted an audit or inspection of the Assigned Space that would disclose the presence of, or contamination of the Assigned Space by, Toxic Materials and therefore, except as expressly provided in Port Environmental Ordinance No. 4345, the Permittee bears no responsibility for the removal, remediation or clean-up of Toxic Materials that were on the Assigned Space prior to Permittee taking possession thereof.

Section 2.2 The Port shall have no duty to maintain the Assigned Space or any improvements located thereon. Permittee agrees (alone or together with the Other Permittees)

that during the Term of this Permit, at its (or their) own cost and expense, it shall keep and maintain the Assigned Space, all furniture, fixtures and equipment, and all utilities within the Assigned Space to the points of connection with the utility companies' supplies, in clean and first-class order, repair and lawful condition and in compliance with all applicable Laws, including the replacement of any facility of Port which requires replacement by reason of Permittee's use or damage thereof or due to damage by others, excepting (a) ordinary wear and tear, (b) structural repairs to the Assigned Space, unless (i) caused by the act or omission of Permittee or any principal, affiliate, contractor, employee, agent, licensee or invitee of Permittee, or (ii) required to be repaired by Permittee pursuant to Section 35 below, (c) damage caused solely by the Port's gross negligence or willful misconduct, which shall be repaired by the Port at its expense, or (d) damage due to casualty with respect to which the provisions of Section 35.1(b)(ii)(y) below apply. Permittee hereby waives all right to make repairs at the expense of Port or in lieu thereof to vacate the Assigned Space, and waives the benefit of the provisions of California Civil Code Sections 1941 and 1942 or any successor statute thereto and any other similar Law now or hereafter in effect. In addition, if it becomes necessary during the Term of this Permit, as reasonably determined by the Manager of Airport Properties, to redecorate the interior portions of the Assigned Space, the Port shall provide written notice to Permittee specifying the redecoration, replacement or restoration preliminarily determined by the Manager of Airport Properties to be required and provide Permittee with an opportunity to discuss such work with the Manager of Airport Properties prior to commencement of such work. The Permittee will, at its own expense, to the extent set forth in a written notice sent by the Manager of Airport Properties to Permittee after such opportunity for discussion, redecorate and paint fixtures and the interior of the portions of the Assigned Space open to the public and improvements thereto, and replace furniture, fixtures, equipment, wall, floor and window coverings, or other furnishings in such portions of the Assigned Space, and refurbish or replace Permittee's equipment at the Airport with new or refurbished equipment. Without limiting the generality of the foregoing, except as otherwise expressly provided in (a)-(d) above in this Section 2.2, Permittee shall at all times be solely liable for its customer service kiosks located in its Exclusive Use space, including the external face thereof, all windows therein, and all finishes thereon. If after thirty (30) days written notice from the Port, Permittee has failed to commence and diligently pursue completion of any and all such maintenance, replacement and repair which may be required to restore the Assigned Space and any of its improvements, fixtures, equipment and mechanical systems to the condition required by this Section 2.2, then Port shall have the right, but not the duty, to perform such maintenance, replacement and repair at Permittee's expense and Permittee shall reimburse Port for such costs promptly upon Port's written demand. The performance of maintenance and repair by the Port shall in no event be construed as a waiver of the Permittee's duty to maintain and repair as herein provided. Unless the written approval of the Manager of Airport Properties or his or her designee has been first obtained in each instance, Permittee shall not alter the point of supply of any utilities in the Assigned Space. Permittee shall not install any racks, stands or other display of merchandise or trade fixtures at the Airport outside of the Assigned Space without the prior written consent of the Manager of Airport Properties or his or her designee.

The parties acknowledge and agree that Permittee's obligations under this Section 2 are a material part of the bargained-for consideration under this Permit. Permittee's compliance obligations shall include, without limitation, the obligation to make substantial repairs, redecoration, refurbishments and replacements to the Assigned Space regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Permit, the length of the then remaining Term hereof, the relative benefit of the repairs to Permittee or Port, the degree to which curative action may interfere with Permittee's use or enjoyment of the Assigned Space, the likelihood that the parties contemplated the particular requirement involved, or the relationship between the requirement involved and Permittee's particular use of the Assigned Space. No occurrence or situation arising during the Term, nor any present or future requirement, whether foreseen or unforeseen, and however extraordinary, shall relieve Permittee of its obligations hereunder, nor give Permittee any right to terminate this Permit in whole or in part or to otherwise seek redress against Port. Permittee waives any rights now or hereafter conferred upon it by any existing or future requirement to terminate this Permit, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such requirement, on account of any such occurrence or situation.

Section 2.3 Permittee shall at its own expense keep and maintain within the Assigned Space fire extinguishers and other portable fire-fighting and emergency equipment of such number, type, and material as may be prescribed from time to time by the Airport Rules, Policies and Regulations, any agency, department or bureau of the City, or other governmental authority having jurisdiction.

Section 2.4 Permittee shall not make or suffer to be made any alterations, additions, or improvements to the Assigned Space or any part thereof or attach any fixtures or equipment thereto (collectively, "**Alterations**"), without Port's prior written consent. All Alterations shall be at Permittee's sole cost and expense. Without limiting the generality of the foregoing, the initial layout and design of all Alterations shall conform to the Port's established architectural design scheme for the Rental Car Facility, and, if and to the extent adopted by the Port, the provisions of the Port's tenant improvement guide, or if none has been adopted by the Port, in accordance with tenant improvement standards adopted by the Port (such guide or standards are hereafter the "**TI Guide**"). Prior to the construction of any Alterations, Permittee shall pay the Port the applicable TIA Fee set forth in Paragraph E.6 of this Permit, and all other applicable fees payable under all Port ordinances and resolutions, including without limitation Port Ordinance No. 3859 (or any successor thereto), and submit detailed plans and specifications to the Airport's Design Review Committee for written approval. Port's approval rights will extend to and include architectural and aesthetic matters and Port reserves the right to reject any designs submitted and to require Permittee to resubmit designs and layout proposals until they meet Port's approval. In the event of disapproval by Port of any portion of the plans and specifications, Permittee will promptly submit necessary modifications and revisions thereof. No changes or alterations will be made in said plans or specifications after approval by Port without the prior written approval of the Director or his or her designee. Port 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 and specifications for all improvements or subsequent changes therein or alterations thereof will, within fifteen (15) days after approval thereof by Port, be signed by Permittee and deposited with Port as an official record thereof. Without limiting the requirements set forth above, Permittee

acknowledges and agrees that Permittee may be required to obtain approvals for any desired Alterations from the Port's Engineering Permit Department. In the event that Permittee fails to submit plans and specifications which meet the approval of Port within thirty (30) days after the Commencement Date, Port may terminate the Permit. Nothing herein contained shall be construed to delay or otherwise affect the Commencement Date.

Permittee warrants that all construction shall be in conformity with the latest edition of the TI Guide (if any has been adopted), and the plans and specifications submitted by Permittee and approved in writing by Port, the City and the Alameda County Health Department, and shall meet all applicable local building codes and ordinances and all other applicable Laws. Permittee also warrants that the proposed Alterations, if constructed or installed consistently with the plans and specifications approved by the Port, will comply with all applicable Laws, including without limitation the Americans With Disabilities Act of 1990 and any amendments thereto (hereafter the "**ADA Requirements**"). The Port's approval of any plans and specifications submitted by Permittee shall not constitute the assumption of any liability by the Port for the compliance or conformity of such plans and specifications with such Laws, or for the accuracy or suitability of such plans and specifications for Permittee's intended purposes, and Permittee shall be solely responsible for such plans and specifications.

Permittee shall establish to the reasonable satisfaction of the Port, as a prerequisite to the issuance of a permit from the Port for any building permit for the Assigned Space, that Permittee is in compliance with the Port's Non-Discrimination and Small Local Business Utilization Policy, as amended from time-to-time, with respect to such permit.

Section 2.5 Permittee shall give written notice to Director not less than seven (7) days prior to the commencement of any Alterations in order that Port may post appropriate notices of non responsibility, and agrees that such notices may remain posted until the acceptance of such work by Port. Prior to commencing any such work or allowing Permittee's contractors to have access to the Assigned Space, Permittee shall (i) coordinate all such work with Port's Tenant Construction Coordinator or other aviation or engineering staff designated in writing by the Director (or with the Port's contractor, if so directed in writing by the Director) so that Permittee's work will not interfere with or cause a delay in any other construction activities authorized by Port, and (ii) provide Port with such completion bonds and labor and material bonds and builder's all risk insurance in such form and amount and issued by such company or companies as shall be acceptable to Port. Permittee shall be liable for any and all Losses incurred by Port arising out of Permittee's breach of its obligations under the prior sentence. Permittee shall obtain, and pay all fees for all permits and business licenses required by the Port, the City or other governmental authority having jurisdiction, for any Alterations, and it shall furnish copies of all such permits to Port prior to the commencement of any work.

Section 2.6 If and to the extent that Permittee's activities or proposed Alterations trigger an obligation or requirement on the part of Port to make changes to the Airport (including ADA Requirements), Permittee shall indemnify, defend, and hold harmless Port from and against any Losses arising out of such activities or Alterations.

Section 2.7 Permittee shall pay for all labor done and materials furnished in any repairs or Alterations to the Assigned Space, and shall keep the Assigned Space and such improvements free and clear of any liens or encumbrances of any kind whatsoever created by or

through Permittee. If any such lien or encumbrance is filed, Permittee shall not be deemed to be in default hereunder if within ten (10) days after the filing thereof, Permittee, at its sole cost and expense, has provided or caused to be provided to the Port a lien release bond in accordance with California Civil Code, Section 3143 or successor statute, or such other assurance approved in writing by the Port. If Permittee fails to do so, the Port shall have the right and option, but not the duty, to obtain such lien release bond or pay or otherwise discharge, stay or prevent the execution of any lien or encumbrance. In such event, the Port shall not be deemed to have waived the Port's right to declare Permittee in default under this Permit, and Permittee shall reimburse the Port for all sums expended in connection with such lien or encumbrance, including Port's attorneys fees and costs, with interest as provided in Section 20 below, and such reimbursement shall be due and payable 10 days after Port's written demand for any such payments, fees or costs. Within ninety (90) days after Permittee's completion of any Alterations within or to the Assigned Space, Permittee shall furnish to the Port a set of reproducible, final "as built" drawings of all such alterations, additions or improvements, together with evidence acceptable to Port of Permittee's out-of-pocket cost of such alterations, additions or improvements.

Section 2.8 Permittee may not install any signage outside its Assigned Space, or any signage inside its Assigned Space that is visible from outside the Customer Service Building, except signage advertising the name or logo, or both, of the business conducted by Permittee for the Permitted Uses in the Assigned Space. Any signage that is not prohibited by the first sentence of this Section 2.8 that Permittee wants to install or display in or on the Assigned Space must be approved in advance and in writing by the Director or his or her designee, including but not limited to, the number, size, height, location, color and general type and design of each such sign.

Section 2.9 Some of the equipment, fixtures and furniture which under Section 16 hereof are not required to remain upon the Assigned Space and be surrendered therewith upon termination of this Permit (collectively designated herein as "**Trade Equipment**") now or hereafter installed and used by Permittee on the Assigned Space may or will be directly financed by a third-party lender or otherwise subjected to a security interest or owned by an equipment rental company or vendor ("**Equipment Lessor**") and leased to Permittee either directly from the Equipment Lessor or by way of an equipment sublease or assignment of an equipment lease from an equipment sublessor ("**Equipment Sublessor**"), and, provided that such lender, vendor, or Equipment Lessor or Sublessor (or assignee) gives to Port written notice identifying the Trade Equipment prior to its installation on the Assigned Space, Port hereby agrees to recognize the rights therein of any such third-party lender, vendor, or Equipment Lessor or Sublessor (or assignee). Port agrees that all such items of financed or leased Trade Equipment installed or to be installed on the Assigned Space shall be and remain personal property and not real property, notwithstanding the fact that the same may be nailed or screwed or otherwise attached or affixed to the Assigned Space, and further agrees to recognize the rights therein of any such third-party lender, vendor, or Equipment Lessor or Sublessor (or assignee). Permittee shall have the right at any time, provided Permittee is not in default hereunder, to remove or replace any or all Trade Equipment, whether or not financed or leased, regardless of whether attached or affixed to the Assigned Space, and to the extent of their respective interests therein such third-party lender, vendor, or Equipment Lessor or Sublessor (or assignee) shall also have such a right regardless of whether Permittee is in default hereunder. Any damage to the Assigned Space caused by such a

removal shall be repaired promptly by and at the expense of Permittee or other party causing such removal. Port agrees that it does not have and shall not assert any right, lien or claim in or to the Trade Equipment against any third-party lender, vendor, or Equipment Lessor or Sublessor (or assignee), and, subject to the obligation promptly to repair any damage to the Assigned Space, such party may remove and dispose of the same without reference to, and free and clear of, any other demand of Port; provided, however that no such disposal or sale may be made on the Assigned Space. The Port agrees to execute upon request such reasonable documentation that confirms the foregoing provisions to a third party lender, lessor or other holder of a security interest, provided that Permittee is not in default hereunder and provided such documentation is approved as to form and legality by the Port Attorney.

Section 3. Permittee's Property. Any and all property belonging to, or brought onto the Airport by Permittee or any of its officers, employees, agents, invitees or licensees shall be at the sole risk of Permittee. Subject to Port's right of approval as set forth in Section 2.4 above, Permittee may place and install trade fixtures and other personal property in the Assigned Space for use in connection with its operations hereunder, and the same shall be and remain the property of Permittee. Permittee shall, however, be responsible for the cost of repairing any damage to the Assigned Space or any other improvements at the Airport which are caused by the removal of any such trade fixtures and personal property. Notwithstanding the foregoing, however, except as otherwise provided in Section 2.9 above, if Permittee shall at any time be in default hereunder, then Port shall have the benefit of any statutory liens on Permittee's property located in the Assigned Space or otherwise on the Airport which are available to it under the laws of the State of California, and Permittee shall not remove or permit the removal of any of such property until all amounts secured by such liens have been paid and all other defaults under this Permit have been cured. In addition, if on the expiration or earlier termination of the Term, Permittee has not removed such property, Port shall have the right, at Permittee's expense, to remove and store or dispose of such property without liability of Port to Permittee.

Section 4. Advertising. Permittee shall have the right to advertise and promote its automobile rental service at the Airport. It is agreed that the number, size, location and general type or design of signs installed or operated on the Airport by the Permittee for such purpose shall be in accordance with the requirements of Section 2.8, and shall be subject to the prior written approval of the Director or Assistant Director. In no event shall Permittee be permitted to display advertising or promotional materials on behalf of or benefiting third parties, such as credit card applications, table cards, banners, easel signs, travel promotions, banks, vendor supplied equipment displaying overt advertising, or the like unless there is a direct relationship between such third party and Permittee, such as a special co-promotion, and any such advertising materials that are visible outside of the Customer Service Building shall first be approved by the Director or his or her designee in accordance with the requirements of Section 2.8. Without limiting the foregoing restrictions on advertising, in no event will there be permitted on the Assigned Space any advertising or promotion of cigarettes or tobacco products.

Section 5. Utilities. Port shall provide the following utilities to the Assigned Space (the cost of which may be separately metered or Port may prorate such cost among multiple tenants occupying the same Assigned Space or among Permittee and the Other Permittees if a common meter for any utility is shared by the Assigned Space and any space assigned to Other Permittees), which Permittee agrees to pay promptly after its receipt of Port's invoice:

Electricity, water and sewer service. Permittee shall pay the Port for such services or reimburse to the Port such payment not later than the first day of the calendar month following Permittee's receipt from the Port of a billing statement for said services or reimbursement. Any and all other utility services required by Permittee shall be provided by Permittee at its expense.

In cases where arrangement have been made between Permittee and the Port for the Port to furnish utility service, the Port does not guarantee the continuity or sufficiency of such supply. The Port will not be liable for interruptions or shortages or insufficiency of supply or any loss or damage of any kind or character occasioned thereby if the same is caused by accident, act of God, fire, strikes, riots, war, inability to secure a sufficient supply from the utility company furnishing the Port, or any other cause except such as arises solely from the Port's gross negligence. It is understood that Permittee shall take such steps as Permittee may consider necessary to protect Permittee's equipment from any damage that may be caused to such equipment in the event of failure or interruption of any such utility services. Whenever the Port shall find it necessary for the purpose of making repairs or improvements to any utility supply system it shall maintain, it shall have the right to suspend temporarily the delivery of any such utility service, but in all such cases reasonable notice (given the nature of such repairs or improvements) of such suspension shall be given to Permittee.

Except as otherwise provided in the foregoing sentence, Permittee shall be responsible for obtaining and paying for all utilities (including, without limitation, telephone and wireless access fee) used or consumed in the Assigned Space, and for any associated charges. Permittee shall pay the Port's applicable Cost of Service Fee, calculated pursuant to the provisions of Port Ordinance 3439, as such ordinance may hereafter be amended or replaced, or under any other Port resolution or ordinance, either existing or hereafter adopted by the Port, and shall also pay the cost of a Port supplied electrical meter. Permittee shall also be obligated to pay any Port electrical inspection fee.

Section 6. [Reserved]

Section 7. Port's Right to Enter; Permittee's Right of Access.

(a) Port and its designated agents shall have the right to enter the Assigned Space at any reasonable time for inspection, maintenance, repair, attending to emergencies or any other reasonable purpose. Such entry shall not constitute a forcible or unlawful entry or detainer of the Assigned Space. The Port will make a reasonable effort, except in case of an emergency, to provide advance notice of its intent to enter the Assigned Space, which notice (notwithstanding the provisions of Section 18 to the contrary) may be given in person to Permittee's manager on duty, or by telephone or by e-mail as designated by Permittee in Paragraph A of the Permit, but Port will have no liability to Permittee if Port fails to give such notice or if such notice is given by Port but not received by Permittee.

(b) Permittee and its officers, employees, agents and invitees shall, subject to the reasonable rules and regulations of Port, have the right of ingress and egress to and from the Assigned Space.

Section 8. Taxes and Assessments.

Section 8.1

(a) This Permit may create a property interest that is subject to property taxation and Permittee, in whom the possessory interest is vested, may be subject to the payment of property taxes levied on such interest. If the taxing authority assesses to Permittee a possessory interest tax with respect to any tax year any portion of which is included in the Term of this Permit, then Permittee shall be responsible for paying the entire annual possessory interest tax without deduction or proration, notwithstanding the expiration or termination of the Term prior to the close of the tax year. Permittee acknowledges the foregoing and that the same constitutes a sufficient statement in accordance with the requirements of Section 107.6 of the California Revenue and Taxation Code. Permittee (alone or together with the Other Permittees) shall pay, on or before the due date established therefor, all taxes, assessments (including, without limitation, storm water utility charges, and any business tax lawfully imposed by the City) and impact fees which are levied against or in connection with the Assigned Space, Permittee's interest therein and the property and improvements of Permittee for the Term hereof or attributable to Permittee's activities at the Assigned Space or at the Airport. For purposes of this Section, a possessory interest tax shall be deemed a tax and not an assessment. Permittee's obligations under this Section 8.1 shall survive the expiration or earlier termination of this Permit. Nothing contained herein shall be construed as a release or waiver on the part of the Port, or the City, of the right to assess, levy or collect any license, personal, tangible, intangible, occupation or other tax, fee or assessment which they, or either of them, may lawfully impose on the business or property of Permittee.

(b) Permittee agrees timely to submit to appropriate taxing authorities all required reports, documents and notices with respect to its use, occupancy or ownership of the Assigned Space or any goods, merchandise, fixtures, appliances, equipment or other property therein or used in connection with the Assigned Space. Within 15 days after the request of the Port, Permittee shall provide to the Port at no cost to the Port full and complete copies of any or all such reports, documents and notices requested by the Port.

(c) Permittee at no cost to the Port reasonably may contest the legal validity or amount of any such taxes, assessments, or charges for which Permittee is responsible hereunder, and institute such proceedings as Permittee considers necessary; provided, however, that Permittee shall at all times defend and indemnify the Port against any and all Losses resulting therefrom, and protect the Port and the Assigned Space from foreclosure of any lien, using defense counsel reasonably acceptable to the Port Attorney, and that the Port shall not be required to join in any proceeding or contest brought by Permittee.

Section 8.2 Permittee shall pay or cause to be paid all sales and/or use taxes levied on all materials, supplies, or equipment purchased and used on or incorporated into any Alterations, and all other taxes properly assessed against equipment or other property used in connection with any Alterations. Without means of limitation, Permittee shall be responsible for any documentary, excise, stamp and transfer tax and any sale, use or other tax imposed by reason of the design, delivery, sale, transfer, or installation of the materials, supplies, equipment or other property purchased and used on or incorporated into any Alterations, regardless of which party has liability for such tax under applicable Laws, and any deficiency, interest or penalty asserted with respect thereto. Permittee represents that Permittee has, or will obtain prior to the transfer of title to any materials, supplies, equipment or other property purchased and used on or incorporated into any Alterations, the necessary seller's permit as required by the State of California. Permittee represents that it will collect, report, and pay all sales and or use taxes arising out of any Alterations to the State Board of Equalization. Upon full payment Permittee will issue Port a receipt pursuant to California Revenue and Taxation Code Section 6203, relieving Port of all liability for any tax relating to the materials, supplies, equipment or other property purchased and used on or incorporated into any Alterations.

Section 9. Compliance with Laws, Rules, Policies and Regulations.

Section 9.1 Permittee covenants and agrees to observe and comply with all present and future Laws, and all rules, regulations and policies of Port, including without limitation, all safety, security and operations directives of the Director or his or her designee, which now exist or may hereafter be promulgated from time to time governing conduct on and operations at the Airport or the use of facilities at the Airport (hereafter collectively the "**Airport Rules, Policies and Regulations**"). The Airport Rules, Policies and Regulations may, without limitation, require Permittee to participate in a parking validation program at the Airport if one is established by the Port. The Port shall not have any duty or obligation to Permittee to enforce the Airport Rules, Policies and Regulations or the terms and conditions in any permit, lease or other agreement against any third party, and the Port shall not be liable to Permittee for violations of same by third parties, their employees, contractors, agents, invitees or licensees. Permittee further covenants and agrees to observe and comply with any and all valid and applicable requirements of all duly-constituted public authorities (including, without limitation, the Department of Transportation, the Department of Homeland Security, the Federal Aviation Administration, and the Transportation Security Administration). Permittee agrees to pay or reimburse Port for any civil penalties or fines which may be assessed against Port as a result of the violation by Permittee of any of the foregoing requirements, which payment shall be made by Permittee within fifteen (15) days from receipt of Port's invoice for such amount and documentation showing that payment of such penalty or fine is Permittee's responsibility hereunder. As used in this Permit, "**Laws**" shall mean all present and future federal, state and local statutes, ordinances and regulations and Port ordinances applicable to Permittee, the Assigned Space, the Permitted Uses or the Airport and judicial interpretations thereof, including but not limited to all acts and regulations relating in any way to security (including without limitation those regulations promulgated by the Department of Homeland Security), the ADA Requirements, all acts and regulations relating in any way to worker's compensation, sales and use tax, credit card processing, social security, unemployment insurance, hours of labor, wages, working conditions, the Immigration Reform and Control Act of 1986, the Charter of the City

(including without limitation Section 728 entitled “Living Wage and Labor Standards at Port-Assisted Businesses”), and all Environmental Laws (as defined in Attachment “C” hereto).

Without limiting the generality of the foregoing, to the extent Permittee’s operations or activities on the Assigned Space constitute industrial activities within the meaning of the Federal Water Pollution Control Act, 33 U.S.C. §§1251, et seq. (“CWA”) and the regulations promulgated thereunder, Permittee agrees that it will be responsible for faithfully obeying and complying with such law and regulations, including, but not limited to, obtaining, if required, an individual National Pollutant Discharge Elimination System (“NPDES”) permit or, if required, requesting coverage under and faithfully obeying and complying with the terms and conditions of any applicable General Permit issued pursuant to such law or regulations.

If any governmental license or permit, other than a certificate of occupancy, shall be required for the proper and lawful conduct of Permittee’s business at the Airport, Permittee shall procure and maintain such license or permit and submit the same for inspection by the Port. Permittee at all times shall comply with the terms and conditions of each such license or permit.

Permittee further agrees to waive and release the Port and Port officers, employees, agents and members of the Board from any and all claims, including claims of negligence, and liability that may arise from any act or failure to act by the Port in connection with the Port’s providing advice, guidance, or assistance to Permittee regarding compliance with any such Laws including, but not limited to the following actions or activities: furnishing educational materials to and organizing meetings for tenants; explaining the alleged requirements of the CWA, the regulations promulgated pursuant thereto, or the terms and conditions or means of complying with any permits required by or issued pursuant to the CWA; preparing or furnishing draft Storm Water Pollution Prevention Plans or Group Monitoring Plans, or acting as leader of any Group Monitoring Plan.

Notwithstanding and in addition to any other provision of this Permit, Permittee shall maintain for periodic inspection by the Port and, concurrently with the receipt from or submission to a governmental agency, deliver to Port true and correct copies of documents (hereinafter referred to as the “**Documents**”), except for Documents protected by the attorney-client privilege, required to be provided, filed, lodged, maintained by the Permittee or obtained by or issued to Permittee pursuant to such Laws or regulations, including, but not limited to, the following documents:

Permits, approvals, reports and correspondence, applications for permits, Notices of Intent, Storm Water Pollution Prevention Plans, Annual Comprehensive Site Compliance Evaluations, Annual Reports or monitoring results, or notice of violations relating or pertaining to the Assigned Space.

Section 9.2 Permittee agrees for itself, its successors and assigns, that it will not make use of the Assigned Space in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, Port reserves the right to enter upon the Assigned Space and cause the abatement of such interference at the expense of Permittee. This Permit and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking off at the Airport or the exclusive

or non-exclusive use of the Airport by the United States during the time of war or national emergency.

Section 9.3 The Permittee hereby waives any claim against the City, and the Board, its officers, agents or employees, for damage or loss caused by any claim, suit or proceedings directly or indirectly attacking the validity of this Permit or any part thereof or right granted thereby or asserting any right or interest in the Assigned Space inconsistent with rights granted to Permittee by this Permit, or by any judgment or award in any suit or proceedings instituted by a party other than the Port directly or indirectly attacking the validity of this Permit, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Permit null, void or voidable, or delaying the same, or any part thereof, from being carried out; provided, however, that such waiver shall not apply or run to any damage or loss in any way caused by any suit or proceeding directly or indirectly attacking the validity of this Permit which suit or proceeding is based in whole or in part upon an alleged “conflict of interest” of any elected or appointed official, officer, agent or employee of the City or the Board, including any “conflict of interest” or other matter alleged to violate or violating California Government Code Sections 1090 or 1092. The Port and Permittee each agree that it shall not in any way attempt to have this Permit declared null or void, and that it shall reasonably cooperate with the other to defend the validity of this Permit and of the rights and obligations granted by this Permit.

Section 10. Percentage Fees.

Section 10.1 Definitions

(a) **“Agreement Period”** shall mean each twelve month period during the term of this Permit commencing on each July 1 and ending the next succeeding June 30; provided, however, that the first Agreement Period shall commence on the Rent Commencement Date and, provided, further, that if this Permit is terminated prior to its expiration, then the “Agreement Period” shall also mean the period beginning on the first day following the last day of the immediately preceding Agreement Period and ending on the effective date of such termination.

(b) **“Airport Gross Receipts”** shall mean Gross Receipts derived from any rental of an Automobile to a customer who, at the Airport or at any Customer Facility of the Permittee located on the Airport or within the Rental Car Radius, either (i) executes an agreement to rent an Automobile from the Permittee, or (ii) takes delivery of an Automobile rented from the Permittee; excepting, however any Automobile delivered to a customer from Permittee at the Airport or any Customer Facility of Permittee within the Rental Car Radius that Permittee demonstrates to the reasonable satisfaction of the Director or his or her designee that such Automobile was delivered in substitution for an Automobile for which such customer had previously both entered into an agreement to rent an Automobile at a location other than at the Airport or any Customer Service Facility within the Rental Car Radius (and Permittee provides to the Port a copy of such agreement) and initially taken delivery of such Automobile at a location outside of the Airport and the Rental Car Radius.

The Port shall presume that ninety-five percent (95%) of all Gross Receipts of the Permittee at any Customer Facility of the Permittee located off the Airport and within the Rental Car Radius are Airport Gross Receipts unless the Permittee demonstrates otherwise to the satisfaction of the Director. Such ninety-five percent (95%) presumption shall apply, without limitation, for purposes of the Receipt Reports and payment requirements and certification requirements of the Annual Concession Fee, First Year's Minimum Annual Guaranty, Minimum Annual Guaranty and Percentage Fees.

In order to establish that less than ninety-five percent (95%) of all Gross Receipts earned at any Customer Facility of the Permittee located off the Airport and within the Rental Car Radius, are Airport Gross Receipts, Permittee, at a minimum, shall segregate and maintain all rental agreements made with local residents and shall demonstrate to the satisfaction of the Director that such local residents have a valid California driver's license bearing a home address with one of the zip codes set forth below. Gross Receipts from rental agreements made with a local resident who rents an Automobile from a Customer Facility of the Permittee located off of the Airport but within the Rental Car Radius and who has a valid California driver's license bearing a home address with one of the following zip codes, shall not be included in Airport Gross Receipts: 94501, 94502, 94577, 94578, 94579, 94580, 94601, 94602, 94603, 94605, 94606, 94607, 94608, 94609, 94610, 94611, 94612, 94613, 94618, 94619, 94621, 94625, 94626, 94627.

(c) **“Annual Concession Fee”**: The term “Annual Concession Fee” shall mean for the first Agreement Period, an amount equal to the greater of the First Year's Minimum Annual Guaranty or the Percentage Fees, and thereafter shall mean an amount equal to the greater of the Minimum Annual Guaranty or the Percentage Fees.

(d) **“CFC” or “CFC's”**: The term “CFC” or “CFC's” shall mean the Customer Facility Charge required to be imposed by the Concessionaires pursuant to the CFC Ordinance.

(e) **“CFC Ordinance”**: The term “CFC Ordinance” shall mean Port Ordinance No. 4079, as such ordinance may hereafter be amended or superseded by subsequently adopted Port Ordinance.

(f) **“Concessionaire”**: The term “Concessionaire” (collectively, “Concessionaires”) shall mean any person, including but not limited to the Permittee, which is awarded an on-Airport Automobile rental concession at the Airport.

(g) **“Customer Facility”**: The term “Customer Facility” shall mean any facility operated by a Concessionaire for the processing and/or servicing of, or for the delivery of rental vehicles to, its customers located on the Airport or within the Rental Car Radius.

(h) **“Gross Receipts”**:

1. Subject to the terms of this subsection 1 and subsections 2 through 16 below, the term “Gross Receipts” shall mean all amounts billed or received by the Permittee, any affiliate of the Permittee or any subcontractor of Permittee from or in connection with the rental of Automobiles and the provision of any additional

services or accessories on the Airport or at a Customer Facility within the Rental Car Radius (including, without limitation, time and mileage charges) and the related provision of insurance (including, without limitation, personal accident insurance), except that Gross Receipts shall not include the following:

- (a) Receipts derived from separately stated fueling or re-fueling charges;
 - (b) Sums recovered by the Permittee for damage to, or for loss, abandonment or conversion of, vehicles or other property of the Permittee;
 - (c) Credits and refunds to customers, including, but not limited to, such credits and refunds made in response to customer complaints, (a) for sales made on the Permittee's Assigned Space or elsewhere at the Airport or (b) for sales to any customer transported by any means from the Airport to a Customer Facility operated by the Permittee;
 - (d) The amount of any separately-stated federal, state or local sales or use taxes or other government-imposed surcharges mandated by the governmental entity to be imposed upon the Permittee's customers and collected by the Permittee;
 - (e) The amount of any separately stated State of California vehicle license fees allowed by law to be separately stated by the Permittee on the rental agreement and collected by the Permittee from the Permittee's customers;
 - (f) Proceeds from the sale of capital assets; and
 - (g) The amount of any lawful, Port-imposed surcharges mandated by the Port to be imposed upon the Permittee's customers and collected by the Permittee, as may be allowed by law.
2. Gross Receipts shall include receipts derived from the sale of collision damage waivers, loss damage waivers, or similar charges, whether separately stated or not.
 3. Gross Receipts shall not be reduced by reason of any commission or other amount paid out or rebated by the Permittee to travel agents or others with respect to any such rental or provision of insurance.
 4. Gross Receipts shall include all receipts derived from or in connection with the extension or renewal of any Automobile rental agreement entered into on the Permittee's Assigned Space or elsewhere on the Airport or entered into with any customer transported by any means from the Airport to a Customer Facility, regardless of the location at which that rental agreement is renewed or extended.
 5. Gross Receipts shall include any charge the Permittee customarily makes for goods or services even though the Permittee fails to actually collect such a charge.

6. Gross Receipts shall include all amounts billed to or received from customers by any subcontractors or other providers used by the Permittee on account of goods, services or products provided by such subcontractors or other providers, regardless of what portion, if any, of such amounts are received or retained by the Permittee.
7. Gross Receipts shall include amounts paid or payable to the Permittee in exchange for coupons or vouchers which are redeemed at any facility operated by the Permittee.
8. Gross Receipts shall include any receipts of the Permittee coming within this definition of Gross Receipts notwithstanding the treatment of such receipts for the Permittee's own accounting purposes and notwithstanding the location at which any motor vehicle is ultimately returned to the Permittee.
9. The full amount of any transaction made on installment or credit shall be recorded in the month during which such transaction is made, regardless of the time when the Permittee receives payment (whether full or partial) therefor.
10. Gross Receipts shall not be reduced by the retroactive rebate or refund of fees or other revenues included in the Gross Receipts hereunder to any customer upon achievement by such customer of a specified volume of rentals.
11. The Permittee shall not exchange vehicles, modify the accounting treatment of receipts, or rename or redefine rentals, services, or products in any manner that would deprive the Port of amounts that would otherwise be payable to the Port.
12. Gross Receipts shall not be reduced by reason of any credit loss sustained by the Permittee or any financing discount, which may apply by reason of the Permittee's acceptance or use of credit cards or by reason of any other credit arrangements.
13. In the computation of Gross Receipts from any rental made by the Permittee to which a discount was applied, unless the discount by its terms applied only to specified components of the consideration for the rental, the discount shall be deemed to apply equally to all components of the consideration received by the Permittee for or in connection with such rental, whether or not any such component would be treated as Gross Receipts hereunder, and shall not be treated as applicable only to a certain component or components of such consideration. In particular, without limitation, a discount shall never be treated in the computation of Gross Receipts hereunder as applicable only to components of such consideration which constitute Gross Receipts hereunder (such as time and mileage charges) and as not applicable to other components of such consideration which do not constitute Gross Receipts hereunder (such as gasoline charges). If a discount granted by the Permittee with respect to a rental applies by its terms to only certain components of the consideration received by the Permittee for or in connection with that rental, then such discount shall be applied in accordance with

its terms in the computation of Gross Receipts hereunder. However, the Port and any employee or agent acting on its behalf shall be entitled to presume that any discount granted by the Permittee with respect to a rental applies equally to all items of consideration received by the Permittee for or in connection with that rental unless the Permittee demonstrates to the satisfaction of the Director that such discount, by its terms, applies only to certain components of such consideration. In no event may the Permittee deduct from Gross Receipts discounts, credits, rebates or deduction for fuel or free fuel.

14. In no event shall the Permittee's Gross Receipts from any rental be a negative amount for purposes of this Permit.
15. The Permittee's Gross Receipts shall be computed and audited in accordance with generally accepted accounting principles, generally accepted auditing standards, and the provisions of this Permit. In the event of any conflict between the provisions of this Permit and generally accepted accounting principles or generally accepted auditing standards, the provisions of this Permit shall control, and the provisions of this Permit shall not be limited by such principles or standards.
16. In the event the Permittee is or becomes merged or affiliated (including as parent or subsidiary or through common ownership or control) with any other entity that is conducting an Automobile rental operation within the Rental Car Radius but off of the Airport (a "**non-Concessionaire operator**") and the Permittee and such non-Concessionaire operator, in the sole opinion of the Director, fail to operate as separate entities, or such non-Concessionaire operator is not operating pursuant to a valid permit, license or other agreement issued by the Port, all receipts of such affiliated non-Concessionaire operator shall be included in Gross Receipts hereunder. For purposes of this Permit, conditions and activities demonstrating a failure to operate as separate entities include but are not limited to:
 - (a) any circumstance in which one or more individuals serve as an officer, director, manager, or in any other position in which the individual makes significant management decisions for each company regardless of the individual's title, of both the Permittee and the entity conducting a non-Concessionaire Automobile rental operation at the Airport, whether or not the individual is compensated, financially or otherwise, by one or both of the Permittee or the entity conducting the non-Concessionaire Automobile rental operation;
 - (b) maintaining a joint reservation system;
 - (c) writing rental agreements for or otherwise acting as agents for one another;
 - (d) failing to act as arms-length competitors in all dealing with one another and such failure affects the Permittee's Gross Receipts;

- (e) utilizing the same or similar trademarks or trade names;
- (f) using a combined accounting system or an accounting system which makes it difficult, in the opinion of the Director, for the Port to separately audit the Gross Receipts of the two entities;
- (g) jointly owning or leasing a vehicle fleet or entering into a vehicle fleet lease agreement with one another and:
 - (i) the non-Concessionaire operator has the ability to take, either temporarily or permanently, all or any part of either the Permittee's portion of any jointly owned or leased vehicle fleet or the vehicle fleet leased by the Permittee to or from the non-Concessionaire operator; and
 - (ii) the Permittee is, in any manner, prevented from obtaining vehicles from any third party or the non-Concessionaire operator fails to give the Permittee notice of intent to take vehicles sufficient to allow the Permittee to obtain vehicles from another source to meet its customer demand for the period during which the non-Concessionaire operator will take the vehicles from the Permittee;
- (h) entering into an agreement with (x) a person or entity that jointly owns or controls the Permittee and the entity conducting a non-Concessionaire Automobile rental operation at the Airport or (y) a person or entity owned or controlled by, affiliated, as a direct or indirect parent organization with, or in any other way affiliated with, the person or entity that jointly owns or controls the Permittee and the entity that conducts a non-Concessionaire Automobile rental operation, for the provision of vehicle fleet and:
 - (i) the person or entity leasing the vehicle fleet to the Permittee has the ability to take all or any part of the fleet from the Permittee either temporarily or permanently; and
 - (ii) the Permittee is, in any manner, prevented from leasing vehicles from any third party or the person or entity leasing the vehicle fleet to the Permittee fails to give the Permittee notice of its intent to take vehicles sufficient to allow the Permittee to obtain vehicles from another source to meet its customer demand for the period during which the person or entity leasing the vehicle fleet to the Permittee will take the vehicles from the Permittee.

(h) **“Rental Car Radius”**: The geographic area within the boundaries extending from the Airport to and including Bay Farm Island in Alameda, from the Bay Farm Island Bridge in Alameda, across San Leandro Bay to the intersection of Oakport Street and 66th Avenue in Oakland; and the area encompassed by and the frontage on both sides of the following streets: 66th Avenue from Oakport Street to San Leandro Street in Oakland; San Leandro Street, from 66th Avenue to Hegenberger Road in Oakland; Hegenberger Road from San Leandro Street

to Baldwin Street in Oakland, from Hegenberger Road to 85th Avenue in Oakland; 85th Avenue from Baldwin Street to Edes Avenue in Oakland; Edes Avenue from 85th Avenue to 98th Avenue in Oakland; 98th Avenue from Edes Avenue to Interstate 880 in Oakland; Interstate 880 from 98th Avenue to Williams Street in San Leandro; and Williams Street from Interstate 880 to and including Oyster Bay Regional Shoreline in San Leandro; and Oyster Bay Regional Shoreline extending to Eden Road in Oakland and extending to the Airport.

Section 10.2 Receipts Reports Not later than twenty (20) days after the end of each calendar month, Permittee shall furnish to the Port a true and complete report and account, with a copy in electronic form, in a form acceptable to the Director, certified to be correct by an authorized representative of Permittee, of Permittee's Gross Receipts, Airport Gross Receipts, transactions and, if requested in writing by the Director, transaction days, during the preceding calendar month, and separately identifying all receipts derived by Permittee from or at the Airport during such month which have been excluded from the computation of Gross Receipts and identifying the location at the Airport at which such excluded Gross Receipts were derived together with payment of the Percentage Fees due by reason thereof (the "**Receipts Report**"). Permittee shall maintain either (x) separate bank accounts into which all Gross Receipts from its operations under this Permit shall be deposited, and no receipts from any other source shall be deposited in such accounts, or (y) separate ledgers maintained in accordance with generally accepted accounting standards that only reflect all Gross Receipts derived under this Permit. In the absence of an order from a court of competent jurisdiction preventing disclosure, the Port shall have no liability to Permittee for disclosing in response to a public records request or a subpoena any information provided to Port by Permittee. As described in Paragraph K of this Permit, Port shall have the right, in addition to all other rights herein, to an Administrative Fee in the event Permittee shall fail to submit such Receipts Report in a timely manner. If Permittee shall fail to provide Port by the thirtieth (30th) day after a calendar month with the Receipts Report complying with the requirements of this Section 10.2, then Port may invoice Permittee for estimated Percentage Fees for the prior calendar month in an amount equal to the monthly Percentage Fees that would be payable based on 1.15 times Permittee's actual Gross Receipts from or at the Airport for the last month reported by Permittee to Port, or if Permittee has filed no such report with Port, then as estimated in good faith by Port. Permittee shall, within five (5) days after its receipt of such invoice, pay the invoiced amount to Port; provided, however, that when Permittee determines its actual Gross Receipts for the preceding month, Permittee may tender the actual Percentage Fees payment to Port, but only if it is accompanied by the Receipts Report for such prior calendar month. The acceptance of such estimated Percentage Fees by Port, and the acceptance of any delinquent Receipts Report by Port, shall be without prejudice to any of Port's rights under Section 15 below. Any underpayment of Percentage Fees shall be paid with the Receipts Report provided by Permittee to Port covering the period for which estimated Percentage Fees have been paid together with a delinquency charge, for violation of the terms of this Permit and as liquidated damages, of the fifty dollar (\$50.00) fee provided for in Section 20 below plus interest on any unpaid amount from the date the estimated Percentage Fees became payable until payment has been received by the Port, at the rate provided in Section 20 below. Any failure to timely deliver to Port any report required by this Section 10.2, excluding only delinquent reports for which a delinquency fee has already been paid by Permittee pursuant to the prior sentence, shall require payment by Permittee to Port, as liquidated damages, of a delinquency charge in the amount of Fifty Dollars (\$50.00), payable at the time the delinquent

report is submitted to Port. Any overpayment of Percentage Fees shall be credited by Port against the next Percentage Fees payable by Permittee to Port.

Within ninety (90) days after the end of each Agreement Period during the Term, Permittee shall submit to Director an unqualified fiscal year-end financial report (the “**Annual Report**”) certified by an independent Certified Public Accountant or, only if Permittee’s financial statements have not been reviewed by an independent Certified Public Account, a fiscal year-end financial report certified by Permittee’s chief financial officer if such officer is approved by the Director, showing Airport Gross Receipts and Gross Receipts achieved by Permittee with respect to the prior Agreement Period. If such Annual Report shows that the total Rent (other than Monthly Rent) actually paid by Permittee with respect to the prior Agreement Period was less than the Rent (other than Monthly Rent) payable with respect to such Agreement Period, then Permittee shall immediately pay to Port such deficiency, together with a delinquency charge and liquidated damages of the fifty dollar (\$50.00) fee provided for in Section 20 below, plus interest on such deficiency for each day from the date such Rent became due and payable until payment has been received by the Port, at the rate provided in Section 20 below. If such Annual Report shows that the Rent (other than Monthly Rent) actually paid by Permittee with respect to such prior Agreement Period exceeded the Rent (other than Monthly Rent) payable with respect to such Agreement Period, and if such Annual Report is acceptable to the Port, then on the issuance by Port to Permittee of a credit memorandum in the amount of such excess, such excess shall be applied as a credit against the amounts next coming due from Permittee to Port under this Permit. Notwithstanding anything to the contrary herein, in no event will the Rent (other than Monthly Rent) payable to Port in any Agreement Period on the Assigned Space be less than the Minimum Annual Guaranty for such Agreement Period. In addition, Permittee shall submit to Port such other financial or other reports as Director may reasonably require. Permittee shall include with each Annual Report a certificate in the form attached as Exhibit “5”, certified by the chief financial officer or other authorized representative of Permittee acceptable to the Director.

Section 10.3 **Books and Records of the Permittee.**

(a) Permittee to Maintain Certain Books and Records. Permittee shall maintain in a true and accurate manner and in accordance with generally accepted accounting principles, complete and accurate books and records as would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing an audit or examination of the Permittee’s Airport Gross Receipts and Gross Receipts in accordance with the provisions of Section 10.2 above, and such books or records shall contain records of all the Permittee’s receipts in connection with its operations on the Assigned Space or otherwise hereunder, and of all CFCs that Permittee collects from its customers. Such records shall include but not be limited to, financial statements, general ledgers, trial balances, subsidiary ledgers, daily or monthly business adjustment reports, inventory and purchasing records, computer terminal tapes, point of sale records, corporate agreements, and signed opening and closing rental agreements, and, to the extent maintained for its operations under this Permit, bank statements, bank deposit slips, and tax reports filed with federal, state, county, city or other agencies. Such books and records of the Permittee shall be maintained in a form consistent with this Permit and with generally accepted accounting

principles and shall contain itemized records of all Airport Gross Receipts and Gross Receipts by such categories of sales as are specified in the definitions of those terms (or such other categories as the Port may require from time to time) and of all other receipts derived by the Permittee from its operations on the Assigned Space or otherwise hereunder, and of all CFC's collected by Permittee from its customers. The Permittee shall supply to the Port, within thirty (30) days of the Port's request, the books and records required to be maintained hereby and any other financial or statistical reports or records that the Port may reasonably request for the purpose of determining the accuracy of the Gross Receipts or Airport Gross Receipts or CFC's reported by the Permittee. In addition, the Permittee shall account for all revenues of any nature related to transactions in connection with this Permit entered into at the Assigned Space or at any Customer Facility operated by the Permittee in a manner which segregates in detail those transactions from other transactions of the Permittee and which supports the amounts reported to the Port in the Permittee's monthly "Receipts Reports" prepared in accordance with Section 10.2 above. At a minimum, the Permittee's accounting for such revenues shall include the following:

(1) A separate numbering system, identifying the location of each transaction, for transactions in connection with this Permit.

(2) A compiled report of rental agreements showing all Airport Gross Receipts and Gross Receipts and all exclusions from Airport Gross Receipts and Gross Receipts by location and category and by individual rental agreement. That report shall be itemized by location and subtotaled by day and totaled by month. The monthly total shall correspond with the amounts reported to the Port in its "Receipts Reports" and shall be reconciled to the amounts posted on the Permittee's general ledger if different or offset or netted with other amounts posted to the general ledger.

Such records may be in the form of (a) electronic media compatible with or convertible to format compatible with computers utilized by the Port at its offices, (b) a computer run hard copy, or (c) legible microfiche or microfilm, together with access to a microfiche or microfilm reader, of all appropriate rental agreements. Records maintained by the Permittee in the form of electronic media shall be provided to the Port in electronic read only form compatible with computers utilized by the Port if requested in such form by the Port. All such records shall be maintained as provided in Section 10.3(b) below. The Director may require the Permittee to provide any other records the Director determines, in his or her opinion, are necessary to enable the Port to perform an accurate audit of the Permittee's Airport Gross Receipts and Gross Receipts hereunder. Such records shall be provided within thirty (30) days after the request thereof and, in the event that exclusions, deductions or allocations reducing Gross Receipts are not supported or substantiated by such records, all such amounts shall be deemed Gross Receipts for purposes of determining amounts payable to the Port.

(b) Books and Records to be Segregated and Kept for Four Years. The Permittee shall keep the books and records it is required to maintain under this Section 10.3 segregated from the Permittee's books and records relating to operations other than

pursuant to this Permit. The Permittee shall retain such books and records for a period of no less than four (4) years following the end of the Agreement Period to which such books and records relate (notwithstanding the expiration or earlier termination of this Permit); provided, however, that if prior to the expiration of such four (4) year period, any audit, review or investigation is commenced by the Port, or any claim is made or litigation is commenced relating to this Permit by the Port, such books and records shall continue to be maintained by Permittee, and Port shall continue to have the right to inspect such books and records in the manner stated in this Permit, until the audit, claim or litigation is final.

(c) Record-Keeping Equipment Required. In addition to maintaining the books and records required by this Section 10.3, the Permittee shall cause to be installed on the Assigned Space and in any Customer Facility other than the Assigned Space, and shall at all times use, such cash registers, invoicing machines, sales slips and other accounting equipment, devices and forms as are reasonably necessary to record properly, accurately and completely all sales from and on the Assigned Space or any Customer Facility of the Permittee's goods and services.

Section 10.4 Port's Right to Inspect and Audit.

(a) Books and Records Available for Inspection. The books and records required to be maintained by the Permittee under Section 10.3 above shall be available on thirty (30) days notice for inspection and copying by the Port or its duly authorized representative; provided, however, that such inspection shall be made during reasonable business hours and shall not be conducted in a manner or at a time which is unduly disruptive of the Permittee's business. Permittee's failure to comply with the foregoing sentence shall result in the assessment of an Administrative Fee as provided in Paragraph K. Should the Permittee not wish to make its original books and records available for inspection at the Assigned Space, the Permittee shall have the option of either (i) having said original books and records transported to a location at the primary offices of the Port within thirty (30) days of Port's request to inspect Permittee's books and records or (ii) having representatives of the Port inspect the Permittee's books and records at a location where the Permittee maintains its records within thirty (30) days of Port's request to inspect Permittee's books and records. Should the Permittee elect to have the inspection performed at a location outside the limits of the City or the limits of Alameda County, the Permittee shall pay the Port for travel, lodging and subsistence expenses incurred in connection with such inspection, in accordance with the Port's adopted travel policies, from the auditor's duty station to the location at which the books and records are maintained for each day of travel and on-site work. After the inspection is complete, the Port shall bill the Permittee for such travel expenses and the Permittee shall promptly pay such bill.

(b) Port's Right to Audit. The Port shall have the right, upon thirty (30) days notice to the Permittee, to make an audit or cause an audit to be made of the Permittee's books and records and computerized accounting systems relating to the Permittee's operation of the concession (including, but not limited to, those books and records the Permittee is required to maintain under Section 10.3 above) in order to determine the

correctness of the fees paid by the Permittee to the Port, the amount of CFCs collected and remitted to the Port, and of Permittee's compliance with the provisions of Paragraph E of this Permit for any Agreement Period which ended no more than four (4) years prior to the date of commencement of such audit. Such audit may include, but is not limited to, a review of general, input, processing, and output controls of information systems, using read only access, for all computerized applications used to record financial transactions and information. If the audit is performed at a location outside the limits of the City of Oakland or the limits of Alameda County, the Permittee shall pay the Port for travel, lodging and subsistence expenses incurred in connection with such audit, in accordance with the Port's adopted travel policies, from the auditor's duty station to the location at which the books and records are maintained for each day of travel and on-site work. After the audit fieldwork is complete, the Port shall bill the Permittee for such travel expenses and the Permittee shall promptly pay such bill. The Permittee shall, if requested, freely lend its own assistance in making such inspection, examination, or audit, and, if such records are maintained in electronic and other machine-readable format, shall provide the Port and/or its representative such assistance as may be required to allow complete access to such records. The Permittee also shall lend such assistance and support freely to the Port as the Port may reasonably request in the conduct of any customer origin/destination or other survey as the Port deems necessary.

(c) Fees and Interest if Underpayment Discovered by Audit. If, as a result of an audit performed under Section 10.4(b) above, it is established that additional amounts are due from the Permittee to the Port under this Section 10 or Paragraph E, the Permittee shall forthwith, upon written demand from the Port, pay to the Port such additional amounts, together with the delinquency charge provided for in Section 20 below. Further, if such audit establishes that the Permittee has understated and underpaid any such amounts due under this Permit, or any CFC's due under Paragraph I.5, for any Agreement Period by three percent (3%) or more, then the entire expense of such audit shall be paid by the Permittee.

(d) Revenue Control Procedures. If the audit performed under Section 10.4(b) above establishes that the Permittee has understated and underpaid its fees to the Port for any Agreement Period by three percent (3%) or more, and that such understatement and underpayment was the result of a deficiency in the Permittee's revenue control procedures, then in addition to any other requirements under this Permit, the Permittee, in consultation with the Port, shall implement revised revenue control procedures reasonably calculated to eliminate such deficiency.

(e) Inspection and Audit Rights Survive Expiration. The Port's rights under this Section 10.4 to inspect, copy and audit the books and records of the Permittee shall survive the expiration or earlier termination of this Permit.

(f) Conflict Between Agreement and Accounting Practices. In the event of any conflict between any provision of this Permit and generally accepted accounting principles or generally accepted auditing standards, the provisions of this Permit shall control even where this Permit references such principles or standards. In particular, without limitation, the Permittee shall maintain all records required under this Permit to

the full extent required hereunder, even if some or all of such records would not be required under such general principles or standards.

(g) Passthrough of Annual Concession Fee. A Permittee shall have the right to separately state a fee on customer invoices or rental contracts (“**invoices**”) to recover all or any part of the Annual Concession Fee only if the Permittee meets all of the following conditions:

- (i) Such separate statement is lawful under California law, and Permittee complies with all other applicable laws, including Federal Trade Commission requirements;
- (ii) Such fee is titled a “Concession Recovery Fee”;
- (iii) Such fee is immediately below all concession items and not immediately adjacent to taxes on customer invoices;
- (iv) The amount of the Concession Recovery Fee stated on the invoice and charged to the customer does not exceed eleven percent (11.1%) of the total amount charged such customer;
- (v) Permittee shall not identify, treat or refer in any way to the Concession Recovery Fee as a tax;
- (vi) Permittee shall not pass through, unbundle or list any other fees (other than the Concession Recovery Fee) payable to the Port as a separate item on its customer invoices; provided, however, that Permittee may also unbundle and separately list the CFC imposed under Port Ordinance on Permittee’s customer invoices; and
- (vii) Permittee shall include the full amount of the Concession Recovery Fee in its Gross Receipts.

(h) Permittee agrees upon commencement of an audit by or on behalf of the Port pursuant to this Permit (an “Audit”), to toll for the Tolling Period (as defined below) all applicable periods of any statutes of limitations, laches or other defenses based on the Port’s failure to file an action during the Tolling Period with regard to any matter arising out of the Audit. Such tolling shall commence on the Port’s written notice to the permittee that the Audit has commenced (the “Tolling Effective Date”) and shall end four years after the date that the Port delivers to the Permittee a written copy of the Port’s final findings on the Audit, or on such later date as may be set forth in a written agreement between the parties (the later of such dates is the “Tolling Termination Date,” and the period commencing on the Tolling Effective Date and ending on the Tolling Termination Date is the “Tolling Period”). Permittee agrees not to assert the defense of laches, statute of limitations or any other defense based on the Port’s failure to timely file an action during the Tolling Period with regard to any matter arising out of the Audit. Notwithstanding the foregoing, the tolling agreement set forth in this

paragraph shall be inadmissible to determine liability or damages or any issue in dispute (other than the Tolling Period) under the Audit, whether before regulatory bodies, alternative dispute resolution proceedings or state or federal courts.

Section 11. Indemnification.

Section 11.1 Permittee agrees to indemnify, defend and hold completely harmless Port (including, without limitation, members of the Board, and Port's officers, employees and agents), from and against all liabilities (including, without limitation, liability under the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC Section 9601, et seq., or any other applicable Laws), Losses, suits, claims, demands, judgments, damages, fines, penalties, costs and expenses (including all costs for investigation and defense thereof, including, but not limited to, court costs, expert fees and reasonable paralegal and attorneys' fees (including an allocation of the costs attributable to the work of in-house counsel) prior to institution of legal proceedings and at both trial and appellate levels, and in any mediation or arbitration agreed to by Port), which may be incurred by, charged to or recovered from any of the foregoing indemnified parties (i) by reason or on account of damage to or destruction of any property of Port, or any property of, injury to or death of any person resulting from or arising out of Permittee's construction of any Alterations, or its use, occupancy, maintenance or repair of the Assigned Space or any improvements thereto, of Permittee's operations thereon or anywhere else on the Airport, or the acts or omissions of Permittee's officers, agents, employees, contractors, subcontractors, subtenants, invitees, vendors, suppliers or licensees, regardless of where the damage, destruction, injury or death occurred, unless such liability, Losses, suit, claim, demand, judgment, damage, fine, penalty, cost or expense was caused solely by Port's gross negligence or willful misconduct, or (ii) arising out of any allegation that Permittee, or the Port in concert with Permittee, has infringed on or violated any Federal, state, or common law patent, trademark, copyright, or trade secret rights, or violated any Federal or state labor laws, or (iii) resulting from or arising out of the failure of Permittee to keep, observe or perform any of the covenants or agreements in this Permit to be kept, observed or performed by Permittee. In carrying out its obligations hereunder, Permittee shall use counsel acceptable to Port Attorney.

Section 11.2 The foregoing provisions of this Section 11 are not intended and shall not be construed to limit in any manner whatsoever the protection or benefits to which Port otherwise would be entitled as an additional insured under any liability insurance maintained or required to be maintained by Permittee under this Permit.

Section 11.3 The provisions of this Section 11 shall survive the expiration or earlier termination of the Permit.

Section 12. Waiver of Damage. Permittee hereby expressly waives and releases any cause of action or right of recovery for compensation for any and all loss or damage sustained by reason of any fire, defect, deficiency or impairments of any of the services in or to the Assigned Space or the Airport, including, but not limited to, electrical power, gas, telephone service, steam, heating, air conditioning, water supply, drainage or sewage systems, or from wires leading to or inside of any space or structure, or by reason of any loss resulting from the failure of any such system or facility unless such loss or damage is due solely to the willful misconduct of Port or its officers, agents or employees. It is understood that Permittee shall take such steps as Permittee

may consider necessary to protect Permittee's trade equipment and other personal property from any damage that may be caused to same in the event of any failure or interruption of such utility service. Whenever the Port shall find it necessary for the purpose of making repairs or improvements to any utility supply system it shall maintain, it shall have the right to suspend temporarily the delivery of gas, electricity, water or other utility service, or any thereof, but in all such cases (except in the event of an emergency) reasonable notice of such suspension will be given to Permittee.

Permittee releases the Port from any present or future liability whatsoever and covenants not to sue the Port for damages or any other relief based directly or indirectly upon noise, light, vibrations, smoke, air currents, electronic or other emissions or flight (including overflight of the Assigned Space) occurring as a result of aviation or airport or airport related operations at or otherwise associated with the Airport, said release and covenant to include, but not be limited to claims (known or unknown) for damages for physical or emotional injuries, discomfort, inconvenience, property damage, death, interference with use and enjoyment of property, nuisance, or inverse condemnation or for injunctive or other extraordinary or equitable relief. It is further agreed that the Port shall have no duty to avoid or mitigate such damages by, without limitation, setting aside or condemning buffer lands, rerouting air traffic, erecting sound or other barriers, establishing curfews, noise or other regulations, relocating airport facilities or operations or taking other measures, except to the extent, if any, that such actions are validly required by governmental authority.

The Port and its Board and its officers, employees and agents shall not be liable to Permittee or to any third party claiming through Permittee for any loss of business or any indirect, incidental, special or consequential damages or lost profits arising out of or relating to this Permit or the operation of Permittee at the Airport or for any other cause.

Section 13. Insurance Requirements.

Section 13.1 Permittee shall, at its own cost and expense, commencing no later than the Commencement Date and thereafter throughout the Term of this Permit, purchase and maintain all of the insurance required by Paragraph G of this Permit and this Section 13, protecting Permittee, Port and its members (including, without limitation, members of the Board), officers, agents and employees, all of whom shall be named as Additional Insureds as required by Paragraph G, by endorsement, from and against any and all liabilities resulting from or arising out of Permittee's use or occupancy of the Assigned Space or the conduct of its operations under this Permit or on the Airport, in such form and with such companies that satisfy the requirements of Section 13.5 below and as Port may reasonably approve, with a combined single limit (or its equivalent) per occurrence of not less than the amount set forth in Paragraph G of this Permit, with a deductible approved in writing by the Port's Risk Manager in accordance with the requirements of Section 13.6 below, with a waiver of any right of subrogation that the insurer may have against Port; with contractual liability coverage for Permittee's covenants to and indemnification of the Port under this Permit, and with the insurance company obligated to use counsel acceptable to the Port Attorney in carrying out its obligations to the Port. This insurance shall provide that it is primary insurance as respects any other valid and collectible insurance Port may possess, including any self-insured retention or deductible Port may have, and that Port shall not be obligated to contribute to cover any loss, damage or liability. This insurance shall also provide that it shall act for each insured and each additional insured as though a separate

policy has been written for each; provided, however, that this provision shall not operate to increase the policy limits of the insurance.

Section 13.2 Permittee shall be required to maintain workers compensation insurance as required by the laws of California; provided, however, that Permittee may self-insure its workers compensation liability, subject to all applicable requirements of California law, together with employer liability insurance in the coverage amount of not less than the amount specified in Paragraph G.2 of this Permit.

Section 13.3 Permittee shall be required to maintain builder's risk insurance (during construction of all improvements) and All Risk or Special Form property insurance (including demolition and earthquake and flood coverage) covering the Assigned Space and all contents, furniture, fixtures and equipment and all improvements to the Assigned Space (excluding only paving, pilings, parking lot curbs and landscaping and foundations below the lowest surface of the ground), with an insured value in an amount equal to 100% of the full replacement costs of the Assigned Space and all contents and improvements to the Assigned Space, including any increased costs of construction resulting from changes in applicable building codes and regulations. The policy or policies shall state that Port is an additional insured and loss payee and that the insurer waives its right of subrogation against Port. Each policy shall be subject to the approval of Port, which approval shall not be unreasonably withheld.

Section 13.4 Unless Permittee's policy of property insurance contains a rental income endorsement insuring the payment of the monthly Rent for a period of not less than twelve (12) months, Permittee shall also be required to maintain business interruption insurance insuring that the Rent will be paid to Port for a period of not less than twelve (12) months if the Assigned Space is destroyed or rendered inaccessible by a risk insured against by the policy or policies of property insurance Permittee is required to maintain under Section 13.3 above. Said insurance shall provide that the insurer waives its rights of subrogation against Port. Permittee shall maintain on file with Port, commencing with the Commencement Date and thereafter throughout the Term hereof, an endorsement or endorsements evidencing said rental income or business interruption insurance. The cancellation and reduction provisions in Section 13.7 below shall also apply to business interruption insurance.

Section 13.5 All policies of insurance required by this Permit to be maintained by Permittee shall be issued by insurance carriers that are licensed to do business in California, and whose financial condition is acceptable to the Port, but in no event less than a Best rating of A+VII or better.

Section 13.6 Deductibles and self-insured retentions shall be permitted only at Permittee's written request and upon the prior written approval of the Port's Risk Manager, which approval may be granted or withheld in the Port's sole and absolute discretion and shall be subject to the following covenants and conditions:

- (a) Permittee agrees that for any such deductible or self insured retention amount, Permittee shall provide to the Port defense and indemnification at least equal to the defense and indemnification to which the Port would be entitled as an additional insured had Permittee provided the above specified coverages respectively under

Insurance Services Office form number GL 0001 0002 ed.1/73, and Insurance Services Office form number CA 0001 and CA 0404, or such other successor forms as may be deemed appropriate by the Port's Risk Manager from time to time, as evidenced by a written notice from Port to Permittee. It is understood that Permittee's agreement to provide such defense and indemnification to the Port includes cases where such defense and indemnification would be required under said insurance policy forms for claimed loss, damage, injury or death which was caused solely by the active or passive negligence or other wrongful conduct of the Port.

(b) Permittee agrees that it shall be reasonable in all cases for the Port to condition its approval of any deductible in excess of the first \$100,000 (“**unsecured amount**”) on Permittee's first depositing with the Port, as additional security deposit and subject to all of the other provisions of this Permit applicable to a security deposit, a sum determined by the Port up to the amount of the deductible or self insured retention in excess of the unsecured amount. The Port from time to time but no more frequently than once each year may, in its sole and absolute discretion, adjust the unsecured amount by the percentage increase, if any, between the last Index published before the Commencement Date and the last Index published. Such additional security deposit shall be in the form specified for the Performance Deposit under Section 21 below, but shall not be considered for purposes of increasing any performance or security deposit pursuant to provisions of this Permit other than this Section 13.6(b). The additional security deposit is solely for the benefit of the Port to secure Permittee's agreement in Section 13.6(a) above to defend and indemnify the Port.

Section 13.7 On or before the date provided in Section 13.1 above, and at least thirty (30) days prior to the expiration of any policy or policies theretofore provided hereunder by Permittee, Permittee shall cause a certificate or certificates of insurance to be furnished to Port evidencing all insurance coverage that Permittee is required to maintain under this Permit, and such certificate shall provide that the policy or policies will not be cancelled nor the limits thereunder materially changed without first providing at least thirty (30) days' prior written notice thereof to Port. At the Port's request, copies of all required insurance policies will be provided to Port.

Section 13.8 Permittee shall also require its contractors (i) to maintain the following insurance: General Liability (\$5,000,000), and Automobile Liability (\$5,000,000), (ii) to obtain a waiver of subrogation against the Port in such contractor's worker's compensation policy, and (iii) to provide Port with evidence reasonably acceptable to Port that such contractor has complied with the provisions of this Section 13.8.

Section 13.9 Permittee hereby waives any right which it might have against Port on account of any loss or damage occasioned to Permittee arising from any risk covered by the insurance that Permittee is required to carry under this Permit or covered by any other insurance maintained by Permittee insuring the Assigned Space, its contents or any improvements thereto.

Section 13.10 Port reserves the right, during the Term of this Permit, to reasonably amend the monetary limits or coverages herein specified, but in so doing will give Permittee at least thirty (30) days prior written notice.

Section 14. Assignment and Licensing.

Section 14.1

(a) Permittee shall not at any time, in any manner, either directly or indirectly, voluntarily or involuntarily, assign, hypothecate, encumber or transfer this Permit or any interest in this Permit or right granted by this Permit, or license or sublicense the use of same, or permit or suffer any other person or entity to occupy, use or manage (except management by Permittee's employees) the same, in whole or in part, without the prior written consent of the Port evidenced by resolution of its Board, which consent may be withheld in the Port's sole and absolute discretion.

(b) Except as hereinafter in this Section 14 expressly provided, no modification of any assignment or other transfer after the Port's initial consent shall be effective without the prior written approval of the Port, by resolution of its Board if required under the circumstances. In case of a transfer by reason of death the transferee shall notify the Port in writing of the transfer within 60 days after the death.

(c) Neither this Permit nor any interest therein or right granted thereby shall be assignable or transferable in proceedings in attachment, garnishment or execution against Permittee, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Permittee or by any process of law, and possession of the whole or any part of the Assigned Space shall not be divested from Permittee in such proceedings or by any process of law, without the prior written consent of the Port evidenced by resolution of its Board, which consent may be withheld in the Port's sole and absolute discretion.

(d) Any breach of the provisions of this Section 14 shall constitute a default and shall cause this Permit to terminate immediately at the option of the Port after not less than 10 days' written notice to Permittee.

(e) The Port's consent to or waiver of its option to terminate this Permit in the event of a default on account of any assignment, transfer, occupation or use requiring prior written Port consent shall not be construed or deemed to be a waiver of the restrictions hereinabove contained or to be a consent to or waiver of objections to any subsequent assignment, transfer or occupation or use by another person.

Section 14.2 Permittee and the Port acknowledge and agree that the rights retained by and granted to the Port pursuant to this Section 14 constitute a material part of the consideration for entering into this Permit and constitute a material and substantial inducement to the Port to enter into this Permit at the rental, for the terms, and upon the other covenants and conditions contained in this Permit, and that the acceptability of Permittee, and of any assignee or other transferee of any right or interest in this Permit, involves the exercise of broad discretion by the Port in promoting commerce, navigation and shipping in the Port area of the City. Therefore, Permittee agrees that the Port may condition its consent, if required hereunder, to a proposed assignment, to such provisions as are reasonable to protect the rights and interest of the Port hereunder and to assure promotion of aviation, commerce, navigation and shipping.

Section 14.3 Permittee agrees that its personal business skills and philosophy were an important inducement to the Port for entering into this Permit and that the Port may reasonably object to the transfer of the Permit to another whose proposed use, while a Permitted Use, would involve a different quality, manner or type of business skills and experience than that of Permittee, or which would result in the imposition upon the Port of any new or additional requirements under the provisions of any applicable Laws.

Section 14.4 Permittee agrees that as a condition to the Port's consideration of any request by Permittee for approval of any assignment or other transfer of this Permit, that Permittee shall deliver to the Port a nonrefundable processing fee of not less than \$2,500.00. The Port within 10 days of receipt of said fee may give to Permittee notice that said fee shall be increased by a sum, not to exceed an additional \$2,500.00, that the Port in its sole and absolute discretion determines is necessary to cover the anticipated Port administrative costs and expenses, including labor, in processing and investigating Permittee's request. In addition, if the Port determines in its sole and absolute discretion that it requires either an environmental assessment of the Assigned Space (consisting of but not limited to visual inspection, historical or document review and/or subsurface investigation) and/or environmental documentation or reports in connection with such proposed assignment or other transfer of this Permit, Permittee shall reimburse the Port for all reasonable costs incurred by the Port in connection therewith (including but not limited to internal Port costs incurred in connection with such environmental assessment). Permittee agrees that unless and until said fee, and any requested additional fee, is delivered to the Port, Permittee shall be deemed to have made no request to the Port to the assignment or other transfer of this Permit. The minimum and maximum fees shall be adjusted upon the commencement of each successive year of this Permit, in the same percentage as the change in the last Index published prior to the date of each succeeding one year period from the last such Index published prior to the Commencement Date, in the case of the first such adjustment, and thereafter from the last such Index published prior to the date on which the last such adjustment became effective; provided that in no event shall the adjusted fees be less than the theretofore existing fees.

In addition, Permittee's request for consent to any proposed assignment or other transfer shall not be deemed to have been submitted to the Port unless and until Permittee, except as and to the extent excused by the Port in its sole and absolute discretion, shall have submitted to the Port, in writing, the following information and documents:

- (a) The name of the proposed assignee or other transferee ("**assignee**");
- (b) The nature of proposed assignee's business to be carried on under this Permit.
- (c) A copy of the proposed assignment or transfer, and a description of the full consideration for such assignment or transfer;
- (d) A balance sheet of the proposed assignee as of a date within at least 90 days of the request for the Port's consent;
- (e) Audited financial statements of the proposed assignee (or the principals thereof, in the case of a newly formed entity) for the 2 year period preceding the request

for the Port's consent, certified by an independent certified public accountant, and unaudited financial statements for any stub period preceding the request for the Port's consent, or if they are not available, unaudited financial statements for such periods certified by the chief financial officer of the proposed assignee (or the principals thereof, in the case of a newly formed entity);

(f) A statement in reasonable detail as to the business experience of the proposed assignee (or the principals thereof, in the case of a newly formed entity) during the 5 year period preceding the request for the Port's consent;

(g) A copy of the proposed assignee's business and marketing plan;

(h) A copy of the Industry Agreement, signed by the proposed assignee, if the proposed use of the Assigned Space is for Permitted Uses;

(i) Permittee's certificate certifying to the best of its knowledge (i) that this Permit is unmodified and in full force and effect (or, if there have been modifications, that this Permit is in full force and effect, as modified, and stating the modifications), (ii) the commencement and expiration dates of the Permit Term and the dates, if any, to which the Rent has been paid, (iii) whether there are then existing any charges, offsets or defenses against the enforcement by the Port or Permittee of any agreement, covenant or condition hereof on the part of the Port or Permittee to be performed or observed (and, if so, specifying the same), and (iv) whether there are then existing any defaults by the Port or Permittee in the performance or observance by the Port or Permittee of any agreement, covenant or condition hereof on the part of the Port or Permittee to be performed or observed and whether any notice has been given to the Port or Permittee of any default which has not been cured (and, if so, specifying the same); and

(j) Such other information and documents relating to the proposed assignee's business, experience and finances as the Port may reasonably request.

Section 14.5 It is understood and agreed that the Port's consent to a requested assignment or other transfer, shall be conditioned upon the Port's receipt of each of the following:

(a) In the case of a proposed assignment, a full and complete executed copy of all documents to effectuate the assignment, together with a document in recordable form whereby the proposed assignee shall expressly assume all the covenants and conditions of this Permit and shall be in a form acceptable to Port.

(b) In the case of any other proposed transfer, a full and complete executed copy of all documents to effectuate the transfer, which documents shall incorporate directly or by reference all of the provisions of this Permit.

Section 14.6 Unless otherwise provided by resolution duly adopted by the Board in its sole and absolute discretion, no assignment or any activity under this Permit or on the Assigned Space by any person other than Permittee, even with the Port's consent, shall relieve Permittee of its rental or other obligations of any nature whatsoever (including but not limited to

indemnification and environmental obligations) hereunder, and Permittee shall continue to be liable as a principal and not as a guarantor or surety, to the same extent as though no assignment, and no such activity under this Permit or on the Assigned Space by any person other than Permittee, had been made or occurred, and as though all conduct of the assignee or such other person was Permittee's conduct. Specifically, in case of any assignment, the following shall apply, unless otherwise provided in such resolution of the Board:

(a) Permittee shall be and remain liable as a principal, without the necessity of any suit or proceedings on Port's part of any kind or nature whatsoever against Permittee and without the necessity of any notice of nonpayment, nonperformance, non-observance or default to which the Permittee might otherwise be entitled, all of which the Permittee hereby expressly waives. Permittee hereby expressly agrees that the validity of Permittee's said liabilities as a principal hereunder shall not be terminated, affected, diminished or impaired by reason of the assertion or the failure to assert by Port against any assignee of any of the rights or remedies reserved to the Port pursuant to the provisions of the Permit or by the relief of any assignee from any of the assignee's obligations under the Permit or otherwise by (x) the release or discharge of any assignee in any creditors' proceedings, receivership, bankruptcy or other proceedings, (y) the impairment, limitation or modification of the liability of any assignee or the estate of any assignee in bankruptcy, or of any remedy for the enforcement of any assignee's liability under the Permit, resulting from the operation of any present or future provision of the 2005 Bankruptcy Reform Act or other statute or from the decision in any court; or (z) the rejection or disaffirmance of the Permit in any such proceedings. The liability of Permittee as a principal shall in no way be affected, modified or diminished by reason of any assignment, amendment, renewal, supplement, modification or extension of the Permit or by reason of any modification or waiver of or change in any of the terms, covenants, conditions or provisions of the Permit, or by reason of any extension of time that may be granted by Port to any assignee or a changed or different Permitted Uses under this Permit consented to in writing by the Port, or by reason of any dealings or transactions or matters or things occurring between Port and any assignee whether or not notice thereof is given to Permittee; and

(b) The Port's consent to any further assignment or assignments, and successive assignments by any assignee and the assignee's assigns of the Permit, made either with or without notice to the Permittee, shall in no manner whatsoever release the Permittee from any liability as principal.

Section 14.7 For purposes of this Section 14, an assignment shall include, if the Permittee is a corporation, a limited liability company or other state-chartered entity, any dissolution, merger, consolidation or other reorganization of Permittee, or (unless Permittee is a corporation whose stock is publicly traded) the sale, issuance or other transfer of a controlling percentage of the capital stock or other units representing ownership interests of Permittee, or the sale of more than 35% of the value of the assets of Permittee whether in one conveyance or cumulatively in the aggregate in more than one conveyance. The phrase "controlling percentage" means the ownership of and the right to vote, stock or other units representing ownership interests possessing at least 35% of the total combined voting power of all classes of Permittee's capital stock issued, outstanding, and entitled to vote for the election of directors, or

at least 35% of the total combined voting power of all classes of other units representing ownership interests entitled to vote for the election of managers or entitled to vote on management matters of an entity managed by its members. If Permittee is a joint venture or a limited or general partnership, an assignment for purposes of this Section 14 shall include a withdrawal, or change, voluntary, involuntary, or by operation of law, of any general partner, or of any limited partner owning more than 35% of the limited partnership interests in that limited partnership, or a dissolution of Permittee or any general partner of Permittee, or a change in control of any general partner of Permittee or a change in control of any limited partner of Permittee owning more than 35% of the limited partnership interests in Permittee. If Permittee is a limited liability company, an assignment for purposes of this Section 14 shall include a change in the manager (or a change in control of the manager), if such entity is manager managed, or a transfer of an interest in the limited liability company that results in a change in control of such entity, if such entity is member managed. If a “controlling percentage” of Permittee is owned by another entity, or if another entity otherwise controls Permittee (such entity is hereafter the “Parent”), then an assignment for purposes of this Section 14 shall include any transaction involving the Parent that would have been an assignment for purposes of this Section 14 if that transaction had involved Permittee.

Section 14.8 Permittee shall indemnify and defend Port for, from and against any and all Losses which arise as a result of Permittee’s failure to disclose any relevant information about the Assigned Space to any assignee of the Permittee.

Section 14.9 In the event that Permittee assigns this Permit, as a reasonable condition to the Port’s consent to such assignment, Permittee shall pay to the Port fifty percent (50%) of any Bonus Value, as hereafter defined. “Bonus Value” means all consideration payable by or on behalf of an assignee to Permittee (including key money, bonus money and any payment in excess of fair market value for (i) services rendered by Permittee to or on behalf of an assignee or (ii) for assets, fixtures, inventory, equipment, furniture or improvements transferred by Permittee to or on behalf of an assignee in connection with an assignment). If the parties have not reached agreement on the applicable Bonus Value within thirty (30) days after the Port’s written request, then such fair market value shall be determined as follows: Each party, at its cost and by giving notice to the other party, shall appoint a real estate appraiser with experience appraising airport property to appraise and submit an opinion separately stating such fair market value. If a party does not appoint an appraiser within ten (10) days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall be the sole appraiser and that appraiser’s opinion of such fair market value shall be conclusive on the parties. If the two appraisers are appointed by the parties as stated in this Section, they shall meet promptly and attempt to select a third appraiser meeting the qualifications stated in this subsection within ten (10) days after the last day the two appraisers are appointed. If they are unable to agree on the third appraiser, either of the parties to this Permit by giving ten (10) days’ written notice to the other party may apply to the American Arbitration Association for the selection of a third appraiser who meets the qualifications stated in this Permit. Each of the parties shall bear one half of the cost of appointing the third appraiser and one half of the third appraiser’s fee. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for either party. Within sixty (60) days after the selection of the third appraiser, each of the appraisers shall submit to each party the appraiser’s report and opinion stating such fair market value, and the median opinion shall be the opinion used under this subsection. All appraisers

appointed under this Section 14 shall hold the MAI designation of the American Institute of Real Estate Appraisers or its successor organization.

Section 15. Default. Permittee will be in default under this permit in the event that Permittee shall fail to remit any payment due to Port under Paragraph E of this Permit, or shall fail to submit any financial report required to be submitted in connection therewith, within five (5) days after the due date thereof, or shall violate any of the provisions of Section 14 above, or shall fail, within the applicable time period provided in Section 21 below, to post any additional performance deposit required thereunder, or shall violate any of its obligations under Attachment "B" to this Permit, or shall fail to perform or observe any term or condition of this Permit which, because of its character, would immediately jeopardize the Port's operations or expose the Port to liability (such as, but without limitation, any failure to carry required insurance or any action that would subject the Port to liability or present a safety or security hazard), or would constitute a violation of the security or public safety requirements of this Permit or any applicable Federal Aviation Regulation, including without limitation 14 CFR Parts 107 or 108, or Transportation Security Regulations, 49 CFR, Chapter XII, Parts 1500, et seq., or should any representation or warranty made in Permittee's bid pursuant to which this Permit was awarded or any affidavit, certificate or other attachment to such bid prove to be false or incorrect in any material respect, or should Permittee abandon and cease to use the Assigned Space for a period of thirty (30) consecutive days, or the failure by Permittee to observe or perform any of the provisions of the Permit, which failure shall continue for a period of five (5) days after written notice from Port to Permittee (which notice shall be in lieu of, and not in addition to, any notices required under Section 1161 of the California Code of Civil Procedure or any similar or successor law), or if Permittee shall fail three (3) times within any period of one hundred eighty (180) consecutive days to fulfill any of its obligations under this Permit, which failure is set forth in a written notice from Port to Permittee, whether or not such failure is corrected within any applicable grace period provided in this Permit, or in the event that Permittee or any of its officers, employees, agents, invitees or licensees violates any other term, covenant or condition of this Permit and (except where otherwise expressly provided in this Permit) such violation continues for ten (10) days after Port has given written notice thereof to Permittee, or if Permittee commits an Event of Default under any other agreement between Permittee and Port, or if Permittee makes a general arrangement or assignment for the benefit of creditors or becomes a "debtor" as defined in 11 U.S.C. § 101 or any successor statute (unless in the case of a petition filed against Permittee, the same is dismissed within sixty (60) days), or if a trustee or receiver is appointed to take possession of substantially all of Permittee's assets located in the Assigned Space or of Permittee's interest in this Permit, where possession is not restored to Permittee within thirty (30) days.

On the occurrence of any such default, Port, in addition to its other remedies available under the terms of this Permit or pursuant to law or in equity, may at any time thereafter, with or without notice or demand and without limiting Port in the exercise of any right or remedy which Port may have by reason of such default or breach:

- (a) Terminate Permittee's right to possession of the Assigned Space by any lawful means, in which case this Permit shall terminate and Permittee shall immediately surrender possession of the Assigned Space to Port. In such event Port shall

be entitled to recover from Permittee all damages incurred by Port by reason of Permittee's default including, but not limited to,

(i) The worth at the time of award of the unpaid Rent and any other sums equivalent to rent required to be paid by Permittee under this Permit that had been earned at the time of termination;

(ii) The worth at the time of award of the amount by which the unpaid Rent and any other sums equivalent to rent required to be paid by Permittee under this Permit that would have been earned after termination until the time of award exceeds the amount of such loss of Rent that Permittee proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid Rent and any other sums equivalent to rent required to be paid by Permittee under this Permit for the balance of the Term after the time of award exceeds the amount of such loss of Rent that Permittee proves could have been reasonably avoided; and

(iv) Any other amounts permitted by law to compensate the Port for detriment caused by Permittee's default or which in the ordinary course of events would be likely to result therefrom, including, but not limited to, the costs and expenses incurred by the Port (A) in retaking possession of the Assigned Space, (B) in cleaning and making repairs of and alterations to the Assigned Space reasonably necessary to return the Assigned Space to good condition for the Permitted Uses and in otherwise preparing the Assigned Space for reletting, (C) in removing, transporting, and storing any of Permittee's property left at the Assigned Space although the Port shall have no obligation to remove, transport, or store any of such property, and (D) in reletting the Assigned Space, including, but not limited to, brokerage commissions, advertising costs, and attorney fees.

The "worth at the time of award" of the amounts referred to in items (i) and (ii) immediately above is computed by allowing interest at the maximum rate permitted by law. The "worth at the time of award" of the amount referred to in item (iii) immediately 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 one percent (1%).

(b) Avail itself of the remedy described in California Civil Code Section 1951.4 (Port may continue Permit in effect after Permittee's breach and abandonment and recover rent as it becomes due, if Permittee has right to sublet or assign, subject only to reasonable conditions or limitations). If such conditions or limitations become unreasonable, Port may waive such conditions or limitations and continue to avail itself of this remedy.

(c) In case of abandonment or vacating of the Assigned Space by Permittee, if the Port elects not to terminate the Permit, Permittee hereby irrevocably appoints the

Port the agent of Permittee to enter upon the Assigned Space and remove any and all persons and/or property whatsoever situated upon the Assigned Space, and place all or any portion of said property in storage for account of and at expense of Permittee. In such case the Port may relet the Assigned Space upon such terms as to it may seem fit, and if a sufficient sum shall not thus be realized after paying all expenses enumerated in items A, B, C, and D in subsection (a)(iv) of this Section 15 to satisfy the Rent and other sums herein agreed to be paid, Permittee agrees to satisfy and pay any deficiency, and to pay such expenses. Permittee hereby exempts and agrees to save harmless the Port from any Losses arising out of or caused (except to the extent caused solely by the gross negligence or intentional misconduct of the Port or its agents or contractors) by any such entry or re-entry upon said Assigned Space and/or the removal of persons and/or property and storage of such property by the Port or its agents, using defense counsel acceptable to the Port Attorney.

(d) Pursue any other remedy now or hereafter available to Port at law, in equity, or under any judicial decision of the State of California.

Permittee hereby expressly waives any notice of default from Port not expressly provided for in this Permit as a prerequisite to surrender of possession of the Assigned Space. Any partial payment of any payment due to Port under this Permit from Permittee and accepted by Port shall not render ineffective any notice given by Port to Permittee pursuant to the terms of this Permit or California Code of Civil Procedure Section 1161, et. seq., or any successor statute thereto.

Section 16. End of Term. In addition to the requirements set forth in Attachment "C" hereof, upon expiration, termination or cancellation of this Permit, Permittee shall, at the Port's option, and at Permittee's sole cost and expense, remove any structures, buildings, fuel dispensing facilities and other improvements (but only if such improvements were constructed on the Assigned Space by Permittee), as the Port shall direct in writing. The Permittee shall not be required under this paragraph to remove paving and fill material. Except for paving and fill material, Permittee shall restore the Assigned Space to the condition in which it existed prior to the construction or erection of such buildings, structures and other improvements required to be removed by Permittee pursuant to this Section, or to such other condition as may be mutually agreed upon by Permittee and the Port. Title to improvements, equipment, furnishings and trade fixtures not required to be removed by Permittee under this Section, not removed pursuant to Section 2.9 above, and not already vested in Port shall automatically pass to and vest in the Port in the same condition as existed upon beneficial occupancy, reasonable wear and tear excepted. Title to improvements on the Assigned Space upon the commencement of the term of the Permit is retained by the Port. No improvements shall be removed from the Premises by Permittee at any time without the prior written consent of the Port. Title to all work placed by Permittee upon the Premises at its expense shall remain in Permittee, and replacements, substitutions and modifications thereof may be made by Permittee throughout the term of this Permit, and Permittee may remove the same before termination of this Permit if Permittee is not then in default under this Permit; provided that before termination of the Permit, Permittee shall repair to the satisfaction of the Port any damage to the Premises caused by such removal and, provided further, that at the Port's option, usual and customary lighting, plumbing, wall-to-wall carpeting, window coverings, air conditioning and heating fixtures shall remain upon the Premises and be surrendered therewith upon termination of this Permit at which time title thereto (if not already

vested in the Port) shall pass to the Port. Permittee's obligations under this Section 16 shall survive the expiration or earlier termination of the Term.

Section 17. Holding Over.

Section 17.1 If Permittee or any assignee or subpermittee thereof continues to occupy the Assigned Space after the expiration or earlier termination of the Term and Port has not objected thereto, such holding over shall be deemed a month to month license terminable on thirty (30) days notice given by either party (the "**Hold-Over Permit**") on the same terms and conditions as provided in this Permit, except (a) the Minimum Annual Guaranty and the Percentage Fees applicable to the Assigned Space shall be fixed by the Director from time-to-time by giving Permittee written notice thereof at any time not less than seven (7) days before the expiration of any monthly period, to be effective at the expiration of such month, and (b) the Director, upon thirty (30) days written notice to Permittee, may change any of the other terms and conditions of the Hold-Over Permit.

Section 17.2 Notwithstanding the foregoing, nothing contained in this Permit shall give Permittee any right to occupy the Assigned Space at any time after the expiration or earlier termination of the Term. Permittee acknowledges and agrees that upon such expiration or termination, it shall not be entitled to any relocation assistance, payment or other benefits pursuant to the provisions of Title 1, Division 7, Chapter 16, of the Government Code of the State of California (Sections 7260, et seq.), pursuant to 42 USC § 4601-4655 (Uniform Relocation Assistance and Real Property Acquisition Policies Act), or pursuant to any other laws or regulations with respect to any relocation of its business or activities upon the expiration of the Term or upon the termination of any holdover tenancy pursuant to this Section 17, and Permittee hereby waives and releases to Port all rights, if any, to which Permittee may be entitled under said provisions or other law or regulations.

Section 17.3 If Permittee or any assignee or subpermittee thereof shall continue to occupy the Assigned Space after the expiration or earlier termination of the Term and Port has objected thereto, then Port shall be entitled to double the Rent specified in Paragraph E of this Permit, and acceptance by Port of any sums after any such objection shall not constitute a renewal of this Permit or a consent to such occupancy, nor shall it waive Port's right of re-entry or any other right available to it under the laws of California or the provisions of this Permit.

Section 17.4 If Percentage Fees were payable during the Term of this Permit, Permittee shall continue to be obligated to pay Percentage Fees during any period that Permittee or any assignee or subpermittee thereof continues to occupy the Assigned Space after the expiration or earlier termination of the Term.

Section 18. Notices, Approvals and Consents. Any notice, approval or consent permitted or required to be given to Permittee hereunder or under applicable law (including, but not limited to, California Code of Civil Procedure Section 1162) shall be in writing and delivered either by hand to the Assigned Space, or by nationally recognized overnight courier service, or by U.S. Certified Mail, Return Receipt Requested, postage prepaid, to Permittee's address contained in Paragraph A of this Permit or to such other address in the United States as Permittee may, by written notice to Port given in accordance with the requirements of this Section, direct from time

to time. Any notice permitted or required to be given to Port hereunder shall be in writing and delivered either by hand to the Office of the Manager, Airport Properties Department, Oakland International Airport, Oakland, California, provided Permittee obtains a written acknowledgment of receipt therefor from Port, or by nationally recognized overnight courier service, or by U.S. Certified Mail, Return Receipt Requested, postage prepaid, addressed as follows:

Manager, Airport Properties Department
Oakland International Airport
9532 Earhart Road, Suite 201
Oakland, California 94621

with a copy to:

Port Attorney
Port of Oakland
530 Water Street
Oakland, California 94607

or such other address as Port may, by written notice to Permittee given in accordance with the requirements of this Section, direct from time to time.

Port agrees that all notices or other communications that it gives to Permittee under this agreement shall also be given to the Committee at the following set forth on paragraph 6 of Exhibit "1".

Any such notice, approval or consent shall be deemed given on receipt (or when delivery is refused) if delivered by hand or three (3) days after mailing, provided such hand delivery or mailing was made in accordance with the requirements of this Section 18.

Section 19. Sums Paid by Port. If Port has paid any sum or sums or has incurred any obligation or expense which Permittee has agreed to pay or reimburse Port for, or if Port is required or elects to pay any sum or sums or incurs any obligation or expense because of the failure, neglect or refusal of Permittee to perform or fulfill any of the terms or conditions of this Permit, then the same shall be deemed additional rent due hereunder and Permittee shall reimburse Port therefor promptly upon demand, with interest as provided in Section 20 below.

Section 20. Delinquency Charge. Any sum payable by Permittee to Port under any provision of this Permit which is not paid for a period of 10 calendar days (30 calendar days for unpaid sums for utilities) after it becomes due and payable shall be subject to a delinquency charge, for violation of this Permit and as liquidated damages, of \$50.00 plus a sum equal to 0.05% (five one hundredths of one percent) per day of such delinquent payment, but not to exceed the maximum interest rate permitted by applicable law, for each day from the date such payment became due and payable until payment has been received by Port. Unpaid delinquency charges that accrue may be compounded monthly at the Port's sole election. The delinquency charges provided by this Section 20 are in addition to all other remedies that Port may have that are provided by this Permit or otherwise by law or in equity with respect to any payment that has become due and has not been paid. The Port as a courtesy may send invoices to Permittee for

Rent hereunder, but the Port's failure to send an invoice, or Permittee's late receipt of an invoice, shall in no event excuse or justify Permittee's non-payment of such Rent or payment of such Rent later than the applicable due date specified in Paragraph E of this Permit.

Section 21. Performance Deposit.

Section 21.1 In the event that a Performance Deposit is required under Paragraph F of this Permit, Permittee shall deposit the Performance Deposit with Port not less than ten (10) days after receipt of written notice from the Port specifying the amount of such Performance Deposit, which sum (and any additions thereto required hereunder) shall be by cash or irrevocable letters of credit, each in a form and from an issuer acceptable in Port's sole discretion. Any letter of credit provided as a Performance Deposit must be in the form of the letter of credit attached hereto as Exhibit "4", or such successor form as Port may from time to time require by written notice to Permittee, and shall be drawn on a bank located within the continental United States acceptable to the Port's Deputy Executive Director Financial Services. The Port's preference is for Permittee to provide a letter of credit that can be drawn at a site or counter of such a bank with a branch office located in Oakland or San Francisco, California. Unless the Port receives a written extension or replacement of the letter of credit at least ninety (90) days before the end of the term of the letter of credit, the Port without notice to Permittee, may draw on the letter of credit and retain all proceeds as a cash Performance Deposit pursuant to the terms of this Section 21. The Performance Deposit shall be retained by Port as security for the faithful performance of Permittee's obligations hereunder and under any other agreement between Port and Permittee. Permittee shall be obligated, within fifteen (15) days after Port's written demand, to increase the amount of the Performance Deposit by the same percentage increase, if any, in the amount of the Minimum Annual Guaranty, determined pursuant to Paragraph E of this Permit, or to such greater amount required by the Airport Rules, Policies and Regulations. Port shall have the right, but not the obligation, to apply said Performance Deposit to the payment of any sum due to Port which has not been paid, including, but not limited to, reimbursement of any expenses incurred by Port in curing any default of Permittee, or to the cost of restoring the Assigned Space or its furnishings, fixtures or equipment to their original condition, reasonable use and wear excepted, or to Port's future rent damages arising out of the termination of this Permit because of Permittee's default. In the event that all or any portion of the Performance Deposit is so applied, Permittee shall be obligated, within five (5) days after Port's written demand, to remit to Port the amount required to restore the Performance Deposit to the full amount required by this Section 21. If said Performance Deposit shall not have been applied for any of the foregoing purposes, it shall be returned to Permittee, without interest, within ninety (90) days after the end of the Term or the end of any hold-over as described in Section 17 above, whichever is later (as such ninety (90) day period may reasonably be extended by Port by written notice to Permittee to allow Port to determine if Permittee has satisfied all of its obligations under Attachment "C" to this Permit). The Port will not pay any interest on the Performance Deposit. Permittee hereby expressly waives the protections of California Civil Code Section 1950.7 to the extent that such Section (i) provides that the Performance Deposit can be applied only to remedy certain defaults by Permittee, (ii) require that all or any unused portion of the Performance Deposit must be returned to Permittee within a specified period of time or (iii) is otherwise inconsistent with this Section 21, it is being the Parties intention that this Section 21 shall be controlling.

Section 21.2 In the event that Permittee has another agreement or other agreements with the Port that requires or require Permittee to maintain a deposit with the Port, Permittee, at its election may satisfy the deposit requirements with a single non-cash deposit in the form acceptable to the Port, provided that: (i) the deposit instrument describes each agreement to which it is intended to apply, (ii) the deposit amount is not less than the aggregate of deposit requirements for all of the agreements to which the instrument applies and (iii) if the deposit is insufficient to satisfy the requirements of any of the agreements to which it applies, the Permittee shall be in default of each and every agreement to which the deposit applies.

Section 22. Brokerage Commissions Unless otherwise expressly provided in a written addendum to this Attachment “A” executed by Permittee and Port, Permittee warrants that no real estate commission is payable by Port to any person or entity in connection with this Permit, and Permittee hereby agrees to indemnify, defend and hold Port completely harmless from and against any and all liabilities, costs and expenses (including all costs for investigation and defense thereof, including, but not limited to, court costs, expert fees and paralegal and attorneys’ fees prior to institution of legal proceedings and at both trial and appellate levels, and in any mediation or arbitration agreed to by Port) incurred by Port as a result of any claims therefor.

Section 23. Port’s Reserved Rights.

Section 23.1 Port reserves the right for itself and others to utilize and maintain existing utility easements over, under, across and through the Assigned Space, and to run water, electrical, telephone, gas, drainage, communications and other lines over, under, across and through the Assigned Space and to grant necessary utility easements therefor. Port shall also have the right, at any time and from time to time, to cause maintenance to be performed and repairs to be made in and to the Assigned Space and the Port’s fixtures, equipment and mechanical systems located therein. The Port also reserves to itself and the right to grant to others in the future nonexclusive easements over outside portions of the Assigned Space for purposes of access to adjacent Port property (including, without limitation, access to improvements owned by others such as buildings owned by Port tenants on Port land and access for purposes such as maintenance, installation or repair of utilities, use of restrooms, and construction, maintenance, repair, replacement or reconstruction of improvements or facilities located on such Port property). The Port also reserves the exclusive right to use all areas of the Airport not comprising the Assigned Space, and the exterior walls and roofs of the Assigned Space, 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 Assigned Space. This reservation in no way affects Permittee’s maintenance obligations under this Permit.

Section 23.2 Permittee acknowledges that the Port has made no representations or warranties to Permittee regarding the location of airlines or pedestrian traffic, or the design, construction or location of security check points or other improvements in the terminal facilities at the Airport. Port reserves the right (a) to further develop, improve, repair and alter the Airport and all roadways, parking areas, terminal facilities, landing areas and taxiways as it may see fit, free from any and all liability to Permittee for loss of business or damages of any nature whatsoever to Permittee occasioned during the making of such improvements, repairs, alterations

and additions, including but not limited to any damages resulting from negligence of Port or its employees, agents or contractors, and (b) to establish such fees and charges for the use of the Airport by Permittee and all others as Port may deem advisable, including, without limitation, parking charges to Permittee, its customers and employees and to Permittee's vendors making deliveries to Permittee anywhere on the Airport.

Section 23.3 Permittee acknowledges that construction on the roads and other portions of the Airport during the Term may temporarily disrupt Permittee's use of the Assigned Space. Permittee agrees that Port will not be required to pay or credit any sums to Permittee to reimburse Permittee for any disruption or loss of use of the Assigned Space, and that there will be no abatement in the Rent or other amounts payable by Permittee to Port under this Permit.

Section 23.4 Permittee covenants and agrees that this Permit shall be subject and subordinate to the provisions of any rights of the United States in the land subject to this Permit and any existing or future agreement between Port and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds or the Port's right to impose or use Passenger Facility Charges ("PFC's") for the development or operation of Airport. In the event that the Federal Aviation Administration or its successors shall require any modifications to this Permit as a condition precedent to the granting of such federal funds or the Port's right to impose or use PFC's, Permittee shall promptly consent in writing to such modifications.

Section 23.5 Port may, at any time and from time to time, using Port personnel, or using an outside audit firm designated by the Port's Chief Audit Officer, conduct an audit of Permittee's operations at the Airport (in addition to Port's audit rights provided elsewhere in this Permit) to confirm that such operations comply with the requirements of this Permit. Permittee shall cooperate fully with the Port in such audit and shall require all of its authorized subpermittees to fully cooperate in such audit. If such audit shows that Permittee is not complying with any of such requirements, then without limiting Port's rights under Sections 10 and 15 above, Permittee shall promptly remedy any noncompliance shown in such audit, and Port may require Permittee to reimburse Port for all of its costs of such audit.

Section 24. Discrimination Not Permitted. During the performance of this Permit, Permittee agrees to comply with its obligations set forth on Attachment "B" to this Permit, which is incorporated herein by this reference.

Section 25. Federal Aviation Administration Requirements.

Section 25.1 Permittee shall comply with all applicable regulations of the Federal Aviation Administration and the Transportation Security Administration relating to Airport security and shall control the Permitted Uses and the Assigned Space so as to prevent or deter unauthorized persons from obtaining access to the air operations area of the Airport.

Section 25.2 Port reserves unto itself, and unto its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft through the airspace above or adjacent to the surface of the Assigned Space, together with the right to cause in said airspace such noise, light, vibrations, smoke, air currents, electronic or other emissions, discomfort,

inconvenience, interference with use and enjoyment, and any consequent reduction in market value which may occur directly or indirectly as a result of or as may be inherent in the operation of aircraft now known or hereafter used, and for navigation of or flight in the said airspace, and use of said airspace for landing on, taking off from or operating on the Airport. Permittee accepts this Permit and the Assigned Space subject to the risks and activities herein described.

Section 25.3 Permittee expressly agrees, on behalf of itself and its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Assigned Space in compliance with the requirements of Federal Aviation Regulations, 14 CFR Part 77. In the event the aforesaid covenants are breached, the Port reserves the right to enter upon the Assigned Space and to remove the offending structure or object and cut the offending natural growth, all of which shall be at the expense of Permittee.

Section 25.4 Permittee agrees to require any lights in the Assigned Space to be constructed, focused or arranged in a manner that will prevent them from casting their beams in an upward direction so as to interfere with the vision of pilots in aircraft landing at or taking off from the Airport.

Section 25.5 Permittee expressly agrees, on behalf of itself and its successors and assigns, to prevent any use of the Assigned Space which would interfere with or adversely affect the operation or maintenance of the Airport, or which would otherwise constitute a hazard or nuisance at the Airport.

Section 25.6 Permittee agrees that it will not exercise or grant any right or privilege which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any service (including, but not limited to maintenance and repair) on its own aircraft with its own employees that it may choose to perform. This Permit confers no right on Permittee or any other person, firm or corporation to fuel aircraft at the Airport.

Section 25.7 This Permit and all the provisions hereof shall be subject to whatever right the United States Government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

Section 25.8 It is understood and agreed that this Permit to use the Assigned Space, as provided herein, extends only to the Assigned Space and does not extend to the use of or access to the ramps, taxiways, or landing areas of the Airport. It is also understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 40103(e)). This Permit shall be subordinate to the provisions and requirements of any existing or future agreements between the Port and the United States, relative to the development, operation or maintenance of the Airport.

Section 26. Environmental Responsibilities. During the performance of this Permit, the Permittee agrees to comply with its obligations set forth on Attachment "C" to this Permit, which is incorporated herein by this reference.

Section 27. Prevailing Wage Requirements. During the performance of this Permit, Permittee agrees to comply with its obligations set forth on Attachment “D” to this Permit, which is incorporated herein by this reference.

Section 28. Emergency and Public Contacts. At all times during the Term, Permittee shall maintain a twenty four (24) hour per day, seven (7) day per week, person and telephone number by which Airport Operations can contact Permittee. Permittee shall provide Port with written notice of such name(s) and number(s) and of any changes thereto.

Section 29. No Accord and Satisfaction. No payment by Permittee or receipt by Port of a lesser amount of any sum due hereunder, shall be deemed to be other than on account of the earliest due rent or payment, nor shall any endorsement or statement on any check or any letter accompanying any such check or payment be deemed an accord and satisfaction, and Port may accept such check or payment and pursue any other remedy available in this Permit, or at law or in equity. The Port may accept any partial payment from Permittee without invalidation of any contractual notice required to be given under this Permit and without invalidation of any notice required to be given pursuant to California Code of Civil Procedure Section 1161, *et seq.*, or of any successor statute thereto. A duplicate copy of all communications concerning disputes about debts that are owed or may be owed pursuant to this Permit, and instruments in less than the full amount claimed by Port and tendered as full satisfaction of a disputed debt or other amount owed, shall be provided to Port’s Chief Financial Officer, either by hand delivery, provided Permittee obtains a written acknowledgment of receipt thereof from Port, or by nationally recognized overnight courier service, or by U.S. Certified Mail Return Receipt Requested, postage prepaid, addressed as follows:

Chief Financial Officer
Finance Division
530 Water Street
Oakland, California 94604-2064

or to such other address as shall be designated by Port by a written notice to Permittee in accordance with the requirements of Section 18 above.

Section 30. Maritime and Aviation Project Labor Agreement. During the performance of this Permit, Permittee agrees to comply with its obligations set forth in Attachment “E” to this Permit, which is incorporated herein by this reference.

Section 31. Right to Modify. Permittee agrees that during the Term of this Permit, this Permit may be unilaterally modified by the Port, upon advice of the Port Attorney, and on at least thirty (30) days prior written notice by Port to Permittee, in order to conform to changes in applicable Laws, including without limitation, judicial, regulatory, Department of Transportation, Department of Homeland Security, Federal Aviation Administration, Transportation Security Administration, Federal Trade Commission or Federal Communications Commission rulings or opinions. This Section shall not relieve Permittee from its independent obligation to comply with all applicable Laws, or preclude Permittee from contesting said matters, but Permittee shall abide by the unilateral change.

Section 32. Security Mandates. In addition to Permittee's obligation to comply with all applicable Laws, Permittee recognizes that Port is required to comply with the security mandates of the Department of Transportation, the Federal Aviation Administration, the Transportation Security Administration, the Department of Homeland Security, and with other governmental and administrative rules and regulations relating to airports. Any procedures determined by Port to be applicable to Permittee in order for Port to comply with the foregoing will be furnished to Permittee in writing, and delivered by facsimile transmission, confirmed by mail, to Permittee at its notice address provided in this Permit. Permittee and its agents, employees and representatives shall be responsible for full compliance with all procedures delivered by facsimile transmission to Permittee. Such procedures are subject to change without notice other than delivery thereof to Permittee, as provided for in this Section 32. Permittee shall reimburse Port, within fifteen (15) days from receipt of Port's invoice, and documentation showing that payment of such civil penalty or fine is Permittee's responsibility hereunder, the amount of any civil penalty or fine that may be assessed against Port by any governmental agency for any violation of applicable security rules or regulations which arises out of Permittee's failure to comply with all applicable Laws or the provisions of this Section 32. In such event, Port shall also have all of its other rights and remedies provided in this Permit and arising at law or in equity.

Section 33. Miscellaneous.

Section 33.1 The paragraph and section headings contained in this Permit are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision hereof.

Section 33.2 It is expressly understood and agreed that, except for Permittee's right to possession of the Assigned Space, and except to the extent otherwise expressly provided for in a written addendum to this Permit signed by Port, the rights granted Permittee under this Permit are non-exclusive.

Section 33.3 Where the approval or consent of the Port, the Director or other member of the Port's staff is required under this Permit, then except as otherwise expressly provided in this Permit, such approval or consent may be granted or withheld by the Port, the Director or such other member of the Port's staff in the exercise of its, his or her sole discretion. Permittee hereby waives any claim against Port which it may have based upon any assertion that Port has unreasonably withheld or unreasonably delayed any consent, and Permittee agrees that its sole remedy shall be an action or proceeding to enforce any such provision or for specific performance, injunction or declaratory judgment. In the event of such a determination, the requested consent shall be deemed to have been granted. Permittee's sole remedy for Port's unreasonably withholding or delaying of consent shall be as provided in this Section 33.3.

Section 33.4 Except as expressly prohibited herein, the provisions of this Permit shall bind and inure to the benefit of the successors and assigns of the parties hereto.

Section 33.5 Time is expressed to be of the essence of this Permit.

Section 33.6 This Permit shall be governed by and construed in accordance with the laws of the State of California (without regard to principles of conflict of laws). It is agreed that if any covenant, condition or provision contained herein is held to be invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of any other covenant, condition or provision herein contained, and the invalid or unenforceable provision shall be limited to the extent necessary for it to be valid and enforceable.

Section 33.7 No recourse under or upon any obligation, covenant or agreement contained in this Permit, or any other agreement or document pertaining to the operations of Permittee hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or under any judgment obtained against Port, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Permit, shall be had against any member (including, without limitation, members of Port's Board and its citizens advisory committees), officer, employee or agent, as such, past, present and future, of Port, either directly or through Port or otherwise, for any claim arising out of this Permit or the operations conducted pursuant to it, or for any sum that may be due and unpaid by Port. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any Port member, officer, employee or agent, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Permit or the operations conducted pursuant to it, or for the payment for or to Port, or any receiver therefor or otherwise, of any sum that may remain due and unpaid by Port, is hereby expressly waived and released as a condition of and as consideration for the execution of this Permit.

Section 33.8 Permittee represents and warrants to Port that, to the best of its knowledge, except as may be disclosed in an Addendum hereto, no member, officer, employee or agent of Port has any material interest, either directly or indirectly, in the business of Permittee to be conducted hereunder.

Section 33.9 (a) This Permit, including all Attachments and Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreement, representation or statements heretofore or contemporaneously made with respect to such subject matter, whether oral or written (including, without limitation, all answers provided by Port to questions asked by Permittee or others in conjunction with the Port's Request for Proposals for the concession rights granted by this Permit, if any), are merged herein. Except as otherwise expressly provided in this Permit, this Permit may be altered or amended only by written instrument executed by both parties hereto.

(b) Permittee acknowledges that it either was represented or had the opportunity to be represented by legal counsel in the negotiation of this Permit, and agrees that the terms of this Permit shall not be strictly construed against the Port as the drafter of this Permit.

Section 33.10 (a) Permittee hereby consents to the jurisdiction of the State of California Superior Court of the County of Alameda and of the Federal District Court for the Northern District of California with respect to any action instituted by Port and arising

against Permittee under this Permit, and waives any objection which it may have at any time to the laying of venue of any such action brought in any such court, waives any claim that such action has been brought in an inconvenient forum and further waives the right to object, with respect to such action, that such court does not have any jurisdiction over Permittee. Permittee further irrevocably consents to the service of process by certified or registered mail (airmail if overseas) or the equivalent (return receipt requested), or the service of process in any other manner permitted by law, in any action instituted by Port and arising against Permittee under this Permit. Port agrees to serve such process on Permittee's registered agent under California law if the name and address of Permittee's current registered agent in California has been provided to Port in advance and in writing.

(b) In addition to the foregoing, pursuant to California Code of Civil Procedure, Section 416.10, Permittee hereby designates the following person as its agent for service of process:

[BIDDER TO COMPLETE]

Name: _____

Address: _____

Phone: _____

Fax: _____

Section 33.11 Permittee warrants that no person or agency has been employed or retained to solicit or obtain this Permit upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, Port, at its option, may annul or immediately terminate this Permit or recover from Permittee the full amount of the contingent fee. As used in this Section, "bona fide agency" means an established commercial or selling agency, maintained by Permittee for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Port contracts nor holds itself out as being able to obtain any Port contract or contracts through improper influence; "bona fide employee" means a person, employed by Permittee and subject to Permittee's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Port contracts nor holds itself out as being able to obtain any Port contract or contracts through improper influence; "contingent fee" means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Port contract; and "improper influence" means any influence that induces or tends to induce a Port Commissioner, employee or officer to give consideration or to act regarding a Port contract on any basis other than the merits of the matter.

Section 34. Force Majeure. In the event that Permittee or the Port is delayed, directly or indirectly, from the performance of any act or thing required under the terms hereof by acts of God, accidents, fire, floods, inclement weather, governmental action, restrictions, priorities or

allocations of any kind and all kinds, strikes or labor difficulties of any and all kinds, shortages of or delay in the delivery of material, acts of war, riot and civil commotion, or by any similar cause reasonably beyond the control of Permittee or the Port, as the case may be, such failure (except for the payment of Rent or other sums required by this Permit to be paid by Permittee to Port, and except for any failure that arises out of Permittee's breach of any of its obligations under this Permit) shall not be deemed to be a breach of this Permit or a violation of any such covenants and the time within which Permittee or the Port must perform any said act shall be extended by a period of time equal to the period of delay arising from any of said causes.

Section 35. Damage or Destruction; Condemnation.

Section 35.1 (a) In the event the Assigned Space or the improvements thereon are damaged by any casualty which is required to be insured against by Permittee pursuant to this Permit, then Permittee shall, in accordance with all applicable requirements of this Permit (including without limitation Section 2.2 above), repair such damage (and replace any trade equipment damaged by such casualty) as soon as reasonably possible, at its own cost, and this Permit shall continue in full force and effect, with no abatement in the Rent payable by Permittee to Port under Paragraph E of this Permit.

(b) In the event the Assigned Space or the improvements thereon are damaged by any casualty which is not required to be insured against by Permittee pursuant to the provisions of this Permit, then Port may, at Port's option, either (i) repair such damage as soon as reasonably possible at Port's expense, in which event this Permit shall continue in full force and effect, and there shall be no abatement in the Rent payable by Permittee to Port under Paragraph E of this Permit, or (ii) give written notice to Permittee within sixty (60) days after the date of occurrence of such damage of Port's intention to terminate this Permit, in which event such termination shall be effective as of the date of the occurrence of such damage; provided, however, that notwithstanding the foregoing: (x) If such damage was caused by the act or omission of Permittee or any principal, affiliate, contractor, employee, agent, licensee or invitee of Permittee, then Permittee shall, in accordance with all applicable provisions of this Permit (including without limitation Section 2.2 above), repair such damage promptly and at its sole cost and expense, this Permit shall remain in full force and effect, and there shall be no abatement in the Rent payable by Permittee to Port under Paragraph E above; and (y) If such damage is not covered by subsection (b)(ii)(x) above, and if such damage occurred during the last twelve months of the Term, then either party shall have the right, by written notice given to the other within sixty (60) days after the date of occurrence of such damage, to terminate this Permit as of the date of such damage, in which event all proceeds of the insurance against casualty that Permittee was required to maintain pursuant to this Permit shall be paid to Port.

(c) Except as to property damage caused by the gross negligence or willful misconduct of the Port, if the Assigned Space is damaged or destroyed by casualty, Permittee shall have no claim against Port for any damage suffered by reason of any such damage or destruction, or for any required repair or restoration. Port and Permittee hereby waive the provisions of California Civil Code Sections 1932 and 1933, and of any

other statutes which relate to the termination of a lease when leased property is destroyed and agree that any such event shall be governed by the terms of this Permit.

Section 35.2 (a) If the whole of the Assigned Space should be taken by any public or quasi-public authority under the power or threat of eminent domain, then, in such event, on the earlier of the date title to the Assigned Space vests in such public or quasi-public authority, or the date on which said public or quasi-public agency takes possession of the Assigned Space, this Permit shall terminate with respect to Port's and Permittee's future obligations hereunder, but said termination shall not affect Port's and Permittee's rights to any compensation or damages for, on the account of, or arising out of such taking. For any period of time prior to termination during which Permittee (involuntarily on account of such taking or any proceedings related thereto) does not have full use of the Assigned Space, the monthly Rent due hereunder shall be equitably reduced. In the event of such a taking, the Port shall be entitled to receive all sums in the award of damages and compensation arising by reason of such taking except that an amount therefrom equal to the fair market value of Permittee's interest in the Assigned Space (as of the date of valuation of the taking) shall be paid to Permittee.

(b) If a substantial portion of the Assigned Space should be taken so as to impair materially the use of the Assigned Space as contemplated by the Permit, then on the earlier of the date title to such portion of the Assigned Space vests in such public or quasi-public agency, or the date on which such public or quasi-public agency takes possession of such portion of the Assigned Space and Permittee no longer has full possession of such portion, this Permit shall terminate with respect to Port's and Permittee's future obligations hereunder, but said termination shall not affect Port's or Permittee's rights to any compensation or damages for, on account of, or arising out of such taking. For any period of time prior to termination during which Permittee (involuntarily on account of such taking or any proceedings related thereto) does not have full use of the Assigned Space, the monthly Rent due hereunder shall be equitably reduced. In the event of such a substantial taking, the award of damages and compensation arising by reason of such taking shall be distributed in the same manner as the last sentence of Section 35.2(a) above.

(c) If a taking shall occur which does not result in termination of this Permit as provided in the previous subsections of this Section 35.2, but which requires the portion of the Assigned Space not so taken to be reconstructed and restored so as to be constituted an architecturally complete unit suitable for use by Permittee, all compensation and damages payable for or on account of such taking shall be payable to Permittee, and shall be held in a separate account approved in writing by Port in trust by Permittee to be used by Permittee in accordance with all applicable requirements of this Permit (including without limitation Section 2.2 above) solely to reconstruct and restore the portion of the Assigned Space not so taken to an architecturally complete unit suitable for use by Permittee; and the monthly Rent payable by Permittee hereunder shall be equitably reduced during the time Permittee does not have full use of the Assigned Space as a result of such taking to account for the reduced economic value to Permittee, if any, occasioned by reason of such taking. The balance of any compensation and damages remaining after the reconstruction and restoration contemplated by this subsection shall be distributed in the same manner as distribution of damages and compensation for a total

taking under the last sentence of Section 35.2(a) above. In the event of a taking covered by this subsection (c), Port shall send to Permittee an amendment to this Permit showing the deletion of that portion of the Assigned Space that was the subject of this taking, and this Permit shall be deemed amended thereby.

(d) If a taking shall occur which does not result in a termination of this Permit as provided in the previous subsections of this Section 35.2, and which does not require any portion of the Assigned Space not so taken to be reconstructed and restored so as to constitute an architecturally complete unit suitable for use by Permittee, the proceeds shall be distributed in accordance with the last sentence of Section 35.2(a) above. Permittee, however, shall be entitled to an equitable reduction in the monthly Rent.

(e) No taking of Permittee's interest in the Assigned Space or any part thereof without a taking of the fee shall terminate or give Permittee the right to surrender this Permit, nor excuse the taker of such interest, including any successor in interest thereto, from full performance of the covenants for the payment of the Rent and other charges or any other obligations hereunder capable of performance by the taker of such interest, including any successor in interest thereto, after any such taking, but in such case, all compensation and damages payable for or on account of such taking shall be payable to and be the sole property of Port. During any period of time that Permittee is not in possession of the Assigned Space, or any portion thereof, as a result of the taking of any portion of its interest hereunder, but only during such period of time, (1) Permittee shall not be obligated to pay or in any way be liable for the payment of any Rent or to perform any of the other obligations or covenants otherwise to be performed by it hereunder with respect to, but only with respect to the portion of the Assigned Space affected by such taking, (2) the Port shall look solely to the taker of such leasehold interest, including the successors in interest thereto and any party then in possession of all or such portion of the Assigned Space affected by such taking for the payment of the Rent and the performance of the other obligations and covenants hereunder with respect to such portion of the Assigned Space, and (3) as between Port and Permittee, Port shall not forfeit or terminate this Permit for breach by the taker of such interest, including its successors in interest thereto and any party then in possession, of any obligation or covenant hereunder, including the obligation to pay the Rent. Any taking that is the subject of this subsection (e) shall not extend the Term of this Permit.

(f) In the event of any taking of any portion of the Assigned Space, Permittee shall be entitled to receive all compensation and damages arising from such taking and payable for or on account of the Permittee's trade equipment located on the portion of the Assigned Space so taken, except for those trade fixtures and equipment that pursuant to this Permit are to remain with the Assigned Space on surrender.

(g) Except as otherwise expressly provided in this Section 35.2, no taking shall reduce or abate Permittee's obligation to pay the Rent during the Term of this Permit. Where Section 35.2 expressly provides for a reduction in the Rent payable by Permittee, if the parties cannot agree on the amount of such reduction, the same shall be determined by Arbitration. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrators shall have no power to modify any of the provisions of this Permit and their jurisdiction is limited accordingly. Each party hereby consents to the entry of judgment by any court having

jurisdiction in accordance with the arbitration decision. No change in the Arbitration Rules which would deprive a party of the rights to be represented by counsel, to present evidence or to cross-examine witnesses presented by the other party shall be effective in any arbitration proceeding arising out of this Permit. Any arbitration provided for herein shall be conducted in the Port's offices in Alameda County, California. Disputes under this Permit shall be subject to Arbitration only to the extent expressly provided for in this subparagraph (g).

(h) Permittee acknowledges the Port's reserved power upon payment of just compensation to exercise its power of eminent domain as to the leasehold estate created hereunder; provided, however, that the foregoing acknowledgment shall not be deemed or construed to prejudice or waive any rights of Permittee to challenge or object to any attempt by the Port so to exercise such power.

Section 36. Tax Treatment. Permittee agrees and hereby makes the irrevocable and binding election not to take for federal income tax purposes investment tax credits or depreciation on assets financed with the proceeds of tax exempt Port bonds or notes or any facility owned by the Port, unless the Port otherwise expressly agrees in advance in writing signed by the Port. Permittee also agrees at the Port's request from time to time to execute such additional documents reasonably requested by the Port or its bond counsel to effectuate and/or evidence said agreement and election. This agreement and election, and the obligation to execute said documents relative thereto is binding on each successor or assignee of Permittee.

Section 37. Defined Terms.

The following terms, when used in this Permit with the initial letter(s) capitalized, whether in the singular or plural, shall have the meanings given to such terms in the preceding Paragraphs of this Permit, or in the Sections of this Permit contained in this Attachment "A":

TERM	LOCATION
ACDBE	Paragraph M
ADA Requirements	Section 2.4 of Attachment "A"
Adjustment Date	Paragraph E.3
Agreement Period	Section 10.1(a) of Attachment "A"
Airport	1 st paragraph of Permit, on page 1
Airport Gross Receipts	Section 10.1 of Attachment "A"
Airport Rules, Policies and Regulations	Section 9.1 of Attachment "A"
Alterations	Section 2.4 of Attachment "A"
Annual CPI Adjustment	Paragraph E.3
Assigned Space	Paragraph D.1
Assistant Director	Paragraph J
Audit	Section 10.4 of Attachment "A"
Automobile	Paragraph B
Board	2 nd paragraph of Permit, on page 1
City	2 nd paragraph of Permit, on page 1
CFC's	Section 10.1 of Attachment "A"

TERM	LOCATION
CFC Ordinance	Section 10.1 of Attachment "A"
Commencement Date	Paragraph C.2
Committee	Paragraph I.3
Common Areas	Paragraph D.3
Common Use	Paragraph D.1(b)
Common Use Busing System	Paragraph I.2(e)
Consumer Price Index	Paragraph E.3
Customer Service Building	Paragraph B
CWA	Section 9.1 of Attachment "A"
Director	2 nd paragraph of Permit, on page 1
Documents	Section 9.1 of Attachment "A"
Environmental Reports	Section 19 of Attachment "C"
Equipment Lessor	Section 2.9 of Attachment "A"
Equipment Lessee	Section 2.9 of Attachment "A"
Exclusive Use	Paragraph D.1(a)
First Year's Minimum Annual Guaranty	Paragraph E.1
Gross Receipts	Section 10.1 of Attachment "A"
Hold-Over Permit	Section 17.1 of Attachment "A"
Index	Paragraph E.3
Industry Agreement	Paragraph I.3
Laws	Section 9.1 of Attachment "A"
Losses	Section 1.4 of Attachment "A"
Manager	Paragraph I.3
Market Share Percentage	Paragraph H
Minimum Annual Guaranty	Paragraph E.1
Monthly Rent	Paragraph E.3
NPDES	Section 9.1 of Attachment "A"
Off-Airport Rental Car Companies	Section 1.2(d) of Attachment "A"
Other Permittees	Paragraph B
Passenger Terminal Buildings	Paragraph I.2(e)
Percentage Fees	Paragraph E.2
Performance Deposit	Paragraph F
Permit	1 st paragraph of Permit, on page 1
Permits	Paragraph B
Permitted Uses	Paragraph B
Permittee	1 st paragraph of Permit, on page 1, and Paragraph A
Permittee Wi-Fi Objectives	Section 6 of Attachment "A"
PFC's	Section 23.4 of Attachment "A"
Port	2 nd paragraph of Permit, on page 1
Port Non-Discrimination Policy	Paragraph M
QTA	Paragraph B
Receipts Report	Section 10.2 of Attachment "A"

TERM	LOCATION
Rent	Paragraph E
Rent Commencement Date	Paragraph E.1
Rental Car Facility	Paragraph B
RFI	Section 6 of Attachment "A"
TIA Fee	Paragraph E.6
Term	Paragraph C.1
TI Guide	Section 2.4 of Attachment "A"
Tolling Effective Date	Section 10.4 of Attachment "A"
Tolling Period	Section 10.4 of Attachment "A"
Tolling Termination Date	Section 10.4 of Attachment "A"
Trade Equipment	Section 2.9 of Attachment "A"

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ATTACHMENT “B”
FAA-REQUIRED CONTRACT PROVISIONS

For purposes of the foregoing sections, Permittee may also be referred to as “contractor” or “concessionaire” or “lessee”, the Port may also be referred to as “sponsor” or “owner”, and this Permit may also be referred to as the “agreement” or “contract” or “lease”.

A. General Civil Rights Provisions

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

This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

1. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
2. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

B. Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this concession opportunity.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices, when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it, or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole, or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in this Section B in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 Stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended. (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
9. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies and activities with disproportionately high and adverse human health or environmental effects on minority and low income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to

ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

12 Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*)

D. Fair Labor Standards Act

This lease incorporates by reference the provisions of 29 U.S.C. § 201 *et seq.* (the Federal Fair Labor Standards Act (FLSA), and its implementing regulations, with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

Lessee has full responsibility to monitor compliance to the referenced statute and regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division..

E. Occupational Safety and Health Act

This Lease incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and its subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651, *et seq.*; 29 CFR Part 1910). Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

**ATTACHMENT "C"
ENVIRONMENTAL RESPONSIBILITIES**

**ENVIRONMENTAL RESPONSIBILITIES EXHIBIT
TO
PORT OF OAKLAND
TENANCY AGREEMENTS**

Section 1. Compliance with Port Environmental and Storm Water Ordinances.

The Permittee shall comply with Port Environmental Ordinance No. 4345 (the “Environmental Ordinance”) and Port Storm Water Ordinance No. 4311 (the “Storm Water Ordinance” and, together with the Environmental Ordinance, the “Port Ordinances”). All terms in this Environmental Exhibit shall have the meanings as defined in the Environmental Ordinance.

Section 2. Notices and Disclosures Regarding Toxic Materials.

Pursuant to H&S Code Section 25359.7, the Port notifies the Permittee that the Port has reasonable cause to believe that Toxic Materials have come to be located on, at, beneath or emanating from the Premises. Information regarding the Toxic Materials on the Premises are listed on **Exhibit 6 (Environmental Condition of Property)** may be included in reports available on DTSC’s Envirostor Website <http://www.envirostor.dtsc.ca.gov/public/>, the RWQCB’s Geotracker Website <http://geotracker.waterboards.ca.gov/>, or Alameda County’s ftp site <http://gis.acgov.org/DEH/InspectionResults/?SITE=LOP>. In addition, the Permittee may request any non-privileged Toxic Material reports concerning the Premises that are in the possession of the Port.

Section 3. Storage Tanks.

Existing Storage Tanks: Yes No

If yes, list Storage Tank number, location, date of installation, material stored and size

If there are Storage Tanks on the Premises, Permittee has certain responsibilities for operation, monitoring, reporting, maintenance and removal of such Storage Tanks, *See* Environmental Ordinance, Sections 3 and 10.

Section 4. Covenant to Restrict Use of Property (“CRUP”).

Existing CRUP: es No

If the Yes box is checked, the attached CRUP is incorporated and Permittee shall comply with the CRUP. Required Disclosure:

Section 5. Performance Deposit.

Permittee shall, not later than the Effective Date, deposit with the Port and during the entire Term shall maintain with the Port a deposit as specified in the Agreement, which deposit will be retained by the Port as a performance deposit (the “Performance Deposit”) and may be used or applied as the Port, in its sole discretion, may determine to: (a) pay the Cost of Response

Actions on the Premises that are the responsibility of Permittee; (b) repair any damage to the Premises caused by Permittee or Permittee's Representatives; (c) replace any Improvements which are the property of the Port and which have been damaged, removed or otherwise misplaced during the Term; (d) pay any other outstanding amounts due the Port from Permittee pursuant to any of the provisions of the Port Ordinances; (e) pay any compensation or other amount payable to the Port pursuant to the Port Ordinances that is not paid when due; (f) pay or reimburse the Port for any amount that the Port may spend or become obligated to spend in exercising its rights under the Port Ordinances; or (g) compensate the Port for any expense, loss or damage that the Port may suffer because of a default with respect to any obligation of Permittee under the Port Ordinances.

Section 6. Release

Permittee, for itself, Permittee Representatives, successors and assigns, waives, releases, acquits, and forever discharges the Port of, from, and against any Actions, direct or indirect, at any time on account of, or in any way arising out of or in connection with: (i) the Port providing advice, guidance, or assistance to Permittee or Permittee Representatives regarding Permittee's compliance with Environmental Laws; and (ii) Toxic Materials existing at, on, or under the Premises as of the Effective Date, and any migration of Toxic Materials to, within, or from the Premises regardless of the origin or source of the Toxic Materials, whether known or unknown. A Permittee's release of the Port shall apply to all unknown and known Actions and contingent or liquidated Actions, and shall specifically cover any potential liability which may be based on any Environmental Laws.

The release shall also include a release of the rights provided under California Civil Code Section 1542 which states:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

As indicated by the initials below, it is Permittee's intention that it waive and relinquish any and all protections, privileges, rights and benefits it may have under Section 1542.

Permittee: _____

Section 7. Permittee Environmental Contact

Below is Permittee's environmental contact information:

Environmental Contact Name: _____

Title: _____

Work Address: _____

Phone Number: _____

Email Address: _____

EXHIBIT "C-1"
LISTED SUBSTANCES

Unleaded Gasoline

Bradley RTX-9

Bradley Glass Cleaner

Zep Carpet 86

Zep Vue R.T.U.

Zep Plus

Zep Venture

MicroMagic

and other, substantially similar substances under other brand, trade or generic names.

Carbon Monoxide

**ATTACHMENT “D”
PREVAILING WAGE REQUIREMENTS**

Permittee agrees that in the performance of work under this Permit, if applicable, Permittee shall comply with:

The Public Work Prevailing Wage Requirements, which are the applicable prevailing wage requirements of California Labor Code Sections 1720 et seq. and Port Ordinance No. 4321, as amended, and which generally apply to construction, costing more than \$1,000.00, which is made on or to Port property and the cost of which is paid for in whole or in part by Port’s advance or reimbursement to Permittee or by credit against rent or other sums due Port; and

“Construction” as used herein shall apply to construction, alteration, demolition or repair work, and the laying of carpet and maintenance work, “Construction” includes all construction of building core and shell, building annexes, tenant improvements and public works that are within the customary jurisdiction of the construction trades and crafts, whether performed on, or off site. Off-site work, performed by Materialmen, as defined under California Law, is not included in the term “Construction”.

The following provisions of this Attachment “D” apply only if, and to the extent that, the prevailing wage requirements are applicable.

The prevailing wage requirements shall apply to the employees of any employer including Permittee, any tenant of Permittee, any general contractor or subcontractor or other contractor engaged in construction of any improvements in the Assigned Space or at the Airport for Permittee, including their successors and assignees, but shall not apply to supervisory or managerial personnel or to persons employed in the rental, operation or (in the case of Private Work Prevailing Wage Requirements only) maintenance of the Assigned Space.

Permittee shall cause the provisions of this Attachment “D” to be incorporated into each contract and subcontract, and lease agreement which would be subject to this Attachment “D”. In the event the provisions are not so incorporated, Permittee shall be liable to the worker in any action or proceeding for the difference between the prevailing wage rate required to be paid and the amount actually paid to the worker, including costs and attorney fees, as if Permittee were the actual employer.

The prevailing wage requirements of this Attachment “D” will be monitored and enforced by Port. In addition to any other rights provided by California law to recover compensation, a worker that has been paid less than the prevailing wage rates shall have a right to commence an action or proceeding against the employer of the worker for the difference between the prevailing wage rates and the amount paid to such worker for each calendar day or portion thereof for which the worker was paid less than the compensation required to be paid under the provisions of this subsection. No issue other than that of the liability of the employer for the amount of unpaid wages allegedly due shall be determined in such action or proceeding, and the burden shall be on the employer to establish that the amounts demanded are not due. A

worker recovering any or all of the wages claimed to be due shall recover his costs and attorney fees in securing such recovery. Nothing in this Attachment "D" shall preclude its enforcement by the California Division of Labor Standards Enforcement.

Nothing in this Permit shall prevent the employment of any number of properly registered apprentices, as defined in Chapter 4, Division 3 of the Labor Code. Every such apprentice shall be paid not less than the standard wage paid to apprentices under the regulations of the crafts or trade at which the apprentice is employed, and shall be employed only at the work of the craft or trade to which the apprentice is registered. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which the apprentice is in training. Good faith efforts shall be made to maintain a ratio of apprentices to journeymen of not less than 20%, if the employer is signatory to an agreement to train, or otherwise bound to train, apprentices. When submitting the certified payroll records required hereunder Permittee shall submit documentary proof of the valid apprentice status of any worker listed as an apprentice.

Permittee agrees that to the extent that Permittee is required to comply with the prevailing wage requirements, Permittee shall assure that all workers are paid the prevailing rate of per diem wages, and travel and subsistence payments (defined in applicable collective bargaining agreements filed in accordance with Section 1773.8 of the California Labor Code) in effect on the date of Port's first approval of a building permit or other approval of the work. Copies of the applicable prevailing rate of per diem wages are on file at Port's principal office and will be made available to any interested party on request. Permittee agrees to post a copy of the prevailing rate of per diem wages at each job site.

Permittee, as a penalty to Port, shall forfeit two hundred dollars (\$200) for each calendar day, or portion thereof (or such other sum as specified from time to time by Section 1775 of the California Labor Code), for each worker paid less than the applicable prevailing rates for such work or craft in which such worker is employed. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Permittee.

To the extent that there is insufficient money due Permittee as an advance, reimbursement or credit to cover all penalties forfeited and amounts due and in all cases where this Permit does not provide for a money payment by Port to Permittee, and except in cases where enforcement authority is vested in the State pursuant to Section 1775 of the California Labor Code, Port not later than ninety (90) days after the filing of a valid notice of completion in the office of the Alameda County Recorder or not later than ninety (90) days after Port's acceptance of the work, whichever last occurs, may maintain an action in any court of competent jurisdiction to recover the penalties and the amounts due provided for herein. Permittee agrees that no issue other than that of the liability of Permittee for the penalties allegedly forfeited and amounts due shall be determined in such action, and the burden shall be upon Permittee to establish that the penalties and amounts demanded in such action are not due. Out of any money withheld or recovered or both there shall first be paid the amount due each worker and if insufficient funds are withheld or recovered or both to pay each worker in full the money shall be prorated among all such workers.

At least two weeks before the last date Permittee accepts initial bids for construction, Permittee shall file with Port a written list of the name of all contractors to whom Permittee has submitted a request for bids. In addition, Permittee shall file with Port the name of each contractor with whom it proposes to contract, together with the name of the subcontractors of all tiers, at least five (5) working days before entering into the contract.

Permittee agrees to keep or cause to be kept by each contractor and subcontractor an accurate payroll record for each worker employed on work covered by this Attachment "D" showing all of the information specified in subsection (a) of Section 1776 of the California Labor Code. All such payroll records shall be certified, available for inspection and filed in accordance with the procedures specified in subsections (b)-(e), inclusive, of Section 1776 of the California Labor Code. In addition, copies of such certified payroll records shall be filed with Port within a reasonable time not to exceed fifteen (15) days from close of payroll by the respective employer.

It is understood and agreed that all documents that Permittee is required to submit to or file with Port under this Attachment "D" shall constitute public records that shall be available to any member of the public for review or copying in accordance with the California Public Records Act.

In the event of repetitive breach of the requirements of this subsection by Permittee, Port shall be entitled, in addition to all other remedies hereunder for breach of this Permit, to appoint at Permittee's expense a special monitor to oversee Permittee's compliance. Fees for said special monitor shall be billed to Permittee, which fees Permittee agrees to pay as additional rent within ten (10) days after Permittee's receipt of such bill. In the event of noncompliance with the foregoing requirements concerning payroll records which continues for more than ten (10) days after Port gives to Permittee written notice specifying in what respects Permittee must comply, Permittee shall forfeit as a penalty to Port for each worker twenty-five dollars (\$25) for each calendar day, or portion thereof, until strict compliance is effectuated.

Permittee shall be responsible for complying with Section 1777.5 of the California Labor Code concerning apprenticeable occupations, with respect to all work covered by that section.

Except where the context otherwise requires, the definitions of terms and phrases contained in the State prevailing wage law, Sections 1720, et seq., of the California Labor Code, and in the implementing administrative regulations, shall apply to the same terms and phrases which are used in the prevailing wage requirements of this Attachment "D".

ATTACHMENT “E”
MARITIME AND AVIATION PROJECT LABOR AGREEMENT

Any construction project undertaken by Permittee pursuant to this Permit, for which the Port approves a permit for construction and for which the estimated cost of construction exceeds \$150,000, is subject to coverage under the terms of the Port’s Maritime and Aviation Project Labor Agreement (“**MAPLA**”) as it is currently in effect (and may be amended) and as it applies to Port tenants.

Before undertaking any construction, modifications, alterations, or other improvements or other work that may be under the jurisdiction of a craft union member of the Alameda County Buildings and Construction Trade Council. Permittee is solely responsible for verifying if a MAPLA is currently in effect, and will apply to the work. Permittee agrees to comply fully with the requirements of any currently effective MAPLA as fully as if they were set forth herein.

In the event the Port agrees to any revisions of MAPLA, or enters into a new MAPLA, such revised or new MAPLA requirements shall become part of this Attachment “E” and shall supersede any conflicting requirements of this Attachment “E”, and Permittee shall be obligated to comply with such revised or new MAPLA requirements as fully as if they were set forth herein. Port shall make its best efforts to notify Permittee in writing of such revised or new MAPLA requirements.

Intentionally left blank

EXHIBIT "1"

1. First Year's Minimum Annual Guaranty: \$_____.*

2. The Monthly Rent for the Assigned Space for the first Agreement Period shall consist of Land Rent of \$ _____ and Building Rent of \$ _____.

3. Initial Performance Deposit: \$_____.

4. Brand Name(s): _____

5. Initial Assigned Space: Pursuant to Paragraph D.1 of the Permit:†
 - (a) Permittee shall have Exclusive Use of the following portions of the Rental Car Facility, subject to reallocation as provided in Paragraph H of the Permit.

Ticket Counter: Approximately ____ linear feet of ticket counter and approximately ____ square feet of office space in the approximately 15,355 square foot Customer Service Building, as designated on attached Exhibit "1-A".

Automotive Exclusive Use Area: _____ square feet of the approximately 440,200 square feet in Area A of the Exclusive Use Area as designated on attached Exhibit "1-B".

Additional Land ("Ryan St. Site"): _____ square feet of the Ryan St. Site as designated on Exhibit "1-C".
 - (b) Permittee, together with the Other Permittees, shall have Common Use of all portions of the Rental Car Facility not leased to Permittee or the Other Permittees on an Exclusive Use basis.

* The terms of paragraphs 1 – 6 will be inserted by the Port pursuant to the terms of the Request for Bids (the "RFB") issued by the Port on January 31, 2017, and in accordance with Permittee's response to the RFB.

† The location of this space shall be reasonably determined by the Director as provided in the RFB.

6. Committee Address: _____

Attention: _____

**EXHIBIT “2”
ADMINISTRATIVE FEES**

Sanitation, hygiene & cleanliness.	\$500 per day per occurrence
Failure to comply with construction requirements.	\$250 per day occurrence
Failure to contain operations and noise pollution as determined by Port within the Assigned Space or levels of noise exceed such volume in which people at the Airport immediately adjacent to the Assigned Space cannot hear public address system.	\$250 per day per occurrence
Failure to maintain Assigned Space.	\$250 per day per occurrence
Failure to comply with reporting requirements.	\$250 per occurrence
Failure to comply with the requirements as referenced in Paragraph I.1(a)	\$250 per occurrence
Failure to comply with quality and quantity of Automobiles or services requirements as referenced in Paragraph I.2	\$250 per day per occurrence
Failure to comply with submitting reports and services as required in any Sections that require reports.	\$250 per occurrence
Failure to comply with Sign requirements as referenced in Section 2.8 of Attachment “A”.	\$250 per day per occurrence
Failure to comply with maintenance requirements as referenced in Section 2 of Attachment “A”.	\$250 per day per occurrence
Failure to comply with the ACDBE requirements as referenced in Paragraph M.	\$250 per day per occurrence
Personnel issue violating Permit terms not appropriately addressed.	\$250 per day per occurrence
Failure to provide requested audit records and information per Section 10 of Attachment “A”.	\$100 per day per occurrence
Continuing Labor-Related Disruption.	\$250 per day
First violation of Section 1.2(a) of Attachment “A”.	\$200 per occurrence
Second and subsequent violations of Section 1.2(a) of Attachment “A”.	\$500 per occurrence
Minimum hours of operation not followed.	\$250 per day per occurrence

Other non-monetary violations of this Permit.	\$250 per occurrence
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Except for violations of requirements regarding the minimum hours of operation, health standards, signage and the noise levels, Administrative Fees begin accruing on the second (2nd) day unless waived by the Port (and each succeeding day until compliance is reestablished) following written notice from the Port of the violation. Payment of Administrative Fees shall occur within thirty (30) days following demand by the Port. For those violations where a plan is required to correct the violation, then Permittee and Port shall develop such plan, including a time schedule under which resolution can be achieved.

**EXHIBIT “3”
RESERVED**

EXHIBIT "4"
IRREVOCABLE LETTER OF CREDIT

Irrevocable and Transferable
Letter of Credit # _____

Amount: U.S. \$ _____

To: City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("Port of Oakland")
530 Water Street
Oakland, California 94607 _____, 20__

Ladies and Gentlemen:

For the account of **[Insert applicant]**, a **[Insert type of entity]** ("Applicant"), we hereby issue in your favor our Irrevocable Letter of Credit for U.S. \$ _____.

The amount of this credit is available to you by your drafts on us at sight accompanied by the following statement signed by your Executive Director or Chief Financial Officer.

"I certify that the amount of our drawing is due the Port of Oakland (1) pursuant to the terms of the **[Space/Use Permit For Non-Exclusive Rental Car Concession]** dated **[date of agreement]** between the Port of Oakland and **[Name of applicant]**, a **[Insert type of entity]** ("Applicant") or any other agreement between the Port of Oakland and Applicant, (2) pursuant to the terms of this credit, or (3) because a payment previously made to the Port of Oakland by or on behalf of Applicant has been recovered by settlement or otherwise from the Port of Oakland by a trustee, receiver, creditor or other party."

Drafts must clearly specify the number of this credit and (except as set forth below) be presented at our counters at **[Insert location of counters of bank in San Francisco or Oakland]** not later than the close of business on _____, 20__, or such later date as this credit shall have been extended to (the "Expiration Date"). If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you prompt notice that the purported demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefor, and that we are returning any documents to you. Upon being notified that the purported demand for payment was not effected in accordance with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment on or prior to the then Expiration Date.

Drawings may also be presented to us by facsimile transmission to facsimile number _____ (each such drawing, a “Fax Drawing”). If you present a Fax Drawing under this Letter of Credit you do not need to present the original of any drawing documents, and if we receive any such original drawing documents they will not be examined by us. In the event of a full or final drawing the original standby Letter of Credit must be returned to us by overnight courier.

This credit shall be deemed automatically extended without amendment for additional periods of one year from the present or any future expiration date unless at least ninety (90) days prior to any such date we notify you (Attention: Chief Financial Officer) and Applicant by a nationally recognized overnight courier service that we elect not to consider the letter of credit renewed for any such additional period. You may then draw on us at sight with the above specified signed statement.

This Letter of Credit is subject to the “International Standby Practices (“ISP98””, International Chamber of Commerce Publication No. 590 and as to matters not governed by ISP98, shall be governed by and construed in accordance with the Laws of California, without regard to principles of conflicts of Law.

We engage with you that drafts for full or partial payment drawn under and in compliance with the terms of this credit will be duly honored by us on delivery of documents as specified.

All bank charges and commissions are for the account of Applicant.

Very truly yours,

Authorized Signature and Title

EXHIBIT "4-A"
SIGHT DRAFT

City

Date

Pay to the order of the Port of Oakland, at sight, _____
(\$_____) U.S. Dollars, drawn under Letter of Credit #_____, issued by
_____ to the Port of Oakland for the account of [**Insert
name of applicant**].

**City of Oakland, a municipal corporation,
acting by and through its Board of Port
Commissioners ("Port of Oakland")**

By:

Name:

Title:

**EXHIBIT “5”
FORM OF QUARTERLY REPORT CERTIFICATE**

(On Company Letterhead)

[DATE]

Mr. Bryant L. Francis C.M.
Director of Aviation
Port of Oakland
530 Water Street
Oakland, CA 94607

Dear Mr. Francis:

I, _____, do hereby certify as follows:

1. I am the [**Chief Financial Officer**] of _____, the Permittee under a Space/Use Permit with the Port of Oakland for Rental Car Concession dated, _____, 2017 (the “Permit”).
2. The attached Quarterly Report of the Permittee for the quarter ending _____ 20____, was prepared in accordance with all of the applicable requirements of Paragraph M of the Permit and all of the information contained in this Quarterly Report is true and correct.

Sincerely,

Signature

Name

Title

Name and Address of Airport Concession Disadvantaged Business Enterprise (ACDBE)	Telephone and Fax Numbers; Email Address	ACDBE * Certification Number	Description Of ACDBE Services	Dollar Amount of Sales, Purchase or Lease of Goods and Services	Total Lease Amount Or Minimum Annual Guarantee

* The certified firm is issued a certificate by the California Unified Certification Program (CUCP). ACDBE status may be obtained by accessing the CUCP website: <http://www.dot.ca.gov/hq/bep/index.htm> or by calling (916) 324-1700 or (866) 810-6346.

7. Blocks 7-9 concern car rental goals and participation. In Block 7, provide the overall car rental percentage goal and the race-conscious (RC) and race-neutral (RN) components of it. The RC and RN percentage should add up to the overall percentage goal.

8. Block 8 is parallel to Block 5, except that it is for car rentals. The instructions for filling it out are the same as for Block 5.

9. Block 9 is parallel to Block 6, except that it is for car rentals. The information requested in Block 9 is a subset of that requested in Block 8. The instructions for filling it out are the same as for Block 6.

7. Current Car Rental ACDBE Goal: Race Conscious Goal Race Neutral Goal ACDBE OVERALL Goal

8. CAR RENTAL CUMULATIVE ACDBE PARTICIPATION	A Total Dollars (Everyone)	B Total Number (Everyone)	C Total to ACDBEs (dollars)	D Total to ACDBEs (number)	E Total to ACDBEs / Race Conscious (dollars)	F Total to ACDBEs / Race Neutral (dollars)	G Percentage of total dollars to ACDBEs (C/A)
Prime Concessions	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>
Subconcessions	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>
Goods and Services	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>
Total Cumulative Car Rental ACDBE Participation	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

9. CAR RENTAL NEW ACDBE PARTICIPATION THIS PERIOD	A Total Dollars (Everyone)	B Total Number (Everyone)	C Total to ACDBEs (dollars)	D Total to ACDBEs (number)	E Total to ACDBEs / Race Conscious (dollars)	F Total to ACDBEs / Race Neutral (dollars)	G Percentage of total dollars to ACDBEs (C/A)
Prime Concessions	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>
Subconcessions	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>
Goods and Services	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>
Total Car Rental New ACDBE Participation	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

EXHIBIT 6
ENVIRONMENTAL CONDITION OF PROPERTY

1. ARCADIS Geraghty & Miller, “Phase I/II Environmental Site Assessment”, Doolittle Drive/Langley Street Widening, North Field, Oakland International Airport, Oakland, California dated January 11, 2001. #1339
2. BASELINE Environmental Consulting, “Site Assessment Report, King Interests Development Site”, North Field, Oakland International Airport, Oakland, California, dated March 8, 1989. #1236
3. BASELINE Environmental Consulting, “Analytical Results for Electrical Equipment Sampling, Equipment Storage Yard”, North Field, Metropolitan Oakland International Airport, dated August 7, 1990. #1241
4. BASELINE Environmental Consulting, “Report on Preliminary PCB Investigations at the Electrical Equipment Storage Yard and Electrical Transformer Enclosure”, North Field, Metropolitan Oakland International Airport, Oakland, California dated April 1992. #1240
5. BASELINE Environmental Consulting, “Report on Groundwater Sampling and Well Development MW-LD2” Langley and Doolittle Temporary Bioremediation Site, dated May 1993. #1563
6. BASELINE “Phase II Subsurface Investigation”, National Airmotive Corporation and Rental Car Area, Convair Street to Ryan Street, Study Area 1, North Field, Metropolitan Oakland International Airport, Oakland, California, dated November 1998. #1228
7. BASELINE, “Phase II Subsurface Investigation”, National Airmotive Corporation and Rental Car Area, Convair Street to Beachy Street, Study Area 2, North Field, Metropolitan Oakland International Airport, Oakland, California, dated November 1998. #1229
8. Brown and Caldwell, “Fuel Oil Tank Removal Summary Report and Request for Closure”, Former Boiler House, Oakland NAS, Oakland, California, dated October 18, 2000. #1219
9. ERM-West, Inc. “Site Investigation, Earhart Road realignment”, dated October 27, 1994. #1296
10. ERM-West, Inc., “PCBs in Soils Investigation”, Electrical Equipment Storage Yard, Metropolitan Oakland International Airport – North Field, dated December 6, 1994. #1242

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