

**Contract Number: 21-0413-R
On-Airport Rental Car Concession Agreement
National Car Rental**

**St. Pete-Clearwater International Airport
On-Airport Rental Car Concession Agreement**

Between Pinellas County Florida

And

**Enterprise Leasing Company of Florida, LLC
d/b/a National Car Rental**

Contract Number: 21-0413-R
On-Airport Rental Car Concession Agreement
National Car Rental
ON-AIRPORT RENTAL CAR CONCESSION AGREEMENT AT THE
ST. PETE-CLEARWATER INTERNATIONAL AIRPORT

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ON-AIRPORT RENTAL CAR CONCESSION AGREEMENT
AT THE ST. PETE-CLEARWATER INTERNATIONAL AIRPORT

This On-Airport Rental Car Concession Agreement (Agreement) is made and entered into by and between Pinellas County, a political subdivision of the State of Florida (hereinafter "County"), and Enterprise Leasing Company of Florida, LLC, a Delaware Limited Liability Company organized under the laws of the State of Delaware, d/b/a National Car Rental, having its office and principal place of business at 3505 E. Frontage Rd., Suite 200, Tampa, FL 33607 (hereinafter "Concessionaire").

WITNESSETH:

WHEREAS, County owns and operates the St. Pete-Clearwater International Airport, located in Pinellas County, Florida; and

WHEREAS, Concessionaire submitted a response to County's public solicitation for competitive bids for the On-Airport Rental Car Concession, Invitation for Bid No. 21-0413-R which opened August 5, 2021; and

WHEREAS, Concessionaire was selected to operate at the Airport as a rental car concessionaire which includes the non-exclusive right to lease space in the terminal for the purpose of conducting Concessionaire's business; and

WHEREAS, Concessionaire has indicated a willingness and demonstrated the ability to properly finance, operate, and manage an Airport concession in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

ARTICLE 1 - RECITALS

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

ARTICLE 2 - DEFINITIONS

- 2.01 "ACDBE" means airport concession disadvantaged business enterprise as that term is defined by 49 CFR Part 23 of the Code of Regulations, as now or hereafter amended from time to time.
- 2.02 "Airport" means the St. Pete-Clearwater International Airport.
- 2.03 "Annual Percentage Payment" means ten percent (10%) of Concessionaire's annual Gross Revenues.
- 2.04 "Assigned Premises" means the following:

Counter Area & Parking Block: that certain counter space (approximately 960 sq. ft.) in the Airport Terminal Arrivals Facility (Baggage Claim) designated as #1 on Exhibit "A", attached hereto and made a part hereof, together with one parking block designated as #C on Exhibit "B" and consisting of 11,286 square feet for the Concessionaire's rental cars in the designated Terminal Building parking area. The Parking Blocks will not be reallocated during the Term of the Agreement.

While not anticipated during the term of this Agreement, the Airport reserves the right to increase and/or decrease the size of the Parking Blocks available or even to relocate the Parking Blocks provided to an alternative parking area. Any increase and/or decrease in the size of the Parking

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Blocks will be based on the percentage of Concessionaire's Block determined above to the total of all on airport rental car concessionaire's blocks. If the parking blocks are relocated to an alternate location, the Airport would supply and install the poles for the stalls and provide the striping for the stalls and the lanes. The Concessionaire would be responsible for the placement of signs on the poles, and the relocation of any kiosks, buildings or other Concessionaire improvements including any necessary electrical or communication infrastructure.

- 2.05 "Brand" means a word, mark, symbol, design, term or combination of these used for the purpose of identifying a product or service.
- 2.06 "Concession" means the rental car concession operated by Concessionaire pursuant to the terms and conditions of this Agreement.
- 2.07 "Concession Fees" means the fees payable by Concessionaire to County pursuant to Article 5.01(A) and (B).
- 2.08 "Contract Year" means the twelve (12) month period, beginning on October 1, 2021 and ending on September 30, 2022, and each twelve (12) month period thereafter, until the termination of this Agreement.
- 2.09 "Customer Facility Charge (CFCs)" means all customer facility charges, authorized pursuant to Pinellas County approval as may be amended from time to time.
- 2.10 "Department" means the County Department that manages the St. Pete-Clearwater International Airport.
- 2.11 "FAA" means the Federal Aviation Administration.
- 2.12 "Facility Rental" means the annual rental rate payable by Concessionaire to County for Concessionaire's use and occupancy of the Assigned Premises pursuant to Article 5.03.
- 2.13 "Gross Revenues" means, as determined in the reasonable discretion of the County, all monies due Concessionaire, whether paid or unpaid, from any and all customers for the use, rental or lease of vehicles and any additional services or accessories contracted for, delivered, supplied or rented at or from the Airport regardless of where, how (cash, credit, barter or otherwise) or by whom payment is made; whether the customer is transported from the Airport to an off-Airport place of business; or where the vehicle is picked up or returned. Unless revenues are expressly and specifically excluded from Gross Revenues, all revenues derived from, arising out of or becoming payable on account of the Concession, whether directly or indirectly, shall be included in Gross Revenues. Gross Revenues shall include, but shall not be limited to:
1. The time and/or mileage charges, after discounts taken at the time of rental, assessed by Concessionaire to its customers;
 2. The premiums on any and all insurance sold, including personal accident insurance, personal effects and cargo insurance, life insurance and any other insurance sold in connection with a vehicle rental;
 3. Sums received from customers for Collision Damage Waiver (CDW) protection and Loss Damage Waiver (LDW) protection;
 4. Any and all add-on fees and charges including extra driver coverage, underage driver coverage and vehicle upgrade charges;
 5. Any and all fees and charges for equipment, supplies and incidental items which are made available and charged for separate from the vehicle including, but not limited to,

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sporting equipment, cellular telephones, GPS devices, child restraint seats, video equipment, and any other incidental items and services;

6. All local revenue;
7. All charges attributable to any vehicle originally rented at the Airport which is exchanged at any other location of Concessionaire;
8. All proceeds from the long-term lease of vehicles from any location on the Airport;
9. The amount charged to Concessionaire's customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/or replacing fuel provided by Concessionaire;
10. The amount charged by Concessionaire as a pass through to its Customers of Concession Fees; and
11. Charges commonly referred to as "drop charges" or "intercity fees."

Gross Revenues shall not include:

1. The amount of any sales taxes or other similar excise taxes, now or hereafter levied or imposed by a governmental agency, which are separately stated and collected from customers;
2. Any sums received as insurance proceeds, or payments from Concessionaire's customers or insurers specifically for damage to vehicles or other property of Concessionaire other than any administration fees;
3. Sums specifically received as the result of the loss, conversion, or abandonment of Concessionaire's vehicles other than administration fees;
4. Sums specifically received from the sale of vehicles off - Airport premises or other equipment used in the operation of the Concession, the use of which Concessionaire wishes to discontinue;
5. The amount of any CFCs received by Concessionaire, which are separately stated and collected from customers;
6. Reimbursements for amounts actually paid for speeding tickets, parking tickets, red light tickets, tolls, and toll violations, and impound fees from its customers to pass through without markup to an independent third party with no amount being retained by Concessionaire. However, any amounts collected above the pass-through amount shall be included as Gross Revenue under this Agreement.

Gross Revenues may not be reduced by promotional or other discounts not given directly to the customer at the time of rental. The retroactive adjustment by Concessionaire of Gross Revenues designated as volume discounts or rebates, corporate discounts or rebates, or any other designation of any nature, or for any other purpose, is prohibited.

- 2.14 "Local Revenue" means revenue derived from a vehicle rental transaction with a customer who has not deplaned at the Airport, yet the rental transaction occurred at the Airport. It also includes revenue derived from a vehicle rental transaction from one of the fixed base operators (FBO) located on the airport.
- 2.15 "Minimum Annual Guarantee" means a minimum amount to be paid to County on an annual basis

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during each Contract Year as set forth in Article 5.01(A).

- 2.16 "Monthly Percentage Payment" means ten percent (10%) of Concessionaire's monthly Gross Revenues.
- 2.17 "Response" means Concessionaire's response to County's Invitation for Bid No. 21-0413-R which opened August 5, 2021.
- 2.17 "Storage Spaces" means those rental car vehicle spaces, other than those in the Parking Blocks, located at one or more locations on the Airport designated by the Airport Executive Director and available for Concessionaire vehicle storage on a monthly basis. The location, number and availability of Storage Spaces is subject change based on the demand and activity levels at the Airport.
- 2.18 "Terminal" means the passenger terminal building located at the Airport.
- 2.19 "Transaction Day" means each twenty-four (24) hour period or portion thereof, for which a customer of a Rental Car company rents, or otherwise enters into a similar arrangement for the use of a motor vehicle and for which the Rental Car company collects revenue from the customer. Late returns (after twenty-four (24) hours) shall be considered a Transaction Day.
- 2.20 "TSA" means the Transportation Security Administration.

ARTICLE 3 - EFFECTIVE DATE AND TERM

- 3.01 **Effective Date.** This Agreement is expressly contingent upon the approval of the Pinellas County Board of County Commissioners and shall become effective when signed by all parties and approved by the Pinellas County Board of County Commissioners.
- 3.02 **Term.** The term of this Agreement shall be for a period of thirty-six (36) months, commencing on October 1, 2021 (the "Commencement Date") and terminating on September 30, 2024 (the "Term"), unless sooner terminated as provided herein. At the sole discretion of the County, by and through its County Administrator, this agreement may be extended for two additional one (1) year option periods. County shall notify Concessionaire in writing no less than ninety (90) days prior to the expiration of the initial or first option term period of County's intent to approve the one (1) year renewal term of said option period.

ARTICLE 4 - PRIVILEGES AND PREMISES

- 4.01 **Description of Specific Privileges, Uses and Rights.** County hereby grants to Concessionaire the following non-exclusive specific privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants set forth herein:
 - A. To conduct and operate a high-quality rental car concession at the Airport from the Assigned Premises.
 - B. To offer for rent additional services or accessories to complement the basic vehicle rental from the Assigned Premises. Such additional services or accessories may include the right to offer for sale related loss and collision damage waiver protection, personal injury and accident insurance, supplemental liability, uninsured motorist, and personal effects insurance; and to provide customer service features such as baby car seats, GPS devices and cellular telephones.
- 4.02 **Description of General Privileges, Uses and Rights.** In addition to the specific privileges granted

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pursuant to Article 4.01, County hereby grants to Concessionaire:

- A. The nonexclusive use of the public areas within the Terminal for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents, and authorized sublessees, if any, in connection with its operations hereunder. For purposes of this Agreement, "Public Areas" means the public corridors, restrooms, and other areas within the Terminal that the general public has the right to access. Public Areas shall at all times be subject to the exclusive control and management of County. County shall have the full right and authority to make all rules and regulations as County may in its sole discretion deem proper, pertaining to the proper operation and maintenance of the Airport; and
- B. The nonexclusive right of ingress to and egress from the Terminal over and across public roadways and walkways serving the Airport for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents, and authorized sublessees, if any, in connection with its operations hereunder.

Nothing herein contained shall be construed to grant to Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents, or authorized sublessees, if any, the right to use or occupy any space or area at the Airport improved or unimproved that is leased or assigned to a third party, or, except as expressly set forth in Article 4.02(A) and (B) above, County has not leased to Concessionaire pursuant to this Agreement. The general privileges, uses and rights granted in this Article 4.02 shall be subject to the terms, conditions and covenants set forth herein.

- 4.03 Restrictions of Privileges, Uses and Rights. The rights granted hereunder are expressly limited to the operation and management of a rental car concession. Concessionaire covenants and agrees that the Assigned Premises shall be used solely for the uses permitted in Articles 4.01 and 4.02 above and for no other purposes whatsoever. Concessionaire acknowledges and agrees that Concessionaire shall not have the exclusive right to conduct a rental car concession at the Airport, and County may arrange with others for similar activities at the Airport. Concessionaire acknowledges that County may enter into agreements and/or permits with companies providing rental car services from off-Airport locations.
- 4.04 Condition of the Assigned Premises and Airport. Concessionaire expressly acknowledges that it has inspected the Assigned Premises and Airport and accepts the same "As Is, Where Is" in the condition existing as of the Effective Date, together with all defects latent and patent, if any. Concessionaire further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Airport or the Assigned Premises, including, but not limited to, the physical and/or environmental condition of the Assigned Premises, or any improvements located thereon, or the value of the Assigned Premises or improvements, or the suitability of the Assigned Premises, or any improvements, or Concessionaire's legal ability to use the Assigned Premises for Concessionaire's intended use thereof.
- 4.05 Dual Branding. Subject to the provisions of this Article 4.05, Concessionaire may market or operate a maximum of two (2) Brands of rental car service companies from the Assigned Premises, provided that: (i) any brand designated in this Agreement must be 100% owned or controlled by Concessionaire; and (ii) Concessionaire proposed marketing or operating two (2) Brands of rental car companies in its Response. Concessionaire acknowledges and agrees that Concessionaire shall not be entitled to substitute, modify, or add to the Brands of rental car service companies being marketed or operated from the Assigned Premises beyond those proposed in Concessionaire's Response during the Term. In the event Concessionaire markets or operates two (2) Brands of rental car services companies from the Assigned Premises, Concessionaire shall provide a separate Statement of Gross Revenues (as hereinafter defined) for each Brand pursuant to Article 5.10 below and shall provide separate schedules of revenues and vehicle transactions for each Brand pursuant to Article 5.12(A) and (B) below.

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ARTICLE 5 - CONCESSION FEES, FACILITY RENTAL AND ACCOUNTABILITY

5.01 **Concession Fees.** For the concession privileges granted hereunder, Concessionaire shall pay to County Concession Fees equal to the greater of the Minimum Annual Guarantee or Annual Percentage Payment for each Contract Year throughout the Term of this Agreement. Concession Fees shall be payable in advance by installment as provided for herein and shall be reconciled on an annual basis in accordance with the provisions of Article 5.12 below.

A. **Minimum Annual Guarantee.** Concessionaire shall pay to County commencing upon the Commencement Date and on the first day of each and every month throughout the Term of this Agreement, one-twelfth (1/12) of the Minimum Annual Guarantee (MAG) for the applicable Contract Year without demand, deduction, holdback or setoff. Concessionaire agrees the Minimum Annual Guarantee for each of the following Contract Years shall be as follows:

October 1, 2021 - September 30, 2022	\$625,022.00
October 1, 2022 - September 30, 2023	\$643,772.00
October 1, 2023 - September 30, 2024	\$663,085.00

If the option is awarded for years Four and Five, the MAG for year Four and Five will be One Hundred percent (100%) of the highest Contract Year MAG above.

B. **Percentage Payment.** Within twenty (20) days after the beginning of each and every month throughout the Term of this Agreement, Concessionaire shall deliver a Statement of Gross Revenues (as hereinafter defined) for the preceding month to the Airport. In the event the Monthly Percentage Payment is greater than (1/12) of the Minimum Annual Guarantee for the applicable Contract Year, Concessionaire shall pay the difference to County with the Statement of Gross Revenues. This fee is for the privilege to engage in business at Airport and is not for lease of the Concession Premises. Concessionaire shall be liable for any State Sales Tax thereon, should such "privilege fee" now or hereafter be held to be taxable by the State of Florida.

5.02 **Abatement of Minimum Annual Guarantee.**

In the event that the following condition exists during the term of this Agreement, the minimum annual guarantee hereinabove provided for in Section 5.01(A) shall be abated for the period of time the condition exists:

- A. A major traffic reduction at the Airport. A major traffic reduction shall be defined as a not less than twenty five percent (25%) reduction in the number of passengers deplaning on scheduled airline flights at the Airport during any period of three (3) consecutive calendar months as compared to the number of such deplaning passengers in the same calendar months during the preceding calendar year.
- B. The abatement amount for those months that are abated as defined in Section 5.02(A) will be the prorated reduction of that month's 1/12th payment of the minimum annual guarantee. For example, if May, June, and July have a traffic reduction of 27%, 30% and 26% respectively, then the 1/12th minimum annual guarantee payment for May would be reduced by 27%, June would be reduced by 30%, and July would be reduced by 26%.
- C. If the major traffic reduction continues for additional months, the proportional abatement will continue as well, until there is a month when traffic does not fall below the 25% threshold, at which time the full minimum annual guarantee payment shall be made for such month.

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D. This major traffic reduction can only be identified after any three-month period ends; however, the major traffic reduction exists for any three-month period when all three months had a not less than 25% reduction in passenger deplanements. Overpayments of the MAG will be credited to the Concessionaire during the year-end reconciliation process described in Section 5.12.

5.03 Facility Rental. In addition to the Concession Fees, Concessionaire shall pay to County for the use and occupancy of the Assigned Premises, an annual Facility Rental described as follows:

Annual counter area and parking block rental are payable in twelve equal monthly installments.

For the lease of the counter area, described in Article 2.04 hereof, the sum of twenty dollars (\$20.00) per square foot annually, plus applicable sales tax thereon, for the period October 1, 2021 through September 30, 2022. Monthly installments for the counter area are sixteen hundred dollars (\$1,600.00), plus applicable sales tax thereon. Thereafter, commencing on October 1 of subsequent years during the term of this Agreement, counter area rent shall be calculated using the same per square foot per annum rate paid by the Airlines serving the Airport for office and counter space.

For the lease of the parking block, described in Article 2.04 hereof, the sum of two thousand eight hundred twenty-one dollars and fifty cents (\$2,821.50) per month, plus applicable sales tax thereon. All payments are payable in advance and without demand, on the first day of each calendar month of this Agreement, commencing October 1, 2021.

If requested by the Concessionaire and as agreed upon with the Airport Executive Director, for the use of any Storage Spaces, the Concessionaire shall pay to the County, the sum of sixty dollars (\$60) per space on a month-to-month basis, plus applicable sales tax thereon. The rate may be adjusted from time-to-time by the County. The County will invoice Concessionaire for storage spaces used in arrears, payment for which is due thirty (30) days after the date of the invoice.

5.04 Payment of Customer Facility Charges. In addition to the Concession Fees and Facility Rental, Concessionaire shall pay to County monthly within twenty (20) days of the end of the month, those CFCs collected by Concessionaire on County's behalf as required by Pinellas County.

5.05 Unpaid Fees and Charges. All payments required to be made to the County hereunder shall bear interest at the rate of eighteen percent (18%) per year from the date due to date of payment, if not paid within fifteen (15) days from the date due. Said interest shall be calculated on a daily basis and shall be due and payable when billed. In addition to payment of interest at said rate for any delinquency, an administrative fee of \$25.00 shall also be paid to the County for its additional accounting and recording expenses occasioned by such delinquent payments. In accordance with applicable Board of County Commissioners Resolutions or Board of County Commissioners approved Rules and Regulations, the Airport Executive Director may waive the imposition of interest and administrative fees. County shall not be prevented from terminating this Agreement for default in payment due to County pursuant to this Agreement or from exercising any other remedies contained herein or implied by law.

5.06 Diversion of Gross Revenues: Concessionaire shall not intentionally divert, through direct or indirect means, any of Concessionaire's rental car or related business with Airport's customers to off-airport locations of Concessionaire or affiliates of Concessionaire without including the Gross Revenues of such transactions, as defined in paragraph 5.04, in Concessionaire's reported Gross Revenues. Any such intentional diversion of Gross Revenues shall constitute a breach of contract and the County shall have the right to immediately terminate this Agreement upon determination by the County or its auditors that an intentional diversion exists or has occurred. Concessionaire shall not modify its accounting treatment or rename or redefine services or products.

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- 5.07 Sales and Use Tax. Concessionaire shall pay monthly to County any sales, use or other tax, or any imposition in lieu thereof (excluding State and/or Federal Income Tax) now or hereinafter imposed upon the rents, use or occupancy of the Assigned Premises imposed by the United States of America, the State of Florida, or Pinellas County, notwithstanding the fact that the statute, rule, ordinance or enactment imposing the same may endeavor to impose the tax on County.
- 5.08 Net Agreement. This Agreement in every sense shall be without cost or expense to County including without limitation, cost and expenses relating to the development, maintenance, improvements and operation of the Assigned Premises.
- 5.09 Place of Payments. All payments required to be made by the Concessionaire under this Agreement shall be made payable to "St. Pete-Clearwater International Airport" and shall be paid to the Airport Executive Directors Office – Suite 221, 14700 Terminal Blvd, St. Pete-Clearwater International Airport, Clearwater, FL 33762 or other office or address as may be substituted therefore.
- 5.10 Monthly Reports of Gross Revenues and Transaction Days. Within twenty (20) days after close of each month of throughout the Term of this Agreement, Concessionaire shall submit to the Airport, a Statement of Gross Revenues and Transaction Days that: (1) details Gross Revenues for the prior calendar month (2) separately identifies any exclusions from Gross Revenues and (3) lists the number of transaction days for the prior calendar month. Concessionaire shall use Exhibit "C" or a form of similar level of detail satisfactory to the Airport. The Concessionaire should submit its Statement of Gross Revenues and Transaction Days in an electronic format.
- 5.11 Accounting Records. Concessionaire shall keep, throughout the Term of this Agreement, all books of accounts and records customarily used in this type of operation, in accordance with Generally Accepted Accounting Principles prescribed by the American Institute of Certified Public Accountants or any successor agency thereto. Such books of accounts and records shall be retained and be available for three (3) years from the end of each Contract Year, including three (3) years following the expiration or termination of this Agreement. County shall have the right to audit and examine during normal business hours upon prior written notice all such books of accounts and records relating to Concessionaire's operations hereunder. If the books of accounts and records are kept at locations other than the Airport, Concessionaire shall, at its sole cost and expense, arrange for them to be brought to a location convenient to the auditors for County in order for County to conduct the audits and inspections as set forth in this Article. Concessionaire shall maintain a record of each vehicle rental agreement written at the Airport, including a copy of each original agreement signed by Concessionaire's customer. These records can be maintained at the Concessionaire's home office and in an electronic format. Accountability for the numerical sequence of contracts issued and unissued shall be maintained. Accounting records of Concessionaire shall be stored sequentially, or in such other manner approved by the Airport, to provide reasonable and expeditious access for audit purposes hereunder. Failure to maintain books of accounts and records as required under this Article 5.10 shall be deemed to be a material breach of this Agreement. The obligations arising under this Article 5.10 shall survive the expiration or termination of this Agreement.
- 5.12 Audit Requirements. Within ninety (90) days after the close of each contract year, Concessionaire shall provide to the Airport an audit report on all Gross Revenues from operations at the Airport and from the operations of any of Concessionaire's subsidiaries, contractors, management companies, or related or affiliated companies involved in providing services covered by this Agreement. The audit report shall cover the preceding Contract Year. The audit report shall be prepared by an independent Certified Public Accountant, not a regular employee of Concessionaire, in accordance with Generally Accepted Auditing Standards prescribed by the American Institute of Certified Public Accountants or any successor agency thereto. The audit report shall include the following:
- A. Schedule of all revenues by category and month and a schedule of the payments made to County.

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- B. Schedule summarizing the total number of vehicle rental transactions, total number of rental transaction days and any sales taxes collected by month.
- C. The total amount of Concession Fees that have been paid to County in accordance with this Agreement.
- D. The audit report shall include an opinion on the schedule of all revenues by category and by month, and number of rental transaction days by month, the schedule of payments to County, and the calculation of Concession Fees during the period.

Delivery of an audit report containing a qualified opinion, an adverse opinion, or a disclaimer of opinion, as defined by the American Institute of Certified Public Accountants or any successor agency thereto, shall be deemed to be a material breach of this Agreement. If the audit report indicates that the amount of Concession Fees (together with any sales taxes thereon) due and owing for any Contract Year is greater than the amount paid by Concessionaire to County during such Contract Year, the Concessionaire shall pay the difference to County with the audit report. If amount of Concession Fees actually paid by Concessionaire to County during any Contract Year exceeds the Concession Fees due and owing for such Contract Year, the County shall credit the overpayment in the following order: (i) against any past due amounts owed to County by Concessionaire, including interest and late fees; (ii) against currently outstanding, but not yet due, Concession Fees owed to County by Concessionaire; (iii) against future Concession Fees which will become due during the succeeding Contract Year; and (iv) against any other sums payable by Concessionaire to County. Notwithstanding the foregoing, in the event of an overpayment by Concessionaire during the last Contract Year, the County shall credit the overpayment against any remaining amounts owed to County, including interest and late fees, and refund to Concessionaire any overpayment amount in excess of the credit.

5.13 Audit by County. Notwithstanding any provision in this Agreement to the contrary, County or its representative(s) may at any time perform audits of all or selected operations performed by Concessionaire under the terms of this Agreement. In order to facilitate the audit performed by County, Concessionaire agrees to make suitable arrangements with the County's representative(s) any and all working papers relevant to the annual statement report performed by the Certified Public Accountant. County or its representative(s) shall make available to Concessionaire a copy of the audit report prepared by or on behalf of County. Concessionaire shall have thirty (30) days from receipt of the audit report from County or its representative(s) to provide a written response to the Department regarding the audit report. Concessionaire agrees that failure of Concessionaire to submit a written response to the audit report in accordance with the requirements of this Article 5.12 shall constitute acceptance of the audit report as issued.

5.14 Concession Pass-Through. The Concessionaire acknowledges that the Annual Percentage Payment by Concessionaire to the County under this Agreement are for the Concessionaire's privilege to use the Airport facilities and access the airport market and are not fees imposed by the County upon Concessionaire's customers. The County does not require, but will not prohibit, a separate statement of and charge for the percentage fee on customer invoices or rental agreement ("Recovery Fee"), provided that such Recovery Fee meets the following conditions:

- A. Such Recovery Fee must be titled "Concession Recovery Fee" "Concession Recoupment Fee" or such other appropriate name.
- B. The Recovery Fee must be shown on the customer rental agreement and invoiced with other Concessionaire charges (i.e., above the line).
- C. The Recovery Fee as stated on the invoice and charged to the customer shall be no more than eleven and eleven-hundredths percent (11.11%) of Gross Revenues and shall be specifically included in the Definition of Gross Revenues for purposes of remittance to the County.

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- D. Concessionaire shall neither identify, treat, nor refer to the Recovery Fee as a tax, nor imply that County is requiring pass through of such fee.
- E. Concessionaire shall comply with all applicable laws, including Federal Trade Commission requirements and any commitment to or contractual obligation by Concessionaire with any group of State Attorneys General.

ARTICLE 6 - CONSTRUCTION OF IMPROVEMENTS

- 6.01 **Required Improvements.** Concessionaire shall, at its sole cost and expense, install all improvements and trade fixtures necessary and customary for the operation of a rental car concession within the Assigned Premises in accordance with the requirements of this Article 6.
- 6.02 **Alterations, Improvements or Additions.** Concessionaire shall make no alterations, additions, or improvements to the Assigned Premises, without the prior written approval of the Airport, which approval may be granted or withheld by the Airport in its sole discretion.
- 6.03 **Construction Requirements.** All improvements, alterations and additions made by Concessionaire to the Assigned Premises shall be of high quality and meet all applicable Federal, State, and local laws, regulations, rules and requirements. Prior to the commencement of construction, one (1) full and complete set of plans and specifications for all improvements, alterations and/or additions shall be submitted to the Airport for approval, which approval may be granted or withheld in the Airport's sole discretion. All improvements shall be completed in accordance with construction standards established by the Airport and the plans and specifications approved by the Airport.
- 6.04 **No Liens.** Concessionaire covenants and agrees that nothing contained in this Agreement shall be construed as consent by County to subject the estate of County to liability under the Construction Lien Law of the State of Florida. Concessionaire shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Concessionaire of this provision of this Agreement. If so requested by County, Concessionaire shall file a notice satisfactory to County in the Public Records of Pinellas County, Florida stating that the County's interest shall not be subject to liens for improvements made by Concessionaire. In the event that a construction lien is filed against the Assigned Premises or other County property in connection with any work performed by or on behalf of Concessionaire, Concessionaire shall satisfy such claim, or transfer same to security within ten (10) days, County may do so and thereafter charge Concessionaire, and Concessionaire shall promptly pay to County upon demand all costs incurred by County in connection with the satisfaction or transfer of such claim, including, but not limited to, attorney's fees.

ARTICLE 7 - TITLE TO IMPROVEMENTS

- 7.01 **Title to Improvements.** All fixtures and improvements that are constructed or placed upon the Assigned Premises, excluding furnishings, equipment, and trade fixtures, (the "Improvements") shall become the absolute property of County upon termination or expiration of this Agreement and County shall have every right, title, and interest therein, free and clear of any liens, mortgages encumbrances.
- 7.02 **Removal of Improvements.** Notwithstanding anything in this Agreement to the contrary, County shall be entitled, at its option, to have the Assigned Premises returned to County free and clear of some or all of the Improvements at Concessionaire's sole cost and expense. In such event, County shall provide timely notification to Concessionaire of its election to require removal of Improvements and, to the extent possible, County shall notify Concessionaire at least sixty (60) days prior to the expiration or termination of this Agreement. Concessionaire shall have sixty (60) days from date of

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notice within which to remove the Improvements. If Concessionaire fails to remove the Improvements, County may remove the Improvements. Concessionaire agrees that Concessionaire shall fully assume and be liable to County for payment of all costs of removal of the Improvements (whether direct or indirect) incurred by County, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee shall be due and payable County within thirty (30) days from the date of the written notice provided by the Airport. The obligations arising under this Article 7 shall survive the expiration or termination of this Agreement.

ARTICLE 8 - OBLIGATIONS OF CONCESSIONAIRE

8.01 **Maintenance and Repair.** Concessionaire shall, at its sole cost and expense, maintain the Assigned Premises and improvements and appurtenances thereto, in a safe and presentable condition consistent with good business practice, industry standards and in accordance with all applicable Federal, State, and local laws, regulations and rules. Concessionaire shall repair all damages to the Assigned Premises caused by its employees, patrons, invitees, suppliers of service, or furnishers of material, or any other person whomsoever, and all damages caused by or resulting from in any way arising out of Concessionaire's operations thereon or Concessionaire's use of the Assigned Premises normal wear and tear excepted. Concessionaire shall maintain and repair all equipment thereon. Concessionaire shall repaint and refurbish its facilities as may be deemed necessary in the reasonable discretion of the Airport. The Airport may inspect the Assigned Premises upon giving prior written notice except in the event of an emergency to identify items in need of maintenance or repair and report in writing to the Concessionaire those items in need of maintenance and repair. Concessionaire agrees that it shall abide by the decision of the Airport with respect to any and all such maintenance or repair. The Airport shall reasonably judge Concessionaire's performance under this Article 8.01 as to the quality of maintenance and repair. Upon written notice by the Airport to Concessionaire, Concessionaire shall perform the required maintenance or repair in accordance with the Airport's decision. If Concessionaire has not made a good faith effort, as determined by the Airport, to begin to perform the maintenance or repair within thirty (30) days after receipt of the Airport's written notice and to diligently pursue the same to completion, County shall have the right to enter the Assigned Premises and perform the necessary maintenance or repair, and Concessionaire hereby expressly agrees that it shall fully assume and be liable to County for payment of the costs thereof, plus twenty-five percent (25%) administrative overhead. Such maintenance or repair cost, plus the administrative cost, shall be due and payable within thirty (30) days of the Airport's billing therefore.

8.02 **Concession Service Standards.**

- A. Subject to the terms and conditions of this Agreement, Concessionaire shall operate and manage the Concession for the purpose of providing rental car services to the traveling public and shall conform in all respects to all applicable Federal, State, and local laws, regulations and rules.
- B. The Assigned Premises shall be staffed and operated seven (7) day per week, commencing not less than thirty (30) minutes prior to the first scheduled departing flight and ending not less than thirty (30) minutes after the last scheduled arriving flight, except as otherwise approved in writing by the Airport.
- C. Concessionaire shall provide a fleet of no fewer than fifty (50) rental cars for rent at the Airport.
- D. Concessionaire shall cause its employees to conduct themselves at all times in a courteous manner towards the public and to provide prompt, efficient and safe service.
- E. Concessionaire shall provide and maintain a high standard of service, quality, and value.

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- F. Concessionaire recognizes that from time-to-time the Airport may cause quality assurance reviews of the Concession to be conducted upon the giving of at least twenty-four (24) hours written notice. Such reviews may include inspection of the Assigned Premises used in the operation of the Concession. Concessionaire agrees to fully cooperate in such quality assurance reviews and to immediately take whatever actions are necessary to correct any deficiencies.

8.03 Concession Operational Standards.

- A. Concessionaire shall furnish its services and sales on a fair, equal, and non-discriminatory basis to all customers, and charge fair, reasonable, and non-discriminatory prices for all sales and services.
- B. Concessionaire shall make all reasonable efforts, in a proper and ethical business manner, to maintain and develop the Concession and shall not divert or cause to be diverted any rental car business from the Airport.
- C. Concessionaire shall not permit its employees nor any other person under its control to engage in open or public disputes or conflicts.
- D. The Assigned Premises shall be operated and maintained in a safe, clean, orderly, and inviting condition at all times.
- E. Except such advertising and promotional items as may be purchased from the Airport's advertising concessionaire or which the Airport has previously approved as permanent signage to be installed within the Assigned Premises, Concessionaire shall be strictly prohibited from posting any signage which advertises inducements, including, but not limited to, automobile rental rates, fuel charges, makes and models of automobiles, automobile equipment and amenities, availability of automobiles and any other type of promotional information or incentive.
- F. Concessionaire shall not, in any manner, solicit customers from the Assigned Premises or elsewhere within the Terminal or its vicinity. This restriction shall include the approaching of any person by an employee or any other representative of Concessionaire for the purpose of offering information regarding Concessionaire or conducting surveys. This restriction shall apply at all times and at all Terminal locations. Parking of unattended rental cars for customer pick-up and rental transactions at terminal curbside is not permitted.
- G. Concessionaire's customer service area located in front of the reservation counters are for the purpose of customer queuing only, the area is included as counter area as part of the Assigned Premises and therefore is considered in the calculation of Facility Rental. The customer service area extends the width of Concessionaire's reservation counter and twelve feet (12') from the front of the counter. Such use of the customer service area requires that Concessionaire utilize only such barrier stanchions as specifically designated by the Airport and that the placement and condition of such stanchions be maintained in a neat and orderly manner and in good repair at all times. Concessionaire shall be responsible for repositioning stanchions as needed and as requested by Airport staff.
- H. Concessionaire shall not represent itself as a provider of for-hire transportation services nor render services which are customarily provided by the operators of such transportation services.
- I. Nothing contained herein shall require Concessionaire to own, unconditionally or otherwise, vehicles used in the operation of the Concession; provided, however, all vehicles used in the operation of the Concession shall be owned, leased, or rented by

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Concessionaire or an affiliate. Concessionaire may obtain such vehicles from any supplier.

- J. All contracts, advertising, solicitation, and publicity regarding Concessionaire shall be made in Concessionaire's lawful name and shall not in any manner misrepresent the relationship between County and Concessionaire nor County's interest herein.
 - K. The day-to-day operation and management of the Concession shall be under the direct supervision of an active, qualified, and competent manager who shall at all times be subject to the direction and control of Concessionaire.
 - L. Prior to the Commencement Date, Concessionaire shall designate in writing to the Department the name, address, and telephone number of the manager who at all times shall be the authorized representative of Concessionaire for all matters relating to the Concession. Concessionaire shall provide written notice to the Department of any change in its manager within seven (7) days of the change and shall include any change of address or telephone number.
 - M. Concessionaire, its agents, employees, and suppliers shall not block any areas used for ingress and egress by Airport traffic and shall not interfere with the activities of County, its agents, employees, any other Airport Concessionaires or tenants, or any other authorized person.
 - N. The services provided by Concessionaire shall be strictly limited to those permitted herein. Concessionaire shall not engage in any other business activity from the Assigned Premises or any other location on the Airport without benefit of a validly executed agreement entered into with County for the provision and conduct of such other business activity.
 - O. Parking blocks described in Article 2.04 are solely for the parking and storage of Concessionaire's automobiles available for rental and the return by Airport customers of automobiles rented. No servicing or washing of automobiles nor employee parking shall be permitted in the ready return parking area. Parking of vehicles other than automobiles complying with Subsection 8.01 shall not be permitted upon the Concession Premises: this includes trucks, jitneys, junk cars, etc. Concessionaire, upon prior written approval by the Airport Executive Director, may configure its parking block in such a manner as to maximize the utility of the space provided based on their methods of operation.
 - P. Concessionaire may also, at its option, provide car rental service for customers at Airport Fixed Base Operators, who have been authorized by Airport or to engage Airport Car Rental Concessionaires for this purpose; provided that Concessionaire shall so notify Airport in writing of its intent to do so. Gross receipts derived from such car rentals shall be included in the calculation of the monthly Percentage Fee payable to Airport pursuant to Article 5.01 of this Agreement.
 - Q. Concessionaire shall provide and install, at its sole cost and expense, within the Assigned Premises, office furnishings, fixtures and communication systems and equipment as may be necessary for the effective and efficient operation of the Concession.
- 8.04 Utilities. County shall provide electricity and water used or consumed in or on the Assigned Premises. Concessionaire will connect into all utilities, at its own cost, in accordance with the utility's standards.
- 8.05 Cleanliness of Premises. The Assigned Premises and all equipment and materials used by Concessionaire shall at all times be clean, sanitary and free from rubbish, refuse, food scraps, garbage, dust, dirt, rodents, insects, and other offensive or unclean materials. The Concessionaire will not sell or permit the sale of any food or beverages on or from the Assigned Premises. The

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Airport will permit the Concessionaire the privilege of employee's limited preparation and consumption of food and beverages on the Assigned Premises. At the sole discretion of the Airport Executive Director, food preparation privileges may be suspended should any food preparation result in odors or activation of fire alarm. The Airport shall reasonably determine whether Concessionaire is in compliance with the obligations as provided for herein and shall provide Concessionaire with written notice of any violations of Concessionaire's obligations. Immediately upon Concessionaire's receipt of the Airport's written notice of violation, Concessionaire shall commence such corrective action as required by Airport or as may be necessary to remedy such non-compliance to satisfaction of the Airport. If corrective action is not initiated within ten (10) days of receipt of Airport's written notice and pursued to completion in a diligent manner, the Airport may cause the same to be accomplished and Concessionaire hereby expressly agrees that Concessionaire shall assume and be liable to County for payment of all such costs, plus twenty-five percent (25%) for administrative overhead. Such costs, plus the administrative cost, shall constitute additional rent and shall be due and payable within thirty (30) days from the Airport's billing therefore.

- 8.06 Security. Concessionaire acknowledges and accepts full responsibility for the security and protection of the Assigned Premises and any and all inventory and equipment now existing or hereafter placed on or installed at the Airport, and for the prevention of unauthorized access to its facilities and expressly agrees to comply with all rules and regulations of County and of any and all other governmental entities that now or may hereafter have jurisdiction over such security. Concessionaire fully understands that the security protection provided by County is limited to that provided by the Pinellas County Sheriff's Office to any other business situated at the Airport, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Assigned Premises shall be the sole responsibility of Concessionaire and shall involve no cost to County.
- 8.07 Airport Security Program. Concessionaire agrees to observe all security regulations and other requirements of any agency of the Federal government, including, but not limited to, the FAA and TSA, applicable to Concessionaire, as such regulations or requirements have been or may be amended, including without limitation, Title 14, Part 139 of the Code of Federal Regulations and Title 49, Part 1542 of the Code of Federal Regulations. Concessionaire agrees to comply with the Airport Security Program and the Air Operations Area (AOA) Vehicle Access Program, and amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by County, and to take such steps as may be necessary or directed by County to ensure that sublessees, employees, invitees, and guests observe these requirements. Concessionaire shall conduct background checks of its employees to the extent required by any Federal, State, or local law or if, to the extent permitted by law, required by the Airport. The Airport shall have the right to require the removal or replacement of any employee of Concessionaire at the Airport that the Airport has reasonably determined may present a risk to public safety or the security of the Airport. If as a result of the acts or omissions of Concessionaire, its sublessees, employees, invitees or guests, County incurs any fines and/or penalties imposed by the FAA or TSA; any expense in enforcing the regulations of the FAA or TSA or the rules or regulations of County; or any expense in enforcing the Airport Security Program, then Concessionaire agrees to pay to County all such costs and expenses, including all costs of administrative proceeding, court costs, and attorney fees and all costs incurred by County in enforcing this provision. Concessionaire further agrees to rectify any security deficiency or other deficiency as may be determined by County, the FAA or TSA. In the event Concessionaire fails to remedy any such deficiency, County may do so at the cost and expense of Concessionaire. Concessionaire acknowledges and agrees that County may take whatever action is necessary to rectify any security deficiency or any other deficiency identified by County, the FAA or TSA.
- 8.08 Liquidated Damages. Concessionaire's failure to adhere to the operating requirements set forth in this Agreement is reasonably anticipated to result in significant inconvenience to the public, adversely affect the overall commercial business of the Airport, and reduce the amount of compensation to be paid to County. Additionally, County resources will be expended in dealing

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with violations of this Agreement by Concessionaire. The parties hereby agree that total damages sustained by County for violations of the provisions of this Agreement addressing the subject matter listed below could be significant but would be difficult to determine and to track. Therefore, the parties hereto agree that the liquidated damages amounts, set forth below for violation of Agreement terms addressing the referenced subject matter are reasonable estimates of the loss anticipated to be suffered or incurred by County. Concessionaire, therefore, hereby agrees that imposition of the liquidated damages set forth below is fair and reasonable and Concessionaire agrees to pay immediately upon demand by County the following amounts as liquidated damages upon the occurrence of breaches related to the following subject matter:

VIOLATION	LIQUIDATED DAMAGES
Operating Hours Violation	\$100 per hour or portion thereof, during which location is not open - first occurrence
	\$200 per hour or portion thereof, during which location is not open - second occurrence
	\$300 per hour or portion thereof, during which location is not open- third occurrence
	\$1,000 per occurrence thereafter
Service Standards and Employee Standards Violation	\$50 per occurrence
Pricing and Quality Violations	\$250 first occurrence \$500 per occurrence thereafter
Signs and Premises Violations	\$50 first occurrence \$100 per occurrence thereafter
Sanitation, Hygiene, Cleanliness, Waste Disposal and Recycling Violations	\$100 per occurrence, for up to three (3) occurrences. \$1,000 per occurrence thereafter or a fee for any remedial sanitation work that must be performed by County billed at a rate determined by County at its sole discretion, notwithstanding the market rate.
Deliveries and Vendor Access Violations (including improper blocking of traffic lanes)	\$100 per occurrence
Aggressive selling techniques	\$100 per occurrence
Failure to Provide Documents to County in Accordance with Agreement Requirements	\$100 for each and every calendar day of delay (notwithstanding any other remedies or actions provided for herein)

County's failure to impose liquidated damages for any violation of the requirements set forth above shall not waive any right or prohibit County from doing so for subsequent violations.

Except for violations regarding the minimum hours of operation, the liquidated damages for which shall be incurred immediately and without notice upon violation, other liquidated damage amounts shall not be imposed unless the violation continues for more than three (3) calendar days after County has given Concessionaire written notice (and this written notice may be in the form of an email) of the violation; provided, however, after County has given Concessionaire notice of the same violation more than twice during any given Contract Year, the liquidated damage amount shall be immediately imposed with no opportunity to cure in order to avoid the sanction. Additionally,

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after two (2) violations of the same type in the same Contract Year, County reserves the right, at its sole option, not to impose the liquidated damage and instead seek any other remedies available to it for an event of Default, including termination of this Agreement.

ARTICLE 9 - INSURANCE

Concessionaire shall, at its sole expense, maintain in full force and effect at all times during the Term of this Agreement, the insurance limits, coverages and endorsements required herein and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; *but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.* All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better. Neither the requirements contained in this Article 9 nor County's review or acceptance of insurance, shall in any manner limit or qualify the liabilities and obligations assumed by Concessionaire under this Agreement.

- 9.01 Commercial General Liability. Concessionaire shall maintain Commercial General Liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000) Each Occurrence including coverage for, but not limited to, Premises/Operations, Products/Completed Operations, Contractual Liability, Personal/Advertising Injury and Cross Liability. Fire Legal Liability insurance with a limit of not less than One Hundred Thousand Dollars (\$100,000). Medical Payments insurance (when available) with a limit of not less than Five Thousand Dollars (\$5,000). Coverage shall be provided on a primary basis.
- 9.02 Business Auto Liability. Concessionaire shall maintain Business Automobile Liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000) Each Occurrence for owned, non-owned and hired automobiles. In the event Concessionaire has no owned automobiles, Concessionaire shall only be required to maintain Hired & Non-Owned Auto Liability insurance. This amended coverage may be satisfied by way of endorsement to the Commercial General Liability insurance or separate Business Auto Liability insurance. Coverage shall be provided on a primary, non-contributory basis.
- 9.03 Workers' Compensation & Employers Liability. Concessionaire shall maintain Workers' Compensation & Employers Liability insurance of no less than \$500,000 per occurrence and in accordance with Florida law. This coverage shall be provided on a primary basis. In the event Concessionaire subcontracts any portion of the work or services required or permitted by this Agreement to another party, Concessionaire shall be responsible for ensuring the subcontractor maintains Worker's Compensation & Employers Liability insurance, or Concessionaire shall provide coverage under its own Worker's Compensation & Employers Liability policy on behalf of the subcontractor. A waiver of subrogation in favor of the County shall be provided by the Concessionaire and subcontractor(s) prior to beginning any work under this agreement. Certificate(s) of Insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the Certificate(s) of Insurance. The County shall have the right, but not the obligation to determine that the Concessionaire is only using employees named on such list to perform work under this agreement. Should employees not named be utilized by Concessionaire, the County, at its option may stop work without penalty to the County until proof of coverage or removal of the employee by the Concessionaire occurs, or alternatively find the Concessionaire to be in default and take such other protective measures as necessary.
- 9.04 Excess or Umbrella Liability Insurance excess of the Primary coverage in the amount of Four Million Dollars (\$4,000,000) per Occurrence and Four Million Dollars (\$4,000,000) in General Aggregate required in Sections (9.01), (9.02) and (9.03) above.
- 9.04 Additional Insured Endorsement. Concessionaire shall endorse County as an Additional Insured on each liability insurance policy required to be maintained by Concessionaire, except for the

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Worker's Compensation insurance policy. The CG 2026 Additional Insured - Designated Person or Organization endorsements, or their equivalent, shall be endorsed to the Commercial General Liability policy. Other policies, when required, shall provide a standard Additional Insured endorsement offered by the insurer. The Additional Insured endorsements shall provide coverage on a primary, non-contributory basis. The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County. The Additional Insured endorsement shall read "Pinellas County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Airport Executive Directors Office –, 14700 Terminal Blvd., Suite 221, St. Pete-Clearwater International Airport, Clearwater, Florida 33762." The actual "Additional Insured" endorsement(s) evidencing that the conditions set forth in this paragraph have been met shall be provided to the County by the Concessionaire prior to beginning any work under this agreement.

- 9.05 Certificate of Insurance. Concessionaire shall provide County with a certificate of insurance evidencing limits, coverages and endorsements required herein. The certificate of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage cancels or non-renews during the Term of this Agreement, Concessionaire shall furnish a new certificate of insurance evidencing replacement coverage thirty (30) days prior to the expiration of such insurance.
- 9.06 Waiver of Subrogation. Concessionaire agrees by way of entering this Agreement in writing to a Waiver of Subrogation for each required policy providing coverage during the Term of this Agreement. When required by the insurer or should a policy condition not allow a pre-loss agreement to waive subrogation without an endorsement, Concessionaire shall notify its insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition prohibiting such an endorsement, or voiding coverage should Concessionaire enter into such an agreement on a pre-loss basis.
- 9.07 Deductibles, Coinsurance, & Self-Insured Retention. Concessionaire shall be fully and solely responsible for any deductible, coinsurance penalty or self-insured retention, including any losses, damages or expenses not covered due to an exhaustion of limits or failure to comply with a policy. The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County's Self-Insured Retentions of whatever nature.
- 9.08 Right to Review or Reject Insurance. County's Risk Management Department may review, modify, reject, or accept any required policies of insurance, including, but not limited to, limits, coverages or endorsements, required by this Article 9 from time to time throughout the Term of this Agreement. County may also reject any insurer or self-insurance plan providing coverage because of poor financial condition or failure to operate legally. In such event, County shall provide Concessionaire a written notice of rejection, and Concessionaire shall comply within thirty (30) days of receipt of the notice.

All subcontracts between Concessionaire and its subcontractors shall be in writing. Further, all subcontracts shall (1) require each subcontractor to be bound to Concessionaire to the same extent Concessionaire is bound to the County by the terms of this agreement, as those terms may apply to the portion of the Work to be performed by the subcontractor; (2) provide for the assignment of the subcontracts from Concessionaire to the County at the election of the County upon termination of the Contract; (3) provide that County will be an additional indemnified party of the subcontract; (4) provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability; (5) provide waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined in Article 9 of this agreement (6) assign all warranties directly to the County; and (7) identify the County as an intended third-party beneficiary of the subcontract. Concessionaire shall make

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available to each proposed subcontractor, prior to the execution of the subcontract, copies of this agreement to which the subcontractor will be bound by Article 9 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with this agreement.

- 9.09 No Representation of Coverage Adequacy. Concessionaire acknowledges the limits, coverages and endorsements required by this Article 9 are intended to minimize liability for County. Concessionaire agrees that it will not rely upon the requirements of this Article 9 when assessing the extent or determining appropriate types or limits of insurance coverage to protect Concessionaire against any loss exposures, whether as a result of this Agreement or otherwise.

ARTICLE 10 - RELATIONSHIP OF THE PARTIES

Concessionaire, or any successor in interest to this Agreement, is and shall be deemed to be an independent contractor and operator and shall be solely responsible to all parties for its respective acts or omissions, and County shall in no way be responsible therefore.

ARTICLE 11 - INDEMNIFICATION

Concessionaire agrees to protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney fees at trial and appellate levels) and causes of action of every kind and character against, or in which County is named or joined, arising out of this Agreement or Concessionaire's use or occupancy of the Assigned Premises, including, without limitation those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder, and any third or other party whomsoever, or any governmental agency, arising out of or incident to or in connection with Concessionaire's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of Concessionaire or any breach of the terms of this Agreement: provided, however, Concessionaire shall not be responsible to County for damages resulting out of bodily injury (including death) or damages to property which are judicially determined to be solely attributable to the negligence of County its respective agents, servants, employees and officers. Concessionaire further agrees to hold harmless and indemnify County for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or due to Concessionaire's activities or operations or use of the Assigned Premises whether or not Concessionaire was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving the activities. This indemnification shall be extended to include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of or at the request of Concessionaire. Concessionaire recognizes the broad nature of this indemnification and hold-harmless provision and acknowledges that County would not enter into this Agreement without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with laws of the State of Florida. The obligations arising under this Article 11 shall survive the expiration or termination of this Agreement.

ARTICLE 12 - DAMAGE OR DESTRUCTION OF PREMISES/IMPROVEMENTS

- 12.01 Concessionaire's Obligations. Concessionaire hereby assumes full responsibility for the condition of the Assigned Premises and character, acts and conduct of all persons admitted to the Assigned Premises by or with the actual or constructive consent of Concessionaire or by or with the consent of any person acting for or on behalf of Concessionaire. If the Assigned Premises, improvements, or any part thereof, are damaged in any way whatsoever, whether by act of God, by the act, default or negligence of Concessionaire, or of Concessionaire's members, agents, employees, officers,

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representatives, guests, invitees, contractors, patrons, or any person admitted to the Assigned Premises by Concessionaire or otherwise, Concessionaire shall, at its sole cost and expense, restore the Assigned Premises to the condition existing prior to such damage. Concessionaire shall commence such restoration within thirty (30) days and shall diligently pursue such restoration to completion. Such repairs, replacements or rebuilding shall be made by Concessionaire in accordance with the construction requirements contained herein and as established by the Airport. If Concessionaire fails to restore the Assigned Premises as required above, County shall have the right to enter the Assigned Premises and perform the necessary restoration, and Concessionaire hereby expressly agrees that it shall fully assume and be liable to County for payment of the costs therefore, plus twenty-five percent (25%) administrative overhead. Such restoration cost, plus the administrative cost, shall be due and payable within thirty (30) days from date of written notice therefore.

- 12.02 Right to Cancel. If any of the improvements on the Assigned Premises are damaged or destroyed in whole or in part by fire or other casualty, Concessionaire may, subject to approval of County, be relieved of the obligation to repair, replace or rebuild the same and have the right to cancel this Agreement. In such event, Concessionaire shall provide County written notice within thirty (30) days after the date of any such damage or destruction and, upon approval by County, this Agreement shall terminate, and the insurance proceeds received or receivable under any policy of insurance shall be paid to and retained by County. All fees and other sums due hereunder payable under this Agreement shall be prorated and paid to the date of such termination. The receipt and acceptance of insurance proceeds by County under this Article 12 will relieve Concessionaire from any responsibility to restore the Assigned Premises to its former condition; provided, however, that Concessionaire expressly agrees, covenants and warrants that nothing herein shall serve to relieve Concessionaire of its liability for penalties or expenses associated with, arising out of, or in any way resulting from any impairment of or damage to the environment of the Assigned Premises, and Concessionaire further waives any claim against County for damages or compensation, should this Agreement be so terminated.
- 12.03 Termination Upon Destruction or Other Casualty. In the event the Assigned Premises, or any part thereof, shall be destroyed or damaged in whole or in part by fire, water or any other cause, or if unforeseen occurrence shall likewise render the fulfillment of this Agreement by County impossible, then County, at its sole option, may terminate this Agreement. Concessionaire shall pay all fees, rental, and costs and satisfy all of its obligations hereunder arising prior to the time of such termination, whereupon this Agreement shall terminate, and the parties shall be relieved of all further obligation hereunder other than those which expressly survive expiration or termination of this Agreement. Concessionaire hereby waives any claim for damages or compensation should this Agreement be so terminated.

ARTICLE 13 - TERMINATION OF AGREEMENT, DEFAULT, AND REMEDIES

- 13.01 Termination. This Agreement shall automatically terminate and expire at the end of the Term.
- 13.02 Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by Concessionaire:
- A. The vacating or abandonment of the Assigned Premises by Concessionaire.
 - B. The failure by Concessionaire to make payment of Concession Fees, Facility Rental, CFCs or any other payment required to be made by Concessionaire hereunder, as and when due, where such failure continues for a period of ten (10) days after written notice thereof from County to Concessionaire.
 - C. The failure by Concessionaire to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by Concessionaire, other than

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those described in paragraph B above, where such failure shall continue for a period of thirty (30) days after written notice from County to Concessionaire; provided, however, that if the nature of Concessionaire's default is such that more than thirty (30) days are reasonably required for its cure, then Concessionaire shall not be deemed to be in default if Concessionaire commenced such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion.

- D. To the extent permitted by law, (i) the making by Concessionaire or any guarantor hereof of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against Concessionaire of a petition to have Concessionaire adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against Concessionaire, the same is dismissed within sixty (60) days]; (iii) the appointment of a trustee or receiver to take possession of substantially all of Concessionaire's assets located at the Assigned Premises or of Concessionaire's interest in this Agreement, where possession is not restored to Concessionaire within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Concessionaire's assets located at the Assigned Premises or of Concessionaire's interest in this Agreement, where such seizure is not discharged within thirty (30) days.
- E. The discovery by County that any information given to County by Concessionaire relating to this Agreement was materially false.

13.03 Remedies. In the event of any such material default or breach by Concessionaire, County may, with or without notice or demand, pursue any available right or remedy at law or equity including the right, at its option, to immediately terminate this Agreement, by giving written notice to that effect. Upon such termination, Concessionaire shall immediately surrender the Assigned Premises to County and shall cease its operations at the Airport. Such termination shall be without prejudice to County to any remedy for arrearages or payments due hereunder or breach of covenant or damages for the balance of the Concession Fees and other sums due hereunder, payable through the full Term of this Agreement, or any other damages or remedies whatsoever. Upon termination of this Agreement, County shall have the right to engage another Concessionaire to provide the services required hereunder for such period or periods at such fees and upon other terms and conditions as County may, in good faith, deem advisable.

13.04 Termination by Concessionaire. Concessionaire may terminate this Agreement, if Concessionaire is not in default of this Agreement (including, but not limited to, its payments to County hereunder), by giving County sixty (60) days advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:

- A. Issuance by any court of competent jurisdiction of an injunction in any way preventing the use of the Airport for Airport purposes and the remaining in force of such injunction for a period of at least ninety (90) consecutive days.
- B. The default by County in the performance of any covenant or agreement herein required to be performed by County and the failure of County to remedy such default for a period of sixty (60) consecutive days after receipt from Concessionaire of written notice to remedy same provided, however, that if the nature of County's obligations is such that more than sixty (60) days are required for performance then County shall not be in default if County commences performance within such sixty (60) day period and thereafter diligently prosecutes the same to completion. Notwithstanding the foregoing, a notice of cancellation shall not be of any force or effect if County has remedied the default prior to receipt of Concessionaire's notice of cancellation.
- C. The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control, or use of the Airport and facilities, or any substantial part or parts

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thereof, in such a manner as to substantially restrict the operation of Concessionaire, for a period of at least ninety (90) consecutive days.

- 13.05 Surrender of Assigned Premises. Notwithstanding the obligations of Concessionaire and rights of County provided for herein, Concessionaire expressly agrees that upon termination or cancellation of this Agreement it shall immediately surrender the Assigned Premises to County free and clear of all personal property of Concessionaire. All repairs and obligations for which Concessionaire is responsible shall be completed by the earliest practical date prior to surrender. Any personal property of Concessionaire not removed in accordance with this provision may be removed and placed in storage by the Airport at the sole cost of Concessionaire. Failure on the part of Concessionaire to reclaim same, as provided by law, shall constitute a gratuitous transfer of title to County for whatever disposition is deemed to be in the best interest of County.

ARTICLE 14 - ASSIGNMENT AND TRANSFER

Concessionaire shall not, in any manner, assign, transfer or otherwise convey an interest in this Agreement, or sublet the Assigned Premises or any portion thereof ("Assignment"), without the prior written consent of the County, which consent may be granted or withheld by the County in its sole discretion. Any such attempted Assignment without County approval shall be null and void. In the event the County consents in writing to an Assignment, Concessionaire shall have the right to the extent permitted by the County's consent to such Assignment, provided that the use of the Premises shall be limited to the same uses as are permitted under this Agreement. Any permitted Assignment shall be subject to the same conditions, obligations and terms as set forth herein and Concessionaire shall be fully responsible for the observance by its assignees of the terms and covenants contained in this Agreement. Notwithstanding any provision of this Agreement to the contrary, in the event of an approved Assignment, Concessionaire shall remain primarily liable to County for fulfilling all obligations, terms, and conditions of this Agreement, throughout the Term of this Agreement. County may freely assign this Agreement at any time without the consent of Concessionaire, and upon assumption by such assignee of County's obligations hereunder, County shall be released from all liability and obligation arising hereunder after such assignment.

ARTICLE 15 - SIGNS

No signs, posters, or similar devices shall be erected, displayed, or maintained by Concessionaire in view of the general public in, on, or about the Assigned Premises or elsewhere on the Airport, without the prior written approval of the Airport, which approval may be granted or withheld by the Airport in its sole discretion. Any signs that are not approved by the Airport shall be immediately removed at the sole cost and expense of Concessionaire. All signs approved for Concessionaire's operations at the Airport shall be at the cost of the Concessionaire.

All signs which Concessionaire desires to place in, on or upon the concession premises shall first be reviewed and approved by the Airport Executive Director or designee and shall conform to the following requirements:

- (a) Concessionaire may have no more than two illuminated, wall signs on the wall space behind its counter area, identifying its company name by logo/lettering, branding and colors, total sign(s) area not to exceed a combined overall height and width of thirty-two (32) square feet, including the background mounting area. Rental Agreement/Reservation racks are allowed as part of the back-wall treatment.
- (b) No overhead, side-wall, or counter front signs or other decorations shall be permitted.
- (c) Counter tops shall be kept clean and free of advertising brochures, posters, etc. A countertop "key-return" box, labeled as such, is permitted.

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- (d) Advertising slogans, special promotional signs, etc., are not allowed on car rental counters, counter fronts, or on walls behind counters.
- (e) Each parking space shall have a sign not to exceed two feet square in size and permanently mounted to a post, identifying the space as Concessionaire's parking or car return space.
- (f) In the event of disputes concerning the application, interpretation or enforcement of (a) through (e), the decision of the Airport Executive Director shall be final.

During the term of this Agreement, the Airport reserves the right to install a Multi-User Flight Information Display System (MUFIDS) to provide for the standardized of signage throughout the Terminal. Should such installation occur, Concessionaire will be required to remove wall mounted signage behind their counter area and the Airport will install the MUFIDS monitors. Concessionaire will be required to provide the Airport with their graphics for written approval by the Airport Executive Director and programming into the MUFIDS.

ARTICLE 16 - LAWS, REGULATIONS, PERMITS AND TAXES

16.01 General.

- A. Concessionaire agrees that throughout the Term of this Agreement, Concessionaire shall at all times be and shall remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature without limitation, as now or hereafter amended, including, but not limited to FAA Advisory Circulars and Airport Rules and Regulations.
- B. Concessionaire agrees that it shall require its appropriate managers, supervisors, and employees to attend such training and instructional programs as the Department may, from time to time require, in connection with the Airport Rules and Regulations, policies and procedures related to certification of the Airport under Title 14, Part 139 of the Code of Federal Regulations and policies and procedures related to the Airport Security Plan or training required by the TSA, as now or hereafter amended.

16.02 Permits and Licenses Generally. Concessionaire agrees that it shall, at its sole cost and expense, be strictly liable and responsible for obtaining, paying for, and maintaining current, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required at any time throughout the Term of this Agreement by any Federal, State or local governmental entity or any court of law having jurisdiction over Concessionaire or Concessionaire's operations and activities, for any activity of Concessionaire's conducted on the Assigned Premises and for any and all operations conducted by Concessionaire including ensuring that all legal requirements, permits, and licenses necessary for or resulting, directly or indirectly, from Concessionaire's operations and activities on the Assigned Premises have been obtained and are in full legal compliance.

16.03 Safety Regulations. Concessionaire agrees that it shall conduct its operations and activities under this Agreement in a safe manner, shall comply with all safety regulations of the Airport and with safety standards imposed by applicable Federal, State and local laws and regulations and shall require the observance thereof by all employees, contractors, business invitees and all other persons transacting business with or for Concessionaire resulting from, or in any way related to, the conduct of Concessionaire's business on the Assigned Premises. Concessionaire hereby agrees that neither Concessionaire, nor employee or contractor or any person working for or on behalf of Concessionaire, shall require any personnel engaged in the performance of Concessionaire's operations to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations, and orders relative to occupational safety and health.

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16.04 Payment of Taxes. Concessionaire shall pay any and all taxes and other costs lawfully assessed against its interest in the Assigned Premises, its improvements and its operations under this Agreement. Concessionaire shall have the right to contest the amount or validity of any tax or assessment payable by it by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending Concessionaire's covenants to pay any such tax or assessment, unless the legal proceedings shall operate to prevent the collection of the tax or assessment. Upon termination of such legal proceedings, the Concessionaire shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

ARTICLE 17 - DISCLAIMER OF LIABILITY

COUNTY HEREBY DISCLAIMS, AND CONCESSIONAIRE HEREBY RELEASES COUNTY, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY CONCESSIONAIRE, ITS EMPLOYEES, AGENTS, OR INVITEES DURING THE TERM OF THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE, OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF CONCESSIONAIRE OR CONCESSIONAIRE'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE ASSIGNED PREMISES, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS CAUSED SOLELY BY COUNTY'S SOLE NEGLIGENCE. THE PARTIES EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THE ASSIGNMENT OF THE ASSIGNED PREMISES TO CONCESSIONAIRE PURSUANT TO THIS AGREEMENT. CONCESSIONAIRE ACKNOWLEDGES AND AGREES THAT COUNTY SHALL HAVE NO LIABILITY WHATSOEVER AND CONCESSIONAIRE COVENANTS AND AGREES TO HOLD HARMLESS COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY RELATING TO THIS AGREEMENT. FURTHERMORE, CONCESSIONAIRE ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY SUCH INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS AGREEMENT, WAS AT ITS SOLE RISK.

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ARTICLE 18 - NOTICES

All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight mail, or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or overnight mail, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designated the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

County:
St. Pete-Clearwater International Airport
Airport Executive Director's Office
14700 Terminal Blvd., Suite 221
Clearwater, FL 33762

Concessionaire:
Enterprise Leasing Company of Florida, LLC
(National Car Rental)
3505 E. Frontage Road, Suite 200
Tampa, FL 33607
ATTN: Kevin Moore

With Copy to:
Enterprise Holdings,
600 Corporate Park Drive
St. Louis, MO 63105
ATTN: Airport Properties & Relations

Either party may change the address to which notices under this Agreement shall be given, upon three (3) days prior written notice to the other party.

ARTICLE 19 - GOVERNMENTAL RESTRICTIONS

- 19.01 **Federal Right to Reclaim.** In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Assigned Premises are located, for public purposes for a period in excess of ninety (90) days, either party may terminate this Agreement by providing written notice of such termination to the other party and the parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This Article 19.01 shall not act or be construed as a waiver of any rights Concessionaire may have against the United States as a result of such taking.
- 19.02 **Federal Review.** Concessionaire acknowledges this Agreement may be subject to review or inspection by the FAA to determine satisfactory compliance with Federal law or grant assurances and agrees that this Agreement shall be in full force and effect and binding upon both parties pending such review or inspection by the FAA, if applicable; provided, however, that upon such review or inspection all parties hereto agree to modify any of the terms of this Agreement which shall be determined by the FAA to be in violation of existing laws, regulations, grant assurances or other requirements.
- 19.03 **County Tax Assessment Right.** None of the terms, covenants and conditions of this Agreement shall in any way be construed as a release or waiver on the part of County, as a political subdivision of the State of Florida, or any of the public officials of Pinellas County, of the right to assess, levy, and collect any ad valorem, non-ad valorem, license, personal, intangible, occupation, or other tax which shall be lawfully imposed on the Assigned Premises, the business or property of Concessionaire.

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- 19.04 Right of Flight. County reserves unto itself, its successors, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Assigned Premises together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft now known or hereafter used, for navigation of or flight in the said airspace for landing on, taking off from, or operating on the Airport.
- 19.05 Operation of Airport. Concessionaire expressly agrees for itself, its subleases, successors, and assigns, to prevent any use of the Assigned Premises which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute an Airport hazard.
- 19.06 Release. Concessionaire acknowledges that noise and vibration are inherent to the operation of Airport and hereby releases County from any and all liability relating to the same.

ARTICLE 20 - NON-DISCRIMINATION

- 20.01 Non-discrimination. Concessionaire agrees 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. If the Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as the Concessionaire.

The provision obligates the Concessionaire for the period during which the property is owned, used, or possessed by the Concessionaire and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

During the performance of this Agreement, the Concessionaire, for itself, its assignees and successors in interest agrees as follows:

- A. **Compliance with Regulations:** Concessionaire will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are attached as Exhibit "D" and which are herein incorporated by reference and made a part of this Agreement.
- B. **Nondiscrimination:** Concessionaire, with regards to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. Concessionaire will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- C. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Concessionaire 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 Concessionaire of the Concessionaire's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color or national origin.
- D. **Information and Reports:** Concessionaire 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 Concessionaire is in the exclusive possession of another who fails or refuses to

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furnish the information, the Concessionaire 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.

- E. **Sanctions for Noncompliance:** In the event of Concessionaire's noncompliance with the non-discrimination provisions of this Agreement, the County will impose such Agreement sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to cancelling, terminating, or suspending this Agreement, in whole or in part.
- F. **Incorporation of Provisions:** The Concessionaire will include the provisions of paragraphs A through F in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Concessionaire 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 Concessionaire becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Concessionaire may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Concessionaire may request the United States to enter into the litigation to protect the interests of the United States.

20.02 **Airport Concession Disadvantaged Business Enterprise Participation /Affirmative Action.** Concessionaire acknowledges that the provisions of Title 49, Part 23 of the Code of Federal Regulations, Airport Concession Disadvantaged Business Enterprises (ACDBE), and Title 14, Part 152 of the Code of Federal Regulations, Affirmative Action Employment Programs, are applicable to the activities of Concessionaire under the terms of this Agreement, unless exempted by said regulations, and hereby agrees to comply with said regulations, as now or hereafter amended or any successor regulations, and all requirements of the Department, the FAA and the U.S. Department of Transportation, in reference thereto. These requirements include, but are not limited to, the compliance with ACDBE and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports, and including, if directed by Department, the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises in accordance with the goals established. Failure to comply with these requirements shall be grounds for default and termination of this Agreement. Concessionaire 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 of performance of any concession agreement covered by Title 49, Part 23 of the Code of Federal Regulations, as now or hereafter amended or any successor regulation. Concessionaire agrees to include the preceding statement in any subsequent concession agreements that it enters and cause those businesses to similarly include the statement in further agreements. Any termination pursuant to this Article 20.02 shall not be effective until the procedures specified in said federal regulations or established by County are completed, including exercise or expiration of any appeal rights.

20.03 **ACDBE Reporting Requirement.** In order to ensure compliance with the County's Affirmative Action Policy and the ACDBE Rules, the Concessionaire agrees as follows:

- 1. Concessionaire agrees within ninety (90) days after the expiration of each Contract Year, during the term of this Agreement, it will provide a report to the County as provided for in Exhibit "E", listing the dollar amount of its purchases or leases of goods and services during such year from any vendor that is certified as an ACDBE in Florida's Unified Certification Program (UCP) pursuant to the ACDBE rules , together with documentation, in form acceptable to County, of its good faith efforts during such Contract Year to obtain other ACDBE providers of goods and services. Concessionaire shall provide such additional information to the County, including any ACDBE participation in direct ownership of the Concessionaire's business, as the County may reasonably request in order to permit the County to comply with the requirement of the ACDBE Rules, including the developing, establishing, meeting and monitoring of the ACDBE goal for

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car rentals. Concessionaire shall provide all required ACDBE related information through the online reporting system utilized by the County. The County will coordinate providing access to and assistance with the online reporting system as needed.

2. In the event the County, as part of its plan to comply with the ACDBE Rules, adopts a plan (an "ACDBE Plan"), Concessionaire shall comply with the terms and conditions of such ACDBE Plan applicable to Rental Car Companies.

ARTICLE 21 - PERFORMANCE SECURITY

The Concessionaire shall be required to comply with the following performance security requirement prior to commencement of activities:

Prior to commencing operations at the Airport pursuant to this Agreement, Concessionaire must post with the County, and Concessionaire must thereafter continuously maintain for the entire term, a performance bond equal to twenty five percent (25%) of the dollar value of its average guaranteed minimum annual concession fee for term of the Agreement to cover Concessionaire's performance of all of its obligations under this Agreement for the entire term. The performance bond to be provided by Concessionaire and its surety shall be in a form acceptable to the County. The surety company shall be licensed to do business in Florida and shall be otherwise acceptable to the County. Concessionaire shall be responsible for paying all required bond premiums.

An annually renewable Performance Bond may be substituted by the Concessionaire each year in lieu of providing a single Bond. Such Performance Bond shall not contain any exclusion or condition based on a time-period for the discovery of, and the making of a claim for any loss which is less than one year after the expiration date of such Performance Bond. In other words, the Performance Bond shall allow the County to make a claim under the Bond, for losses which totally or partially occurred during the period of such Bond. Such extended claim discovery and/or claim reporting period shall be for a period of at least one year or longer after the expiration of such Bond. Such Bond shall not contain any wording that would allow for the cancellation or reduction in coverage under the Bond, other than at the listed expiration date, provided that thirty (30) days' notice of such expiration is given to the County before termination of coverage at any such expiration date.

The performance bond shall be payable to the County in the event Concessionaire defaults in any of its monetary or other obligations to the County hereunder.

ARTICLE 22 - MISCELLANEOUS

- 22.01 **County Not Liable.** County shall not be responsible or liable to Concessionaire for any claims for compensation or any losses, damages or injury sustained by Concessionaire resulting from (a) cessation for any reason of air carrier operations at the Airport Terminal or (b) diversion of passenger traffic to any other facility. County shall not be responsible or liable to Concessionaire for any claims for compensation or any losses, damages or injury whatsoever sustained by Concessionaire including, but not limited to, those resulting from failure of any water supply, heat, air conditioning or electrical current or from an act of God, state of war, terrorism, civilian commotion or riot or any cause beyond the control of County. All personal property placed on or moved on to the Assigned Premises shall be at the sole risk of Concessionaire. County shall not be liable for any damage or loss of any personal property placed or moved on to the Assigned Premises.
- 22.02 **Authorized Uses Only.** Notwithstanding anything to the contrary herein, Concessionaire shall not use or permit the use of the Assigned Premises or the Airport for any illegal or improper purpose

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or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Airport for County or Concessionaire.

- 22.03 Waivers. The failure of County to insist on a strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that County may have for any subsequent breach, default, or non-performance, and County's right to insist on strict performance of this Agreement shall not be affected by any previous waiver or course of dealing.
- 22.04 Subordination to Federal Agreements. This Agreement shall be subject and subordinate to all the terms and conditions of any instrument and documents under which County acquired the land or improvements thereon and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Concessionaire understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between County and the United States of America, or any of its agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
- 22.05 County's Governmental Authority. Nothing in this Agreement shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Concessionaire or its operations.
- 22.06 Rights Reserved to County. All rights not specifically granted Concessionaire by this Agreement are reserved to County.
- 22.07 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision clause, or any portion thereof of this Agreement shall have no effect upon the validity of any other part or portion hereof.
- 22.08 Venue. To the extent allowed by law, the venue for any action arising from this Agreement shall be in Pinellas County, Florida.
- 22.09 Governing Law. This Agreement shall be governed by and in accordance with the laws of the State of Florida.
- 22.10 Inspections. The authorized employees and representatives of County and any applicable federal, state, and local governmental entity having jurisdiction hereof shall have the right of access to the Assigned Premises at all reasonable times for the purposes of inspection for compliance with the provisions of this Agreement and/or applicable laws.
- 22.11 Remedies Cumulative. The rights and remedies of the parties with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the parties.
- 22.12 Paragraph Headings. The headings of the various articles and sections of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.
- 22.13 Binding Effect. The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors, assigns and sublessees, if any. This provision shall not constitute a waiver of any conditions against assignment or subletting.
- 22.14 Performance. The parties expressly agree that time is of the essence in this Agreement and the failure by Concessionaire to complete performance within the time specified, or within a reasonable

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time if no time is specified herein, shall, at the option of County without liability, in addition to any other rights or remedies, relieve County of any obligation to accept such performance.

- 22.15 **Public Entity Crimes.** As provided in Section 287.132-133, Florida Statutes by entering into this Agreement or performing any work in furtherance hereof, Concessionaire certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the Effective Date. This notice is required by Section 287-133(3)(a), Florida Statutes.
- 22.16 **Conflict.** In the event of any conflict and for purposes of resolving any disputes which may arise regarding this Agreement, the Invitation for Bid or Concessionaire's response to the Bid, as referenced above, the order-of-precedence shall be (i) this Agreement; (ii) the Invitation for Bid; (iii) Concessionaire's response to the Bid.
- 22.17 **Excusable Delay.** Any party in performing under this Agreement shall use reasonable efforts to remedy the cause or causes of an excusable delay. Excusable delays are those delays due to force majeure, acts of God, fire, flood, earthquake, explosion, riot, sabotage, windstorm, or labor dispute, and shall toll the time to perform under this Agreement.
- 22.18 **Incorporation by References.** All terms, conditions, specifications of Invitation for Bid #21-0413-R, all exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Agreement by reference.
- 22.19 **Entirety of Agreement.** The parties agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.
- 22.20 **Construction.** Neither party shall be considered the author of this Agreement. The terms of this Agreement shall not be strictly construed against one party as opposed to the other based upon who drafted it.
- 22.21 **Radon.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

ARTICLE 23 - MOST FAVORED NATION'S CLAUSE

The award of concession rights and privileges to such other rental car operators shall not constitute a violation of this Agreement, nor, in the event of the cessation or termination of such other rental car concessions during the term hereof, shall the award of concession rights and privileges to a substitute or successor rental car concessionaire constitute a violation hereof, provided, that taking into account all of the then existing circumstances, the successor operator is not granted concession rights and privileges which, taken as a whole, are on terms and conditions which are substantially more favorable than the terms and conditions of this Agreement.

**Contract Number: 21-0413-R
On-Airport Rental Car Concession Agreement
National Car Rental**

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

ATTEST:

KEN BURKE, Clerk

PINELLAS COUNTY, a political
Subdivision of the State of Florida by its
Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Chairman


(SEAL)


APPROVED AS TO FORM


By: Keiah Townsend
Office of the County Attorney

Signed, sealed and delivered in the
presence of two witnesses for
Concessionaire:

CONCESSIONAIRE:
ENTERPRISE LEASING COMPANY OF
FLORIDA, LLC, D/B/A NATIONAL CAR
RENTAL


Signature
Michael A. Stupczynski
Print Name

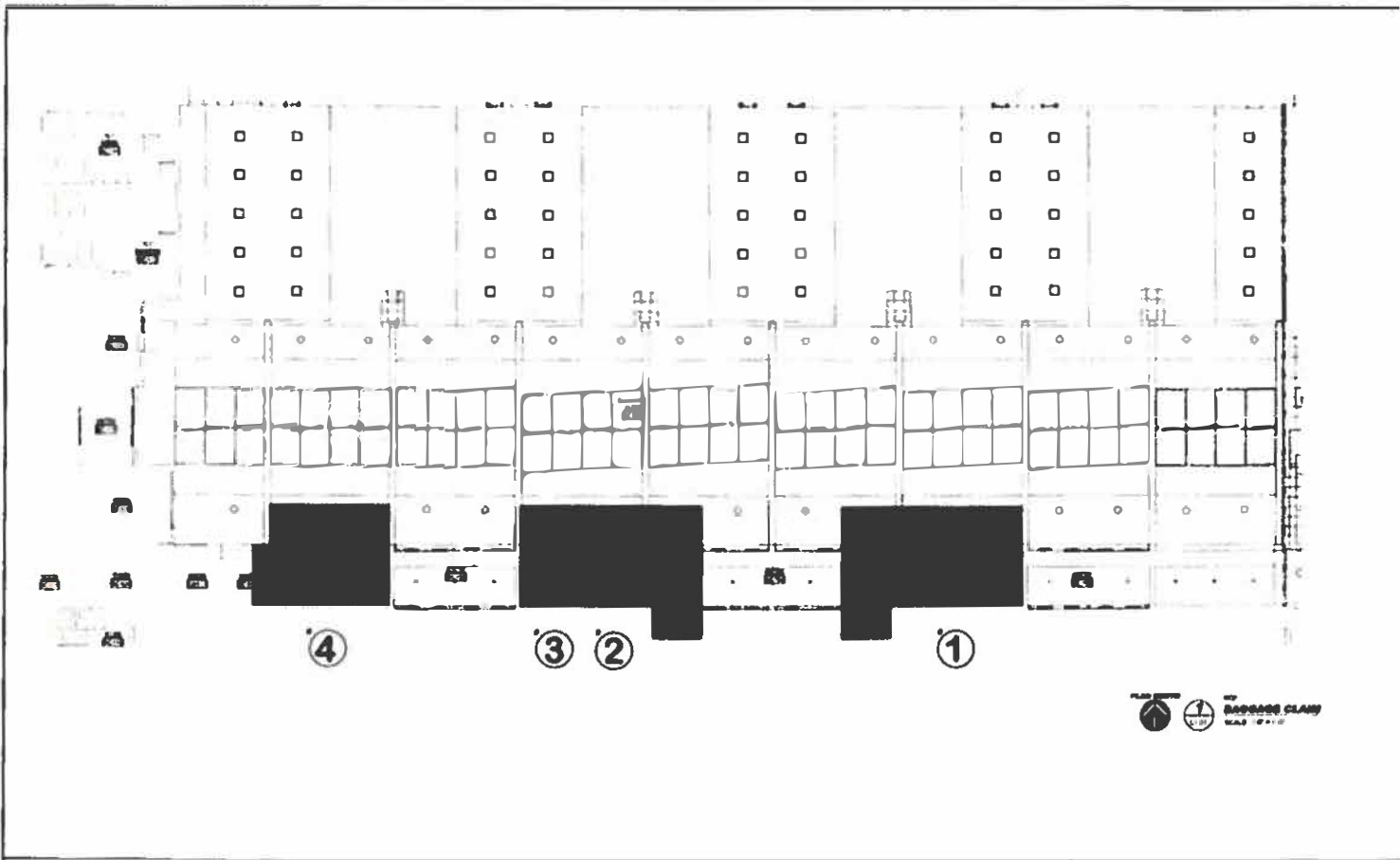

Signature
Kevin A. Moore
Print Name


Signature
Harrison Hickman
Print Name

V.P. General Manager
Title

Contract Number: 21-0413-R
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National Car Rental


EXHIBIT "A" – ASSIGNED PREMISES – COUNTER AREA



PLAN SCALE: 1/8" = 1'-0"
BY: [Signature]
DATE: 04/08/11





Date: April 8/ 2011
Req. Dept: Airport Real Estate
Drawn/Edited by: jtm

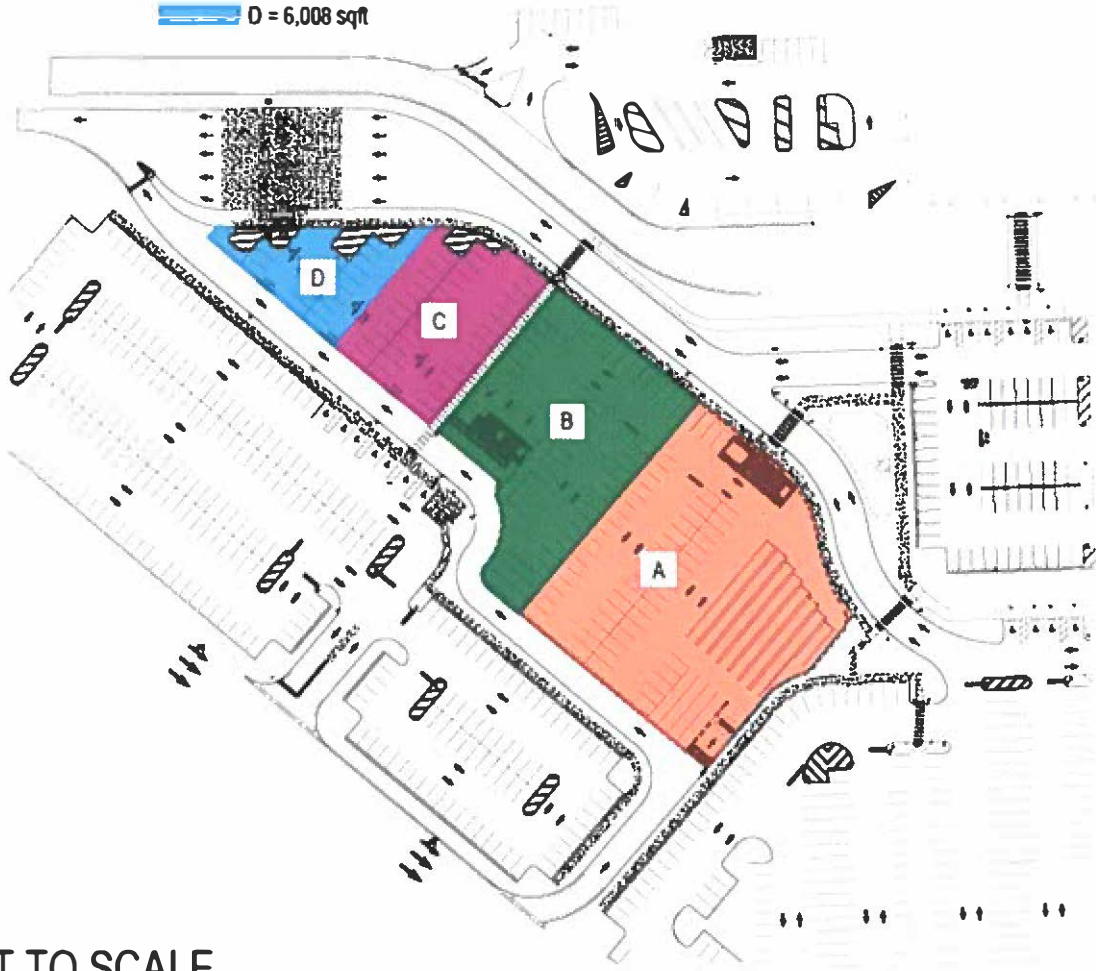
EXHIBIT "A"
RENTAL CAR COUNTER AREA LOCATIONS

 St. Petersburg-Clearwater
International Airport
A Florida County Government Service
Page 2 of 2 - Exhibit A for Location 011

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EXHIBIT "B" – READY RETURN PARKING AREA

Exhibit "B" - Ready Return Parking Area

-  A = 34,497 sqft
-  B = 21,195 sqft
-  C = 11,286 sqft
-  D = 6,008 sqft



NOT TO SCALE

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EXHIBIT "C" – EXAMPLE MONTHLY REPORTING FORM



Statement of Gross Revenues and Privilege Fees due to Pinellas County Airport Executive Director's Office as required by Section 5.10.

For the month of _____, 20____

Time & Mileage	\$	-
Drop Charges or Intercity Fees	\$	-
Vehicle Upgrades	\$	-
Under 25 and Additional Driver Charges	\$	-
Collision Damage Waiver (CDW) and Loss Damage Waiver (LDW) Protection	\$	-
Personal Accident Insurance	\$	-
Personal Effects Coverage/Cargo Insurance	\$	-
Other Insurance Coverage	\$	-
Fuel Charges	\$	-
Local Revenue	\$	-
Equipment, Supplies and Incidental Item Charges	\$	-
Airport Access Charge	\$	-
Airport Access Charge Not Assessed By Branch	\$	-
Sales Tax	\$	-
State Surcharge	\$	-
Customer Facility Charge (CFC)	\$	-
Gross Revenues	\$	-
Less:		
Exclusion per Section 2.13		
Customer Facility charge	\$	-
Sales and Excise Taxes	\$	-
State Surcharge	\$	-
Total Deductions	\$	-
Gross receipts subject to Privilege Fees	\$	-
Privilege fee:		10.00%
The greater of:	\$	-
(A) 10.0% of Gross Receipts	\$	-
(B) Minimum Privilege Fee (Paid for the reporting month)	\$	-
Less: B above	\$	-
Payment due with this report		
Final Payment Amount	\$	-
<hr/>		
Number of rental transactions		
Number of rental transaction days		

Contract Number: 21-0413-R
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National Car Rental

EXHIBIT "D" - Title VI List of Pertinent Nondiscrimination Acts and Authorities

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

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 On-Airport Rental Car Concession Agreement
 National Car Rental
 EXHIBIT "E" – EXAMPLE ACDBE REPORTING FORM**

**CAR RENTAL
 FY__ ACDBE Utilization Report
 October 1, 20__ - September 30, 20__**

Car Rental Company _____
 Total Gross Receipts at PIE _____
 Total Amount of Purchase (ACDBE and Non ACDBE) _____
 Total number of Vendors ACDBE and Non ACDBE _____

PURCHASES FROM ACDBEs

Vendor / Supplier Information	Service Provided	Certified ACDBE (Y or N)	Certified by Whom	ACDBE Classification	Amount
DBE SAMPLE COMPANY X 123 XYZ Road Suite DBE 1 Super City FL USA 33333 727-555-9999 727-556-0001 A.C. DeSee sample@supercity.com				Black Hispanic Asian-Pacific Asian-Indian Native American Non-Minority Women Other	
Name Address 1 Address 2 Address 3 Office Phone Mobile Phone Contact Employee sample				Black Hispanic Asian-Pacific Asian-Indian Native American Non-Minority Women Other	
Name Address 1 Address 2 Address 3 Office Phone Mobile Phone Contact Employee sample				Black Hispanic Asian-Pacific Asian-Indian Native American Non-Minority Women Other	
Name Address 1 Address 2 Address 3 Office Phone Mobile Phone Contact Employee sample				Black Hispanic Asian-Pacific Asian-Indian Native American Non-Minority Women Other	