

Exhibit D- Sample Contract with Car Rental Company

- 1.1.15. *Execution Date* – The date this Agreement is executed by the last of the parties hereto.
- 1.1.16. *Existing Terminal* – The terminal building at the Airport as it presently exists.
- 1.1.17. *FAA* – The Federal Aviation Administration or any successor agency.
- 1.1.18. *Gross Receipts* – As defined in paragraph 6.4.2.
- 1.1.19. *Hazardous Materials* – Friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum, or crude oil or any fraction thereof, natural gas, source material, special nuclear material, and byproduct materials regulated under Environmental Laws, pesticides regulated under Environmental Laws, and any hazardous waste, toxic or dangerous substance or related material, including any material defined or treated as a hazardous substance, hazardous waste, toxic substance, or contaminant (or comparable term) under any of the Environmental Laws.
- 1.1.20. *Lease Month* – Each month, with the first Lease Month beginning on the Effective Date of this Agreement and ending at midnight on the day preceding the day which is one month thereafter. If hereafter agreed to between Airport Director and Operator in writing, the Lease Months can commence on the first day of each calendar month and end on the last day of such calendar month, whereupon Charges for any partial calendar month shall be prorated.
- 1.1.21. *Lease Year* – Each period of twelve (12) consecutive Lease Months.
- 1.1.22. *Maintenance or Repairs and Maintenance* (or similar terms, and regardless of the tense of such phrase or whether the phrase is capitalized) – When used in connection with maintenance, or repairs and maintenance, of the Premises, a portion thereof, or any improvements, fixtures or equipment thereon, means the maintenance, repair or replacement of the specified item in good condition and working order, including, without limitation, ordinary or routine maintenance, repairs or replacement, extraordinary maintenance, repairs, rebuilding, or replacement, and repair, maintenance or replacement of capital or structural items.
- 1.1.23. *Minimum Annual Privilege Fee* – For each Lease Year, the amount determined as set forth in paragraph 6.5.
- 1.1.24. *Minimum Standards* – The Minimum Standards for Commercial Aeronautical Activities at Ocala International Airport as revised July 2012, as now or hereafter amended and any successor general aviation minimum standards adopted for the Airport, which is hereby incorporated herein by this reference. When any provision of this Agreement refers to a specific provision (e.g., a Section) of the current Minimum Standards, and, by virtue of a subsequent amendment to the Minimum Standards, such reference is no longer accurate, the reference shall be deemed to refer to the provision in the amended Minimum Standards that deals with the subject of the current Minimum Standards. Notwithstanding the foregoing, however, no modification of the Minimum Standards shall serve to amend the Term, Charges or the categories of Permitted Uses.

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refer to this Agreement, unless the context otherwise requires. The use of verb to describe the act of performing a defined noun shall be interpreted in light of the definition of the noun; for example, to “maintain” a building means to perform maintenance on the building as “maintenance” is described in paragraph 1.1.22 and the “maintaining” of a building means the performing of such “maintenance.”

2. **Term.**

2.1. Term. The term (“Term”) of this Agreement shall begin on the Effective Date and shall expire five (5) years after the Effective Date.

2.2. Effective Date.

2.2.1. The Effective Date shall be the later of:

a. January 1, 2020; or

b. The 15th day after City provides Operator with written notice that the Tenant Improvements have been completed.

2.2.2. Upon request of City or Operator, City and Operator will execute a document acknowledging, or exchange emails confirming, the Effective Date of this Agreement.

2.2.3. City shall use good faith reasonable efforts to permit Tenant access to the Premises prior to the Effective Date so that Tenant may prepare them for use by Tenant under this Agreement; all provisions of this Agreement shall govern such access by Operator except that Operator shall not be required to pay any Charges for any access to the Premises prior to the Effective Date.

2.3. Early Termination by Operator. Notwithstanding paragraph 2.1, Operator may terminate the Term of this Agreement by providing written notice of such termination to City at least 90 days before the Effective Date of the termination.

2.4. Holding Over. If Operator remains in possession of all or any portion of the Premises after the expiration or termination of this Agreement, by lapse of time or otherwise, following notice from City indicating its intention to have Operator quit and vacate the Premises as of that date, such holding over shall constitute the creation of a tenancy at sufferance, terminable by City at any time upon thirty (30) days written notice to Operator. During such holdover tenancy at sufferance, Operator shall pay Rent applicable to its period of occupancy, in the amount of double the Rent due under paragraph 6, as authorized by Section 83.06, Florida Statutes, in addition to all other Charges due under this Agreement.

3. **Lease and Grant of Concession Rights.**

3.1. City hereby leases to Operator, and Operator hereby leases from City, the following (the “Premises”) at the Airport:

3.1.1. For Operator’s exclusive use, the Counter Space.

3.1.2. For Operator’s exclusive use, the Parking Area.

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- 3.1.3. For Operator's non-exclusive use, the Wash Area.
 - 3.1.4. For Operator's non-exclusive use, the Common Areas.
 - 3.1.5. For Operator's exclusive use, the Ready/Return Area (following completion of the Terminal Improvements only).
 - 3.2. City hereby grants to Operator, and Operator accepts from City, certain Concession Rights to permit Operator to conduct its Business at the Airport.
 - 3.3. The lease of the Premises, and the grant of the Concession Rights, involve somewhat distinct rights and obligations, but are related as set forth in this Agreement and the following provisions:
 - 3.3.1. Any breach of this Agreement by any party concerning the lease of the Premises shall constitute a breach concerning the Concession Rights, and vice versa.
 - 3.3.2. Any termination of the lease of the Premises shall terminate the Concession Rights, and vice versa.
4. **Lease of Premises.**
 - 4.1. Premises. The Premises shall consist of the following:
 - 4.1.1. For Operator's exclusive use, the Counter Space.
 - 4.1.2. For Operator's exclusive use, the Parking Area.
 - 4.1.3. For Operator's non-exclusive use, the Wash Area.
 - 4.1.4. For Operator's non-exclusive use, the Common Areas.
 - 4.1.5. For Operator's exclusive use, the Ready/Return Area (following completion of the Terminal Improvements only).
 - 4.2. Locations of Premises.
 - 4.2.1. *Generally.* As of the Execution Date, City is in the process of constructing a new Terminal pursuant to plans and specifications (the "Plans") developed by City (the "Terminal Improvements").
 - 4.2.2. *Specific Requirements.* The Terminal Improvements shall include approximately [REDACTED] square feet for the Counter Space, but shall otherwise be located and configured as determined by City in its sole discretion.
 - a. During the Terminal Improvements, City shall complete the "shell" of the Counter Space by constructing electric facilities, the structural system for the counters, and the ceiling, and providing basic flooring.
 - b. Operator shall be responsible for "finishing" the Counter Space including any improvements to the flooring and the counters.

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- 4.2.3. *Parking Area.* Following completion of the Terminal Improvements, City shall provide parking spaces within the portion of the Terminal primary parking lot dedicated to the use of car rental companies, such as Operator, and shall assign to Operator, at a location determined by City in its sole discretion, [REDACTED] spaces as Operator's Parking Area. During the Term of this Agreement, City may, by providing written notice to Operator, relocate Operator's Parking Area.
- 4.2.4. *Ready/Return Area.* Following completion of the Terminal Improvements, City shall provide an area within the portion of the Terminal parking lot dedicated for the use of car rental companies for the delivery and return of Vehicles, and shall assign to Operator, at a location within such portion as determined by City in its sole discretion, Operator's Ready/Return Area. During the Term of this Agreement, City may, by providing written notice to Operator, relocate Operator's Ready/Return Area.
- 4.2.5. *Wash Area.* Following completion of the Terminal Improvements, City shall provide an area at the Airport sufficient in size for the washing and vacuuming of three (3) cars for use by Operator and Other Car Rental Companies. During the Term of this Agreement, City may, by providing written notice to Operator, relocate the Wash Area.
- 4.3. Use of Premises. Operator may use the Premises under this Agreement for the following purposes and for no other purpose or purposes whatsoever, unless agreed to in writing and fully executed by the parties:
- 4.3.1. *Counter Space.* Operator's Counter Space may be used for processing Customer rental and return transactions, including the processing of Customer Agreements and for general office and administrative purposes related to the operation of Operator's Business.
- 4.3.2. *Parking Area.* Operator's Parking Area will be used for the short-term parking of Operator's authorized Vehicles awaiting rental and delivery to Customers, the parking of such Vehicles after their return and prior to their being washed and again made ready for rental, and the parking of Customer's Vehicles while they are engaging in business with Operator. If Operator leases Vehicles for moving goods, City may require that such Vehicles be parked elsewhere on the Airport and not in Operator's Parking Area in the Terminal's primary parking lot; such additional location shall be thereafter considered to be included in Operator's Parking Area under this Agreement.
- 4.3.3. *Wash Area.* Operator's assigned space within the Wash Area will be used to wash Operator's Vehicles prior to their delivery to the Parking Area or following their return to Operator.
- 4.4. Prohibited Uses, Products and Services. Operator agrees that the Premises shall be utilized solely for the uses permitted herein, or as otherwise approved by City in writing, and for no other purpose whatsoever. Without limiting the foregoing:
- 4.4.1. Operator may not utilize the Premises for, or engage in, the uses prohibited under the Minimum Standards.

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- 4.4.2. Operator shall not provide any products or services that are not specifically authorized by this Agreement or otherwise approved by City in writing.
- 4.4.3. Operator shall not engage in any activities prohibited by paragraph 4.7.3.
- 4.5. Compliance with Minimum Standards. Operator agrees to comply with the requirements set forth in the Minimum Standards applicable to Operator's operations at the Airport. In the event of a conflict between this Agreement and the Minimum Standards, Operator acknowledges and agrees that the more stringent requirement shall apply to Operator's operations hereunder, as determined by City.
- 4.6. Condition and Use of the Premises.
- 4.6.1. Except as expressly set forth in this Agreement, City is not making and specifically disclaims any warranties or representations of any kind or character, express or implied, with respect to the Premises, including, but not limited to, zoning, tax consequences, physical conditions, availability of access, ingress or egress, operating history or projections, valuation, governmental approvals, governmental regulations, or any other matter or thing relating to or affecting the Premises including, without limitation, the value, condition, merchantability, marketability, profitability, suitability or fitness for a particular use or purpose of the Premises. Operator agrees that with respect to the Premises, Operator has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of City or any agent of City. Operator represents that it is relying solely on its own expertise and that of Operator's consultants, and that Operator has conducted such inspections and investigations of the Premises, including, but not limited to, the physical conditions thereof, and shall rely upon same, and, shall assume the risk that adverse matters, including, but not limited to, adverse physical conditions, which may not have been revealed by Operator's inspections and investigations. OPERATOR ACKNOWLEDGES AND AGREES THAT OPERATOR HAS ACCEPTED THE PREMISES "AS IS, WHERE IS," WITH ALL FAULTS, AND WITH NO ORAL AGREEMENTS, WARRANTIES, OR REPRESENTATIONS (EXCEPT AS SPECIFICALLY PROVIDED HEREIN) COLLATERAL TO OR AFFECTING THE PREMISES BY CITY, ANY AGENT OF CITY OR ANY THIRD PARTY ACTING FOR OR ON BEHALF OF CITY. City is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Premises furnished by any real estate broker, agent, employee, servant, or other person, unless the same are specifically set forth or referred to in this Agreement.
- 4.6.2. The provisions of paragraph 4.6.1 shall apply to the Premises in their current location and to any relocation of the Premises pursuant to this Agreement following Operator's occupancy thereof.
- 4.7. Operator's Obligations With Respect to the Use of the Premises.
- 4.7.1. In the conduct of its business, Operator covenants and agrees to restrict its activities on the Premises to only those authorized by this Agreement and shall not use or permit the use of the Premises for any other purpose, nor shall it vacate the Premises prior to the termination or expiration of this Agreement unless authorized in writing in advance by City. Operator shall use the Premises solely for the rental

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of Vehicles to Customers, and for the provision of services and equipment reasonably and directly associated with the rental of Vehicles, as specifically authorized in this Agreement.

- 4.7.2. Except for its signs identifying Operator's Business approved in advance by City and except as otherwise authorized by City in writing, Operator shall not display nor shall it permit others to display any signs, brochures, racks, promotional materials or similar items on or about the Premises or elsewhere within the Terminal or the Airport.
- 4.7.3. Operator shall not use the Premises, or any other portion of the Airport, for the following without City's express written consent:
 - a. Selling used Vehicles.
 - b. Servicing any Vehicles (except for emergency repairs necessary to remove such Vehicles from the Airport (e.g., "jumping" the battery of a Vehicle)).
 - c. Fueling any Vehicles.
- 4.7.4. Operator shall promptly remove all damaged, destroyed or inoperable Vehicles from the Premises and the Airport.

4.8. Common Areas.

- 4.8.1. As set forth in paragraph 3.1.4, the Premises include the Common Areas.
- 4.8.2. Throughout the Term hereof, City shall operate and maintain the Common Areas for the use and benefit of the occupants of the Airport and their customers, employees and invitees. City shall at all times have exclusive control of the Common Areas and may at any time and from time to time: (a) temporarily close any part of the Common Areas; and (b) make such changes in the Common Areas as in its reasonable opinion are in the best interests of the City or Airport's occupants, including but not limited to changing the location of walkways, service areas, driveways, entrances, existing automobile parking spaces and other facilities, changing the direction and flow of traffic and establishing prohibited areas.
- 4.8.3. Operator shall keep all Common Areas free of obstructions created or permitted by Operator. Operator shall permit the use of the Common Areas only for normal uses. If in City's opinion unauthorized persons are using any of the Common Areas because of Operator's occupancy of the Premises, Operator shall, upon City's demand, enforce City's rights against all such unauthorized persons. City shall nonetheless have the right at any time to remove or restrain any such unauthorized persons from the Common Areas.

5. **Concession Rights.**

- 5.1. Concession Rights Granted. City grants to Operator the following Concession Rights, and Operator assumes all of the following as part of its obligation to operate its Business from the Premises and the Airport:

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- 5.1.1. The privilege to rent passenger-type Vehicles to the public on the Airport; the privilege 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 the privilege to offer Customer services, including but not limited to, refueling services, baby car seats, cellular/digital phones, and other related rental equipment. All additional rights shall be approved in writing, fully executed by City from time to time.
- 5.1.2. Operator's Business shall be operated under the following brand name(s) for the Term of this Agreement [REDACTED]. Operator cannot change or operate additional brands at the Premises or from the Airport during the Term of this Agreement. If Operator shall, at any time, cease to operate the Business under the Operator's brand name specified in this paragraph 5.1.2, then this Agreement and Operator's Business privileges at the Airport shall be subject to termination upon thirty (30) days advance written notice to Operator from the City.
- 5.1.3. The privilege for Operator's employees to use, in common with other employees on the Airport, the employee parking facilities provided by City, at such charges as City may, from time to time, establish for employees using the employee parking facilities. Operator's employees may not park in Operator's assigned space in the Parking Area.
- 5.1.4. All rights and privileges not specifically granted to Operator in this Agreement shall be reserved to City.
- 5.2. Non-Exclusive Privileges. Except for Operator's exclusive use of certain of the Premises, the Concession Rights granted under this Agreement are non-exclusive. By entering into this Agreement, Operator acknowledges that City has entered into similar agreements with other rental car companies for similar services at the Airport. City reserves the right to enter into agreements with other companies providing rental car services from "on" or "off" Airport locations, if City determines that it is in its best interest to do so.
- 5.3. Standards of Service.
 - 5.3.1. Operator shall offer for rental to the public only popular-make passenger Vehicles of recent manufacture (not more than two (2) model years old). It is Operator's obligation to maintain all the Vehicles offered for rental in good and safe operating order, free from known mechanical defects, and to keep the Vehicles in a clean, neat, and attractive condition inside and out. Operator shall at all times maintain a sufficient number of Vehicles to meet reasonably foreseeable demands of the traveling public at the Airport.
 - 5.3.2. Operator shall accept at least three (3) nationally recognized credit cards for payment of automobile rentals; and provide or have access to a national reservation system for its rental services at the Airport.
 - 5.3.3. Operator shall maintain a sufficient number of trained personnel to insure that Operator's Customers will receive prompt and courteous service at all times. All personnel of Operator, while on or about the Premises or elsewhere at the Airport, shall be polite, clean and neat in appearance, and appropriately attired.

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- 5.3.4. Operator shall not misrepresent to the public its prices or the terms and provisions of its Customer Agreements or those of its competitors. Operator shall comply with all applicable rules and regulations of the Federal Trade Commission and all other governmental agencies having jurisdiction over Operator's business operations. Operator shall fully inform each Customer, prior to the execution of such Customer's Customer Agreement, of all fees and charges applicable to such Customer's rental. City will give advance notice to Operator that City considers a certain practice to be unlawful, deceptive or discriminatory and Operator shall have an opportunity to respond to the allegation. If City determines, after notice and opportunity for Operator to comment, that any of Operator's business practices are unlawful, deceptive, or discriminatory, Operator shall immediately cease such practices upon receipt of a written order to do so from City.
- 5.3.5. Operator shall at all times maintain the Premises and its improvements and other personal property located on the Premises in a safe, clean, orderly, attractive and first-class condition satisfactory to City. Any sign or other item on the Premises which City deems to be offensive to the public shall, upon notice from City, be promptly and permanently removed from the Premises by Operator. Operator shall not permit any nuisance, waste or damage to be committed on the Premises or elsewhere at the Airport.
- 5.3.6. Operator shall conduct its Business from the Premises at least between the hours of 8 a.m. and 6 p.m., excluding weekends and holidays; for purposes of this Agreement, "holiday" means the day set aside by Section 110.117, Florida Statutes, for observing New Year's Day, Martin Luther King, Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the Friday after Thanksgiving Day, or Christmas Day, and any day upon which the Clerk of the Court of Marion County, Florida, is closed for ordinary business. Nothing set forth herein shall preclude Operator from conducting its Business from the Premises during additional days or hours.
- 5.3.7. The management, maintenance and operation of the Business shall at all times be under the supervision and direction of a qualified experienced full-time resident manager who shall at all times be subject to the direction and control of Operator. Operator shall assign the manager an office on the Premises and the manager shall be available during regular business hours. Operator shall at all times during the absence of the manager assign or cause to be assigned a qualified subordinate as manager to assume and be directly responsible for carrying out the duties of the manager.
- 5.4. Non-Diversion of Business. Operator covenants, warrants and agrees that it will not divert business and/or Gross Receipts from Operator's rental car Business at the Airport. Diversion shall include, but not be limited to, Operator advising or suggesting to a Customer or potential Customer arriving at the Airport or pre-arranging a car rental prior to or upon arrival at the Airport that such Customer or potential Customer rent a vehicle or take delivery of a vehicle at any off-Airport location, regardless of the reason.
- 5.5. Operator Recovery Surcharge. "Operator Recovery Surcharge" means any surcharge or any amount that Operator separately states and charges its Customers to recover the amount of the Percentage Fee that is payable under this Agreement. Operator acknowledges that its payment to City under this Agreement is for Operator's use of facilities and grant of

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Concession Rights at the Airport, and that those payments do not reflect a fee that is imposed by City upon Customers renting Vehicles from Operator. Operator understands that City does not encourage nor support the practice of transferring Operator's obligation for payment of the Percentage Fee due under this Agreement to its Customers. Operator is prohibited from stating or implying, in writing or verbally, that the City or the Airport imposes or approves of any direct charge to its Customers, including any surcharge that Operator passes on to its Customers to recoup the Percentage Fee. Operator is prohibited from misrepresenting to the public its prices or the terms and provisions of its Customer Agreement or those of its competitors, either verbally or in writing. If Operator recovers from or charges its Customers the Percentage Fee, that charge shall be clearly and separately stated in writing immediately adjacent to Operator's time and mileage and other charges on the Customer's Customer Agreement and invoice, shall not be described as a tax, and shall be no greater than six and 36/100 percent (6.36%) of the Gross Receipts resulting from such Customer Agreement. Such Operator Recovery Surcharge shall also be included within Gross Receipts subject to the Percentage Fee under this Agreement.

6. Charges.

6.1. Generally. Operator shall pay City, as and when set forth in this paragraph 6, Charges as follows:

6.1.1. The Rent as set forth in paragraph 6.3.

6.1.2. The Concession Privilege Fee which, as set forth in greater detail in paragraph 6.6, shall be the greater of:

a. The Percentage Fee as determined under paragraph 6.4.

b. The Minimum Annual Privilege Fee as determined under paragraph 6.5.

6.2. Manner of Payment. Operator agrees to pay all Charges due under this Agreement, plus applicable sales tax and such other taxes as City may be required to collect on any payments made hereunder, in lawful money of the United States of America, without invoice, unless invoicing is otherwise required hereunder, without further notice or demand, without deduction or setoff.

6.3. Rent.

6.3.1. As consideration for the lease of the Premises, Operator shall pay to City annual Rent as follows:

a. During the first Lease Year, the amount determined by multiplying Thirty and No/100 Dollars (\$30.00) times the square footage of the Counter Space (as determined by City in its reasonable discretion).

b. During each succeeding Lease Year, the amount calculated pursuant to the CPI Rider, a copy being attached as Exhibit C.

6.3.2. The Rent is payable in advance without City's demand on the first day of each calendar month during the Term. Installments of one-twelfth (1/12) of the annual

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Rent as set forth in paragraph 6.3.1. Any references in this Agreement to Rent shall also be deemed to refer to any monthly installment thereof.

- 6.3.3. If the Effective Date is a day other than the first day of a calendar month, or if the Term terminates on a day other than the last day of the calendar month, the Rent shall be prorated on a daily basis.
- 6.3.4. All Rent shall be paid to City without set-off or withholding for any reason.
- 6.3.5. At the time Rent payments are made, the Operator agrees to pay to the City all sales and use taxes that arise because of payment of Rent to the City.
- 6.3.6. Any amount advanced by City pursuant to the terms and provisions of this Agreement shall be repaid to City by Operator by the first of the calendar month following the date of such advance unless otherwise specifically provided in this Agreement.
- 6.3.7. Operator further covenants and agrees to pay promptly when due all taxes assessed against all fixtures, furnishings, equipment and stock-in-trade placed in or on the Premises during the term of this Agreement.

6.4. Percentage Fee.

- 6.4.1. The Percentage Fee shall equal Ten Percent (10.00%) times the Gross Receipts.
- 6.4.2. “Gross Receipts” means all fees, charges and receipts of any and all kinds and descriptions, without deduction for any credit card discount, from or on account of Operator’s Business or activities originating on, at, from or with respect to the Premises, Operator’s Business at the Airport (including providing motor vehicle rental services through fixed base operators, or other third parties, at the Airport), this Agreement, Operator’s vehicle fleet assigned to the Airport, or foreign Vehicles temporarily assigned or rented from the Airport, no matter where the reservation therefor, the rental thereof, or the delivery or possession of such vehicle is made, including but not limited to reservations made through airlines, other operators or travel agencies, or by way of telephone, computer or any other means of communication, including but not limited to amounts collected or due from, for or on behalf of Operator’s Customers, and revenue and consideration of any and all types and in any and all forms which are collected, accrued, received, receivable, allocated or allocable or which should have been collected, accrued, received, receivable, allocated or allocable by, for or to Operator or any person or entity acting for or on behalf of Operator, including its franchisor or any affiliated person or entity.
 - a. Gross Receipts shall include but are not limited to the following specified items:
 - 1). Base, time and mileage charges and fees for the rental and short-term leasing of Vehicles;
 - 2). Premiums and any and all other fees and charges for personal accident insurance, personal effects insurance coverage, baggage insurance, personal effects protection insurance, liability insurance, liability

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insurance supplements, extended protection insurance, and any and all other types and kinds of insurance coverages and policies (regardless of how they be denominated, regardless of the parties covered, and regardless of the risks insured against);

- 3). Any and all sums for insurance waivers, collision damage waivers, and loss damage waivers, whether cash or credit and whether collected or uncollected;
 - 4). Fuel service charges, prepaid fuel, fuel replacement fees waiver, and any and all other types and kinds of charges for fuel, fuel replacement and fuel service;
 - 5). Inter-city fees and drop charges;
 - 6). Concession Recovery Fees or Concession Recoupment Fees charged to Customers;
 - 7). Fees for rental of equipment including child safety seats, cellular telephones, recreational gear and car racks, tire chains and global positioning systems;
 - 8). Additional fees charged to Customers including additional and underage driver fees, upgrade and exchange fees, early pickup and late return fees, tire and battery recovery fees, and fees for miscellaneous services (such as service calls).
 - 9). Any and all charges made to Customers for any and all equipment and services provided for, on account of or incidental to the rental of Vehicles;
 - 10). All other receipts, compensation, revenue and other consideration received or accrued to Operator or Operator's franchisor or any other affiliated person or entity for or on account of the subject rental car concession, its operations or its fleet Vehicles, unless specifically excepted in writing by City.
- b. Gross Receipts shall specifically exclude the following:
- 1). Sales taxes which are separately stated on Operator's vehicle rental agreements and which Operator collects and remits separately to governmental taxing authorities, as required by law;
 - 2). The rental car surcharge imposed pursuant to Section 212.0606, Florida Statutes, as now existing or hereinafter amended, provided that such amount is separately stated on Operator's Vehicle rental agreements, Customer's Agreement, collected from the Customer by Operator, and remitted by Operator to the State of Florida;
 - 3). Compensation received by Operator from Customers and insurance carriers in payment of actual damages to, or the destruction or theft of, Vehicles and other personal property of Operator (but provided that

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compensation and payments for the loss of use of Vehicles are to be included as part of the Gross Receipts);

- 4). Discounts, coupons or credits provided by Operator to its Customer at the time a Customer Agreement is closed; and
 - 5). Amounts received from the administration and reimbursement of tolls, tickets, towing or fines paid by Operator.
- c. Without limiting the generality and scope of the definition of Gross Receipts and without broadening the limits of exclusions from Gross Receipts, as specified above, it is expressly agreed and understood by Operator that no exclusion shall be allowed for taxes or surcharges levied on Operator's activities, facilities, equipment, real or personal property, payroll taxes, income taxes, taxes on frequent flier miles paid directly to an airline, license, title, tag fees, or charges to recoup the same, or other charges which recoup operating costs. Therefore:
- 1). Unless specifically excluded by the express terms of paragraph 6.4.2.b, all receipts, revenues or considerations shall be deemed to be included in Gross Receipts under this Agreement.
 - 2). Gross Receipts shall not be reduced by bank charges, uncollected or uncollectible credit accounts, charges made by collection agencies, bad debt losses, or any commission or other amount paid out or rebated by the Operator to travel agents or others with respect to any rental or sale of goods or services.
- 6.4.3. Each exclusion from Gross Receipts shall be segregated as a separate account in the Operator's general ledger.
- 6.4.4. Each transaction made on installment of credit shall be treated as a transaction for the full price in the month during which such charge or transaction is made, regardless of when or whether the Operator receives any full or partial payment therefore. In no event shall the Operator's Gross Receipts or Chargeable Gross Receipts be negative in any revenue category or in any period. Operator shall not allocate revenues to any other location, regardless of which city or location owns the vehicle, or where the vehicle is ultimately returned.
- 6.5. Minimum Annual Privilege Fee. "Minimum Annual Privilege Fee" shall mean the following:
- 6.5.1. During the first Lease Year, \$.
 - 6.5.2. During each succeeding Lease Year, the amount calculated pursuant to the CPI Rider, a copy being attached as **Exhibit C**.
- 6.6. Payment of Concession Privilege Fee. Operator shall pay the Concession Privilege Fee as follows:

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City and, provided that the damage is not due to the negligence of Operator, the Rent allocable to the portions of the Premises rendered untenable, for the period from the occurrence of the damage to the completion of repairs, shall not be abated.

- 9.2. Destruction. Should the Premises or any portions thereof, or buildings or structures of which the Premises may be a part, be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within ninety (90) days after the occurrence, City shall have the option to terminate this Agreement to the extent that it shall apply to the portion of the Premises so rendered untenable. If this paragraph 9.2 becomes applicable, City shall notify Operator within thirty (30) days after the happening of any such damage whether City has elected to continue this Agreement in effect as to the premises damaged or destroyed or to terminate it. Such notice shall advise Operator of City's estimated schedule for completion of repair and restoration and identify to Operator reasonably adequate substitute premises to be provided to Operator pending reconstruction of the damaged or destroyed Premises. If repairs are estimated to take more than one hundred eighty (180) days to complete, and City is not able to provide Operator reasonably adequate substitute premises for the premises damaged and destroyed pending reconstruction, and such premises are essential to the operation of Operator's Business, Operator may terminate this Agreement by providing written notice to City within ten (10) days of receipt of notice from City as aforesaid. If City shall elect to continue this Agreement in effect, it shall commence and prosecute with due diligence any work necessary to restore or repair the premises, and, so long as the damage is not due to the negligence of Operator, the Rent allocable to the particular Premises rendered untenable, for the period from the occurrence of the damage to the completion of the repairs, shall be abated and Operator shall pay City a reasonable rental for the substitute premises provided during reconstruction.
- 9.3. Relocation of Premises. During any time period when the Premises, or any portions thereof, are damaged by fire or other casualty, City may relocate the damaged Premises or portions to other locations at the Airport until repairs have been completed.

10. **Indemnification and Insurance.**

- 10.1. Commercial General Liability. Operator shall maintain during the entire Lease Term and all periods in which Operator is in possession of the Premises, commercial general liability insurance as well provide coverage for the following matters and with limits not less than:
- 10.1.1. \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury.
- 10.1.2. \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations.
- 10.1.3. \$100,000 each occurrence for Damage to the Premises.
- 10.1.4. Policy must include coverage for contractual liability and independent contractors.
- 10.1.5. City, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities

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Operator occasioned thereby, and additionally, the procurement of such insurance by City shall not relieve Operator of its obligations under this Agreement to maintain insurance coverage in the types and amounts herein specified, and Operator shall nevertheless hold City harmless from any loss or damage incurred or suffered by City from Operator's failure to maintain such insurance.

10.12. Safety/Environmental.

10.12.1. Operator is responsible at all times for reasonable precautions to achieve the protection of all persons including employees, and property lawfully upon the Premises.

10.12.2. Operator shall comply with all applicable safety and Environmental Laws and ordinances. Operator shall promptly notify the City's Risk Management Department regarding any and all Hazardous Material spills that are required to be reported by the State.

10.13. Miscellaneous.

10.13.1. Operator shall be responsible for carrying such insurance as Operator may desire to protect Operator's own equipment, contents, personal property and other property on the Premises, and business loss insurance

10.13.2. Operator may not perform or fail to do any act with respect to the Premises, may not use or occupy the Premises, and may not conduct or operate the Operator's business, in any manner that is objectionable to the insurance companies, it causes them to void or suspend any insurance, or that causes them to increase the premiums above the amounts that would usually have been in effect for the occupancy under this Agreement. Operator may not permit or suffer another person to do so with respect to the Premises.

10.13.3. Operator acknowledges the limits, coverages and endorsements required by this paragraph 10 are intended to minimize liability for City. Operator agrees that it will not rely upon the requirements of this paragraph 10 when assessing the extent or determining appropriate types or limits of insurance coverage to protect Operator against any loss exposures, whether as a result of this Agreement or otherwise.

11. **Default; Remedies.**

11.1. Default. The occurrence of any one or more of the following events shall constitute a default of this Agreement by Operator:

11.1.1. Vacating or abandoning of the Premises by Operator without the advance written consent of City. The Premises shall be deemed vacated or abandoned upon: (a) the Premises no longer being open for business, or Operator not being open for business as required by paragraph 5.3.6 on three or more days in a six-month period; or (b) such other facts as City determines, in its reasonable discretion, establish that Operator has vacated or abandoned the Premises.

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- 12.2. Continued Liability of Operator. If the Operator makes any assignment, sublease, license, or grant of a concession, the Operator will nevertheless remain unconditionally liable for the performance and financial obligations of all of the terms, conditions, and covenants of this Agreement.
- 12.3. City's Right to Collect Charges From Any Occupant. If the Operator is in default on any payments under this Agreement and any other person is subletting or occupying the Leased Premises, or if the Operator assigns this Agreement, the City may collect Charges from the assignee, subtenant, or occupant. The City may apply the net amount collected to the Charges required under this Agreement. The City's collection of the Charges does not waive the covenant against assignment and subletting under this Agreement nor does it constitute the City's acceptance of the assignee, subtenant, or occupant as an Operator, nor the City's waiver of the Operator's further performance of the covenants contained in this Agreement.

13. **Environmental.**

13.1. Compliance with Environmental Laws.

- 13.1.1. Operator covenants, represents, and warrants that in conducting any activity or business on the Premises or at the Airport, or in conducting any operation or performing any work pursuant to this Agreement, Operator shall comply with all applicable Environmental Laws. Operator further covenants, represents and warrants that:
- a. Operator shall obtain and maintain all Environmental Permits required for it to conduct its activities and business on the Premises and at the Airport.
 - b. At City's request, Operator shall make available to City for inspection and copying, upon reasonable notice and at reasonable times, any and all documents and materials which Operator prepared or had prepared with respect to or pursuant to any Environmental Law or Environmental Permit, or which Operator submitted or had submitted to any governmental agency, which documents or materials relate to environmental issues, Environmental Laws or Environmental Permits, pertain to the Airport or the Premises, and would be discoverable in litigation.
- 13.1.2. City and its representatives shall have access to the Premises upon prior notice to inspect the same in order to determine if Operator is using the Premises in accordance with all Environmental Laws and Environmental Permits. Operator agrees to fully cooperate with any such inspections, provided that such inspections shall not unreasonably interfere with Operator's operations. Upon receipt of written notification of noncompliance or upon assertion of a claim by a third party, and at the request of City, Operator shall conduct such testing and analysis as City deems reasonable to ascertain whether Operator is using the Premises in compliance with all Environmental Laws and Environmental Permits. Any such tests shall be conducted by qualified independent experts chosen by Operator, but who shall be subject to City's approval, which shall not be unreasonably withheld. Operator shall provide to City copies of all reports prepared by such experts within a reasonable time after Operator receives each such report.

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contamination, to take any and all actions as they may individually or collectively deem appropriate to cease, contain, investigate, remediate, and otherwise respond to a condition which results from, causes, or threatens to cause environmental pollution, contamination, or damage at, under or about the Premises or the Airport. Operator agrees to cooperate with any and all such actions.

13.1.7. City shall not be responsible to Operator or any of its agents, employees, invitees, licensees, contractors, or subcontractors for any environmental condition in existence on the Premises or at the Airport, which condition may interfere with Operator's business or other operations or activities, or which might otherwise cause damage to Operator through loss of business, destruction of property, or injury to Operator, its owners, directors, officers, agents, employees, Customers, clients, vendees, invitees, concessionaires, or licensees, except to the extent that any such condition is directly caused by City or its employees.

13.2. Operator's Environmental Indemnity. With respect to Environmental Laws and Environment Permits, Operator agrees as follows:

13.2.1. Without in any way limiting Operator's obligations under paragraph 13 hereof, Operator shall assume the risk of, be responsible for, protect, defend, indemnify and hold harmless City and its past, present and future officers, the members of the Board of City Commissioners, the employees and agents of City, and each of them, including without limitation the Airport Directors of City, and shall hold each and all of them harmless at all times from and against any and all losses, claims, liabilities, damages, costs, and expenses, including reasonable attorney's fees, which may be incurred in connection with any actual, threatened, or potential environmental pollution, contamination, condition, or damage to the extent caused by or resulting from any activity or conduct, or presence of Operator or any of Operator's directors, officers, agents, contractors, subcontractors, or employees at the Airport or from Operator's failure to comply with any Environmental Law or Environmental Permit. Operator is not responsible for pre-existing contamination by the City, or other tenant.

13.2.2. All rights and remedies of City as provided in this Agreement with regard to environmental pollution, contamination, damage, or any actual or threatened violations of any Environmental Law or Environmental Permit shall be deemed cumulative in nature; and City's right to indemnification as provided under this paragraph 13.2 shall survive the termination of this Agreement.

14. **Airport Specific Provisions.**

14.1. City Right to Improve Airport.

14.1.1. City has, has had and shall continue to have the absolute right to develop, expand, improve and renovate the Airport, including but not limited to, its apron and taxiways, the Terminal and other Airport facilities, regardless of the desires or views of Operator and without interference or hindrance from Operator and without any liability to Operator; and City may continue to so develop, expand, improve and renovate the Airport, including but not limited to, its apron and taxiways, Terminal and other Airport facilities throughout the Term of this Agreement.

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- 14.14. Release. Operator acknowledges that noise and vibration are inherent to the operation of an Airport and hereby releases City from any and all liability relating to the same.
- 14.15. Exclusive Rights. Notwithstanding any provision of this Agreement to the contrary, Operator understands and agrees that the rights granted under this Agreement are nonexclusive, other than the exclusive right of use of the Premises, and that City may grant similar privileges to another lessee or other lessees on other parts of the Airport.
- 14.16. No Discrimination. Operator for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, creed, color, national origin, sex, sexual orientation, gender identity and expression, familial status, religion, marital status, age, or disability shall be excluded from participation (a) in or denied the use of the Premises; (b) in the construction of any improvements on, over, or under the Premises; or (c) in the furnishing of services. Operator shall use the Premises in compliance with all requirements imposed by or pursuant to Title 49, Part 21 of Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, as now or hereafter amended. In the event of the breach of any of the foregoing non-discrimination covenants which breach is not cured within thirty (30) days after written notice by City, City shall have the right to terminate this Agreement and to reenter and repossess such Premises and the facilities hereon, and hold the same as if this Agreement had never been made or issued. This cancellation provision shall not be effective until the procedures of Title 49, Part 21 of the Code of Federal Regulations are followed and completed including exercise or expiration of appeal rights.
15. **Most Favored Nations.**
- 15.1. If any agreement (the “Other Agreement”) granted by the City to any Other Rental Car Company provides for the lease of premises inside the Terminal and the grant of Concession Rights at the Airport contains any Major Terms (as defined below) more favorable to the Other Car Rental Company than the terms and conditions of this Agreement, Tenant shall be entitled to an amendment to this Agreement (the “MFN Amendment”) to include such Major Terms for so long as, and subject to the same conditions under which, the Major Terms of such Other Agreement shall be enjoyed by such Other Car Rental Company. In order to constitute an Other Agreement under this paragraph 15, the agreement with the Other Rental Car Company must provide for both the lease of premises inside the Terminal and the grant of Concession Rights at the Airport; therefore, an agreement with an Other Rental Car Company merely providing for the use of the Ready/Return Area (and not any area inside the Terminal) and the grant of Concession Rights to the Other Rental Car Company shall not constitute an Other Agreement. Tenant shall not be entitled to the Major Terms of such Other Agreement without accepting any less favorable terms that may be in such Other Agreement (regardless of whether such less favorable terms are Major Terms), and such favorable Major Terms shall not entitle Tenant to any refund or abatement of any Charges paid or accrued prior to the date of the MFN Amendment. For purposes of this paragraph 15.1, “Major Terms” shall include only the express provisions of paragraphs 2, 4.3, 4.4, 4.7, 5.3, 5.5, 6, 10 and 11 of this Agreement.

Exhibit D- Sample Contract with Car Rental Company

- 15.2. Tenant's sole remedy for a breach of City's obligations under this paragraph 15 shall be an action for specific performance of this paragraph; in no event shall Tenant have a right to terminate this Agreement or to seek monetary damages.
- 15.3. If the Other Agreement expires or is terminated (regardless of the reason for termination or the party terminating the Other Agreement), the MFN Amendment shall be deemed canceled and the provisions of this Agreement before the MFN Amendment shall thereafter apply.

16. **General Provisions.**

- 16.1. Operator As Independent Contractor. It is expressly understood and agreed by and between the parties hereto that Operator is and shall remain an independent contractor responsible to all parties for all of its acts or omissions and City shall be in no way responsible for Operator's acts or omissions.
- 16.2. Subordination to Governmental Agreements. This Agreement shall be subject and subordinate to all the terms and conditions of any instrument or document under which City acquired the land or improvements thereon, of which the Premises are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Operator understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between City and the United States of America or State of Florida, or any of their 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 state or federal funds for the improvement or development of the Airport.
- 16.3. Governmental Authority. Nothing in this Agreement shall be construed to waive or limit City's governmental authority as a Florida municipality to regulate Operator or its operations. City's obligations under this Agreement are made in a proprietary capacity (rather than in a governmental capacity), and such agreements shall not be construed as: limiting, prohibiting or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statues and laws; altering or impairing City's governmental functions, including, without limitation, City's right to lawfully exercise its regulatory authority over the development of the Premises; or enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of City's governmental authority.
- 16.4. Rights Reserved to City. All rights not specifically granted Operator by this Agreement are reserved to City.
- 16.5. Invalidity of Clauses. The invalidity of any portion, paragraph, provision, clause or any portion thereof of this Agreement shall have no effect upon the validity of any other part or portion hereof.
- 16.6. Governing Law. This Agreement shall be governed by and in accordance with the laws of the State of Florida.
- 16.7. Estoppel Certificates. City or Operator shall have the right to request the other party to provide an estoppel certificate, as described below, without charge, 15 days after the requesting party sends a written notice. This estoppel certificate shall consist of a written

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- 16.26. Further Action. Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.
- 16.27. Waiver.
- 16.27.1. A failure to assert any rights or remedies available to a party under the terms of this Agreement, or a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.
- 16.27.2. No payment by Operator or receipt by City or its agents of a lesser amount than the Charges and other charges stipulated in this Agreement shall be deemed to be other than a payment on account thereof, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and City or its agents may accept such check or payment without prejudice to City's right to recover the balance of the amount due or to pursue any other remedy provided in this Agreement or by applicable Law.
- 16.28. Entirety of Agreement. The parties agree that this Agreement and its Exhibits set 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.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

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SIGNATURES START ON NEXT PAGE**

Exhibit D- Sample Contract with Car Rental Company

CITY

City of Ocala, a Florida municipal corporation

Witness

Print Witness Name

Witness

Print Witness Name

ATTEST:

Angel B. Jacobs
City Clerk

Approved as to form and legality

Patrick G. Gilligan
City Attorney

By: _____
Mary S. Rich
President, Ocala City Council

Exhibit D- Sample Contract with Car Rental Company

OPERATOR

_____, a _____

By: _____

as _____

Witness

Print Witness Name

Witness

Print Witness Name

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EXHIBIT A CPI RIDER

1. As used in this Rider, all terms defined in the Agreement to which this Rider is attached have the same meaning herein and the following terms have the following meanings:
 - 1.1. *Adjusted Charge* – The Adjustment Amount plus the Preceding Charge.
 - 1.2. *Adjustable Charge* – The Rent or Minimum Annual Privilege Fee, each of which, as set forth in the Agreement, is subject to adjustment pursuant to this Rider.
 - 1.3. *Adjustment* – An adjustment to an Adjustable Charge pursuant to this Rider.
 - 1.4. *Adjustment Amount* – The Adjustment Multiplier multiplied by the Preceding Charge.
 - 1.5. *Adjustment Date* – As defined in paragraph 2 of this Rider.
 - 1.6. *Adjustment Multiplier* – A number determined pursuant to the following formula: (New Comparison Index less Preceding Comparison Index) divided by Preceding Comparison Index.
 - 1.7. *Base Index* – The CPI in effect upon the Effective Date of this Agreement.
 - 1.8. *CPI* – Means the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, Not Seasonally Adjusted, 1982–84 = 100 reference base, published by the Bureau of Labor Statistics of the U.S. Department of Labor. If the CPI ceases to use 1982–84 = 100 as a reference base, or if the CPI is altered, modified, converted, or revised in any way, the CPI will be adjusted to the figure that would have resulted had the change not occurred. If the CPI ceases to be published, the remaining Adjustments called for in this Rider shall be made using the statistics of the Bureau of Labor Statistics of the United States Department of Labor that are most nearly comparable to the CPI. If the Bureau of Labor Statistics of the United States Department of Labor ceases to exist or ceases to publish statistics concerning the purchasing power of the consumer dollar during the Term of this Agreement, the remaining Adjustments called for in this Rider shall be made using the most nearly comparable statistics published by a recognized financial authority selected by City in its sole discretion.
 - 1.9. *New Comparison Index* – The CPI in effect on the second calendar month before the pending Adjustment Date.
 - 1.10. *Preceding Charge* – (a) As to the first Adjustment, the Adjustable Charge for the first Lease Year; and (b) as to each subsequent Adjustment, the Adjusted Charge as adjusted pursuant to the preceding Adjustment.
 - 1.11. *Preceding Comparison Index* – (a) As to the first Adjustment, the Base Index; and (b) as to subsequent Adjustments, the CPI utilized for the preceding Adjustment.
2. Commencing with the second Lease Year (i.e., on the first anniversary of the Effective Date), the Adjustable Charge will be subject to Adjustment every Lease Year during the Term, with each Adjustment being effective on the first day of the Lease Year subject to the Adjustment (the “Adjustment Date”) for proportionate increases in the CPI.

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3. On each Adjustment Date, the Adjustable Charge shall be adjusted by adding the Adjustment Amount to the Preceding Charge.
4. In no event shall the Adjustable Charge ever decrease below the Preceding Charge.
5. The Agreement shall automatically be considered as amended, without formal amendment hereto, upon written notification by City to Operator of the Adjusted Charge established pursuant to this Rider. Any delay or failure of City in computing the adjustment, as hereinabove provided, shall not constitute a waiver of or in any way impair the continuing obligation of Operator to pay Adjusted Charge from the applicable Adjustment Date.

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