



# City of Chicago



O2015-4737

Office of the City Clerk

## Document Tracking Sheet

<b>Meeting Date:</b>	6/17/2015
<b>Sponsor(s):</b>	Emanuel (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Approval of sale and transfer of lease agreements to Catalyst Capital Group, Inc.
<b>Committee(s) Assignment:</b>	Committee on Aviation

AVIAT.



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

June 17, 2015

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Aviation, I transmit herewith an ordinance authorizing an assignment of rental car lease agreements.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

## ORDINANCE

**WHEREAS**, the City of Chicago (the “City”) is a home rule unit of local government as defined in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, and, as such, may exercise any power and perform any function pertaining to its government and affairs;

**WHEREAS**, the City owns and operates, through its Chicago Department of Aviation (“CDA”), an airport commonly known as Chicago O’Hare International Airport (the “Airport”) and possesses the power and authority to lease premises and facilities and to grant rights and privileges with respect thereto; and

**WHEREAS**, Simply Wheelz LLC (“Simply Wheelz”) operates the Advantage Rent A Car (“Advantage”) brand at the Airport pursuant to the Consolidated Rental Car Facility Lease and License Concession Agreement at Chicago O’Hare International Airport Agreement, by and between the City of Chicago and Simply Wheelz LLC d/b/a Advantage Rent A Car, dated July 26, 2013 (the “Concession Agreement”) and the Off-Airport Rental Car Concession License Agreement at Chicago International Airport, by and between the City of Chicago and Simply Wheelz LLC d/b/a Advantage Rent A Car, dated August 1, 2013 (the “Off-Airport Agreement” and together with the Concession Agreement, (the “Agreements”)); and

**WHEREAS**, in November 2013, Simply Wheelz filed for bankruptcy protection under Chapter 11 of Title 11 of the United States Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Mississippi (the “United States Bankruptcy Court”) and is currently operating Advantage as debtor-in-possession; and

**WHEREAS**, in the bankruptcy case, Simply Wheelz conducted a court-supervised auction for Advantage; and

**WHEREAS**, the prevailing bidder in that auction and the provider of Advantage’s debtor-in-possession financing are certain affiliates of The Catalyst Capital Group Inc., (“Catalyst”), a private equity firm based in Toronto; and

**WHEREAS**, Simply Wheelz has agreed to include the Agreements in the sale to Catalyst; and

**WHEREAS**, the United States Bankruptcy Court has entered an order approving the sale and transfer of the Agreements to Catalyst; and

**WHEREAS**, Catalyst intends to acquire and recapitalize Advantage and the Agreements; and;

**WHEREAS**, the City desires to allow Simply Wheelz to assign the Agreements to Catalyst and for Catalyst to assume the Agreements pursuant to a Consent to Assignment and Assumption Agreement (“Assignment”), a copy of which is attached as Exhibit 1; and

WHEREAS, the City desires that the Mayor, upon recommendation of the Commissioner of CDA, ("Commissioner") have the authority to execute such an Assignment; now therefore

*Be It Ordained by the City Council of the City of Chicago:*

SECTION 1. The above recitals are incorporated by reference as if fully set forth herein.

SECTION 2. The Mayor or his proxy, upon recommendation of the Commissioner, is hereby authorized to execute an Assignment with Catalyst in substantially the form attached hereto as Exhibit 1.

SECTION 3. The Commissioner and other City officials are further authorized to enter into and to execute all documents and perform any and all acts, including promulgation of any standards, rules or regulations, as shall be necessary or advisable to carry out the purpose and intent of this ordinance.

SECTION 4. To the extent that any ordinance, resolution, rule, order or provision of the City, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 5. This ordinance shall be in full force and effect from the date of its passage and approval.

## CONSENT TO ASSIGNMENT AND ASSUMPTION

THIS CONSENT (this "Consent") is issued by the City of Chicago (the "City") for the benefit of The Catalyst Capital Group Inc., a Delaware corporation, and the funds managed by it and/or through certain affiliates and their respective affiliates and designees (collectively, "Catalyst"), to be effective as of the \_\_\_\_ day of \_\_\_\_\_, 2014, with reference to the following recitals.

### Recitals:

A. The City is a party to that certain Consolidated Rental Car Facility Lease and License Concession Agreement at Chicago O'Hare International Airport Agreement, by and between the City and Simply Wheelz LLC, dated July 26, 2013 (the "Concession Agreement"), and that certain Off-Airport Rental Car Concession License Agreement at Chicago O'Hare International Airport, by and between the City and Simply Wheelz LLC, dated August 1, 2013 (the "Off-Airport Agreement"), copies of which are attached hereto as Exhibit A (the Concession Agreement and the Off-Airport Agreement, collectively, the "Agreements").

B. Simply Wheelz LLC d/b/a Advantage Rent A Car, a Delaware limited liability company ("Simply Wheelz"), is a party to the Agreements in connection with the operation of its Advantage Rent A Car ("Advantage") business.

C. On November 6, 2013, Simply Wheelz filed for relief under chapter 11 of title 11 of the United States Code and the case is currently pending before the United States Bankruptcy Court for the Southern District of Mississippi (Case No. 13-03332-ee) (the "Bankruptcy Court").

D. On December 9, 2013, Simply Wheelz conducted an auction under the auspices of the Bankruptcy Court for the sale of substantially all of its assets, and the Bankruptcy Court entered an order approving Catalyst as the winning bidder in such auction, and approving the sale of the Advantage business to Catalyst, including, without limitation, the assignment of the Agreements to Catalyst. In connection therewith, Simply Wheelz, Franchise Services of North America, Inc. ("FSNA") and Catalyst entered into a definitive asset purchase agreement (the "APA") under which Catalyst would acquire certain specified assets of Simply Wheelz, FSNA and FSNA's other affiliates used or held for use in the Advantage business.

E. Pursuant to the APA, Simply Wheelz desires to assign to an affiliate of Catalyst (the "Catalyst Purchaser") all of its right, title and interest in and to the Agreements and the Catalyst Purchaser desires to assume the obligations of Simply Wheelz thereunder which accrue from and after the closing

of the transactions contemplated by the APA (the “Closing”) pursuant to the Assignment and Assumption Agreement attached hereto as Exhibit B.

F. The City desires to consent to the assignment of the Agreements, upon the terms and conditions hereinafter set forth and the assumption by the Catalyst Purchaser of all obligations accruing from and after the Closing pursuant to the terms and conditions of the APA.

**NOW, THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the City hereby agrees as follows:

1. The City hereby consents to Simply Wheelz’s assignment to the Catalyst Purchaser (including, without limitation, any affiliate of Catalyst) of all of its right, title and interest in and to the Agreements and the assumption by the Catalyst Purchaser of all obligations thereunder accruing from and after the Closing.

2. True and exact copies of the Agreements are attached hereto as Exhibit A.

3. Upon the Closing, the Agreements shall continue without amendment or other modification except that the Catalyst Purchaser shall replace Simply Wheelz as the direct counterparty of the City, and neither Simply Wheelz nor any affiliate of Simply Wheelz shall remain a direct or indirect party thereto or have any rights therein.

4. The Agreements are in full force and effect and, to the City’s knowledge, no events or circumstances have occurred that, with the giving of notice or the passage of time, or both, constitute or will constitute a default or event of default under the Agreements on the part of Simply Wheelz or any other party claiming rights therein. The Agreements have been duly executed and delivered on behalf of the City pursuant to proper authority therefor, and constitute legally valid instruments binding and enforceable upon the City and, to the best of the City’s knowledge, upon Simply Wheelz in accordance with their terms.

*[Signature Page Follows]*

SO CONSENTED, as of the \_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF CHICAGO

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

Agreements

See attached.



**CONSOLIDATED RENTAL CAR FACILITY  
LEASE AND LICENSE CONCESSION AGREEMENT  
AT CHICAGO O'HARE INTERNATIONAL AIRPORT**

**BETWEEN**

**CITY OF CHICAGO**

**AND**

**SIMPLY WHEELZ LLC, a Delaware limited liability company,  
d/b/a Advantage Rent A Car**

**DATED: July 26, 2013**

**LOCATION:**

**CONSOLIDATED RENTAL CAR FACILITY  
CHICAGO O'HARE INTERNATIONAL AIRPORT  
CHICAGO, ILLINOIS**

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**CONSOLIDATED RENTAL CAR FACILITY  
LEASE AND LICENSE CONCESSION AGREEMENT  
AT CHICAGO O'HARE INTERNATIONAL AIRPORT**

**THIS CONSOLIDATED RENTAL CAR FACILITY LEASE AND LICENSE CONCESSION AGREEMENT** (this "RAC Agreement") is dated as of July 26 2013 (the "Effective Date") by and between the **CITY OF CHICAGO**, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois (the "City"), and **SIMPLY WHEELZ LLC**, a Delaware limited liability company, d/b/a Advantage Rent A Car (the "RAC").

**RECITALS:**

**WHEREAS**, the City owns and operates that certain airport located within the City and commonly known as Chicago O'Hare International Airport (the "Airport"), and further owns that certain property and the underlying land located in the City of Chicago, County of Cook, State of Illinois and more specifically described in Exhibit B attached hereto and made a part hereof (the "Joint Use Facility Property"); and

**WHEREAS**, the City is vested with the authority, and it is the City's duty, to make provisions for the needs of aviation, commerce, shipping, and travel in, to, and around the Airport to promote and develop the Airport, and in the exercise of such power and the fulfillment of such duty, to enter into any lease or license of City-owned properties in the Airport area, including the Joint Use Facility Property, or portions thereof, upon such terms and conditions as the corporate authorities of the City shall prescribe; and

**WHEREAS**, the City desires to develop, alter, and improve the Joint Use Facility Property in order to provide for improvements and facilities which will service and enhance aviation and commerce, shipping, and travel in, to, and around the Airport; and

**WHEREAS**, the City has determined that aviation, commerce, shipping, and travel in, to, and around the Airport will be promoted and enhanced by developing the Joint Use Facility Property, and by leasing and licensing a certain portion of the Joint Use Facility Property (the "Premises"), to RAC for the uses and purposes, and subject to the terms, limitations, and conditions, set forth in this RAC Agreement; and

**WHEREAS**, RAC is engaged in the business of renting Motor Vehicles and desires to lease and license the Premises for purposes of operating a rental car concession at the Airport, and to obtain certain rights and privileges with respect thereto, all as hereinafter provided; and

**WHEREAS**, the City and RAC acknowledge that the continued operation of the Airport as a safe, convenient, and attractive facility is vital to the economic health and welfare of the City, and that the City's right to monitor performance under this RAC Agreement by RAC is a valuable right incapable of quantification; and

**WHEREAS**, for the better promotion of aviation, commerce, shipping, and travel in, to, and around the Airport, the City and RAC desire to enter into this RAC Agreement.

**NOW; THEREFORE**, for and in consideration of the foregoing recitals, the faithful performance by the City and RAC of the terms, covenants, and conditions hereof, and of the payments herein provided to be made by RAC, the City and RAC hereby covenant and agree as follows:



## ARTICLE I DEFINITIONS

The following terms, when used in this RAC Agreement, shall have the following meanings:

**"Adjustment Date"** - shall have the meaning set forth in Exhibit A attached hereto.

**"Airport"** - Chicago O'Hare International Airport, as the same may be designated from time to time during the Term hereof.

**"Airport Customers"** - shall mean means a Person that rents, picks up, or enters into a written agreement for the rental of a Motor Vehicle from a RAC or an Off-Airport RAC, either (i) at the Airport, or (ii) at a location other than the Airport if, and only if, the ATS is used to transport such Person to and from the Joint Use Facility.

**"Airport Security Act"** - means 49 U.S.C. 44901 et seq., and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

**"ALP"** - shall have the meaning set forth in Section 15.29 hereof.

**"Alterations"** - shall have the meaning set forth in Section 5.8 hereof.

**"Annual Operating Expense and Tax Statement"** - shall have the meaning set forth in Subsection 4.4(b) hereof.

**"Annual Statement"** - shall have the meaning set forth in Subsection 4.5(c) hereof.

**"ATS" or "Airport Transit System"** means the Airport's automated people mover system which travels on a dedicated guideway providing passenger service at the Airport, including, without limitation, to Terminals, parking areas and the Joint Use Facility, and including, without limitation, the vehicles used for transport, stations, and all related equipment and associated improvements from time to time, together with any expansions or extensions thereof in connection with the Joint Use Facility.

**"Base Rent"** - An amount equivalent to the RAC's Proportionate Share of the fair market rent on a certain portion of the Joint Use Facility Property, which fair market rent shall be calculated based upon 845,440 square feet, which square footage is calculated by multiplying the total square footage of the Joint Use Facility Property by a fraction where the numerator is the square footage of the ES allocated to the all of the RACs then operating in the CRCF, and the denominator is the total square footage of the ES (including the portions thereof allocated as the Public Parking Area). Base Rent during the initial five (5) years of the Term of this RAC Agreement shall be the sum of THIRTEEN THOUSAND ONE HUNDRED EIGHTY-NINE and No/100 Dollars (\$13,189.00) per year (calculated by multiplying \$2.00 by 845,440 square feet by RAC's Proportionate Share). Base Rent payable hereunder shall be subject to adjustment on the fifth (5th) anniversary of the Rent Commencement Date hereunder, and thereafter at the commencement of each subsequent five (5) year period during the Term hereof, all in accordance with Section 4.2 hereof and Exhibit A attached hereto. The City reserves the right to re-measure the total area of the Joint Use Facility at any time and from time to time from and after the Effective Date hereof, and in the event that any such subsequent re-measurement requires a reasonable adjustment to the calculations set forth above, the City shall so notify RAC in writing, the Base Rent payable hereunder shall be modified to account for such difference, and the parties shall execute a written amendment to this RAC Agreement confirming such revised calculations, and the modified Base Rent thereafter payable hereunder. The total area of the Joint Use Facility Property and the Base Rent payable during the initial

five (5) years of the Term of this RAC Agreement shall be confirmed in the Confirmation (as hereinafter defined) to be executed by the City and RAC as hereinafter provided.

**"Bond Documents"** - means the documents and authorizations relating to the issuance, financing, investment, application, and retirement of the Bonds, including, without limitation, the Bond Ordinance, as supplemented and amended from time to time, the Bond Indenture, as supplemented and amended from time to time, and the TIFIA Loan Documents, as supplemented and amended from time to time.

**"Bond Indenture"**- means the Indenture of Trust by and between the City and The Bank of New York Mellon Trust Company, N.A., as Trustee, as supplemented and amended from time to time.

**"Bond Ordinance"** - means that certain ordinance adopted by the City Council of the City of Chicago on March 13, 2013 (CJP 47683 through 47815), which Bond Ordinance, among other things, provides for the issuance of the Bonds to fund the design and construction of the Joint Use Facility and the CRCF Project hereunder, as such ordinance may be further supplemented or amended from time to time. A true and correct copy of the Bond Ordinance, as the same exists as of the Effective Date hereof, is attached as Exhibit I hereto and made a part hereof.

**"Bonds"** - means, collectively, the Series 2013 Bonds, and any Additional Bonds and Subordinate Bonds (including, in either case, and without limitation, the TIFIA Loan), from time to time Outstanding under the Bond Indenture, as each such term is more specifically defined in the Bond Indenture.

**"Bundle"** - shall have the meaning set forth in Subsection 6.1(n) hereof.

**"CERCLA"** - shall have the meaning set forth in Subsection 14.1(d) hereof.

**"CFC(s)" or "Customer Facility Charge(s)"** - means the customer facility charge or customer facility charges to be collected by the RACs and the Off-Airport RACs and remitted to the Trustee (or, if so directed by the City in writing, to the City) for the benefit of the City, pursuant to the CFC Ordinance, and as further defined and provided in each RAC Agreement and Off-Airport RAC Agreement.

**"CFC Collections"** - The aggregate amount of CFCs collected by the RACs from time to time and required to be remitted to the Trustee (or, if so directed by the City in writing, to the City) for the applicable payment period.

**"CFC Ordinance"** - means, collectively, those certain ordinances adopted by the City Council of the City of Chicago on June 9, 2010 (CJP 93499 through 93505) and December 12, 2012 (CJP 43893 through 43901), which CFC Ordinance, among other things, imposes a CFC on rental car customers at the Airport, as such ordinances may be further supplemented or amended from time to time. A true and correct copy of the CFC Ordinance, as the same exists as of the Effective Date hereof, is attached as Exhibit H hereto and made a part hereof.

**"CFC Statute"** - means Section 6-305(j) of the Illinois Vehicle Code, 625 ILCS 5/6-305(j).

**"City"** - means the City of Chicago, its successors and assigns. In any case under this RAC Agreement that the City may or shall take any action, the Commissioner (as hereinafter defined) is authorized to take such action unless this RAC Agreement expressly provides for action by the corporate authorities of the City or by resolution or ordinance, and except as otherwise provided now or hereafter by applicable law, the rules and regulations of the City, or by resolution or ordinance of the corporate authorities of the City.

"City Response Actions" - shall have the meaning set forth in Subsection 14.7(c) hereof.

"City Restoration" - shall have the meaning set forth in Subsection 7.5(b) hereof.

"Claim" - shall have the meaning set forth in Subsection 14.1(a) hereof.

"Code" - the Municipal Code of the City of Chicago.

"Commissioner" - for the purposes of this RAC Agreement, the Commissioner of Aviation of the City (or any successor thereto in whole or in part as to his or her duties as the person in charge of the operation of the Airport on behalf of the City).

"Common Use Transportation System" - shall mean, collectively, the ATS, together with such buses, bussing systems, and other vehicles as may be used and made available only and exclusively during such time or times as the ATS is not then in operation for any reason.

"Concession Fee" - shall have the meaning set forth in Section 4.5 hereof.

"Concession Recovery Fee" - shall have the meaning set forth in Section 4.6 hereof.

"Condemnation Proceedings" - shall have the meaning set forth in Section 12.1 hereof.

"Confirmation" - shall mean the Term Commencement Confirmation to be executed by and between the City and RAC pursuant to the terms and provisions of this RAC Agreement, including, without limitation, Section 4.2 and Subsection 5.1(c) hereof, which Confirmation shall be substantially in the form attached as Exhibit J hereto and made a part hereof.

"Consumer Price Index" - the Consumer Price Index for Urban Wage Earners and Clerical Workers, City of Chicago, All Items (Base Year 1982-4 = 100) for the applicable month published by the Bureau of Labor Statistics of the United States Department of Labor or similar index substituted by the City if such index is no longer available or is not published for such period.

"Contract" - means the written contract or other agreement under which a Motor Vehicle is rented at the Airport or the CRCF to an Airport Customer by a RAC.

"Contract Day" means, with respect to rentals of Motor Vehicles, up to a 25-hour period (or fraction thereof) for the first Contract Day, and successive 24-hour periods (or fractions thereof) for each successive Contract Day.

"Contractor" - all contractors, subcontractors, and materialmen of any tier providing services, material, labor, operation, or maintenance on, about, or adjacent to the Joint Use Facility Property and/or the Premises, whether or not in privity with RAC.

"County" - County of Cook, State of Illinois.

"CRCF" - means that portion of the new Joint Use Facility to be constructed at the Southeast corner of the intersection of Zemke Road and Mannheim Road (which area is currently designated as the Airport's Surface Parking Lot F) in the City of Chicago, County of Cook, State of Illinois consisting of: (i) the ES (but specifically excluding those portions of the ES allocated as the Public Parking Area); (ii) the QTA, together with a dedicated roadway for rental vehicle use only connecting the ES and QTA; and (iii) the portion of the common areas of the Joint Use Facility allocated and dedicated to the CRCF from

time to time, as reasonably determined by the City. The CRCF does not include (a) the Public Parking Area, or (b) the Common Use Transportation System.

**"CRCF Project"** - shall mean the permitting, design, development, construction, equipping, furnishing, and acquisition of: (i) (a) the CRCF, including the associated structures, roadways, facilities, infrastructure improvements to utilities, and other infrastructure to support the CRCF, and (b) additions, extensions, and improvements to the ATS, in each case to the extent that such purposes are permitted under the CFC Statute; and (ii) such other purposes related to the CRCF as are permitted under the CFC Statute and determined by the Commissioner.

**"CRCF Plans"** - shall have the meaning set forth in Section 5.1 hereof.

**"CRCF Substantial Completion"** - shall have the meaning set forth in Section 5.1 hereof.

**"Debt"** - shall have the meaning set forth in Subsection 6.1(f) hereof.

**"Debt Service"** - Principal and interest payments on the Bonds and/or the TIFIA Loan, from time to time, and any related required costs, payments, or deposits in connection with any of the foregoing, including, without limitation, costs of issuance, credit and liquidity fees, financing costs and charges, and reserves, and further including, specifically, the amounts of any required deposits into each of the Funds specifically referenced and defined in the Bond Documents from time to time, as well as any and all reserve or escrow funds or deposits required under the TIFIA Loan Documents from time to time, and any amount required from time to time to meet the coverage requirements of the Bond Documents or the TIFIA Loan Documents, together with all deposits required in connection with any of the foregoing from time to time (except to the extent that any such costs, payments, deposits, credit and liquidity fees, or reserves are funded from the initial proceeds of the Bonds and comprise part of the principal and interest payments, it being understood and agreed that there shall be no "double counting" of any such amounts for purposes hereof).

**"Default Rate"** - the rate of ten percent (10%) per annum compounded daily, unless a lesser interest rate shall then be the maximum rate permissible by Law with respect thereto, in which event said lesser rate shall be the Default Rate.

**"Disclosure Affidavit", "Contractor's Affidavit", or "Affidavit"** - the affidavit required under Article 6, in the form provided by the City.

**"Discount Rate"** - the rate of interest equal to the average interest rate for United States treasury bills with a remaining term most closely approximating one-half (1/2) of the remaining scheduled Term of this RAC Agreement, determined as of the date for which such Discount Rate is to be first applied hereunder.

**"Domestic Partners"** - shall have the meaning set forth in Subsection 6.1(n) hereof.

**"EDS"** - Economic Disclosure Statement, in the form and substance required by the City from time to time during the Term hereof.

**"Eligible Costs"** means the sum of (a) Debt Service; (b) any and all costs incurred by the City in connection with or otherwise relating to the design, construction, and financing of the Joint Use Facility; (c) any and all costs incurred by the City in connection with or otherwise relating to the operation, maintenance, and repair of the Common Use Transportation System, and including, specifically and without limitation, the capital cost of acquisition of ATS transit cars and Common Use Transportation

System buses, bussing systems, and other vehicles, to the extent related to the Joint Use Facility (other than the Public Parking Area); (d) any and all costs incurred by the City in connection with or otherwise relating to the operation, maintenance, repair, and replacement of the Joint Use Facility, or any portion or portions thereof, from time to time; (e) such reasonable, actual, and documented costs incurred by the RAC Consortium in connection with or otherwise relating to a third party construction representative to represent the interests of the RAC Consortium during construction of the CRCF Project as may be first approved in writing by the City, not to exceed Five Hundred Thousand and No/100 Dollars (\$500,000.00) in the aggregate; (f) such reasonable, actual, and documented costs incurred by RAC in connection with or otherwise relating to construction of the RAC Improvements hereunder as may be first approved in writing by the City, and (g) such other permitted costs as may be identified in the CFC Ordinance, the Bond Ordinance, the Bond Documents, and/or the TIFIA Loan Documents from time to time, and such other costs as may be expressly approved by the Commissioner pursuant to authority granted under the CFC Ordinance, the Bond Ordinance, or any other ordinance enacted by the City from time to time (except to the extent that any of the foregoing costs described in Clauses (b) through (g) are funded from the initial proceeds of the Bonds and comprise part of the Debt Service hereunder, it being the intention of the parties that there shall be no "double counting" of any such costs).

**"Environmental Assessment"** - shall have the meaning set forth in Subsection 14.1(b) hereof.

**"Environmental Baseline"** - shall have the meaning set forth in Subsection 14.3(a) hereof.

**"Environmental Damages"** - shall have the meaning set forth in Subsection 14.1(c) hereof.

**"Environmental Law"** - shall have the meaning set forth in Subsection 14.1(d) hereof.

**"ES"** - shall mean that certain elevated structure located on the Joint Use Facility Property and containing multiple stories, and whereby portions of such ES shall be allocated (i) to RAC and the other RACs for vehicle ready/return operations, vehicle storage, a customer service center, including customer service counters, waiting areas, and office space, and (ii) as the Public Parking Area.

**"Event of Default"** - shall have the meaning set forth in Section 10.1 hereof.

**"Existing Environmental Report"** - shall have the meaning set forth in Subsection 14.3(a) hereof.

**"Expiration Date"** - means the later of (i) the thirtieth (30th) anniversary of the Rent Commencement Date, (ii) the thirtieth (30th) day after the date on which the Bonds shall have matured, been retired, or been paid in full in accordance with the Bond Documents, or (iii) the thirtieth (30th) day after the date on which the TIFIA Loan shall have matured, been discharged, and been paid in full in accordance with the TIFIA Loan Documents.

**"Exterior Lights"** - shall have the meaning set forth in Subsection 5.3(l) hereof.

**"Facility Rent"** - shall have the meaning set forth in Subsection 4.3(a) hereof.

**"Facility Rent Deficiency"** - shall have the meaning set forth in Subsection 4.3(c) hereof.

**"Facility Rent Estimate"** - shall have the meaning set forth in Subsection 4.3(b) hereof.

**"Facility Rent Statement"** - shall have the meaning set forth in Subsection 4.5(c) hereof.

"**Fair Rental Value**" - shall have the meaning set forth in Exhibit A attached hereto.

"**Federal Aviation Administration**" (sometimes abbreviated as "FAA") - the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

"**Final Environmental Report**" - shall have the meaning set forth in Subsection 14.5 hereof.

"**Force Majeure Delay**" - delay, to the extent caused by events or conditions beyond the reasonable control of RAC, caused by: material damage or destruction by fire or other casualty, strike (except if affecting only the Premises); delay in transportation of a required material not normally anticipatable; shortage of a required material not normally anticipatable; unusually adverse weather condition such as, without limitation, severe rain storm or storms, below-freezing temperatures of abnormal degree or quantity for an abnormal duration; unknown underground obstructions, and also including, but not limited to, tornados and cyclones, war, civil strife, governmental action or inaction, and other like or similar events or conditions beyond the reasonable control of RAC. Force Majeure Delay shall not include any delay associated with or due to operating constraints in performing construction or other work at the Airport. Force Majeure Delay shall include delay caused by investigation of Pre-Existing Conditions discovered after the City's commencement of construction of the CRCF and unanticipated Pre-Existing Environmental Remediation.

"**GARBs**" - shall mean General Airport Revenue Bonds.

"**Gross Revenues**" - means all revenues paid or due to RAC arising out of or in connection with its operations at the Airport, including, without limitation: (a) all time and mileage revenues and all revenues from the sale of personal accident insurance, or any insurance of a similar nature; (b) all Concession Recovery Fees; (c) sums received by the RAC for damage to Motor Vehicles or RAC's property or premises, or from loss, conversion, or abandonment of Motor Vehicles (without mark-up or additional fees); and (d) all other revenues paid or due to RAC arising out of or in connection with its operations at the Airport. Gross Revenues shall not include: (i) amounts of any Federal, State, or municipal taxes; (ii) any CFCs collected by RAC; (iii) amounts for credits, refunds, or adjustments to customers for transactions made at the Airport at the time of, or prior to, the close-out of the rental transaction and shown on the customer Contract (without mark-up or additional fees); (iv) sums received by reason of RAC's disposal of personal property (capital assets) (without mark-up or additional fees); (v) sums received by RAC from its customers for traffic tickets, parking tickets, highway tolls, towing charges, impound fees, and other similar governmental fines and charges actually paid by RAC on behalf of such customers (without mark-up or additional fees); and (vi) sums received by RAC for pass-through charges collected by RAC from its customers with respect to damage repair, parts replacement, and extraordinary cleaning of vehicles, and towing and transporting of damaged vehicles, rented by such customers, and replacement of keys for such vehicles (without mark-up or additional fees). The retroactive adjustment by RAC of Gross Revenues designated as volume discounts or rebates, corporate discounts or rebates, or any other designation of any nature, or for any purpose, is prohibited.

"**Hazardous Materials**" - shall have the meaning set forth in Subsection 14.1(e) hereof.

"**Identified Parties**" - shall have the meaning set forth in Subsection 6.1(n) hereof.

"**Impositions**" - shall mean all real property taxes, assessments, license fees, license taxes, business license fees, commercial rental taxes, levies, charges, improvement bonds, taxes, water and sewer rents and charges, utilities and communications taxes and charges, and similar or dissimilar impositions imposed by any authority having the direct power to tax, including any city, county, state, or

federal government, or any school, agricultural, lighting, drainage, or other improvement or special assessment district thereof, or any other governmental charge, general and special, ordinary and extraordinary, foreseen and unforeseen, which may be assessed against any legal or equitable interest of the City in the Joint Use Facility (other than the Public Parking Area), or any portion or portions thereof, including, without limitation, (i) any tax on the City's "right" to rent or "right" to other income from the Joint Use Facility (other than the Public Parking Area) or as against the City's business of leasing the Joint Use Facility (other than the Public Parking Area); (ii) any assessment, tax, fee, levy or charge in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax, it being acknowledged by RAC and the City that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants, it being the intention of RAC and the City that all such new and increased assessments, taxes, fees, levies, and charges be included within the definition of "Impositions" for the purposes of this RAC Agreement; (iii) any assessment, tax, fee, levy, or charge allocable to or measured by the area of the Premises or other premises in the Joint Use Facility (other than the Public Parking Area), or the rent payable by RAC hereunder or other RACS of the Joint Use Facility (other than the Public Parking Area), including, without limitation, any gross receipts tax or excise tax levied by state, city, or federal government, or any political subdivision thereof, with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use, or occupancy by RAC of the Premises, or any portion thereof, but not on the City's other operations; (iv) any assessment, tax, fee, levy or charge upon this transaction or any document to which RAC is a party, creating or transferring an interest or an estate in the Premises; (v) any assessment, tax, fee, levy, or charge by any governmental agency related to any transportation plan, fund, or system (including assessment districts) instituted within the geographic area of which the Joint Use Facility (other than the Public Parking Area) is a part; and/or (vi) any costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in attempting to protest, reduce or minimize Impositions.

**"Indemnified Party"** - shall have the meaning set forth in Subsection 7.1(a) hereof.

**"Initial Appraiser"** - shall have the meaning set forth in Exhibit A attached hereto.

**"Joint Use Facility"** - shall mean, collectively, the CRCF, the Public Parking Area, and the Joint Use Facility Property, together with the Common Use Transportation System (including ATS vehicles) associated therewith.

**"Joint Use Facility Property"** - The land underlying the Joint Use Facility, all as more specifically described in Exhibit B attached hereto and made a part hereof, and as more specifically depicted in Exhibit B-1 attached hereto and made a part hereof.

**"Laws"** - shall have the meaning set forth in Subsection 2.11(b) hereof.

**"Letter of Credit"** - shall have the meaning set forth in Subsection 5.9(b) hereof.

**"Maintenance Reserve Account"** - shall mean the maintenance reserve account maintained and held by the City pursuant to the Bond Indenture.

**"Maintenance Reserve Account Requirement"** - shall mean the initial amount of \$20,000,000.00, which amount shall be subject to change from time to time.

**"Manager"** - shall mean the third-party property manager hired by the City for the operation and management of the CRCF from time to time.

"Market Share Percentage" - shall have the meaning set forth in Subsection 2.15(b) hereof.

"Mayor" - shall have the meaning set forth in Subsection 6.1(n) hereof.

"Minimum Annual Guarantee Fee" (sometimes abbreviated as "MAG")- shall have the meaning set forth in Subsection 4.5 hereof.

"Motor Vehicle" means any motor vehicle within the meaning of Section 1-146 of the Illinois Vehicle Code, 625 ILCS 5/1-146.

"New Environmental Report" - shall have the meaning set forth in Subsection 14.3(a) hereof.

"New Phase I Assessment" - shall have the meaning set forth in Subsection 14.3(a) hereof.

"New Phase II Assessment" - shall have the meaning set forth in Subsection 14.3(a) hereof.

"Notice of Subletting or Assignment" - shall have the meaning set forth in Section 13.2 hereof.

"Off-Airport RAC" - A rental car company that (i) is not a RAC, (ii) serves customers at the Airport, and (iii) is a party to a valid Off-Airport RAC Agreement with the City.

"Off-Airport RAC Agreement" - An Off-Airport Rental Car Concession License Agreement between the City, as licensor, and an Off-Airport RAC, as licensee, pursuant to which such Off-Airport RAC has the right to operate a rental car concession providing rental car services to customers at the Airport, or any successor License and Concession Agreement between the City and such Off-Airport RAC, pursuant to which such Off-Airport RAC has the right to operate a rental car concession providing rental car services to customers at the Airport.

"On" - shall have the meaning set forth in Subsection 14.1(f) hereof.

"Operating Agreement" - shall have the meaning set forth in Subsection 13.5(a) hereof.

"Operating Expenses" - shall mean any and all costs, expenses, and obligations incurred by the City in connection with the operation, ownership, management, repair, and replacement, as and when necessary, of the Joint Use Facility (other than the Public Parking Area), or any portion or portions thereof, including, without limitation, the following: (i) the maintenance, repair, and replacement, as and when necessary, of the downspouts, gutters, roof, and structural components; (ii) the paving, repaving, striping, restriping, patching, repair, and replacement of any or all parking facilities or areas, access roads, driveways, truck ways, sidewalks, and passageways; (iii) loading docks and access ramps, trunk-line plumbing (as opposed to branch-line plumbing); (iv) common utilities and exterior lighting; (v) landscaping; (vi) snow and ice removal; (vii) fire protection; (viii) exterior painting and interior painting of the common areas of the Joint Use Facility (other than the Public Parking Area); (ix) property management fees; (x) additions or alterations made by the City to the Joint Use Facility (other than the Public Parking Area), or any portion or portions thereof, in order to comply with Laws (other than those expressly required herein to be made by RAC), or that are necessary or appropriate to the continued operation of the Joint Use Facility (other than the Public Parking Area), or any portion or portions thereof, as a consolidated rental car facility; provided, however, that the cost of additions or alterations that are required to be capitalized for federal income tax purposes shall be amortized on a straight line basis over a period equal to the lesser of the useful life thereof for federal income tax purposes or ten (10) years; (xi) premiums for liability, property damage, fire, workers compensation, earthquake, terrorism, wind and/or hurricane, rent, and any and all other insurance which the City deems necessary to carry on, for, or in



connection with the City's ownership and operation of the Joint Use Facility (other than the Public Parking Area); and (xi) any and all other costs or expenses incurred by the City for or on behalf of the Joint Use Facility (other than the Public Parking Area), or any portion or portions thereof, and all other similar maintenance and repair expenses incurred by the City for or on behalf of the Joint Use Facility (other than the Public Parking Area), or any portion or portions thereof. Operating Expenses shall not include any costs, expenses, or obligations to the extent incurred solely in connection with the QTA, which QTA costs, expenses, and obligations shall be the sole responsibility of the RAC Consortium hereunder as hereinafter defined.

**"Operation and Maintenance Fund"** - shall mean the operation and maintenance fund maintained and held by the City pursuant to the Bond Indenture, the funds on deposit in which shall be disbursed by the City, in the City's discretion, for the purposes and in the manner described in the RAC Agreements (including this RAC Agreement).

**"Other Contract"** - shall have the meaning set forth in Subsection 6.1(n) hereof.

**"Owners"** - shall have the meaning set forth in Subsection 6.1(n) hereof.

**"Partial RAC Agreement Year"** - The period (consisting of fewer than twelve (12) months) from the Rent Commencement Date or any more recent anniversary of the Rent Commencement Date to and including the expiration or termination date of the RAC Agreement, if the Term ends on a date other than the stated Expiration Date (other than because of an Event of Default).

**"Permitted Use"** - The operation and management of the Premises for Rental Car Purposes (as hereinafter defined), only, and for uses incidental and reasonably related thereto, and except to the extent not reasonably practicable during construction of any RAC Improvements or the CRCF Project, the Premises shall be used continuously by RAC only for Rental Car Purposes, and for uses incidental and reasonably related thereto.

**"Person"** - means any corporation, association, partnership, limited liability company, joint venture, trust, organization, business, individual, or government or any governmental agency, or political subdivision thereof.

**"Political fundraising committee"** - shall have the meaning set forth in Subsection 6.1(n) hereof.

**"Public Parking Area"** - means that portion of the ES consisting of the floors, parking areas, improvements, offices, and other areas dedicated solely to public parking from time to time, together with that portion of the common areas of the Joint Use Facility allocated and dedicated to the Public Parking Area from time to time, as reasonably determined by the City, and not otherwise comprising part of the CRCF or the ATS.

**"Pre-Existing Condition"** - shall have the meaning set forth in Subsection 14.1(g) hereof.

**"Premises"** - shall mean that certain portion of the Joint Use Facility Property more specifically depicted in Exhibit B-2 attached hereto and made a part hereof.

**"Prevailing Wage Act"** - shall have the meaning set forth in Subsection 6.1(b)(i) hereof.

**"Project"** - shall have the meaning set forth in Exhibit D attached hereto.

**"Project Manager"** - shall have the meaning set forth in Exhibit D attached hereto.

"**QTA**" - shall mean a multi-story fuel/car wash quick turn-around vehicle service facility comprising a portion of the CRCF and located on that portion of the Joint Use Facility Property located adjacent to the ES.

"**RAC**" - shall mean a Person (including the RAC hereunder) that operates a rental car business serving Airport Customers under terms of a RAC Agreement with the City and who leases space within the CRCF.

"**RAC Agreement**" - means, for any RAC, the agreement between such RAC and the City for the lease of premises within the CRCF, and the use thereof by such RAC, to carry out its Rental Car Purposes at the Airport, and payments to the City relating thereto, as supplemented, amended, modified, or superseded from time to time in accordance with its terms.

"**RAC Agreement Year**" - The twelve (12) month period commencing on the Rent Commencement Date and each subsequent 12-month period falling wholly or partly within the Term.

"**RAC Access Date**" - shall mean the date on which the City authorizes RAC to access the CRCF for the purpose of commencing construction of the RAC Improvements (as hereinafter defined) within the Premises pursuant to Section 5.1 hereof.

"**RAC Consortium**" - shall mean RAC, together with the other RACs operating and occupying a portion or portions of the CRCF from time to time pursuant to valid RAC Agreements, which RAC Consortium shall be organized by, and shall remain subject to, the Operating Agreement.

"**RAC Delay**" - shall mean any delay attributable to the acts or omissions of RAC or RAC's officers, agents, employees, contractors, consultants, subtenants, or licensees from time to time.

"**RAC Improvement Plans**" - shall have the meaning set forth in Subsection 5.3(a) hereof.

"**RAC Improvement Substantial Completion**" - shall have the meaning set forth in Subsection 5.3(h) hereof.

"**RAC Improvements**" - shall have the meaning set forth in Section 5.3 hereof.

"**RACs' CUTS Proportionate Share**" - shall mean a percentage, reasonably estimated for each RAC Agreement Year, by dividing reasonable estimations of (i) the aggregate number of all customers (including any additional persons in each customer's party) of each of the RACs then operating in the CRCF who rode the Common Use Transportation System during such RAC Agreement Year; by (ii) the total ridership of the Common Use Transportation System during such RAC Agreement Year. RACs' CUTS Proportionate Share shall be calculated annually, in good faith by the City using commercially reasonable estimations, developed in consultation with RAC and all other RACs, and in conjunction with the City's delivery of the Annual Operating Expense and Tax Statement to RAC.

"**RAC's Proportionate Share**" - shall mean the percentage determined by dividing the aggregate square footage of RAC's individual Premises as depicted in Exhibit B-2 (which is deemed to be 11,075) by the aggregate square footage of the ES (but specifically excluding the Public Parking Area) (which is deemed to be 1,420,483), which is acknowledged and agreed to be SEVENTY-EIGHT HUNDREDTHS PERCENT (0.78%) as of the Effective Date hereof, or otherwise as determined by the City from time to time.

"RAC's Proportionate Share of Operating Expenses and Impositions" - shall have the meaning set forth in Subsection 4.4(a) hereof.

"RAC's Representative" - shall have the meaning set forth in this Article 1.

"RAC Restoration" - shall have the meaning set forth in Subsection 7.5(c) hereof.

"RAC Work Items" - shall have the meaning set forth in Subsection 7.5(c) hereof.

"RCRA" - shall have the meaning set forth in Subsection 14.1(d) hereof.

"Related Party" - shall have the meaning set forth in Section 13.2 hereof.

"Release" or "Released" - shall have the meaning set forth in Subsection 14.1(h) hereof.

"Rent" - Base Rent, Facility Rent, the Minimum Annual Guarantee Fee, the Concession Fee, and any other amount RAC is obligated to pay under the terms of this RAC Agreement.

"Rent Commencement Date" - The earlier of (i) the first (1st) day of the first calendar month following the date that RAC commences conducting business operations at the Premises and the CRCF, or (ii) the first (1st) day of the tenth (10th) full calendar month following the RAC Access Date.

"Rental Car Contract" - The written contract or other agreement under which a Motor Vehicle is rented at the Airport or the CRCF to a customer by a RAC.

"Rental Car Purposes" - The rental of Motor Vehicles, support functions such as the washing, fueling, and storage of Motor Vehicles held for rental, and the related provision of gasoline, collision damage waiver protection, insurance (including, but not limited to, personal injury insurance), the rental of children's car seats, mobile telephones, and such other services, items, and equipment are reasonably associated with the rental of Motor Vehicles.

"Response" or "Respond" - shall have the meaning set forth in Subsection 14.1(i) hereof.

"SARA" - shall have the meaning set forth in Subsection 14.1(d) hereof.

"Security Deposit" - means the sum of SEVENTY-FIVE THOUSAND and No/100 Dollars (\$75,000.00), subject to application and adjustment as provided in Section 5.9 hereof.

"Short Form RAC Agreement" - shall have the meaning set forth in Section 15.21 hereof.

"Special Waste" - shall have the meaning set forth in Subsection 14.1(j) hereof.

"Storage/Service Facility Lease" - shall have the meaning set forth in Section 15.29 hereof.

"Storage/Service Facility Base Rent" - shall have the meaning set forth in Section 15.29 hereof.

"Sub-owners" - shall have the meaning set forth in Subsection 6.1(n) hereof.

"Substantial Alterations" - shall have the meaning set forth in Section 5.8 hereof.

"Term" - The term of this RAC Agreement shall commence on the Effective Date and shall expire on the Expiration Date.

"Terminal" - The existing terminal building(s) at the Airport that are open to the public for the purpose of flight ticket purchase, public lobby, waiting, baggage check-in, and those other services related to public air travel.

"Third Appraiser" - shall have the meaning set forth in Exhibit A attached hereto.

"TIFIA" - means The Transportation Infrastructure Finance and Innovation Act, MAP-21 §2002, 23 USC §§ 601-609, as the same may be amended, modified, or supplemented from time to time.

"TIFIA Loan" - means that loan or loans, if any, to the City from the United States Department of Transportation to fund, in part, the Joint Use Facility, pursuant to TIFIA.

"TIFIA Loan Documents" - means the documents and authorizations relating to the issuance, financing, investment, application, and retirement of the TIFIA Loan, as supplemented and amended from time to time.

"Trustee" means The Bank of New York Mellon Trust Company, N.A., with its successors, and, where the context may require, any separate Trustee or Co-Trustee appointed by the Trustee pursuant to the provisions of the Bond Indenture.

"Unassigned Rights" - means the rights of the City under each RAC Agreement, except, so long as any Bonds then remain Outstanding, the right to receive and collect CFCs and Facility Rent.

"UST" - as set forth in 415 ILCS 5/57.2, except that UST shall also mean an underground storage tank used exclusively to store heating oil, gasoline, used oil or such other items as are permitted under applicable Laws in connection with the Permitted Use at the CRCF and/or the Premises.

"Waste Sections" - shall have the meaning set forth in Subsection 6.1(m) hereof.

"Work Liaison" - shall have the meaning set forth in Exhibit D attached hereto.

## **ARTICLE 2** **PREMISES**

**Section 2.1 - Lease of Premises.** The City does hereby lease to RAC, and RAC does hereby lease from the City, the Premises.

### **Section 2.2 - Easements.**

(a) RAC's leasing of the Premises shall be subject to any and all easements, licenses, and other rights with respect to the Premises and/or the CRCF now or hereafter granted to or vested in any other governmental entities or agencies, including, without limitation, the FAA; provided, such easements, if any, shall not preclude the use of the Premises for Rental Car Purposes.

(b) RAC acknowledges that there may currently exist, and that the City may grant in the future, easements and rights on, over, or under the Premises and/or the CRCF for the benefit of suppliers or owners of utilities that service the Airport or property adjoining the Premises and/or the CRCF, and RAC hereby consents to any such utility easements whether now in existence or later granted; provided, no such easements hereafter granted by the City shall materially and adversely interfere with RAC's use of the Premises for Rental Car Purposes.

(c) The City reserves (for itself, its grantees, RACs, mortgagees, contractors, licensees, and others claiming by, through, or under the City) such rights and easements as the City shall deem necessary or appropriate from time to time in connection with the CRCF, the Premises, the Airport, and adjacent properties, including, without limitation, for purposes of storm water drainage, utilities, and like matters; provided, no such easements hereafter sought by the City shall materially and adversely interfere with RAC's use of the Premises for Rental Car Purposes.

**Section 2.3 - Use of Premises.** Subject to the terms and provisions contained in this RAC Agreement, and all applicable Laws (as hereinafter defined) in connection with the conduct of activities by RAC at or around the Airport, RAC is granted the following rights only and no other (and shall use the CRCF for the following purposes only):

(a) The use of the Premises for Rental Car Purposes.

(b) Subject to the rules and regulations promulgated by the City from time to time, RAC shall (i) have the non-exclusive right to use common area space at the CRCF, (ii) be obligated to maintain the Premises, and (iii) be obligated to use the ATS (or the Common Use Transportation System, as applicable) in connection with its use of the CRCF (provided, RAC shall be permitted to provide direct transportation to the Terminal solely with respect to RAC customers that have bona fide and verifiable physical disabilities which reasonably preclude use of the ATS).

(c) All of the operations of RAC hereunder, including all Airport-related rental car transactions conducted by RAC, shall take place at the CRCF and from no other location at or on the Airport.

(d) RAC shall not permit parking on the Premises and/or the CRCF Property of Motor Vehicles of persons (other than employees, agents, licensees, members, and invitees of RAC at the Premises), it being acknowledged and agreed that no public parking shall be allowed therein.

(e) RAC shall also have a non-exclusive right and license during the Term hereof for use of the ATS (and the Common Use Transportation System, as applicable); provided, (i) RAC shall permit other RACs and their customers to use the ATS (and the Common Use Transportation System, as applicable), (ii) RAC shall permit Off-Airport RACs and their customers to use the ATS (and the Common Use Transportation System, as applicable) in accordance with Section 2.14 hereof, and (iii) solely in the event of an emergency, temporary shutdown or inaccessibility of other transportation systems or means of ingress and egress to and from the Airport, or other exigent circumstances, RAC shall permit such other parties as the City shall reasonably direct from time to time to so utilize the ATS (and the Common Use Transportation System, as applicable); provided, in such instance, (1) such use shall not unreasonably disrupt the use of the ATS (and the Common Use Transportation System, as applicable) by RAC, (2) the City shall charge such other parties directly for use of the ATS (and the Common Use Transportation System, as applicable) in an amount equivalent to the amounts then being charged to Off-Airport RACs for such usage pursuant to Section 2.14 hereof, and (3) the City shall thereafter provide RAC with a credit equal to the RAC's Proportionate Share of the amount of charges collected by the City pursuant to Clause (2) above against RAC's obligations for Base Rent next coming due and payable hereunder until such charges have been credited in full.

**Section 2.4 - Ingress and Egress.** Subject to the rules and regulations promulgated by the City from time to time, and the terms and provisions of this RAC Agreement providing for mandatory use of the ATS (or the Common Use Transportation System, as applicable, and provided, RAC shall be permitted to provide direct transportation to the Terminal solely with respect to RAC customers that have

bona fide and verifiable physical disabilities which reasonably preclude use of the ATS), RAC, and its respective employees, agents, invitees, and licensees and their respective vehicles, shall have the right and privilege of ingress to and egress from the Premises on Airport roadways available for use by the public or at other locations acceptable to the City. The City may, at any time, temporarily or permanently, close or consent to or request the closing of, or otherwise restrict access to, any roadway or other right-of-way for such ingress and egress, and any other area at the Airport or in its environs currently or hereafter used for ingress and egress.

**Section 2.5 - Quiet Enjoyment.** The City agrees, unless otherwise provided by this RAC Agreement, that if RAC shall perform all obligations and make all payments as provided hereunder, RAC shall be entitled to and shall have the quiet possession and enjoyment of the Premises, and the rights and privileges leased to RAC hereunder, subject to the provisions contained in this RAC Agreement.

**Section 2.6 - Present Condition of Premises.** Subject to the terms and provisions of this RAC Agreement, and except as expressly provided to the contrary in Article 5 hereof, RAC understands and agrees that RAC, by the execution of this RAC Agreement, agrees to accept the Premises in its "AS IS" condition as existing as of the RAC Access Date (subject, however, to the City's obligation to construct and complete the CRCF Project as and to the extent provided under Section 5.1 hereof), and that, except as expressly provided to the contrary in Article 5 hereof, the City has made no representations or warranties regarding the condition of the Premises or its suitability for RAC's proposed use.

**Section 2.7 - Operation of Premises Generally.**

(a) Without limiting any other requirement set forth in this RAC Agreement, RAC shall conduct (to the extent applicable hereunder) its operations on the Premises and within the Airport in a commercially reasonable manner in order to minimize the emanation of noise, vibration, dust, fumes, and odors, and so as not to interfere with the use and operation of the Airport, adjacent areas on or surrounding the Airport, or adjacent areas surrounding the Premises.

(b) The City and RAC acknowledge that the operation of the business of RAC on the Premises, as well as RAC's performance of its obligations under this RAC Agreement with respect thereto, will enhance the economic development of the City, and that the rights of RAC to use the Premises are subject to the rights of the City, as landlord, to monitor compliance with this RAC Agreement to ensure that the Premises are used and operated as required by this RAC Agreement.

(c) If RAC receives (or the City receives and forwards to RAC) any written complaint concerning the operation or use by RAC of the Premises, the CRCF, the Common Use Transportation System, other than (i) minor complaints not related in any material respect to RAC's duties and obligations under this RAC Agreement or any other agreement between RAC and the City, or (ii) manifestly invalid or baseless complaints (as mutually and reasonably determined by RAC and the City following RAC's submission of reasonable supporting or explanatory documentation in connection therewith), then (without limitation of the City's other rights and remedies hereunder), RAC shall deliver a copy of such complaint to the City within five (5) business days of its receipt, and:

- (i) In the case of the first such complaint, RAC shall promptly respond to such complaint in writing within thirty (30) days of its receipt and make a good-faith attempt to resolve or rectify the cause of such complaint within such 30-day period, and in the event RAC fails to do so, the City may (but shall not be obligated), at its election, resolve or rectify the cause of such complaint, in which event the reasonable costs, expenses, and fees incurred by the City in connection therewith shall be deemed

additional rent hereunder and shall be due and payable by RAC to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate until paid.

- (ii) In the case of the second such complaint from the same customer, or concerning the same or substantially the same issue, received by RAC within ninety (90) days following the first such complaint, RAC shall promptly respond to such complaint in writing within twenty-four (24) hours of its receipt and make a good-faith attempt to resolve or rectify the cause of such complaint within such 24-hour period, and in the event RAC fails to do so, the City may (but shall not be obligated), at its election, resolve or rectify the cause of such complaint, in which event the reasonable costs, expenses, and fees incurred by the City in connection therewith shall be deemed additional rent hereunder and shall be due and payable by RAC to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate until paid.
- (iii) In the case of the third such complaint from the same customer, or concerning the same or substantially the same issue, received by RAC within ninety (90) days following the second such complaint, the City may (but shall not be obligated), in addition to its rights and remedies under clause (ii) above, at its election and upon prior notice to RAC, thereafter perform directly the function(s) that were the basis of such complaint(s) for the remainder of the Term hereof, in which event the costs, expenses, and fees thereafter incurred by the City in connection with the performance of such functions shall be payable by RAC as part of the Facility Rent hereunder.
- (iv) Without further notice or demand, RAC shall keep a copy of each such complaint and RAC's written response thereto for a period of six (6) months from the date of the complaint, and shall make the complaint and the written response available to the City upon its request.

(d) RAC shall respond in writing to complaints registered by the City's Police Department with respect to violations of traffic regulations committed on Airport roadways, including, without limitation, any use relating to the business operations of RAC at the Premises or the Airport by the agents, contractors, invitees, and licensees of RAC, setting forth such action as has been taken or is immediately contemplated to remedy said violations.

**Section 2.8 - Operating Hours.** RAC covenants and agrees to operate the Premises during all hours of air carrier operations at the Airport each day as may be necessary to meet reasonable demands for such services and to properly and adequately serve the public, as determined by the City.

**Section 2.9 - Full-Time Manager; Availability of Employee for Entry.** Throughout the Term, the management, maintenance, and operation of the Joint Use Facility shall be under the supervision and direction of the Manager. The Manager shall be generally available during regular business hours. Further, RAC shall at all times during construction and thereafter during the Term have an agent, representative, or contractor authorized to make decisions for RAC available on the Premises or

who may be contacted immediately by telephone or other communication to permit the City timely entry into RAC Improvements or locked areas where required or permitted under this RAC Agreement.

**Section 2.10 - Permits and Vehicle Registration.** RAC shall obtain all permits required for conduct of its operations at the Premises and the CRCF, all in accordance with applicable Laws. Upon commencement of operations at the Premises and thereafter at the City's reasonable request, RAC shall provide evidence to the City that RAC has obtained or caused to be obtained such permits and registrations.

**Section 2.11 - Use of Premises and/or CRCF in Compliance with Law.**

(a) RAC shall not use or occupy or permit the Premises and/or the CRCF to be used or occupied, or do or permit anything to be done in or on the Premises and/or the CRCF, in whole or in part, in a manner which would in any way violate any certificate of occupancy affecting the Premises and/or the CRCF, or make void or voidable any insurance then in force with respect thereto, or which may make it impossible to obtain fire or other insurance thereon required to be furnished by RAC under this RAC Agreement, or which will constitute a public or private nuisance, or which will disrupt the safe, efficient, and normal operations of the Airport.

(b) RAC shall not use or occupy the Premises and/or the CRCF, or permit the Premises and/or the CRCF to be used or occupied, in whole or in part, in a manner which may violate, and RAC shall at all times comply with, any and all present and future, ordinary and extraordinary, foreseen and unforeseen, laws, statutes, rules, regulations, directives, ordinances, or requirements of any federal, state, or municipal governments or of any other governmental, public, or quasi-public authorities now existing or hereafter created (collectively, "Laws"), to the extent such governments or authorities have jurisdiction over the Premises and/or the CRCF, whether or not the City also is liable for compliance.

(c) RAC may, in good faith (and whenever necessary, in the name of, but without expense to, the City), and after having secured the City to its reasonable satisfaction by cash or by a surety company bond in an amount, from a company, and in form and substance reasonably satisfactory to the City, against loss or damage if the City shall be exposed to any as the result thereof, contest the validity of any such Laws and, pending the determination of such contest, may postpone compliance therewith, except that RAC shall not so postpone compliance therewith as to subject the City to the risk of any fine or penalty, loss of any permit or license, adverse impact on the Airport or Airport operations, or prosecution for a crime, or to cause the Premises and/or the CRCF or any part thereof to be condemned or to be foreclosed upon.

**Section 2.12 - Commencement of Operations.** RAC shall (i) promptly take possession of the Premises, and commence the construction of the RAC Improvements therein, upon the date on which the City authorizes RAC to access the CRCF for the purposes set forth above, (ii) commence operating the Premises, upon RAC Improvement Substantial Completion, subject to Force Majeure Delays.

**Section 2.13 - Easement for Utilities.** If reasonably requested by RAC and the applicable utility company, and subject to the provision of Section 4.10 hereof, the City shall grant to such utility company non-exclusive easements on and under the Joint Use Facility Property and/or Premises for location of facilities to provide natural gas, electricity, or communications service required by RAC in order to provide required utility service to the Premises, at such locations on City property as may be mutually agreed to by the City and RAC; provided (a) RAC shall pay the City's costs and expenses in connection with granting such easement, or required of grantor under such easement, and (b) the granting of such easements is permitted by the Bond Ordinance or other future ordinance.



**Section 2.14 - ATS/Common Use Transportation System.**

(a) RAC agrees that, commencing on the Rent Commencement Date (or such other date as may be directed by the City) and continuing for the remainder of the Term hereof, RAC shall transport all rental car customers of RAC between the CRCF and the Terminal exclusively by use of the ATS (or if the ATS is unavailable for any reason, by use of the Common Use Transportation System), which ATS (or Common Use Transportation System, as the case may be) shall be operated by the City, and which ATS shall use the common train or transit stations designated by the City from time to time to serve the Joint Use Facility and the Terminal. RAC shall fully cooperate with the City's efforts to impose this requirement on all Off-Airport RACs. So long as the Bonds are outstanding, and unless otherwise approved by Trustee or as expressly permitted under this RAC Agreement, the City shall not permit direct access to the Terminal by any shuttle bus or other vehicle providing transportation services on or about Airport premises to or from the facility of any RAC or Off-Airport RAC. In no event shall luggage carts or comparable devices be permitted on the ATS (or Common Use Transportation System, as the case may be).

(b) RAC agrees that for any violation by RAC of the obligations under the first sentence of Subsection 2.14(a) above, the City shall have the right, in addition to its rights and remedies provided elsewhere in this RAC Agreement and at law, to impose the following on RAC as liquidated damages for such violation:

- (i) For the first violation in any period of twelve (12) consecutive months during the Term of this RAC Agreement, the liquidated damages amount shall be \$125.00.
- (ii) For the second and any subsequent violation during any period of twelve (12) consecutive months during the Term of this RAC Agreement, the liquidated damages amount shall be \$250.00.

If RAC disputes any such violation, RAC may submit, within ten (10) days following RAC's receipt of written notice of the liquidated damages amount, a written request for review of such liquidated damages amount to the Commissioner or the City's designated person, as the case may be, in which event the City's administrative hearing procedures shall be applicable with respect to such liquidated damages amount. Failure to so request review within such 10-day period shall result in such liquidated damages amount becoming final and non-reviewable.

(c) RAC acknowledges and agrees that the prohibition on Terminal curbside shuttle, pick-up, and drop-off operations other than through the ATS (or the Common Use Transportation System, as applicable, and provided, RAC shall be permitted to provide direct transportation to the Terminal solely with respect to RAC customers that have bona fide and verifiable physical disabilities which reasonably preclude use of the ATS) is a critical element of the operations within the Airport. The failure of RAC to comply with such prohibition vitally affects the safety and needs of the traveling public and the Airport and constitutes a material breach of this RAC Agreement for which money damages are insufficient. Therefore, RAC specifically acknowledges and agrees that the City shall, without limitation of its other rights and remedies, be entitled to seek an order of specific performance of the provisions of this Section 2.14 issued by a court of competent jurisdiction in connection with any violation by RAC of the terms and provisions hereof.

**Section 2.15 - Allocation of Counter Space, Back Office Space and Parking Spaces within CRCF:**

(a) The size, location, and configuration of available counter space, back office space, ready/return parking spaces, and Motor Vehicle storage spaces in the CRCF shall be subject in all cases to the terms and provisions of the CFC Ordinance, this RAC Agreement, and the direction and approval of the Commissioner. Subject to the foregoing, available counter space, back office space, ready/return parking spaces, and Motor Vehicle storage spaces in the CRCF will initially be allocated among the RACs according to their respective point award allocations and packages pursuant to and as more specifically set forth in that certain "Request for Proposals (RFP) for Rental Car Concessions for Future Joint Use Rental Car and Public Parking Facility at Chicago O'Hare International Airport" heretofore issued by the City in connection with the Joint Use Facility.

(b) Subject to the foregoing minimums and the prior written approval of the City, and except to the extent otherwise approved in writing by the Commissioner, available counter space, back office space, ready/return parking spaces, and Motor Vehicle storage spaces in the CRCF shall be subject to reallocation among the RACs based upon their respective Market Share Percentages (as hereinafter defined) at the following intervals:

- (i) Counter space - the fifth (5th) anniversary of the Rent Commencement Date, and once every five (5) years thereafter (subject to any reasonable adjustments by the Commissioner, taking into account, among other things, the inherent cost and difficulty associated with reallocating counter space);
- (ii) Back office space - the fifth (5th) anniversary of the Rent Commencement Date, and once every five (5) years thereafter (subject to any reasonable adjustments by the Commissioner, taking into account, among other things, the inherent cost and difficulty associated with reallocating back office space);
- (iii) Ready/return parking spaces - the fifth (5th) anniversary of the Rent Commencement Date, and once every five (5) years thereafter; and
- (iv) Motor Vehicle storage spaces - the fifth (5th) anniversary of the Rent Commencement Date, and once every five (5) years thereafter.

Such reallocation shall apply to the amount of space attributable to each of the aforementioned items only, and shall not be deemed to apply to the location of such items. The cost of any such reallocation shall be paid by the RAC or RACs requesting or responsible for such reallocation based upon their respective Market Share Percentages (as hereinafter defined), or as the City and such RAC or RACs may otherwise agree. Any relocation or proposed relocation of any of the aforementioned items by any RACs hereunder shall be subject in each case to the prior written approval of the Commissioner, and in the event that the Commissioner approves such relocation, any and all costs and expenses associated therewith, including, without limitation, relocation costs and the costs incurred by any other RAC affected by such relocation shall be allocated as aforesaid. For purposes hereof, "Market Share Percentage" for each RAC shall mean the amount, expressed as a percentage, equal to the quotient of (i) the Gross Revenues (as defined in such RAC's RAC Agreement) of such RAC, during the immediately preceding twelve (12) month period, divided by (ii) the aggregate sum of all Gross Revenues of all of the RACs during the immediately preceding twelve (12) month period.

**Section 2.16 - Allocation of Space in the QTA:**

(a) The size, location, and configuration of available QTA space and vehicle staging lanes in the CRCF shall be subject in all cases to the direction and approval of the Commissioner. Subject to the foregoing, available QTA space and vehicle staging lanes in the CRCF will initially be allocated among the RACs in increments of bays according to respective point award allocations and packages pursuant to and as more specifically set forth in that certain "Request for Proposals (RFP) for Rental Car Concessions for Future Joint Use Rental Car and Public Parking Facility at Chicago O'Hare International Airport" heretofore issued by the City in connection with the Joint Use Facility. Notwithstanding the foregoing, the Commissioner may, at any time and from time to time during the Term hereof and in his or her sole and absolute discretion, require the RACs with the three (3) lowest MAG amounts to share QTA space and vehicle staging areas.

(b) Subject to the foregoing minimums and the prior written approval of the City, and except to the extent otherwise approved in writing by the Commissioner, available QTA space and vehicle staging areas in the CRCF shall be subject to reallocation among the RACs based upon their respective Market Share Percentages on the fifth (5th) anniversary of the Rent Commencement Date, and once every five (5) years thereafter. Such reallocation shall apply to the amount of space attributable to the QTA space and vehicle staging areas only, and shall not be deemed to apply to the location of such items. The cost of any such reallocation shall be paid by the RACs based upon their respective Market Share Percentages, or as such RACs may otherwise agree. Any relocation or proposed relocation of any QTA space or vehicle staging areas by any RAC hereunder shall be subject in each case to the prior written approval of the Commissioner, and in the event that the Commissioner approves such relocation, any and all costs and expenses associated therewith, including, without limitation, relocation costs and the costs incurred by any other RAC affected by such relocation, shall be allocated as aforesaid.

**Section 2.17 - Reconstitution of RACs.** Notwithstanding anything herein to the contrary, in the event that any RAC from time to time ceases to operate at the CRCF at any time during the Term hereof, the City shall have the right to require that a reasonably comparable replacement RAC be substituted therefor (subject to such replacement RAC executing a valid RAC Agreement with the City). In the event that no reasonably comparable replacement RAC is substituted therefor, the available counter space, back office space, ready/return parking spaces, Motor Vehicle storage spaces, QTA space, and vehicle staging areas may be reallocated among the remaining RACs based upon their respective Market Share Percentages, or as such remaining RACs may otherwise agree, but subject in all cases to the review and reasonable approval of the Commissioner. In the event that the remaining RACs fail to agree on such reallocation, the City may, but shall not be required, to reallocate such available counter space, back office space, ready/return parking spaces, Motor Vehicle storage spaces, QTA space, and vehicle staging areas in accordance with the respective Market Share Percentages of such remaining RACs.

**Section 2.18 - Restrictions on RAC.** Except as may otherwise be expressly provided in this RAC Agreement, RAC may not, without the prior written consent of the City in each instance, which consent may be granted or withheld in the City's sole and absolute discretion:

- (i) Place, construct, or maintain in or about the Premises and/or Joint Use Facility *Property* any advertisement media, including, without limitation, searchlights, flashing lights, loudspeakers, phonographs, televisions, radios, antennas, or other similar media or device;
- (ii) Solicit business or distribute handbills or other advertising or promotional materials in, on, or about the Premises and/or the Joint Use Facility, or other buildings and structures in the area of the Airport,

except that RAC shall be entitled to engage in radio, television, and newspaper advertising as is customarily used for RAC's type of business;

- (iii) Keep or permit animals of any kind in or about the Premises and/or the Joint Use Facility, except dogs trained to assist sight-impaired or other disabled persons;
- (iv) Use or permit any portion of the Premises and/or the Joint Use Facility to be used as living or sleeping quarters;
- (v) Sell, distribute, display, or offer for sale any item which, in the City's good faith judgment, is inconsistent with the quality of operation of the Airport, or which may tend to detract from the image of the Airport;
- (vi) Do or permit to be done anything in connection with RAC's occupancy or advertising which, in the City's reasonable judgment, may reflect unfavorably on the City or the Airport, or may confuse or mislead the public as to any apparent partnership or similar relationship between the City and RAC. RAC shall not have or acquire any property right or interest in the name "Chicago O'Hare International Airport" or any variation thereof;
- (vii) Except as expressly provided to the contrary in this RAC Agreement, conduct any auction (except with the prior written consent of the City at the City's sole and absolute discretion), fire, bankruptcy, distress, clearance, or going-out-of-business sale on the Premises and/or CRCF or post any sign or advertisement regarding such activity in or about the Premises and/or CRCF;
- (viii) Use or permit the Premises and/or the Joint Use Facility to be used in any manner or permit anything to be brought into or kept therein which would (a) violate the certificate of occupancy for the Premises and/or the Joint Use Facility, (b) cause structural injury to any part of the Premises and/or the Joint Use Facility, (c) impair or interfere with the proper operation and maintenance of improvements in the Airport, or (d) violate any of RAC's other obligations under this RAC Agreement or the obligations of any RAC under such party's RAC Agreement;
- (ix) Permit a work of visual art, as defined in 17 U.S.C. § 107, to be installed in the Premises and/or the Joint Use Facility. In addition, any request by RAC to the City to grant its written consent to such installation shall be accompanied by a written waiver, in a form acceptable to the City, of the artist's rights under the Visual Artists Rights Act of 1990, Pub. L. 101-650; or
- (x) Permit parking on the Premises and/or the Joint Use Facility of Motor Vehicles of persons (other than employees, agents, licensees, and invitees of RAC at the Premises and/or the Joint Use Facility), no public parking being allowed.

**ARTICLE 3**  
**TERM**

**Section 3.1 - Term of RAC Agreement.** The term of this RAC Agreement shall be for the Term. This RAC Agreement shall become effective on the Effective Date and shall continue through the Expiration Date, unless sooner terminated in accordance with the terms and provisions hereof.

**Section 3.2 - Operation of Premises after Term.** In the event of continued occupancy by RAC of all or a portion of the Premises after expiration or termination of this RAC Agreement with the City's consent, such occupancy shall be deemed to be on a month-to-month basis and the Rent payable by RAC for such continued occupancy shall be at the same rate of the Rent last payable, on a per diem basis, during the last RAC Agreement Year falling within the Term; provided, in the event that the City notifies RAC in writing at any time following such expiration or termination of this RAC Agreement that RAC is required to vacate and surrender the Premises to the City and RAC fails to do so within thirty (30) days following such notice, RAC shall thereupon commence paying Rent for the Premises at 150% of the annual rate of the aggregate Rent last payable, on a per diem basis, during the period immediately preceding such notice from the City, which rate shall increase to 200% of the annual rate of the aggregate Rent last payable, on a per diem basis, during the period immediately preceding such notice from the City if such failure continues for sixty (60) days following such notice. Except as expressly provided to the contrary hereunder, no occupancy by RAC after the expiration or other termination of this RAC Agreement shall be construed to extend the Term. In addition, in the event that the City notifies RAC in writing to vacate and surrender the Premises to the City as aforesaid and RAC fails to do so within thirty (30) days following such notice, RAC shall be liable for any and all damages, consequential as well as direct, sustained by the City by reason of RAC's continued occupancy from and after the expiration of such 30-day period. Any holding over with the consent of the City in writing shall thereafter constitute a lease from month to month on the same terms and conditions as this RAC Agreement, including payment of the Rent, or at such other rate of Rent as to which the City notifies RAC prior to or after such termination or expiration as to rent payable thereafter for such holding over.

**Section 3.3 - Return of the Premises.** At the termination or expiration of this RAC Agreement, RAC shall return the Premises in good condition and repair, subject to ordinary wear and tear, and RAC shall remove all personal property, trade fixtures, and equipment, if any, of RAC (but excluding the RAC Improvements, unless otherwise directed by the City) from the Premises prior to the date of termination. RAC shall repair any and all damage to the Premises caused by RAC's removal of the personal property, trade fixtures, and equipment, if any. All such removal and repair required of RAC pursuant to this Section 3.3 shall be at RAC's sole cost and expense. If RAC fails to remove any items required to be removed by RAC hereunder or fails to repair any resulting damage prior to or within ten (10) days after termination of the RAC Agreement; then the City may (but shall not be obligated to) remove said items, and repair any resulting damage, and RAC shall pay the cost of any such removal and repair, together with interest thereon at the Default Rate from and after the date such costs were incurred until receipt of full payment therefor. RAC shall also furnish to the City (as to existing RAC Improvements if not previously delivered to the City), and the City shall have the right to use, a full set of the "as-built" plans and specifications for all RAC Improvements, and all final reports prepared by or for RAC on the environmental or physical condition of the Premises. Upon termination or expiration of this RAC Agreement, at the City's option, any USTs on the Premises shall be deemed conveyed to the City, or shall be required to be removed. RAC shall confirm any such conveyance of USTs by a bill of sale for such USTs to the City, if requested by the City. RAC shall perform any removal required by the City in accordance with all Environmental Laws (as defined in Article 14 hereof) and otherwise in accordance with Article 14 hereof.

**Section 3.4 - Reversion to the City; Quitclaim Deed.** On the last day of the Term or upon any earlier termination of this RAC Agreement or RAC's right to possession of the Premises under this RAC Agreement, fee simple title to all RAC Improvements therein, to the extent not theretofore vested in the City pursuant to the terms of this RAC Agreement, shall revert to the City without the necessity of any further action by either party hereunder; provided, however, that upon the City's request, RAC shall execute and deliver to the City (in recordable form) all documents necessary to evidence such conveyance, including, without limitation, a quitclaim deed and bill of sale. RAC shall deliver to the City RAC's executed counterparts of any service and maintenance contracts that are in RAC's possession and are then affecting the Premises, true and complete maintenance records for the Premises, all original licenses and permits then pertaining to the Premises, permanent certificates of occupancy then in effect for the Premises, and all assignable warranties and guarantees then in effect which RAC has received in connection with any work or services performed or equipment installed in the Premises, together with a duly executed assignment of any of the foregoing to the City (but as to any service and maintenance contracts, only to the extent the City requests assignment), and all financial reports, documents, books, and records whatsoever relating to the maintenance or condition of the Premises.

**Section 3.5 - Option to Require Re-Bidding; No Assurance of Continued Participation.** Notwithstanding anything herein to the contrary, the City shall have the right and option, to be exercised in its sole and absolute discretion, to require the re-bidding of this RAC Agreement and the rights granted hereunder once every ten (10) years during the Term hereof, and, in such event, RAC may be required to re-bid for the rights and license granted hereunder as part of the City's then-applicable public bidding process therefor (and, in the event that RAC elects not to re-bid as aforesaid, the City shall be entitled in such instance to terminate this RAC Agreement in the event that the City determines to award the rights and license granted hereunder to a third party, failing which this RAC Agreement shall remain in full force and effect). The terms of such re-bidding may include, without limitation, a modified Minimum Annual Guarantee Fee, a modified Concession Fee, a modified definition of "Gross Revenues" hereunder, and such other terms as the City shall deem appropriate, but shall not include the right to modify the Facility Rent or Base Rent provisions contained herein, or establish a modified Facility Rent or modified Base Rent. RAC hereby acknowledges and agrees that the City has advised RAC of the City's right and option to require the periodic rebidding of this RAC Agreement as aforesaid, and RAC further acknowledges that the City has not given RAC any assurances that RAC will be given the opportunity to continually participate in the CRCF or the Airport pursuant to this RAC Agreement. In the event that RAC is outbid in connection with any such periodic re-bidding, the City shall have the right to terminate this RAC Agreement upon not less than thirty (30) days' written notice to RAC. Upon such termination, the obligations of each of RAC and the City hereunder shall thereupon terminate (except for any obligations accruing hereunder prior to such termination or which expressly survive the termination hereof). In the event that RAC is the successful bidder in any such periodic re-bidding, RAC and the City shall execute a written amendment to this RAC Agreement confirming the modified terms and provisions applicable hereto.

#### **ARTICLE 4** **RENT AND FEES**

**Section 4.1 - Place of Payment.** RAC shall pay Base Rent, Facility Rent, the Minimum Annual Guarantee Fee, Concession Fee, and all other amounts owed to the City under this RAC Agreement, all without set-off, deduction, credit, or discount, except as expressly otherwise provided in this RAC Agreement, in lawful money of the United States, to the City at the Office of the City Comptroller, 333 South State Street, Room 420, Chicago, Illinois 60604, or to such other place or person as the City may direct RAC by written notice. Payment of Rent is independent of every other covenant and obligation in this RAC Agreement. The City shall not be obligated to bill RAC for Base Rent, Facility Rent, the Minimum Annual Guarantee Fee, or Concession Fee. Payment by RAC to the City of compensation

pursuant to this RAC Agreement shall not be considered to be a tax and shall be in addition to and exclusive of all license fees, taxes, or franchise fees which RAC may now or in the future be obligated to pay to the City, including, without limitation, under a use agreement or any other agreement with the City.

**Section 4.2 - Base Rent.** Base Rent for the Premises shall be payable commencing on the Rent Commencement Date and thereafter during the Term in accordance with the terms and provisions of Exhibit A attached hereto and made a part hereof. Base Rent shall be payable in monthly installments in advance equal to one twelfth (1/12) of the applicable yearly amount, commencing on the Rent Commencement Date and on the first day of each and every calendar month of the Term thereafter; provided, however, if the Rent Commencement Date is not the first day of any calendar month or the Expiration Date is not the last day of any calendar month, the monthly installment of Base Rent for such month shall be adjusted ratably (based on the number of days of such month within the Term). The Rent Commencement Date shall be established and set forth in the Confirmation to be executed by the parties pursuant to Subsection 5.1(c) hereof.

**Section 4.3 - Facility Rent.**

(a) In addition to the Base Rent payable by RAC hereunder, RAC shall pay an amount equivalent to the sum of (i) RAC's Proportionate Share of any and all Debt Service for each RAC Agreement Year under this RAC Agreement, plus (ii) RAC's Proportionate Share of Operating Expenses and Impositions for each RAC Agreement Year under this RAC Agreement, plus (iii) any and all other costs and expenses for which RAC is expressly responsible or liable for each RAC Agreement Year under this RAC Agreement, to the extent that such aggregate sum for the applicable payment period hereunder is in excess of total CFC Collections from all RACs for such payment period hereunder (and the other RAC Agreements then in effect), and available in the CFC Revenue Fund (as defined in the Bond Documents) to be applied to such costs (collectively, "**Facility Rent**"). Any and all Facility Rent shall be paid by RAC as and when provided hereunder, and in all events without set-off, deduction, credit, or discount, except for such credits for overpayments as are expressly permitted under this Section 4.3.

(b) The City shall, within a reasonable time following the Effective Date hereof, and as soon as reasonably possible after the commencement of each RAC Agreement Year thereafter, provide RAC with a statement of the estimated monthly installments of Facility Rent which will be due for the remainder of such initial or subsequent RAC Agreement Year under this RAC Agreement, as the case may be (the "**Facility Rent Estimate**"). Such Facility Rent Estimate shall be based on, among other things, the estimated or forecasted number of Contract Days for such RAC Agreement Year under this RAC Agreement, and shall be projected to be sufficient, together with the estimated or forecasted CFC Collections for such RAC Agreement Year hereunder, to enable the City to cover Debt Service and the other components of Facility Rent hereunder. RAC shall pay to Trustee (or, if so directed by the City in writing, to the City), concurrently with its monthly payment of Base Rent as provided in Section 4.2 above, the estimated monthly installment of Facility Rent for the RAC Agreement Year in question as set forth in such Facility Rent Estimate.

(c) As soon as reasonably practicable following the end of each RAC Agreement Year hereunder during the Term hereof, the City shall provide RAC with a statement (the "**Facility Rent Statement**") indicating (i) the total amount of Debt Service, Operating Expenses and Impositions, and related costs attributable to such RAC Agreement Year, (ii) the total CFC Collections received by the City and attributable to such RAC Agreement Year, and (iii) the available balance of the CFC Revenue Fund for such RAC Agreement Year. If such Facility Rent Statement indicates that the total amount of Debt Service, Operating Expenses and Impositions, and related costs for such RAC Agreement Year exceeds the sum of (A) the total amount of CFC Collections attributable to such RAC Agreement Year,

plus (B) the then-available CFC Revenue Fund sums for such RAC Agreement Year applied thereto, plus (C) the estimated monthly installments of Facility Rent theretofore paid by RAC and all other RACs for such RAC Agreement Year, RAC shall pay to the City RAC's Proportionate Share any such deficiency (herein, a "Facility Rent Deficiency") within sixty (60) days after RAC receives the Facility Rent Statement for such RAC Agreement Year, and such sums shall be deemed additional Rent hereunder. Any such Facility Rent Deficiency which remains unpaid from and after such 60-day period shall bear interest at the Default Rate hereunder from the date due until paid. If such Facility Rent Statement indicates that the total amount of Debt Service and related costs for such RAC Agreement Year is less than the total amount of CFC Collections attributable to such RAC Agreement Year, the City shall apply such excess, at the City's discretion, first to Eligible Costs and then as otherwise permitted under the terms and provisions of the CFC Ordinance, the Bond Ordinance, or the Bond Indenture, as the case may be (provided, the City shall advise RAC of any excess CFC Collections which are to be applied to items other than Eligible Costs). The CFCs and CFC Collections shall be governed by Section 4.7 hereof. The City hereby acknowledges that under each RAC Agreement between each RAC, as tenant/licensee, and the City, as landlord/licensor, each RAC will be required to pay its share of any Facility Rent Deficiency payable hereunder directly to the Trustee (or, if directed by the City in writing, to the City), and the City, without limitation of its other rights and remedies hereunder for the non-payment of any such Facility Rent Deficiency or other sums, and without limitation or modification of the liability of RAC and each such other RAC for the payment of such Facility Rent Deficiency or other sums hereunder, hereby agrees to accept payment of such Facility Rent Deficiency from each such RAC.

#### **Section 4.4 - Operating Expenses and Impositions.**

(a) RAC shall pay, in addition to the Base Rent payable by RAC hereunder, and as a component of Facility Rent, the following: (i) RAC's Proportionate Share of Operating Expenses and Impositions incurred by the City for or in connection with the Joint Use Facility (other than the Public Parking Area and the Common Use Transportation System); and (ii) RAC's Proportionate Share of RACs' CUTS Proportionate Share of Operating Expenses and Impositions incurred by the City for or in connection with the Common Use Transportation System. The aggregate amounts payable under subparts (i) and (ii) of this Subsection 4.4(a) are defined for all purposes in this Agreement as "RAC's Proportionate Share of Operating Expenses and Impositions".

(b) The City shall have the right to invoice RAC monthly or quarterly for RAC's Proportionate Share of the Operating Expenses and Impositions payable by RAC under this RAC Agreement, and RAC shall pay to the City, as a component of Facility Rent hereunder, those amounts for which RAC is invoiced within thirty (30) days after receipt of said invoice. Alternatively, at the City's election, the City shall have the right to invoice RAC monthly for RAC's Proportionate Share of the Operating Expenses and Impositions, as reasonably estimated by the City. Notwithstanding the foregoing, with respect to the first RAC Agreement Year only, in the event that the City elects to estimate RAC's Proportionate Share of Operating Expenses pursuant to this Subsection 4.4(b), the City's estimation of RACs' CUTS Proportionate Share (as such figure relates to the City's estimated calculation of RAC's Proportionate Share of Operating Expenses) shall be no more than forty-five percent (45%) of the Operating Expenses and Impositions for or in connection with the Common Use Transportation System. Any monies paid in advance to the City by RAC shall not accrue interest thereon. Following the end of each RAC Agreement Year thereafter, the City shall deliver a statement to RAC setting forth the difference between the actual RAC's Proportionate Share of the Operating Expenses and Impositions and the total amount of monthly payments theretofore paid by RAC to the City for such RAC Agreement Year thereafter (the "Annual Operating Expense and Tax Statement"). RAC shall thereafter pay to the City the full amount of any difference between RAC's actual obligation over the total amount of RAC's estimated payments within thirty (30) days after receipt of said Annual Operating Expense and Tax Statement. Conversely, in the event RAC's estimated payments exceed RAC's actual obligation, the City



shall credit said overpayment against RAC's monthly obligation for RAC's Proportionate Share of the Operating Expenses and Impositions within thirty (30) days following the City's delivery of such Annual Operating Expense and Tax Statement. In the event that this RAC Agreement expires on a date other than the end of a billing period, RAC's obligation with respect to any amounts owed to the City shall survive the expiration of the Term, and shall be invoiced to RAC when the same have been accurately determined or, at the City's option, such amounts shall be reasonably estimated by the City to reflect the period of time this RAC Agreement was in effect during such billing period.

(c) Any delay or failure of the City in (i) delivering any estimate or statement described in this Section 4.4, or (ii) computing or billing of RAC's Proportionate Share of the Operating Expenses and Impositions shall not constitute a waiver of its right to require an increase in Facility Rent, or in any way impair the continuing obligations of RAC under this Section 4.4. In the event of any dispute as to any component of RAC's Proportionate Share of the Operating Expenses and Impositions due under this Section 4.4 (including the City's calculation of RACs' CUTS Proportionate Share), RAC, an officer of RAC, or RAC's certified public accountant (but (i) in no event shall RAC hire or employ an accounting firm or any other person to audit the City as set forth under this Section 4.4 who is compensated or paid for such audit on a contingency basis, (ii) in the event RAC hires or employs an independent party to perform such audit, RAC shall provide the City with a copy of the engagement letter, and (iii) such accounting firm or other person enters into a confidentiality agreement reasonably acceptable to the City) shall have the right, after reasonable notice and at reasonable times, to inspect the City's accounting records at the City's designated accounting office only with respect to those items comprising part of Operating Expenses or Taxes hereunder. If, after such inspection, RAC still disputes such RAC's Proportionate Share of the Operating Expenses and Impositions, then, upon RAC's written request therefor, a certification (the "Certification") as to the proper amount of all Operating Expenses and Taxes and the amount due to or payable by RAC shall be made by an independent certified public accountant selected by the City; provided, however, that such certified public accountant shall not be the accountant who conducted the City's initial calculation of the Operating Expenses and Taxes to which RAC is now objecting. Such Certification shall be final and conclusive as to all parties. If the Certification reflects that RAC has overpaid RAC's Proportionate Share of the Operating Expenses and Impositions for the period in question, then the City shall credit such excess to RAC's next payment(s) of RAC's Proportionate Share of the Operating Expenses and Impositions. Conversely, if RAC has underpaid RAC's Proportionate Share of the Operating Expenses and Impositions, RAC shall pay such underpayment to the City within ten (10) days following the City's written demand therefor. RAC agrees to pay the cost of such Certification and the investigation with respect thereto, and no adjustments in RAC's favor shall be made, unless it is determined that the City's original Annual Operating Expense and Tax Statement was in error in the City's favor by more than five percent (5%). RAC waives the right to dispute any matter relating to the calculation of RAC's Proportionate Share of the Operating Expenses and Impositions under this Section 4.4 if any claim or dispute is not asserted in writing to the City within sixty (60) days after delivery to RAC of the original Annual Operating Expense and Tax Statement with respect thereto. Notwithstanding anything herein to the contrary, RAC shall maintain strict confidentiality of all of the City's accounting records to which RAC is granted or otherwise provided access hereunder, and shall not disclose the same to any other person or entity except for RAC's professional advisory representatives (such as RAC's employees, accountants, advisors, attorneys, and consultants) with a need to know such accounting information, who agree to similarly maintain the confidentiality of such financial information.

(d) For purposes of determining Impositions hereunder, if under applicable law any Imposition may at the option of the taxpayer be paid in installments, the City may elect to pay such Imposition in installments as the same from time to time become due under applicable law, together with such interest as may accrue thereon as the result of such installment payment. Any Impositions (other than Impositions payable in installments as referred to herein or which are assessed against the leasehold

estate) relating to a fiscal or taxing period of the public authority imposing the Imposition which falls partly within the Term and partly after the Expiration Date or earlier termination of this RAC Agreement, shall be considered as accruing from day to day during such fiscal or taxing period so that the amount thereof shall be adjusted and prorated between the City and RAC as of the Expiration Date or the earlier termination of this RAC Agreement. Commencing on a date no later than eighteen (18) months prior to the Expiration Date, RAC shall, at the election of the City, pay into an escrow, at an escrowee which the City selects, an amount sufficient to pay that portion of such Impositions which were not payable prior to the Expiration Date, (i) which accrued during the Term, (ii) which relate to fiscal or taxing periods falling entirely within the Term, or (iii) which relate to the leasehold estate (even if the fiscal period for which they are payable or assessed extends beyond the Term). The terms of said escrow shall be subject to review and approval by the City. Alternatively, RAC shall furnish the City a letter of credit or other security in amount and form acceptable to the City as security for payment of such Impositions. RAC shall have no liability for that portion of such Imposition (other than those payable in installments as referred to herein or which are assessed against the leasehold estate) which relates to the period after the Expiration Date. No proration shall be made of Impositions relating to RAC's leasehold estate (regardless of the fiscal period for which assessed or payable), all such Impositions being the sole responsibility of RAC. For purposes hereof, if any Imposition subject to deposit in escrow has not yet become due and payable or the rate or amount thereof has not become fixed at the Expiration Date, then the estimated amount of the Imposition for the purposes of calculating the aforementioned escrow deposit shall be based upon one hundred ten percent (110%) of the amount or rate of the same relevant Imposition for the immediately preceding fiscal or taxing period of the public authority.

(e) Notwithstanding anything herein to the contrary, the City shall have the right (but not the obligation), at any time and from time to time, to seek separate parcel identification numbers or tax identification numbers attributable to the Premises and or such other portion or portions of the Joint Use Facility as the City shall deem appropriate in order to provide for separate assessment and levy of Impositions with respect thereto. In such event, Impositions for the Premises or such portion or portions of the Joint Use Facility so separately assessed, as the case may be, shall be payable directly by RAC to the appropriate taxing authority as and when due (failing which the City shall have the right, but not the obligation, to pay the same, in which event RAC shall reimburse the City for any and all amounts so paid within ten (10) days following the City's invoice therefor, and such sums shall be deemed additional Rent hereunder).

(f) The terms and provisions of this Section 4.4 which accrue during the Term hereof shall survive the expiration or earlier termination of this RAC Agreement.

**Section 4.5 - Minimum Annual Guarantee Fee; Concession Fee.** In addition to the Base Rent and Facility Rent payable by RAC hereunder, RAC shall also pay the Minimum Annual Guarantee Fee and the Concession Fee as hereinafter provided:

(a) RAC shall pay to the City on the Rent Commencement Date and on the first day of each calendar month thereafter during the Term, in equal monthly installments in advance, without demand, setoff, reduction, or credit, an amount equal to one-twelfth (1/12) of the Minimum Annual Guarantee Fee applicable for the RAC Agreement Year in which such month falls. The "**Minimum Annual Guarantee Fee**" for the first RAC Agreement Year shall be Three Hundred Thousand and No/100 Dollars (\$300,000.00). The Minimum Annual Guarantee Fee for each RAC Agreement Year thereafter shall be the greater of (i) Three Hundred Thousand and No/100 Dollars (\$300,000.00), or (ii) eighty percent (80%) of the amount of the Concession Fee and the Minimum Annual Guarantee Fee, collectively, due to the City from RAC hereunder for the previous RAC Agreement Year. The Minimum Annual Guarantee Fee shall be adjusted ratably for any partial RAC Agreement Year (based upon the number of days in the year falling within the Term). If the Minimum Annual Guarantee Fee is not

determined at the time a payment is required, then RAC shall continue to pay installments at the rate last payable until the actual amount is determined, at which time (i) RAC shall pay any excess Minimum Annual Guarantee Fee owed (but in no event later than ten (10) days after the City's request), or RAC shall be entitled to a credit against the next Minimum Annual Guarantee Fee owed in the amount of any excess paid, and (ii) the monthly installment shall be readjusted to be one-twelfth (1/12) of the actual Minimum Annual Guarantee Fee.

(b) With respect to each RAC Agreement Year, and in addition to the Minimum Annual Guarantee Fee payable hereunder, RAC shall pay to the City an amount (the "Concession Fee") equal to ten percent (10%) of Gross Revenues for each RAC Agreement Year which are in excess of the Minimum Annual Guarantee Fee applicable to such RAC Agreement Year. On or before the twentieth (20<sup>th</sup>) day of each calendar month during the Term (other than the month in which the Commencement Date falls), and on or before the 20<sup>th</sup> day of the calendar month immediately following the expiration or other termination of the License, RAC shall pay to the City the amount, if any, by which (i) the Concession Fee for the RAC Agreement Year in which such month falls attributable to Gross Revenues for the period from and after the commencement of such RAC Agreement Year through and including the last day of the calendar month immediately preceding the month during which said payment is required to be made exceeds, (ii) the sum of the installments of Minimum Annual Guarantee Fee paid for such period. If a RAC Agreement Year ends on a date other than the last day of a calendar month, and Gross Revenues are not calculated separately for that portion of the month falling in each RAC Agreement Year, then Gross Revenues for such calendar month shall be prorated and included in Gross Revenues for each of the RAC Agreement Years in which such calendar month falls based on the number of days in such month falling within the particular RAC Agreement Year. If the Annual Statement (as hereinafter defined) of Gross Revenues required pursuant to Subsection 4.5(c) hereof shows that the additional Concession Fee is owed, because the Concession Fee attributable to the RAC Agreement Year or partial RAC Agreement Year to which the statement of Gross Revenues applies exceeds the amount of all payments theretofore made by RAC to the City in respect of the Concession Fee for such RAC Agreement Year, or partial RAC Agreement Year, as the case may be, then RAC shall pay the balance of the Concession Fee owed to the City concurrently with the submission of said Annual Statement. If the Annual Statement shows that RAC has overpaid the Concession Fee, then the City shall credit the amount of such overpayment against installments of the Concession Fee next coming due and payable hereunder until exhausted (provided, if this RAC Agreement has then expired or otherwise terminated, the City shall refund such overpayment within sixty (60) days following the City's receipt of such Annual Statement).

(c) RAC shall furnish to the City on or before the 20<sup>th</sup> day of each calendar month of each RAC Agreement Year a complete statement, certified by RAC, of the amount of Gross Revenues during the prior calendar month and the amount of the Minimum Annual Guarantee Fee paid by RAC for such month (the "Monthly Statement"); provided, however, with respect to the month in which the Commencement Date falls, RAC may furnish such report of Gross Revenues at the time its next Monthly Statement is due. RAC also agrees that it will furnish to the City no later than ninety (90) days after the end of each RAC Agreement Year, or partial RAC Agreement Year, as the case may be, and within ninety (90) days after the expiration or termination of this RAC Agreement, a complete statement of Gross Revenues certified by an independent certified public accountant hired by RAC, showing in all reasonable detail the amount of Gross Revenues for the preceding RAC Agreement Year, or partial RAC Agreement Year, as the case may be (the "Annual Statement"). Said Annual Statement shall include a breakdown of Gross Revenues on a month by month basis and an opinion of an independent certified public accountant which shall include the following language, or language of similar purport:

"We, a firm of independent certified public accountants, have examined the accompanying statement reported to the City of Chicago by SIMPLY WHEELZ LLC, a Delaware limited liability company, d/b/a Advantage Rent A

Car, for the year ended \_\_\_\_\_ relating to its operations at Chicago O'Hare International Airport pursuant to the Consolidated Rental Car Facility RAC Agreement dated \_\_\_\_\_, 2013, between the City of Chicago and SIMPLY WHEELZ LLC, a Delaware limited liability company, d/b/a Advantage Rent A Car. Our examination was made in accordance with generally accepted auditing standards and, accordingly, includes such tests of the accounting records and such other procedures as we considered necessary in the circumstances. In our opinion, the accompanying statement showing Gross Revenues of \$ \_\_\_\_\_ dollars presents accurately and fairly the amount of Gross Revenues, as defined in the RAC Agreement, for the year ended \_\_\_\_\_."

All such Monthly Statements and Annual Statements shall be prepared on a form approved by the City and shall, among other things, provide a breakdown of the Gross Revenues by category of merchandise or type of service rendered and an analysis of all Concession Fee due and payable to the City with respect to the period in question. Such Monthly Statements and Annual Statements shall also be required from any and all sublicensees and other persons doing business in RAC's portion of the CRCF from time to time, if any. In the event RAC shall fail to timely furnish to the City any Monthly Statements and/or Annual Statements required under this RAC Agreement, or if the independent certified public accountant's opinion is qualified or conditioned in any manner, the City shall have the right (but shall not be obligated) without notice, to conduct an audit of RAC's books and records and to prepare such Monthly Statements and/or Annual Statements at RAC's expense. Moreover, in the event RAC fails to timely furnish any such Monthly Statements and/or Annual Statements or fails to make available its books and records, the City shall have the right to estimate the Gross Revenues.

(d) RAC shall prepare and maintain at an office in Chicago, Illinois (except as otherwise provided below) full, complete, and proper books, records, and accounts in accordance with generally accepted accounting principles, of the Gross Revenues, both for cash and on credit, made at the Airport (segregated from other locations), and of the operations of any sub-licensee, and shall require and cause all such parties to prepare and keep books, source documents, records, and accounts sufficient to substantiate those kept by RAC.

- (i) The books and source documents to be kept by RAC shall include, without limitation, true copies of all Federal and State tax returns and reports (but only if requested by the City), as well as local tax returns and reports of the City of Chicago and any other local governmental entity or agency with jurisdiction and/or taxing authority over the Airport and/or the CRCF, as applicable (provided, such returns and reports shall only be required if deemed necessary by the City's auditor(s) from time to time and, if so required, the City agrees not to make or retain any copies of such returns and reports and to otherwise maintain the confidentiality of such returns and reports to the extent not prohibited by applicable law, and provided, further, that if RAC does not customarily prepare and maintain separate tax returns solely in connection with RAC's operations at the Airport, RAC shall not be required to so prepare such separate tax returns solely in connection herewith, but shall instead be permitted to submit RAC's customary consolidated tax returns hereunder), copies of rental agreements, and daily receipts from all transactions conducted at the Airport by RAC, detailed original records of any exclusions or deductions from Gross Revenues, sales tax records, and such other records, if any, which would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an

audit of RAC's revenues. RAC shall, or shall cause each sub-licensee to, record at the time of each transaction, all receipts from such sale or other transaction, whether for cash, credit, or otherwise. RAC shall cause to be installed at the Airport, and shall at all times use, such cash registers, invoicing machines, sales slips, and other accounting equipment and devices and forms as are reasonably necessary to record properly, accurately, and completely all transactions involving Gross Revenues. Said books, records, and accounts, including any sales tax reports that RAC or any sub-licensee may be required to furnish to any government or governmental agency, shall be retained and at all reasonable times be open to the inspection (including the making of copies or extracts) of the City, the City's auditor or other authorized representative or agent for a period of at least three (3) years after the expiration of each RAC Agreement Year.

- (ii) The acceptance by the City of payments of Concession Fee shall be without prejudice to the City's right to an examination of the RAC's and books and records of Gross Revenues within the 3-year period specified above in order to verify the amount of Gross Revenues.
- (iii) After providing RAC at least ten (10) days' prior notice, the City may inspect the books and records of RAC and any sub-licensee or require RAC to furnish the City copies or extracts of such books and records. Further, at its option, the City may at any reasonable time, upon not less than ten (10) days' prior written notice to RAC, cause a complete audit to be made of RAC's or any sub-licensees' entire records relating to the Airport and/or the CRCF for the period covered by any statement issued by RAC as above set forth. If such audit shall disclose that RAC's Monthly Statement and/or Annual Statement is understated to the extent of two percent (2%) or more, RAC shall promptly pay to the City the cost of said audit in addition to the deficiency (and interest thereon at the Default Rate), which deficiency shall be payable in any event. In addition to the foregoing, and in addition to all other remedies available to the City, if RAC or the City's auditor shall schedule a date for an audit of RAC's records and RAC shall fail to be available or otherwise fail to comply with the reasonable requirements for such audit, RAC shall pay all reasonable costs and expenses associated with the scheduled audit. Any deficiencies or overpayments hereunder shall be subject to payment or credit, as the case may be, in accordance with Subsection 4.5(b) hereof.
- (iv) If books, records, and accounts required to be kept by RAC are maintained outside Chicago, Illinois, RAC shall produce such books, records, and accounts at a location in Chicago, Illinois for the City's inspection or audit when required or pay all reasonable costs and expense of the City and its representatives to inspect or audit books, records, and accounts at the location outside, Chicago, Illinois, including, without limitation, additional professional fees and expenses, and reasonable travel and photocopying charges.

(e) The City may, in its sole discretion, and if RAC so requests, consent to RAC's transmission of its Monthly Statement (but not its Annual Statement) electronically, and to maintain its books and records in computerized form, provided that it is convenient and possible and that:

- (i) As to reports of Gross Revenues, (A) Monthly Statements are transmitted by disc or modem transmission to the City's data center, in either case in a manner compatible with the City's computer system and approved in writing by the City, and (B) print copies of such Monthly Statements are furnished to the City within thirty (30) days after request (which request may be made at any time within one (1) year after the electronic reports are furnished by RAC to the City); and
- (ii) As to books and records, (A) RAC's computerized books and records provide the same level of information as the print books and records described above, are retained for the full record retention period provided for herein, and are made accessible for the City's inspection on request, and (B) print copies of any of such books and records are made available to the City's agents who are engaged in inspecting RAC's books and records, as provided herein, promptly upon request.

Consent by the City to either electronic transmission of Monthly Statements or computerized record keeping, once given, may be revoked by the City on prior written notice to RAC if RAC fails to comply with the foregoing requirements.

(f) RAC shall not intentionally divert Motor Vehicle rentals to other locations to avoid inclusion in Gross Revenues. Intentional diversion shall include, without limitation, RAC advising, directing, or otherwise suggesting to a customer or prospective customer arriving at the Airport that such customer or prospective customer rent a Motor Vehicle at any off-Airport location, whether from RAC or some other rental car provider, regardless of the basis or reason for such advice, direction, or suggestion. All such intentionally diverted revenues shall be included in Gross Revenues.

(g) The City agrees to deliver, without representation or warranty whatsoever, to RAC on a monthly or other basis statements of Gross Revenues for other licensees comprising RAC and operating from the CRCF to the extent such information is in the possession of the City and is available for such dissemination. RAC hereby waives any right it may have to confidentiality as to its Gross Revenues under this RAC Agreement or any Operating Agreement.

**Section 4.6 - Concession Recovery Fee.** RAC acknowledges that Concession Fee payments by RAC to the City under this RAC Agreement are for RAC's privilege to use the Airport facilities and access the Airport market and are not fees imposed by the City upon RAC's customers. The City does not require, but will not prohibit, a separate statement of and charge for the Concession Fee on customer invoices or rental agreements (such separate charge being referred to herein as the "Concession Recovery Fee"), provided that such Concession Recovery Fee meets all of the following conditions: (a) such Concession Recovery Fee is permitted by the Laws of the State of Illinois and all other applicable Laws, including, without limitation, Federal Trade Commission requirements, as such Laws exist as of the Commencement Date of this RAC Agreement, or as such Laws may hereafter be amended, as well as any commitment to or contractual obligation by RAC with the Attorney General of the State of Illinois or any group of State Attorneys General; (b) such Concession Recovery Fee shall be titled "Concession Recovery Fee", "Concession Recoupment Fee", or such other name as is first approved by the City in writing; (c) the Concession Recovery Fee must be shown on the customer rental car agreement and invoiced with other RAC charges (i.e. "above the tax line"); (d) the Concession Recovery Fee as stated on

the invoice and charged to the customer shall be no more than Eleven and 11/100 percent (11.11%) of Gross Revenues (and specifically included in Gross Revenues for purposes of this calculation the Concession Recovery Fee); (e) RAC shall neither identify, treat, or refer to the Concession Recovery Fee as a tax or levy, nor state or imply that the City is requiring the pass-through or collection of such Concession Recovery Fee; and (f) RAC shall not pass through, unbundle, or list any fees (other than a Concession Recovery Fee, vehicle license fee payable to the City and/or the State of Illinois, and CFC) as a separate item on its customer invoices, except with the City's prior written approval in each instance.

**Section 4.7 - CFC Collections.** The City adopted the CFC Ordinance imposing a CFC on rental car customers at the Airport. The CFC Ordinance and the Bond Ordinance may be amended as needed and approved from time to time by the City Council of the City (provided, no such amendment shall increase the CFC amount to a level materially greater than the level reasonably estimated by the City to be necessary to fully pay for Eligible Costs hereunder from time to time). RAC's obligations with respect to CFCs hereunder shall be in addition to, and not in substitution for, RAC's obligations for Base Rent, Facility Rent, the Minimum Annual Guarantee Fee, and Concession Fee, and other charges.

(a) RAC shall be required to collect the CFC in accordance with the terms and provisions of the CFC Ordinance, the Bond Indenture, and this RAC Agreement. RAC shall promptly remit to Trustee (or, if so directed by the City in writing, to the City) the CFCs required to be charged, and at the times required, under the CFC Ordinance, the Bond Indenture, and this RAC Agreement, as the case may be (regardless of whether such amounts are actually collected), and shall provide written confirmation thereof to the City. A true and correct copy of the CFC Ordinance, as such CFC Ordinance exists as of the date hereof, is attached as Exhibit H hereto and made a part hereof. The amount of the CFC will be established by the Commissioner from time to time on a "per Contract Day" basis in an amount determined prior to the commencement of each Fiscal Year as long as any Bond is Outstanding, taking into account, among other things, the projected aggregate Debt Service for the current or ensuing RAC Agreement Year hereunder, amounts necessary to fund the other accounts provided for in the Bond Indenture, shortfalls in CFC revenue that may have occurred in the then-current RAC Agreement Year hereunder, projections of the level of demand for Motor Vehicle rental services at the Airport in the ensuing RAC Agreement Year hereunder, and such other factors (including Eligible Cost determinations) as the City may determine in its sole discretion. Notwithstanding the foregoing, the City may make an unscheduled adjustment to the level of the CFC in any RAC Agreement Year hereunder in the event that the City determines, in its sole discretion, that there has been a material change in any of the assumptions utilized in the City's prior calculation of the CFC, and that such change should not (or cannot) be addressed solely through withdrawals from the CFC Stabilization Fund (as defined in the Bond Documents) or the imposition of Facility Rent as provided herein. Notwithstanding the foregoing, with respect to any RAC Agreement Year in which Facility Rent payable by RAC and all other RACs is projected by the City in the Facility Rent Estimate to exceed \$18,000,000.00 in the aggregate, the City shall be obligated to adjust the level of the CFC by such amount as necessary to cause Facility Rent payable by RAC and all other RACs to be less than, or equal to, \$18,000,000.00 for such RAC Agreement Year; provided however, the foregoing obligation may be waived in writing by RACs whose Market Share Percentage for such RAC Agreement Year is greater than seventy-five percent (75%) in the aggregate at any time upon written notice to the City within thirty (30) days of the City's issuance of such projection.

(b) On or before the twentieth (20th) day of each calendar month during the Term (provided, however, with respect to the month in which the Commencement Date falls, RAC may furnish such report at the time its next monthly report is due), and on or before the twentieth (20th) day of the calendar month immediately following the expiration or other termination of this RAC Agreement, RAC shall submit to the City, in form and substance approved by and acceptable to the Commissioner from time to time, a written report (the "CFC Report") specifying for the prior calendar month (i) the total

number of Contracts entered into by RAC with Airport Customers, (ii) the total number of Contract Days thereunder, and (iii) and the total amount of CFCs payable by RAC in connection with such Contracts. RAC shall remit to Trustee (or, if so directed by the City in writing, to the City) concurrently with such CFC Report the total amount of CFCs due and payable for such calendar month. Any such CFCs which *are not paid on such date shall bear interest at the Default Rate from the date due until paid*. In the event RAC shall fail to timely furnish to the City any CFC Report required under this Section 4.7, the City shall have the right (but shall not be obligated) without notice, to conduct an audit of RAC's books and records (which books and records shall be prepared and maintained in accordance with, and shall include all of the information required under, Subsections 4.5(c) and 4.5(d) hereof) and to prepare such reports at RAC's expense. Moreover, in the event that RAC fails to timely furnish any such CFC Report or fails to make available its books and records, the City shall have the right to estimate the CFCs due and payable hereunder. The City shall furnish to RAC from time to time on a monthly basis a report showing, in the aggregate, the total number of Contract Days and the total amount of CFCs payable in connection with such Contract Days hereunder.

(c) The audit rights set forth in Subsection 4.5(d) of this RAC Agreement shall apply and shall be available to the City with respect to the CFCs and collections thereof hereunder; provided, (i) if any such audit with respect to CFCs shall disclose that RAC's CFC Report(s) understated CFC collections to the extent of two percent (2%) or more, RAC shall promptly pay to the City the cost of said audit in addition to the deficiency (together with interest on such deficiency at the Default Rate from the date due until paid), which deficiency shall be payable in any event, or (ii) if any such audit with respect to CFCs and collections thereof shall disclose that RAC's CFC report(s) understated CFC collections by less than two percent (2%), RAC shall promptly pay to the City one-half (½) the cost of said audit in addition to the deficiency (together with interest on such deficiency at the Default Rate from the date due until paid), which deficiency shall be payable in any event. If the City requires or performs more than one (1) audit during any RAC Agreement Year during the Term hereof, the cost of any audit during such RAC Agreement Year following the initial audit for such RAC Agreement Year shall be paid by the City (except to the extent that the initial or prior audit for such RAC Agreement Year revealed a deficiency of two percent (2%) or more, in which case the aforementioned provisions shall apply).

(d) The Commissioner is authorized to mandate the manner in which RAC identifies the CFC on Contracts from time to time, and RAC shall so identify the CFC within thirty (30) days following notification thereof from the Commissioner. RAC shall charge each Airport Customer the total amount of the CFC due under the Airport Customer's Contract at the time the final number of Contract Days is determined thereunder, and shall remit such total amount of CFCs to Trustee (or, if so directed by the City in writing, to the City), pursuant to the terms and provisions of this RAC Agreement (and any failure of RAC to so charge or collect such CFCs shall not relieve RAC for its responsibility to remit the full amount of such CFCs to Trustee (or, if so directed by the City in writing, to the City) hereunder).

(e) RAC shall not intentionally divert Motor Vehicle rentals to other locations to avoid the imposition or collection of CFCs. Intentional diversion shall include, without limitation, RAC advising, directing, or otherwise suggesting to a customer or prospective customer arriving at the Airport that such customer or prospective customer rent a Motor Vehicle at any off-Airport location, whether from RAC or some other rental car provider, regardless of the basis or reason for such advice, direction, or suggestion. All CFCs which would otherwise have been imposed upon and collected from such intentionally diverted rentals may, at the option of the City, be charged to and due and payable by RAC as additional CFCs hereunder.

(f) RAC covenants and agrees that RAC will not be entitled to any rights to offset or other reduction in the requirements herein and shall be required to remit to Trustee (or, if so directed by the City in writing, to the City) all CFCs imposed and payable regardless of any amounts that may be



owed or due to RAC by the City. Any and all CFCs collected by RAC prior to remittance to Trustee or the City, as the case may be, shall be subject at all times to a first lien for the repayment of the Bonds and the TIFIA Loan. In no event shall RAC grant to any third party (other than the City) any liens or encumbrances on CFCs, and any and all liens or encumbrances on CFCs so granted by RAC to any third party, or otherwise purported to be obtained by any third party, shall be null, void, and of no force or effect. In no event shall any CFCs collected by RAC constitute, or be deemed to constitute, income, revenue, or any other asset of RAC, it being acknowledged, understood, and agreed that (i) RAC shall have no legal or equitable ownership or property interest in or to the CFCs, and (ii) RAC has waived, and hereby waives, any and all claims to a possessory or legal or equitable ownership interest in or to the CFCs. Prior to remittance to Trustee or the City, as the case may be, CFCs shall be held by RAC as funds in trust for the benefit of Trustee and the City, as the case may be, and Trustee and the City, as the case may be, shall have full and complete possessory and legal and equitable ownership rights in and to the CFCs. RAC shall not be entitled to any compensation for collection and remittance of the CFCs, but RAC may retain any interest earned on the CFCs between the time of collection and remittance to Trustee (or, if so directed by the City in writing, to the City).

**Section 4.8 - Airport Commercial Charges.** In addition to the Rent and any other charges provided elsewhere in this RAC Agreement, RAC agrees to pay, or to cause its contractors, operators, and/or agents to pay, all commercial and other charges incurred by RAC in the use of the Airport or its facilities and at the rates prescribed therefor by the City, including, without limitation, any and all applicable driveway, curb cut, license, and similar fees and charges; provided, such rates and charges shall be uniformly applied by the City on other similarly situated parties operating at the Airport from time to time.

**Section 4.9 - Personal Property Taxes.** RAC shall pay all taxes, assessments, license fees, license taxes, business license fees, commercial rental taxes, levies, charges, improvement bonds, taxes, water and sewer rents and charges, utilities and communications taxes and charges, and similar or dissimilar impositions imposed by any authority having the direct power to tax, including any city, county, state, or federal government, or any school, agricultural, lighting, drainage, or other improvement or special assessment district thereof, or any other governmental charge, general and special, ordinary and extraordinary, foreseen and unforeseen, which may be assessed against any legal or equitable interest of RAC in or to, or otherwise relating to, RAC's leasehold interest hereunder, or against the trade fixtures, equipment, installations, improvements, inventory, and personal property of RAC from time to time on or before the same shall become delinquent, and the City shall have no liability or responsibility in connection therewith. RAC may in good faith and with due diligence contest the amount or validity of Impositions by appropriate legal proceedings, so long as such Impositions are paid when due and there is no risk of sale or forfeiture of the Premises or any improvements thereon or any interest therein to satisfy such Imposition. RAC shall furnish the City, within ten (10) days after the date when any Imposition would become delinquent, receipts of the appropriate taxing or other authority, or other evidence reasonably satisfactory to the City, evidencing the payment of the Impositions.

**Section 4.10 - Utilities.** As part of the CRCF Project to be constructed hereunder by or at the direction of the City, the City shall cause utility lines and connections to be brought to the Premises. RAC shall thereafter be responsible for connecting, at its sole cost and expense, the Premises to the available utility lines and connections and to obtain from the applicable utility service providers utilities for all required services; provided, however, RAC may not enter into any agreement with any other municipality or local government to provide utility services without notice to, and approval by, the City of the conditions for furnishing such utility service. RAC shall promptly pay for all utility services directly to the appropriate utility companies. The City has no responsibility to furnish RAC with any utilities and makes no representations or warranties as to the availability of utilities, except as expressly provided to the contrary herein. The City shall, however, supply water, gas, electricity, and sewer service

to the common areas of the CRCF (subject to inclusion of the costs thereof as part of Operating Expenses hereunder). The City does not warrant that any utility services will be free from interruptions caused by war, insurrection, civil commotion, riots, acts of God, Government action, repairs, renewals, improvements, alterations, strikes, lockouts, picketing, whether legal or illegal, accidents, inability to obtain fuel or supplies, or any other causes. Any such interruption of utility service shall never be deemed an eviction or disturbance of RAC's use and possession of the Premises or any part thereof, or render the City liable to RAC for damages, or relieve RAC from the performance of RAC's obligations under this RAC Agreement.

**Section 4.11 - Other Charges.** RAC covenants and agrees that the Rent specified in this Article 4 shall be absolutely net to the City, except as expressly provided in this RAC Agreement, to the end that this RAC Agreement shall yield net to the City the entire Rent, and so that all costs, fees, interest, charges, maintenance and operating expenses, utility charges, water rates, electricity charges, gas charges, and Impositions (as hereinafter defined) levied, assessed upon, or related to the Premises, or any part thereof, or the use or occupancy thereof, or upon any buildings or improvements at any time situated thereon, or levied or assessed upon the leasehold interest created hereby, during the Term, shall be deemed additional rent due and payable by RAC hereunder. Notwithstanding the foregoing, it is specifically understood and agreed that there shall be no "double counting" of any obligations of RAC as described in this Section 4.11.

**Section 4.12 - Interest on Overdue Amounts.** Rent and any additional rent or other charges not paid when due shall bear interest at the Default Rate from the due date until paid; provided, however, that interest on overdue Taxes or insurance premiums or other additional rent not payable to the City shall not accrue unless and until the City has expended such amounts following RAC's failure to pay them.

**Section 4.13 - Reimbursement of Eligible Costs.**

(a) Subject to the terms and provisions hereof, Eligible Costs incurred by RAC will be reimbursed by the City upon submission of properly completed invoices from RAC. RAC shall submit invoices in a format acceptable to the Commissioner. The City retains the right to reject payment of any invoice, or portion thereof, that contains unauthorized, improper, or insufficiently documented costs and/or charges, including costs and/or charges that require prior written approval from the Commissioner in order to be deemed Eligible Costs where such approval was not first obtained. The City will process invoices within thirty (30) days after receipt thereof, and will also instruct such parties as may be necessary to remit payment to RAC within sixty (60) days after receipt of a properly completed invoice.

(b) To the extent that Eligible Costs include reimbursement for travel expenses incurred by RAC or its Contractors with respect to the CRCF, such reimbursement will be limited to those amounts established in the then-current "City of Chicago Travel Guidelines".

**Section 4.14 - Liability for Facility Rent.** In the event that RAC defaults under this RAC Agreement, or in the event that any other RAC defaults under its respective RAC Agreement during the Term of this RAC Agreement, by failing to pay the full aggregate amount of Facility Rent due hereunder or thereunder, then RAC and/or the remaining RACs shall be and remain liable, on a proportional basis based upon the pro-rata share of the rentable square footage allocated to RAC and/or each of the remaining, non-defaulting RACs in the CRCF, for any and all Facility Rent payable by the defaulting RAC(s) under its (or their) respective RAC Agreement(s). The payment of such Facility Rent by RAC and the remaining RACs shall not relieve the defaulting RAC and/or RAC, as the case may be, of any of its obligations to the City, whether arising under this RAC Agreement or such other RAC Agreement, as the case may be, and in the event that the City thereafter actually receives all or any portion of such unpaid Facility Rent from the defaulting RAC and/or RAC, as the case may be, which RAC and/or any

remaining RACs have theretofore paid to the City hereunder, the City shall, as soon as reasonably practicable thereafter, provide RAC with a credit against RAC's obligations for Base Rent (but specifically excluding Facility Rent) next coming due and payable hereunder in an amount equal to such portion of the unpaid Facility Rent so received by the City hereunder to the extent paid by RAC. In addition, upon payment by RAC and/or the remaining RACs of all such unpaid Facility Rent pursuant to the foregoing, any counter space, back office space, ready/return parking spaces, Motor Vehicle storage spaces, QTA space and vehicle staging lanes in the CRCF then allocated to the defaulting RAC shall be relocated to RAC and/or each of the remaining, non-defaulting RACs in the CRCF, on a proportional basis based upon the pro-rata share of the then rentable square footage allocated to RAC and/or such remaining, non-defaulting RACs in the CRCF, and otherwise generally in accordance with the manner of reallocation contemplated in Sections 2.15 and 2.16 above and as the City sees fit. The Operating Agreement shall expressly provide for and authorize the proportional liability and the other obligations set forth hereunder.

**Section 4.15 - Representation Regarding Pro Formas.** The City represents that that certain Cash Flow Pro Forma included in that certain May 10, 2013 Addendum #5 to the Request For Proposals for Rental Car Concessions for the Future Joint Use Rental Car and Public Parking Facility at Chicago O'Hare International Airport (the "RFP"), and identified as "Attachment 3 RAC Plan of Finance Part 1 and 2," and related documents, together with the sensitivity analyses prepared for the United State Department of Transportation ("USDOT"), and included in the May 21, 2013 Addendum #7 (collectively, the "Pro Formas") (i) are true and accurate copies of various analyses provided to USDOT in connection with the City's application for the TIFIA Loan; (ii) are not based upon and do not include any information known as of May 21, 2013 to be misleading in any respect and do not fail to take into account information known to be material as of May 21, 2013; (iii) are based on passenger and CFC projections prepared by the City's independent airport consultant which will be the basis for the feasibility study issued by them in connection with the issuance of the Bonds; and (iv) assuming that the various assumptions (including, without limitation, assumptions as to debt service costs, Operating Expenses and Impositions, and CFC revenues) underlying the City's plan of finance as set forth in Attachment 3 RAC Plan of Finance part 1 and 2 are realized, the City reasonably believes that the results set forth in such plan of finance are attainable. The parties understand and agree that the RACs are relying upon the Pro Formas and the representations made in this paragraph in connection with the City's RFP. Further, the parties understand and agree that any projection and assumption, including but not limited to those projections and assumptions contained in the Pro Formas, are subject to uncertainties, including, without limitation, the possibility that some of the assumptions used to develop the projections will not be realized and that unanticipated events and circumstances will occur.

**Section 4.16 - Representation Regarding Project Funding Sources.** The City represents that a portion of the total cost of the Project (as defined in Subsection 15.28(c)), will be funded from sources other than the Bonds, the TIFIA Loan and CFCs on a pay go basis, such portion being an amount of no less than One Hundred Sixty Million Seven Hundred Thousand Dollars (\$160,700,000.00).

## ARTICLE 5

### CONSTRUCTION, MAINTENANCE AND REPAIR

#### **Section 5.1 - CRCF Project.**

(a) The City shall, with reasonable diligence and at its own cost and expense (except as expressly provided to the contrary herein and subject to the City's receipt of funds attributable to the Bonds), and as soon as reasonably practicable following the Effective Date, commence the construction upon the Joint Use Facility Property of the CRCF Project, which CRCF Project shall be more specifically described and depicted in, and shall be constructed by the City in substantial accordance with, those

certain plans and specifications as are more specifically described and referenced on Exhibit C attached hereto and made a part hereof (the "CRCF Plans"). The CRCF Project shall include, if applicable and to the extent reflected on the CRCF Plans, (i) any and all USTs to be installed as part of the initial construction of the CRCF, and title to such USTs shall immediately pass to RAC upon Substantial Completion thereof, subject to Section 3.3 hereof, and (ii) any and all on-site and off-site preparation and improvements necessary or desirable in connection with the CRCF Project, including, without limitation, earthwork, roadwork, off-site transportation-related improvements, wetland mitigation, the extension of utilities, storm water drainage, and water retention or detention for the CRCF Property. The City shall thereafter diligently pursue completion of the CRCF Project, subject to Force Majeure Delays and delays attributable to the acts or omissions of RAC. The City shall not be liable for any delays in the completion of the CRCF Project.

(b) The City does not warrant the accuracy of any of the information provided by third parties as part of the CRCF Plans or the CRCF Project and shall have no liability arising out of any inaccurate information provided by third parties as part thereof; provided, to the extent that the City has actual knowledge of any such inaccurate information, the City shall so advise RAC and such third parties and shall direct such third parties to correct such inaccurate information. The City's approval of the CRCF Plans and/or the City's construction of the CRCF Project shall not impose upon the City or its officials, officers, employees, or agents any liability or obligation with respect to the design or construction of the CRCF Project, or the compliance of the CRCF Project with any applicable Laws; provided: (i) except to the extent arising from any acts or omissions of RAC, any RAC, or any of their respective members, officers, employees, agents, contractors, or representatives, and subject to the availability of adequate CFC Collections therefor, the City shall be responsible for correcting any latent defects in, or any non-compliance with applicable Laws resulting from, the initial design or construction of the foundation, roof, structural components, or exterior walls of the CRCF for a period equal to the greater of (A) one (1) year following CRCF Substantial Completion, or (B) the period of any third party warranty applicable to such portion of the CRCF; (ii) with respect to any other matters, the City shall reasonably cooperate with RAC (at no cost or expense to the City) with respect to any action, claim, or proceeding RAC may elect to bring against the architect, engineer, general contractor(s), or any subcontractor(s) in connection with the design or construction of the CRCF Project, or any portion thereof; (iii) subject to the City's obligations under clause (i) above, the City shall, upon the written request of RAC and/or any of the other RACs then operating at the CRCF, assign to RAC and/or any of the other RACs then operating at the CRCF, the benefit of any and all warranties and guarantees received by the City, together with other rights and remedies of the City, if any, in connection with the design and construction of the CRCF Project, or the applicable portions thereof (including, without limitation, any rights of the City against all designers, contractors, subcontractors, vendors and suppliers, together with their respective insurance carriers and bonding agents), it being understood and agreed that, with respect to claims involving more than only RAC hereunder, RAC and the other RACs then operating at the CRCF shall reasonably coordinate and cooperate with respect to such claims and any related enforcement actions; and (iv) upon the written request of RAC, but subject to the City's obligations under clause (i) above, the City shall commence and pursue on behalf of RAC (and at RAC's sole cost and expense) any action, claim, or proceeding reasonably necessary to enforce the rights of RAC and/or the City hereunder as against the architect, engineer, general contractor(s), or any subcontractor(s) in connection with the design or construction of the CRCF Project, or any warranties, guarantees, or other claims relating thereto. Without limitation of the City's obligations under clause (i) above, but subject to the provisions thereof, the City shall be responsible for correcting, or causing to be corrected, any latent defects to the extent attributable to the initial design or construction of the CRCF Project for a period equal to the greater of (A) one (1) year following CRCF Substantial Completion, or (B) the period of any third party warranty applicable to the CRCF, and the City shall either correct, or cause to be corrected, such latent defects as aforesaid or shall assign to RAC and/or any of the other RACs then operating at the CRCF, or

otherwise make available to RAC and/or any of the other RACs then operating at the CRCF, the benefit of, any and all warranties and guarantees received by the City, together with other rights and remedies of the City, if any, in connection with any such latent defects in the initial design or construction of the CRCF Project, or the applicable portions thereof (including, without limitation, any rights of the City against all designers, contractors, subcontractors, vendors and suppliers, together with their respective insurance carriers and bonding agents), in which event RAC and/or any of the other RACs, as the case may be, will be responsible for such correction, it being understood and agreed that, with respect to claims involving more than only RAC hereunder, RAC and the other RACs then operating at the CRCF shall reasonably coordinate and cooperate with respect to such claims and any related enforcement actions.

(c) The City shall (i) authorize RAC to access the CRCF for the purpose of commencing construction of their respective RAC Improvements therein at such time as the CRCF Project is sufficiently completed such that RAC is reasonably able to so commence construction of its respective RAC Improvements hereunder (such date being referred to herein as the "RAC Access Date"), (ii) endeavor to notify RAC in writing at least sixty (60) days prior to the RAC Access Date, and (iii) notify RAC in writing promptly upon CRCF Substantial Completion. For purposes of the CRCF Project, "CRCF Substantial Completion" shall be deemed to occur at such time as the CRCF Project has been sufficiently completed, other than minor punch list items or items which will not materially and adversely affect the use or occupancy of the CRCF, such that RAC is reasonably and lawfully able to take possession of the Premises. Within ten (10) business days after the City notifies RAC in writing that CRCF Substantial Completion has occurred, the City and RAC shall conduct a joint inspection of the Premises and shall agree upon a written list of the "Punch List" items identifying touch-up work, minor repairs, and incomplete items necessary to complete the Premises in substantial accordance with the CRCF Plans. As soon thereafter as reasonably practicable, the City shall promptly commence work on the "Punch List" items and shall diligently pursue such work to completion, subject to Force Majeure Delay and delays attributable to RAC, any of the other RACs, or any of their respective officers, agents, employees, agents, contractors, guests, invitees, or licensees. In the event that RAC fails to participate in a joint inspection of the Premises within the aforementioned 10-business day period, RAC shall be deemed to have accepted the CRCF Project as completed in accordance with the CRCF Plans. In addition, promptly following the date on which the City notifies RAC in writing that CRCF Substantial Completion has occurred, the City and RAC shall execute the Confirmation in substantially the form attached as Exhibit J hereto and made a part hereof.

(d) Except for the CRCF Project as specified herein, the City shall not be required to perform any work or construct any improvements, furnish any services or facilities, perform any maintenance, or make any repairs or alterations or environmental remediation or clean-up in or to the Premises throughout the Term hereof.

(e) EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN THIS SECTION 5 OR IN SECTION 2.6 OF THIS RAC AGREEMENT, AND SUBJECT TO THE CITY'S OBLIGATION TO CONSTRUCT THE CRCF PROJECT IN ACCORDANCE WITH THE CRCF PLANS, THE CITY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE PREMISES OR THAT THE PREMISES SHALL BE SUITABLE FOR RAC'S PURPOSES OR NEEDS.

**Section 5.2 - Americans With Disabilities Act.** RAC shall cause any RAC Improvements constructed by or at the direction of RAC to comply with Title III of the provisions of the Americans with Disabilities Act of 1990, as hereafter amended from time to time, and regulations promulgated thereunder, whether or not such obligation is also imposed upon the owner of the Premises, and the other provisions of Subsection 6.1(g) of this RAC Agreement. Such modifications and improvements shall be made pursuant to the provisions of Section 5.3 hereof.

**Section 5.3 - Construction of RAC Improvements.** RAC covenants and agrees and it is an express condition of this RAC Agreement that RAC shall, with due diligence and at RAC's sole cost and expense (except as expressly provided to the contrary herein, including, without limitation, the inclusion of the costs thereof as part of Eligible Costs to the extent permitted hereunder, and except for such cost allocations by and among the RACs as may be agreed to by such parties), commence the construction within the Premises of the improvements described herein (collectively, the "RAC Improvements"), all in accordance with this Section 5.3, Section 5.7 hereof, and other terms and provisions of this RAC Agreement. The RAC Improvements shall consist of, without limitation, (i) kiosks, interior traffic control devices, security systems, RAC communications and display devices, (ii) interior proprietary signage, office furniture, communications systems, and other equipment in the customer service center portion of the Premises, (iii) interior proprietary signage and office furniture at the QTA, and (iv) proprietary identification of parking spaces within the overflow parking lot, and are more specifically described and delineated in the CRCF Plans.

(a) RAC may not commence construction of the RAC Improvements in the Premises without the City's prior written approval of the plans and specifications relating thereto (the "RAC Improvement Plans"), which approval shall not be unreasonably withheld, conditioned, or delayed, and receipt of all necessary City, County, and other governmental approvals, licenses, and permits in connection therewith.

(b) Following approval of its RAC Improvement Plans hereunder, and subject to compliance with the other terms and provisions hereof, RAC shall notify the City in advance of the date RAC will commence construction of its RAC Improvements in the Premises and its proposed construction schedule with respect thereto.

(c) Prior to commencement of construction (and to the extent required), RAC will procure the approval of the final RAC Improvement Plans by any and all federal, state, municipal, and other governmental authorities, offices, and departments having jurisdiction in the Premises, including, without limitation, the District Airport Engineer of the FAA. The City will cooperate with RAC in procuring such approval, provided that the City shall have given its prior approval to such final RAC Improvement Plans.

(d) Neither the approval by the City of the RAC Improvement Plans, nor any other action taken by the City with respect thereto under the provisions of this RAC Agreement, shall constitute an opinion or representation by the City as to the sufficiency of said RAC Improvement Plans, or such design standards as the City shall have in effect from time to time, compliance with any Laws, or ability of RAC to receive any permits from any department or agency of the City or other jurisdictions, nor impose any present or future liability or responsibility upon the City. Approval shall not constitute approval of the City or its departments or agencies for any construction, extension, or renovation of any public utilities or public ways which may be necessary to service the Premises. In any case where more than one standard, code, regulation, or requirement applies to construction or the RAC Improvement Plans, the strictest shall control.

(e) Prior to the execution of any contracts for construction, engineering, or architectural services, RAC shall furnish to the City the names of the person or entity whom RAC desires to employ and the proposed form of contract. The City shall have the right to approve the architect, engineer, and contractor, including any proposed contract for their services, which approval shall not be unreasonably withheld or delayed. Such architect, engineer, and contractor shall be licensed in the discipline being contracted for, experienced in design and construction of improvements comparable to those for which its services are being required by RAC, and airport-related work, not be listed on any local, state, or federal non-responsible bidders' list, and not be debarred under any state or federal statute,

regulation, or proceeding. In addition, all such contracts shall include the matters required by Section 6.3 hereof and other provisions of this RAC Agreement and shall include such other terms as may be reasonably requested by the City regarding construction practices at the Airport. Upon their execution, and prior to commencement of construction, RAC shall deliver to the City copies of its contracts with the design architect and engineer and the general contractor. RAC shall simultaneously deliver to the City collateral assignments of said contracts, together with instruments executed by the architect, engineer, and by the general contractor under which each consents to the aforesaid assignment and agrees to continue to supply the same services to the City or the City's designee provided by their respective contracts with RAC, in the event that (i) RAC fails to comply with any such requirements, and (ii) the City gives the architect, engineer, or the general contractor, or any of them, written notice within sixty (60) days after the occurrence of such failure, and (iii) at the time of the City's notice of such failure, the City or the City's designee demands continuance of such services on the same terms contained in the respective contracts and expressly agrees to assume and be bound by such respective contracts; provided that the City shall not be liable for or obligated to cure prior defaults of RAC.

(f) RAC shall also deliver to and for the benefit of the City, no later than thirty (30) days prior to commencement of construction of RAC Improvements, dual performance and payment bonds from an issuer of adequate financial strength and otherwise reasonably acceptable to the City. Performance and payment bond or bonds are required by the City and shall comply with the provisions of 30 ILCS 550/1 et seq., as amended, and of Chapter 2, Section 2-92-030 of the Code. The surety bond or sureties issuing the bond must be acceptable to the City Comptroller and must be in the form provided by the City for an amount of not less than one hundred fifty percent (150%) of the estimated construction costs of such RAC Improvements. The surety for the bond shall be on the U.S. Treasury list of acceptable sureties with underwriting capacity equal or better than the contract value and have a Best's Key Rating Guide of "B+", Class "XI" or greater, or the equivalent. The bond shall name the City as co-obligee.

(g) At least thirty (30) days prior to the commencement of any construction on the Premises, RAC shall deliver to the City a detailed budget for such RAC Improvements itemizing all estimated costs of construction, and indicating all sources (including loans and equity) of funds to pay the aforesaid construction costs; and demonstrate to the reasonable satisfaction of the City that it has sufficient funds to complete the construction of any and all improvements to be constructed, and that said funds will be disbursed in a manner so as to provide reasonable assurances against the foreclosure of any mechanic or materialman's lien against the Premises or RAC's leasehold estate. If RAC finances construction with a loan, no provision of any loan instruments or documents may conflict with the terms of this RAC Agreement or require the City to amend this RAC Agreement.

(h) Once commenced, RAC shall diligently prosecute construction, and RAC shall substantially complete the RAC Improvements within the time required by this RAC Agreement. For purposes of the RAC Improvements, "**RAC Improvement Substantial Completion**" shall mean the completion, in accordance with the RAC Improvement Plans and applicable Laws, of all RAC Improvements, other than minor punch list items, and shall include issuance of a certificate of substantial completion by the architect and engineer in a customary form reasonably required by the City. If any work does not comply with the provisions of this RAC Agreement, the City may, by notice to RAC require that RAC stop the work and take steps necessary to cause corrections to be made.

(i) RAC shall pay all costs of the construction incurred by RAC when due, and shall require all contractors to deliver sworn statements of persons furnishing materials and labor before any payment is made and waivers of lien for all work for which payment is made, in order to prevent attachment of mechanic's liens or other liens by reason of work, labor, services, or materials furnished with respect to the Premises.

(j) During the course of construction, RAC, at its sole expense, will carry or cause to be carried, the insurance required to be carried pursuant to Article 7.

(k) During the course of the construction, the City, and its architects, engineers, agents, and employees on behalf of the Department of Aviation with responsibilities relating to the Premises may enter upon and inspect the Premises for the purpose of verifying that the RAC Improvements are proceeding in accordance with the requirements of the RAC Agreement. With respect to any such entry and inspection on behalf of the Department of Aviation, persons requiring entry shall present proper identification to RAC. No right of review or inspection shall make the City responsible for work not completed in accordance with the Plans or applicable Laws. RAC shall keep at the Premises all RAC Improvement Plans, shop drawings, and specifications relating to such construction, which the City may examine at all reasonable times and, if required by the City, RAC shall also furnish the City with copies thereof.

(l) Without limiting any other requirements of the FAA, the City shall install such general obstruction or warning lights on the exterior of the Premises (collectively, the "Exterior Lights") as may then be required to conform to FAA standards or to conform to standards prescribed by the City and any other governmental agency having jurisdiction over the Premises as of the date of CRCF Substantial Completion. The City shall thereafter be responsible for maintaining, operating, repairing, and replacing any such Exterior Lights during the Term hereof, and shall be further responsible for installing any additional or replacement obstruction or warning lights on the exterior of the Premises as may thereafter be required to conform to FAA standards or to conform to standards prescribed by the City and any other governmental agency having jurisdiction over the Premises which are first enacted or which first become effective after the date of CRCF Substantial Completion, except to the extent that any of the same would constitute a capital repair or replacement pursuant to Subsection 5.4(b) hereof, and subject in each case to inclusion of the costs thereof as part of Operating Expenses hereunder from time to time.

(m) Any work performed at the direction of RAC or any RAC, even though performed by Contractors, shall be the responsibility of RAC or the RAC directing such work. During any construction by RAC or any other RAC, RAC or such other RAC, as the case may be, shall be solely responsible for the support, maintenance, safety, and protection of the facilities of the City resulting from such construction activities, and for the safety and protection of all persons or employees and of all property therein. All work shall be performed in accordance with (and all RAC Improvements, when completed, shall comply with) the RAC Improvement Plans and other documents submitted to and approved by the City, with such design standards as the City shall have in effect from time to time, Airport and construction conditions in effect at the time of construction, and any other applicable federal, state, or local Laws, and with the project requirements set forth in Article 6 and Article 8 hereof. RAC shall also comply with the additional legal requirements set forth in Exhibit D attached hereto. In the case of any conflict between the terms of Exhibit D attached hereto and the terms of this Section 5.3, the stricter provisions shall control. Once work is completed, RAC shall furnish "as built" plans and specifications to the City.

#### **Section 5.4 - Maintenance and Repair.**

(a) RAC shall, at all times during the Term hereof, at its sole cost and expense, operate and keep the interior and the exterior of the Premises (and, together with the RAC Consortium, the QTA) in good condition and repair, in a safe, secure, clean and sanitary condition, and in full compliance with any and all applicable Laws and such rules, regulations and standards as the City shall maintain in effect from time to time, including, without limitation, the City's O&M Standards attached as Exhibit K hereto and made a part hereof. RAC shall be responsible for all maintenance, repair and replacements of and to the Premises of any kind or nature whatsoever (except to the extent that the same



are the express responsibility of the City as provided in Subsection 5.4(b) below). RAC's obligations shall include, without limitation, the following: (i) maintaining the Premises and making all repairs to all equipment thereon (other than items which are the express responsibility of the City under Subsection 5.4(b) below), including, without limitation, all engines, boilers, machinery, pipes, ducts, conduits, plumbing, heating, ventilating and air-conditioning systems and installations, wiring, gas, steam and electrical fittings, USTs, and all other equipment of every nature whatsoever; (ii) maintaining, replacing, and repairing the interior portions of the Premises, including all fixtures, appurtenances, plate glass, windows, window glass, walls, floors, docks, ceilings, and doors; (iii) maintaining and repairing the movable and removable fixtures of RAC located in or appurtenant to the Premises, including, without limitation, any RAC Improvements installed hereunder; and (iv) keeping the Premises and the CRCF Property free from filth, overloading, danger of fire or any pest or nuisance, and repairing and/or replacing any damage or breakage done by RAC, or any of its respective officers, agents, employees, contractors, guests, invitees, or licensees, including, without limitation, damage done to the Premises or the CRCF Property by equipment installations of RAC. Except for items which are the City's responsibility under Subsection 5.4(b) below, if any portion of the Premises or any system or equipment in the Premises which RAC is obligated to maintain or repair can not be fully repaired or restored, RAC will promptly replace such portion of the Premises or such system or equipment. RAC will maintain a preventive maintenance contract providing for the regular inspection and maintenance of the heating and air conditioning system by a licensed heating and air conditioning contractor, such contract and contractor to be reasonably approved by the City. RAC shall, in connection with the performance of its obligations hereunder, comply with the requirements of Section 5.2 and Section 5.7 hereof. In the event that RAC fails to perform any of its obligations hereunder, and fails to cure or commence to cure such failure within fifteen (15) days after written notice from the City, or to thereafter diligently proceed to complete such cure, the City may (but shall not be obligated) to enter the Premises at any time to undertake any maintenance, repairs, alterations, improvements or additions as the City shall direct or deem necessary for the maintenance, repair, safety, protection, preservation, or improvement of the Premises, or as the City may be required to do by any governmental department or agency, or by the order or decree of any court or by any other proper authority. Any and all costs and expenses of such repairs, alterations, improvements or additions made by the City hereunder shall be due and payable by RAC to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate until paid.

(b) Subject to the provisions of this RAC Agreement, including, without limitation, Section 7.4 hereof, except for damage caused by, or replacement or repairs required as a result of, any act or omission of RAC, or any of its respective officers, agents, employees, contractors, guests, invitees, or licensees, and subject to inclusion of the costs thereof as part of Operating Expenses from time to time (except as hereinafter provided, and except for items relating solely to the Public Parking Area), the City will (i) repair and maintain the structural portions of the CRCF, including the foundations, bearing and exterior walls (excluding glass), subflooring and roof (excluding skylights), base building engines, boilers, machinery, pipes, ducts, conduits, and wiring, and the unexposed electrical, plumbing, and sewer systems, including those portions of such systems which are located outside the Premises, gutters and downspouts on the CRCF, and the base building heating, ventilating, and air conditioning systems which serve the Premises (but specifically excluding, in each instance, the QTA), (ii) maintain the landscaping on, adjacent to, and surrounding the Premises in accordance with the landscaping standards and requirements of the City applicable to the Airport from time to time, including snow removal as and when required (but specifically excluding, in each instance, the QTA); and (iii) perform such other general maintenance, repair, and replacement of the common areas of the CRCF, including, without limitation, the parking facilities or areas, access roads, driveways, truck ways, sidewalks, elevators, escalators, and passageways associated therewith (but specifically excluding, in each instance, the QTA and the Premises), as may be reasonably required from time to time. In addition, the City will be responsible for performing any capital repairs or replacements of the CRCF, including, without limitation, the

foundation, roof, structural components, and exterior walls thereof, which are reasonably required during the Term hereof, subject to inclusion of the costs thereof as part of Operating Expenses to the extent permitted hereunder. RAC will promptly report in writing to the City any defective condition known to RAC which the City is required to repair under this Subsection 5.4(b). Any maintenance, repairs, or replacements to the CRCF, or any portion thereof, including, without limitation, the foundation, roof, structural supports, and exterior walls thereof, which are required due to damage caused by, or as a result of, any act or omission of RAC, or any of its respective officers, agents, employees, contractors, guests, invitees, or licensees, shall be performed by the City at the sole cost and expense of RAC and such costs and expenses shall be due and payable by RAC to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate until paid. The City may, but shall not be required, to enter the CRCF, inclusive of the Premises, at all reasonable times upon reasonable prior notice (except in the event of an emergency) to perform any maintenance, repairs, or replacements which are the City's responsibility hereunder, or as the City may be required to do by any applicable Laws, governmental department or agency, or by the order or decree of any court or by any other proper authority. For purposes hereof, the determination of whether a repair item constitutes a capital repair or replacement hereunder shall be made in accordance with applicable generally accepted accounting principles (GAAP), Internal Revenue Code provisions, and prevailing industry practices, as the case may be. Notwithstanding anything herein to the contrary, in no event shall the City be required to maintain, repair, and/or replace, at any time or from time to time, the QTA, or any portion or portions thereof. Notwithstanding anything herein to the contrary, in the event that any such repair, maintenance, or replacement costs which are the obligation of the City hereunder are reimbursed or reimbursable from the Operation and Maintenance Fund or the Maintenance Reserve Account, as the case may be, such costs shall not also be included as part of Operating Expenses hereunder (it being understood and agreed that there shall be no "double counting" of any such costs for purposes hereof).

(c) In the event of any dispute as to whether a specific repair or replacement constitutes a capital repair or replacement hereunder, the City and RAC agree to negotiate such matter in good faith for a period not to exceed thirty (30) days in an attempt to reach agreement on such matter. In the event that the City and RAC have failed to reach agreement on such matter upon the expiration of such 30-day period, such disputed matter shall be submitted to an independent third party architect or engineer who is reasonably acceptable to each of the City and RAC and who (i) does not regularly represent and is not otherwise affiliated with either the City or RAC, (ii) is duly licensed and in good standing, (iii) is familiar with current industry practices and standards governing capital repairs and replacements in the context of commercial properties comparable to the CRCF, and (iv) has at least ten (10) years experience within the previous fifteen (15) years as an architect or engineer working in the greater Chicago, Illinois metropolitan area. Within thirty (30) days following such selection, such architect or engineer shall make a determination as to whether the disputed matter constitutes a capital repair or replacement hereunder, which determination shall be made in accordance with applicable generally accepted accounting principles (GAAP), Internal Revenue Code regulations, and prevailing industry practices, as the case may be. The determination of such architect or engineer made in accordance with this Section 5.4 shall be final and binding upon the City and RAC.

**Section 5.5 - Lighting and Signs.** Except for the Exterior Lights which are the responsibility of the City as expressly provided in Subsection 5.3(f) above, RAC shall be solely responsible for the illumination of the Premises, which shall comply with all FAA and City requirements. Any signs installed by RAC on the Premises shall be limited to the purpose of identifying RAC (including, without limitation, the trade names, trademarks, logos, and brand names), and not for any third party advertising. The number, general type, size, design, and location of such signs, and any modifications or replacements thereof, shall be subject to the prior written approval of the City in each instance, which approval shall not be unreasonably withheld or delayed so long as such signage complies with applicable Laws and applicable Airport signage standards, and is otherwise consistent with the appearance and architectural

integrity of the Premises. Signage shall be approved separately or as part of the RAC Improvement Plans. No exterior or roof signs are permitted. All signage shall comply with such design standards and Terminal development guidelines as the City shall have in effect from time to time.

**Section 5.6 - Covenant Against Liens.** No party, including RAC, shall have any right to file any liens against the Premises, the CRCF, the Joint Use Facility Property, or any other property of the City, and RAC shall keep the Premises and the Improvements free and clear of liens or claims of liens in any way arising out of the construction, improvement, or use thereof by RAC. RAC shall promptly take such steps as are necessary to release any claim for lien or attempted claim for lien from the Premises arising out of the construction, improvement, or use thereof by RAC. RAC shall not be deemed to be in default hereunder in the event any lien shall attach or shall exist which is prohibited by or which is contrary to or in violation of the provisions of this RAC Agreement, (a) if such lien shall arise as a matter of law, but the amount of said lien be not yet due and payable, or (b) if any such lien shall arise and RAC shall continuously, diligently, and in good faith contest the same, or the validity thereof, by appropriate legal proceedings which shall operate to prevent the foreclosure of any such lien, provided that RAC shall give advance written notification to the City that it is the intent of RAC to contest the validity or collection thereof and RAC shall also comply with the further following provisions of this Section 5.6. In the event RAC contests any such lien, RAC shall give a satisfactory indemnity to the City or deposit with the City a letter of credit, cash, or security reasonably satisfactory to the City in an amount equal to the amount of the claim or lien, plus such interest and penalties, court costs, or other charges as the City, any fee mortgagee, or title insurer may reasonably estimate to be payable by RAC at the conclusion of such litigation or is required to provide insurance over any potential lien. In the event such letter of credit, cash or securities shall be so deposited, the same shall be held until such claim or other imposition shall have been released and discharged and shall thereupon be returned to RAC, less any amounts expended by the City to procure such release or discharge, or any loss, cost, damage, reasonable attorneys' fees or expense incurred by the City by virtue of the contest of such lien.

**Section 5.7 - Ownership of Improvements.** The City shall own the Joint Use Facility, including the CRCF Project and all RAC Improvements now existing or hereafter constructed (excluding the trade fixtures, trade equipment, supplies and personal property of RAC) therein, except USTs. All USTs installed hereunder by the City or RAC (or the RAC Consortium, as the case may be) shall be the personal property of RAC (or the RAC Consortium, as the case may be), subject to the provisions of Section 3.3 hereof.

**Section 5.8 - Alterations.** RAC shall have the right from time to time after the completion of the initial RAC Improvements in accordance with the provisions of Section 5.2 hereof, and at RAC's sole cost and expense, to make alterations and changes ("Alterations") in or to the Premises (except as hereinafter provided), provided RAC shall not then be in default in the performance of any of RAC's covenants or agreements in this RAC Agreement; and further provided that Substantial Alterations may be made only with the written consent of the City, which consent shall not be unreasonably withheld or delayed. "Substantial Alterations" means any Alterations (i) to infrastructure improvements, including the ATS, or any portion thereof, (ii) to the structure of the Premises or any portion thereof, (iii) to other items required to be shown on the RAC Improvement Plans for such Alterations or Substantial Alterations, as the case may be, and approved by City, or (iv) which would cost more than ten percent (10%) of the replacement cost of the RAC Improvements. The provisions of Section 5.3 shall apply to and shall be complied with by RAC as a condition to the performance of any Alteration or Substantial Alteration. The City's approval of the RAC Improvement Plans for Alterations or Substantial Alterations, as the case may be, shall not be required for those aspects of the RAC Improvement Plans to the extent such approval would not be required for initial RAC Improvements. Furthermore, all Alterations and Substantial Alterations shall be subject to the following:

(a) No Alteration or Substantial Alteration of any kind shall be made without the written consent of the City (which may be withheld in its sole discretion) which would (i) change the general design, use, or character of the Premises, (ii) reduce or impair, to any material extent, the value, rentability, or usefulness of the Premises, or constitute waste, or (iii) give to any owner, lessee, or occupant of any other property or to any other person or corporation any easement, right-of-way, or any other right over the Premises.

(b) Any Alteration or Substantial Alteration shall be made with reasonable dispatch and in a good and workmanlike manner and in compliance with all applicable permits and authorizations and building and zoning Laws and with all other Laws, and in accordance with the orders, rules, and regulations of the National Board of Fire Underwriters or any other body or bodies hereafter exercising similar functions. If any work does not comply with the provisions of this RAC Agreement, the City may, by notice to RAC, require that RAC stop the work and take steps necessary to cause corrections to be made.

(c) RAC shall demonstrate to the City's satisfaction financial capacity to pay the entire cost of any Substantial Alteration or, in lieu thereof, furnish to the City a letter of credit as described in Section 5.9 hereof, or cash or other security reasonably satisfactory to the City, in an amount at least equal to one hundred twenty percent (120%) of the estimate of cost of such Substantial Alterations, guaranteeing the completion and payment of the cost thereof free and clear of all liens, conditional bills of sale, and chattel mortgages, except that security for demolition and new construction shall be furnished as provided in Subsection 5.8(d) hereof.

(d) After completion of RAC Improvements, RAC shall not demolish such RAC Improvements without the prior written consent of the City. If the Premises will not be occupiable after such demolition, and in the City's opinion there is a reasonable risk of non-payment of Rent until new improvements are constructed, then prior to the commencement of demolition RAC shall deposit with the City an amount which will provide for the payment of Rent for the period from the commencement of demolition to the anticipated date of completion of such new improvements, or in lieu thereof, security (which may include a letter of credit or other cash equivalent) satisfactory to the City. In connection with any such demolition, RAC shall otherwise comply with all of the other provisions of this Section 5.8 as though said demolition were a Substantial Alteration. RAC shall proceed diligently with its demolition and all demolition shall be completed within a reasonable time after its commencement.

#### **Section 5.9 - Security Deposit.**

(a) RAC shall deposit with the City, on or before the RAC Access Date (and as a condition thereof), cash security (except as otherwise provided in Subsection 5.9(b) below) for the full and prompt performance by RAC of all of RAC's obligations hereunder in the initial amount of SEVENTY-FIVE THOUSAND and No/100 Dollars (\$75,000.00) (the "Security Deposit"). If RAC defaults under this RAC Agreement, the City may use all or any part of the Security Deposit to make any defaulted payment, to pay for the City's cure of any defaulted obligation, or to compensate the City for any loss or damage resulting from any default. To the extent any portion of the Security Deposit is so used, RAC shall, within five (5) days after demand from the City, restore the Security Deposit to its full amount. The City may keep the Security Deposit in its general funds and shall not be required to pay interest to RAC on the Security Deposit. If RAC shall perform all of its obligations under this RAC Agreement and return the Premises to the City at the end of the Term in the condition required hereunder, the City shall return all of the remaining Security Deposit (or the original remaining Letter of Credit, as hereinafter defined, as the case may be) to RAC, within thirty (30) days after the end of the Term. The Security Deposit shall not serve as an advance payment of Rent or a measure of the City's damages for any default under this RAC Agreement.

(b) Alternatively, and in lieu of the Security Deposit hereinabove provided, RAC may deposit with the City, upon RAC's execution and delivery of this RAC Agreement, as security for the full and prompt performance by RAC of all of RAC's obligations hereunder, an irrevocable, unconditional, transferable letter of credit (the "**Letter of Credit**"), in substantially the form attached as Exhibit E hereto and made a part hereof, in favor of the City from a bank approved by the City (which bank shall have a Fitch rating of "A+" or better, shall have a branch office located in the Chicago, Illinois metropolitan area, and shall not appear on any "troubled" or "distressed" bank or financial institution lists maintained or published by the FDIC, any other governmental entity or agency with jurisdiction over the issuing bank, or any generally-recognized private bank rating entity or company). The Letter of Credit shall provide for security in the initial amount of SEVENTY-FIVE THOUSAND and No/100 Dollars (\$75,000.00). Whether or not this RAC Agreement or RAC's right to possession hereunder has been terminated, (a) in the event of a default under any of the terms, covenants and conditions of this RAC Agreement, (b) in the event RAC has filed (or there has been filed against RAC) a petition for bankruptcy protection or other protection from its creditors under any applicable and available law which has not been dismissed or discharged, or in the event RAC files a general assignment for the benefit of its creditors, or (c) the issuing bank is placed in receivership or similar position by the FDIC or any other governmental entity or agency with jurisdiction over the issuing bank, or otherwise appears on any "troubled" or "distressed" bank or financial institution lists maintained or published by the FDIC, any other governmental entity or agency with jurisdiction over the issuing bank, or any generally-recognized private bank rating entity or company, then, in any such event, the City may at once and without any notice whatsoever to RAC be entitled to draw down on the Letter of Credit and apply such resulting sums toward the cure of any default by RAC under this RAC Agreement or toward any damages to which the City is entitled pursuant to the terms of this RAC Agreement. Notwithstanding the foregoing, in the event that the Fitch rating of the issuing bank of the Letter of Credit is downgraded to a rating of "A-" or below, or if the issuing bank thereafter appears or is placed on any "troubled" or "distressed" bank or financial institutions lists as aforesaid, then RAC shall be obligated, within ten (10) business days of receiving notice of the same, to replace the Letter of Credit with a new Letter of Credit from an issuing bank meeting all of the criteria set forth herein and otherwise acceptable to the City.

(c) The foregoing Letter of Credit shall provide for an original expiration date not earlier than twelve (12) months following the date of issuance and shall be automatically extended without amendment for additional successive twelve (12) month periods from the original expiration date or any future expiration date thereof through the expiration or earlier termination of this RAC Agreement, unless not less than sixty (60) days prior to any such expiration date, the issuing bank sends to the City by certified/registered mail, return receipt requested, or by overnight courier written advice that the bank has elected not to consider the Letter of Credit renewed for any such additional 12-month period. In the event such bank so advises the City that such Letter of Credit will not be so renewed, or in the event that the issuing bank is placed in receivership or similar position by the FDIC or any other governmental entity or agency with jurisdiction over the issuing bank or otherwise appears on any "troubled" or "distressed" bank or financial institution lists maintained or published by the FDIC, any other governmental entity or agency with jurisdiction over the issuing bank, or any generally-recognized private bank rating entity or company, the City shall promptly thereafter notify RAC thereof in writing, and RAC shall obtain a substitute Letter of Credit from a bank reasonably approved by the City meeting all of the terms and conditions described in this Section 5.9, which substitute Letter of Credit ("**Substitute Letter of Credit**") shall be reasonably satisfactory to the City and delivered to the City no later than thirty (30) days prior to the expiration date of the Letter of Credit then in effect. In the event RAC fails to deliver such Substitute Letter of Credit to the City at least thirty (30) days prior to the expiration date of the Letter of Credit then in effect (or within ten (10) days following the date of Landlord's notice advising RAC that the issuing bank was placed in receivership or similar position or otherwise appears on any "troubled" or "distressed" bank or financial institution lists, as the case may be), the City shall in such instance have the right, without further notice to RAC, to immediately draw down on the entire amount of the Letter of Credit

then available to the City; and in such instance, the City shall retain such resulting sum as a cash security deposit and the City shall have the right to use such cash security deposit to the same extent that Landlord would be entitled to draw down on the Security Deposit or the Letter of Credit pursuant to the terms of this Section 5.9 (and RAC shall replenish such cash security deposit in the same manner as required for the Letter of Credit); provided, in the event that a Substitute Letter of Credit meeting the conditions set forth herein is subsequently submitted by RAC, the cash security deposit then being held by the City hereunder shall be returned to RAC as soon as reasonably practicable following the City's receipt of such Substitute Letter of Credit. Notwithstanding the foregoing, in the event that the Fitch rating of the issuing bank of the Substitute Letter of Credit is downgraded to a rating of "A-" or below, or if the issuing bank thereafter appears or is placed on any "troubled" or "distressed" bank or financial institutions lists as aforesaid, then RAC shall be obligated, within ten (10) business days of receiving notice of the same, to replace the Substitute Letter of Credit with a new Substitute Letter of Credit from an issuing bank meeting all of the criteria set forth herein and otherwise acceptable to the City. The City shall not, unless required by law, keep the cash security deposit separate from its general funds or pay interest thereon to RAC. No trust relationship is created herein between the City and RAC with respect to such security deposit, and the security deposit may be commingled with other funds of the City.

(d) If the City transfers its interest in the Premises or this RAC Agreement, the City may transfer the Security Deposit or the Letter of Credit, as the case may be, to its transferee. Upon such transfer, the City shall have no further obligation to return the Security Deposit or the Letter of Credit, as the case may be, to RAC, and RAC's right to the return of the Security Deposit or the Letter of Credit, as the case may be, shall apply solely against the City's transferee.

(e) If MAG is increased hereunder at any time during the Term hereof, the Security Deposit or Letter of Credit, as the case may be, shall be increased by the same percentage as the percentage of increase of the MAG so that RAC at all times during the Term hereof has on deposit with the City a sum equal to three (3) monthly installments of MAG payable hereunder. In no event, however, shall the Security Deposit or Letter of Credit, as the case may be, be subject to reduction hereunder. RAC shall deposit with the City the increased amount of the Security Deposit or Letter of Credit, as the case may be, within thirty (30) days after the date on which the MAG has so increased.

(f) With respect to any Letter of Credit deposited hereunder, such Letter of Credit shall be separate and independent from any letter of credit, bond, or other security provided pursuant to Subsection 5.8(c) or Section 14.7 hereof.

## **ARTICLE 6**

### **COMPLIANCE WITH ALL LAWS**

**Section 6.1 - Applicable Laws.** Without limiting the provisions of Section 2.11 of this RAC Agreement, RAC shall, at its sole cost and expense, comply, and shall cause its contractors and their respective agents and employees to comply, with all applicable Laws, including, without limitation, the following:

(a) Non-Discrimination:

(i) General Requirements:

(A) It shall be an unlawful employment practice for RAC to fail to hire, to refuse to hire, to discharge, or to discriminate against any individual with respect to his compensation, or the terms, conditions, or privileges of his employment, because of such

individual's race, color, religion, sex, age, handicap, or national origin; or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's race, color, religion, sex, age, handicap, or national origin.

(B) RAC shall comply with The Civil Rights Act of 1964, 42 U.S.C. Sec. 2000 et seq. (1981), as amended. RAC shall further comply with Executive Order No. 11,246,30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000(e) note, as amended by Executive Order No. 11,375 32 Fed. Reg. 14,303 (1967) and by Executive Order No. 12,086, 43 Fed. Reg. 46,501 (1978); the Age Discrimination Act, 43 U.S.C. Sec. 6101-6106 (1981); the Rehabilitation Act of 1973, 29 U.S.C. Sec. 793-794 (1981); the Americans with Disabilities Act, P.L. 101-336; 41 C.F.R. Part 60 et seq. (1990); Air Carriers Access Act, 49 U.S.C.A. 1374; and FAA Circular No. 150/5100XXV.

(ii) State Requirements: RAC shall comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1990), as amended; the Discrimination in Public Contracts Act, 775 ILCS 10/0.01 et seq. (1990), as amended; and the Environmental Barriers Act, 410 ILCS 25/1 et seq.

(iii) City Requirements: RAC shall comply with the Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., of the Code. Further, RAC shall furnish such reports and information as requested by the Chicago Commission of Human Relations.

(b) Prevailing Wage:

(i) RAC shall comply with 820 ILCS 130/0.01 et seq., as it may be amended (the "**Prevailing Wage Act**"), so long as the Prevailing Wage Act is in effect, in order to ensure that such persons covered by the Prevailing Wage Act are paid the prevailing wage rate as ascertained by the Illinois Department of Labor. All contracts shall list the specified rates to be paid to all laborers, workers, and mechanics for such craft or type of worker or mechanic employed in the contract. If the Illinois Department of Labor revises such prevailing wage rates, the revised rates shall apply to all such contracts.

(ii) The term "prevailing wages," when used in this RAC Agreement means the hourly cash wages plus fringe benefits for health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public work.

(c) Non-Collusion, Bribery of a Public Officer or Employee: RAC shall comply with the Code, Section 2-92-320, as follows:

- (i) No person or business entity shall be awarded a contract or sub-contract if that person or business entity:
  - (A) Has been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, or any agency of the federal government or any state or local government in the United States, in that officer's or employee's official capacity; or
  - (B) Has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or
  - (C) Has made an admission of guilt of such conduct described in (A) or (B) above which is a matter of record but has not been prosecuted for such conduct.
- (ii) For purposes of this Section, where an official, agent or employee of a business entity has committed any offense under this Section on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity shall be chargeable with the conduct. One business entity shall be chargeable with the conduct of an affiliated agency.
- (iii) Ineligibility under this Section shall continue for three years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the Purchasing Agent under certain specific circumstances. Reference is made to Section 2-92-320 for a definition of "affiliated agency," and a detailed description of the conditions which would permit the Purchasing Agent to reduce, suspend, or waive the period of ineligibility.
- (d) Chapter 2-56 of the Code, Office of Inspector General:
  - (i) It shall be the duty of RAC to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Code. RAC understands and will abide by all provisions of Chapter 2-56 of the Code.
  - (ii) All contracts shall inform contractors of this provision and require understanding and compliance herewith.
- (e) Governmental Ethics Ordinance: RAC shall comply with Chapter 2-156 of the Code, "Governmental Ethics," including, but not limited to, Section 2-156-120 of this chapter pursuant to which no payment, gratuity or offer of employment shall be made in connection with any the City contract, by or on behalf of a subcontractor to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- (f) Anti-Scofflaw Ordinance (Section 2-92-380 of the Code): In accordance with Section 2-92-380 of the Code, and in addition to any other rights and remedies (including any of set-off)



available to the City under this RAC Agreement or permitted at law or in equity, the City shall be entitled to set off a portion of any amounts due RAC by the City under this RAC Agreement (but specifically excluding any CFCs due and payable to the City hereunder, and specifically further excluding any Facility Rent otherwise due and payable to the City hereunder, which sums shall not be subject to offset as herein provided) in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and/or the amount of any debt owed by RAC to the City arising in connection to RAC's use of the Common Use Transportation System. For purposes of this Section, "outstanding parking violation complaint" means a parking ticket, notice of parking violation or parking violation complaint on which no payment has been made or appearance filed in the Circuit Court of Cook County within the time specified on the complaint. "Debt" means a specified sum of money owed to the City for which the period granted for payment has expired.

Notwithstanding the provisions of the immediately preceding paragraph, no such debt(s) or outstanding parking violation complaints shall be offset from or against any amounts due RAC by the City under this RAC Agreement if one or more of the following conditions are met (and in no event shall CFCs otherwise due and payable to the City hereunder or under any RAC Agreement, or Facility Rent otherwise due and payable to the City hereunder, be subject to any right of offset):

- (i) RAC has entered into an agreement with the Department of Revenue, or other appropriate the City department, for the payment of all outstanding parking violation complaints and/or debts owed to the City and RAC is in compliance with the agreement; or
- (ii) RAC is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or
- (iii) RAC has filed a petition in bankruptcy and the debts owed the City are dischargeable in bankruptcy.

(g) Americans with Disabilities Act:

- (i) Any and all design specifications for the Improvements and any Alterations shall comply with all Federal, State, and local laws and regulations regarding accessibility standards for disabled or environmentally limited persons including, but not limited to, the following: Americans with Disabilities Act, P.L. 101-336 (1990), 42 U.S.C. 12101 et seq. and the Uniform Federal Accessibility Guidelines for Buildings and Facilities and, the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq., (1991), and the regulations promulgated thereto at 71 Ill. Admin. Code Ch. 1, Sec. 400.110. In the event that the above cited standards are inconsistent, RAC shall comply with the standard providing greater accessibility.
- (ii) All construction of Improvements or Alterations undertaken by RAC in connection with this RAC Agreement shall be performed in compliance with all Federal, State, and local laws and regulations regarding accessibility standards for disabled or environmentally limited persons including, but not limited to, the following: Americans with Disabilities Act, P.L. 101-336 (1990), 42 U.S.C. 12101 et seq. and the Uniform Federal Accessibility Standards for Americans with Disabilities; and the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq. (1991), and

the regulations promulgated thereto at 71 111. Adm. Code Ch. 1, Sec. 400.110.

(h) MacBride Principles Ordinance:

- (i) The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provides a better working environment for all citizens in Northern Ireland.
- (ii) In accordance with Section 2-92-580 of the Code, if RAC conducts any business operations in Northern Ireland, it shall make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

(i) Certification: RAC shall complete the appropriate subsection for State Tax Delinquencies and acknowledge all other representations in the Affidavit in the form provided by the City, which certifies that RAC, its agents, employees, officers, and any contractors: (a) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States or engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this Section as required by the Illinois Criminal code; (b) do not owe any debts to the State of Illinois, in accordance with Section 11-42.1-1 of the Illinois Municipal code; and (c) are not presently debarred or suspended as defined in subsection D, Certification Regarding Suspension and Disbarment of the Affidavit in Part One of the Contract Documents.

(j) Disclosure of Ownership: Pursuant to Chapter 2-92-010, 2-92-020, 2-92-030 and 65 ILCS 5/8-10-8.5, RAC and any person having equal to or greater than a seven and one-half percent (7.5%) direct or indirect ownership interest in RAC, and any person, business entity or agency contracting with the City shall be required to complete Part I, Disclosure of Ownership Interests and Part VIII, Certification of Elected Officials' Business Relationships, in the Affidavit.

(k) Resident Preference: RAC shall comply and shall cause its contractors and subcontractors to comply with the residential preference requirements of Section 2-92-330 of the Code, as it may be amended, in the performance of any construction of any public work.

(l) Certification Regarding Various Federal Lists: RAC hereby warrants and represents to the City that RAC does not appear on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable Laws or Regulations: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List, and the Debarred List.

(m) Environmental Warranties and Representations: In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, RAC warrants and represents that RAC, and to the best of its knowledge, its contractors, have not violated and are not in violation of the following sections of the Code (collectively, the "Waste Sections"):

- 7-28-390 Dumping on public way;
- 7-28-440 Dumping on real estate without permit;

- 11-4-1410 Disposal in waters prohibited;
- 11-4-1420 Ballast tank, bilge tank or other discharge; 11-4-1450 Gas manufacturing residuc;
- 11-4-1500 Treatment and disposal of solid or liquid waste; 11-4-1530 Compliance with rules and regulations required; 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

During the Term of this RAC Agreement, RAC's violation of the Waste Sections, whether or not relating to this RAC Agreement, constitutes a breach of and an event of default under this RAC Agreement, for which the opportunity to cure, if curable, will be granted only at the sole designation of the Commissioner. Such breach and default entitles the City to all remedies under this RAC Agreement, at law or in equity. This section does not limit RAC's and its contractors' duty to comply with all applicable federal, state, county, and municipal Laws or Regulations in effect now or later, and whether or not they appear in this RAC Agreement. Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this RAC Agreement, and may further affect RAC's eligibility for future agreements with the City.

(n) Prohibition on Certain Contributions -- Mayoral Executive Order No. 05-1: RAC agrees that RAC, any person or entity who directly or indirectly has an ownership or beneficial interest in RAC of more than 7.5 percent (7.5%) ("**Owners**"), spouses and domestic partners of such Owners, RAC's subtenants, any person or entity who directly or indirectly has an ownership or beneficial interest in any subtenant of more than 7.5 percent (7.5%) ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (RAC and all the other preceding classes of persons and entities are collectively referred to for purposes hereof as the "**Identified Parties**"), shall not make a contribution of any amount to the Mayor of the City of Chicago ("**Mayor**") or to his political fundraising committee: (i) after execution of this RAC Agreement by RAC, (ii) while this RAC Agreement or any Other Contract is executory, (iii) during the Term of this RAC Agreement or any Other Contract between RAC and the City, or (iv) during any period while an extension of this RAC Agreement or any Other Contract is being sought or negotiated.

RAC represents and warrants that, since the date of public advertisement of the specification, request for qualifications, request for proposals, or request for information (or any combination of those requests), or, if not competitively procured, from the date the City approached RAC or the date RAC approached the City, as applicable, regarding the formulation of this RAC Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee. RAC agrees that it shall not: (a) coerce, compel, or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee. RAC agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 05-1.

RAC agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 05-1 constitutes a breach and default under this RAC Agreement, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including, without limitation, termination for default) under this RAC Agreement, under such Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein. If RAC violates this provision or Mayoral Executive Order No.

05-1 prior to award of this RAC Agreement resulting from this specification, the Chief Procurement Officer may reject RAC's bid.

For purposes of this provision:

**"Bundle"** means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

**"Other Contract"** means any other agreement with the City of Chicago to which RAC is a party that is: (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

**"Contribution"** means a "political contribution" as defined in Chapter 2-156 of the Code.

Individuals are **"Domestic Partners"** if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least eighteen (18) years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two (2) of the following four (4) conditions exist for the partners:
  - 1. The partners have been residing together for at least twelve (12) months.
  - 2. The partners have common or joint ownership of a residence.
  - 3. The partners have at least two (2) of the following arrangements:
    - a. joint ownership of a motor vehicle;
    - b. a joint credit account;
    - c. a joint checking account; or
    - d. a lease for a residence identifying both domestic partners as RACs.
  - 4. Each partner identifies the other partner as a primary beneficiary in a will.

**"Political fundraising committee"** means a "political fundraising committee" as defined in Chapter 2-156 of the Code.

(o) Firms Owned or Operated by Individuals with Disabilities: The City encourages contractors, including RAC, to use subcontractors that are firms owned or operated by individuals with

disabilities, as defined by Section 2-92-586 of the Code, where not otherwise prohibited by federal or state law.

(p) EDS / Certification Regarding Suspension and Debarment: RAC certifies by its acceptance of this RAC Agreement that RAC is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. RAC further agrees by executing this RAC Agreement that it will include *this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts*. If RAC or any lower tier participant is unable to certify to this statement, it must attach an explanation to this RAC Agreement. RAC must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate.

(q) General Contractor License: General contractors on RAC improvements and Alterations, including the RAC Improvements hereunder, must be licensed in accordance with Chapter 4-36 of the Code.

(r) Other City Requirements: RAC shall comply with the City's MBE/WBE goals and Chicago Residency Ordinance as the same may be in effect or amended from time to time.

(s) OFAC and Anti-Money Laundering Compliance Certifications. RAC hereby represents, certifies, and warrants to the City that RAC is not: (1) in violation of any Anti-Terrorism Law; (2) conducting any business or engaging in any transaction or dealing with any Prohibited Person, including the making or receiving or any contribution of funds, goods, or services to or for the benefit of any Prohibited Person; (3) dealing in, or otherwise engaging in, any transaction relating to any property or interest in property blocked pursuant to Executive Order No. 13224; (4) engaging in or conspiring to engage in any transaction that evades or avoids, had the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in any Anti-Terrorism Law; or (5) a Prohibited Person, nor are any of its partners, members, managers, officers, or directors a Prohibited Person. As used herein, "Anti-Terrorism Law" is defined as any law relating to terrorism, anti-terrorism, money laundering, or anti-money laundering activities, including, without limitation, Executive Order No. 13224 and Title 3 of the USA Patriot Act. As used herein, "Executive Order No. 13224" is defined as Executive Order No. 13224 on Terrorist Financing effective September 24, 2001, and relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism", as the same may be amended from time to time. "Prohibited Person" is defined as (i) a person or entity that is listed in the Annex to Executive Order No. 13224, (ii) a person or entity with whom RAC or the City is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, or (iii) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control (OFAC) at its official website, <http://www.treas.gov/ofac/t11sdn.pdf>, or at any replacement website or other official publication of such list from time to time. "USA Patriot Act" is defined as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56), as the same may be amended from time to time. Notwithstanding anything in this RAC Agreement to the contrary, RAC acknowledges and agrees that this RAC Agreement is a continuing transaction and that the foregoing representations, certifications, and warranties are ongoing and shall be and remain true and in full force and effect on the Effective Date hereof and throughout the Term of this RAC Agreement (and any extension thereof), and that any breach thereof shall be a default under this RAC Agreement (not subject to any notice or cure period) giving rise to the City's remedies, including, but not limited to, forcible eviction and/or termination, and RAC hereby agrees, to the maximum extent permitted by applicable Law, to defend, indemnify, and hold harmless the City and the Indemnified Parties from and against any and all claims, damages, losses, risks, liabilities, fines, penalties, forfeitures,

and expenses (including, without limitation, costs and attorneys' fees) arising from or related to any breach of the foregoing representations, certifications, and warranties.

**Section 6.2 - Conflicts of Interest.**

(a) RAC represents and warrants that, except as may otherwise be permitted under Section 2-156 of the Code, no member of the governing body of the City or other unit of government and no other officer, employee, or agent of the City or other unit of government who exercises any functions or responsibilities in connection with this RAC Agreement has any personal interests, direct or indirect, in this RAC Agreement or in RAC.

(b) RAC covenants that, except as may otherwise be permitted under Section 2-156 of the Code, (i) no member of the governing body of the City and no officer, employee, or agent of the City of Chicago or other unit of government exercising any functions or responsibilities in connection with this RAC Agreement shall acquire any personal, financial, or economic interest, direct or indirect, in RAC or this RAC Agreement, and (ii) no member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or employee of the City shall be admitted to any share or part of this RAC Agreement or any financial benefit to arise from it.

**Section 6.3 - DBE Compliance.** The City is committed to enhancing the opportunities of disadvantaged businesses. Accordingly, RAC shall comply with, and shall cause its contractors to comply with, and shall execute the applicable forms required by, the Special Conditions Regarding Disadvantaged Business Enterprise Commitment, as the same may be enacted and amended by the City from time to time during the Term hereof. RAC shall, upon the enactment and finalization of such conditions by the City, and upon any subsequent amendment thereof, fully comply with such conditions, as the same may be amended from time to time (including any reporting forms required from time to time by the City), during the Term hereof.

**ARTICLE 7**

**INDEMNITY, INSURANCE, DAMAGE OR DESTRUCTION**

**Section 7.1 - Indemnification.**

(a) To the maximum extent permitted by applicable Laws, RAC shall defend, indemnify, and save the City and each and every official, agent, contractor, employee, officer, trustee, consultant, advisor, and representative of the City, and their respective representatives, successors, and assigns (each, an "Indemnified Party", and, collectively, the "Indemnified Parties"), harmless from and against any and all liabilities, suits, judgments, settlements, obligations, fines, damages, penalties, claims, costs, charges, and expenses, including, without limitation, engineers', architects', and attorneys' fees, court costs and disbursements, which may be imposed upon or incurred by or asserted against any Indemnified Party by reason of any of the following acts or omissions of RAC or RAC's officers, agents, employees, contractors, sublessees, guests, invitees, or licensees (collectively, the "RAC Parties") occurring during or after (but attributable to a period of time falling within) the Term:

(i) any demolition, razing, or construction of the RAC Improvements, any Alterations or Substantial Alterations, or any other work or thing done in, on, or about the Premises, the Joint Use Facility, or the Airport, or any portion of any of the foregoing, or easement areas, including any claim that such work constitutes "public works";

- (ii) any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance, or management of the Premises or the Joint Use Facility, or any portion of any of the foregoing, or any easement areas, to the extent attributable to any act or omission of RAC or any of the RAC Parties;
- (iii) any act or failure to act on the part of RAC or any of the RAC Parties;
- (iv) any accident, injury (including death), or damage to any person or property occurring in, on, or about the Premises;
- (v) any accident, injury (including death), or damage to any person or property in, on, or about the Joint Use Facility, or any portion thereof, or easement areas, to the extent attributable to any act or omission of RAC or any of the RAC Parties.
- (vi) any failure to perform or comply with any of the covenants, agreements, terms, or conditions contained in this RAC Agreement on RAC's part to be performed or complied with (other than the payment of money);
- (vii) any lien or claim which may be alleged to have arisen against or on the Premises, or any lien or claim which may be alleged to have arisen out of this RAC Agreement and created or permitted to be created by RAC against any assets of the City, or any liability which may be asserted against the City with respect thereto; and
- (viii) any action or proceedings brought against the City or the Premises, or any part thereof, by virtue of any violation or alleged violation by RAC or the Premises of any Laws.

Subject to the provisions of Subsection 7.1(f) (to the extent permitted by Law), no agreement or covenant of RAC in this Subsection 7.1(a) shall be deemed to exempt the City from, and RAC's obligations under this Subsection 7.1(a) shall not include, liability or damages for injury to persons or damage to property to the extent caused by or resulting from the negligence of the Indemnified Parties in the operation or maintenance of the Premises (without implying any obligation to operate or maintain the Premises) or the Common Use Transportation System.

(b) Any Indemnified Party shall utilize the following procedure in enforcing any and all claims for indemnification against RAC.

- (i) If any claim, action, or proceeding is made or brought against any Indemnified Party against which it is indemnified under Section 7.1 hereof, then, the Indemnified Party shall give notice hereunder to RAC promptly after obtaining written notice of any claim as to which recovery may be sought against it or him. If such indemnity shall arise from the claim of a third party, RAC may elect to assume the defense of any such claim and any litigation resulting from such claim at its own expense; provided, however, that failure by RAC to notify the Indemnified Party of its election to defend any such claim or action by a third party within thirty (30) days after notice thereof shall have been received by RAC shall be deemed a waiver by RAC of its right to defend such claim or

action. Any notice given pursuant to this Subsection 7.1(b) shall contain a detailed statement of the nature and basis of the claim, the identity of the claimant, the demand and relief sought or requested by the claimant, and shall be accompanied by copies of all materials in possession of the Indemnified Party which reasonably relate to such claim. Subject to the foregoing provisions of this Subsection 7.1(b), the right to indemnification hereunder shall not be affected by any failure of the Indemnified Party to give such notice or related materials or delay by them in giving such notice or related materials unless, and then only to the extent that, the rights and remedies of RAC shall have been prejudiced as a result of the failure to give, or delay in giving, such notice or related materials.

- (ii) If RAC shall assume the defense of an Indemnified Party with respect to such claim or litigation, its obligations hereunder as to such claim or litigation shall include taking all steps necessary in the defense or settlement of such claim or litigation against the Indemnified Party and holding the Indemnified Party harmless from and against any and all damages caused by or arising out of any settlement approved as provided herein, or any judgment in connection with such claim or litigation. Any counsel employed by RAC to represent the City's interest shall be subject to the City's prior approval, not to be unreasonably withheld, conditioned, or delayed. Approval shall not be required with respect to counsel employed by insurance companies providing required coverages under this RAC Agreement. Notwithstanding any provision in this Section 7.1 to the contrary, in the event that RAC assumes the defense of such claim or litigation, RAC shall notify the Indemnified Party and the City of all such defenses it proposes to assert and the City may determine, in its sole discretion, whether any of the defenses may be deemed not to be in the best interests of the Airport. If the City determines that any such defense is not in the Airport's best interests: (a) RAC shall not pursue the objectionable defense but shall be obligated to pursue in accordance with this Section 7.1 the remaining defenses to the claim or litigation; and (b) if a judgment or settlement is entered against or made on behalf of the Indemnified Party, RAC shall not have any obligation to indemnify the Indemnified Party under this Section 7.1 for the amount of such judgment or settlement provided that such objectionable defense would have been successful. RAC shall not, in the defense of such claim or litigation, consent to the entry of any judgment (other than a judgment of dismissal on the merits without costs) except with the written consent of the Indemnified Party (which consent shall not be unreasonably withheld) or enter into any settlement (except with the written consent of the Indemnified Party, which shall not be unreasonably withheld) which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party, a release from all liability in respect of such claim or litigation. Anything in this Section 7.1 to the contrary notwithstanding, the Indemnified Party may, with counsel of its choice and at its expense, participate in the defense of any such claim or litigation.



- (iii) If RAC shall not assume the defense of any such claim by a third party or litigation after receipt of notice from the Indemnified Party, the Indemnified Party may defend against such claim or litigation in such manner as it deems appropriate, and unless RAC shall, at its option, provide a bond to, or deposit with the Indemnified Party, a sum equivalent to the total amount demanded in such claim or litigation plus the Indemnified Party's estimate of the costs of defending the same, the Indemnified Party may settle such claim or litigation on such terms as it may reasonably deem appropriate, and RAC shall promptly reimburse the Indemnified Party for the amount of such settlement and for all damage incurred by it in connection with the defense against or settlement of such claim or litigation. If RAC shall provide such bond or deposit, the Indemnified Party shall not settle any such claim or litigation without the written consent of the RAC, which shall not be unreasonably withheld.
- (iv) RAC shall promptly reimburse the Indemnified Party for the amount of any judgment rendered and for all damages, costs, reasonable fees, and expenses incurred or suffered by it in connection with the defense against such claim or litigation.

(c) Except as otherwise provided by applicable Law, the City shall not be liable to RAC or any of the RAC Parties for any injury to, or death of, any of them or of any other person or for any damage to any of RAC's or any RAC Party's property or loss of revenue, caused by any third person in the maintenance, construction, or operation of facilities at the Airport, the Premises, or the Joint Use Facility, or caused by any third person using the Airport, the Premises, or the Joint Use Facility, or caused by any third person navigating any aircraft on or over the Airport, the Premises, or the Joint Use Facility, nor, to the extent permitted by Law, shall the City have any liability whatsoever to RAC or any RAC Parties for any damage, destruction, injury, loss, or claim of any kind arising out of the use by any of the aforementioned of any parking lot located either on or off the Airport. The City shall not be liable to RAC or any RAC Parties for damage to property of RAC or such RAC Parties, or any loss of revenues to RAC or such RAC Parties, resulting from the City's acts or omissions in the maintenance and operation of the Airport, the Premises, or the Joint Use Facility or failure to operate the Airport, the Premises, or the Joint Use Facility. Notwithstanding the foregoing, nothing contained in this Subsection 7.1(c) shall be deemed or construed as a waiver of the City's obligations with respect to the CRCF Project to the extent expressly set forth in Subsection 5.1(b) hereof.

(d) The obligations of RAC under this Section 7.1 shall survive the termination of this RAC Agreement, and shall not be affected in any way by the amount of or the absence in any case of covering insurance, or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises or any part thereof.

(e) The City's officials, commissioners, agents, representatives, contractors, and employees shall, to the extent permitted by Law, have absolutely no personal liability with respect to any provision of this RAC Agreement or any obligation or liability arising from this RAC Agreement or in connection with this RAC Agreement or the Premises in the event of a breach or default by the City of any of its obligations hereunder. RAC's agents, representatives, and contractors shall, to the extent permitted by Law, have absolutely no personal liability with respect to any provision of this RAC Agreement or any obligation or liability arising from this RAC Agreement or in connection with this RAC Agreement or the Premises in the event of a breach or default by RAC of any of its obligations hereunder.

(f) Notwithstanding any other provision of this RAC Agreement to the contrary, to the maximum extent permitted by Law, RAC hereby waives any and every claim for recovery from the City for any and all loss or damage to the Premises or to the contents thereof; which loss or damage is covered by valid and collectable physical damage insurance policies maintained by RAC or which would have been recoverable if the insurance required hereunder had been maintained by RAC, to the extent that such loss or damage is recoverable, or would have been recoverable, as applicable, under said insurance policies. As this waiver will preclude the assignment of any such claim by subrogation (or otherwise) to an insurance company (or any other person), RAC agrees to give each insurance company which has issued, or in the future may issue, its policies of physical damage insurance, written notice of the terms of this waiver, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of insurance coverage by reason of said waiver. RAC shall require any member, subtenant or assignee to include similar waivers of subrogation in favor of the City.

**Section 7.2 - Insurance Coverage Required.** RAC and Contractors shall procure and maintain, or cause to be procured and maintained, at all times during the Term of this RAC Agreement, and on any earlier date that RAC or its Contractors is permitted to enter onto the Premises, and until each and every obligation of RAC contained in this RAC Agreement has been fully performed (including during any time period following expiration if RAC performs any work), the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois covering all operations under this RAC Agreement, whether performed by RAC or by its Contractors. For purposes of this Section 7.2 the term "Contractors" also includes subcontractors, subtenants and RACs.

(a) Generally.

- (i) Worker's Compensation and Employer's Liability. Except to the extent that RAC does not maintain any employees and is thus not required by applicable Law to procure and maintain the same, Worker's Compensation and Employer's Liability Insurance, as prescribed by applicable Law, covering all employees who are to provide a service under this RAC Agreement, and Employer's Liability coverage with limits of not less than \$500,000 each accident, illness or disease.
- (ii) Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence, for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All Premises and operations, products/completed operations explosion, collapse, underground, independent contractors, separation of insured, defense, and contractual liability (not to include Endorsement CG 21 39 or its equivalent). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this RAC Agreement.
- (iii) Automobile Liability (Primary and Umbrella). When any motor vehicles (owned, non-owned, and hired) are used in connection with work to be performed, RAC shall provide Comprehensive Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

- (iv) Pollution Legal Liability. Pollution Legal Liability Insurance shall be provided covering bodily injury, property damage, and other losses caused by pollution conditions that arise from the RAC Agreement scope of services with limits of not less than \$1,000,000 per occurrence. Coverage shall include underground storage tanks, completed operations, contractual liability, defense, excavation, environmental cleanup, remediation, and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work under the RAC Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City is to be named as an additional insured
- (v) Property. RAC shall obtain or cause to be obtained an All Risk or comparable Property policy at full replacement costs, covering all loss or damage to the Premises and other property, including the RAC Improvements, any Alterations (including Substantial Alterations), additions, improvements, and betterments therein. Coverage shall include business interruptions/loss of rents (in an amount not less than the sum of Rent then payable under this RAC Agreement for a period of one (1) year), collapse, boiler and machinery, sprinkler leakage, utility interruption, glass, earthquake, debris removal, flood. The City is to be named as an additional insured and a loss payee.

RAC shall be responsible for all loss or damage to City property at full replacement cost.

RAC shall be responsible for all loss or damage to personal property (including, but not limited to, materials, equipment, tools, and supplies), owned, rented, or used by RAC.

(b) During Construction of RAC Improvements or Alterations.

- (i) Workers Compensation and Employers Liability. Workers Compensation, as prescribed by applicable law covering all employees who are to provide a service under this RAC Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident, illness, or disease.
- (ii) Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: all Premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, independent contractors, defense, and contractual liability (not to include Endorsement CG 21 39 or its equivalent). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from work.
- (iii) All Risk Builder's Risk. When RAC undertakes any construction or repair to the Premises or easement areas, including improvements and betterments, RAC shall provide, or cause to be provided, All Risk

Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery, and fixtures that are or will be part of the permanent facility/project. Coverages shall include, but not be limited to, the following: right to partial occupancy, material stored off-site and in transit, equipment breakdown, earth movement, flood, water, including overflow, leakage, sewer backup or seepage, utility services, mechanical-electrical breakdown or failure, damage to adjoining and existing property, collapse, loss resulting from faulty workmanship or materials; debris removal, testing, and other consequential loss, when applicable. The City, its employees, officials, agents, and representatives shall be named as additional insureds and loss payees.

- (iv) Automobile Liability (Primary and Umbrella). When any motor vehicles (owned, non-owned, and hired) are used in connection with work to be performed, RAC shall provide Comprehensive Automobile Liability Insurance with limits of not less than \$5,000,000 per occurrence for bodily injury and property damage, including an MCS90 endorsement, when applicable. The City is to be named as an additional insured on a primary, non-contributory basis.
- (v) Professional Liability. When any architects, engineers, construction managers, or other professional consultants perform work in connection with this RAC Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of work under the RAC Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.
- (vi) Valuable Papers. When any plans, designs, drawings, specifications, and documents are produced or used under this RAC Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creation and reconstruction of such records.
- (vii) Contractors Pollution Liability. When any remediation work is performed which may cause a pollution exposure, Contractors Pollution Liability shall be provided, or caused to be provided, covering bodily injury, property damage, and other losses caused by pollution conditions that arise from work performed with limits of not less than \$1,000,000 per occurrence. Coverage shall include completed operations, contractual liability, defense, excavation, USTs, environmental cleanup, remediation, and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work under the RAC Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City is to be named as an additional insured.

**Section 7.3 - Other Provisions.**

(a) RAC will furnish the City, Department of Finance, Risk Management Office, 333 South State, Room 400, Chicago, Illinois, 60604, and the City, Department of Aviation, Real Estate and Finance Division, O'Hare International Airport, P.O. Box 66848, 10510 West Zemke Road, Chicago, Illinois 60666, original certificates of insurance evidencing the required coverage to be in force on the date of this RAC Agreement, and renewal certificates of insurance, or such similar evidence, if coverages have an expiration or renewal date occurring during the Term of this RAC Agreement. RAC shall submit evidence of insurance on the City of Chicago Insurance Certificate of Coverage Form, a copy of which form is attached as Exhibit F hereto and made a part hereof (or other equivalent form acceptable to the City) upon its execution of this RAC Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the RAC Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of the agreement. The failure of the City to obtain certificates or other insurance evidence from RAC shall not be deemed to be a waiver by the City. RAC shall advise all insurers of these RAC Agreement provisions regarding insurance. Non-conforming insurance shall not relieve RAC of the obligation to provide insurance as specified herein. Non-fulfillment of the insurance conditions shall constitute a violation of this RAC Agreement, and the City retains the right to stop work or terminate this RAC Agreement as provided in Article 10 until proper evidence of insurance is provided.

(b) If RAC fails to obtain or maintain any of the insurance policies under this RAC Agreement or to pay any premium in whole or in part when due, the City may (without waiving or releasing any obligation or default by RAC hereunder), upon five (5) days' written notice to RAC and RAC's failure to submit satisfactory evidence thereof to the City within such 5-day period, obtain and maintain such insurance policies and take any other action which the City deems reasonable and any costs incurred by the City in obtaining and maintaining such policies, including reasonable attorneys' fees, court costs, and expenses, shall be reimbursed by RAC upon demand by the City.

(c) The insurance shall provide for sixty (60) days' prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

(d) RAC shall require all Contractors to carry the insurance required herein, or RAC may provide the coverage for any or all Contractors. The Contractors shall be subject to the same insurance requirements of RAC unless otherwise specified herein.

(e) Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by RAC.

(f) RAC hereby waives and agrees to require its insurers to waive their rights of subrogation against the City and its employees, elected officials, agents, or representatives.

(g) RAC expressly understands and agrees that any coverages and limits furnished by RAC or its Contractors shall in no way limit RAC's or its Contractors' liabilities and responsibilities specified within this RAC Agreement or by applicable Law.

(h) RAC expressly understands and agrees that any insurance or self insurance programs maintained by the City shall not contribute with insurance provided by the RAC under this RAC Agreement.

(i) The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

(j) If RAC is a joint venture or limited liability company, the insurance policies shall name the joint venture or limited liability company as a named insured.

(k) If RAC or its Contractors desire additional coverage, higher limits of liability, or other modifications for its own protection, then RAC or its Contractors shall each be responsible for the acquisition and cost of such additional protection. RAC agrees to obtain such increases in limits or coverages as the City may, from time to time, reasonably request during the Term hereof.

(l) The City (through its Risk Management Department) maintains the right to modify, delete, alter, or change these requirements upon reasonable prior written notice to RAC to the extent that the City determines, in its reasonable discretion, that such modification, deletion, alteration, or change is reasonably necessary and is otherwise consistent with insurance coverages and requirements applicable to other airports and airport facilities comparable to the Airport in size, service and capacity.

(m) The insurance required by this RAC Agreement, at the option of RAC, may be effected by blanket or umbrella policies issued to RAC, provided that the policies otherwise comply with the provisions of this RAC Agreement and allocate to this RAC Agreement the specified coverage, without possibility of reduction or coinsurance.

#### **Section 7.4 - City Insurance.**

During the Term hereof, (i) the City shall maintain, or cause to be maintained, insurance with respect to the CRCF against such casualties and contingencies, and in such amounts, as is reasonably prudent for owners of comparable facilities, and in all events subject to, and in accordance with, the terms and provisions of the Bond Indenture, and (ii) the City may maintain, or cause to be maintained, a policy or policies of commercial general liability insurance insuring against liability arising out of the risks of death, bodily injury, property damage and personal injury liability with respect to the Joint Use Facility. Such policies of insurance shall be for the sole benefit of the City and Trustee, shall name Trustee as an additional insured, and shall be subject to the terms and provisions of the Bond Indenture. Any and all premiums for such policies of insurance, together with any deductibles relating thereto from time to time, shall be part of Operating Expenses hereunder.

#### **Section 7.5 - Damage and Destruction.**

(a) If the Premises are totally destroyed by storm, fire or other casualty, or damaged to the extent that, in the City's reasonable opinion, the damage cannot be restored, or if the damage is not covered by standard "all risks" property insurance (or such other property insurance as may be maintained by the City from time to time), or if Trustee, the Bond Indenture, and/or the other Bond Documents require application of the insurance proceeds to the Bonds, indebtedness, or other charges then outstanding thereunder, the City shall have the right to terminate this RAC Agreement effective as of the date of such destruction or damage by written notice delivered to RAC on or before thirty (30) days following the City's notice described in the next sentence, and Rent shall be accounted for as between the City and RAC as of that date. The City shall provide RAC with written notice no later than sixty (60) days following the date of such damage of the estimated time needed to restore and whether the City elects to restore hereunder.

(b) If the Premises are damaged by any such casualty but the City does not elect to terminate this RAC Agreement as provided in Subsection 7.5(a) above, this RAC Agreement shall remain in full force and effect, the City shall notify RAC in writing no later than sixty (60) days after the date of such damage that such damage will be restored (and will include the City's good faith estimate of the date the restoration will be complete), and the City shall promptly commence to diligently restore the shell and core portions of the Premises (including the CRCF Project, as the same may be modified to conform to applicable Laws then in effect, but excluding any RAC Work Items, as hereinafter defined) to substantially the same condition as before such damage occurred (any such activity being a "City Restoration") as soon as reasonably practicable, subject to Force Majeure Events and delays attributable to the acts or omissions of RAC. RAC may not terminate this RAC Agreement (and shall otherwise remain liable for the performance of all of its obligations hereunder in accordance with the terms and provisions hereof), except as expressly provided in Subsection 7.5(f) below, in the event of any such casualty. Base Rent and RAC's Proportionate Share of Operating Expenses and Impositions (but specifically excluding any other components of Facility Rent) shall be reduced or abated on a pro rata basis during the period of such City Restoration to the extent that the Premises is not tenantable as a result of such casualty; provided, notwithstanding anything herein to the contrary, in no event shall Facility Rent (other than RAC's Proportionate Share of Operating Expenses and Impositions as aforesaid) or CFCs be subject to reduction or abatement hereunder.

(c) In the event of damage to, or destruction of, any RAC Improvements, Alterations, or other RAC work, or of the fixtures and equipment within the Premises (collectively, the "RAC Work Items"), by fire or other casualty, RAC shall promptly, at its expense, repair, restore, or rebuild such RAC Work Items to the condition existing prior to the happening of such fire or other casualty (any such activity being a "RAC Restoration"). Rent shall not be reduced or abated during the period of such RAC Restoration even if the Premises is not tenantable and the RAC Work Items are not usable, and RAC may not terminate this RAC Agreement, except as expressly provided in Subsection 7.5(f) below.

(d) Before RAC commences or causes such RAC Restoration, RAC shall, in connection therewith, comply with the requirements of Article 5 hereof. The City may waive (but shall not be obligated to do so) any requirements of Article 5 after taking into consideration the degree of damage or destruction and RAC Restoration.

(e) Provided that the insurer does not deny liability as to the insureds, and provided RAC is not then in default hereunder, all sums arising by reason of loss under the property insurance required in Subsection 7.2(a)(v) and Subsection 7.2(b)(iii) shall be available to RAC for the work. All proceeds shall be payable to the City which may disburse proceeds through an escrow on satisfaction of conditions established by the City (which may include retention requirements, waivers of lien and sworn statements, architect's certificates, and other evidence of satisfactory completion and payment for work) or payable directly to RAC or Contractors, at the City's option. RAC shall deposit with the City any excess cost of the Restoration over the amount held by the City as proceeds of the insurance within thirty (30) days from the date of the determination of the cost of the RAC Restoration; but in no event later than commencement of work. At all times the undisbursed balance remaining in the hands of the City shall be at least sufficient to pay for the cost of completion of the work free and clear of liens; any deficiency shall be paid to the City by RAC. RAC shall diligently pursue the repair or rebuilding of the RAC Work Items (but in any event within the time period in which RAC was required to complete the RAC Improvements under Section 5.2). If RAC does not repair or rebuild the RAC Work Items or proceed diligently to repair or restore the RAC Work Items and fails to cure or correct any such default after notice and expiration of applicable cure periods hereunder, or there are insurance proceeds remaining after repair or rebuilding, all insurance proceeds shall belong to and be payable to the City, and RAC shall assign all such proceeds to the City.

(f) In case of damage or destruction of all or any material portion of the Premises which occurs during the last twelve (12) months of the Term, either RAC or the City shall have the option of terminating this RAC Agreement as of the date of such damage or destruction by notice in writing given to the other party within thirty (30) days after the occurrence of such damage or destruction. In such event, the City shall be entitled to the proceeds of any RAC insurance covering any part of the Premises on account of such damage or destruction (excluding any insurance coverage for the RAC Work Items), and RAC shall assign all such insurance proceeds to the City.

(g) Notwithstanding anything in this Section 7.5 to the contrary, while the Bonds remain outstanding, the terms and provisions of the Bond Indenture and the other Bond Documents shall govern and control in the event of damage or destruction to the Premises.

## **ARTICLE 8** **AIRPORT MATTERS**

**Section 8.1 - Airport Conditions.** The following covenants, agreements, and restrictions shall apply to RAC's use and occupancy of the Premises and the CRCF Property, which covenants, agreements and restrictions shall run with the land, for the benefit of the City and its successors and assigns in the ownership and operation of the Airport:

(a) RAC shall neither construct nor permit to stand on the Premises any building, structure, poles, trees, or other object, whether natural or otherwise, exceeding any existing or planned FAR Part 77 surfaces of the Airport, or which would otherwise materially or adversely interfere with the use and operation of the Airport.

(b) RAC shall file a notice consistent with the requirements of FAR Part 77 (FAA Form 7460-1) prior to constructing any facility, structure, or item on the Premises.

(c) City reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for passage of aircraft in the airspace above the surface of the Premises. This public right shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or landing at, taking off from, or operation on the Airport.

(d) RAC's use of the Premises shall be compatible with noise levels associated with the operation of the Airport, and the City reserves such interest or right as may be necessary to ensure that the CRCF Property will be used only for such purposes.

(e) RAC shall not use or permit any activity which could create a potential for attracting birds or other wildlife which may pose a hazard to aircraft operations at the Airport.

**Section 8.2 - Other Legal Requirements.** RAC shall comply, and shall cause its contractors to comply, with all applicable federal, state, and local Laws, without limitation, those promulgated by the FAA, which shall include, but not be limited to, the following:

(a) Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to conduct any business, and the City reserves the right to grant to others the privileges and right of conducting any or all activities at the Airport and the ATS (subject, however, to the terms and provisions of Subsection 2.3(e) hereof); provided, so long as there is then no Event of Default hereunder and RAC is otherwise in material compliance with the terms and provisions of this RAC Agreement,



including, without limitation, the use of the CRCF for the Permitted Use, the City agrees that it shall not enter into a separate lease agreement for space in or on the Airport with any entity for the provision of rental car services to customers at the Airport.

(b) This RAC Agreement involves the use of or access to space on, over or under real property acquired or improved in connection with the Airport, and therefore involves activity which serves the public. RAC, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (i) no person on the grounds of race, creed, color, religion, age, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities; (ii) that no person on the grounds of race, creed, color, religion, age, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the construction of improvements on, over, or under such land and the furnishing of services thereon; and (iii) that RAC shall use the Premises in compliance with all other requirements imposed by or pursuant to regulations of the U.S. Department of Transportation.

(c) If, and only to the extent that, RAC is then furnishing services in the United States, RAC agrees to furnish such services in compliance with Federal Law and on a fair and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit of service; provided, that RAC may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions.

**Section 8.3 - Airport Agreements.** RAC's use and occupancy of the Premises shall be and remain subject to (a) the provisions of any existing or future agreements between the City and the United States government, FAA, or other governmental authority relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal or other governmental funds, including, without limitation, grant agreements, and (b) any use agreement heretofore or hereafter executed by the City with airlines operating at the Airport, and any ordinance or indenture, or both, authorizing bond anticipation notes adopted by the City Council of the City authorizing the issuance of notes, bonds, or other obligations for the Airport and securing such obligations by a pledge of revenues or net revenues of the Airport and any ordinance or indenture supplemental thereto, which shall also include any Bond Indenture. The City shall provide RAC with copies of any such use agreements, ordinances, or indentures which so impact RAC or this RAC Agreement. RAC further agrees that it shall not cause the City to violate any assurances made by the City to the federal government in connection with the granting of such federal funds.

**Section 8.4 - Airport Security Act.** This RAC Agreement is expressly subject to the Airport Security Acts, the provisions of which are hereby incorporated by reference. In the event that RAC, any of the RAC Parties, or any of their respective employees, agents, contractors, subcontractors, suppliers of materials, or providers of services, in the performance of this RAC Agreement, has: (i) unescorted access to secured areas located on or at the Airport; or (ii) capability to allow others to have unescorted access to such secured areas, RAC shall be subject to, and further shall conduct with respect to the RAC Parties and any of their respective employees, agents, contractors, subcontractors, suppliers of materials, or providers of services and the respective employees of each, such employment investigations, including criminal history record checks, as the City, the TSA, or the FAA, or any successor entities thereto, may deem necessary. Further, in the event of any threat to civil aviation, as defined in the Airport Security Act, RAC shall promptly report any information in accordance with those regulations promulgated by the Secretary of the United States Department of Transportation and by the City. Except to the extent comprising part of the City Improvements hereunder, RAC shall, notwithstanding anything contained herein to the contrary, at no additional cost to the City, perform under this RAC Agreement in compliance

with those guidelines developed by the City, the TSA, or the FAA with the objective of maximum security enhancement.

**Section 8.5 - Regulating the Airport; Airport Operation.** The City reserves the right to regulate, police, and further develop, improve, reconstruct, modify, or otherwise alter the Airport in the City's sole discretion. The City reserves the right, but shall not be obligated to RAC, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport. The City shall not have any obligation to continue to operate the Airport or any part as an airport for passenger or freight air transportation or at any particular level of operation and may at any time limit or discontinue use of the Airport or any means of access to or within the Airport in whole or part.

**Section 8.6 - Rules and Regulations.** RAC shall observe and obey all rules and regulations governing the conduct and operation of the Airport promulgated from time to time by City, county, state, or federal authorities and, in particular, RAC agrees at all times to comply with any master security plan and procedures for the Airport as may be established by City from time to time. In emergency cases City shall deliver to RAC such emergency rules and regulations as promptly as practical. Upon request, City shall provide RAC with copies of City's current Airport rules and regulations applicable to RAC. Except in cases of emergency, subsequent rules and regulations promulgated by City shall be applicable to RAC fifteen (15) days after notice of the adoption thereof.

**Section 8.7 - Annexation.** RAC may not request, petition for, or enter into any agreement to annex the Premises and/or CRCF Property to any municipality other than the City of Chicago.

## **ARTICLE 9 BOND FINANCING**

Pursuant to the Bond Ordinance, the City anticipates the issuance of the Bonds in connection with the design and construction of the CRCF and the CRCF Project hereunder. Such Bonds are being issued pursuant to and in accordance with the Bond Indenture and the TIFIA Loan Documents, together with any and all related documents executed in connection therewith, and shall be and remain subject to the applicable terms, conditions, and provisions thereof, as the same may be amended or modified from time to time.

## **ARTICLE 10 DEFAULT AND TERMINATION**

**Section 10.1 - Event of Default.** The occurrence of any of the following shall constitute an "Event of Default" hereunder:

(a) The failure by RAC to pay any Rent or other sums payable hereunder, including, without limitation, any Impositions, as required under this RAC Agreement when due, and the failure to cure same within five (5) days after the giving of written notice thereof to RAC;

(b) The failure by RAC on or after the Effective Date of this RAC Agreement to perform any representation, warranty, covenant, agreement, or final court order applicable to the Premises required to be performed by RAC under this RAC Agreement (other than as covered or described elsewhere in this Section 10.1) and the failure of RAC to remedy such default within a period of thirty (30) days after written notice to RAC, or such additional time as may be reasonably necessary to remedy such default, so long as RAC is at all times diligently and expeditiously proceeding to cure such default and in fact cures such default within a reasonable time, but in any event, such additional time shall not extend more than ninety (90) days after the initial written notice to RAC; provided, however, that such

additional time beyond thirty (30) days shall not apply to a default that creates a present danger to persons or property or that materially or adversely affects the City's interest in the Premises or the Airport, or if the failure or default by RAC is one for which the City (or any official, employee or other agent) may be subject to fine or imprisonment.

(c) The abandonment or vacation of the Premises during the Term for a period in excess of seven (7) consecutive days;

(d) If RAC shall suffer or permit any lien or encumbrance to attach to the Premises and/or CRCF or the leasehold interest of RAC and RAC shall not discharge said lien or encumbrance within thirty (30) days following written notice thereof, or within ten (10) days prior to any sale or disposition or forfeiture pursuant to such execution, whichever date shall first occur, subject to the provisions of Section 5.6 hereof;

(e) If RAC shall fail to carry all required insurance under this RAC Agreement and such failure continues for (i) thirty (30) days after written notice by the City to RAC, so long as the City receives at least sixty (60) days' written notice from the insurer of any change, cancellation or non-renewal thereof as provided in Subsection 7.3(c) hereof, or (ii) ten (10) days after written notice by the City to RAC, in the event that the City receives less than sixty (60) days' written notice from the insurer of any change, cancellation or non-renewal thereof;

(f) Any material misrepresentation (including by omission) made by RAC in this RAC Agreement or by RAC or any Person having more than a seven and one-half percent (7.5%) direct or indirect ownership interest in RAC in any affidavit, certification, disclosure, or representation made by RAC or any such person relied upon by the City in execution of this RAC Agreement or in approving any request by RAC submitted to the City in accordance with this RAC Agreement;

(g) Failure to comply with an order of a court of competent jurisdiction or proper order of a governmental agency relating to this RAC Agreement within the required time period.

(h) The failure to deliver the estoppel certificate requested in Section 15.14 within five (5) days after written notice of failure to deliver within the time period required therein;

(i) The default of RAC under any lease agreement, indemnity agreement, or other agreement RAC may presently have or may enter into with the City during the Term of this RAC Agreement, and failure to cure said default within any applicable cure period. RAC agrees that in case of an Event of Default under this RAC Agreement, the City also may declare a default under any such other agreements;

(j) Any material permit of RAC allowing it to do business in the City or the County has been revoked and is not reinstated within ten (10) days following such revocation;

(k) The filing by RAC of a voluntary petition in bankruptcy occurring on or after the date of this RAC Agreement, or if after the date hereof any involuntary petition in bankruptcy shall be filed against RAC under any federal or state bankruptcy or insolvency act and shall not have been dismissed within sixty (60) days from the filing thereof;

(l) On or after the date of this RAC Agreement, the admission, in writing, by RAC of its inability to meet its debts generally as they mature;

(m) The taking by a court of competent jurisdiction for a period of sixty (60) days of all or substantially all of RAC's assets pursuant to proceedings brought under the provisions of any federal reorganization act on or after the date of this RAC Agreement when possession is not restored to RAC within sixty (60) days after such taking;

(n) The appointment of a receiver on or after the date of this RAC Agreement of all or substantially all of RAC's assets and RAC's failure to vacate such appointment within sixty (60) days thereafter;

(o) The assignment by RAC on or after the date of this RAC Agreement of all or substantially all its assets for the benefit of its creditors; or

(p) Any failure of RAC to comply with the terms and provisions of either the CFC Ordinance or the Bond Ordinance, and the failure of RAC to cure the same within ten (10) days after the giving of written notice thereof to RAC.

**Section 10.2 - Remedies.** If the City so elects, with or without notice or demand, if an Event of Default occurs, the City may exercise any one or more of the following described remedies, in addition to all other rights and remedies provided elsewhere herein or at law or equity:

(a) The City may terminate this RAC Agreement and the Term created hereby, in which event the City may forthwith repossess the Premises and be entitled to recover forthwith as damages: (i) all of the Rent accrued and unpaid for the period up to and including such termination date; (ii) any other sums for which RAC is liable or in respect of which RAC has agreed to indemnify the City under any provisions of this RAC Agreement which may be then due and owing; (iii) an amount equal to nine (9) months of the total Rent then payable hereunder by RAC at the time of such termination (it being acknowledged and agreed by RAC and the City that, in the event of a termination of this RAC Agreement following a RAC default hereunder, the City will suffer damages in an amount which, due to the special and unique nature of the transaction contemplated by this RAC Agreement and the special and unique nature of the negotiations which preceded this RAC Agreement, will be impractical or extremely difficult to determine, and such amount represents a reasonable estimate of the damages which the City will sustain in the event of a termination of this RAC Agreement following a RAC default hereunder), provided, however, if the City enters into an agreement for the Premises with a new RAC (a "New RAC Agreement"), the amount payable under this clause (iii) shall in no event exceed the amount of Rent that would otherwise be due and payable by RAC for the period commencing on the date of termination of this RAC Agreement and continuing through and including the date on which rent commences under such New RAC Agreement; and (iv) any damages in addition thereto, including reasonable attorneys' fees and court costs, which the City sustains as a result of the breach of any of the covenants of this RAC Agreement other than for the payment of Rent;

(b) The City may terminate RAC's right of possession and may repossess the Premises by taking peaceful possession or otherwise as provided in this Section 10.2 without terminating this RAC Agreement or releasing RAC, in whole or in part, from RAC's obligation to pay Rent hereunder for the full Term. Upon and after entry into possession without termination of this RAC Agreement, the City may relet the Premises or any part thereof for the account of RAC, for such rent, for such time, and upon such terms as shall be satisfactory to the City, and the City shall not be required to accept any RAC offered by RAC nor to observe any instructions given by RAC about such reletting. For the purpose of such reletting, the City is authorized to make any reasonably necessary repairs, alterations or additions to the Premises. If the Premises are relet and a sufficient sum shall not be realized from such reletting after paying all of the costs and expenses of such repairs, changes, alterations, and additions and the other expenses of such reletting and of the collection of the rent accruing therefrom to equal or exceed the Rent

provided for in this RAC Agreement for the balance of its Term, RAC shall satisfy and pay such deficiency upon demand therefor;

- (c) The right to specific performance, an injunction, or other appropriate remedy;
- (d) The right to money damages, including special and consequential damages;
- (e) The right to deem RAC non-responsible in future procurements by the City;

(f) In case of a default described in Subsection 10.1(b) relating to RAC's obligations under Article 5 (including with respect to RAC Improvements under Section 5.2 Alterations under Section 5.7), the right to take over construction of work, at RAC's cost. Without limiting any other rights of the City, in the event the City takes over the work, the City shall be entitled to exercise all rights under the collateral assignments and other security granted to or available to City under this RAC Agreement, and sureties thereunder shall remain liable to the City upon such other security, and the proceeds thereof shall become the property of the City;

(g) The right to draw under the Security Deposit or the Letter of Credit, as the case may be, and to use the proceeds thereof, to the extent set forth in Section 5.9 hereof, to pay or reimburse the City for performance of RACs' obligations or compensate the City for any damages owed to the City by RAC. The City agrees that, with respect to any Event of Default hereunder which can be cured to completion by the payment of money, the City shall, before exercising any of its other rights and remedies under this Section 10.2, but without prejudice to any such other rights and remedies, and without limiting RAC's obligation to replenish the same, first draw upon or attempt to draw upon the Security Deposit or the Letter of Credit, as the case may be, and apply the proceeds of such draw towards the cure of such monetary Event of Default; and

(h) The right (but not the obligation) to cure any Event of Default hereunder, and if the City so elects, any and all costs and expenses incurred by the City in curing such default shall be deemed additional Rent hereunder, and shall be paid by RAC to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate.

### **Section 10.3 - Other Provisions.**

(a) If the City exercises the remedies provided for in Subsection 10.2(a) or Subsection 10.2(b) above, RAC shall surrender possession and vacate the Premises or appropriate portion thereof immediately and deliver possession thereof to the City, and RAC hereby grants to the City full and free license to enter into and upon the Premises in such event and take complete and peaceful possession of the Premises, to expel or remove RAC and any other occupants and to remove any and all property therefrom without being deemed in any manner guilty of trespass, eviction, forcible entry and detainer, or conversion of property and without relinquishing the City's right to rent or any other right given to the City hereunder or by operation of law.

(b) All property removed from the Premises by the City pursuant to any provisions of this RAC Agreement or by law may be handled, removed, or stored in a commercial warehouse or otherwise by the City at the risk, cost, and expense of RAC, and the City shall in no event be responsible for the value, preservation, or safekeeping thereof. RAC shall pay the City, upon demand, any and all expenses incurred by the City in such removal and storage charges against such property so long as the same shall be in the City's possession or under the City's control. All property not removed from the Premises or retaken from storage by RAC within thirty (30) days after the end of the Term or termination

of RAC's possession by virtue of Section 10.2, however terminated, shall, if the City so elects, be conclusively deemed to have been forever abandoned by RAC, in which case such property may be sold or otherwise disposed of by City without further accounting to RAC.

(c) RAC shall pay all of the City's costs, charges, and expenses, including court costs and attorneys' fees, incurred in successfully enforcing RAC's obligations under this RAC Agreement.

(d) No waiver by the City of default of any of the terms, covenants, or conditions hereof to be performed, kept, and observed by RAC shall be construed to be or act as a waiver of any subsequent default of any of such terms, covenants, and conditions. No failure by the City to timely bill RAC for any rentals, fees, or charges of any kind shall in any way affect or diminish RAC's obligation to pay said amounts. The acceptance of Rent, whether in a single instance or repeatedly, after it falls due, or after knowledge of any breach hereof by RAC, or the giving or making of any notice or demand, whether according to any statutory provisions or not, or any act or series of acts except an express written waiver, shall not be construed as a waiver of any right hereby given the City, or as an election not to proceed under the provisions of this RAC Agreement. The rights and remedies hereunder are cumulative and the use of one remedy shall not be taken to exclude or waive the right to the use of another, except where rights and remedies are specifically limited as set forth elsewhere in this RAC Agreement.

**Section 10.4 - Further Right to Terminate.** If the City's exercise of its remedies pursuant to Section 10.2 shall be stayed by order of any court having jurisdiction over any proceeding described above, or by federal or state statute, or if the trustee appointed in any such proceeding, RAC or RAC as debtor-in-possession shall fail to assume RAC's obligations under this RAC Agreement within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, RAC or RAC as debtor-in-possession shall fail to provide adequate protection of the City's right, title, and interest in and to the Premises or adequate assurance of the complete and continuous future performance of RAC's obligations under this RAC Agreement as provided in Section 10.5 below, then the City, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, and after the expiration of any such stay, shall have the right, at its election, to terminate this RAC Agreement on five (5) days' written notice to RAC, RAC as debtor-in-possession or said trustee, and upon the expiration of said 5-day period, this RAC Agreement shall cease and expire as aforesaid, and RAC, RAC as debtor-in-possession or said trustee, as the case may be, shall immediately quit and surrender the Premises as aforesaid.

**Section 10.5 - Adequate Protection.** If an order for relief is entered or if a stay of proceeding or other acts becomes effective in favor of RAC or RAC's interest in this RAC Agreement, in any proceeding which is commenced by or against RAC under the present or any future applicable federal Bankruptcy Code or any other present or future applicable federal, state, or other Law, the City shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy code, Law or this RAC Agreement, including, without limitation, such rights and remedies as may be necessary to adequately protect the City's right, title, and interest in and to the Premises, or any part thereof, or adequately assure the complete and continuous future performance of RAC's obligations under this RAC Agreement. Adequate protection of the City's right, title, and interest in and to the Premises, and adequate assurance of the complete and continuous future performance of RAC's obligations under this RAC Agreement shall include, without limitation, the following requirements:

(a) that RAC shall duly and timely comply with all of its obligations under this RAC Agreement, including, but not limited to, the payment of Rent in accordance with the terms of this RAC Agreement;

(b) that RAC shall continue to use the Premises for the Permitted Use in the manner required by this RAC Agreement;

(c) that the City shall be permitted to supervise the performance of RAC's obligations under this RAC Agreement;

(d) that RAC shall hire such security personnel as may be necessary to insure the adequate protection and security of the Premises; and

(e) that if RAC's trustee, RAC, or RAC as debtor-in-possession assumes this RAC Agreement and proposes to assign the same (pursuant to Title 11 U.S.C. 365, as the same may be amended) to any person or entity who shall have made a bona fide offer to accept an assignment of this RAC Agreement on terms acceptable to the trustee, RAC, or RAC as debtor-in-possession, then notice of such proposed assignment, setting forth: (i) the name and address of such person or entity; (ii) all of the terms and conditions of such offer; and (iii) the adequate assurance to be provided the City to assure such person's or such entity's future performance under the RAC Agreement, including, without limitation, the assurances referred to in Title 11 U.S.C. 365(b)-(d) (as they may be amended), shall be given to the City by the trustee, RAC, or RAC as debtor-in-possession no later than twenty (20) days after receipt by the trustee, RAC, or RAC as debtor-in-possession of such offer, but in any event no later than thirty (30) days prior to the date that the trustee, RAC, or RAC as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and the City shall thereupon have the prior right and option, to be exercised by notice to the trustee, RAC, or RAC as debtor-in-possession prior to the effective date of such proposed assignment, to accept an assignment of this RAC Agreement upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person or entity, less any brokerage commissions and other expenses which may be payable out of the consideration to be paid by such person or entity for the assignment of this RAC Agreement. No guaranty from a guarantor shall be extinguished, modified, or prohibited in case RAC becomes the subject of or seeks relief under any federal or state bankruptcy or insolvency laws, and RAC shall not take a position to the contrary.

**Section 10.6 - Force Majeure Delay.** No party shall be deemed to be in default in the performance of any obligation created under or pursuant to this RAC Agreement, other than an obligation requiring the payment of a sum of money (which shall not be subject to Force Majeure Delay), if and as long as non-performance of such obligation shall be directly caused by Force Majeure Delay, and the time limit for such performance shall be extended for a period equal to the period of any such Force Majeure Delay (except and to the extent this RAC Agreement provides for a limit or restriction on Force Majeure Delay). However, if in an emergency situation non-performance is due to a Force Majeure Delay which does not affect a self-help remedy which may be otherwise exercised by City under Section 11.2 for such non-performance, then notwithstanding such Force Majeure Delay, the City shall still be entitled to such remedy with respect to those obligations to have been performed by the Non-Performing Party which are the subject of Force Majeure Delay. When it becomes aware of Force Majeure Delay, the party experiencing Force Majeure Delay shall notify the other party in writing of the existence and nature of any Force Majeure Delay within a reasonable time after the onset of any such Force Majeure Delay. The party experiencing Force Majeure Delay shall, (i) from time to time upon the written request of the other party, keep such other party fully informed, in writing, of all further developments concerning such Force Majeure Delay, and (ii) use commercially reasonable efforts to mitigate and eliminate the impact of such Force Majeure Delay.

**ARTICLE 11**  
**SPECIAL RIGHTS OF THE CITY**

**Section 11.1 - City's Reserved Rights.** All rights not expressly granted to RAC herein are reserved by the City, including, without limitation, the following rights (which may be exercised by the City's officers, employees, agents, licensees, contractors, or designees):

(a) rights to air or space above the top level of the Premises. Such right shall include, without limitation, the right to construct improvements above such level (which may include a transit system) and install structural supports for such improvements in, on, or under the Premises and/or CRCF Property, after reasonable notice to RAC and provided RAC's business in the Premises is not interfered with materially and unreasonably as a result of such construction, and any such supports occupy an immaterial portion of the Premises. In such event, the City shall be responsible for constructing, at no cost or expense to RAC, any and all structural supports, modifications, or additions to the Premises to the extent reasonably required in connection with such additional improvements, and the City shall further be responsible for repairing, at no cost or expense to RAC, any and all damages to the Premises to the extent caused by or arising in connection with the City's construction of such additional improvements;

(b) upon notice to RAC, to install and maintain signs on the Premises (other than the RAC Improvements);

(c) to enter the Premises and perform tests and other activities as described in Section 14.3, Section 14.5, and Section 14.7;

(d) to exhibit the Premises at reasonable hours or for other reasonable purposes, upon the giving of reasonable notice, and to decorate, remodel, repair, alter, or otherwise prepare the Premises for reoccupancy at any time after RAC vacates or abandons the Premises;

(e) to maintain, replace, repair, alter, construct, or reconstruct existing and future utility, mechanical, electrical, and other systems, or portions thereof, on the Premises, including, without limitation, systems for the supply of heat, water, gas, fuel, and electricity, and for the furnishing of sprinkler, sewerage, drainage, and telephone service, including all related lines, pipes, mains, wires, conduits, and equipment. If the City is performing any such activity on the Premises, the City shall provide reasonable advance notice to RAC. In the exercise of such rights, the City shall not unreasonably interfere with the business conducted by RAC in the Premises, and the City shall restore the Premises to their condition immediately prior to the exercise of such rights;

(f) to exercise such other rights as may be granted the City elsewhere in this RAC Agreement;

(g) upon the giving of reasonable notice, RAC shall allow the City, and its officials, officers, agents, employees, and contractors, reasonable access to the Premises for the purpose of examining the same to ascertain if RAC is performing its obligations under the RAC Agreement, and for conducting tests and inspections for any other reason deemed reasonably necessary by the City under the RAC Agreement;

(h) [Intentionally Omitted]; and



(i) the right to, at any time after not less than sixty (60) days' notice to RAC, adjust the assigned pickup and drop-off locations for shuttle bus vehicles in connection with the Common Use Transportation System or throughout the Airport to further the efficient utilization of the Airport and its facilities and customer convenience; provided, the City and RAC each agree to first consult with the other party hereto in advance of any such adjustment or modification, and to reasonably cooperate in connection with any such adjustments or modifications.

All such rights in this Section 11.1 shall be exercisable without notice (except as expressly provided in this Section 11.1) and (so long as such rights are exercised in accordance with the conditions set forth above, if any, for exercise of such rights) without liability to RAC for damage or injury to property, person, or business, and without effecting an eviction or disturbance of RAC's use or possession or giving rise to any claim for setoff or abatement of Rent or affecting any of RAC's obligations under this RAC Agreement. Notices under this Section 11.1 may be given verbally in an emergency or where entry does not materially affect RAC's use and occupancy. Reasonable notice shall in no event require more than twenty-four (24) hours' notice.

**Section 11.2 - City's Right to Perform RAC's Obligation.** In an emergency situation or upon occurrence of an Event of Default, the City may (but shall not be obligated so to do), and without waiving or releasing RAC from any obligation of RAC hereunder, make any payment or perform any other act which RAC is obligated to make or perform under this RAC Agreement in such manner and to such extent as the City may deem desirable; and in so doing the City shall also have the right to enter upon the Premises for any purpose reasonably necessary in connection therewith and to pay or incur any other necessary and incidental costs and expenses, including reasonable attorneys' fees. All sums so paid and all liabilities so incurred by the City, together with interest thereon at the Default Rate, shall be deemed additional rent hereunder and shall be payable to the City upon demand as additional rent (provided, however, that no interest shall accrue on such sums if so incurred due to an emergency situation, and not as a result of an Event of Default by RAC hereunder, so long as RAC pays such sums to the City within thirty (30) days following the City's written invoice therefor). The City shall use reasonable efforts to give prior notice (which may be oral) of its performance, if reasonably feasible under the circumstances. The performance of any such obligation by the City shall not constitute a waiver of RAC's default in failing to perform the same. Inaction of the City shall never be considered as a waiver of any right accruing to it pursuant to this RAC Agreement. The City, in making any payment hereby authorized: (a) relating to Impositions, may do so according to any bill, statement, or estimate, without inquiry into the validity of any such Impositions or claims thereof; (b) for the discharge, compromise, or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (c) in connection with the completion of construction of improvements to the Premises or the repair, maintenance, or reconstruction of the Premises or the payment of operating costs thereof; may do so in such amounts and to such persons as the City reasonably may deem appropriate. Nothing contained herein shall be construed to require the City to advance monies for any purpose. The City shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business, or other damage of RAC or any other occupant of the Premises or any part thereof, by reason of making repairs or the performance of any work on the Premises or on account of bringing materials, supplies, and equipment into or through the Premises during the course thereof in connection with City's actions under this Section 11.2, and the obligations of RAC under this RAC Agreement shall not thereby be affected in any manner.

**Section 11.3 - Restrictions on City.**

(a) Except as otherwise expressly provided in this RAC Agreement, and except as may otherwise be agreed by the parties hereto, the City agrees that use of the Premises during the Term hereof shall be limited to RAC.

(b) The City agrees that from and after the Effective Date, no Off-Airport RACs will be permitted to participate in the planning process for the Joint Use Facility.

(c) The City agrees that from and after the Rent Commencement Date and continuing for the remainder of the Term hereof (and except in the event of a fire, casualty, condemnation, or other Force Majeure Delay affecting the CRCF), (i) the City will not permit any rental car service counters in the Terminal, (ii) the City will require all RACs to transport all of their respective rental customers between the CRCF and the Terminal by use of the ATS (except as expressly permitted to the contrary under Subsection 2.14 hereof or as may be expressly permitted otherwise under each such License), (iii) the City will require all Off-Airport RACs to transport all of their respective rental customers between their respective customer facilities and the CRCF, and not directly to or from the Terminal (and RAC shall cooperate with the City at all times in connection therewith), and (iv) except to the extent otherwise expressly authorized by the City or as may be expressly permitted otherwise under each such License, no RAC or Off-Airport RAC will be allowed to pickup or drop off its customers at the Terminal except by use of the ATS.

## **ARTICLE 12** **CONDEMNATION**

**Section 12.1 - Procedure.** In the event that at any time during the Term of this RAC Agreement, all or a portion of the Premises, or all access thereto, or RAC's entire leasehold interest in all or a portion of the Premises pursuant to this RAC Agreement, is taken or damaged by the exercise of power of eminent domain by any condemning authority ("**Condemnation Proceedings**"), then (whether or not this RAC Agreement terminates by operation of law upon the exercise of such power), the share of any award resulting to the City or RAC for the taking of their respective interests in and to the Premises or damages resulting to their respective interests by reason of the exercise of such power of eminent domain, shall be separately determined by the court having jurisdiction, not by the jury, and separate judgments with respect to such damages to the City and RAC, respectively, and to each of their respective interests, shall thereafter be made and entered. The City and RAC shall make such requests and petitions to the court as are consistent with the foregoing procedure. Notwithstanding anything in this Article 12 to the contrary, while the Bonds remain outstanding, the terms and provisions of the Bond Indenture and the other Bond Documents shall govern and control in the event of any Condemnation Proceedings affecting all or any portion of the Premises, the Joint Use Facility, and/or the Joint Use Facility Property.

**Section 12.2 - Total Taking.** In the event that: (a) all of the Premises are sought to be taken by the exercise of the power of eminent domain; or (b) under the threat of condemnation, all of the Premises are conveyed to a condemning authority pursuant to an agreement between the City, RAC, and such condemning authority; or (c) a portion of the Premises are taken by eminent domain or conveyed as aforesaid under threat of condemnation and the remainder of the Premises are not capable of being restored to a condition as may be reasonably required to fulfill the intent and purpose of this RAC Agreement; or (d) all of the Premises are taken by the exercise of the power of eminent domain for occupancy by a condemning authority for a temporary period and such temporary period extends beyond the date of the termination of this RAC Agreement; this RAC Agreement shall terminate effective upon the date that the condemning authority legally acquires the right of possession to the Premises. In the event of termination of this RAC Agreement as aforesaid, Base Rent, Impositions, and any other sum or sums of money and other charge whatsoever provided in this RAC Agreement to be paid by RAC shall be paid by RAC up to the date of such termination. The amount of compensation and damages resulting to the City and RAC and respectively and to their respective interests in and to the Premises and in and to and in connection with this RAC Agreement in the event of termination of this RAC Agreement as aforesaid shall be determined in accordance with the provisions of Section 12.1 hereof.

In the event of a taking of the Premises described in this Section 12.2 and the termination of the RAC Agreement as aforesaid, the entire award shall be disbursed as follows:

(a) The City shall first be paid that portion of the award which represents the value of the City's interest in the Premises, and the CRCF Project, and in any event, an amount sufficient to discharge in full any and all outstanding indebtedness and other amounts due under the TIFIA Loan Documents.

(b) The balance of any such award shall then be paid to RAC after first deducting the following items (i) and (ii):

- (i) The amount of Base Rent, Facility Rent, and any other amount due and owing up to the date the condemning authority legally takes possession of the Premises, which shall be paid to the City;
- (ii) All Impositions which under the terms of this RAC Agreement are provided to be paid by RAC, which shall either be paid to the City to be used for the intended purpose or shall be applied directly to the payment of such Impositions.

**Section 12.3 - Partial Taking.** In the event that less than the entire Premises and access thereto or RAC's leasehold interest in less than the entire Premises and access thereto is taken permanently by the exercise of the power of eminent domain, and if the remainder of the Premises are capable of being restored to a condition reasonably required to fulfill the intent and purpose of this RAC Agreement, then in such event, this RAC Agreement shall not terminate but shall remain in full force and effect and RAC shall continue to perform and observe all of the obligations of RAC hereunder, including the obligations to pay Base Rent and Impositions as provided herein, and shall restore the Premises to a condition required to fulfill the interest and purpose of this RAC Agreement. However, effective as of the date the condemning authority legally acquires the right of possession to such portion of the Premises so taken and continuing thereafter during the remainder of the Term, Base Rent payable by RAC during the remainder of the Term of this RAC Agreement shall be adjusted solely by reducing the area of the Premises used in calculating Base Rent by that portion of the land area of the Premises used in calculating Base Rent which was taken by Condemnation Proceedings. The value of the RAC's interest shall not include any money to pay Base Rent in the future (and any such amount allocated to RAC shall be paid to the City).

In the event of such a partial taking, the City shall first be paid that portion of the award which represents the value of its interest in and to the Premises as may have been taken as a result of such partial taking. Next, RAC shall first be paid an amount of any award in trust sufficient to undertake the complete restoration of the Premises as may be necessary as a result of such partial taking, after deducting therefrom and paying to or applying for the benefit of the City the amounts set forth in subparagraphs (i) and (ii) in Section 12.2 hereof. RAC shall be entitled to receive and retain any balance remaining of such award made as a result of such partial taking. If the proceeds are insufficient to complete restoration of the Premises, RAC shall nevertheless perform such restoration at its cost, in accordance with the provisions of Article 5 of this RAC Agreement.

**Section 12.4 - Temporary Takings.** If the temporary use of the whole or any part of the Premises shall be taken by Condemnation Proceedings as hereinabove referred to for a period which does not extend beyond the Term of this RAC Agreement, this RAC Agreement shall not terminate by reason thereof and RAC shall continue to pay in full the Rent, Impositions, and other charges herein provided to be paid or assumed or reimbursed by RAC, and, except only to the extent that RAC is prevented from so doing by reason of any order of the condemning authority, RAC shall continue to perform and observe all

of the covenants, conditions, and obligations hereof which are herein provided to be observed or performed by RAC, all to the same extent and with the same force and effect as if such temporary use or taking had not occurred. Any award for such temporary taking, whether paid or by way of damages, rent, or otherwise shall be received, held and disbursed in the manner following:

(a) An amount equal to the sum of (x) the Base Rent for the entire period of such temporary use or taking, plus (y) the estimated amount of the Facility Rent and Impositions for such period (computed on the basis of the most recently ascertainable information) shall be deposited with an escrow trustee acceptable to the City and shall be from time to time applied to the payment of Base Rent, Facility Rent, and Impositions as the same from time to time become due and payable;

(b) The amount jointly agreed upon by the City and RAC as the estimated amount required to be expended upon the termination of such temporary use or occupancy to restore the Premises and Improvements as nearly as may be reasonably possible to the condition in which same was immediately prior to such taking, shall be reserved and shall be used and available for use for such purposes (and if no agreement is reached, then the City may deduct and retain an amount reasonably estimated by the City); and

(c) The remainder shall be paid over to and become the property of RAC; however, the amount of any Rent or other charges then owing by RAC to the City under the provisions of this RAC Agreement, together with all unpaid Impositions, and the amount so deducted shall be paid to or upon the order of the City.

**Section 12.5 - Taking Upon Possession.** The Premises or any part thereof shall be deemed to be taken by Condemnation Proceedings within the meaning of the foregoing provisions upon the transfer of possession thereof to the condemning authority; provided, however, any valuation of the City's or RAC's interests shall be as of the date of the filing of Condemnation Proceedings.

**Section 12.6 - No Restriction.** Nothing in this RAC Agreement or the existence of this RAC Agreement shall be construed to restrict or in anyway interfere with the exercise of eminent domain by the County. Notwithstanding anything herein to the contrary, the City agrees that it shall not voluntarily commence or seek commencement of Condemnation Proceedings against the Premises except to the extent that the City, in connection with such Condemnation Proceedings (i) reimburses RAC for the then-unamortized costs and expenses of any and all RAC Improvements constructed in the Premises, or any portion thereof, by RAC and each such RAC (with such RAC Improvements being amortized on a straight-line basis over a period of thirty (30) years at a rate equivalent to the Discount Rate), and (ii) makes available to RAC reasonable alternate space for the provision of rental car services by RAC to customers at the Airport.

**Section 12.7 - Taking of RAC's Entire Leasehold Interest.** In the event of a taking of RAC's entire leasehold interest hereunder, whether or not there is a taking of the underlying fee interest, the value of such leasehold interest shall be the difference between the fair cash rental value of the Premises as improved and the Rent reserved under this RAC Agreement (including Base Rent and Facility Rent), and including payment of Impositions, discounted for the present value at the Discount Rate.

**ARTICLE 13**  
**SUBLEASE AND ASSIGNMENT OF PREMISES**

**Section 13.1 - General.** Except as otherwise set forth in this Article 13, RAC shall not, without the prior written consent of the City in each instance: (a) assign, transfer, mortgage, pledge, hypothecate, or encumber, or subject to or permit to exist upon or be subjected to any lien or charge, this RAC

Agreement or any interest under it (including any sublease or easement); (b) allow to exist or occur any transfer of or lien upon the Premises, this RAC Agreement, or RAC's interest herein by operation of law; (c) sublet the Premises or any part thereof; or (d) permit the use or occupancy of the Premises or any part thereof for any purpose not provided for herein or by anyone other than RAC. The requirements of this Article 13 shall apply to any transaction or series of transactions that shall have the same effect as any of the aforementioned occurrences, and in no event shall this RAC Agreement be assigned or assignable by voluntary or involuntary bankruptcy proceedings or otherwise, and in no event shall this RAC Agreement or any rights or privileges hereunder be an asset of RAC under any bankruptcy, insolvency or reorganization proceedings. The City may withhold its consent to any of the acts described in Subsection 13.1(a), Subsection 13.1(b), Subsection 13.1(c), or Subsection 13.1(d) in its sole and absolute discretion; provided however, the City agrees not to withhold its consent unreasonably to a sublease or assignment to a Related Party (as defined in Section 13.2 hereof) on the terms set forth in said Section 13.2. RAC shall not grant a leasehold mortgage without the City's prior written consent, which consent may be withheld or conditioned in the City's sole and absolute discretion. The City's right to consent under this Article 13 applies to assignment of any Space Lease or to sublease or transfer of any interest in a Space Lease or subleased Premises. Notwithstanding the foregoing, in no event shall RAC sublease the Premises, or any portion thereof, to any entity other than a RAC, except in conjunction with a re-bidding as contemplated under Section 3.5 hereof.

**Section 13.2 - Notice and Consent.** The term "Related Party" means: a Person controlling, controlled by, or under common control of, or in partnership with common control with, the original named RAC under this RAC Agreement, or which acquires all of the assets of the original RAC, or which results from a merger or consolidation with the original RAC. As used in the term "Related Party", "control" means ownership of the (a) managing partner interests in a partnership, (b) managing member interests in a limited liability company, or (c) more than fifty percent (50%) of the voting stock in a corporation. RAC shall notify the City in writing ("Notice of Subletting or Assignment") of the proposed commencement date of the assignment or subletting, and shall include the name and address of the proposed subtenant or assignee, a true and complete copy of the proposed sublease or assignment, and all related documents, and a financial statement of the subtenant or assignee, disclosures and information required under Section 6.1 and Section 6.2 hereof, documentation consistent with that required by Subsection 15.12(b)(i) through Subsection 15.12(b)(vi) hereof, as applicable to its form of business organization, representation and warranties under Section 15.16 hereof, and such other information as may be required by the City. RAC agrees that the withholding by the City of its consent will be deemed reasonable if: (i) the proposed assignee or subtenant is not sufficiently financially responsible, experienced, and capable in the City's sole judgment to operate and use the Premises for the Permitted Use in a manner required hereunder; (ii) the use of the Premises by the proposed assignee or subtenant would, in the City's judgment, adversely affect the operation of the Airport or the Premises; (iii) the proposed assignee or subtenant is in default under any agreement with the City; (iv) the proposed assignee or sublessee would not provide the same employment opportunities at the Premises, would not conduct aviation related business, or would not generate comparable economic benefits to the City or the Airport; (v) there is then in existence an Event of Default, or there exists a set of circumstances which, with the giving of notice or the passage of time, will constitute an Event of Default; (vi) any of the terms or provisions of the assignment or transfer submitted to the City are not the same as given the City in the Notice of Subletting or Assignment; (vii) the proposed assignee or subtenant does not comply with the provisions of Section 6.1 and Section 6.2 hereof; or (viii) if, in the City's sole judgment and discretion, the assignee or subtenant is not capable of performing or is not sufficiently qualified to perform RAC's obligations under Article 14 hereof. RAC may not assign its right, title and interest under this RAC Agreement prior to Substantial Completion of all of the RAC Improvements. Following approval by the City of any sublease or assignment, RAC shall deliver the final form of sublease or instrument of assignment to the City no later than thirty (30) days prior to the proposed commencement of such sublease or assignment.

**Section 13.3 - Effect of Consent.** Consent by the City to any assignment or sublease shall not operate to relieve, release, or discharge the RAC making such assignment or sublease of or from any obligations, whether past, present, or future, under this RAC Agreement, and such RAC shall continue fully liable hereunder except to the extent, if any, expressly provided for in such consent. Upon any such permitted assignment, the term "RAC" as used in this RAC Agreement shall refer to the assignee holding the leasehold estate under this RAC Agreement (except as otherwise specifically provided herein), provided that the assignor RAC shall remain jointly and severally liable for the obligations of RAC under this RAC Agreement. Consent by the City in any one instance shall not be deemed to be a consent to or relieve RAC from obtaining the City's consent to any subsequent assignment or subletting. Consent by the City shall be conditioned upon agreement by the subtenant or subtenants or assignees to comply with and be bound by all of terms, covenants, conditions, provisions, and agreements of this RAC Agreement to the extent of the space sublet or assigned, and an agreement that the City shall have the right, but not the obligation, to enforce the terms and provisions of any such assignment or sublease affecting the City's interests and RAC shall deliver to the City within thirty (30) days after execution, an executed copy of each such sublease or assignment containing an agreement of compliance by each such subtenant and assignee. RAC shall pay all of the City's costs, charges, and expenses, including attorney's fees, incurred in connection with any assignment or sublease requested or made by RAC.

**Section 13.4 - Changes in Ownership Interest in RAC.** RAC acknowledges that the City is entering into this RAC Agreement with RAC based upon the information contained in its disclosure of direct and indirect ownership interests in RAC furnished prior to execution of this RAC Agreement or from time to time thereafter. If at any time there is a change in the direct or indirect ownership interests in RAC which would change the information set forth in the prior disclosure statement, RAC shall furnish the City an updated disclosure statement. At the City's election, in addition to any rights it may otherwise have under this Article 13, upon any such change in ownership interest, the City may treat such change as an assignment of this RAC Agreement by RAC subject to the City's approval.

**Section 13.5 - Operating Agreement.**

(a) Prior to the Rent Commencement Date, RAC and the other RACs then (or that will be) operating and occupying a portion or portions of the CRCF from time to time pursuant to valid RAC Agreements will enter into an operating agreement (the "Operating Agreement") which provides, among other things, for (i) the maintenance, repair, and replacement of the QTA pursuant to, and in accordance with, the terms and provisions of this RAC Agreement and the other RAC Agreements then (or to be) in effect, and (ii) the allocation and assumption of joint and several liability for Rent and other sums due and payable by RAC hereunder and rent and other sums due and payable by the other RACs then (or that will be) operating and occupying a portion or portions of the CRCF from time to time pursuant to valid RAC Agreements under such agreements, all as more specifically described in Section 4.14 hereof, as well as joint and several liability for the maintenance, repair, and replacement of the QTA in accordance with the terms and provisions of this RAC Agreement and the other RAC Agreements in effect from time to time.

(b) The Operating Agreement shall be reasonably acceptable to the City in form and substance and shall remain in full force and effect, and shall not dissolve or be terminated, during the Term. The Operating Agreement shall provide for execution of additional agreements or other operative documents to provide for the parties' rights and obligations relating to RAC and the Premises. The Operating Agreement shall provide for the circumstance when a new RAC replaces an existing RAC when the existing RAC's RAC Agreement is terminated due to the new RAC outbidding the existing one with respect to the minimum annual guarantee fee under a RAC Agreement, including admission of the new RAC, withdrawal of the displaced RAC, and a possible requirement that the new RAC pay to the displaced RAC the unamortized costs of improvements to the Premises made by the displaced RAC, less

costs of removal of the displaced RAC's proprietary trade fixtures. Further, the Operating Agreement shall provide for the circumstance when, following a termination of a RAC Agreement due to default by the RAC thereunder, the City either replaces the RAC with a new RAC by entering into a new RAC Agreement or, until replacement, permits the terminated RAC's spaces and areas to be re-allocated among the remaining RACs comprising RAC in a manner approved by the City. The Operating Agreement shall also provide for the circumstance where the City, at its sole option, may require the addition of another RAC to the CRCF from time to time. Once a RAC's RAC Agreement is terminated, the City shall not permit it to occupy any portion of the Premises.

(c) [Intentionally Omitted]

(d) The Operating Agreement shall acknowledge this RAC Agreement, be consistent with this RAC Agreement, and require RAC and the other RACs to comply with the terms of this RAC Agreement or such other RAC Agreement, as the case may be. The Operating Agreement shall require the RACs to give notice to the City of any default by RAC thereunder and provide the City with the option to elect to cure any such default within a period commensurate with any cure period given to RAC under the Operating Agreement. In addition to the foregoing, the Operating Agreement shall be expressly subordinated to this RAC Agreement.

(e) RAC shall promptly notify the City of any non-payment of Revenues (to the extent that RAC has actual knowledge of any such non-payment of Revenues) or other default by an RAC under the Operating Agreement or of any notice of default received by RAC under the Operating Agreement.

**Section 13.6 - Transfer by the City.** The City shall have the right, at any time and at its sole option, to sell, transfer, or otherwise convey its right, title, and interest in and to this RAC Agreement and/or all or any portion of the CRCF or the Premises, other than to an RAC, an Off-Airport RAC, an affiliate of either an RAC or an Off-Airport RAC, or a direct competitor of any RAC, and in the event of any such sale, transfer, or conveyance by the City, the same shall operate to release the City from any future obligations and any future liability for or under any of the covenants or conditions, express or implied, herein contained in favor of RAC, and in such event, and with respect to such obligations, covenants, and conditions, RAC agrees to look solely to the successor in interest of the City in and to this RAC Agreement. This RAC Agreement shall not be affected by any such sale, conveyance or transfer.

## **ARTICLE 14**

### **HAZARDOUS SUBSTANCES**

#### **Section 14.1 - Defined Terms.**

(a) "Claim" shall mean any demand, cause of action, proceeding, or suit for damages (actual or punitive), injuries to person or property, damages to natural resources, fines, penalties, interest, or losses, or for the costs of site investigations, feasibility studies, information requests, health or risk assessments, contribution, settlement, or actions to correct, remove, remediate, Respond to, clean up, prevent, mitigate, monitor, evaluate, assess, or abate the Release of a Hazardous Material, or any other investigative, enforcement, cleanup, removal, containment, remedial, or other private or governmental or regulatory action at any time threatened, instituted, or completed pursuant to any applicable Environmental Law, or to enforce insurance, contribution, or indemnification agreements being made pursuant to a claimed violation or non-compliance with any Environmental Law against RAC or against or with respect to any part of the Premises or any condition, use, or activity on the Premises (including any such action against the City), and any claim at any time threatened or made by any person against RAC or against or with respect to the Premises or any condition, use, or activity on the Premises

(including any such claim against the City), relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or in any way arising in connection with any Hazardous Material or any Environmental Law.

(b) "Environmental Assessment" shall mean a report (including all drafts thereof) of an environmental assessment of the Premises of such scope (including, but not limited to, the taking of soil borings and air and groundwater samples and other above and below ground testing) as may be recommended by a licensed consulting firm acceptable to the City and made in accordance with the recommendations of such consultant.

(c) "Environmental Damages" shall mean all Claims, demands, liabilities (including strict liability), losses, damages, causes of action, judgment, penalties, fines, costs and expenses (including fees, costs, and expenses of attorneys (whether incurred at, before or after any trial, proceeding, or appeal therefor, and whether or not taxable as costs), witnesses, consultants, contractors, experts ad laboratories, deposition costs, and copying and telephone charges), of any and every kind or character, contingent or otherwise, matured or unmatured, known or unknown, foreseeable or unforeseeable, made, incurred, suffered, brought, or imposed at any time and from time to time, whether before, on or after the Expiration Date (other than any Pre-Existing Condition) to the extent arising from one or more of the following:

- (i) the presence of any Hazardous Material on the Premises on or before the Expiration Date in violation of or requiring clean-up under any Environmental Law, or any escape, seepage, leakage, spillage, emission, release, discharge, or disposal of any Hazardous Material on or from the Premises, or the migration or release or threatened migration or release of any Hazardous Material to, from, or through the Premises before, on, or after the Expiration Date, including, but not limited to, any matters set forth in the Existing Environmental Report (as hereinafter defined); or
- (ii) any act, omission, event, or circumstance existing or occurring in connection with the handling, treatment, containment, removal, storage, decontamination, clean-up, transport, or disposal of any Hazardous Material which is at any time before, on, or after the Expiration Date present on the Premises; or
- (iii) the breach of any representation, warranty, covenant, or agreement contained in Article 14 of the RAC Agreement; or
- (iv) any Claim, or the filing or imposition of any environmental lien against the Premises, because of, resulting from, in connection with, or arising out of any of the matters referred to in subsections (i) through (iii) above, and including, but not limited to: (1) injury or damage to any person, property, or natural resource occurring on or off of the Premises, including, but not limited to, the cost of demolition and rebuilding of any improvements on real property; (2) the investigation or remediation of any such Hazardous Material or violation of Environmental Law, including, but not limited to, the preparation of any feasibility studies or reports and the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration, monitoring, or similar work required by any Environmental Law (including any of the same in connection with any foreclosure action or transfer in lieu



thereof); (3) all liability to pay or indemnify any person or governmental authority for costs expended in connection with any of the foregoing; (4) the investigation and defense of any Claim, whether or not such Claim is ultimately defeated; and (5) the settlement of any Claim or judgment.

(d) "**Environmental Law**" shall mean any Federal, state, or local law, statute, ordinance, code, rule, regulation, license, authorization, decision, order, or injunction which pertains to health, safety, any Hazardous Material, or the environment (including, but not limited to, ground or air or water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Resource Conservation and Recovery Act ("**RCRA**"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. ("**CERCLA**"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("**SARA**"); the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.; the Gasoline Storage Act, 430 ILCS 15/0.01 et seq.; the Municipal Code of the City of Chicago; and any other local, state, or federal environmental statutes, and all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

(e) "**Hazardous Material**" shall mean any substance, whether solid, liquid, or gaseous, which is listed, defined, or regulated as a "hazardous substance," "hazardous waste", or "solid waste," or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Law; or which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, or motor fuel or other petroleum hydrocarbons; or is a hazard to the environment or to the health or safety of persons.

(f) "**On**" when used with respect to the Premises or any property adjacent to the Premises, means "on, in, under, above, or about."

(g) "**Pre-Existing Condition**" shall mean the presence of any Hazardous Material on the Premises prior to the date on which RAC first enters onto the Premises and commences performance of the RAC Improvements therein, as more specifically described and set forth in the Existing Environmental Report (as hereinafter defined) or the New Environmental Report (as hereinafter defined), as the case may be.

(h) "**Release**" or "**Released**" shall have the meaning set forth in CERCLA, including, but not limited to, any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the environment, as "environment" is defined in CERCLA.

(i) "**Response**" or "**Respond**" shall mean action taken in compliance with Environmental Laws to correct, remove, remediate, clean-up, prevent, mitigate, treat, monitor, evaluate, investigate, assess, or abate the Release of a Hazardous Material or prevent or abate any public nuisance.

(j) "**Special Waste**" shall have the meaning set forth in 415 ILCS 5/3.45, as amended from time to time.

### **Section 14.2 - RAC's Obligations with Respect to Environmental Matters.**

(a) During the Term: (i) RAC shall at its own cost comply with all Environmental Laws; (ii) RAC shall not handle, generate, manufacture, process, treat, store, use, re-use, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of, or abandon Hazardous Materials or authorize any of such activities on the Premises, including installation of any USTs, except as otherwise permitted in Subsection 14.2(b) hereof, and in any case without prior written disclosure to the City (other than for Hazardous Materials expressly permitted under Subsection 14.2(b) hereof); (iii) RAC shall not take any action that would subject the Premises to permit requirements under RCRA or any other Environmental Laws for storage, treatment, or disposal of Hazardous Materials; (iv) RAC shall not dispose of Hazardous Materials in dumpsters provided by the City for RAC's disposal of ordinary refuse; (v) RAC shall not discharge Hazardous Materials into drains or sewers; (vi) RAC shall not cause or allow the Release of any Hazardous Materials on, to or from the Premises; (vii) RAC shall at its own cost arrange for the lawful transportation and off-site disposal at a properly permitted facility of all Hazardous Materials that it generates or Releases; (viii) RAC keep such records and obtain such permits as may be required for RAC's activities under Environmental Laws; and (ix) RAC shall comply with any applicable Airport stormwater pollution prevention plan and spill prevention control and countermeasures plan in effect from time to time.

(b) Notwithstanding the foregoing, RAC may use and dispose of on the Premises those Hazardous Materials normally used in connection with fueling, washing, servicing, and repairing Motor Vehicles, as well as cleaning products normally and customarily used in maintaining and cleaning the Premises, as part of the Permitted Use so long as RAC's use, storage, disposal, and transportation of such Hazardous Materials complies in all respects with all applicable Environmental Laws. RAC shall establish and provide upon the request of the City written operating procedures for review and comment by the City covering the operation of fleet vehicles and the receipt, storage, and dispensing of Motor Vehicle fuel, including the operations and recordkeeping procedures applicable to fleet vehicles and the installation, maintenance, safety checks, and safety procedures applicable to storage and dispensing equipment. RAC may also conduct such handling, storage, and disposal on the Premises of any Hazardous Materials which RAC may lawfully transport in the ordinary course of its business operations; provided, however, that all such handling, storage, disposal, and transportation on the Premises shall comply in all respects with applicable Environmental Laws. Said procedures and equipment shall comply with the applicable Laws and standards of the federal, state, and local governmental bodies having jurisdiction over said fuel and fuel dispensing procedures, equipment, or facilities.

### **Section 14.3 - Site Assessments and Information.**

(a) RAC acknowledges that it has received from the City that certain environmental report captioned "Phase I Environmental Site Assessment Report; Project Site: O'Hare International Airport - Future Car Rental Facility and Public Parking Lot; Prepared By: Environmental Design International inc., 33 W. Monroe Street, Suite 1825, Chicago, Illinois 60603, Prepared for: Department of Aviation (CDA), O'Hare Modernization Program, 10510 West Zemke Road, Chicago, Illinois 60666", and dated April 2012 (the "**Existing Environmental Report**"), and RAC shall be entitled to request, at RAC's sole cost and expense, a reliance letter from the preparer of such Existing Environmental Report for the benefit of RAC. Notwithstanding the foregoing, RAC shall also have the right and option to cause to be conducted at any time during the period commencing on the Effective Date hereof and ending on the one (1) year anniversary of the Effective Date hereof (i) a customary Phase I environmental site assessment (the "**New Phase I Assessment**"), and (ii) solely in the event that the New Phase I Assessment identifies recognized environmental concerns that can reasonably be expected to materially and adversely affect RAC's use and occupancy of the CRCF, a customary Phase II environmental site assessment by the same environmental assessment or engineering firm who performed the New Phase I Assessment (the

"New Phase II Assessment") (the New Phase I Assessment and the New Phase II Assessment are sometimes referred to herein, collectively, as the "New Environmental Report"). If RAC elects to proceed with the New Environmental Report as provided herein, RAC's Representative shall contract with a duly licensed environmental assessment or engineering firm reasonably acceptable to the City with respect to the New Phase I Assessment and, if applicable, the New Phase II Assessment. The City will thereafter reimburse RAC or RAC's Representative, as the case may be, for the actual, reasonable, documented, out-of-pocket costs and expenses incurred by RAC or RAC's Representative, as the case may be, in connection with such New Phase I Assessment or New Phase II Assessment, as the case may be, within a reasonable time following the City's receipt of RAC's written request therefor, together with final and complete copies of such New Phase I Assessment or New Phase II Assessment, as the case may be. The Pre-Existing Conditions and recognized environmental concerns, if any, specifically identified in such Existing Environmental Report and New Environmental Report, as the case may be, shall, to the extent existing on the Premises as of the Effective Date hereof, constitute the environmental baseline ("Environmental Baseline") for the Premises and/or CRCF Property for purposes of this Article 14. To the extent that the New Phase I Assessment and/or the New Phase II Assessment reveals the presence of Hazardous Materials on the Premises which are in excess of limits permitted under applicable Environmental Laws and which require remediation under existing Environmental Laws, the City shall be responsible for performing or causing to be performed, at no cost or expense to RAC, such remediation work as may be required by applicable Environmental Laws in connection therewith, except to the extent that any such Hazardous Materials were released by or at the direction of, or were otherwise caused by or attributable to the acts or omissions of, RAC or any of RAC's members, officers, agents, employees, contractors, guests, invitees, or licensees. RAC understands and agrees that the Existing Environmental Report was made available for informational purposes, and that RAC or RAC's Representative shall be contracting separately for the New Environmental Report, and each of the Existing Environmental Report and the New Environmental Report should be relied on by RAC at its own risk. The findings set forth in each of the Existing Environmental Report and the New Environmental Report are subject to the limitations stated in the Existing Environmental Report or the New Environmental Report, as the case may be, and the information and conclusions stated in each of the Existing Environmental Report and the New Environmental Report have not been verified by the City. The City makes no representations or warranties that the Existing Environmental Report or the New Environmental Report is accurate or complete.

(b) If any Claim is made or threatened, or upon the occurrence of the Expiration Date if requested by the City, RAC will at its expense provide to the City, in each case as soon as is practicable under the circumstances, an Environmental Assessment made after the date of the City's request. RAC shall select the environmental consulting firm to prepare such Environmental Assessment (which consulting firm shall be duly licensed and in good standing, and shall otherwise be reasonably acceptable to the City), will cooperate with such consulting firm making the such Environmental Assessment, and will supply to the consulting firm, from time to time and promptly on request, all information available to RAC to facilitate the completion of the Environmental Assessment. RAC shall use its best efforts to facilitate the City's communication with the consulting firm and, at the City's request, require that the consulting firm permit the City, in writing, to rely on its Environmental Assessment. If RAC fails to furnish the City for its consideration and approval, within thirty (30) days after the City's request, with a copy of a proposed agreement with an acceptable environmental consulting firm to provide such Environmental Assessment, or if RAC fails to furnish to the City such Environmental Assessment within the time hereinabove required, the City may cause any such Environmental Assessment to be made at RAC's sole expense and risk. The City hereby reserves the right to enter upon the Premises at any time and from time to time, upon reasonable notice (which may be written or oral), to make or cause to be made such Environmental Assessment. The City shall use reasonable efforts to coordinate access to the Premises with RAC so as to minimize any disruption of RAC's business created thereby, and shall be responsible for promptly repairing any damages to the

Premises to the extent caused by the Environmental Assessment performed by or at the direction of the City. RAC shall also cooperate in allowing and coordinating such access. The City may disclose any information the City ever has about the environmental condition or compliance of the Premises to Persons or entities whom the City believes would use or need the information for a valid business or governmental purpose and any person to whom the City is required to disclose such information by law (including the Freedom of Information Act or similar requirements), but the City shall be under no duty to disclose any such information except as may be required by applicable Law.

**Section 14.4 - Copies of Notices.** During the Term, RAC shall promptly provide the City with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, Claims, complaints, investigations, judgments, letters, notices of environmental liens or Response actions in progress, and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency; Occupational Safety and Health Administration, Illinois Environmental Protection Agency or other federal, state, or local agency or authority, or any other entity or individual, concerning (i) any Release of a Hazardous Material on, to, or from the Premises, (ii) the imposition of any lien on the Premises, or (iii) any alleged violation of or responsibility under Environmental Laws.

**Section 14.5 - Tests and Reports.** RAC shall deliver to the City, within ten (10) days after receipt by RAC, any written report, citation, notice, or other writing, including, without limitation, any Environmental Assessment, having an effect on or relating to the environmental condition of Premises or relating to RAC's compliance with or pursuant to any Environmental Laws. RAC shall deliver to the City written reports and summaries of any substantive oral reports of any environmental consultants which impact the Premises (other than to a de minimis extent) upon RAC's receipt thereof and shall immediately advise the City in writing of any Claim, any Release of a Hazardous Material on, to, or from the Premises, or of the discovery of the existence of any Hazardous Material on the Premises in violation of, or requiring Response under, any applicable Environmental Laws, as soon as RAC first obtains knowledge thereof, including a full description of the nature and extent of the Claim or Hazardous Material and all relevant circumstances. In addition, RAC shall perform or cause to be performed a Phase I environmental assessment or other comparable environmental inspection of the Premises (the "**Final Environmental Report**"), which Final Environmental Report shall be at least substantially similar in scope to the Existing Environmental Report, at any time during the 120-day period prior to the scheduled Expiration Date hereof (or the anticipated termination hereof, if different), which Final Environmental Report shall be performed at RAC's sole cost and expense. In the event that the Final Environmental Report shows any recognized environmental conditions or otherwise indicates the presence or suspected presence of any Hazardous Materials in, on, or under the Premises which were not otherwise contained or referenced in the Existing Environmental Report or the New Environmental Report, as the case may be, or were not otherwise part of the Environmental Baseline hereunder (excepting those items which are the City's responsibility to the extent provided under Subsection 14.7(c) hereof), RAC shall in such event also be required to remove and remediate any such recognized environmental conditions or other Hazardous Materials, as the case may be, required to be removed or remediated by, and in a manner otherwise consistent with, applicable Environmental Laws, and to perform any required restoration of the Premises in connection therewith, all in accordance with the terms and provisions of this RAC Agreement and applicable Environmental Laws. In the event that RAC fails to submit such Final Environmental Report to the City or perform any required remediation work, as the case may be, within sixty (60) days prior to the scheduled Expiration Date hereof (or the anticipated termination hereof, if different), the City shall have the right and option (but not the obligation) to perform or cause to be performed such Final Environmental Report or such required remediation work, as the case may be, at RAC's sole cost and expense, in which event RAC shall, in addition to its other obligations hereunder, reimburse the City for all costs and expenses of such Final Environmental Report or such required remediation work as the case may be, within thirty (30) days following the City's written invoice therefor. Notwithstanding anything to

the contrary herein, RAC's remediation, removal and clean-up obligations hereunder shall be limited to the applicable cleanup standard(s) allowed under Environmental Laws for sites consistent with the use of, and compatible with the current zoning of, the Premises (and, unless otherwise required by applicable Environmental Laws, RAC shall not be required to meet any more stringent standards applicable to residential or agricultural uses).

**Section 14.6 - Access and Inspection.** The City shall have access to the Premises and to the books and records of RAC relating to Hazardous Materials for the purpose of ascertaining the nature of the activities being conducted thereon and to determine the type, kind, and quantity of all products, materials, and substances brought onto the Premises or made or produced thereon. The City shall have the right to enter the Premises upon reasonable prior written notice, except in an emergency, and conduct appropriate inspections or tests in order to determine RAC's compliance with Environmental Laws; provided, the City shall use reasonable efforts to minimize any disruption of RAC's business created thereby, and shall be responsible for promptly repairing any damages to the Premises to the extent caused by the City or the City's contractor in performing such inspections or tests. The City and its agents and representatives shall have the right to take samples, including, without limitation, (a) soil, water, and groundwater samples, in quantity sufficient for scientific analysis of all materials and substances present on the Premises, and (b) samples of products, materials or substances brought onto or made or produced on the Premises by RAC or an occupant claiming by, through or under RAC or otherwise present on the Premises.

**Section 14.7 - Obligation to Respond.**

(a) If the presence of Hazardous Materials at the Premises (1) gives rise to liability or to a Claim under any Environmental Law, (2) causes a significant public health effect, or (3) creates a nuisance, RAC shall promptly, without cost or expense to the City (except as expressly provided to the contrary in Subsection 14.7(c) hereof), take all applicable action in Response, except as otherwise provided in this Section 14.7. Without limiting the foregoing, if at any time any Hazardous Material is discovered to exist on the Premises in violation of or requiring clean-up under any Environmental Law and regardless of the cause, (except if resulting from a Pre-Existing Condition or migration thereof from adjacent properties as set forth in Subsection 14.7(c) below), then:

- (i) RAC shall promptly, without cost or expense to the City (and based on a scope of work and timetable first reviewed and approved by the City), Respond to and dispose of the Hazardous Material in compliance with all applicable Environmental Laws and solely under RAC's name and provide the City with satisfactory evidence thereof; and
- (ii) before performing the work, provide the City with a cost estimate, and if requested by the City, provide to the City within ten (10) days of the City's request (or earlier time period prescribed by the City in case of emergency) a letter of credit, financial security, or other written assurance evidencing to the City's reasonable satisfaction that all necessary funds are readily available to pay the costs and expenses of the actions required by subsection (i) above and to discharge any assessments or liens established against the Premises as a result of the presence of the Hazardous Material on the Premises. As soon as practicable after completion of such remedial actions (but not more than thirty (30) days after completion), RAC shall obtain and deliver to the City an Environmental Assessment of the Premises made after such completion, which shall state that all required remedial action as stated

above has been taken and successfully completed in compliance with all Environmental Laws, and that there is no evidence or suspicion of any contamination or risk of contamination on the Premises or any adjacent property in violation of any Environmental Law, with respect to any such Hazardous Material (excluding, however, any Pre-Existing Condition identified in the Existing Environmental Report and comprising part of the Environmental Baseline established thereunder).

(b) The City may, but shall never be obligated to, upon not less than twenty (20) days' prior notice to RAC (or such shorter time period prescribed by the City in case of emergency) and RAC's failure to cure within such time period, Respond to or to cause the Response to the Hazardous Material if RAC fails to promptly commence such Response following discovery and thereafter diligently pursue the same as may be required in Subsection 14.7(a) hereof.

(c) Notwithstanding anything in this Article 14 to the contrary, it is acknowledged and agreed that, except to the extent caused by or arising from the acts or omissions of RAC, or any of its respective officers, agents, employees, contractors, guests, invitees, or licensees, neither RAC, nor any of its respective officers, agents, employees, contractors, guests, invitees, or licensees, shall have any liability for (nor shall RAC be required under Section 14.8 below to indemnify, defend, or hold harmless any Indemnified Party for): (i) any Pre-Existing Condition; (ii) any Release of Hazardous Materials by any third party on properties adjacent to the Premises which affect the Premises or otherwise require a Response with respect to the Premises; or (iii) any Release of Hazardous Materials on the Premises to the extent caused by or otherwise attributable to the acts or omissions of the City or its officials, officers, agents, employees, or contractors. To the extent required by applicable Environmental Laws, the City shall Respond to, and shall be entitled to access the Premises at any time or times upon reasonable prior notice (which may be oral) to RAC to Respond to, any Hazardous Materials arising under subsections (i) or (iii) above (such actions arising under subsections (i) or (iii) above being referred to herein as "City Response Actions"); provided, the City shall use reasonable efforts to minimize any disruption of RAC's business in connection with such Response Actions, and shall be responsible for promptly repairing any damages to the Premises to the extent caused by the City or the City's contractor in performing such Response Actions.

**Section 14.8 - Environmental Indemnification.** In addition to the indemnifications set forth in Section 7.1 hereof, and in accordance with the provisions of said Section 7.1, RAC hereby indemnifies and agrees to defend and hold each Indemnified Party harmless from and against and, if and to the extent paid, reimburse such parties upon demand made in accordance with this Article 14 for, any and all Environmental Damages, including, without limitation, any and all Claims made in connection with the Premises, except to the extent expressly provided to the contrary in Subsection 14.7(c) hereof. Such indemnity shall not apply to a particular Indemnified Party to the extent that such indemnity is void under applicable Law. RAC's obligations under this Article 14 shall survive the termination or expiration of this RAC Agreement, and shall not be affected in any way by the amount of or the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises or any part thereof.

**Section 14.9 - Other Rights.** If any conflict exists between the provisions of this RAC Agreement and the provisions of any other agreement between the City and RAC relating to access to the Premises, Claims, or Environmental Damages, the stricter provision shall control. Nothing in this RAC Agreement shall limit or impair any rights or remedies of the City against RAC or any other person under any other agreement, any Environmental Law or otherwise at law or in equity, including, without limitation, any rights of contribution or indemnification. Rights under this Article 14 granted to the City shall be exercisable by the City's officers, employees, agents, licensees, contractors, and designees.

**Section 14.10 - Underground Storage Tanks.** Without limiting any other obligations it may have pursuant to any Environmental Law, RAC shall comply with all federal, state, and local Laws regarding the registration, installation, repair, operation, release from upgrading, removal, or abandonment-in-place of any UST existing on the Premises and/or the CRCF, either prior to or at any time on or after the Effective Date, and shall obtain all UST permits or approvals required pursuant to any Environmental Law. It is acknowledged and agreed that, following the initial installation thereof: (i) RAC shall be solely responsible for the use, operation, maintenance, repair, replacement, and removal of any and all such USTs hereunder; (ii) that the City assumes no liability or responsibility in connection therewith (provided, the City shall be responsible for correcting, or causing to be corrected, any latent defects to the extent attributable to the initial installation of such USTs for a period equal to the greater of (A) one (1) year following the initial installation thereof, or (B) the period of any third party warranty applicable thereto); and (iii) title to any and all such USTs shall pass to RAC and the other RACs then operating the CRCF as tenants in common and without bill of sale or further written conveyance documents. Upon the expiration or earlier termination of this RAC Agreement, RAC and the other RACs then operating at the CRCF shall, at the sole option of the City, remove and dispose of any and all such USTs, and shall remediate any portions of the Joint Use Facility Property, all in accordance with applicable Environmental Law.

**Section 14.11 - Disposal of Materials, Construction and Demolition Debris, Soil and Waste.**

(a) Without limiting other provisions of this Article 14 or any other provisions of this RAC Agreement, RAC shall be responsible for the proper disposal of all materials, construction and demolition debris, soil, and other waste generated by the business operations of RAC, and its respective officers, agents, employees, contractors, guests, invitees, or licensees, including, but not limited to, the construction of capital improvements, or any activities as set forth in Section 14.7 hereof, all in accordance with Environmental Laws. RAC shall identify to the City any disposal site or transfer station for materials, debris, soil, or other waste of which RAC is disposing, prior to its disposal, and shall complete and execute any form required by the City identifying such site or station. RAC shall not use or allow to be used for disposal or transfer any site or station not properly licensed. Any substitution, for whatever reason, shall be at RAC's cost. RAC shall pay the cost to remove waste to a properly licensed site or station.

(b) RAC shall notify the City of any community meetings, media involvement, or media coverage related to the loading, hauling, or disposal of materials, construction debris, soil, and other wastes under this RAC Agreement in which RAC is asked to participate.

(c) Non-compliance with the terms and conditions of this Article 14 may affect RAC's eligibility for future contracts or leases.

(d) RAC shall haul materials, including, but not limited to, fuel of any nature, any construction debris, soil, and other wastes in vehicles and containers complying with all applicable Environmental Laws.

**Section 14.12 - Miscellaneous Records.**

RAC must show evidence to the City of, and keep current throughout the Term of this RAC Agreement, all permits of any kind (including waste hauling, special waste hauling, and disposal permits) and insurance certificates required by federal, state, City, or other local governmental body or agency pursuant to any Environmental Law; copies of all load tickets, manifests, bills of lading, scale tickets, and other pertinent documents, including copies of all permits and licenses for the proposed transfer station or landfill; vehicle maintenance records; safety and accident reports; and records, reports, and permits

required by IEPA or OSIIA. All such records and accounts shall be subject to review by the City and shall be made available to the City within ten (10) days following written request of the Commissioner, or other shorter reasonable period requested by the Commissioner. The City's review of any such records and accounts shall in no way serve to limit RAC's obligations or liability under the terms and conditions of this RAC Agreement or any Environmental Law.

**Section 14.13 - No Liability of the City.**

(a) The City shall have no liability to RAC (except as expressly provided in this RAC Agreement), or any permitted subtenant or occupant of the Premises or any portion thereof, or any of their respective members, employees, agents, partners, shareholders, officers, directors, contractors, licensees, or invitees, or other Persons whom RAC has permitted entry or with whom RAC has entered into a contract or understanding (oral or written) to use or occupy the Premises, as a result of Hazardous Materials now or hereafter located on the Premises; provided, the City shall be required to Respond to any City Response Actions to the extent provided under Subsection 14.7(c) hereof.

(b) THE CITY MAKES NO REPRESENTATION OR WARRANTY AS TO THE ENVIRONMENTAL CONDITION OF THE PREMISES. EXCEPT FOR CITY RESPONSE ACTIONS REQUIRED UNDER SUBSECTION 14.7(C) HEREOF AND THE CITY'S LIABILITY TO THE EXTENT ARISING IN CONNECTION THEREWITH, RAC HEREBY WAIVES ANY AND ALL CLAIMS AGAINST THE CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, CONTRACTORS, AND AGENTS WHICH MAY CURRENTLY EXIST OR WHICH MAY ARISE IN THE FUTURE BY CONTRACT, AT COMMON LAW, IN EQUITY, OR UNDER STATUTE, NOW OR THEN CURRENTLY IN EFFECT, AND WHICH RELATE TO ENVIRONMENTAL CONDITIONS ON, UNDER OR NEAR THE PREMISES.

**Section 14.14 - No Waiver.** Except as otherwise set forth or provided in this Article 14 or elsewhere in this RAC Agreement, nothing contained in this Article 14 is intended to limit or waive any common law or statutory rights of the City or RAC for liability to third parties for damage to property or injury to persons resulting from or arising in connection with Hazardous Materials located on the Premises and/or CRCF Property.

**ARTICLE 15**  
**SPECIAL PROVISIONS**

**Section 15.1 - Notices; Consents.** All consents and approvals in connection with this RAC Agreement shall be in writing (except as otherwise provided herein) and shall be sent by U.S. registered or certified mail (proper postage prepaid and return receipt requested), by nationally-recognized commercial overnight delivery services (e.g. UPS, Federal Express, etc.), or by personal delivery, and addressed as follows:

(a) To the City:

Department of Aviation  
P.O. Box 66848  
10510 West Zemke Road  
Chicago, IL 60666  
Attn: Commissioner of Aviation



With copies to:

Department of Aviation - Real Estate Division  
P.O. Box 66848  
10510 West Zemke Road  
Chicago, IL 60666  
Attn: Deputy Commissioner of Real Estate

And:

Corporation Counsel City of Chicago  
30 North LaSalle Street, 14th Floor  
Chicago, IL 60602  
Attn: Deputy Corporation Counsel for Aviation

(b) To RAC:

Simply Wheelz LLC d/b/a Advantage Rent A Car  
c/o Franchise Services of North America, Inc.  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attention: Joe Olivera, VP Airport Relations and Properties

With mandatory copy to:

Simply Wheelz LLC d/b/a Advantage Rent A Car  
c/o Franchise Services of North America, Inc.  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attention: O. Kendall Moore, General Counsel

or such other persons or addresses as either party may designate from time to time by written notice to the other. Mailed notices shall be deemed to have been given three (3) business days after deposit in the U.S. mail. Notice by nationally-recognized commercial overnight delivery service shall be deemed given the next business day following deposit with such service. Notice by personal delivery shall be deemed given upon personal delivery.

**Section 15.2 - Severability.** If any provision of this RAC Agreement shall be held or deemed to be, or shall in fact be, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or of any Law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this RAC Agreement shall not affect the remaining portions of this RAC Agreement or any part thereof.

**Section 15.3 - General Interpretation.** Any headings of this RAC Agreement are for convenience of reference only and do not define or limit the provisions thereof. In this RAC Agreement, unless the context otherwise requires, the terms "hereby", "herein", "hereof", "hereto", "hereunder", and any similar terms used in this manner refer to this RAC Agreement. All Section references, unless otherwise expressly indicated, are to sections in this RAC Agreement. Words importing persons shall include firms, associations, partnerships, trusts, corporations, joint ventures, and other legal entities,

including public bodies, as well as natural persons. Words importing gender shall be deemed and construed to include correlative words of other genders. Words importing the singular number shall include the plural and vice versa, unless the context otherwise indicates. Any references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with this RAC Agreement.

**Section 15.4 - Successors and Assigns.** All of the covenants, stipulations, and agreements herein contained shall run with the land and shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

**Section 15.5 - Choice of Law and Jurisdiction.** This RAC Agreement, the interpretation hereof, and any disputes arising hereunder or in connection herewith shall be governed by, construed in accordance with, and enforced in accordance with the Laws of the State of Illinois. Each of the City and RAC hereby submit to local jurisdiction in the County of Cook, State of Illinois and/or in the United States District Court for the Northern District of Illinois (herein, the "**Applicable Jurisdiction**"), and each party (a) agrees that any action by RAC against the City or the City against RAC, as the case may be, shall be instituted in the Applicable Jurisdiction, (b) agrees that courts located in the Applicable Jurisdiction shall have (i) personal jurisdiction over RAC for any action brought by the City against RAC, and (ii) personal jurisdiction over the City for any action brought by RAC against the City, and (c) waives any objection such party may have, whether pursuant to applicable Law or otherwise, to the jurisdiction of courts located in the Applicable Jurisdiction over this RAC Agreement and any disputes arising hereunder or in connection herewith.

**Section 15.6 - Counterparts.** This RAC Agreement has been executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

**Section 15.7 - Submission to Jurisdiction; Subpoena.** RAC hereby irrevocably submits to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this RAC Agreement. Service of process on the City may be made, either by U.S. registered or certified mail addressed as provided for in Section 15.1 of this RAC Agreement, or by personal delivery on the Commissioner. Service of process on RAC may be made either by U.S. registered or certified mail, addressed as provided for in Section 15.1 of this RAC Agreement, or by delivery to RAC's registered agent for service of process in the State of Illinois. If RAC is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any documents which may be in its possession by reason of this RAC Agreement, RAC shall immediately give notice to the City's Corporation Counsel. The City may contest such process by any means available to it before such records or documents are submitted to a court or other third party; provided, however, that RAC shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

**Section 15.8 - No Partnership, Joint Venture or Third Party Benefit.** By entering into this RAC Agreement, the City shall in no way be deemed a partner or joint venturer with RAC, nor shall any term or provision hereof be construed in any way to grant, convey, or create any rights or interests to any person or entity not a party to this RAC Agreement.

**Section 15.9 - No Brokers.** The City and RAC each represents and warrants to the other that it has dealt with no broker, finder, or agent with respect to this RAC Agreement or the Premises, and each agrees to indemnify, defend, and hold harmless the other party hereto from any commissions or finder's

fees which any entity or person claiming through or by the actions of said indemnifying party may assert is due as a result of the execution of this RAC Agreement or the demise of the Premises to RAC.

**Section 15.10 - City's Approval; Commissioner Authority.** Whenever the City's approval or consent is required under this RAC Agreement, the City may withhold its approval or consent in its sole discretion, except to the extent otherwise expressly provided herein. Wherever this RAC Agreement provides that an act is to be taken or performed or approval or consent given by the City, such act may be taken or performed or approval or consent may be given by the Commissioner without further action by the City Council of Chicago, as long as such act, approval, or consent does not result in either: (1) an extension of the Term; (2) a reduction in the Rent as provided hereunder; or (3) an expansion of the Premises.

**Section 15.11 - Incorporation of Exhibits.** Exhibits A through K attached hereto are incorporated herein as if set forth fully at each reference to any Exhibit herein.

**Section 15.12 - Authority to Execute RAC Agreement.**

(a) City. Execution of this RAC Agreement by the City is authorized by the CFC Ordinance. The City shall, upon execution and delivery of this RAC Agreement by the City, deliver to RAC certified copies of each of the CFC Ordinance and the Bond Ordinance.

(b) RAC. RAC shall, upon the execution and delivery of this RAC Agreement by RAC (or upon the City's request at any time and from time to time during the Term hereof), deliver to the City the following instruments and documents:

- (i) RAC's Assistant Secretary's Certificate whereby RAC warrants that RAC is a duly authorized and existing limited liability company, duly qualified to do business in the State of Illinois, that RAC has full right and authority to enter into this RAC Agreement, and that each and all of the persons signing on behalf of RAC are authorized to do so;
- (ii) Certificates of Good Standing issued by the State of Illinois and the state of organization of RAC and bearing a current date;
- (iii) Certified copies of resolutions or by-laws authorizing RAC's execution and delivery of this RAC Agreement and performance of RAC's obligations under this RAC Agreement and a written opinion of RAC's counsel addressed to the City that the execution and delivery of this RAC Agreement is properly authorized;
- (iv) Disclosure Affidavit required under Article 6 of the RAC Agreement;
- (v) Letter of Credit required by Section 5.9 hereof; and
- (vi) Such legal opinions and certificates as the City may reasonably request from time to time in connection with Bond or other financings.

**Section 15.13 - Limitation of Liability.** RAC (and any person claiming by or through RAC) shall look solely to legally available Airport discretionary funds from time to time for enforcement of any liability of the City under this RAC Agreement, and not any other funds or assets of the City whatsoever.

Notwithstanding anything in this RAC Agreement to the contrary, in no event shall the City be required to pay any amount on account of a breach or default (or alleged breach or default) hereunder in any twelve (12) month period which is greater than the aggregate of the MAG amounts received by the City during such period from RAC. In addition to, and not in limitation of, the foregoing, the City's obligations under this RAC Agreement, including, without limitation, the City's obligations under Section 5.1 and Section 5.4 hereof, shall be limited to the extent adequate funds for the performance of such obligations of the City hereunder are then available in the applicable reserves established from the proceeds of the Bonds pursuant to the Bond Ordinance, as such reserves exist and are constituted from time to time.

**Section 15.14 - Estoppel Certificates.**

(a) RAC agrees that, at any time from time to time upon not less than twenty (20) days' prior request by the City, RAC will execute an estoppel certificate certifying as to matters concerning the status of this RAC Agreement and the parties' performance hereunder, including, but not limited to, the following matters: that this RAC Agreement is unmodified and in full force and effect (or if modified, identifying the modifications); the date to which any Rent and other charges have been paid and the amount of the most recent Rent paid; that the City is not in default under any provision of this RAC Agreement (or the nature of such default, in detail); that RAC is in occupancy and paying Rent on a current basis with no offsets or claims.

(b) The City agrees that, at any time and from time to time upon not less than twenty (20) days' prior request by RAC in connection with a proposed assignment of this RAC Agreement, the City will execute, acknowledge, and deliver to RAC a statement in writing signed by the Commissioner certifying that this RAC Agreement is unmodified and in full force and effect (or if there have been modifications, that the RAC Agreement is in full force and effect as modified and stating the modifications), and the date to which the Base Rent has been paid, and stating whether or not, to the best knowledge of the signer of such certificate, the City has delivered a notice of default under Article 10 (which default has not been cured or corrected), it being intended that any such statement delivered pursuant to this Section 15.14 may be relied upon by any permitted prospective assignee identified in the request.

**Section 15.15 - Smoking Policy.** RAC shall cooperate and comply with the provisions of all Laws, as amended from time to time, prohibiting or restricting smoking at the Premises.

**Section 15.16 - Representations and Warranties.** In connection with the execution of this RAC Agreement, RAC represents and warrants as follows:

(a) That RAC is financially able and competent to perform as required under this RAC Agreement, and that RAC is legally authorized to execute and perform or cause to be performed this RAC Agreement under the terms and conditions stated herein;

(b) That all certifications, affidavits, information, and disclosures heretofore made or given by RAC or its members or partners, or their respective officers, directors, and shareholders, to the City in connection with this RAC Agreement have been completed in accordance with all Laws, are true and correct in all material respects and are deemed to be a material part of this RAC Agreement, and that such representation and warranty shall be deemed to be remade by RAC as to any future certifications, affidavits, information, or disclosures at the time they are made or given;

(c) That RAC is a duly organized and existing limited liability company, duly qualified to do business in the State of Illinois, that RAC has full right and authority to enter into this

RAC Agreement and that each and all of the persons signing on behalf of RAC are authorized to do so; and

(d) That the representations and warranties contained herein are deemed made as of the date hereof and shall be deemed remade and continuing throughout the Term of this RAC Agreement.

**Section 15.17 - Time of the Essence.** Time is of the essence with respect to RAC's obligations under this RAC Agreement.

**Section 15.18 - No Sales Tax Exemption.** Neither RAC nor any contractor of RAC shall be entitled to claim any exemption from sales or use taxes or similar taxes by reason of the City of Chicago's ownership of fee title to the Premises.

**Section 15.19 - Publicity.** RAC shall not issue publicity news releases or grant press interviews or otherwise publicly disseminate any information regarding this RAC Agreement or the RAC's operations at the Premises without the prior written consent of the City in each instance.

**Section 15.20 - Entire Agreement.** This RAC Agreement constitutes the entire agreement of the parties as to the subject matter of this RAC Agreement, and may not be modified or supplemented except by a written instrument signed by the party against whom enforcement of the change is sought. The City has made no representation or warranties to, or agreements with, RAC which are not set forth in this RAC Agreement. This RAC Agreement may not be modified or supplemented with respect to those provisions governing RAC's obligation to pay Facility Rent, or with respect to any other material terms or provisions hereof, without the prior written consent of the Trustee, or such other designated trustee for the Bonds from time to time.

**Section 15.21 - Short Form RAC Agreement.** Following the Rent Commencement Date of this RAC Agreement, the City and RAC agree to execute and deliver a short form agreement ("**Short Form RAC Agreement**") in substantially the form attached hereto as *Exhibit G* which the parties shall record in the Office of the Recorder of Deeds of Cook County, Illinois. In connection with such recording, RAC and the City shall cooperate to remove any portion of the Premises from application of the Torrens Act, if applicable, and to record the certificate of title. To the extent that changes are made to this RAC Agreement with respect to the Term or other material matters set forth in the recorded Short Form RAC Agreement, the City and RAC agree to execute, deliver, and record an amendment to the recorded Short Form RAC Agreement reflecting such changes. The City and RAC agree not to record the RAC Agreement itself. Upon expiration or termination of this RAC Agreement or RAC's right to possession hereunder, or within fifteen (15) days thereafter, RAC shall execute and deliver to the City a release or other instrument reasonably required by the City or its title insurer to evidence such expiration or termination and sufficient to remove the Short Form RAC Agreement and any modifications thereto from the title records.

**Section 15.22 - Exercise by The City of Governmental Functions.** Nothing contained in this RAC Agreement shall (a) impair the right of the City in the exercise of its governmental functions as it relates to the Airport, the Premises and/or the CRCF Property, including, without limitation, the right to require RAC to pay any tax or inspection fees or to produce necessary permits or licenses, or (b) be deemed to be the grant of any franchise, license, permit, or consent to RAC to operate motor coaches, buses, taxicabs, or other vehicles carrying passengers or property for hire or other consideration over the public ways to and from the Airport.

**Section 15.23 - City Right to Maintain Concessions.** Notwithstanding anything herein to the contrary, the City shall have the right (but not the obligation), to be exercised in its sole and absolute

discretion, at any time and from time to time during the Term hereof (as the same may be hereafter modified or extended), to operate, maintain, locate, and place, or to authorize the operation, maintenance, location, and placement of, retail concessions, luggage cart concessions, and/or such other concessions within the CRCF or any portion thereof, and upon such terms and conditions, as the City shall deem appropriate in its sole and absolute discretion. Any and all revenues, charges, and fees generated in connection with such retail concessions, luggage cart concessions, and/or other concessions shall be the property of the City and RAC shall have no right or interest in or to any such revenues, charges, or fees.

**Section 15.24 - Bond Indenture Notices.** Notwithstanding anything herein or in the Bond Indenture to the contrary, the City agrees that it shall provide RAC with reasonable prior notice of any amendments or modifications of or to the Bond Indenture which will materially or adversely impact RAC's rental and other monetary obligations hereunder.

**Section 15.25 - Sustainability.** At all times during the Term (as the same may be extended hereunder), RAC shall use its best efforts to implement commercially reasonable "sustainable best practices" in the maintenance and operation of the Premises. In furtherance of the foregoing, RAC agrees to use commercially reasonable efforts to employ environmentally preferable processes, products, and materials which do one or more of the following: (i) contain recycled material, are bio-based, are non-threatening to species, or have other positive environmental attributes; (ii) minimize the consumption of resources, energy, or water; (iii) prevent the creation of solid waste, air pollution, or water pollution; and/or (iv) promote the use of non-toxic substances and avoid toxic materials or processes, including with regard to RAC's selection and use of janitorial cleaning products and equipment. RAC will use its best efforts to conduct, as and when appropriate, a review of products, processes, and materials to be utilized in the Premises, and RAC will use its best efforts to implement the City's above requests by continuing to assess additional processes, products, and materials on an ongoing basis. RAC is also encouraged to implement a recycling program.

**Section 15.26 - Security Cameras and the Airport Camera System.** RAC shall comply with any and all security camera and security camera system initiatives, policies, programs, procedures, requirements, capital projects, and payment/funding obligations as may be required by the City from time to time (collectively, the "Security Camera Requirements") to the extent that such Security Camera Requirements are applicable to the Premises.

**Section 15.27 - Subordination and Modification.** RAC agrees that this RAC Agreement shall be subject and subordinate (i) to the Bonds, the Bond Documents, the TIFIA Loan, the TIFIA Loan Documents, to any and all rights and security interests thereunder, and to all advances which are or may be hereafter made thereunder, to the full extent of all sums secured thereby, and to all renewals or extensions of any part thereof, and to any other financing or security interest as the City may hereafter, at any time, elect to place on the CRCF, or any portion thereof; (ii) to any assignment of the City's interest in this RAC Agreement, or any other RAC Agreements and rents from the CRCF, which now exists or which the City may hereafter, at any time, elect to place on the Property; and (iii) to any Uniform Commercial Code Financing Statement or other fixture filing or security interest covering the personal property rights of the City which either now exists or which the City may hereafter, at any time, elect to place on the foregoing personal property (all of the foregoing instruments set forth in Clauses (i), (ii), and (iii) above being hereafter collectively referred to as "**Security Documents**"). RAC agrees, upon request of the trustee, holder, or beneficiary of any Security Documents (each, a "**Holder**") to hereafter execute any documents which counsel for the City or Holder, as the case may be, may reasonably deem necessary to evidence the subordination of the RAC Agreement to the Security Documents. Within ten (10) days after written request therefor, if RAC fails to execute any such requested documents, the City or Holder is hereby empowered to execute such documents in the name of RAC evidencing such subordination, as the act and deed, of RAC, and this authority is hereby declared to be coupled with an interest and not

revocable. In the event of a foreclosure or enforcement action pursuant to any Security Documents, RAC shall, at the sole option of the City or Holder, thereafter remain bound pursuant to the terms of this RAC Agreement. RAC agrees, however, to execute and deliver at any time and from time to time, upon the written request of the City or of Holder, any instrument or certificate that may be necessary or appropriate in any such foreclosure or enforcement proceeding or otherwise. If the Holder of any Security Document shall succeed to the interest of the City under this RAC Agreement, such Holder shall have the same remedies, by entry, action, or otherwise, for the non-performance of any agreement contained in this RAC Agreement, for the recovery of Rent, or for any other default or event of default hereunder that the City had or would have had if any such Holder had not succeeded to the interest of the City. If the City, Trustee, or any Holder at any time requires a modification of or to this RAC Agreement which shall not materially and adversely increase the obligations, or materially and adversely decrease the rights, of RAC or the City hereunder, whether required under the terms of the Bond Indenture, the TIFIA Loan Documents, or otherwise, then RAC agrees that this RAC Agreement may be so modified, and shall execute such documents as may be reasonably necessary to effectuate such modification.

**Section 15.28 - Contingencies.** Notwithstanding anything in this RAC Agreement to the contrary, it is hereby acknowledged, understood, and agreed as follows:

(a) in the event that the City fails to commence construction of the CRCF Project by the last day of the thirty-sixth (36th) full calendar month following the Effective Date hereof (such date being referred to herein as the "**Construction Commencement Deadline**"), then if, and only to the extent that, such failure is not attributable to Force Majeure Events or RAC Delay, RAC shall be entitled to terminate this RAC Agreement upon written notice delivered to the City within thirty (30) days following the Construction Commencement Deadline, in which case neither the City nor RAC shall have any further liability or obligation hereunder (provided, however, in the event that the City thereafter commences construction of the CRCF Project within sixty (60) days following the City's receipt of such termination notice, the City shall so notify RAC thereof in writing, in which event RAC's termination notice shall be deemed null and void and this RAC Agreement shall thereafter continue in full force and effect);

(b) in the event that the City fails to obtain or receive the TIFIA Loan in a total amount of at least Two Hundred Million Dollars and No/100 (\$200,000,000.00) upon such terms and conditions as the City shall deem appropriate in its sole and absolute discretion, either RAC or the City shall be entitled to terminate this RAC Agreement upon thirty (30) days' written notice to the other party hereto, in which case neither the City nor RAC shall have any further liability or obligation hereunder; and

(c) in the event that, based upon the Construction Manager At-Risk's Guaranteed Maximum Price ("**GMP**") for the Joint Use Facility (but specifically excluding the ATS, the ATS vehicles, and the Common Use Transportation System), together with the "best and final offers" received by the City in connection with the associated ATS operating system and ATS vehicles (collectively, for purposes of this Subsection 15.28(c), the "**Project**"), but excluding, specifically, any work or other items not encompassed within the Project, the cost of the Project is projected to exceed the amount of Seven Hundred Sixty-Five Million Five Hundred Thousand and No/100 Dollars (\$765,500,000.00) in the aggregate (the "**Initial Cost Threshold**"), RAC shall be entitled to object by written notice delivered to the City within ten (10) days following the date on which the City notifies RAC of such projected cost (failing which RAC shall be deemed to have accepted, and agreed to such projected cost for purposes of this RAC Agreement and RAC will deliver to the City a written confirmation of RAC's waiver of any right to terminate this RAC Agreement pursuant to this Subsection 15.28(c)). In the event that RAC timely objects to such projected cost as aforesaid, RAC and the City shall have a period of sixty (60) days following the City's receipt of such written objection from RAC (the "**Negotiation Period**") to negotiate and attempt to address and resolve such objection (during which the City may, but shall not be required,

to modify, revise, or "value engineer" the Project so as to reduce the projected cost below the Initial Cost Threshold, or as may otherwise be reasonably acceptable to the parties hereto), and each of RAC and the City shall at all times proceed in good faith and in a commercially reasonable manner during such Negotiation Period. If during the Negotiation Period the City and RAC reach an agreement on a revised project cost, then the RAC will deliver to the City a written confirmation of such agreement and that the RAC is waiving any further right to terminate this RAC Agreement pursuant to this Subsection 15.28(c). In the event that RAC and the City, each acting reasonably and in good faith, are unable to resolve such objection or otherwise reach agreement prior to the expiration of such Negotiation Period, RAC shall thereupon be entitled to terminate this RAC Agreement upon written notice delivered to the City within five (5) days following the expiration of such Negotiation Period, in which case neither the City nor RAC shall have any further liability or obligation hereunder; provided, however, in the event that one or more of the other RACs who are then parties to RAC Agreement with the City also exercise their respective termination rights on the basis set forth in this Subsection 15.28(c), then, irrespective of whether RAC shall have exercised such termination right, the City shall also have the right and option to terminate this RAC Agreement upon written notice delivered to RAC within thirty (30) days following the exercise of such termination rights by such other RACs.

**Section 15.29 - Off-Site Storage and Service Facility Leases.** Notwithstanding anything in this RAC Agreement to the contrary, it is hereby acknowledged, understood, and agreed that the City and RAC, and that the City and other RACs, shall enter into separate, off-site storage and service facility leases or licenses (each a "Storage/Service Facility Lease") upon the following general terms: (i) the term thereof does not exceed the then-remaining term of this RAC Agreement (or such other RAC Agreement, as the case may be); (ii) the lessee or licensee thereunder shall be a RAC and a party to a valid and existing RAC Agreement; (iii) the base rent ("Storage/Service Facility Base Rent") applicable to premises to be leased or licensed thereunder shall be calculated using an annual rental value of \$2.00 per rentable square foot for years one (1) through ten (10) during the initial term of each Storage/Service Facility Lease, such value thereafter being adjusted to \$2.25 per rentable square foot for years eleven (11) through twenty (20) during the initial term of each Storage/Service Facility Lease, and such value thereafter being adjusted at the end of the twentieth (20th) year of such term, and every fifth (5th) year thereafter, based on the fair market rental value of such premises, as determined by appraisal pursuant to the appraisal and adjustment process described Exhibit A attached hereto, and other charges applicable to such premises during such term shall be on a "triple net" basis, with the lessee or licensee under such Storage/Service Facility Lease being solely responsible for any and all taxes, maintenance, repairs, insurance, construction, and other obligations thereunder; and (iv) the premises to be leased or licensed thereunder shall be generally permitted to be used for such purposes pursuant to the Airport Layout Plan then applicable to the Airport (the "ALP"). Further, each Storage/Service Facility Lease shall include a provision whereby the City shall agree that, in the event that the aggregate of the Facility Rents payable by each of the RACs under each of the then-effective RAC Agreements in any given RAC Agreement Year exceeds \$12,000,000.00, the City shall then reduce the aggregate of the Storage/Service Facility Base Rents payable by each of the RACs under each of the then-effective Storage/Service Facility Leases in such RAC Agreement Year in an amount equal to the amount by which such aggregate Facility Rents exceed \$12,000,000.00, provided however, in no event shall such aggregate Storage/Service Facility Base Rents be reduced below \$0.00. Additionally, when allocating space among each of the RACs pursuant to each of the Storage/Service Facility Leases, the City shall initially allocate a certain portion of space to the RACs deemed by the City to be "large operators," and a certain, separate portion of space to the RACs deemed by the City to be "small operators," each initial allocation being made in accordance with the then current needs of the City at the City's sole discretion; such initially allocated portions of space shall then be sub-allocated based upon the pro-rata share of the rentable square footage allocated to each of the "large operator" RACs and the "small operator" RACs, as the case may be, in the CRCF. With respect to the foregoing, the City shall endeavor to ensure that the initial allocation of space to all "large operators" shall be no less than fifty (50) acres in the aggregate, and the initial allocation of space to all "small



operators" shall be no less than ten (10) acres in the aggregate. Further, the City shall negotiate an equitable allocation amongst all RACs which intend to enter into a Storage/Service Facility Lease with respect to costs associated with the demolition of the existing service facilities, construction of new service facilities and construction of necessary infrastructure improvements. To the extent feasible, the City and such RACs will work to preserve any existing structures that are permitted to be used for such purposes pursuant to the ALP. In the event that this RAC Agreement is terminated pursuant to the City's termination right described in Section 3.5 above (with respect to the periodic rebidding of this RAC Agreement), the City shall cause that certain successful bidder RAC (as selected to replace RAC in accordance with Section 3.5) to pay to RAC any straight line unamortized construction costs (to be calculated based on a 30-year amortization schedule) incurred by RAC in relation to any construction of the off-site storage and service facility pursuant to RAC's Storage/Service Facility Lease. Further, the City acknowledges that the City's option to require rebidding of this RAC Agreement pursuant to Section 3.5 above shall not alter the procedures for calculating Storage/Service Facility Base Rent (or any reduction thereof, if applicable) expressly contemplated in this Section 15.29.

**Section 15.30** - Intentionally omitted.

**Section 15.31 - RAC Agreement Modification.** In the event that the Commissioner and no less than five (5) RACs then operating and occupying a portion or portions of the CRCF from time to time pursuant to valid RAC Agreements, provided that the aggregate Market Share Percentage of such five (5) or more RACs is greater than sixty percent (60%), agree to modify this RAC Agreement, and the other RAC Agreements then in effect, at any time, and from time to time, this RAC Agreement and such other RAC Agreements shall be so modified, in which event the parties hereto shall enter into a written supplement confirming such modifications.

*[SIGNATURE PAGE TO FOLLOW]*

IN WITNESS WHEREOF, the City has caused this RAC Agreement to be executed on its behalf by the Commissioner of the City's Department of Aviation, pursuant to due authorization of the City Council, and RAC has caused this RAC Agreement to be executed on its behalf by its CEO and attested by its Legal Asst., pursuant to due authorization of its members, all as of the day and year first above written.

CITY:

CITY OF CHICAGO, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois

By: Rodman S. Andelin  
Commissioner  
Chicago Department of Aviation (RL)

RECOMMENDED AND APPROVED BY:

By \_\_\_\_\_  
Department of Law

THIS RAC AGREEMENT SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE CITY AND REVIEWED AND APPROVED BY THE CITY'S LAW DEPARTMENT.

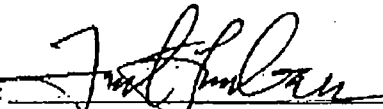
IN WITNESS WHEREOF, the City has caused this RAC Agreement to be executed on its behalf by the Commissioner of the City's Department of Aviation, pursuant to due authorization of the City Council, and RAC has caused this RAC Agreement to be executed on its behalf by its \_\_\_\_\_ and attested by its \_\_\_\_\_, pursuant to due authorization of its members, all as of the day and year first above written.

**CITY:**

**CITY OF CHICAGO**, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois

By: \_\_\_\_\_  
Commissioner  
Chicago Department of Aviation

RECOMMENDED AND APPROVED BY:

By:  \_\_\_\_\_  
Department of Law

**THIS RAC AGREEMENT SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE CITY AND REVIEWED AND APPROVED BY THE CITY'S LAW DEPARTMENT.**

**RAC:**

**SIMPLY WHEELZ LLC**, a Delaware limited liability company, d/b/a Advantage Rent A Car

By: Tom McDonnell  
Name: Tom McDonnell  
Title: CEO

**ATTEST:**

By: Jarice M. Hammack  
Name: Jarice M. Hammack  
Title: Legal Assistant

RAC's Illinois agent for service of process:

Print Name: Capitol Corporate Services, Inc.  
Print Address: 1315 W. Lawrence Avenue  
Springfield, IL 62704  
Title: \_\_\_\_\_

## EXHIBIT A

### BASE RENT

(a) Base Rent, subject to increase or decrease as hereinafter provided, shall be payable at a rate of Two and No/100 Dollars (\$2.00) per square foot per RAC Agreement Year, and otherwise calculated in accordance with the definition for "Base Rent" as described in Article 1 of the RAC Agreement.

(b) Base Rent shall be adjusted in accordance with any adjustments to the Fair Rental Value of the Joint Use Facility Property, to be determined pursuant to the terms of this Exhibit A, and effective as of the fifth, tenth, fifteen, twentieth, and any subsequent five (5) year Anniversary Dates (each such Anniversary Date or such other commencement date being herein referred to as an "Adjustment Date").

(c) The term "Fair Rental Value" as used herein and in the RAC Agreement shall mean, as applied to Base Rent, the fair rental value for the Joint Use Facility Property as of each Adjustment Date for a period equal to the balance of the initial Term, determined as if unimproved and unencumbered by this RAC Agreement or any mortgage, but subject to limitations on use of the Joint Use Facility Property to the Permitted Use as set forth in the RAC Agreement, and taking into account the Base Rent and the remaining Facility Rent then payable by RAC under this RAC Agreement. Not less than six (6) months prior to each Adjustment Date, the City may give written notice to RAC of its determination of the Fair Rental Value. If RAC agrees in writing with the City's determination, then the Fair Market Value so determined shall become the rate of Base Rent applicable during the next five (5) year period. If the City fails to notify RAC of its determination of Fair Rental Value, or if RAC does not agree with such determination, and the City and RAC are unable to agree upon Fair Rental Value that will apply as Base Rent during the succeeding five (5) years of the Term, then Fair Rental Value shall be determined by an appraisal process as hereinafter set forth. RAC shall notify the City in writing of the name of an independent appraiser who (i) has not less than ten (10) years of experience in the appraisal of commercial real estate in the "Northwest Chicago" submarket of the greater Chicago, Illinois marketplace and/or the appraisal of commercial airport properties located throughout the United States, and (ii) is a member of MAI or a comparable organization, whom RAC designates as its appraiser for purposes of determining such rent. If RAC designates an appraiser, then within fifteen (15) days thereafter, the City shall designate an appraiser meeting the aforementioned qualifications by written notice in writing to RAC. An appraiser designated by City or RAC shall be an "Initial Appraiser". Each Initial Appraiser shall submit to City and RAC, within thirty (30) days after both appointments, its written appraisal of the Fair Rental Value as applied to Base Rent. If the appraisals of the Fair Rental Values determined by the Initial Appraisers are less than five percent (5%) apart (i.e., the higher appraisal is less than 105% of the lower appraisal), the Fair Rental Value shall be determined by taking the average of the two appraisals. In the event the appraisals of the Fair Rental Value determined by the Initial Appraisers are five percent (5%) or more apart (i.e., the higher appraisal is 105% or more of the lower appraisal), the Initial Appraisers shall, within seven (7) days after submittal of both appraisals, select a third appraiser with the same qualifications or who meets the same criteria as required of the Initial Appraiser ("Third Appraiser"). The Third Appraiser shall submit to City and RAC, within thirty (30) days after its appointment, its written appraisal of the Fair Rental Value as applied to Base Rent. The cost of the Third Appraiser shall be borne equally by City and RAC. If the appraisal of the Third Appraiser is ten percent (10%) or less at variance from the point that is equidistant between the appraisals of the Initial Appraisers, the average of the three appraisals shall determine the Fair Rental Value as applied to Base Rent. If the appraisal of the Third Appraiser is more than ten percent (10%) at variance from the point that is equidistant between the appraisals of the Initial Appraisers, the Fair Rental Value as applied to Base Rent shall be determined by taking the average of the two closest appraisals. If either party fails to designate

an Initial Appraiser as herein required, the Initial Appraiser designated by the other party shall conduct the appraisal herein required and his determination shall be binding upon the parties. If the two Initial Appraisers so designated fail to designate a Third Appraiser, when required, then either party may apply to a court of competent jurisdiction or the American Arbitration Association at Chicago, Illinois to make such designation. The determination of such appraisal as herein provided shall be final and binding upon the parties and a final judgment thereon may be entered in a court of competent jurisdiction on the petition of either party. Each party will bear the expenses of the Initial Appraiser appointed by it and the parties shall share equally the expenses of the Third Appraiser.

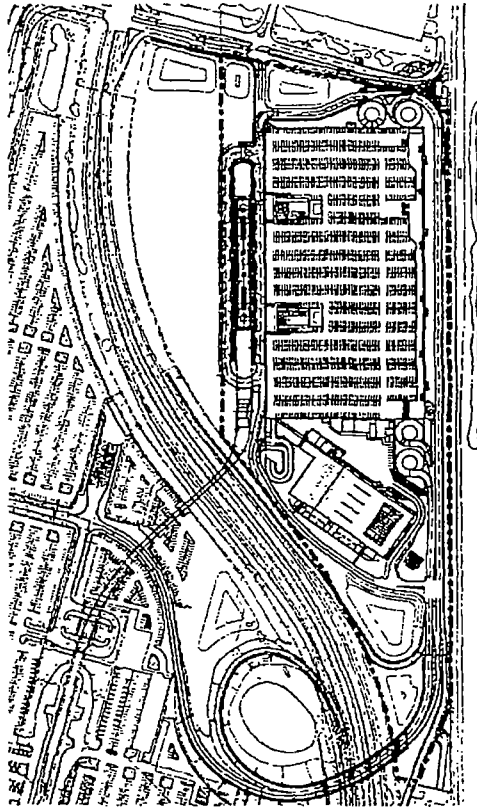
**EXHIBIT B**

**LEGAL DESCRIPTION OF JOINT USE FACILITY PROPERTY**

THAT PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THE SOUTH 50 FEET (MEASURED PERPENDICULAR) OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE RIGHT OF WAY OF THE CANADIAN NATIONAL/METRA RAILROAD RIGHT OF WAY, EXCEPT THE RIGHT OF WAY OF MANNHEIM ROAD AS RELOCATED.

EXHIBIT B-1

DEPICTION OF JOINT USE FACILITY PROPERTY



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Scale: 1/8" = 1'-0"

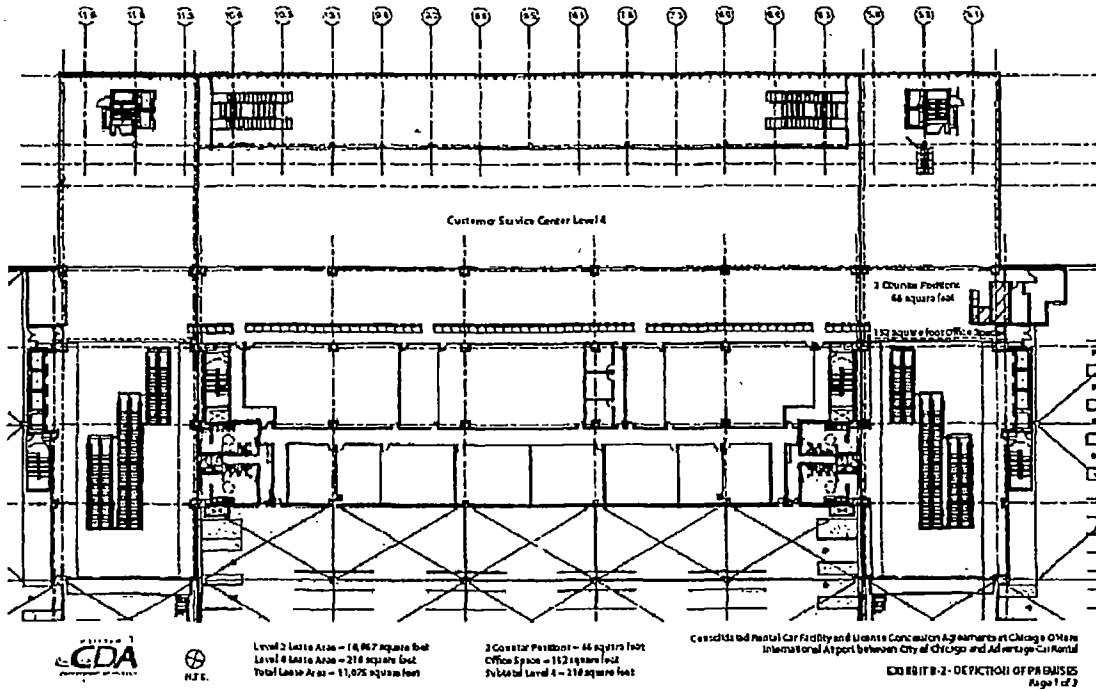


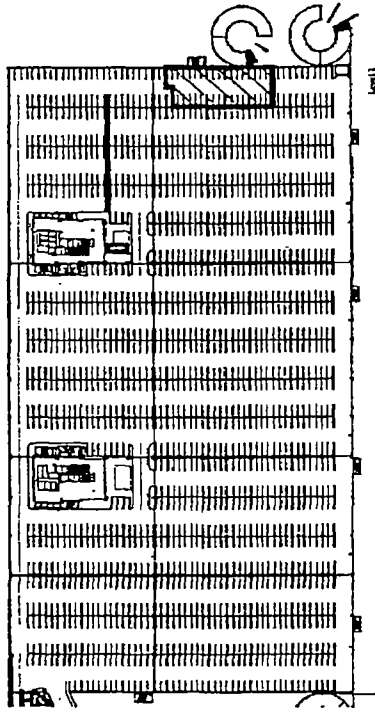
EXHIBIT B-1. DEPICTION OF JOINT FACILITY PROPERTY



EXHIBIT B-2

DEPICTION OF PREMISES

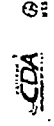


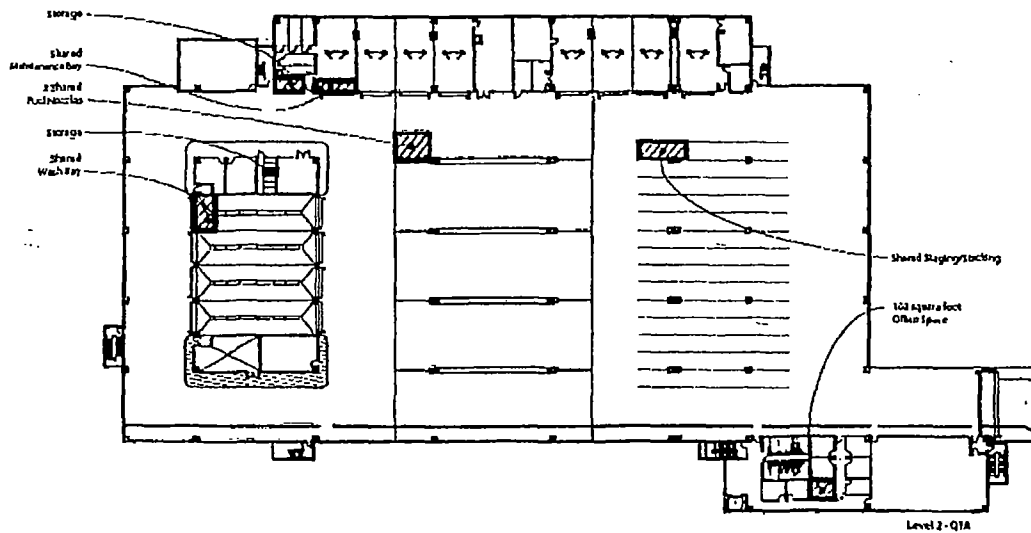


Crack & Seal (C/S) / Patch (P) / and (L) are to be completed by the contractor immediately after the completion of the concrete work for the slab and walls. See also the notes on the drawings for details.

Provide a minimum 100mm concrete cover to the reinforcement bars. See also the notes on the drawings for details.

Reinforcement is to be 10mm diameter bars.





Level 2-Q1A



Subtotal Level 2 = 16,957 square feet

Ready-to-Rent Area = 9,682 square feet  
 Customer Service Booth = 264 square feet  
 Outdoor Storage = 958 square feet

Consolidated Rental Car Facility as of Uptown Conversion Apartments at Chicago O'Hare International Airport between City of Chicago and Advantage Car Rental

EXHIBIT B-2 - DEPICTION OF PREMISES  
 Page 3 of 3

**EXHIBIT C**

**CRCF PLANS**

Draft copies of the CRCF Plans shall be available for review by RAC in the offices of City, and upon finalization of the same, shall be attached to this Exhibit C.

**EXHIBIT D**  
**PROJECT PROCEDURES**

1. Project Description

Prior to performing any work for improvements to the Premises (a "Project"), RAC shall provide the Commissioner with a written description of the work to be performed, including drawings, plans, and specifications, the estimated cost to complete, and the proposed work schedule.

2. RAC Coordination with the City

(a) RAC shall designate a "Project Manager" who shall manage and coordinate the work. The City shall direct all communications regarding the work to the Project Manager.

(b) The Commissioner shall designate a "Work Liaison" to represent the City in all matters relating to the performance of the work and to constitute the point of receipt for all submittal, unless expressly specified otherwise herein. In all provisions of this Exhibit in which the City's written approval or consent is required, such approval or consent must be that of the Work Liaison, unless RAC is notified in writing by the Commissioner otherwise. Any approval or consent by the Work Liaison hereunder shall not create any liability on the City, in whole or in part, for the professional or technical accuracy of RAC's work. The Commissioner shall be the final arbiter of any decision to be made or consent or approval to be given under this Exhibit. The Work Liaison shall further assist RAC in coordinating RAC's work with other projects and operations at the Airport and in RAC's contacts with any Federal, State, or local government agencies. If requested, RAC shall provide reasonable administrative space for the Work Liaison on or contiguous to the work site. The Work Liaison shall provide such personnel as may be needed from time to time.

3. Standard of Performance

RAC shall perform, or cause to be performed, all work on the Project with that degree of skill, care and diligence normally exercised by professional performing equivalent work in projects of a scope and magnitude comparable to the work hereunder.

RAC shall further perform, or cause to be performed, all work hereunder according to those standards for work at the Airport promulgated by DOA, FAA, and any other interested Federal, State, or local governmental units, including, without limitation, any Airport Design and Construction Standards.

RAC shall further require its Contractors to perform all work required of them in accordance with the above standards and in a safe, efficient, good, and workmanlike manner. RAC shall require its Contractors to replace all damaged or defective work. Subject to the terms and conditions stated herein, RAC shall replace or correct such work not so corrected or replaced by any Contractor, or shall cause such work to be replaced or corrected by another Contractor, and thereafter shall prosecute, or shall assign its rights to so prosecute to the City upon reasonable request therefor, any and all claims it may have against Contractors for failure by Contractors to comply with the standards of performance imposed upon them in the Contracts and hereunder.

In the event RAC or its Contractors fail to comply with the above-referenced standards, RAC shall perform again, or cause to be performed again, at its own expense, any and all work which is required to be re-performed as a direct or indirect result of such failure. Notwithstanding any review,

approval, acceptance, or payment for any and all of the work by the City, RAC shall remain solely and exclusively responsible for the technical accuracy of all of the work, as defined herein and furnished under this RAC Agreement. This provision shall in no way be considered as limiting the rights of the City against RAC or its Contractors, either under this RAC Agreement, at law, or in equity.

4. Approval of Contractors

Prior to the hiring by RAC of Contractors, RAC shall submit a list of prequalified contractors to the City for review and approval, which approval shall not be unreasonably withheld or delayed. In addition, the City shall have the right (but not the obligation) to review and approve, which approval shall not be unreasonably withheld or delayed, the form of RAC's construction contract with any person or firm hired to act as a Contractor in connection with the performance of work. RAC shall include in its construction contracts all provisions required by this RAC Agreement, such provisions as may be required by law at the time such construction contract is awarded, and such provisions as may be reasonably requested in writing by the City, its Risk Manager, its Purchasing Agent, and its legal counsel.

5. Assignment of Project Contracts

All Project Contracts shall contain provisions making them assignable to the City. Upon the occurrence of an Event of Default under this RAC Agreement, the City shall have the right to require that RAC complete the assignment to the City of any and all construction contracts. Such assignment shall be in writing and in a form and substance acceptable to the City. RAC agrees that all such construction contracts shall further contain a clause which provides that in the case of any construction contract so assigned, the Contractor shall be deemed to have waived any and all claims, suits, and causes of action arising out of or relating to the performance of such construction contract prior to the effective date of such assignment, unless such Contractor notifies the City in writing of such claim, suit, or cause of action prior to the effective date of such assignment. The City shall not be responsible for any claims relating to such Project Contracts arising from or related to any fraud, misrepresentation, negligence, or willful or intentionally tortious conduct by RAC, its officials, employees, agents, or other Contractors.

6. Requirements for Work

(a) Project Planning, Design, and Fabrication Phase:

RAC shall submit, or cause to be submitted, at such levels as may be reasonably requested by the Work Liaison, proposed drawings, plans, and specifications or review and comment by the Work Liaison. Such drawings, plans, and specifications, and all amendments thereto, and the cost and schedule information to be provided by RAC under this Paragraph 6(a), shall be subject to the approval of the Work Liaison, which approval shall not be unreasonably withheld or delayed. Any conditional approval or disapproval shall be accompanied by an explanation. If RAC intends to adopt fast track construction procedures, RAC must still complete each contract package to a reasonable level of detail (including alternate designs selected by RAC for major structural, mechanical, electrical, and architectural elements) that will provide the Work Liaison adequate information upon which to base its review and approval. RAC shall not proceed with construction operations until all necessary approvals have been obtained.

(b) RAC to Provide Information:

Prior to the commencement of any work, and thereafter as often as may be necessary to provide the Work Liaison with current and complete information about the work, RAC shall submit to the Work Liaison (i) initial and updated construction schedules (which shall

be reviewed by the Work Liaison for their impact and relation to other projects or operations at the Airport) indicating the proposed and/or actual sequence of all work, and the estimated date of completion of the work under each of RAC's contracts; (ii) initial and updated site utilization plans, including limit lines, on-site storage and office areas, and proposed temporary alterations or detours and support detours intended to maintain public access and support services to, from, through, or past operating facilities at the Airport; and (iii) RAC's initial and updated cost estimates for the work, individually and aggregated.

(c) Installation, Construction, Start-Up, and Testing Phase:

- (i) The Work Liaison shall have the right to monitor the work to assure that the Project is installed and constructed in conformity with the approved drawings, plans and specifications, and in accordance with the applicable standards therefor. In order to assist the Work Liaison in monitoring the installation, construction, start-up and testing, RAC shall submit, or cause to be submitted, to the Work Liaison copies of all surveys, soil borings, and field test reports; contracts; material certificates and samples; approved shop drawings; lien waivers, payrolls, and requests for payment by Contractors of any tier; progress reports; notification of substantial completion of the work; maintenance and operations manuals in connection with building systems; as-built drawings; warranties; test and start-up results; and any other documents related to the work which may be reasonably requested by the City.
- (ii) No change order which materially changes the scope of the work or the Project shall be implemented by RAC without review and approval by the Work Liaison. Any conditional approval or disapproval shall be accompanied by an explanation.
- (iii) In the event the Work Liaison determines that the work is at material variance from the approved cost, schedule, drawings, plans, and specifications or applicable standards. RAC shall use its best efforts to expeditiously resolve such variance through immediate consultation with its Contractors. Until it has been determined by the Work Liaison that the work has been performed without material variance from the approved cost, schedule, drawings, plans, and specifications and applicable standards, the Work Liaison may, by written notice to RAC, (i) suggest to RAC that RAC withhold payments from any Contractor which has performed, in the judgment of the Work Liaison, work which is at material variance from the approved cost, schedule, drawings, plans, and specifications, or applicable standards or (ii) suggest to RAC that it stop work where it is directly affected by such variance from the approved cost, schedule, drawings, plans, specifications and applicable standards. If RAC's response is unacceptable in the reasonable opinion of the Work Liaison, the Work Liaison shall have the right to direct RAC to stop any other work that is at variance with the approved cost, schedule, drawings, plans, and specifications or applicable standards until the affected work is corrected or replaced.

Any work which is at material variance from the approved cost, schedule, drawings, plans, and specifications or applicable standards shall be corrected or replaced by RAC,

directly or through its Contractors, provided that the Work Liaison has informed RAC of such variance within ten business days following the performance of such work, unless the variance affects the structural integrity or safety of the Project or the variance could not have been discovered with due diligence, in which case the Work Liaison shall inform RAC of such variance as soon as reasonably practicable. If such work is not corrected or replaced by RAC within thirty (30) days following notice from the Work Liaison to RAC, the Work Liaison may cause such work to be corrected or replaced with the City's own forces or otherwise at the expense of RAC, provided that in the event such work cannot be corrected or replaced within said 30-day period, RAC shall be afforded such additional time as the Work Liaison may determine to be reasonably necessary to correct or replace such work.

7. Ownership

The City shall be and become the owner of each component of the Project upon the City's acceptance of that respective component.

8. No Damages for Delay

RAC agrees and shall cause its Contractors to agree that claims for damages or charges for additional costs or fees shall not be made against the City by RAC or Contractors, absent bad faith, fraud, or direct tortious interference, for costs incurred by reason of delays, disruptions, or hindrances in the Contractors' work. In the event that any Contractor is delayed by causes beyond the reasonable control of such Contractor, the Project schedule for the performance of the work may be extended by RAC with the City approval to reflect the extent of such delay, provided that RAC shall have given the City written notice within ten (10) days of the commencement of such delay and shall have received the City's written approval of the extension, which approval shall not be unreasonably withheld. Such notice by RAC shall include a description of the reasons for the delay and the steps to be taken by RAC and Contractor to mitigate the effect of such delay on the Project schedule. The City's permitting any Contractor to proceed with its work, or any part thereof, after such extension shall in no way operate as a waiver of any other rights on the part of the City. The City shall not be responsible to RAC or its Contractors for any claims for damages or charges for additional costs, or fees incurred by reason of delays, disruptions, or hindrances caused by RAC's bad faith, fraud, or direct tortious interference with its Contractors.

9. Performance and Payment Bonds

RAC shall require each of its Contractors performing construction at or related to the Airport to post a performance and payment bond in the value of the construction work to be performed under its construction contract. Such bonds shall comply with the provisions of 30 ILCS 550/1, as amended, and Section 2-91-030 of the Chicago Municipal Code. The bond shall be in same form and content as provided by the City. The surety issuing such bond shall be acceptable to the City's Risk Manager. The City and RAC shall be named as co-obligees on all such bonds; provided, however, that the City shall be named as the primary co-obligee.

10. Protection of FAA Facilities

If trenching, jacking of pipe or casing, excavation for pavements or structures, site grading, and vehicular traffic over earth areas will occur over, around and under FAA facilities such as equipment houses, direct buried cables, and duct banks, all possible steps must be taken to ensure to insure their integrity throughout the period of construction activity.



The Contractor shall notify the Commissioner at least seventy-two (72) hours prior to any excavation in the vicinity of FAA cables or ducts to arrange for a joint walking tour with cable location equipment to identify precisely such cables and locations in order to assure the preservation of their vital functions during construction.

11. Protection of Utilities

(a) The Contractor shall take suitable care to protect and prevent damage to all utilities from its operations on the Airport.

(b) When performing work adjacent to existing sewers, drains, water and gas lines, electric or telephone or telegraph conduits or cables, pole lines or poles, or other utility equipment or structures which are to remain in operation, the Contractor shall maintain such utility equipment and structures in place at its own expense and shall cooperate with the City department, utility company or other party owning or operating such utility equipment or structures in the maintenance thereof.

(c) The Contractor shall be responsible for and shall repair all damage to any such utility, equipment or structures caused by its acts, whether negligent or otherwise, or its omission to act, whether negligent or otherwise and shall leave such utility, equipment, or structures in as good condition as they were in prior to the commencement of its operations. However, it is hereby agreed that any such utility equipment or structures damages as a result of any act, or omission to act, of the Contractor may, at the option of the City department, utility company, or other party owning or operating such utility, equipment, or structures damaged, be repaired by such the City department, utility company, or other party and in such event the cost of such repairs shall be borne by the Contractor.

12. General Conditions

RAC shall conduct any work, or cause such work to be conducted by its contractors, in accordance with those standards for construction operations at the Airport set forth in the City's "General Conditions" dated January 1, 1997, as may be revised, including, without limitation, Articles VI, XIV, XV and XIX.

13. Additional Legal Requirements

(a) Veterans Preference:

(i) RAC shall insure that the following provision is inserted in all contracts entered into with any contractors and labor organizations which furnish skilled, unskilled and craft union skilled labor, or which may provide any material, labor, or services in connection with the improvements.

(ii) RAC shall comply with the provisions of 330 ILCS 55/0.01 et seq., which requires that a preference be given to veterans in the employment and appointment to fill positions in the construction, addition, or alteration of all public works. In the employment of labor (except executive, administrative and supervisory positions) preference shall be given to veterans of the Vietnam era and disabled veterans; however, this preference may be given only where the individuals are available and qualified to perform the work to which the employment relates.

- (b) Steel Products:
  - (i) This RAC Agreement shall be subject to all provisions of the "Steel Products Procurement Act," 30 ILCS 5651/1 et seq., as it may be amended from time to time. Steel products used in the improvements shall be manufactured or produced in the United States.
  - (ii) For purposes of this Section, "United States" means the United States and any place subject to the jurisdiction thereof and "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed or processed by a combination of two or more such operations, from Steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making processes. Knowing violation of this Section may result in the filing and prosecution of a complaint by the Attorney General of the State of Illinois and shall subject violators to a fine of the greater of \$5,000 or the payment price received as a result of such violation.
- (c) MacBride Principles Ordinance:
  - (i) The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provides a better working environment for all citizens in Northern Ireland.
  - (ii) In accordance with Section 2-92-580 of the Code, if RAC conducts any business operations, it shall make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).
- (d) Occupational Safety and Health Act, 40 U.S.C. 333; 29 C.F.R. 1926.1.
- (e) Hazard Communication Standard, 29 C.F.R. Part 1926.58.
- (f) Illinois Environmental Protection Act, 415 ILCS 5/1.
- (g) Illinois Public Mechanics' Lien Act, 770 ILCS 60/23 (waiver of liens).
- (h) Criminal Code provisions applicable to public works contracts, 720 ILCS 5/33E.
- (i) Public Works Projects Act, 30 ILCS 570/0.01.
- (j) Deduction from Wages, 820 ILCS 115/9.
- (k) Section 2-92-250 of the Municipal Code of Chicago (Retainage).
- (l) Section 2-92-415 of the Municipal Code of Chicago (Child Support).
- (m) Prevailing Wage Act, 820 ILCS 130/1.

(n) Section 2-92-330 of the Municipal Code of Chicago (Chicago Residency Requirement).

**EXHIBIT E**

**FORM OF LETTER OF CREDIT**

(Date)

Department of Aviation  
P.O. Box 66848  
10510 West Zemke Road  
Chicago, IL 60666  
Attn: Commissioner of Aviation

IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_

Original Expiration Date: \_\_\_\_\_, 20\_\_

Gentlemen:

We hereby establish our irrevocable Letter of Credit in your favor for the account of **SIMPLY WHEELZ LLC**, a Delaware limited liability company, d/b/a Advantage Rent A Car, for the sum not exceeding U.S. \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_).

Funds under this Credit are available to you unconditionally against your sight drafts for any sum or sums not exceeding a total of Dollars (\$\_\_\_\_\_) drawn on us mentioning our credit No. \_\_\_\_\_ purportedly signed by the Commissioner of Aviation or the City Comptroller of the City of Chicago (whether acting or actual).

Our obligations hereunder are primary obligations to the City and shall not be affected by the performance or non-performance by SIMPLY WHEELZ LLC, a Delaware limited liability company, d/b/a Advantage Rent A Car, under any agreement with the City, or by any bankruptcy or other insolvency proceeding initiated by or against SIMPLY WHEELZ LLC, a Delaware limited liability company, d/b/a Advantage Rent A Car. SIMPLY WHEELZ LLC, a Delaware limited liability company, d/b/a Advantage Rent A Car is not the owner of or beneficiary under this Credit and possesses no interest whatsoever in this Credit or proceeds of same.

We hereby agree with the drawers of the draft drawn and negotiated in compliance with the terms of this credit, that said draft will be duly honored within two (2) business days after it is presented at this office.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for a period of one year from the initial expiration date stated above or any future expiration date hereof, unless at least sixty (60) days prior to the expiration date we mail you our notice, by registered or certified mail, informing you that the Letter of Credit will no longer be automatically renewed beyond the then expiration date. In the event that we notify you that it is our intention not to renew this Letter of Credit for an additional one year period we agree to also notify the following parties by registered or certified mail:

Department of Aviation - Real Estate Division  
P.O. Box 66848  
10510 West Zemke Road

Chicago, IL 60666  
Attn: Deputy Commissioner of Real Estate

and

Corporation Counsel City of Chicago  
30 North LaSalle Street, 14th Floor  
Chicago, IL 60602  
Attn: Deputy Corporation Counsel for Aviation

This Letter of Credit is transferable and assignable from time to time; any transfer request shall be effected by presentation to the issuer of the attached transfer form accompanied by the original of this Letter of Credit, provided that the holder hereof shall not incur any fees to the issuer as a condition to any such transfer.

Partial Drawings and reductions are permitted.

This Credit is subject to the *Uniform Customs and Practice for Documentary Credits* ((1983) Revision), International Chamber of Commerce publication No. 400 (IUCP) and to the *Uniform Commercial Code - Letters of Credit*, Ill. Rev. Stat. ch. 26, sec. 5-101 et seq. (1989) as amended, as in effect in the State of Illinois (UCC). To the extent the provisions of the TUCP and the UCC conflict, the provisions of the UCC shall control.

NAME OF BANK

\_\_\_\_\_  
Authorized Signatory

**EXHIBIT F**

**FORM OF INSURANCE CERTIFICATE (07/13)**

Issue Date: \_\_\_\_\_

**INSURANCE CERTIFICATE OF COVERAGE**

Named Insured: \_\_\_\_\_ Specification #: \_\_\_\_\_  
 Address: \_\_\_\_\_ RFP#: \_\_\_\_\_  
 (NUMBER & STREET) Project #: \_\_\_\_\_  
 (CITY) (STATE) (ZIP) Contract #: \_\_\_\_\_

Description of Operation/Location	
-----------------------------------	--

The insurance policies and endorsements indicated below have been issued to the designated named insured with the policy limits as set forth herein covering the operation described within the contract involving the named insured and the City of Chicago. The Certificate Issuer agrees that in the event of cancellation, non-renewal or material change involving the indicated policies, the issuer will provide at least sixty (60) days prior written notice of such change to the City of Chicago at the address shown on this Certificate. This certificate is issued to the City of Chicago in consideration of the contract entered into with the named insured, and it is mutually understood that the City of Chicago relies on this certificate as a basis for continuing such agreement with the named insured.

Type of Insurance	Insurer Name	Policy Number	Expiration Date	Limits of Liability All Limits in Thousands
<b>Commercial General Liability</b> <input type="checkbox"/> Occurrence <input type="checkbox"/> Claims made <input type="checkbox"/> Premise-Operations <input type="checkbox"/> Explosion/Collapse Underground <input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Blanket Contractual <input type="checkbox"/> Broad Form Property Damage <input type="checkbox"/> Independent Contractors <input type="checkbox"/> Personal Injury <input type="checkbox"/> Pollution				Each Occurrence \$ _____ General Aggregate \$ _____ Products/Completed Operations Aggregate \$ _____
Automobile Liability (Any Auto)				Each Occurrence \$ _____
Excess Liability <input type="checkbox"/> Umbrella Liability				Each Occurrence \$ _____
Workers' Compensation and Employers' Liability				Statutory/Indiana Employers' Liability \$ _____
Builders' Risk/Course of Construction				Amount of Contract \$ _____
Professional Liability				\$ _____
Owner Contractors Protective				\$ _____
Other				

- a) Each insurance policy required by this agreement, except policies for workers' compensation and professional liability, will read:  
 "The City of Chicago is an additional insured as respects to operations and activities of, or on behalf of the named insured, performed under contract with or permit from the City of Chicago".
- b) The General, Automobile and Excess/Umbrella Liability Policies described provide for separation of insureds applicable to the named insured and the City.
- c) Workers' Compensation and Property Insurer shall waive all rights of subrogation against the City of Chicago.
- d) The receipt of this certificate by the City does not constitute agreement by the City that the insurance requirements in the contract have been fully met, or that the insurance companies indicated by this certificate are in compliance with all contract requirements.

Name and Address of Certificate Holder and Recipient of Notice	
Certificate Holder/Additional Insured	Signature of Authorized Rep.
City of Chicago	Agency/Company
Dept. of Procurement	Address
121 North La Salle Street, Room 403	Telephone
Chicago, IL 60602	

FOR CITY USE ONLY:

Contract/Policy Requirements

EXHIBIT G

FORM OF SHORT FORM RAC AGREEMENT

This document prepared by and  
after recording return to:

Eric J. Fuglsang, Esq.  
Quarles & Brady LLP  
300 North LaSalle Street  
Suite 4000  
Chicago, IL 60654

SHORT FORM RAC AGREEMENT

THE CITY OF CHICAGO, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and (6)(a), respectively, of the 1970 Constitution of the State of Illinois, as landlord ("Landlord"), hereby leases to SIMPLY WHEELZ LLC, a Delaware limited liability company, d/b/a Advantage Rent A Car, as RAC ("RAC"), and RAC hereby leases from Landlord, pursuant to the terms and conditions of an agreement (the "RAC Agreement") dated as of the date hereof between Landlord and RAC, a certain portion of certain real property ("Premises") located in City of Chicago, Cook County, Illinois, which real property is more particularly described on Exhibit A attached hereto and made a part hereof. Capitalized terms used but not defined herein shall have the meanings set forth in the RAC Agreement.

1. **Term.** The term of the RAC Agreement will commence \_\_\_\_\_, 20\_\_\_\_ and end \_\_\_\_\_, 20\_\_\_\_, unless sooner terminated in accordance with the terms and provisions thereof.

2. **Reservation of Easements to Landlord.** Landlord has reserved to itself certain non-exclusive easements on the terms set forth in the RAC Agreement.

3. **RAC Agreement Controls Short Form.** This Short Form RAC Agreement is executed to give notice to third parties of the existence of the RAC Agreement and is not intended to modify or amend the RAC Agreement in any respect. The provisions of the RAC Agreement shall control over the provisions of this Short Form RAC Agreement. For details concerning the terms and conditions of the RAC Agreement, the RAC Agreement itself should be consulted.

4. **Limitation of Liability.** The liability of Landlord under this Short Form RAC Agreement shall be limited to the same extent that the liability of Landlord is limited under the RAC Agreement.

IN WITNESS WHEREOF, the parties have executed this Short Form RAC Agreement as of \_\_\_\_\_, 2013.

LANDLORD:

**CITY OF CHICAGO,**  
a municipal corporation

By: \_\_\_\_\_  
Commissioner of Aviation, Department of Aviation

RAC:

**SIMPLY WHEELZ LLC,** a Delaware limited  
liability company, d/b/a Advantage Rent A Car

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ personally known to me to be the Commissioner of the Department of Aviation of the City of Chicago, a municipal corporation, and personally known to be to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Commissioner of the Department of Aviation of said City, he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ and \_\_\_\_\_ personally known to me to be the \_\_\_\_\_ and \_\_\_\_\_, of \_\_\_\_\_, a \_\_\_\_\_, and personally known to be to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such \_\_\_\_\_ and \_\_\_\_\_ of said limited liability company, they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**  
**(to Short Form RAC Agreement)**

**LEGAL DESCRIPTION**

THAT PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THE SOUTH 50 FEET (MEASURED PERPENDICULAR) OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE RIGHT OF WAY OF THE CANADIAN NATIONAL/METRA RAILROAD RIGHT OF WAY, EXCEPT THE RIGHT OF WAY OF MANNHEIM ROAD AS RELOCATED.

**EXHIBIT II**  
**CFC ORDINANCE**

[SEE ATTACHED]

**EXHIBIT I**  
**BOND ORDINANCE**

[SEE ATTACHED]

**EXHIBIT J**

**FORM OF TERM COMMENCEMENT CONFIRMATION**

Landlord: THE CITY OF CHICAGO, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois (the "City")

RAC: SIMPLY WHEELZ LLC, a Delaware limited liability company, d/b/a Advantage Rent A Car ("RAC")

This Term Commencement Confirmation (this "Confirmation") is made by the City and RAC pursuant to that certain Consolidated Rental Car Facility Lease and License Concession Agreement dated as of \_\_\_\_\_, 20\_\_ (the "RAC Agreement") for the Premises demised thereunder, all on the terms and conditions set forth therein, as modified hereby. This Confirmation is made pursuant to Subsection 5.1(c) of the RAC Agreement.

1. Construction Commencement Deadline. The Construction Commencement Deadline under Subsection 15.28(a) of the RAC Agreement shall be and is hereby established and confirmed as \_\_\_\_\_, 20\_\_.

2. RAC Access Date; CRCF Substantial Completion. The RAC Access Date under Subsection 5.1(c) of the RAC Agreement shall be and is hereby established and confirmed as \_\_\_\_\_, 20\_\_; the date of CRCF Substantial Completion under Subsection 5.1(c) of the RAC Agreement shall be and is hereby established and confirmed as \_\_\_\_\_, 20\_\_.

3. Rent Commencement Date; Expiration Date. The Rent Commencement Date under Section 4.2 the RAC Agreement shall be and is hereby established and confirmed as \_\_\_\_\_, 20\_\_; the Expiration Date under Article 1 of the RAC Agreement shall be and is hereby established and confirmed as \_\_\_\_\_, 20\_\_.

4. Base Rent. Base Rent during the initial five (5) years of the Term of the RAC Agreement is hereby established and confirmed as \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_) per year (calculated by multiplying \$\_\_\_\_ by \_\_\_\_\_ by \_\_\_\_\_), payable in equal monthly installments of \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_) each, and otherwise in accordance with the terms and provisions of the RAC Agreement, and subject to adjustment as provided therein.

5. Acceptance of Premises. RAC has inspected the Premises and affirms that the Premises is acceptable in all respects in its current "as is" condition, subject to the terms and provisions of the RAC Agreement applicable thereto, including the City's warranty obligations and the City's capital repair and replacement obligations to the extent expressly set forth in the RAC Agreement.

6. Incorporation. This Confirmation is incorporated into the RAC Agreement, and forms an integral part thereof. This Confirmation shall be construed and interpreted in accordance with the terms of the RAC Agreement for all purposes. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the RAC Agreement.

**IN WITNESS WHEREOF**, the City has caused this Confirmation to be executed on its behalf by the Commissioner of the City's Department of Aviation, pursuant to due authorization of the City

Council, and RAC has caused this Confirmation to be executed on its behalf by its \_\_\_\_\_ and attested by its \_\_\_\_\_, pursuant to due authorization of its members, all as of the day and year first above written.

**CITY:**

**CITY OF CHICAGO**, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois

By: \_\_\_\_\_  
Commissioner of Aviation, Department of Aviation

**RAC:**

**SIMPLY WHEELZ LLC**, a Delaware limited liability company, d/b/a Advantage Rent A Car

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

RAC's Illinois agent for service of process:

Print Name: \_\_\_\_\_  
Print Address: \_\_\_\_\_  
Title: \_\_\_\_\_

**THIS CONFIRMATION SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE CITY**

## **EXHIBIT K**

### **CITY O&M STANDARDS**

#### **Electrical, Mechanical and Plumbing Systems**

RAC shall test, operate, maintain, repair, and keep in good operating condition all mechanical, electrical, and plumbing equipment for the following:

**HVAC**, including without limitation, the following systems and/or items:

Air handling units, air terminal boxes, fans, heating units, piping systems, pumps, reheating coils, smoke exhaust systems, temperature controls/Building Automation System, unit heaters, VAV systems, water treatment testing, smoke detectors, fire detectors and alarms, fin tube radiation, heat tracing, filters, cooling systems/coils.

**Electrical**, including, without limitation, the following systems and/or items:

Advertising signage, general and emergency lighting, interior and exterior lighting fixtures, low voltage service and distribution (480 volts or less), motors and controllers, power and lighting panels, transformers, VFD drives, UPS systems, heaters/heat tracing.

**Plumbing**, including, without limitation, the following systems and/or items:

Domestic water piping/pumps, drinking fountains, fire protection (including any Halon systems), floor and area drains, gray water, plumbing fixtures, pumps (water, sewage, and storm (excluding curb front and roadway), sanitary sewer, vent piping and drains (excluding curb front and roadway), water heaters.

#### **General Maintenance Services**

RAC shall maintain and repair, including, without limitation, the following systems and/or items in the common areas of the customer service building, the garage and the Quick Turnaround Areas (QTAS):

Acoustic ceiling tiles, carpet, terrazzo, interior doors and door hardware, door re-keying/inventory controlled management/hardware, flooring and tiles, glass and glazing, masonry – interior/exterior, metals – interior/exterior, metal ceiling, roofing/decking, railings and handrails, restroom equipment/fixtures, roof, safety treads on steps, painting, drywall all surfaces, carpentry, exterior and interior doors, elevators, fire alarm system, high voltage service and distribution, minor structural/concrete repair, replacement/repair of interior and exterior glass and frames, painting, plumbing, and electrical, locksmith services, repair/replacement of terrazzo flooring and carpets, repair/replacement of sinks, toilets, automatic sensors, faucets and hand dryers, repair/replacement of common area or limited access doors, door frames, overhead doors, wall bumpers and weather stripping, repair/replacement of general building signage.

#### **Cleaning Specifications**

For purposes of this RAC Agreement "clean" shall mean: 1. Free from dirt, dust, litter, stain or impurities; unsoiled. 2. Free from foreign matter or pollution. 3. The presence of appropriate surface gloss

protection, unadulterated clean air, clean drinking water. Continuous cleaning is defined as the execution of cleaning tasks performed on an on-going daily basis, at minimum.

**Customer Lobby**

<u>Task</u>	<u>Frequency</u>
Remove Graffiti	Continuous
Police Litter	Continuous
Empty Trash Receptacles	Continuous
Replace trash liners	Continuous
Spot Clean Building Surfaces	Continuous
Dust, mop or sweep	As needed
Damp mop non-carpeted floors	As needed
Restore Terrazzo	Daily
Door glass and frames cleaned	Daily
Windows within reach dusted	Daily
Clean and disinfect ticket counter: (keyboard, computers, calculators)	Daily
Telephones cleaned and disinfected	Daily
Planters/ plant pots police & clean	Daily
Spot clean/wash signage	Daily
Floor mats spot cleaned & washer	Daily
Stairwells policed & cleaned	Continuous

**Customer Entry and Exit Areas**

<u>Task</u>	<u>Frequency</u>
Remove Graffiti	Continuous
Police Litter	Continuous
Empty Trash Receptacles	Continuous
Maintain doors and glass	Continuous
Dust, mop or sweep	As needed
Damp mop non-carpeted floors	As needed
Restore Terrazzo	Daily

**Public Areas and Corridors**

<u>Task</u>	<u>Frequency</u>
Remove Graffiti	Continuous
Police Litter	Continuous
Empty Trash Receptacles	Continuous
Spot Clean Building Surfaces	Continuous
Spot clean furniture surfaces	Daily
Damp mop non-carpeted floors	As needed
Vacuum completely	As needed
Spot mop	As needed
Dust, mop or sweep	As needed
Clean and disinfect windows	As needed
Clean and disinfect water fountain	As needed
Clean and disinfect pay phones	As needed



Restore Terrazzo	Daily
Door glass and frames cleaned	Daily
Windows within reach dusted	Daily
Clean walls and partitions	Daily
Telephones Clean and disinfected	Daily
Planters/ plant pots police & clean	Daily
Spot clean and wash signage	Daily
Floor mats spot cleaned & washer	Daily
Stairwells policed & cleaned	Daily
Remove refuse on exterior sidewalks and driveways	Daily

### Stairs

<u>Task</u>	<u>Frequency</u>
Remove Graffiti	Continuous
Police Litter	Continuous
Empty Trash Receptacles	Continuous
Spot Clean Building Surfaces	Continuous
Dust, mop or sweep	As needed
Damp mop non-carpeted floors	As needed
Vacuum completely	Bi-weekly
Vacuum Traffic Lanes & remove soil	As needed
Remove carpet stains	As needed
Dust building surfaces	Weekly

### Restrooms Facilities

<u>Task</u>	<u>Frequency</u>
Remove Graffiti	Continuous
Police Litter	Continuous
Empty Trash Receptacles	Continuous
Spot Clean Building Surfaces	Continuous
Spot clean mirrors, partitions & fixtures	Daily
Spot clean furniture surfaces	Daily
Dust, mop or sweep	As needed
Damp mop non-carpeted floors	As needed
Remove carpet stains	As needed
Vacuum Traffic Lanes & remove soil	As needed
Dust building surfaces	Weekly
Dust furniture surfaces	Weekly
Vacuum completely	Bi-weekly
Restore Terrazzo	As needed
Clean and disinfect fixtures	Continuous
Refill dispensers	As needed
Disinfect all surfaces	Continuous
Disinfect toilets and urinals	Continuous
Wet clean and disinfect floors	As needed
Clean and refill floor drains	As needed
Replenish supplies	As needed

**Custodial Closets**

<u>Task</u>	<u>Frequency</u>
Police Litter	Daily
Empty Trash Receptacles	Daily
Spot Clean Building Surfaces	Daily
Dust, mop or sweep	Daily
Clean and disinfect fixtures	Daily
Clean building surfaces	Weekly
Damp mop non-carpeted floors	Weekly

**Elevators**

<u>Task</u>	<u>Frequency</u>
Remove Graffiti	Twice Daily
Police Litter	Twice Daily
Spot clean surfaces	Twice Daily
Dust, mop or sweep	Daily
Remove carpet stains	As needed
Dust surfaces	Daily
Clean elevator door tracks	Daily
Clean floor mats	Daily
Damp mop non-carpeted floors	Bi-weekly
Vacuum completely	Bi-weekly

**Quick Turnaround Area**

General All the systems, utilities and improvements pertaining to the QTA shall be kept in first class repair, operating condition, working order and appearance and in form and function for which the systems, utilities and improvements were designed.

Daily All trash and debris shall be placed in appropriate trash collection receptacles with tight fitting lids that will be kept closed at all times, other than for the disposal into or the emptying of, said receptacles.

<u>PROJECT WORK</u>	<u>Frequency</u>
Carpet Shampooing "Bonnet Method"	Daily
Carpet Shampooing "Extraction Method"	Monthly
Machine Scrub Floors	Daily
Recondition Finished Floors	Monthly
Windows – Exterior	Quarterly
Blinds	Monthly
Wall Washing	Quarterly
Furniture Cleaning	Quarterly
Exterior Surfaces	Annually

**OFF-AIRPORT RENTAL CAR CONCESSION  
LICENSE AGREEMENT  
AT CHICAGO O'HARE INTERNATIONAL AIRPORT**

BETWEEN

CITY OF CHICAGO

AND

Simply Wheelz, LLC d/b/a Advantage Rent A Car,  
a Delaware limited liability company

Dated: August 1, 2013

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**OFF-AIRPORT RENTAL CAR CONCESSION LICENSE AGREEMENT  
AT CHICAGO O'HARE INTERNATIONAL AIRPORT**

THIS OFF-AIRPORT RENTAL CAR CONCESSION LICENSE AGREEMENT ("License") is made and entered into effective as of this 19 day of August, 2013 (the "Effective Date"), by and between the CITY OF CHICAGO, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois (the "City"), and Simply Wheelz LLC d/b/a Advantage Rent A Car, a Delaware limited liability company ("Licensee").

**WITNESSETH:**

WHEREAS, the City owns and operates that certain airport located within the City and commonly known as Chicago O'Hare International Airport ("Airport"); and

WHEREAS, the City has the authority to lease and license premises and facilities and to grant rights and privileges with respect to the Airport; and

WHEREAS, Licensee is engaged in the business of renting Motor Vehicles, operates a rental car concession near the Airport and desires to obtain a license from the City in order to obtain certain rights and privileges with respect to the Airport, all as hereinafter provided; and

WHEREAS, the City is willing to license such rights to Licensee upon the terms and conditions hereinafter provided; and

WHEREAS, the City and Licensee acknowledge that the continued operation of the Airport as a safe, convenient, and attractive facility is vital to the economic health and welfare of the City, and that the City's right to monitor performance under this License by Licensee is a valuable right incapable of quantification.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and agreements herein contained, and other valuable consideration, the parties hereto covenant and agree as follows:

**ARTICLE I  
DEFINITIONS**

The following terms, when used in this License, shall have the following meanings:

"Affiliate" - shall have the meaning set forth in Subsection 5.1(l) hereof.

"Airport" - means Chicago O'Hare International Airport, as the same may be designated from time to time during the Term hereof.

"Airport Security Act" - means 49 U.S.C. 44901 et seq., and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

"Annual Statement" - shall have the meaning set forth in Subsection 4.2(b) hereof.

"ATS" or "Airport Transit System" means the Airport's automated people mover system which travels on a dedicated guideway providing passenger service at the Airport, including, without limitation,

to Terminals, parking areas and the Joint Use Facility, and including, without limitation, the vehicles used for transport, stations, and all related equipment and associated improvements from time to time, together with any expansions or extensions thereof in connection with the Joint Use Facility.

**"Bond Indenture"** - means the Indenture of Trust by and between the City and The Bank of New York Mellon Trust Company, N.A., as trustee, as supplemented and amended from time to time.

**"Bond Ordinance"** - means that certain ordinance adopted by the City Council of the City of Chicago on March 13, 2013 (CJP 47683 through 47815), which Bond Ordinance, among other things, provides for the issuance of the Bonds to fund the design and construction of the Joint Use Facility and the CRCF Project hereunder, as such ordinance may be further supplemented or amended from time to time.

**"Bonds"** - means, collectively, the Series 2013 Bonds, and any Additional Bonds and Subordinate Bonds (including, in either case, and without limitation, the TIFIA Loan), from time to time Outstanding under the Bond Indenture, as each such term is more specifically defined in the Bond Indenture.

**"Bundle"** - shall have the meaning set forth in Subsection 5.1(n) hereof.

**"CERCLA"** - shall have the meaning set forth in Subsection 13.1(d) hereof.

**"CFC" or "CFCs" or "Customer Facility Charge(s)"** - means the customer facility charge or customer facility charges to be collected by the Off-Airport RACs and the On-Airport RACs, and remitted to the City (or to such other person as directed by the City from time to time, for the benefit of the City), pursuant to the CFC Ordinance, and as further defined and provided in each On-Airport RAC Agreement and Off-Airport RAC Agreement.

**"CFC Ordinance"** - means, collectively, those certain ordinances adopted by the City Council of the City of Chicago on June 9, 2010 (CJP 93499 through 93505) and December 12, 2012 (CJP 43893 through 43901), which CFC Ordinance, among other things, imposes a CFC on rental car customers at the Airport, as such ordinances may be further supplemented or amended from time to time. A true and correct copy of the CFC Ordinance, as the same exists as of the Effective Date hereof, is attached as Exhibit D hereto and made a part hereof.

**"CFC Report"** - shall have the meaning set forth in Subsection 4.3(b) hereof.

**"CFC Statute"** - means Section 6-305(j) of the Illinois Vehicle Code, 625 ILCS 5/6-305(j).

**"City"** - means the City of Chicago, its successors and assigns. In any case under this License that the City may or shall take any action, the Commissioner (as hereinafter defined) is authorized to take such action unless this License expressly provides for action by the corporate authorities of the City or by resolution or ordinance, and except as otherwise provided now or hereafter by applicable law, the rules and regulations of the City, or by resolution or ordinance of the corporate authorities of the City.

**"City Response Actions"** - shall have the meaning set forth in Subsection 13.7(c) hereof.

**"Claim"** - shall have the meaning set forth in Subsection 13.1(a) hereof.

**"Code"** - means the Municipal Code of the City of Chicago, as amended from time to time.

**"Commencement Date"** - shall mean August 1, 2013.

"**Commissioner**" - means, for the purposes of this License, the Commissioner of Aviation of the City (or any successor thereto in whole or in part as to his or her duties as the person in charge of the operation of the Airport on behalf of the City).

"**Common Use Transportation System**" - shall mean, collectively, the ATS, together with such buses, bussing systems, and other vehicles as may be used and made available only and exclusively during such time or times as the ATS is not then in operation for any reason.

"**Concession Fee**" - shall have the meaning set forth in Subsection 4.2(a).

"**Concession Recovery Fee**" - shall have the meaning set forth in Section 2.3 hereof.

"**Contract**" - means the written contract or other agreement under which a Motor Vehicle is rented at Licensee's Storefront to a customer by Licensee.

"**Contract Day**" - means, with respect to rentals of Motor Vehicles, up to a twenty-five (25) hour period (or fraction thereof) for the first Contract Day, and successive twenty-four (24) hour periods (or fractions thereof) for each successive Contract Day.

"**Contribution**" - shall have the meaning set forth in Subsection 5.1(n) hereof.

"**CRCF**" - means that portion of the new Joint Use Facility to be constructed at the southeast corner of the intersection of Zemke and Mannheim Road (current O'Hare's Surface Parking Lot F) in the City of Chicago, County of Cook, State of Illinois consisting of: (i) the ES (but specifically excluding those portions of the ES allocated as the Public Parking Area); (ii) the QTA, together with a dedicated roadway for rental vehicle use only connecting the ES and QTA; and (iii) the portion of the common areas of the Joint Use Facility allocated and dedicated to the CRCF from time to time, as reasonably determined by the City. The CRCF does not include (a) the Public Parking Area, or (b) the Common Use Transportation System.

"**CRCF Project**" - shall mean the permitting, design, development, construction, equipping, furnishing, and acquisition of: (i) (a) the CRCF, including the associated structures, roadways, facilities, infrastructure improvements to utilities, and other infrastructure to support the CRCF, and (b) additions, extensions, and improvements to the ATS, in each case to the extent that such purposes are permitted under the CFC Statute; and (ii) such other purposes related to the CRCF as are permitted under the CFC Statute and determined by the Commissioner.

"**Debt**" - shall have the meaning set forth in Subsection 5.1(f) hereof.

"**Default Rate**" - the rate of ten percent (10%) per annum compounded daily, unless a lesser interest rate shall then be the maximum rate permissible by Law with respect thereto, in which event said lesser rate shall be the Default Rate.

"**Domestic Partners**" - shall have the meaning set forth in Subsection 5.1(n) hereof.

"**Environmental Assessment**" - shall have the meaning set forth in Subsection 13.1(b) hereof.

"**Environmental Damages**" - shall have the meaning set forth in Subsection 13.1(c) hereof.

"**Environmental Law**" - shall have the meaning set forth in Subsection 13.1(d) hereof.



"**ES**" - shall mean that certain elevated structure located on the Joint Use Facility Property and containing multiple stories, and whereby portions of such ES shall be allocated (i) to the On-Airport RACs for vehicle ready/return operations, vehicle storage, a customer service center, including customer service counters, waiting areas, and office space, and (ii) as the Public Parking Area.

"**Event of Default**" - shall have the meaning set forth in Section 9.1 hereof.

"**Excess Fees**" - shall have the meaning set forth in Section 12.6 hereof.

"**Existing Environmental Report**" - shall have the meaning set forth in Section 13.3 hereof.

"**Expiration Date**" - means the fifteenth (15th) anniversary of the Commencement Date.

"**Federal Aviation Administration**" (sometimes abbreviated as "FAA") - means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

"**Fees**" - means, collectively, the Concession Fee and any other sums due and payable by Licensee from time to time hereunder (other than the CFCs, which shall be considered a separate and distinct obligation of Licensee hereunder).

"**Gross Revenues**" - means all revenues paid or due to Licensee arising out of or in connection with its operations at, or in connection with, the Airport, including, without limitation: (a) all time and mileage revenues and all revenues from the sale of personal accident insurance, or any insurance of a similar nature, (b) all Concession Recovery Fees, (c) sums received by the Licensee for damage to Motor Vehicles or Licensee's property or premises, or from loss, conversion, or abandonment of Motor Vehicles (without mark-up or additional fees), and (d) all other revenues paid or due to Licensee arising out of or in connection with its operations at the Airport. Gross Revenues shall not include: (i) amounts of any Federal, State, or municipal taxes; (ii) any CFCs collected by Licensee; (iii) amounts for credits, refunds, or adjustments to customers for transactions made at, or in connection with, the Airport at the time of, or prior to, the close-out of the rental transaction and shown on the customer Contract (without mark-up or additional fees); (iv) sums received by reason of Licensee's disposal of personal property (capital assets) (without mark-up or additional fees); (v) sums received by Licensee from its customers for traffic tickets, parking tickets, highway tolls, towing charges, impound fees, and other similar governmental fines and charges actually paid by Licensee on behalf of such customers (without mark-up or additional fees); and (vi) sums received by Licensee for pass-through charges collected by Licensee from its customers with respect to damage repair, parts replacement, and extraordinary cleaning of vehicles, and towing and transporting of damaged vehicles, rented by such customers, and replacement of keys for such vehicles (without mark-up or additional fees). The retroactive adjustment by Licensee of Gross Revenues designated as volume discounts or rebates, corporate discounts or rebates, or any other designation of any nature, or for any purpose, is prohibited.

"**Hazardous Materials**" - shall have the meaning set forth in Subsection 13.1(e) hereof.

"**Identified Parties**" - shall have the meaning set forth in Subsection 5.1(n) hereof.

"**Indemnified Party**" - as defined in Subsection 6.1(a) hereof

"**Joint Use Facility**" - shall mean, collectively, the CRCF, the Public Parking Area, and the Joint Use Facility Property, together with the Common Use Transportation System (including ATS vehicles) associated therewith.

"**Joint Use Facility Property**" - The real property and the land underlying the Joint Use Facility.

"**Laws**" - shall have the meaning set forth in Section 5.1 hereof.

"**License Year**" - means the twelve (12) month period commencing on the Commencement Date and each subsequent twelve-month period falling wholly or partly within the Term.

"**Licensee's Storefront**" - means the retail location from where Licensee operates its Motor Vehicle rental business servicing users, passengers and/or customers of or from the Airport.

"**Mayor**" - shall have the meaning set forth in Subsection 5.1(n) hereof.

"**Motor Vehicle**" means any motor vehicle within the meaning of Section 1-146 of the Illinois Vehicle Code, 625 ILCS 5/1-146.

"**Off-Airport RAC**" - A rental car company (including, without limitation, Licensee) that (i) is not a On-Airport RAC, (ii) serves customers at the Airport, and (iii) is a party to a valid Off-Airport RAC Agreement.

"**Off-Airport RAC Agreement**" - An Off-Airport Rental Car Concession License Agreement (including, without limitation, this License) between the City, as licensor, and an Off-Airport RAC, as licensee, pursuant to which such Off-Airport RAC has the right to operate a rental car concession providing rental car services to customers at the Airport, or any successor Concession License Agreement between the City and such Off-Airport RAC, pursuant to which such Off-Airport RAC has the right to operate a rental car concession providing rental car services to customers at the Airport.

"**On**" - shall have the meaning set forth in Subsection 13.1(f) hereof.

"**On-Airport RAC**" - A rental car company that (i) is a party to a valid On-Airport RAC Agreement with the City, (ii) is located at the Airport or the CRCF, and (iii) is a member of the RAC Consortium.

"**On -Airport RAC Agreement**" - means, for any On-Airport RAC, the agreement between such On-Airport RAC and the City for the lease of premises within the CRCF, and the use thereof by such On-Airport RAC, to carry out its Rental Car Purposes at the Airport, and payments to the City relating thereto, as supplemented, amended, modified, or superseded from time to time in accordance with its terms.

"**Other Contract**" - shall have the meaning set forth in Subsection 5.1(n) hereof.

"**Owners**" - shall have the meaning set forth in Subsection 5.1(n) hereof.

"**Partial License Year**" - means the period (consisting of less than twelve (12) months) from the Commencement Date or any more recent anniversary of the Commencement Date to and including the Expiration Date or termination date of this License, if the Term ends on a date other than the scheduled Expiration Date (other than because of an Event of Default).

"**Person**" - means any corporation, association, partnership, limited liability company, joint venture, trust, organization, business, individual, or government or any governmental agency, or political subdivision thereof.

**"Pick-Up/Drop-Off Area"** - means that certain area located at or adjacent to the Joint Use Facility, such area being designated by the City from time to time for the picking up and dropping off of Licensee's customers at the Airport, which Pick-Up/Drop-Off Area is currently depicted on Exhibit A attached hereto and made a part hereof.

**"Political fundraising committee"** - shall have the meaning set forth in Subsection 5.1(n) hereof.

**"Pre-Existing Condition"** - shall have the meaning set forth in Subsection 13.1(g) hereof.

**"Prevailing Wage Act"** - shall have the meaning set forth in Subsection 5.1(b)(i) hereof.

**"Public Parking Area"** - means that portion of the ES consisting of the floors, parking areas, improvements, offices, and other areas dedicated solely to public parking from time to time, together with that portion of the common areas of the Joint Use Facility allocated and dedicated to the Public Parking Area from time to time, as reasonably determined by the City, and not otherwise comprising part of the CRCF or the ATS.

**"QTA"** - shall mean a multi-story fuel/car wash quick turn-around vehicle service facility comprising a portion of the CRCF and located on that portion of the Joint Use Facility Property located adjacent to the ES.

**"RAC Consortium"** - shall mean the On-Airport RACs operating and occupying a portion or portions of the CRCF from time to time pursuant to valid On-Airport RAC Agreements, which RAC Consortium shall be organized by, and shall remain subject to, a certain operating agreement.

**"RCRA"** - shall have the meaning set forth in Subsection 13.1(d) hereof.

**"Release" or "Released"** - shall have the meaning set forth in Subsection 13.1(h) hereof.

**"Rental Car Purposes"** - The rental of Motor Vehicles, support functions such as the washing, fueling, and storage of Motor Vehicles held for rental, and the related provision of gasoline, collision damage waiver protection, insurance (including, but not limited to, personal injury insurance), the rental of children's car seats, mobile telephones, and such other services, items, and equipment are reasonably associated with the rental of Motor Vehicles.

**"Response" or "Respond"** - shall have the meaning set forth in Subsection 13.1(i) hereof.

**"SARA"** - shall have the meaning set forth in Subsection 13.1(d) hereof.

**"Security Deposit"** - means Twenty-Five Thousand and No/100 Dollars (\$25,000.00), subject to Section 4.6 hereof.

**"Special Waste"** - shall have the meaning set forth in Subsection 13.1(j) hereof.

**"Sub-Owners"** - shall have the meaning set forth in Subsection 5.1(n) hereof.

**"Taxes"** - shall have the meaning set forth in Section 4.7 hereof.

**"Term"** - means the term of this License shall commence on the Commencement Date and shall expire on the Expiration Date, subject to the City's rights under this License.

"Terminal" - means the existing terminal building(s) at the Airport that are open to the public for the purpose of flight ticket purchase, public lobby, waiting, baggage check-in, and those other services related to public air travel.

"TIFIA" - means The Transportation Infrastructure Finance and Innovation Act, MAP-21 §2002, 23 USC §§ 601-609, as the same may be amended, modified, or supplemented from time to time.

"TIFIA Loan" - means that loan or loans, if any, to the City from the United States Department of Transportation to fund, in part, the Joint Use Facility, pursuant to TIFIA.

"TIFIA Loan Documents" - means the documents and authorizations relating to the issuance, financing, investment, application, and retirement of the TIFIA Loan, as supplemented and amended from time to time.

"Waste Sections" - shall have the meaning set forth in Subsection 5.1(m) hereof.

## **ARTICLE 2**

### **RIGHTS GRANTED**

**Section 2.1 - License.** The City does hereby license to Licensee during the Term hereof the non-exclusive right to utilize the Pick-Up/Drop-Off Area for the limited purposes set forth in Section 2.2 hereof. Licensee's license of the Pick-Up/Drop-Off Area shall be further subject to any and all easements, licenses, and other rights with respect to the Pick-Up/Drop-Off Area and/or the Joint Use Facility granted to or vested in any other governmental entities or agencies, such as the FAA. Licensee acknowledges that there may currently exist, and that the City may grant in the future, easements and rights on, over, or under the Pick-Up/Drop-Off Area and/or the Joint Use Facility for the benefit of suppliers or owners of utilities that service the Airport, and Licensee hereby consents to any such utility easements whether now in existence or later granted. Notwithstanding anything contained herein to the contrary, Licensee shall have no right to use or occupy the Joint Use Facility, or any portion thereof.

**Section 2.2 - Use.** Subject to the terms and provisions contained in this License, and all applicable rules, regulations, laws, ordinances, codes, and orders of any Federal, State, or local government or subdivision thereof in connection with the conduct of activities by Licensee at the Airport, Licensee is granted the following rights only and no other (and shall use the Pick-Up/Drop-Off Area for the following purposes only):

(a) Licensee shall utilize the Pick-Up/Drop-Off Area for the sole and limited purpose of picking up and dropping off Licensee's customers when transporting such customers between the Airport and Licensee's Storefront. Further, Licensee's customers shall have the right to utilize the ATS (or the Common Use Transportation System, as the case may be) for transportation between the Pick-Up/Drop-Off Area and the Terminal, subject to the terms and conditions hereinafter set forth.

(b) All of Licensee's operations hereunder, shall take place at the Pick-Up/Drop-Off Area only and from no other location at or on the Airport or the Joint Use Facility.

(c) Licensee shall not use or occupy, or permit the Pick-Up/Drop-Off Area to be used or occupied, or do or permit anything to be done in or on the Pick-Up/Drop-Off Area, in whole or in part, in any manner which would in any way violate any certificate of occupancy affecting the Pick-Up/Drop-Off Area and/or the Joint Use Facility, or make void or voidable any insurance then in force with respect thereto, or which may make it impossible to obtain fire or other insurance thereon required to

be furnished by Licensee under this License, or which will constitute a public or private nuisance, or which will disrupt the safe, efficient and normal operations of the Airport.

(d) Licensee shall not use or occupy, or permit the Pick-Up/Drop-Off Area to be used or occupied, in whole or in part, in a manner which may violate, and shall otherwise comply with, any and all present or future, ordinary or extraordinary, foreseen or unforeseen, Laws of the Federal, State, or municipal governments or of any other governmental, public, or quasi-public authorities now existing or hereafter created, having jurisdiction over the Pick-Up/Drop-Off Area and/or the Joint Use Facility, whether or not the City also is liable for compliance. Licensee shall in no event commit any waste upon, or damage or destruction to, the Pick-Up/Drop-Off Area and/or the Joint Use Facility.

**Section 2.3 - Concession Recovery Fee.** Licensee acknowledges that Concession Fee payments by Licensee to the City under this License are for Licensee's privilege to use the Pick-Up/Drop-Off Area, as contemplated herein, and to access the Airport market, and are not fees imposed by the City upon Licensee's customers. The City does not require, but will not prohibit, a separate statement of and charge for the Concession Fee on customer invoices or rental agreements (such separate charge being referred to herein as the "**Concession Recovery Fee**"), provided that such Concession Recovery Fee meets all of the following conditions: (a) such Concession Recovery Fee is permitted by the Laws of the State of Illinois and all other applicable Laws, including, without limitation, Federal Trade Commission requirements, as such Laws exist as of the Commencement Date of this License, or as such Laws may hereafter be amended, as well as any commitment to or contractual obligation by Licensee with the Attorney General of the State of Illinois or any group of State Attorneys General; (b) such Concession Recovery Fee shall be titled "Concession Recovery Fee", "Concession Recoupment Fee", or such other name as is first approved by the City in writing; (c) the Concession Recovery Fee must be shown on the customer rental car agreement and invoiced with other Licensee charges (i.e. "above the tax line"); (d) the Concession 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 specifically included in Gross Revenues for purposes of this calculation the Concession Recovery Fee); (e) Licensee shall neither identify, treat, or refer to the Concession Recovery Fee as a tax or levy, nor state or imply that the City is requiring the pass-through or collection of such Concession Recovery Fee; and (f) Licensee shall not pass through, unbundle, or list any fees (other than a Concession Recovery Fee, vehicle license fee payable to the City and/or the State of Illinois, and CFC) as a separate item on its customer invoices, except with the City's prior written approval in each instance.

**Section 2.4 - Standards of Service.**

(a) Except as otherwise provided in Subsection 2.4(b) below, Licensee shall offer for rental only Motor Vehicles of recent manufacture (not more than three (3) model years old). All Motor Vehicles provided by Licensee shall be maintained at Licensee's expense in good and safe operating order, free from any known mechanical defects, and be in clean, neat, and attractive condition inside and out. Licensee shall furnish good, prompt, and efficient service and shall at all times have available a sufficient number of Motor Vehicles to meet all commercially and reasonably foreseeable demands of the traveling public.

(b) Licensee may offer for rental antique, vintage, classic, or other luxury or prestige automobile or handicapped operated vehicles that are of good quality, free from any known defect, and clean and attractive both inside and out. The City shall have the right to prohibit Licensee from offering for rental any such Motor Vehicle which the City reasonably determines not to meet the standards described in Subsection 2.4(a) or Subsection 2.4(b).

(c) Licensee shall provide the following services for its customers: (i) accept at least three (3) nationally recognized credit cards for payment of vehicle rental; and (ii) provide for a national reservation system for services of Licensee.

(d) Licensee shall maintain a sufficient number of trained personnel to ensure that Licensee's customers will receive prompt and courteous service at all times. All personnel of Licensee shall be polite, clean, and neat in appearance, and appropriately attired. The City shall have the right to complain to Licensee as to the demeanor, conduct, or appearance of Licensee's employees, invitees, and those doing business with it, whereupon Licensee hereby agrees to take all steps necessary to remove the cause of complaint.

(e) Licensee shall not misrepresent to the public its prices or the terms and provisions of its customer Contracts or those of its competitors. Licensee shall not identify the Concession Fee and/or Percentage Fee as a "tax" or separate charge (except as expressly provided in Section 2.3 hereof) on the customer Contracts as a part of fees or charges to a customer. Licensee shall comply with all applicable rules and regulations of the Federal Trade Commission and all other governmental agencies. Licensee shall fully inform each customer, prior to the execution of such customer's Contract, of all fees and charges applicable to such customer's rental. If the City determines, after notice and opportunity for Licensee to comment, that any of Licensee's business practices are unreasonable, deceptive, or unconscionable, Licensee shall immediately cease such practices upon receipt of a written order to do so from the City. The City will give advance notice to Licensee that the City considers a certain practice to be unlawful or discriminatory and Licensee shall have an opportunity to respond to the allegation.

(f) Without limiting any other requirement set forth in this License, Licensee shall conduct its operations at, and in connection with, the Pick-Up/Drop-Off Area in such manner as shall reduce to a minimum the emanation of noise, vibration, dust, fumes, and odors, so as not to interfere with the use of adjacent areas at or on the Joint Use Facility and/or the Airport.

(g) The City and Licensee acknowledge that the operation of a Motor Vehicle rental business servicing the Airport will enhance the economic development of the City, and that Licensee's rights to operate for the purposes provided in this License are subject to the rights of the City, as licensor, to monitor compliance with this License.

#### **Section 2.5 - Complaints.**

(a) If Licensee receives (or the City receives and forwards to Licensee) any written complaint concerning Licensee's operation of its business as it relates to this License and/or the Airport, other than (i) minor complaints not related in any material respect to Licensee's duties and obligations under this License or any other agreement between Licensee and the City, or (ii) manifestly invalid or baseless complaints (as mutually and reasonably determined by Licensee and the City following Licensee's submission of reasonable supporting or explanatory documentation in connection therewith) then (without limitation of the City's other rights and remedies hereunder):

(i) In the case of the first such complaint, Licensee shall promptly respond to such complaint in writing within thirty (30) days of its receipt and make a good-faith attempt to resolve or rectify the cause of such complaint within such 30-day period, and in the event Licensee fails to do so, the City may (but shall not be obligated), at its election to resolve or rectify the cause of such complaint, in which event the reasonable costs, expenses, and fees incurred by the City in connection therewith shall be deemed additional fees hereunder and shall be due and payable by Licensee to the City within

thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate until paid.

(ii) In the case of the second such complaint from the same customer, or concerning the same or substantially the same issue, received by the Licensee within ninety (90) days following the first such complaint, Licensee shall promptly respond to such complaint in writing within twenty-four (24) hours of its receipt and make a good-faith attempt to resolve or rectify the cause of such complaint within such 24-hour period, and in the event Licensee fails to do so, the City may (but shall not be obligated), at its election to resolve or rectify the cause of such complaint, in which event the reasonable costs, expenses, and fees incurred by the City in connection therewith shall be deemed additional fees hereunder and shall be due and payable by Licensee to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate until paid.

(iii) In the case of the third such complaint from the same customer, or concerning the same or substantially the same issue, received by the Licensee within ninety (90) days following the second such complaint, the City may (but shall not be obligated), in addition to its rights and remedies under clause (ii) above, at its election and upon prior notice to Licensee, to thereafter perform such functions directly for the remainder of the Term hereof, in which event the reasonable costs, expenses, and fees thereafter incurred by the City in connection with the performance of such functions shall be payable by Licensee as part of the Fees hereunder.

(iv) Without further notice or demand, Licensee shall keep a copy of each such complaint and Licensee's written response thereto for a period of six (6) months from the date of the complaint, and shall make the complaint and the written response available to the City upon its request.

(b) Licensee shall respond in writing to complaints registered by the City's police department or other law enforcement authorities at, or in connection with, this License and/or the Airport with respect to violations of traffic regulations committed in the course of Licensee's business by Licensee's agents, employees, invitees, and vendors setting forth such action as has been taken or is immediately contemplated to be taken to remedy said violations.

**Section 2.6 - Permits and Vehicle Registration.** Licensee shall obtain or cause to be obtained all permits required for conduct of its business as it relates to the Airport and/or this License, shall register all vehicles as may be required by applicable Laws and ordinances, and shall display all permits or stickers as may be required. Upon execution of this License and thereafter annually or at the City's request, Licensee shall provide evidence to the City that Licensee has obtained such permits and registrations.

**Section 2.7 - Airport Transit System/Common Use Transportation System.**

(a) Subject to terms of Subsection 2.7(d) below, Licensee agrees that, commencing on the Commencement Date (or such other date as may be directed by the City) and continuing for the remainder of the Term hereof, and except as expressly agreed to the contrary in writing by the City, Licensee shall cause all of its rental car customers to be transported between the Pick-Up/Drop-Off Area and the Terminal exclusively by use of the ATS (or if the ATS is unavailable for any reason, by use of the Common Use Transportation System). Licensee's use of the ATS (or Common Use Transportation System, as the case may be) shall comply with the terms and conditions of this License, the requirements

of applicable law, the City's rules and regulations, and standards and criteria and an operating plan reasonably approved by the City. Licensee shall obtain from the City an automatic vehicle identification device (a "Transponder") for the purposes of signaling when Licensee's customers are located at the Pick-Up/Drop-Off Area, which shall be installed by the City for a non-refundable fee to be established by the City from time to time. If any such Transponder is lost or damaged for any reason, Licensee shall obtain a replacement Transponder, which shall be obtained and installed by the City for such additional non-refundable fee as may be established by the City from time to time. Licensee agrees that the City shall have no liability or responsibility for any costs, damages, or expenses arising out of the use of the ATS (or Common Use Transportation System, as the case may be) by Licensee or Licensee's customers hereunder.

(b) Licensee agrees that for any violation by Licensee of the obligations under the first sentence of Subsection 2.7(a) above, the City shall have the right, in addition to its rights and remedies provided elsewhere in this Lease and at law, to impose the following on Licensee as liquidated damages for such violation:

(i) For the first violation in any period of twelve (12) consecutive months during the Term of this License, the liquidated damages amount shall be \$125.00.

(ii) For the second and any subsequent violation during any period of twelve (12) consecutive months during the Term of this License, the liquidated damages amount shall be \$250.00 per violation.

If Licensee disputes any such violation, Licensee may submit, within ten (10) days of receipt of written notice of the liquidated damages amount, a written request for review of such liquidated damages amount to the Commissioner or the City's designated person, as the case may be, in which event the City's administrative hearing procedures shall be applicable with respect to such liquidated damages amount. Failure to so request review within such 10-day period shall result in such liquidated damages amount becoming final and non-reviewable.

(c) Licensee acknowledges and agrees that the prohibition on Airport access, including, but without limitation, Terminal curbside shuttle, pick-up, and drop-off operations, other than through the ATS (or the Common Use Transportation System, as the case may be), is a critical element of the operations within the Airport. The failure of Licensee to comply with such prohibition vitally affects the safety and needs of the traveling public and the Airport and constitutes a material breach of this License for which money damages are insufficient. Therefore, Licensee specifically acknowledges and agrees that the City shall, without limitation of its other rights and remedies, be entitled to seek an order of specific performance of the provisions of this Section 2.7 issued by a court of competent jurisdiction in connection with any violation by Licensee of the terms and provisions hereof.

(d) Notwithstanding anything written herein to the contrary, until such time that the ATS (or the Common Use Transportation System, as the case may be) is operational between the Joint Use Facility and the Terminal, Licensee may utilize its own shuttle buses to transport its rental car customers between Licensee's Storefront and the curbside drop-off areas of the Terminal, as may be designated by the City from time to time. Upon receipt of written notice from the City that the operation of the ATS (or the Common Use Transportation System, as the case may be) has commenced between the Joint Use Facility and the Terminal, Licensee's rights under the preceding sentence shall be of no further force or effect.

**Section 2.8 - Ingress and Egress.** Subject to the lawful rules and regulations promulgated by the City, Licensee and its employees, agents, passengers, guests, patrons, and invitees, its suppliers of materials and furnishers of services, and its equipment, vehicles, machinery, and other property, shall



have the right and privilege of ingress to and egress from the Pick-Up/Drop-Off Area and/or the Joint Use Facility at such locations as are directed by and acceptable to the City, including the ATS (or Common Use Transportation System, as the case may be). The City may, at any time, temporarily or permanently, close or consent to or request the closing of any roadway or other right-of-way for such ingress and egress, and any other area at the Joint Use Facility or in its environs presently or hereafter used as such (provided, except in the event of an emergency, the City shall provide reasonable prior written notice to Licensee of any such planned closure).

**Section 2.9 - Condition of Pick-Up/Drop-Off Area.** Upon substantial completion of the CRCF Project, the Pick-Up/Drop-Off Area shall be available to Licensee in its then existing "AS IS" condition. Except as expressly otherwise provided in this License, the City shall have no obligation or responsibility whatsoever to do any work or furnish any improvements of any kind to the Pick-Up/Drop-Off Area or to perform any maintenance or repair in or on, or to provide any other services in connection with, the Pick-Up/Drop-Off Area. EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN THIS LICENSE, THE CITY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO (A) THE CONDITION OF THE PICK-UP/DROP-OFF AREA AND/OR THE CONSOLIDATED FACILITY, (B) THAT THE PICK-UP/DROP-OFF AREA AND/OR THE CONSOLIDATED FACILITY SHALL BE SUITABLE FOR LICENSEE'S PURPOSES OR NEEDS, OR (C) THE ENVIRONMENTAL CONDITION OF THE PICK-UP/DROP-OFF AREA AND/OR THE CONSOLIDATED FACILITY. EXCEPT AS EXPRESSLY AUTHORIZED UNDER THIS LICENSE, LICENSEE HEREBY WAIVES ANY AND ALL CLAIMS AGAINST THE CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, CONTRACTORS, AND AGENTS, WHICH MAY CURRENTLY EXIST, OR WHICH MAY ARISE IN THE FUTURE, BY CONTRACT, AT COMMON LAW, IN EQUITY, OR UNDER STATUTE, NOW OR THEN CURRENTLY IN EFFECT, AND WHICH RELATE TO ENVIRONMENTAL CONDITIONS ON, UNDER, OR NEAR THE PICK-UP/DROP-OFF AREA AND/OR THE CONSOLIDATED FACILITY.

### ARTICLE 3 TERM

**Section 3.1 - Term of License.** The term of this License shall be for the Term. The "Commencement Date" shall be August 1, 2013.

**Section 3.2 - Utilization of the Pick-Up/Drop-Off Area after Expiration Date.** In the event of continued utilization by Licensee of all or a portion of the Pick-Up/Drop-Off Area after expiration or termination of this License with the City's consent, such utilization shall be deemed to be on a month-to-month basis and the Concession Fee and other sums otherwise due and payable by Licensee hereunder for such continued utilization shall be at the same rate of such Concession Fee and other sums otherwise due and payable by Licensee, on a per diem basis, during the last calendar year falling within the Term; provided, in the event that the City notifies Licensee in writing at any time following such expiration or termination of this License that Licensee is required to cease utilization of the Pick-Up/Drop-Off Area to the City and Licensee fails to do so within thirty (30) days following such notice, Licensee shall thereupon commence paying the Concession Fee at 150% of the annual rate of the Concession Fee last payable, on a per diem basis, during the period immediately preceding such notice from the City, which rate shall increase to 200% of the annual rate of the Concession Fee last payable, on a per diem basis, during the period immediately preceding such notice from the City if such failure continues for sixty (60) days following such notice. Except as expressly provided to the contrary hereunder, no such continued utilization by Licensee after the expiration or other termination of this License shall be construed to extend the Term. In addition, in the event that the City notifies Licensee in writing to cease utilization of the Pick-Up/Drop-Off Area to the City as aforesaid and Licensee fails to do so within thirty (30) days following such notice, Licensee shall be liable for any and all damages, consequential as well as direct,

sustained by the City by reason of Licensee's continued utilization from and after the expiration of such 30-day period. Any such continued utilization with the consent of the City in writing shall thereafter constitute a license from month to month on the same terms and conditions as this License, including payment of the Concession Fee, or at such other rate as to which the City notifies Licensee prior to or after such termination or expiration as to fees payable thereafter for such holding over.

**Section 3.3 - Cooperation with Successor Operator of Rental Car Concession.** Upon the expiration or earlier termination of this License, Licensee agrees to cooperate fully with the City and with any and all successor concessionaires, operators, or licensees to ensure a smooth transition from Licensee to such successor.

**Section 3.4 - Early Termination.** In the event the Licensee is a successful respondent to the City's "Request for Proposals for Rental Car Concessions for the Future Joint Use Rental Car and Public Parking Facility at Chicago O'Hare International Airport" issued in March 2013 and executes a lease to operate out of the CRCF, then once Licensee begins operations out of the CRCF this License shall automatically terminate.

#### **ARTICLE 4 FEES**

**Section 4.1 - Place of Payment.** Licensee shall pay Fees as set forth below without set-off, deduction, or discount, except as otherwise expressly provided herein, in lawful money of the United States, to the City at the Office of the City Comptroller, 333 South State Street, Room 420, Chicago, Illinois 60604, or to such other place or person as the City may direct Licensee by written notice. Payment of Fees is independent of every other covenant and obligation in this License. The City shall not be obligated to bill Licensee the Concession Fee. Payment by Licensee to the City of Fees or other sums pursuant to this License shall not be considered to be a tax and shall be in addition to and exclusive of all license fees, taxes, or franchise fees which Licensee may now or in the future be obligated to pay to the City.

**Section 4.2 - Concession Fee.** Licensee shall pay the Concession Fee as hereinafter provided:

(a) With respect to each License Year, Licensee shall pay to the City an amount (the "Concession Fee") equal to ten percent (10%) of Gross Revenues for each License Year. On or before the twentieth (20<sup>th</sup>) day of each calendar month during the Term (other than the month in which the Commencement Date falls), and on or before the 20th day of the calendar month immediately following the expiration or other termination of this License, Licensee shall pay to the City the amount, if any, by which the Concession Fee for the License Year in which such month falls attributable to Gross Revenues for the period from and after the commencement of such License Year through and including the last day of the calendar month immediately preceding the month. If a License Year ends on a date other than the last day of a calendar month, and Gross Revenues are not calculated separately for that portion of the month falling in each License Year, then Gross Revenues for such calendar month shall be prorated and included in Gross Revenues for each of the License Years in which such calendar month falls based on the number of days in such month falling within the particular License Year. If the Annual Statement (as hereinafter defined) of Gross Revenues required pursuant to Subsection 4.2(b) hereof shows that the additional Concession Fee is owed, because the Concession Fee attributable to the License Year or Partial License Year to which the statement of Gross Revenues applies exceeds the amount of all payments theretofore made by Licensee to the City in respect of the Concession Fee for such License Year or Partial License Year, then Licensee shall pay the balance of the Concession Fee owed to the City concurrently with the submission of said Annual Statement. If the Annual Statement shows that Licensee has overpaid the Concession Fee, then the City shall credit the amount of such overpayment against installments of the

Concession Fee next coming due and payable hereunder until exhausted (provided, if this License has then expired or otherwise terminated, the City shall refund such overpayment within sixty (60) days following the City's receipt of such Annual Statement).

(b) Licensee shall furnish to the City on or before the 20<sup>th</sup> day of each calendar month of each License Year a complete statement, certified by Licensee, of the amount of Gross Revenues during the prior calendar month (the "Monthly Statement"); provided, however, with respect to the month in which the Commencement Date falls, Licensee may furnish such report of Gross Revenues at the time its next Monthly Statement is due. Licensee also agrees that it will furnish to the City no later than ninety (90) days after the end of each License Year or Partial License Year, and within ninety (90) days after the expiration or termination of this License, a complete statement of Gross Revenues certified by an independent certified public accountant hired by Licensee, showing in all reasonable detail the amount of Gross Revenues for the preceding License Year or Partial License Year (the "Annual Statement"). Said Annual Statement shall include a breakdown of Gross Revenues on a month by month basis and an opinion of an independent certified public accountant which shall include the following language, or language of similar purport:

"We, a firm of independent certified public accountants, have examined the accompanying statement reported to the City of Chicago by \_\_\_\_\_, a \_\_\_\_\_, for the year ended \_\_\_\_\_ relating to its operations at Chicago O'Hare International Airport pursuant to the Off-Airport Rental Car Concession License Agreement dated \_\_\_\_\_, 2013 between the City of Chicago and \_\_\_\_\_, a \_\_\_\_\_. Our examination was made in accordance with generally accepted auditing standards and, accordingly, includes such tests of the accounting records and such other procedures as we considered necessary in the circumstances. In our opinion, the accompanying statement showing Gross Revenues of \$ \_\_\_\_\_ dollars presents accurately and fairly the amount of Gross Revenues, as defined in the License, for the year ended \_\_\_\_\_."

All such Monthly Statements and Annual Statements shall be prepared on a form approved by the City and shall, among other things, provide a breakdown of the Gross Revenues by category of merchandise or type of service rendered and an analysis of all Concession Fees due and payable to the City with respect to the period in question. Such Monthly Statements and Annual Statements shall also be required from any and all sublicensees and other persons doing business in Licensee's Storefront from time to time, if any. In the event Licensee shall fail to timely furnish to the City any Monthly Statements and/or Annual Statements required under this License, or if the independent certified public accountant's opinion is qualified or conditioned in any manner, the City shall have the right (but shall not be obligated) without notice, to conduct an audit of Licensee's books and records and to prepare such Monthly Statements and/or Annual Statements at Licensee's expense. Moreover, in the event Licensee fails to timely furnish any such Monthly Statements and/or Annual Statements or fails to make available its books and records, the City shall have the right to estimate the Gross Revenues.

(c) Licensee shall prepare and maintain at an office in Chicago, Illinois (except as otherwise provided below) full, complete, and proper books, records, and accounts in accordance with generally accepted accounting principles, of the Gross Revenues, both for cash and on credit, made at Licensee's Storefront (segregated from other locations), or otherwise at, or in connection with, the Airport, and shall require and cause all such parties to prepare and keep books, source documents, records, and accounts sufficient to substantiate those kept by Licensee.

(i) The books and source documents to be kept by Licensee shall include, without limitation, true copies of all Federal and State tax returns and reports, as well as local tax returns and reports of the City of Chicago and any other local governmental entity or agency with jurisdiction and/or taxing authority over the Airport and/or Licensee's Storefront, as applicable (provided, such returns and reports shall only be required if deemed necessary by the City's auditor(s) from time to time and, if so required, the City agrees not to make or retain any copies of such returns and reports and to otherwise maintain the confidentiality of such returns and reports to the extent not prohibited by applicable law, and provided, further, that if Licensee does not customarily prepare and maintain separate tax returns solely in connection with Licensee's operations at Licensee's Storefront, Licensee shall not be required to so prepare such separate tax returns solely in connection herewith, but shall instead be permitted to submit Licensee's customary consolidated tax returns hereunder), copies of rental agreements, and daily receipts from all transactions conducted at Licensee's Storefront by Licensee, detailed original records of any exclusions or deductions from Gross Revenues, sales tax records, and such other records, if any, which would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of Licensee's revenues. Licensee shall, or shall cause each sub-licensee to, record at the time of each transaction, all receipts from such sale or other transaction, whether for cash, credit, or otherwise. Licensee shall cause to be installed at Licensee's Storefront, and shall at all times use, such cash registers, invoicing machines, sales slips, and other accounting equipment and devices and forms as are reasonably necessary to record properly, accurately, and completely all transactions involving Gross Revenues. Said books, records, and accounts, including any sales tax reports that Licensee or any sub-licensee may be required to furnish to any government or governmental agency, shall be retained and at all reasonable times be open to the inspection (including the making of copies or extracts) of the City, the City's auditor or other authorized representative or agent for a period of at least three (3) years after the expiration of each License Year.

(ii) The acceptance by the City of payments of Concession Fees shall be without prejudice to the City's right to an examination of the Licensee's books and records of Gross Revenues within the 3-year period specified above in order to verify the amount of Gross Revenues.

(iii) After providing Licensee at least ten (10) days' prior notice, the City may inspect the books and records of Licensee and any sub-licensee or require Licensee to furnish the City copies or extracts of such books and records. Further, at its option, the City may at any reasonable time, upon not less than ten (10) days' prior written notice to Licensee, cause a complete audit to be made of Licensee's or any sub-licensees' entire records relating to the Airport and/or Licensee's Storefront for the period covered by any statement issued by Licensee as above set forth. If such audit shall disclose that Licensee's Monthly Statement and/or Annual Statement is understated to the extent of two percent (2%) or more, Licensee shall promptly pay to the City the cost of said audit in addition to the deficiency (and interest thereon at the Default Rate), which deficiency shall be payable in any event. In addition to the foregoing, and in addition to all other remedies available to the City, if Licensee or the City's auditor shall schedule a date for an audit of Licensee's records and Licensee shall fail to be available or otherwise fail to comply with the reasonable requirements for such audit, Licensee shall pay all reasonable costs and expenses associated with the scheduled audit. Any deficiencies or overpayments hereunder shall be subject to payment or credit, as the case may be, in accordance with Subsection 4.2(a) hereof.

(iv) If books, records, and accounts required to be kept by Licensee are maintained outside Chicago, Illinois, Licensee shall produce such books, records, and accounts at a location in Chicago, Illinois for the City's inspection or audit when required or, alternatively, shall pay all reasonable costs and expense of the City and its representatives to inspect or audit books, records, and accounts at the location outside Chicago, Illinois, including, without limitation, additional professional fees and expenses, and reasonable travel and photocopying charges.

(d) The City may, in its sole discretion, and if Licensee so requests, consent to Licensee's transmission of its Monthly Statement (but not its Annual Statement) electronically, and to maintain its books and records in computerized form, provided that it is convenient and possible and that:

(i) As to reports of Gross Revenues, (A) Monthly Statements are transmitted by disc, modem or electronic transmission to the City's data center, in either case in a manner compatible with the City's computer system and approved in writing by the City, and (B) print copies of such Monthly Statements are furnished to the City within thirty (30) days after request (which request may be made at any time within one (1) year after the electronic reports are furnished by Licensee to the City); and

(ii) As to books and records, (A) Licensee's computerized books and records provide the same level of information as the print books and records described above, are retained for the full record retention period provided for herein, and are made accessible for the City's inspection on request, and (B) print copies of any of such books and records are made available to the City's agents who are engaged in inspecting Licensee's books and records, as provided herein, promptly upon request.

Consent by the City to either electronic transmission of Monthly Statements or computerized record keeping, once given, may be revoked by the City on prior written notice to Licensee if Licensee fails to comply with the foregoing requirements.

(e) Licensee shall not intentionally divert Motor Vehicle rentals to other locations to avoid inclusion in Gross Revenues. Intentional diversion shall include, without limitation, Licensee advising, directing, or otherwise suggesting to a customer or prospective customer arriving at Licensee's Storefront that such customer or prospective customer rent a Motor Vehicle at any other location, whether from Licensee or some other rental car provider, regardless of the basis or reason for such advice, direction, or suggestion. All such intentionally diverted revenues shall be included in Gross Revenues.

**Section 4.3 - Customer Facility Charge.** The City has adopted the CFC Ordinance imposing a CFC on rental car customers at the Airport. The CFC Ordinance may be amended as needed and approved from time to time by the City Council of the City of Chicago.

(a) Licensee shall be required to collect the CFC in accordance with the terms and provisions of the CFC Ordinance, as the same may be amended from time to time. Licensee shall promptly remit to the City (or to such other person as directed by the City from time to time) the CFC's required to be charged, and at the times required, under this License and the CFC Ordinance or the Bond Ordinance, as the case may be (regardless of whether such amounts are actually collected). A true and correct copy of the CFC Ordinance, as such CFC Ordinance exists as of the Effective Date hereof, is attached as *Exhibit D* hereto and made a part hereof. The amount of the CFC will be established by the Commissioner from time to time on a "per Contract Day" basis. The Commissioner may adjust the amount of the CFC at any time and from time to time, upon not less than thirty (30) days' prior written notice to Licensee. Except as otherwise directed by the CFC Ordinance, as the same may be amended

from time to time. Licensee must charge each customer the total amount of CFCs due under the customer's Contract at the time the final number of Contract Days is determined under the Contract, and must remit such total amount of the CFCs pursuant to Subsection 4.3(b) of this License, regardless of whether or not the total amount of such CFCs is actually collected by Licensee from the person who rented the Motor Vehicle under such Contract. The Commissioner is authorized to mandate how Licensee identifies the CFC on Contracts, and Licensee must so identify the CFC. All CFCs collected by Licensee on behalf of the City shall be deemed to be held in trust for the beneficial interest of the City until they are remitted. Licensee shall have no legal or equitable interest in the CFCs it collects and shall characterize any CFCs in its possession as trust funds in financial statements. Licensee shall be entitled to no compensation for collection and remittance of the CFCs, but it may retain any interest earned on CFCs between time of collection and remittance to the City (or to such other person as directed by the City from time to time).

(b) On or before the twentieth (20<sup>th</sup>) day of each calendar month during the Term (provided, however, with respect to the month in which the Commencement Date falls, Licensee may furnish such report at the time its next monthly report is due), and on or before the 20th day of the calendar month immediately following the expiration or other termination of this License, Licensee shall submit to the City, on a form substantially in accordance with Exhibit E attached hereto and made a part hereof or as otherwise approved by the Commissioner from time to time, and concurrently with the Monthly Statement or Annual Statement, as the case may be, a written report (the "CFC Report") specifying for the prior calendar month (i) the total number of Contracts entered into by Licensee at Licensee's Storefront (including the total number of such Contracts relating to the Airport, shown separately), (ii) the total number of Contract Days for all such Contracts thereunder, and (iii) and the total amount of CFCs payable by Licensee in connection with such Contracts. Licensee shall remit to the City (or to such other person as directed by the City from time to time) concurrently with such CFC Report the total amount of CFCs due and payable for such calendar month. Any such CFCs which are not paid on such date shall bear interest at the Default Rate from the date due until paid. In the event Licensee shall fail to timely furnish to the City any CFC Report required under this Section 4.3, the City shall have the right (but shall not be obligated) without notice, to conduct an audit of Licensee's books and records (which books and records shall be prepared and maintained in accordance with, and shall include all of the information required under, Subsection 4.2(c) of this License) and to prepare such reports at Licensee's expense. Moreover, in the event Licensee fails to timely furnish any such CFC Report or fails to make available its books and records, the City shall have the right to estimate the CFCs due and payable hereunder. The City shall furnish to Licensee on a monthly basis a report showing, in the aggregate, the total number of Contract Days and the total amount of CFCs payable in connection with such Contract Days.

(c) The audit rights set forth in Subsection 4.2(c) of this License shall apply and shall be available to the City with respect to the CFCs and collections thereof hereunder; provided, (i) if any such audit with respect to CFCs shall disclose that Licensee's CFC Report(s) understated CFC collections to the extent of two percent (2%) or more, Licensee shall promptly pay to the City the cost of said audit in addition to the deficiency (together with interest on such deficiency at the Default Rate from the date due until paid), which deficiency shall be payable in any event, or (ii) if any such audit with respect to CFCs and collections thereof shall disclose that Licensee's CFC report(s) understated CFC collections by less than two percent (2%), Licensee shall promptly pay to the City one-half (½) the cost of said audit in addition to the deficiency (together with interest on such deficiency at the Default Rate from the date due until paid), which deficiency shall be payable in any event. If the City requires or performs more than one (1) audit during any calendar year during the Term hereof, the cost of any audit during such calendar year following the initial audit for such calendar year shall be paid by the City (except to the extent that the initial or prior audit for such calendar year revealed a deficiency of two percent (2%) or more, in which case the aforementioned provisions shall apply)

(d) The Commissioner is authorized to mandate the manner in which Licensee identifies the CFC on Contracts from time to time, and Licensee shall so identify the CFC within thirty (30) days following notification thereof from the Commissioner. Licensee shall charge each customer the total amount of the CFC due under the customer's Contract at the time the final number of Contract Days is determined thereunder, and shall remit such total amount of CFCs to the City (or such other person as directed by the City from time to time), pursuant to the terms and provisions of this License (and any failure of Licensee to so charge or collect such CFCs shall not relieve Licensee for its responsibility to remit the full amount of such CFCs to the City (or such other person as directed by the City from time to time) hereunder).

(e) Licensee shall not intentionally divert Motor Vehicle rentals to other locations to avoid the imposition or collection of CFCs. Intentional diversion shall include, without limitation, Licensee advising, directing, or otherwise suggesting to a customer or prospective customer arriving at Licensee's Storefront that such customer or prospective customer rent a Motor Vehicle at another location, whether from Licensee or some other rental car provider, regardless of the basis or reason for such advice, direction, or suggestion. All CFCs which would otherwise have been imposed upon and collected from such intentionally diverted rentals may, at the option of the City, be charged to and due and payable by Licensee as additional CFCs hereunder.

(f) Licensee covenants and agrees that Licensee will not be entitled to any rights to offset or other reduction in the requirements herein and shall be required to remit to the City (or such other person as directed by the City from time to time) all CFCs imposed and payable regardless of any amounts that may be owed or due to Licensee by the City. All CFCs collected by Licensee on behalf of the City shall be deemed to be held in trust for the beneficial interest of the City until such CFCs are remitted hereunder. Licensee shall have no legal or equitable interest in the CFCs it collects and shall characterize any CFCs in Licensee's possession as trust funds in financial statements. Licensee shall not be entitled to any compensation for collection and remittance of the CFCs, but Licensee may retain any interest earned on the CFCs between the time of collection and remittance to the City.

**Section 4.4 - Other Provisions.** Information submitted to or reviewed by the City or its agents, employees, or designees under this Article 4 shall not be subject to any expectation of confidentiality or privilege; provided, to the extent that Licensee submits to the City proprietary or financial information which is customarily and reasonably expected to remain confidential or privileged, and so long as Licensee advises the City of the same and clearly marks such information in bold capital letters as "CONFIDENTIAL" or "PRIVILEGED", the City will use commercially reasonable efforts to keep and maintain such information as confidential and privileged, subject however to applicable Laws, judicial order, or subpoena, and except in connection with disputes arising by or between the City and Licensee in connection with this License.

**Section 4.5 - Interest on Overdue Amounts.** Fees and any additional charges not paid when due shall bear interest at the Default Rate.

**Section 4.6 - Security Deposit.**

(a) As additional security for the faithful and prompt performance of Licensee's obligations hereunder, Licensee shall deliver the Security Deposit to the City simultaneously with the execution of this License, to be held and applied by the City for the purpose of: curing any event of Default; paying any amounts owed by Licensee to the City pursuant to this License or any amount which the City may spend or be obligated to spend as a result of Licensee's default, or to compensate the City for any other damages as a result of Licensee's default. In the event that the City applies any portion of the Security Deposit for such purpose, Licensee shall within fifteen (15) days after written demand

therefore deposit cash with the City in an amount sufficient to restore the Security Deposit to its original amount, and Licensee's failure to do so shall be a material breach of this License. The Security Deposit shall not be deemed an advance payment of Fees or a measure of the City's damages for any breach of the terms of this License by Licensee. Licensee may not elect to apply any portion of the Security Deposit toward the payment of Fees or other charges payable by Licensee hereunder. The City shall not be required to segregate the Security Deposit from Airport funds and Licensee shall not be entitled to interest on the Security Deposit. If Licensee shall fully and faithfully perform every provision of this License to be performed by it, the Security Deposit or any balance thereof shall be returned to Licensee within ninety (90) days after the expiration of the Term.

(b) Alternatively, and in lieu of the Security Deposit hereinabove provided, Licensee may deposit with the City, upon Licensee's execution and delivery of this License, as security for the full and prompt performance by Licensee of all of Licensee's obligations hereunder, an irrevocable, unconditional, transferable letter of credit (the "Letter of Credit"), in substantially the form attached as Exhibit B hereto and made a part hereof, in favor of the City from a bank approved by the City (which bank shall have a Fitch rating of "A+" or better, shall have a branch office located in the Chicago, Illinois metropolitan area, and shall not appear on any "troubled" or "distressed" bank or financial institution lists maintained or published by the FDIC, any other governmental entity or agency with jurisdiction over the issuing bank, or any generally-recognized private bank rating entity or company). The Letter of Credit shall provide for security in the initial amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00). Whether or not this License or Licensee's right to possession hereunder has been terminated, (a) in the event of a default under any of the terms, covenants and conditions of this License, (b) in the event Licensee has filed (or there has been filed against Licensee) a petition for bankruptcy protection or other protection from its creditors under any applicable and available law which has not been dismissed or discharged, or in the event Licensee files a general assignment for the benefit of its creditors, or (c) the issuing bank is placed in receivership or similar position by the FDIC or any other governmental entity or agency with jurisdiction over the issuing bank, or otherwise appears on any "troubled" or "distressed" bank or financial institution lists maintained or published by the FDIC, any other governmental entity or agency with jurisdiction over the issuing bank, or any generally-recognized private bank rating entity or company, then, in any such event, the City may at once and without any notice whatsoever to Licensee be entitled to draw down on the Letter of Credit and apply such resulting sums toward the cure of any default by Licensee under this License or toward any damages to which the City is entitled pursuant to the terms of this License.

(c) The foregoing Letter of Credit shall provide for an original expiration date not earlier than twelve (12) months following the date of issuance and shall be automatically extended without amendment for additional successive twelve (12) month periods from the original expiration date or any future expiration date thereof through the expiration or earlier termination of this License, unless not less than sixty (60) days prior to any such expiration date, the issuing bank sends to the City by certified/registered mail, return receipt requested, or by overnight courier written advice that the bank has elected not to consider the Letter of Credit renewed for any such additional 12-month period. In the event such bank so advises the City that such Letter of Credit will not be so renewed, or in the event that the issuing bank is placed in receivership or similar position by the FDIC or any other governmental entity or agency with jurisdiction over the issuing bank or otherwise appears on any "troubled" or "distressed" bank or financial institution lists maintained or published by the FDIC, any other governmental entity or agency with jurisdiction over the issuing bank, or any generally-recognized private bank rating entity or company, the City shall promptly thereafter notify Licensee thereof in writing, and Licensee shall obtain a substitute Letter of Credit from a bank reasonably approved by the City meeting all of the terms and conditions described in this Section 4.6, which substitute Letter of Credit ("Substitute Letter of Credit") shall be reasonably satisfactory to the City and delivered to the City no later than thirty (30) days prior to the expiration date of the Letter of Credit then in effect. In the event Licensee fails to deliver such



Substitute Letter of Credit to the City at least thirty (30) days prior to the expiration date of the Letter of Credit then in effect (or within ten (10) days following the date of Landlord's notice advising Licensee that the issuing bank was placed in receivership or similar position or otherwise appears on any "troubled" or "distressed" bank or financial institution lists, as the case may be), the City shall in such instance have the right, without further notice to Licensee, to immediately draw down on the entire amount of the Letter of Credit then available to the City; and in such instance, the City shall retain such resulting sum as a cash security deposit and the City shall have the right to use such cash security deposit to the same extent that Landlord would be entitled to draw down on the Security Deposit or the Letter of Credit pursuant to the terms of this Section 4.6 (and Licensee shall replenish such cash security deposit in the same manner as required for the Letter of Credit). The City shall not, unless required by law, keep the cash security deposit separate from its general funds or pay interest thereon to Licensee. No trust relationship is created herein between the City and Licensee with respect to such security deposit, and the security deposit may be commingled with other funds of the City.

(d) If the City transfers its interest in the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or this License, the City may transfer the Security Deposit or the Letter of Credit, as the case may be, to its transferee. Upon such transfer, the City shall have no further obligation to return the Security Deposit or the Letter of Credit, as the case may be, to Licensee, and Licensee's right to the return of the Security Deposit or the Letter of Credit, as the case may be, shall apply solely against the City's transferee.

**Section 4.7 - Taxes.** Licensee shall be responsible for payment of all applicable taxes levied on Licensee's interest in this License, including, without limitation, any and all sales, use, business, license, or personal property taxes (collectively, "Taxes"), and shall pay such taxes directly to the appropriate taxing agency. Licensee shall provide the City with copies of all notices relating to such taxes within thirty (30) days after receipt of request therefore and shall provide the City with a receipt indicating payment of such taxes when due. Nothing herein shall preclude Licensee from contesting such tax, including those taxes enacted or promulgated by the City, so long as the City's right, title and interest in and to the Pick-Up/Drop-Off Area and/or the Joint Use Facility, and the property located thereunder, is not materially or adversely affected thereby.

## **ARTICLE 5**

### **COMPLIANCE WITH ALL LAWS**

**Section 5.1 - Applicable Laws.** Licensee shall, at its sole cost and expense, comply with, and shall cause its contractors and their respective agents and employees to comply with, any and all present or future, ordinary or extraordinary, foreseen or unforeseen, laws, statutes, rules, regulations, directives, ordinances, or requirements of any Federal, State, or municipal governments or of any other governmental, public, or quasi-public authorities now existing or hereafter created (collectively, "Laws"), including, without limitation, the following:

(a) **Non-Discrimination:**

(i) **General Requirements:**

- (A) It shall be an unlawful employment practice for Licensee to fail to hire, to refuse to hire, to discharge, or to discriminate against any individual with respect to his compensation, or the terms, conditions, or privileges of his employment, because of such individual's race, color, religion, sex, age, handicap, or national origin; or to limit, segregate, or classify his employees or applicants for employment in any way which would

deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's race, color, religion, sex, age, handicap, or national origin.

- (B) Licensee shall comply with The Civil Rights Act of 1964, 42, U.S.C. Sec. 2000 et seq. (1981), as amended. Licensee shall further comply with Executive Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000(c) note, as amended by Executive Order No. 11,375 32 Fed. Reg. 14,303 (1967) and by Executive Order No. 12,086, 43 Fed. Reg. 46,501 (1978); the Age Discrimination Act, 43 U.S.C. Sec. 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. Sec. 621.34; the Rehabilitation Act of 1973, 29 U.S.C. Sec. 793-794 (1981); the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.; 41 C.F.R. Part 60 et seq. (1990); Air Carriers Access Act, 49 U.S.C.A. 1374; and FAA Circular No. 150/5100XXV.

(ii) State Requirements: Licensee shall comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1990), as amended; the Discrimination in Public Contracts Act, 775 ILCS 10/0.01 et seq. (1990), as amended, and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 5 Ill. Admin. Code Sec. 750 Appendix A; and the Environmental Barriers Act, 410 ILCS 25/1 et seq. Ill. Rev. Stat.

(iii) City Requirements: Licensee shall comply with the Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., of the Code, as amended. Further, Licensee shall furnish such reports and information as requested by the Chicago Commission on Human Relations.

(b) Prevailing Wage:

(i) Licensee shall comply with 820 ILCS 130/0.01 et seq., as it may be amended (the "Prevailing Wage Act"), so long as the Prevailing Wage Act is in effect, in order to ensure that such persons covered by the Prevailing Wage Act are paid the prevailing wage rate as ascertained by the Illinois Department of Labor. All contracts shall list the specified rates to be paid to all laborers, workers, and mechanics for such craft or type of worker or mechanic employed in the contract. If the Illinois Department of Labor revises such prevailing wage rates, the revised rates shall apply to all such contracts.

(ii) The term "prevailing wages," when used in this License means the hourly cash wages plus fringe benefits for health and welfare, insurance, vacations, and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public work.

(c) Non-Collusion, Bribery of a Public Officer or Employee: Licensee shall comply with the Code, Section 2-92-320, as follows:

(i) No person or business entity shall be awarded a contract or sub-contract if that person or business entity:

- (A) Has been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, or any agency of the Federal government or any State or local government in the United States, in that officer's or employee's official capacity; or
- (B) Has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or
- (C) Has made an admission of guilt of such conduct described in (A) or (B) above which is a matter of record but has not been prosecuted for such conduct.

(ii) For purposes of this Section, where an official, agent or employee of a business entity has committed any offense under this Section on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof (including the person committing the offenses if he is a responsible official of the business entity), the business entity shall be chargeable with the conduct. One business entity shall be chargeable with the conduct of an affiliated agency.

(iii) Ineligibility under this Section shall continue for three (3) years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the Purchasing Agent under certain specific circumstances. Reference is made to Section 2-92-320 for a definition of "affiliated agency," and a detailed description of the conditions which would permit the Purchasing Agent to reduce, suspend, or waive the period of ineligibility.

(d) Chapter 2-56 of the Code, Office of Inspector General:

(i) It shall be the duty of Licensee and all officers, directors, agents, partners and employees of Licensee to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Code. Licensee understands and will abide by all provisions of Chapter 2-56 of the Code.

(ii) All contracts shall inform contractors of this provision and require understanding and compliance herewith.

(e) Governmental Ethics Ordinance: Licensee shall comply with Chapter 2-156 of the Code. "Governmental Ethics," including but not limited to Section 2-156-120 of this chapter pursuant to which no payment, gratuity, or offer of employment shall be made in connection with any City contract, by or on behalf of a subcontractor to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(f) Anti-Scofflaw Ordinance (Section 2-92-380 of the Code): In accordance with Section 2-92-380 of the Code, and in addition to any other rights and remedies (including any of set-off) available to the City under this License or permitted at law or in equity, the City shall be entitled to set off a portion of any amounts due Licensee by the City under this License (but specifically excluding any CFCs due and payable to the City hereunder, which sums shall not be subject to offset as herein provided) in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and/or the amount of any debt owed by Licensee to the City arising in connection with Licensee's activities or operations at Licensee's Storefront, the Pick-Up/Drop-Off Area, and/or the Airport. For

purposes of this Section, "outstanding parking violation complaint" means a parking ticket, notice of parking violation or parking violation complaint on which no payment has been made or appearance filed in the Circuit Court of Cook County within the time specified on the complaint. "Debt" means a specified sum of money owed to the City for which the period granted for payment has expired.

Notwithstanding the provisions of the immediately preceding paragraph, no such debt(s) or outstanding parking violation complaints shall be offset from or against any amounts due Licensee by the City under this License if one or more of the following conditions are met (and in no event shall CFCs otherwise due and payable to the City hereunder be subject to any right of offset).

(i) Licensee has entered into an agreement with the Department of Revenue, or other appropriate City department, for the payment of all outstanding parking violation complaints and/or debts owed to the City and Licensee is in compliance with the agreement; or

(ii) Licensee is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or

(iii) Licensee has filed a petition in bankruptcy and the debts owed the City are dischargeable in bankruptcy.

(g) Americans with Disabilities Act:

(i) Any and all design specifications for any improvements shall comply with all Federal, State and local laws and regulations regarding accessibility standards for disabled or environmentally limited persons including, but not limited to, the following: Americans with Disabilities Act, P.L. 101-336 (1990), 42 U.S.C. 12101 et seq. and the Uniform Federal Accessibility Guidelines for Buildings and Facilities and, the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq. (1991), and the regulations promulgated thereto at 71 Ill. Admin. Code Ch. 1, Sec. 400.110. In the event that the above cited standards are inconsistent, Licensee shall comply with the standard providing greater accessibility.

(ii) All construction or alterations undertaken by Licensee in connection with this License shall be performed in compliance with all Federal, State and local laws and regulations regarding accessibility standards for disabled or environmentally limited persons including, but not limited to, the following: Americans with Disabilities Act, P.L. 101-336 (1990), 42 U.S.C. 12101 et seq. and the Uniform Federal Accessibility Standards for Americans with Disabilities; and the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq. (1991), and the regulations promulgated thereto at 71 Ill. Adm. Code Ch. 1, Sec. 400.110.

(h) MacBride Principles Ordinance:

(i) The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

(ii) In accordance with Section 2-92-580 of the Code, if Licensee conducts any business operations in Northern Ireland, it shall make all reasonable and good faith

efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

(i) Certification: Licensee shall complete the appropriate subsection for State Tax Delinquencies and acknowledge all other representations in the Affidavit in the form provided by the City, which certifies that Licensee, its agents, employees, officers, and any contractors (a) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the City of Chicago, the State of Illinois, any agency of the Federal government or any State or local government in the United States or engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this Section as required by the Illinois Criminal code; (b) do not owe any debts to the State of Illinois, in accordance with Section 11-42.1-1 of the Illinois Municipal code; and (c) are not presently debarred or suspended as defined in subsection D, Certification Regarding Suspension and Disbarment of the Affidavit in Part One of the Contract Documents.

(j) Disclosure of Ownership: Pursuant to Chapter 2-92-010, 2-92-020, 2-92-030 and 2-154(e) and 65 ILCS 5/8-10-8,5, Licensee and any person having equal to or greater than a seven and one-half percent (7.5%) direct or indirect ownership interest in Licensee, and any person, business entity or agency contracting with the City shall be required to complete Part I, Disclosure of Ownership Interests and Part VIII, Certification of Elected Officials' Business Relationships, in the Affidavit.

(k) Resident Preference: Licensee shall comply and shall cause its contractors and subcontractors to comply with the residential preference requirements of Section 2-92-330 of the Code, as it may be amended, in the performance of any construction of any public work.

(l) Certification Regarding Various Federal Lists: Licensee hereby warrants and represents to the City that neither Licensee nor any Affiliate (as hereinafter defined) of Licensee appears on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable Laws or Regulations: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. As used herein, "Affiliate" when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

(m) Environmental Warranties and Representations: In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Licensee warrants and represents that, with respect to the Pick-Up/Drop-Off Area and the acts, omissions, and operations of Licensee therein or elsewhere in connection with the Joint Use Facility and/or the Airport, Licensee, and to the best of its knowledge, its contractors, have not violated and are not in violation of the following sections of the Code (collectively, the "Waste Sections"):

7-28-390	Dumping on public way;
7-28-440	Dumping on real estate without permit;
11-4-1410	Disposal in waters prohibited;

- 11-4-1420 Ballast tank, bilge tank or other discharge; 11-4-1450 Gas manufacturing residue;
- 11-4-1500 Treatment and disposal of solid or liquid waste; 11-4-1530 Compliance with rules and regulations required; 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

During the Term of this License, Licensee's violation of the Waste Sections, whether or not relating to this License, constitutes a breach of and an Event of Default under this License, for which the opportunity to cure, if curable, will be granted only at the sole designation of the Commissioner. Such breach and default entitles the City to all remedies under this License, at law or in equity. This Section does not limit Licensee's and its contractors' duty to comply with all applicable Federal, State, county, and municipal Laws or regulations in effect now or later, and whether or not they appear in this License. Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this License and may further affect Licensee's eligibility for future agreements with the City.

(n) Prohibition on Certain Contributions -- Mayoral Executive Order No. 2011-4: Licensee agrees that Licensee, and any person or entity who directly or indirectly has an ownership or beneficial interest in Licensee of more than seven and one-half percent (7.5%) ("Owners"), spouses and domestic partners of such Owners, Licensee's sub-licensees, any person or entity who directly or indirectly has an ownership or beneficial interest in any sub-licensee of more than seven and one-half percent (7.5%) ("Sub-owners") and spouses and domestic partners of such Sub-owners (Licensee and all the other preceding classes of persons and entities are collectively referred to for purposes hereof as the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee (i) after execution of this License by Licensee, (ii) while this License or any Other Contract is executory, (iii) during the Term of this License or any Other Contract between Licensee and the City, or (iv) during any period while an extension of this License or any Other Contract is being sought or negotiated.

Licensee represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached Licensee or the date Licensee approached the City, as applicable, regarding the formulation of this License, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee. Licensee agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee. Licensee agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Licensee agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this License, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this License and under such Other Contract, and at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Licensee violates this provision or Mayoral Executive Order No. 2011-4 prior to award of this License resulting from this specification, the Chief Procurement Officer may reject Licensee's bid.

For purposes of this provision:

**"Bundle"** means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

**"Other Contract"** means any other agreement with the City of Chicago to which Licensee is a party that is (i) formed under the authority of Chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City council.

**"Contribution"** means a "political contribution" as defined in Chapter 2-156 of the Code.

Individuals are **"Domestic Partners"** if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least eighteen (18) years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two (2) of the following four (4) conditions exist for the partners:
  - 1. The partners have been residing together for at least twelve (12) months.
  - 2. The partners have common or joint ownership of a residence.
  - 3. The partners have at least two (2) of the following arrangements:
    - a. joint ownership of a motor vehicle;
    - b. a joint credit account;
    - c. a joint checking account; or
    - d. a lease for a residence identifying both domestic partners as tenants.
  - 4. Each partner identifies the other partner as a primary beneficiary in a will.

**"Political fundraising committee"** means a "political fundraising committee" as defined in Chapter 2-156 of the Code.

(o) Firms Owned or Operated by Individuals with Disabilities: The City encourages contractors, including Licensee, to use subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Code, where not otherwise prohibited by Federal or State law.

(p) EDS / Certification Regarding Suspension and Debarment: Licensee certifies, by its acceptance of this License, that neither Licensee nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Licensee further agrees by executing this License that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. If Licensee or any lower tier participant is unable to certify to this statement,

it must attach an explanation to this License. Licensee must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate.

(q) General Contractor License: General contractors on improvements and alterations must be licensed in accordance with Chapter 4-36 of the Code.

(r) Other City Requirements: Licensee shall comply with the City's MBE/WBE goals and Chicago Residency Ordinance as the same may be in effect or amended from time to time.

#### **Section 5.2 - Conflicts of Interest.**

(a) Licensee represents and warrants that, except as may otherwise be permitted under Section 2-156 of the Code, no member of the governing body of the City or other unit of government and no other officer, employee, or agent of the City or other unit of government who exercises any functions or responsibilities in connection with this License has any personal interests, direct or indirect, in this License or in Licensee.

(b) Licensee covenants that, except as may otherwise be permitted under Section 2-156 of the Code, (i) no member of the governing body of the City and no officer, employee or agent of the City or other unit of government exercising any functions or responsibilities in connection with this License shall acquire any personal, financial, or economic interest, direct or indirect, in Licensee or this License, and (ii) no member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or employee of the City shall be admitted to any share or part of this License or any financial benefit to arise from it.

### **ARTICLE 6**

#### **INDEMNITY, INSURANCE, DAMAGE OR DESTRUCTION**

##### **Section 6.1 - Indemnification.**

(a) To the maximum extent permitted by applicable Laws, Licensee shall defend, indemnify, and save the City and any official, agent, contractor, director, employee, officer, partner, shareholder, and trustee of the City, and each of their respective representatives, successors, and assigns (each an "**Indemnified Party**"), harmless from and against any and all liabilities, suits, judgments, settlements, obligations, fines, damages, penalties, claims, costs, charges, and expenses, including, without limitation, engineers', architects', and attorneys' fees, court costs, and disbursements, which may be imposed upon or incurred by or asserted against any Indemnified Party by reason of any of the following occurring during or after (but attributable to a period of time falling within) the Term:

(i) any act or failure to act on the part of Licensee or any of its respective officers, agents, employees, contractors, guests, invitees, or vendors;

(ii) any accident, injury (including death) or damage to any person or property occurring in, on or about Licensee's Storefront, the Airport, the Joint Use Facility, the Pick-Up/Drop-Off Area or the ATS (or the Common Use Transportation System, as the case may be), or any part of any of the foregoing, to the extent attributable to any act or omission of Licensee or its officers, agents, employees, contractors, guests, invitees, or vendors;



(iii) any failure to perform or comply with any of the covenants, agreements, terms or conditions contained in this License on Licensee's part to be performed or complied with (other than the payment of money);

(iv) any lien or claim which may be alleged to have arisen against or on the Pick-Up/Drop-Off Area and/or the Joint Use Facility or arising out of this License and created or permitted to be created by Licensee against any assets of the City, or any liability which may be asserted against the City with respect thereto;

(v) any action or proceedings which may be brought against the City by virtue of any Laws, regulations, ordinances or requirements of the United States of America, or the State of Illinois or other municipal, public or quasi-public authority now existing or hereafter created, to the extent attributable to any act or omission of Licensee or its officers, agents, employees, contractors, guests, invitees, or vendors;

(vi) any demolition or razing or construction of any improvements or any other work or thing done in, on or about the Pick-Up/Drop-Off Area and/or the Joint Use Facility, or any part thereof, including any claim that such work constitutes "public works", to the extent attributable to any act or omission of Licensee or its officers, agents, employees, contractors, guests, invitees, or vendors; and

(vii) any use, nonuse, possession, occupation, alteration, repair, condition, operation, maintenance, or management of the Pick-Up/Drop-Off Area and/or the Joint Use Facility, or any part thereof, to the extent attributable to any act or omission of Licensee or its officers, agents, employees, contractors, guests, invitees, or vendors.

Subject to the provisions of Subsection 6.1(f) (to the extent permitted by law), no agreement or covenant of Licensee in this Subsection 6.1(a) shall be deemed to exempt the City from, and Licensees' obligations under Subsection 6.1(a) shall not include liability or damages for injury to persons or damage to property caused by or resulting from the negligence of the City, its agents, or employees

(b) Any Indemnified Party shall utilize the following procedure in enforcing any and all claims for indemnification against Licensee.

(i) If any claim, action or proceeding is made or brought against any Indemnified Party against which it is indemnified under Section 6.1 hereof, then the Indemnified Party shall give notice hereunder to Licensee promptly after obtaining written notice of any claim as to which recovery may be sought against it or him. If such indemnity shall arise from the claim of a third party, Licensee may elect to assume the defense of any such claim and any litigation resulting from such claim at its own expense; provided, however, that failure by Licensee to notify the Indemnified Party of its election to defend any such claim or action by a third party within twenty-one (21) days after notice thereof shall have been received by Licensee shall be deemed a waiver by Licensee of its right to defend such claim or action. Any notice given pursuant to this Subsection 6.1(b) shall contain a detailed statement of the nature and basis of the claim, the identity of the claimant, the demand and relief sought or requested by the claimant, and shall be accompanied by copies of all materials in possession of the Indemnified Party which reasonably relate to such claim. Subject to the foregoing provisions of this Subsection 6.1(b), the right to indemnification hereunder shall not be affected by any failure of the Indemnified Party to give such notice or related materials or delay by them in giving such notice or related materials unless, and then only to the extent that, the

rights and remedies of Licensee shall have been prejudiced as a result of the failure to give, or delay in giving, such notice or related materials.

(ii) If Licensee shall assume the defense of such claim or litigation, its obligations hereunder as to such claim or litigation shall include taking all steps necessary in the defense or settlement of such claim or litigation and holding the Indemnified Party harmless from and against any and all damages caused by or arising out of any settlement approved as provided herein, or any judgment in connection with such claim or litigation. Any counsel employed by Licensee to represent the City's interest shall be subject to the City's prior approval. Notwithstanding any provision in this Section 6.1 to the contrary, in the event that Licensee assumes the defense of such claim or litigation, Licensee shall notify the Indemnified Party and the City of all such defenses it proposes to assert and the City may determine, in its sole discretion, whether any of the defenses may be deemed not to be in the best interests of the Airport. If the City determines that any such defense is not in the Airport's best interests: (i) Licensee shall be obligated to pursue in accordance with this Section 6.1 the remaining defenses to the claim or litigation; and (ii) if a judgment or settlement is entered against or made on behalf of the Indemnified Party, Licensee shall not have any obligation to indemnify the Indemnified Party under this Section 6.1 for the amount of such judgment or settlement to the extent such defense would have been successful. Licensee shall not, in the defense of such claim or litigation, consent to the entry of any judgment (other than a judgment of dismissal on the merits without costs) except with the written consent of the Indemnified Party (which consent shall not be unreasonably withheld) or enter into any settlement (except with the written consent of the Indemnified Party, which shall not be unreasonably withheld) which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party, a release from all liability in respect of such claim or litigation. Anything in this Section 6.1 to the contrary notwithstanding, the Indemnified Party may, with counsel of its choice and at its expense, participate in the defense of any such claim or litigation.

(iii) If Licensee shall not assume the defense of any such claim by a third party or litigation after receipt of notice from the Indemnified Party, the Indemnified Party may defend against such claim or litigation in such manner as it deems appropriate, and unless Licensee shall, at its option, provide a bond to, or deposit with the Indemnified Party a sum equivalent to the total amount demanded in such claim or litigation plus the Indemnified Party's estimate of the costs of defending the same, the Indemnified Party may settle such claim or litigation on such terms as it may reasonably deem appropriate, and Licensee shall promptly reimburse the Indemnified Party for the amount of such settlement and for all damage incurred by it in connection with the defense against or settlement of such claim or litigation. If Licensee shall provide such bond or deposit, the Indemnified Party shall not settle any such claim or litigation without the written consent of the Licensee, which shall not be unreasonably withheld.

(iv) Licensee shall promptly reimburse the Indemnified Party for the amount of any judgment rendered and for all damages, costs, fees and expenses incurred or suffered by it in connection with the defense against such claim or litigation.

(c) Except to the extent arising from the negligence or willful misconduct of the City, the City shall not be liable to Licensee or to Licensee's officers, agents, employees, contractors, guests, invitees, or vendors for any injury to, or death of, any of them or of any other person, or for any damage to any property or loss of revenue, caused by any third person in the maintenance, construction,

or operation of facilities at Licensee's Storefront, the Airport, the Joint Use Facility, the Pick-Up/Drop-Off Area, the ATS, or the Common Use Transportation System, or any portion of any of the foregoing, or caused by any third person using Licensee's Storefront, the Airport, the Joint Use Facility, Pick-Up/Drop-Off Area, the ATS or the Common Use Transportation System, or any portion of any of the foregoing, or caused by any third person navigating any aircraft on or over Licensee's Storefront, the Airport, the Joint Use Facility, Pick-Up/Drop-Off Area, the ATS or the Common Use Transportation System, or any portion of any of the foregoing, nor, to the extent permitted by law, shall the City have any liability whatsoever to Licensee or Licensee's officers, agents, employees, contractors, guests, invitees, or vendors for any damage, destruction, injury, loss, or claim of any kind arising out of the use by any of the aforementioned of any parking lot located either on or off Licensee's Storefront, the Airport, the Joint Use Facility, the ATS or the Common Use Transportation System, or any portion of any of the foregoing. Except to the extent arising from the negligence or willful misconduct of the City, the City shall not be liable to Licensee for damage to property of Licensee or any loss of revenues to Licensee resulting from the City's acts or omissions in the maintenance and operation, if any, of the Airport, the Joint Use Facility, Licensee's Storefront, the ATS or the Common Use Transportation System, or any portion of any of the foregoing, or failure to operate Licensee's Storefront, the Airport, the Joint Use Facility, the ATS or the Common Use Transportation System, or any portion of any of the foregoing.

(d) The obligations of Licensee under this Section 6.1 shall survive the termination of this License, and shall not be affected in any way by the amount of or the absence in any case of covering insurance, or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies required by or issued in connection with this Agreement, or otherwise affecting the Pick-Up/Drop-Off Area and/or the Joint Use Facility, or any portion thereof.

(e) The City's officials, commissioners, agents, and employees, shall, to the extent permitted by law, have absolutely no personal liability with respect to any provision of this License or any obligation or liability arising from this License or in connection with this License, the Pick-Up/Drop-Off Area, and/or the Joint Use Facility in the event of a breach or default by the City of any of its obligations hereunder.

(f) Notwithstanding any other provision of this License to the contrary, to the extent permitted by law, Licensee hereby waives any and every claim for recovery from the City for any and all loss or damage to Licensee's Storefront, the Joint Use Facility, or the Pick-Up/Drop-Off Area, or any portion of any of the foregoing (or to the contents thereof), which loss or damage is covered by valid and collectable insurance policies maintained by Licensee or which would have been recoverable if the insurance required hereunder had been maintained by Licensee, to the extent that such loss or damage is recoverable, or would have been recoverable, as applicable, under said insurance policies. As this waiver will preclude the assignment of any such claim by subrogation (or otherwise) to an insurance company (or any other person), Licensee agrees to give each insurance company which has issued, or in the future may issue, its policies of insurance, written notice of the terms of this waiver, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of insurance coverage by reason of said waiver. Licensee shall require any sublicensees or other persons doing business with Licensee at Licensee's Storefront, the Pick-Up/Drop-Off Area, and/or the Joint Use Facility, to obtain similar waiver of subrogation in favor of the City.

**Section 6.2 - Insurance Coverage Required.** Licensee shall procure and maintain, or cause to be maintained, at all times during the Term of this License, and until each and every obligation of Licensee contained in this License has been fully performed, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois covering all operations under this License

The kinds and amounts of insurance are as follows.

(a) Worker's Compensation and Employer's Liability Insurance

Workers Compensation and Employer's Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this License, and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

(b) Commercial Liability Insurance (Primary and Umbrella)

Commercial Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence combined single limit, for bodily injury and property damage liability. Coverage extensions shall include the following: All premises and operations, products/completed operations, explosion, collapse, underground, independent contractors, broad form property damage, separation of insured and contractual liability (not to include Endorsement CG 21 39 or its equivalent). The City, its employees, elected officials, agents, and representatives are to be named as additional insureds, on a primary, non-contributory basis, for any liability arising directly or indirectly from this License.

(c) Property

Licensee shall be responsible for all loss or damage to City property at full replacement cost.

Licensee shall be responsible for all loss or damage to personal property (including but not limited to material, equipment, tools and supplies), owned, rented or used by Licensee

(d) Automobile Liability Insurance

When any Motor Vehicles (owned, non-owned and hired) are used in connection with work to be performed, Licensee shall provide Comprehensive Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence combined single limit, for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

**Section 6.3 - Other Provisions.**

(a) Licensee will furnish the City, Department of Finance, Risk Management Office, 333 South State, Chicago, Illinois, 60604, original certificates of insurance evidencing the required coverage to be in force on the date of this License, and renewal certificates of insurance, or such similar evidence, with copies of same provided to the Department of Aviation, City of Chicago, Attention: Real Estate and Finance Division, if coverages have an expiration or renewal date during the Term of this License. Licensee shall submit evidence of insurance on the City of Chicago Insurance Certificate of Coverage Form, a copy of which is attached hereto as Exhibit C and made a part hereof. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the License have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of the agreement. The failure of the City to obtain certificates or other insurance evidence from Licensee or its contractors shall not be deemed to be a waiver by the City. Licensee shall advise all

insurers of these License provisions regarding insurance. Non-conforming insurance shall not relieve Licensee or its contractors of their obligation to provide insurance as specified herein. Non-fulfillment of the insurance conditions shall constitute a violation of this License, and the City retains the right to terminate this License as provided in Article 9 until proper evidence of insurance is provided.

(b) If Licensee fails to obtain or maintain any of the insurance policies under this License, or fails to pay any premium in whole or in part within five (5) Business Days of the due date therefor, the City may (without waiving or releasing any obligation or default by Licensee hereunder) obtain and maintain such insurance policies and take any other action which the City deems appropriate, and all costs incurred by the City in obtaining and maintaining such policies, including reasonable attorneys' fees, court costs, and expenses, shall be reimbursed by Licensee upon demand by the City.

(c) The insurance shall provide for thirty (30) days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

(d) Licensee shall require all contractors to carry the insurance required herein, or Licensee or its contractors may provide the coverage for any or all contractors, and, if so, the evidence of insurance submitted shall so stipulate.

(e) Any and all deductibles or self-insured retentions on referenced insurance coverages shall be borne by Licensee or its contractors.

(f) Licensee hereby waives and agrees to require their insurers to waive their rights of subrogation against the City and its employees, elected officials, agents, or representatives with respect to, or in connection with, this License, the Pick-Up/Drop-Off Area, the Joint Use Facility, the ATS, the Common Use Transportation System, and the Airport.

(g) Licensee expressly understands and agrees that any coverages and limits furnished by Licensee shall in no way limit Licensee's liabilities and responsibilities specified within this License or by law.

(h) Licensee expressly understands and agrees that any insurance or self-insurance programs maintained by the City shall not contribute with insurance provided by the Licensee under this License.

(i) The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

(j) If Licensee is a joint venture or limited liability company, the insurance policies shall name the joint venture or limited liability company as a named insured.

(k) If Licensee desires additional coverage, higher limits of liability, or other modifications for its own protection, then Licensee shall be responsible for the acquisition and cost of such additional protection. Licensee agrees to obtain such increases in limits or coverages as the City may, from time to time, reasonably request during the Term hereof.

(l) The City (through its Risk Management Department) maintains the right to modify, delete, alter, or change these requirements upon reasonable prior written notice to Licensee to the extent that the City determines, in its reasonable discretion, that such modification, deletion, alteration, or

change is reasonably necessary and is otherwise consistent with insurance coverages and requirements applicable to other airports and airport facilities comparable to the Airport in size, service, and capacity.

(m) The insurance required by this License, at the option of Licensee, may be effected by blanket or umbrella policies issued to Licensee, provided that the policies otherwise comply with the provisions of this License and allocate to this License the specified coverage, without possibility of reduction or coinsurance.

**Section 6.4 - Damage and Destruction.** If the Pick-Up/Drop-Off Area is totally or partially destroyed by storm, fire, or other casualty, or damaged to the extent that, in the City's reasonable opinion, the damage cannot be restored, or if the damage is not covered by standard "all risks" property insurance (or such other property insurance as may be maintained by the City from time to time), the City shall have the right to terminate this License effective as of the date of such destruction or damage by written notice delivered to Licensee on or before thirty (30) days following the City's notice described in the next sentence, and Fees shall be accounted for as between the City and Licensee as of that date. The City shall provide Licensee with written notice no later than sixty (60) days following the date of such damage of the estimated time needed to restore and whether the City elects to restore hereunder. If the City elects to restore, then the City shall prosecute such restoration with reasonable diligence.

## **ARTICLE 7** **AIRPORT MATTERS**

**Section 7.1 - Rules and Regulations.** Licensee shall observe and obey all rules and regulations governing the conduct and operation of the Airport promulgated from time to time by the City, county, State, or Federal authorities and, in particular, Licensee agrees at all times to comply with any master security plan and procedures for the Airport as may be established by the City from time to time. In emergency cases the City shall deliver to Licensee such emergency rules and regulations as promptly as practical.

Upon request, the City shall provide Licensee with copies of the City's current Airport rules and regulations applicable to Licensee. Except in cases of emergency (in which case such subsequent rules and regulations shall be applicable to Licensee immediately), subsequent rules and regulations promulgated by the City shall be applicable to Licensee fifteen (15) days after notice of the adoption thereof.

**Section 7.2 - Other Legal Requirements.** Licensee shall comply, and shall cause its contractors to comply, with all applicable Federal, State, and local Laws, codes, regulations, ordinances, rules, and orders, including, without limitation, those promulgated by the FAA, which shall include, but not be limited to, the following:

(a) Nothing contained herein shall be construed to grant or authorize the granting of an exclusive right to conduct any business, and the City reserves the right to grant to others the privileges and right of conducting any or all activities at the Airport, the Joint Use Facility, and/or the Pick-Up/Drop-Off Area.

(b) This License involves the use of or access to space on, over, or under, or otherwise used in connection with, real property acquired or improved under the Airport Improvement Program of the Federal Aviation Administration, and therefore involves activity which serves the public. Licensee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (a) no person on the grounds of race, creed, color, religion, age, sex, or national origin shall be excluded from

participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, (b) that no person on the grounds of race, creed, color, religion, age, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the construction of improvements on, over, or under such land and the furnishing of services thereon; and (c) that Licensee shall use the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) in compliance with all other requirements imposed by or pursuant to regulations of the U.S. Department of Transportation.

(d) Licensee agrees to furnish services in the United States in compliance with Federal law and on a fair and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit of service: provided, that the Licensee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions.

**Section 7.3 - Airport Agreements.** Licensee's rights granted hereunder and use of the Joint Use Facility and/or the Pick-Up/Drop-Off Area shall be and remain subject to (a) the provisions of any existing or future agreements between the City and the United States government, FAA, or other governmental authority, relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of Federal or other governmental funds, including, without limitation, grant agreements, and (b) any use agreement heretofore or hereafter executed by the City with airlines operating at the Airport, and any ordinance or indenture, or both, authorizing bond anticipation notes adopted by the City Council of the City authorizing the issuance of notes, bonds, or other obligations for the Airport and securing such obligations by a pledge of revenues or net revenues of the Airport and any ordinance or indenture supplemental thereto, which shall also include any master indenture. Licensee further agrees that it shall not cause the City to violate any assurances made by the City to the Federal government in connection with the granting of such Federal funds.

**Section 7.4 - Airport Security Act.** This License is expressly subject to the Airport Security Act, as amended from time to time, the provisions of which are hereby incorporated by reference, and all rules and regulations promulgated thereunder. In the event that Licensee, any individual employed by Licensee, or their respective contractors, subcontractors, suppliers of materials, or providers of services, in the performance of this License, has: (i) unescorted access to secured areas located on or at the Airport; or (ii) capability to allow others to have unescorted access to such secured areas, Licensee shall be subject to, and shall further conduct with respect to its contractors, subcontractors, suppliers of materials, or providers of services and the respective employees of each, such employment investigations, including criminal history record checks, as the City or the FAA may deem necessary. Further, in the event of any threat to civil aviation, as defined in the Airport Security Act, Licensee shall promptly report any information in accordance with those regulations promulgated by the Secretary of the United States Department of Transportation and by the City. Licensee shall, notwithstanding anything contained herein to the contrary, at no additional cost to the City, perform under this License in compliance with those guidelines developed by the City and the FAA with the objective of maximum security enhancement.

**Section 7.5 - Regulating the Airport; Airport Operation.** The City reserves the right to regulate, police, and further develop, improve, reconstruct, modify, or otherwise alter the Airport, the Joint Use Facility, and/or the Pick-Up/Drop-Off Area in the City's sole discretion. The City reserves the right, but shall not be obligated to Licensee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport. The City shall not have any obligation to continue to operate the Airport or any part thereof as an airport for passenger or freight air transportation or at any particular level of operation and may at any time limit or discontinue use of the Airport or any means of access to or within the Airport in whole or part.

**ARTICLE 8**  
**EXERCISE BY CITY OF GOVERNMENTAL FUNCTIONS**

Nothing contained in this License shall impair the right of the City in the exercise of its governmental functions including, without limitation, the right to require Licensee to pay any tax or inspection fees or to produce necessary permits or licenses, provided such requirement is not inconsistent with the rights and privileges granted to Licensee hereunder. Nothing contained herein shall be deemed to be the grant of any franchise, license, permit, or consent to Licensee to operate motor coaches, buses, taxicabs, or other vehicles carrying passengers or property for hire or other consideration over the public ways to and from the Airport, the Joint Use Facility, and/or the Pick-Up/Drop-Off Area.

**ARTICLE 9**  
**DEFAULT AND TERMINATION**

**Section 9.1 - Event of Default.** The occurrence of any of the following shall constitute an "Event of Default" hereunder:

(a) The failure by Licensee to pay any Fees, CFCs, or other sums due and payable hereunder, including, without limitation, any Taxes, as required under this License when due, and the failure to cure same within ten (10) days after the giving of written notice thereof to Licensee;

(b) The failure by Licensee on or after the date of this License to perform any other representation, warranty, or covenant or agreement required to be performed by Licensee in this License and the failure of Licensee to remedy such default within a period of thirty (30) days after written notice to the Licensee, or such additional time (up to sixty (60) days) as may be reasonably necessary to remedy such default so long as Licensee is diligently and expeditiously proceeding to cure such default; provided, however, that such additional period beyond thirty (30) days shall not apply to a default that creates a present danger to persons or property or materially or adversely affects the City's interest in the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the Airport, or if the failure or default by Licensee is one for which the City (or any official, employee, or other agent) may be subject to fine or imprisonment;

(c) The discontinuance by Licensee of its conduct of a Motor Vehicle rental business for customers at Licensee's Storefront (or otherwise in connection with the Airport) during the Term, or the abandonment or vacation of Licensee's use of the Pick-Up/Drop-Off Area during the Term;

(d) If Licensee shall suffer or permit any lien or encumbrance to attach to the interest of Licensee hereunder, or to the Joint Use Facility and/or Pick-Up/Drop-Off Area, and Licensee shall not discharge said lien or encumbrance within thirty (30) days following written notice thereof or within ten (10) days prior to any sale or disposition or forfeiture pursuant to such execution, whichever date shall first occur;

(e) If Licensee shall fail to carry all required insurance under this License and such failure continues for twenty (20) days after written notice by the City to Licensee, so long as the City receives at least thirty (30) days' written notice from the insurer of any change, cancellation or non-renewal thereof as provided in Subsection 6.3(c) hereof;

(f) Any material misrepresentation (including by omission) made by Licensee in this License or by Licensee or any Person having more than a seven and one-half percent (7.5%) direct or indirect ownership interest in Licensee or any affidavit, certification, disclosure, or representation made pursuant to this License;



(g) If Licensee shall fail to comply with an order of a court of competent jurisdiction or proper order of a governmental agency relating to this License, the Joint Use Facility, and/or the Pick-Up/Drop-Off Area within the required time period;

(h) Any permit of Licensee allowing it to do business in the City of Chicago has been revoked;

(i) The filing by Licensee of a voluntary petition in bankruptcy occurring on or after the date of this License, or if after the date hereof any involuntary petition in bankruptcy shall be filed against Licensee under any Federal or State bankruptcy or insolvency act and shall not have been dismissed within sixty (60) days from the filing thereof. In such event, the amounts due and to become due under the terms of this License shall be accelerated and become due and payable;

(j) On or after the date of this License, the admission, in writing, by Licensee of its inability to meet its debts as they mature;

(k) The taking by a court of competent jurisdiction for a period of sixty (60) days of all or substantially all of Licensee's assets pursuant to proceedings brought under the provisions of any Federal reorganization act on or after the date of this License;

(l) The appointment of a receiver on or after the date of this License of any, all, or substantially all of Licensee's assets and Licensee's failure to vacate such appointment within sixty (60) days thereafter;

(m) The assignment by Licensee on or after the date of this License of all or substantially all its assets for the benefit of its creditors;

(n) Any failure of Licensee to comply with the terms and provisions of either the CFC Ordinance or the Bond Ordinance; or

(o) The failure to deliver the estoppel certificate requested in Section 14.14 within five (5) days after written notice of failure to deliver within the time period required therein.

**Section 9.2 - Remedies.** If it so elects, with or without notice or demand, if an Event of Default occurs, the City may exercise any one or more of the following described remedies, in addition to all other rights and remedies provided elsewhere herein or at law or equity:

(a) The City may terminate this License and the Term created hereby, in which event the City shall be entitled to recover forthwith as damages: (i) all of the Fees accrued and unpaid for the period up to and including such termination date; (ii) any other sums for which Licensee is liable or in respect of which Licensee has agreed to indemnify the City under any provisions of this License which may be then due and owing; (iii) an amount equal to nine (9) months of the Fees then payable hereunder by Licensee at the time of such termination (it being acknowledged and agreed by Licensee and the City that, in the event of a termination of this License following a Licensee Event of Default hereunder, the City will suffer damages in an amount which, due to the special and unique nature of the transaction contemplated by this License and the special and unique nature of the negotiations which preceded this License, will be impractical or extremely difficult to determine, and such amount represents a reasonable estimate of the damages which the City will sustain in the event of a termination of this License following a Licensee Event of Default hereunder); and (iv) any damages in addition thereto, including reasonable attorneys' fees and court costs, which the City sustains as a result of the breach of any of the covenants of this License other than for the payment of Fees.

(b) The right of specific performance, an injunction, or any other appropriate equitable remedy:

(c) The right to money damages, including special and consequential damages:

(d) The right to deem Licensee non-responsive in future contracts to be awarded by the City;

(e) The right to draw under the Security Deposit, and to use the proceeds thereof, to the extent set forth in Section 4.6 hereof, to pay or reimburse the City for performance of Licensee's obligations or to compensate the City for any damages owed to the City by Licensee. The City agrees that, with respect to any Event of Default hereunder which can be cured to completion by the payment of money, the City shall, before exercising any of its other rights and remedies under this Section 9.2, but without prejudice to any such other rights and remedies, first draw upon or attempt to draw upon the Security Deposit and apply the proceeds of such draw towards the cure of such monetary Event of Default; and

(f) The right (but not the obligation) to cure any Event of Default hereunder, and if the City so elects, any and all costs and expenses incurred by the City in curing such default shall be deemed additional Fees hereunder, and shall be paid by Licensee to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Default Rate.

### **Section 9.3 - Other Provisions.**

(a) If the City exercises the remedies provided for in Subsection 9.2(a) and Subsection 9.2(b) above, Licensee shall cease utilization of the Pick-Up/Drop-Off Area immediately and deliver possession thereof to the City, and Licensee hereby grants to the City full and free license to enter into and upon the Pick-Up/Drop-Off Area in such event and take complete and peaceful possession of the Pick-Up/Drop-Off Area, with or without process of law, to expel or remove Licensee and any other occupants and to remove any and all property therefrom without being deemed in any manner guilty of trespass, eviction, forcible entry and detainer, or conversion of property and without relinquishing the City's right to any fees or any other right given to the City hereunder or by operation of law.

(b) All property removed from the Pick-Up/Drop-Off Area by the City pursuant to any provisions of this License or by law may be handled, removed or stored in a commercial warehouse or otherwise by the City at the risk, cost, and expense of Licensee, and the City shall in no event be responsible for the value, preservation or safekeeping thereof. Licensee shall pay the City, upon demand, any and all expenses incurred by the City in such removal and storage charges against such property so long as the same shall be in the City's possession or under the City's control. All property not removed from the Pick-Up/Drop-Off Area or retaken from storage by Licensee within thirty (30) days after the end of the Term, however terminated, shall, if the City so elects, be conclusively deemed to have been forever abandoned by Licensee.

(c) Licensee shall pay all of the City's costs, charges and expenses, including court costs and attorneys' fees, incurred in enforcing Licensee's obligations under this License.

(d) No waiver by the City of default of any of the terms, covenants, or conditions hereof to be performed, kept, and observed by Licensee shall be construed to be or act as a waiver of any subsequent default of any of such terms, covenants, and conditions. No failure by the City to timely bill Licensee for any rentals, fees, or charges of any kind shall in any way affect or diminish Licensee's

obligation to pay said amounts. The acceptance of Fees, whether in a single instance or repeatedly, after it falls due, or after knowledge of any breach hereof by Licensee, or the giving or making of any notice or demand, whether according to any statutory provisions or not, or any act or series of acts except an express written waiver, shall not be construed as a waiver of any right hereby given the City, or as an election not to proceed under the provisions of this License. The rights and remedies hereunder are cumulative and the use of one remedy shall not be taken to exclude or waive the right to the use of another.

## ARTICLE 10 SPECIAL RIGHTS OF LICENSEE AND THE CITY

**Section 10.1 - Termination by Licensee.** Licensee may terminate this License and all of its obligations hereunder, so long as there are no other restrictions on Licensee's ability to terminate this License contained in any other document or instrument related to this License, the Joint Use Facility (or the operation thereof), and/or the Pick-Up/Drop-Off Area, after the happening and during the continuance of any one of the following events (none of which, however, shall result in any liability to the City or provide Licensee with any remedy other than an option to terminate as set forth herein):

(a) The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport, or any part thereof, the Joint Use Facility, and/or the Pick-Up/Drop-Off Area so as to prevent Licensee's use of the Airport, the Joint Use Facility, and/or the Pick-Up/Drop-Off Area for its conduct of its Motor Vehicle rental business and the remaining in force of such injunction, not stayed by way of appeal or otherwise, for a period of at least six (6) months; or

(b) The substantial restriction of the City's operation of the Airport by action of any governmental agency or department (other than the City or its agencies and departments) and continuance thereof for a period of not less than six (6) months, provided such restriction adversely affects all of Licensee's operations at the Airport.

Any termination by Licensee pursuant to this Section 10.1 shall not occur unless Licensee notifies the City of its election to terminate at least thirty (30) days prior to the effective date of such termination in the case of Subsection 10.1(a) or Subsection 10.1(b), as the case may be, together with a statement of the grounds for termination. Notice may be given at any time prior to or after the expiration of the periods set forth in Subsection 10.1(a) or Subsection 10.1(b), as the case may be, but any such termination prior to expiration of such period shall be conditioned upon the continuation of the conditions resulting in Licensee's right of termination for the applicable period of time. If Licensee does not give such notice during the period that any of the above events is occurring, then Licensee's right to terminate this License as provided in this Article 10 shall not be available to Licensee until another happening of any one of said events.

**Section 10.2 - City's Reserved Rights.** All rights not expressly granted to Licensee herein are reserved by the City (which may be exercised by the City's officers, employees, agents, licensees, contractors or designees), including, without limitation, the following:

(a) the right to adjust the frequency and curbside dwell time of Licensee's shuttle bus vehicles with respect to the Pick-Up/Drop-Off Area, and to regulate the number, type, and condition of shuttle bus vehicles in operation to further the efficient utilization of the Airport and/or the Joint Use Facility;

(b) the right to adjust the assigned pickup and drop-off locations for shuttle bus vehicles throughout the Airport, and with respect to the Joint Use Facility, and/or areas adjacent or

appurtenant thereto, to further the efficient utility of the Airport and its facilities and customer convenience, or to otherwise modify or adjust the ATS, or the Common Use Transportation System, from time to time during the Term hereof;

(c) to install and maintain signs on the Joint Use Facility and/or the Pick-Up/Drop-Off Area;

(d) to exhibit the Pick-Up/Drop-Off Area at reasonable hours for inspection or providing of services or for other reasonable purposes, upon the giving of reasonable notice, and to decorate, remodel, repair, alter or otherwise prepare the Pick-Up/Drop-Off Area;

(e) without any obligation to do so, to maintain, replace, repair, alter, construct, or reconstruct or relocate the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the Airport; and

(f) to exercise such other rights as may be granted the City elsewhere in this License or by applicable law

All such rights in this Section 10.2 shall be exercisable without notice (except as expressly provided in this Section) and without liability to Licensee for damage or injury to property, person, or business, and without effecting an eviction or disturbance of Licensee's use or possession or giving rise to any claim for setoff or abatement of Fees or affecting any of Licensee's obligations under this License. Notices under this Section 10.2 may be given verbally in an emergency or where entry does not materially affect Licensee's use. Reasonable notice shall in no event require more than twenty-four (24) hours' notice.

**Section 10.3 - City's Right to Perform Licensee's Obligation.** In an emergency situation or upon occurrence of an Event of Default, the City may (but shall not be obligated so to do), and without waiving or releasing Licensee from any obligation of Licensee hereunder, make any payment or perform any other act which Licensee is obligated to make or perform under this License in such manner and to such extent as the City may deem desirable (and in so doing the City shall be authorized to enter upon the Pick-Up/Drop-Off Area for any purposes reasonably necessary in connection therewith) and to pay or incur any other necessary and incidental costs and expenses, including reasonable attorneys' fees. All sums so paid and all liabilities so incurred by the City, together with interest thereon at the Default Rate, shall be deemed additional fees hereunder and shall be payable to the City upon demand as additional fees (provided, however, that no interest shall accrue on such sums if so incurred due to an emergency situation, and not as a result of an Event of Default by Licensee hereunder, so long as Licensee pays such sums to the City within thirty (30) days following the City's written invoice therefor). The performance of any such obligation by the City shall not constitute a waiver of Licensee's default in failing to perform the same. Inaction of the City shall never be considered as a waiver of any right accruing to it pursuant to this License. The City shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business, or other damage of Licensee or any other occupant of the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or any part thereof, by reason of exercise of its rights under this Section 10.3.

## **ARTICLE II CONDEMNATION**

### **Section 11.1 - Condemnation.**

(a) If the whole or the part of the Terminal, the Airport, the Pick-Up/Drop-Off Area, or the Joint Use Facility shall be taken by any competent authority by right of eminent domain, Licensee

shall not be entitled to any part of any award that may be made for such taking nor to any damages and shall assign any award which it receives to the City, and the City may, but shall not be required, to terminate this License upon written notice to Licensee in such event.

(b) Nothing in this License or the existence of this License shall be construed to restrict or in anyway interfere with the exercise of eminent domain by the City of Chicago.

## **ARTICLE 12**

### **TRANSFER OF INTEREST**

**Section 12.1 - General.** Licensee shall not, without obtaining the prior written consent of the City thereto in each instance, (i) assign, transfer, mortgage, pledge, hypothecate, or encumber or subject to or permit to exist upon or be subjected to any lien or charge, this License or any interest hereunder; (ii) allow to exist or occur any transfer of or lien upon the Pick-Up/Drop-Off Area or the Joint Use Facility, or this License or Licensee's interest herein, by operation of law or otherwise; or (iii) sublicense the Pick-Up/Drop-Off Area, or any part thereof, or permit the use or occupancy of the Pick-Up/Drop-Off Area, or any part thereof, for any purpose not expressly permitted hereunder, or by anyone other than Licensee and Licensee's employees. The City may withhold its consent to any of the foregoing in its sole and absolute discretion. The requirements of this Article 12 shall apply to any transaction or series of transactions that shall have the same effect as any of the aforementioned occurrences, and in no event shall this License be assigned or assignable by voluntary or involuntary bankruptcy proceedings or otherwise, and in no event shall this License or any rights or privileges hereunder be an asset of Licensee under any bankruptcy, insolvency, or reorganization proceedings.

**Section 12.2 - Changes in Licensee.** For purposes of this License, the merger of Licensee with any other entity or the transfer of any controlling ownership interest in Licensee, or the assignment or transfer of any portion of the assets of Licensee to any entity intended to replace Licensee under this License, whether or not located at the Airport, shall constitute a transfer. Without limiting the generality of the foregoing, if Licensee is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, of the partner or partners owning fifty one percent (51%) or more of the partnership, or the dissolution of the partnership, shall be deemed a transfer. If Licensee is a corporation or limited liability company, any dissolution, merger, consolidation, or other reorganization of Licensee which would result in a different Licensee under the License, or the sale of at least fifty one percent (51%) of the value of the assets of Licensee, shall be deemed a transfer. The phrase "controlling percentage" means the ownership of, and the right to vote, stock or interest possessing at least fifty one percent (51%) of the total combined voting power of all classes of Licensee's capital stock or interest issued, outstanding and entitled to vote for the election of directors. Notwithstanding the foregoing, so long as the identity of the entity comprising Licensee does not change as a result of any of the foregoing transactions, Licensee shall not be required to obtain the City's prior written consent to any such transaction, and such transaction shall not be deemed a transfer or assignment hereunder.

**Section 12.3 - Consolidation.** Nothing herein shall prevent the City from authorizing Licensee to engage in multi-branded operations so long as Licensee continues to meet all its financial and operational obligations under this License and the City determines the multi-branded operation does not significantly impair the overall operation of the Joint Use Facility; provided, however, Licensee shall not be permitted to multi-brand with any brand which is not part of Licensee's original bid submitted by Licensee

**Section 12.4 - Notice.** If Licensee desires to assign its interest under this License, Licensee shall make a written request for authorization in a notice to the City. Such notice shall state the name and address of the proposed sub-licensee or assignee and include a copy of the proposed sublicense or

assignment and all related documents, and including a financial statement of the sub-licensee or assignee, disclosures and information required under Article 5, and such other information as may be required by the City.

**Section 12.5 - Effect of Consent.** Consent by the City to any assignment or sublicense shall not operate to relieve, release, or discharge Licensee of or from any obligations, whether past, present, or future, under this License, and Licensee shall continue fully liable hereunder except to the extent, if any, expressly provided for in such consent. Consent by the City in any one instance shall not be deemed to be a consent to or relieve Licensee from obtaining the City's consent to any subsequent assignment or sublicense. Consent by the City shall be conditioned upon agreement by the sublicensee or assignees to comply with and be bound by all of terms, covenants, conditions, provisions, and agreements of this License to the extent of the rights sublicensed or assigned, and an agreement that the City shall have the right, but not the obligation, to enforce the terms and provisions of any such assignment or sublicense affecting the City's interests and Licensee shall deliver to the City within thirty (30) days after execution, an executed copy of each such sublicense or assignment containing an agreement of compliance by each such sub-licensee and assignee, and which sublicense or assignment, as the case may be, shall state with specificity the rentals, fees, and other consideration payable in connection therewith. Licensee shall pay all of the City's costs, charges, and expenses, including attorney's fees, incurred in connection with any assignment or sublicense requested or made by Licensee.

**Section 12.6 - Excess Payment.** If Licensee shall sublicense its right to utilize the Pick-Up/Drop-Off Area, or any portion thereof, or assign this License to another party, notwithstanding the City's consent, for excess fees or other monetary compensation in excess of the Fees otherwise due and payable by Licensee under this License (collectively, "Excess Fees"), then Licensee shall pay to the City as additional Fees (i) in the case of an assignment or other transfer, fifty percent (50%) of any such Excess Fees immediately upon receipt thereof, or (ii) in the case of a sublicense, (a) on the first day of each month during the term of any sublicense, fifty percent (50%) of the Excess Fees due from the sublicensee for such month over the Fees then payable to the City pursuant to this License for said month, and (b) immediately upon receipt thereof, fifty percent (50%) of any other consideration realized by Licensee from such subletting, it being agreed, however, that the City shall not be responsible for, nor shall Licensee be entitled to any credit or offset for, any deficiency if Licensee shall transfer, assign or sublicense for rentals or fees which are less than the Fees provided herein.

**Section 12.7 - Transfer by the City.** The City shall have the right, at any time and at its sole option, to sell, transfer, or otherwise convey its right, title, and interest in and to this License and/or all or any portion of the Joint Use Facility and/or the Pick-Up/Drop-Off Area, as the case may be, other than to an On-Airport RAC, an Off-Airport RAC, an affiliate of either an On-Airport RAC or an Off-Airport RAC, or a direct competitor of any On-Airport RAC, and in the event of any such sale, transfer, or conveyance by the City, the same shall operate to release the City from any future obligations and any future liability for or under any of the covenants or conditions, express or implied, herein contained in favor of Licensee, and in such event, and with respect to such obligations, covenants, and conditions, Licensee agrees to look solely to the successor in interest of the City in and to this License. This License shall not be affected by any such sale, conveyance or transfer.

### **ARTICLE 13** **HAZARDOUS SUBSTANCES**

#### **Section 13.1 - Defined Terms.**

(a) "Claim" shall mean any demand, cause of action, proceeding, or suit for damages (actual or punitive), injuries to person or property, damages to natural resources, fines, penalties, interest,

or losses, or for the costs of site investigations, feasibility studies, information requests, health or risk assessments, contribution, settlement, or actions to correct, remove, remediate. Respond to, clean up, prevent, mitigate, monitor, evaluate, assess, or abate the Release of a Hazardous Material, or any other investigative, enforcement, cleanup, removal, containment, remedial, or other private or governmental or regulatory action at any time threatened, instituted, or completed pursuant to any applicable Environmental Law, or to enforce insurance, contribution, or indemnification agreements being made pursuant to a claimed violation or non-compliance with any Environmental Law against Licensee with respect to any part of the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), or any condition, use, or activity of Licensee on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) (including any such action against the City), and any claim at any time threatened or made by any person against Licensee with respect to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), or any condition, use, or activity of Licensee on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) (including any such claim against the City), relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or in any way arising in connection with any Hazardous Material or any Environmental Law.

(b) "Environmental Assessment" shall mean a report (including all drafts thereof) of an environmental assessment of the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) of such scope (including, but not limited to, the taking of soil borings and air and groundwater samples and other above and below ground testing) as may be recommended by a licensed consulting firm acceptable to the City and made in accordance with the recommendations of such consultant.

(c) "Environmental Damages" shall mean all Claims, demands, liabilities (including strict liability), losses, damages, causes of action, judgment, penalties, fines, costs and expenses (including fees, costs, and expenses of attorneys (whether incurred at, before or after any trial, proceeding, or appeal therefor, and whether or not taxable as costs), witnesses, consultants, contractors, experts and laboratories, deposition costs, and copying and telephone charges), of any and every kind or character, contingent or otherwise, matured or unmatured, known or unknown, foreseeable or unforeseeable, made, incurred, suffered, brought, or imposed at any time and from time to time, whether before, on or after the Expiration Date (other than any Pre-Existing Condition) to the extent arising from one or more of the following:

- (i) the presence of any Hazardous Material on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) on or before the Expiration Date in violation of or requiring clean-up under any Environmental Law, or any escape, seepage, leakage, spillage, emission, release, discharge, or disposal of any Hazardous Material on or from the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), or the migration or release or threatened migration or release of any Hazardous Material to, from, or through the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) before, on, or after the Expiration Date, including, but not limited to, any matters set forth in the Existing Environmental Report (as hereinafter defined); or
- (ii) any act, omission, event, or circumstance existing or occurring in connection with the handling, treatment, containment, removal, storage, decontamination, clean-up, transport, or disposal of any Hazardous Material which is at any time

before, on, or after the Expiration Date present on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be); or

- (iii) the breach of any representation, warranty, covenant, or agreement contained in Article 13 of this License; or
- (iv) any Claim, or the filing or imposition of any environmental lien against the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), because of, resulting from, in connection with, or arising out of any of the matters referred to in subsections (i) through (iii) above, and including, but not limited to: (1) injury or damage to any person, property, or natural resource occurring on or off of the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), including, but not limited to, the cost of demolition and rebuilding of any improvements on real property; (2) the investigation or remediation of any such Hazardous Material or violation of Environmental Law, including, but not limited to, the preparation of any feasibility studies or reports and the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration, monitoring, or similar work required by any Environmental Law (including any of the same in connection with any foreclosure action or transfer in lieu thereof); (3) all liability to pay or indemnify any person or governmental authority for costs expended in connection with any of the foregoing; (4) the investigation and defense of any Claim, whether or not such Claim is ultimately defeated; and (5) the settlement of any Claim or judgment.

(d) "Environmental Law" shall mean any Federal, state, or local law, statute, ordinance, code, rule, regulation, license, authorization, decision, order, or injunction which pertains to health, safety, any Hazardous Material, or the environment (including, but not limited to, ground or air or water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.; the Gasoline Storage Act, 430 ILCS 15/0.01 et seq.; the Municipal Code of the City of Chicago; and any other local, state, or federal environmental statutes, and all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

(e) "Hazardous Material" shall mean any substance, whether solid, liquid, or gaseous, which is listed, defined, or regulated as a "hazardous substance," "hazardous waste", or "solid waste," or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Law; or which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, or motor fuel or other petroleum hydrocarbons; or is a hazard to the environment or to the health or safety of persons.



(f) "On" when used with respect to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or any property adjacent to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), means "on, in, under, above, or about."

(g) "Pre-Existing Condition" shall mean the presence of any Hazardous Material on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) prior to the date on which Licensee first enters onto the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) and commences use of such areas, as more specifically described and set forth in the Existing Environmental Report (as hereinafter defined).

(h) "Release" or "Released" shall have the meaning set forth in CERCLA, including, but not limited to, any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the environment, as "environment" is defined in CERCLA.

(i) "Response" or "Respond" shall mean action taken in compliance with Environmental Laws to correct, remove, remediate, clean-up, prevent, mitigate, treat, monitor, evaluate, investigate, assess, or abate the Release of a Hazardous Material or prevent or abate any public nuisance.

(j) "Special Waste" shall have the meaning set forth in 415 ILCS 5/3.45, as amended from time to time.

### **Section 13.2 - Licensee's Obligations with Respect to Environmental Matters.**

(a) During the Term: (i) Licensee shall at its own cost comply with all Environmental Laws; (ii) Licensee shall not handle, generate, manufacture, process, treat, store, use, re-use, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of, or abandon Hazardous Materials or authorize any of such activities on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), including installation of any USTs; (iii) Licensee shall not take any action that would subject the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) to permit requirements under RCRA or any other Environmental Laws for storage, treatment, or disposal of Hazardous Materials; (iv) Licensee shall not dispose of Hazardous Materials in dumpsters provided by the City for Licensee's disposal of ordinary refuse; (v) Licensee shall not discharge Hazardous Materials into drains or sewers; (vi) Licensee shall not cause or allow the Release of any Hazardous Materials on, to or from the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be); (vii) Licensee shall at its own cost arrange for the lawful transportation and off-site disposal at a properly permitted facility of all Hazardous Materials that it generates or Releases; (viii) Licensee keep such records and obtain such permits as may be required for Licensee's activities under Environmental Laws; and (ix) Licensee shall comply with any applicable Airport stormwater pollution prevention plan and spill prevention control and countermeasures plan in effect from time to time.

**Section 13.3 - Site Assessments and Information.** Licensee acknowledges that it has received from the City that certain environmental report captioned "Phase I Environmental Site Assessment Report: Project Site: O'Hare International Airport - Future Car Rental Facility and Public Parking Lot; Prepared By: Environmental Design International inc., 33 W. Monroe Street, Suite 1825, Chicago, Illinois 60603. Prepared for: Department of Aviation (CDA), O'Hare Modernization Program, 10510 West Zemke Road, Chicago, Illinois 60666", and dated April 2012 (the "Existing Environmental Report").

**Section 13.4 - Copies of Notices.** During the Term, Licensee shall promptly provide the City with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, Claims, complaints, investigations, judgments, letters, notices of environmental liens or Response actions in progress, and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, Occupational Safety and Health Administration, Illinois Environmental Protection Agency or other federal, state, or local agency or authority, or any other entity or individual, concerning (i) any Release of a Hazardous Material on, to, or from the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), (ii) the imposition of any lien on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), or (iii) any alleged violation of or responsibility under Environmental Laws.

**Section 13.5 - Tests and Reports.** Licensee shall deliver to the City, within ten (10) days after receipt by Licensee, any written report, citation, notice, or other writing, including, without limitation, any Environmental Assessment, having an effect on or relating to the environmental condition of Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or relating to Licensee's compliance with or pursuant to any Environmental Laws. Licensee shall deliver to the City written reports and summaries of any substantive oral reports of any environmental consultants which impact the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) (other than to a de minimis extent) upon Licensee's receipt thereof and shall immediately advise the City in writing of any Claim, any Release of a Hazardous Material on, to, or from the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), or of the discovery of the existence of any Hazardous Material on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) in violation of, or requiring Response under, any applicable Environmental Laws, as soon as Licensee first obtains knowledge thereof, including a full description of the nature and extent of the Claim or Hazardous Material and all relevant circumstances.

**Section 13.6 - Access and Inspection.** The City shall have access to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) and to the books and records of Licensee relating to Hazardous Materials for the purpose of ascertaining the nature of the activities being conducted thereon and to determine the type, kind, and quantity of all products, materials, and substances brought onto the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or made or produced thereon. The City shall have the right to enter the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) upon reasonable prior written notice, except in an emergency, and conduct appropriate inspections or tests in order to determine Licensee's compliance with Environmental Laws; provided, the City shall use reasonable efforts to minimize any disruption of Licensee's business created thereby, and shall be responsible for promptly repairing any damages to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) to the extent caused by the City or the City's contractor in performing such inspections or tests. The City and its agents and representatives shall have the right to take samples, including, without limitation, (a) soil, water, and groundwater samples, in quantity

sufficient for scientific analysis of all materials and substances present on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), and (b) samples of products, materials or substances brought onto or made or produced on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) by Licensee or an occupant claiming by, through or under Licensee or otherwise present on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be).

**Section 13.7 - Obligation to Respond.**

(a) If the presence of Hazardous Materials at the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) (1) gives rise to liability or to a Claim under any Environmental Law, (2) causes a significant public health effect, or (3) creates a nuisance, Licensee shall promptly, without cost or expense to the City (except as expressly provided to the contrary in Subsection 13.7(c) hereof), take all applicable action in Response, except as otherwise provided in this Section 13.7. Without limiting the foregoing, if at any time any Hazardous Material is discovered to exist on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) in violation of or requiring clean-up under any Environmental Law and regardless of the cause, (except if resulting from a Pre-Existing Condition or migration thereof from adjacent properties as set forth in Subsection 13.7(c) below), then:

- (i) Licensee shall promptly, without cost or expense to the City (and based on a scope of work and timetable first reviewed and approved by the City), Respond to and dispose of the Hazardous Material in compliance with all applicable Environmental Laws and solely under Licensee's name and provide the City with satisfactory evidence thereof; and
- (ii) before performing the work, provide the City with a cost estimate, and if requested by the City, provide to the City within ten (10) days of the City's request (or earlier time period prescribed by the City in case of emergency) a letter of credit, financial security, or other written assurance evidencing to the City's reasonable satisfaction that all necessary funds are readily available to pay the costs and expenses of the actions required by subsection (i) above and to discharge any assessments or liens established against the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) as a result of the presence of the Hazardous Material on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be). As soon as practicable after completion of such remedial actions (but not more than thirty (30) days after completion), Licensee shall obtain and deliver to the City an Environmental Assessment of the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) made after such completion, which shall state that all required remedial action as stated above has been taken and successfully completed in compliance with all Environmental Laws, and that there is no evidence or suspicion of any contamination or risk of contamination on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or any adjacent property in violation of any Environmental Law, with respect to any such Hazardous Material (excluding, however, any Pre-Existing Condition identified in the Existing Environmental Report).

(b) The City may, but shall never be obligated to, upon not less than twenty (20) days' prior notice to Licensee (or such shorter time period prescribed by the City in case of emergency) and Licensee's failure to cure within such time period, Respond to or to cause the Response to the Hazardous Material if Licensee fails to promptly commence such Response following discovery and thereafter diligently pursue the same as may be required in Subsection 13.7(a) hereof.

(c) Notwithstanding anything in this Article 13 to the contrary, it is acknowledged and agreed that, except to the extent caused by or arising from the acts or omissions of Licensee, or any of its respective officers, agents, employees, contractors, guests, invitees, or licensees, neither Licensee, nor any of its respective officers, agents, employees, contractors, guests, invitees, or licensees, shall have any liability for (nor shall Licensee be required under Section 13.8 below to indemnify, defend, or hold harmless any Indemnified Party for): (i) any Pre-Existing Condition; (ii) any Release of Hazardous Materials by any third party on, or on properties adjacent to, the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) which affect the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or otherwise require a Response with respect to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be); or (iii) any Release of Hazardous Materials on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) to the extent caused by or otherwise attributable to the acts or omissions of the City or its officials, officers, agents, employees, or contractors. To the extent required by applicable Environmental Laws, the City shall Respond to, and shall be entitled to access the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) at any time or times upon reasonable prior notice (which may be oral) to Licensee to Respond to, any Hazardous Materials arising under subsections (i) or (iii) above (such actions arising under subsections (i) or (iii) above being referred to herein as "City Response Actions"): provided, the City shall use reasonable efforts to minimize any disruption of Licensee's business in connection with such City Response Actions, and shall be responsible for promptly repairing any damages to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) to the extent caused by the City or the City's contractor in performing such City Response Actions.

**Section 13.8 - Environmental Indemnification.** In addition to the indemnifications set forth in Section 6.1 hereof, and in accordance with the provisions of said Section 6.1, Licensee hereby indemnifies and agrees to defend and hold each Indemnified Party harmless from and against and, if and to the extent paid, reimburse such parties upon demand made in accordance with this Article 13 for, any and all Environmental Damages, including, without limitation, any and all Claims made in connection with the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), except to the extent expressly provided to the contrary in Subsection 13.7(c) hereof. Such indemnity shall not apply to a particular Indemnified Party to the extent that such indemnity is void under applicable Law. Licensee's obligations under this Article 13 shall survive the termination or expiration of this Licensee Agreement, and shall not be affected in any way by the amount of or the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) or any part thereof.

**Section 13.9 - Other Rights.** If any conflict exists between the provisions of this Licensee Agreement and the provisions of any other agreement between the City and Licensee relating to access to the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), Claims, or Environmental Damages, the stricter provision shall control. Nothing in this Licensee Agreement shall limit or impair any rights or remedies of the City against Licensee or any other person under any other agreement, any Environmental Law or otherwise at law or

in equity, including, without limitation, any rights of contribution or indemnification. Rights under this Article 13 granted to the City shall be exercisable by the City's officers, employees, agents, licensees, contractors, and designees.

**Section 13.10 - Disposal of Materials, Construction and Demolition Debris, Soil and Waste.**

(a) Without limiting other provisions of this Article 13 or any other provisions of this Licensee Agreement, Licensee shall be responsible for the proper disposal of all materials, construction and demolition debris, soil, and other waste generated by the business operations of Licensee, and its respective officers, agents, employees, contractors, guests, invitees, or licensees, including, but not limited to, the construction of capital improvements, or any activities as set forth in Section 13.7 hereof, all in accordance with Environmental Laws. Licensee shall identify to the City any disposal site or transfer station for materials, debris, soil, or other waste of which Licensee is disposing, prior to its disposal, and shall complete and execute any form required by the City identifying such site or station. Licensee shall not use or allow to be used for disposal or transfer any site or station not properly licensed. Any substitution, for whatever reason, shall be at Licensee's cost. Licensee shall pay the cost to remove waste to a properly licensed site or station.

(b) Licensee shall notify the City of any community meetings, media involvement, or media coverage related to the loading, hauling, or disposal of materials, construction debris, soil, and other wastes under this Licensee Agreement in which Licensee is asked to participate.

(c) Non-compliance with the terms and conditions of this Article 13 may affect Licensee's eligibility for future contracts or leases.

(d) Licensee shall haul materials, including, but not limited to, fuel of any nature, any construction debris, soil, and other wastes in vehicles and containers complying with all applicable Environmental Laws.

**Section 13.11 - Miscellaneous Records.**

Licensee must show evidence to the City of, and keep current throughout the Term of this Licensee Agreement, all permits of any kind (including waste hauling, special waste hauling, and disposal permits) and insurance certificates required by federal, state, City, or other local governmental body or agency pursuant to any Environmental Law; copies of all load tickets, manifests, bills of lading, scale tickets, and other pertinent documents, including copies of all permits and licenses for the proposed transfer station or landfill, vehicle maintenance records; safety and accident reports; and records, reports, and permits required by IEPA or OSHA. All such records and accounts shall be subject to review by the City and shall be made available to the City within ten (10) days following written request of the Commissioner, or other shorter reasonable period requested by the Commissioner. The City's review of any such records and accounts shall in no way serve to limit Licensee's obligations or liability under the terms and conditions of this Licensee Agreement or any Environmental Law.

**Section 13.12 - No Liability of the City.**

(a) The City shall have no liability to Licensee (except as expressly provided in this Licensee Agreement), or any of its respective members, employees, agents, partners, shareholders, officers, directors, contractors, licensees, or invitees, or other Persons whom Licensee has permitted entry or with whom Licensee has entered into a contract or understanding (oral or written) to use or occupy the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be), as a result of Hazardous Materials now or hereafter located on the Pick-Up/Drop-Off

Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be); provided, the City shall be required to Respond to any City Response Actions to the extent provided under Subsection 13.7(c) hereof.

(b) THE CITY MAKES NO REPRESENTATION OR WARRANTY AS TO THE ENVIRONMENTAL CONDITION OF THE ATS (OR THE COMMON USE TRANSPORTATION SYSTEM, AS THE CASE MAY BE). EXCEPT FOR CITY RESPONSE ACTIONS REQUIRED UNDER SUBSECTION 13.7(C) HEREOF AND THE CITY'S LIABILITY TO THE EXTENT ARISING IN CONNECTION THEREWITH, LICENSEE HEREBY WAIVES ANY AND ALL CLAIMS AGAINST THE CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, CONTRACTORS, AND AGENTS WHICH MAY CURRENTLY EXIST OR WHICH MAY ARISE IN THE FUTURE BY CONTRACT, AT COMMON LAW, IN EQUITY, OR UNDER STATUTE, NOW OR THEN CURRENTLY IN EFFECT, AND WHICH RELATE TO ENVIRONMENTAL CONDITIONS ON, UNDER OR NEAR THE ATS (OR THE COMMON USE TRANSPORTATION SYSTEM, AS THE CASE MAY BE)

**Section 13.13 - No Waiver.** Except as otherwise set forth or provided in this Article 13 or elsewhere in this License, nothing contained in this Article 13 is intended to limit or waive any common law or statutory rights of the City or Licensee for liability to third parties for damage to property or injury to persons resulting from or arising in connection with Hazardous Materials located on the Pick-Up/Drop-Off Area, the Joint Use Facility, and/or the ATS (or Common Use Transportation System, as the case may be) and/or CRCF Property.

#### **ARTICLE 14** **SPECIAL PROVISIONS**

**Section 14.1 - Notices; Consents.** All consents and approvals in connection with this License shall be in writing (except as otherwise provided herein) and shall be sent by U.S. registered or certified mail (proper postage prepaid and return receipt requested), by nationally-recognized commercial overnight delivery services (e.g. UPS, Federal Express, etc.) or by personal delivery, and addressed as follows:

(a) To the City:

Department of Aviation  
P.O. Box 66848  
10510 West Zemke Road  
Chicago, IL 60666  
Attn: Commissioner of Aviation

With copies to:

Department of Aviation - Real Estate Division  
P.O. Box 66848  
10510 West Zemke Road  
Chicago, IL 60666  
Attn: Deputy Commissioner of Real Estate

And:

Corporation Counsel City of Chicago  
30 North LaSalle Street, 14th Floor  
Chicago, IL 60602  
Attn: Deputy Corporation Counsel for Aviation

(b) To Licensee:

Simply Wheelz LLC d/b/a Advantage Rent A Car  
c/o Franchise Services of North America, Inc.  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attn: Gary Fulena, COO

With mandatory copy to:

Simply Wheelz LLC d/b/a Advantage Rent A Car  
c/o Franchise Services of North America, Inc.  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attn: O. Kendall Moore, General Counsel

or such other persons or addresses as either party may designate from time to time by written notice to the other. Mailed notices shall be deemed to have been given three (3) business days after deposit in the U.S. mail. Notice by nationally-recognized commercial overnight delivery service shall be deemed given the next business day following deposit with such service. Notice by personal delivery shall be deemed given upon personal delivery.

**Section 14.2 - Severability.** If any provision of this License shall be held or deemed to be, or shall in fact be, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or of any constitution, statute, ordinance, rule of law, or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this License shall not affect the remaining portions of this License or any part thereof.

**Section 14.3 - General Interpretation.** Any headings of this License are for convenience of reference only and do not define or limit the provisions thereof. In this License, unless the context otherwise requires, the terms "heroby", "herein", "hereof", "hereto", "hereunder", and any similar terms used in this manner refer to this License. All section references, unless otherwise expressly indicated, are to sections in this License. Words importing persons shall include firms, associations, partnerships, trusts, corporations, joint ventures, and other legal entities, including public bodies, as well as natural persons. Words importing gender shall be deemed and construed to include correlative words of other genders. Words importing the singular number shall include the plural and vice versa, unless the context otherwise indicates. Any references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with this License.

And:

Corporation Counsel City of Chicago  
30 North LaSalle Street, 14th Floor  
Chicago, IL 60602  
Attn: Deputy Corporation Counsel for Aviation

(b) To Licensee:

Simply Wheelz LLC d/b/a Advantage Rent A Car  
c/o Franchise Services of North America, Inc.  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attn: Gary Fulena, COO

With mandatory copy to:

Simply Wheelz LLC d/b/a Advantage Rent A Car  
c/o Franchise Services of North America, Inc.  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attn: O. Kendall Moore, General Counsel

or such other persons or addresses as either party may designate from time to time by written notice to the other. Mailed notices shall be deemed to have been given three (3) business days after deposit in the U.S. mail. Notice by nationally-recognized commercial overnight delivery service shall be deemed given the next business day following deposit with such service. Notice by personal delivery shall be deemed given upon personal delivery.

**Section 14.2 - Severability.** If any provision of this License shall be held or deemed to be, or shall in fact be, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or of any constitution, statute, ordinance, rule of law, or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this License shall not affect the remaining portions of this License or any part thereof.

**Section 14.3 - General Interpretation.** Any headings of this License are for convenience of reference only and do not define or limit the provisions thereof. In this License, unless the context otherwise requires, the terms "hereby", "herein", "hereof", "hereto", "hereunder", and any similar terms used in this manner refer to this License. All section references, unless otherwise expressly indicated, are to sections in this License. Words importing persons shall include firms, associations, partnerships, trusts, corporations, joint ventures, and other legal entities, including public bodies, as well as natural persons. Words importing gender shall be deemed and construed to include correlative words of other genders. Words importing the singular number shall include the plural and vice versa, unless the context otherwise indicates. Any references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with this License.

**Section 14.4 - Successors and Assigns.** All of the covenants, stipulations and agreements herein contained shall, subject to the provisions of Article 12 above, shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

**Section 14.5 - Choice of Law.** This License shall be deemed to have been made in and shall be construed in accordance with the laws of the State of Illinois.



**Section 14.6 - Counterparts.** This License has been executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

**Section 14.7 - Submission to Jurisdiction; Subpoena.** The Licensee hereby irrevocably submits to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this License. Both parties agree that service of process on the other party may be made, either by registered or certified mail addressed as provided for in Section 14.1 of this License, or by personal delivery on any officer, director or managing or general agent of the Licensee or on the Commissioner. If Licensee is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any documents which may be in its possession by reason of this License, Licensee shall immediately give notice to the City's Corporation Counsel. The City may contest such process by any means available to it before such records or documents are submitted to a court or other third party, provided; however, that Licensee shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

**Section 14.8 - No Partnership, Joint Venture or Third Party Benefit.** By entering into this License, the City shall in no way be deemed a partner or joint venturer with Licensee, nor shall any term or provision hereof be construed in any way to grant, convey, or create any rights or interests to any person or entity not a party to this License.

**Section 14.9 - No Brokers.** The City and Licensee each represents and warrants to the other that it has dealt with no broker, finder or agent with respect to this License, and each agrees to indemnify, defend and hold harmless the innocent party from any commissions or finder's fees which any entity or person claiming through or by the actions of said party may assert is due as a result of the execution of this License.

**Section 14.10 - City's Approval; Commissioner Authority.** Whenever the City's approval or consent is required under this License, the City may withhold its approval or consent in its sole and absolute discretion, except to the extent otherwise expressly provided herein. Wherever this License provides that an act is to be taken or performed or approval or consent given by the City, by the corporate authorities of the City, or by resolution or ordinance, then except as otherwise provided now or hereafter by applicable law, the rules and regulations of the City, or by resolution or ordinance of the corporate authorities of the City, such act may be taken or performed or approval or consent may be given by the Commissioner without further action by the City Council of Chicago, as long as such act, approval or consent does not result in either: (1) an extension of the Term, except under Section 3.2; (2) a change in the Fees as provided in Article 4; or (3) consent to or approval of a sublicense of the entire License by Licensee.

**Section 14.11 - Incorporation of Exhibits.** Exhibits A through E attached hereto are incorporated herein as if set forth fully at each reference to any Exhibit herein.

**Section 14.12 - Authority to Execute License.**

- (a) **City.** Execution of this License by the City is authorized by the CFC Ordinance.
- (b) **Licensee.** Licensee shall, upon the execution and delivery of this License by Licensee (or upon the City's request at any time and from time to time during the Term hereof), deliver to the City the following instruments and documents:

- (i) The written opinion of Licensee's counsel addressed to the City that the execution and delivery of this License is properly authorized;
- (ii) Certificates of Good Standing issued by the State of Illinois and the state of organization of Licensee and bearing a current date;
- (iii) Resolutions authorizing Licensee's execution and delivery of this License and performance of Licensee's obligations under this License;
- (iv) Evidence of permits and registrations required under Section 2.6 of this License;
- (v) Security Deposit; and
- (vi) Such legal opinions and certificates as the City may reasonably request from time to time in connection with Bond or other financings.

**Section 14.13 - Limitation of Liability.** Licensee (and any person claiming by or through Licensee) shall look solely to legally available Airport discretionary funds from time to time for enforcement of any liability of the City under this License, and not any other funds or assets of the City whatsoever. In no event shall the City be required to pay any amount on account of a breach or default (or alleged breach or default) hereunder in any twelve (12) month period which is greater than the aggregate of the Concession Fees received by the City during such period from Licensee. In addition to, and not in limitation of, the foregoing, the City's obligations under this License, shall be limited to the extent adequate funds for the performance of such obligations of the City hereunder are then available in the applicable reserves established from the proceeds of the Bonds pursuant to the Bond Ordinance, as such reserves exist and are constituted from time to time.

**Section 14.14 - Estoppel Certificate.** Licensee agrees that from time to time upon not less than twenty (20) days' prior request by the City, Licensee will execute an estoppel certificate certifying as to matters concerning the status of this License and the parties' performance hereunder, including, but not limited to, the following matters: that this License is unmodified and in full force and effect (or if modified, identifying the modifications); the date to which any Fees and other charges have been paid and the amount of the most recent Fees paid; that the City is not in default under any provision of this License (or the nature of such default, in detail); that Licensee is paying Fees on a current basis with no offsets or claims.

**Section 14.15 - Representations and Warranties.** In connection with the execution of this License, Licensee represents and warrants as follows:

(a) That it is financially able and competent to perform as required under this License; and that Licensee is legally authorized to execute and perform or cause to be performed this License under the terms and conditions stated herein;

(b) That all certifications, affidavits, information, and disclosures heretofore made or given by Licensee or its partners or their officers, directors, and shareholders to the City in connection with this License have been completed in accordance with all Laws, are true and correct in all material respects and are deemed to be a material part of this License; and that such representation and warranty shall be deemed to be remade by Licensee as to any future certifications, affidavits, information, or disclosures at the time they are made or given;

(c) That (i) Licensee is a corporation duly organized and existing under the laws of the State of Delaware, (ii) Licensee is duly qualified to do business in the State of Illinois, (iii) Licensee has full right and authority to enter into this License, and (iv) each and all of the persons signing on behalf of Licensee are authorized to do so; and

(d) That the representations and warranties contained herein are deemed made as of the date hereof and, shall be deemed remade and continuing throughout the Term of this License.

**Section 14.16 - Time of the Essence.** Time is of the essence with respect to Licensee's obligations under this License.

**Section 14.17 - No Sales Tax Exemption.** Neither Licensee nor any contractor of Licensee shall be entitled to claim any exemption from sales or use taxes or similar taxes by reason of the City of Chicago's ownership of fee title to the Airport.

**Section 14.18 - License Only.** This Agreement creates a license only and Licensee acknowledges that Licensee does not and shall not claim at any time any real property interest or estate of any kind or extent whatsoever by virtue of this License.

**Section 14.19 - Publicity.** Licensee shall not issue publicity news releases or grant press interviews or otherwise publicly disseminate any information regarding this License or the operations of Licensee at the Airport without the prior written consent of the City, which will not be unreasonably withheld or delayed.

**Section 14.20 - City Smoking Policy.** Licensee shall cooperate and comply with the provisions of laws, ordinances and regulations, as amended from time to time, prohibiting or restricting smoking at the Pick-Up/Drop-Off Area.

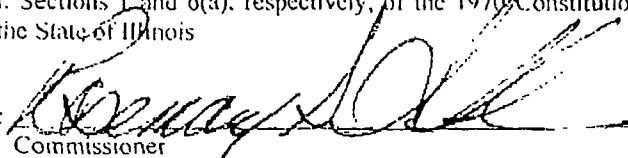
**Section 14.21 - Security Cameras and the Airport Camera System.** Licensee shall comply with any and all security camera and security camera system initiatives, policies, programs, procedures, requirements, capital projects, and payment/funding obligations as may be required by the City from time to time (collectively, the "Security Camera Requirements") to the extent that such Security Camera Requirements are applicable to the Pick-Up/Drop-Off Area.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the City has caused this License to be executed on its behalf by the Commissioner of the City's Department of Aviation, pursuant to due authorization of the City Council, and Licensee has caused this License to be executed on its behalf by its CEO and attested by its Legal Asst. pursuant to due authorization of its members, all as of the day and year first above written.

CITY:

CITY OF CHICAGO, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois

By:   
Commissioner  
Chicago Department of Aviation

RECOMMENDED AND APPROVED BY:

By: \_\_\_\_\_  
Department of Law

THIS LICENSE SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE CITY AND REVIEWED AND APPROVED BY THE CITY'S LAW DEPARTMENT.

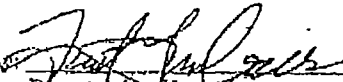
IN WITNESS WHEREOF, the City has caused this License to be executed on its behalf by the Commissioner of the City's Department of Aviation, pursuant to due authorization of the City Council, and Licensee has caused this License to be executed on its behalf by its \_\_\_\_\_ and attested by its \_\_\_\_\_, pursuant to due authorization of its members, all as of the day and year first above written.

**CITY:**

CITY OF CHICAGO, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois

By: \_\_\_\_\_  
Commissioner  
Chicago Department of Aviation

RECOMMENDED AND APPROVED BY:

By:  \_\_\_\_\_  
Department of Law

THIS LICENSE SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE CITY AND REVIEWED AND APPROVED BY THE CITY'S LAW DEPARTMENT.

Illinois agent for  
service of process:

Name(Print): Capitol Corporate Services, Inc.  
Address: 1315 W. Lawrence Avenue  
Springfield, IL 62704

**SIMPLY WHEELZ LLC**, a Delaware limited  
liability company, d/b/a Advantage Rent a Car

By: Tom McDonnell  
Name: Thomas P. McDonnell, III  
Title: CEO

ATTEST:

By: Janice M. Hammack  
Name: Janice M. Hammack  
Title: Legal Assistant

EXHIBIT A

DEPICTION OF PICK-UP/DROP-OFF AREA

To be provided to Licensee by the City upon substantial completion of the CRCF Project.

**EXHIBIT B**

**FORM OF LETTER OF CREDIT**

(Date)

City of Chicago  
c/o Commissioner of Aviation  
Department of Aviation  
P.O. Box 66848  
10510 West Zenke Road  
Chicago, IL 60666

IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_

Original Expiration Date: \_\_\_\_\_, 20\_\_

Gentlemen:

We hereby establish our irrevocable Letter of Credit in your favor for the account of \_\_\_\_\_ a(n) \_\_\_\_\_, for the sum not exceeding U.S. \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_).

Funds under this Credit are available to you unconditionally against your sight drafts for any sum or sums not exceeding a total of Dollars (\$\_\_\_\_\_) drawn on us mentioning our credit No. \_\_\_\_\_ purportedly signed by the Commissioner of Aviation or the City Comptroller of the City of Chicago (whether acting or actual).

Our obligations hereunder are primary obligations to the City and shall not be affected by the performance or non-performance by under any agreement with the City or by any bankruptcy or other insolvency proceeding initiated by or against \_\_\_\_\_ is not the owner of or beneficiary under this Credit and possesses no interest whatsoever in this Credit or proceeds of same. We engage with you that any draws under this Credit shall be duly honored on sight if presented to us on or before \_\_\_\_\_.

We hereby agree with the drawers of the draft drawn and negotiated in compliance with the terms of this credit, that said draft will be duly honored within two (2) business days after it is presented at this office

It is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for a period of one year from the initial expiration date stated above or any future expiration date hereof, unless at least sixty (60) days prior to the expiration date we mail you our notice, by registered or certified mail, informing you that the Letter of Credit will no longer be automatically renewed beyond the then expiration date. In the event that we notify you that it is our intention not to renew this Letter of Credit for an additional one year period we agree to also notify the following parties by registered or certified mail:



Department of Aviation - Real Estate Division  
P.O. Box 66848  
10510 West Zemke Road  
Chicago, IL 60666  
Attn: Deputy Commissioner of Real Estate

And:

Corporation Counsel City of Chicago  
30 North LaSalle Street, 14th Floor  
Chicago, IL 60602  
Attn: Deputy Corporation Counsel for Aviation

This Letter of Credit is transferable and assignable from time to time; any transfer request shall be effected by presentation to the issuer of the attached transfer form accompanied by the original of this Letter of Credit, provided that the holder hereof shall not incur any fees to the issuer as a condition to any such transfer.

Partial Drawings and reductions are permitted.

This Credit is subject to the Uniform Customs and Practice for Documentary Credits ((1983) Revision), International Chamber of Commerce publication No. 400 (IUCP) and to the Uniform Commercial Code - Letters of Credit, Ill. Rev. Stat. ch. 26, sec. 5-101 et seq. (1989) as amended, as in effect in the State of Illinois (UCC). To the extent the provisions of the IUCP and the UCC conflict, the provisions of the UCC shall control.

NAME OF BANK

\_\_\_\_\_  
Authorized Signatory

**EXHIBIT C**

**FORM OF INSURANCE CERTIFICATE (12/10)**

Iss. or Date \_\_\_\_\_

**INSURANCE CERTIFICATE OF COVERAGE**

Named Insured _____	Contract # _____
Address _____	RP# _____
(NUMBER & STREET)	Project # _____
CITY STATE ZIP	Contract # _____

Description of Operation/Location	
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The insurance policies and endorsements indicated below have been issued to the designated named insured with the policy limits as set forth herein covering the operation described within the contract involving the named insured and the City of Chicago. The Certificate issuer agrees that in the event of cancellation, non-renewal or material change involving the indicated policies, the issuer will provide at least sixty (60) days prior written notice of such change to the City of Chicago at the address shown on this Certificate. This certificate is issued to the City of Chicago in consideration of the contract entered into with the named insured and it is mutually understood that the City of Chicago relies on this certificate as a basis for continuing such agreement with the named insured.

Type of Insurance	Insurer Name	Policy Number	Expiration Date	Limits of Liability All Limits in Thousands
<input type="checkbox"/> Commercial General Liability <input type="checkbox"/> Occurrence <input type="checkbox"/> Claims made <input type="checkbox"/> Premises-Operations <input type="checkbox"/> Explosions/Collapse/Underground <input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Blanket Contractual <input type="checkbox"/> Broad Form Property Chicago <input type="checkbox"/> Independent Contractors <input type="checkbox"/> Personal Injury <input type="checkbox"/> Pollution				Each Occurrence \$ _____ General Aggregate \$ _____ Products/Completed Operations Aggregate \$ _____
Automobile Liability (Any Auto) Excess Liability <input type="checkbox"/> Umbrella Liability				Each Occurrence \$ _____ Each Subsequent Employers Liability \$ _____ Amount of Contract \$ _____
Workers' Compensation and Employer's Liability				Amount of Contract \$ _____
Bakers' Risk/Coverage of Contractors				\$ _____
Professional Liability				\$ _____
Owner/Contractors Protective				\$ _____
Other				

- a) Each insurance policy required by this agreement except policies for workers' compensation and professional liability, will name The City of Chicago as an additional insured as respects to operations and activities of or on behalf of the named insured, performed under contract with or on behalf of the City of Chicago.
- b) The General Automobile and Excess/Umbrella Liability Policies described provide for separation of insureds applicable to the named insured and the City.
- c) Workers' Compensation and Property insurer shall waive all rights of subrogation against the City of Chicago.
- d) The receipt of this certificate by the City does not constitute agreement by the City that the insurance requirements in the contract have been fully met, or that the insurance companies indicated by this certificate are in compliance with all contract requirements.

Name and Address of Certificate Holder and Recipient of Notice	
Certificate Holder/Additional Insured	Signature of Authorized Rep.
City of Chicago	Agency/Company
Dept. of Procurement	Address
121 North LaSalle Street, Room 403	Telephone
Chicago, IL 60602	

FOR CITY USE ONLY Certificate No. \_\_\_\_\_

**EXHIBIT D**  
**CFC ORDINANCE**

[SEE ATTACHED]

EXHIBIT E

CFC PAYMENT REPORT FORM

[SEE ATTACHED]

**EXHIBIT B**

Assignment and Assumption Agreement

See attached.

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment Agreement") is made and entered into on April 29, 2015, by and between Advantage Opco, LLC (the "Assignee"), and Simply Wheelz LLC d/b/a Advantage Rent A Car, a Delaware limited liability company (the "Seller").

### WITNESSETH:

WHEREAS, the Seller, Franchise Services of North America, Inc. and The Catalyst Capital Group, Inc., a Delaware corporation (the "Purchaser") entered into that certain Asset Purchase Agreement dated as of December 16, 2013 (the "Purchase Agreement");

WHEREAS, pursuant to the Purchase Agreement, the Seller has agreed to sell, convey, transfer, assign and deliver to the Purchaser all of the Seller's right, title and interest in, to and under the Seller Purchased Assets, and the Purchaser has agreed to assume, timely perform and discharge in accordance with their respective terms, the Seller Assumed Liabilities; and

WHEREAS, in accordance with the terms of the Purchase Agreement, the Purchaser has assigned to the Assignee (an Affiliate of the Purchaser) all of its rights and obligations under the Purchase Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, it is hereby agreed that:

1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Assignment Agreement shall have the meanings set forth in the Purchase Agreement.
2. Assignment of Purchased Assets. Effective as of 11:59 p.m. (Central time) on April 30, 2014 (the "Closing Date"), the Seller hereby conveys, transfers, assigns and delivers to the Assignee all of the Seller's right, title and interest in, to and under the Assumed Contracts set forth on Annex A hereto (the "Specified Assumed Contracts"), and the Purchaser hereby accepts such conveyance, transfer, assignment and delivery from the Seller.
3. Assumption of Assumed Liabilities. Effective as of 11:59 p.m. (Central time) on the Closing Date, the Assignee hereby assumes, accepts and agrees to timely perform and discharge in accordance with their respective terms any and all of the Liabilities of Seller under the Specified Assumed Contracts (the "Specified Assumed Liabilities").
4. Subject to the Purchase Agreement. This Assignment Agreement is subject in all respects to the terms and conditions of the Purchase Agreement, and all of the representations, warranties, covenants and agreements of the Seller and the Purchaser contained therein, all of which shall survive the execution and delivery of this Assignment Agreement in accordance with the terms of the Purchase Agreement. Nothing in this Assignment Agreement shall supersede, amend, alter or modify (nor shall it be deemed or construed to supersede, amend, alter or modify) any of the terms or conditions of the Purchase Agreement in any manner whatsoever. In the event

of any conflict between the provisions of this Assignment Agreement and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall control and prevail.

5. Representations and Warranties. Except as set forth in the Purchase Agreement, the Seller makes no representations or warranties, express or implied, with respect to the Specified Assumed Contracts or the Specified Assumed Liabilities, and the Seller expressly disclaims any implied warranties.

6. Binding Effect; Assignment. This Assignment Agreement shall be binding upon the Assignee and, subject to entry of the Sale Procedures Order (with respect to the matters covered thereby) and the Sale Approval Order, the Seller, and inure to the benefit of each party and its respective successors and permitted assigns, including, without limitation, any trustee or estate representative appointed in the Seller Chapter 11 Case or any successor Chapter 7 case. Nothing in this Assignment Agreement shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Assignment Agreement except as provided below. No assignment of this Assignment Agreement or of any rights or obligations hereunder may be made by the Seller or the Assignee (by operation of law or otherwise) without the prior written consent of the other party and any attempted assignment without the required consents shall be void; provided, that the Assignee may assign its rights and obligations hereunder in whole or in part to one or more Affiliates or wholly owned subsidiaries of the Purchaser or funds managed by the Purchaser or its Affiliates (subject to the next succeeding sentence). No assignment of any obligations hereunder shall relieve the parties hereto of any such obligations. Upon any such permitted assignment, the references in this Assignment Agreement to the Assignee shall also apply to any such assignee unless the context otherwise requires.

7. Counterparts. For the convenience of the parties, this Assignment Agreement may be executed (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

8. Amendments; Waiver. This Assignment Agreement may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Assignment Agreement signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Assignment Agreement, including without limitation, any investigation by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Assignment Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Severability. If any term or other provision of this Assignment Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other

conditions and provisions of this Assignment Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Assignment Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

10. Governing Law; Jurisdiction.

(a) THIS ASSIGNMENT AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

(b) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER THE PARTIES HERETO AND ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS ASSIGNMENT AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS ASSIGNMENT AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS ASSIGNMENT AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

*SIGNATURE PAGES FOLLOW*



IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

The Seller:

SIMPLY WHEELZ LLC D/B/A  
ADVANTAGE RENT A CAR

By: Tom McDonnell

Name: Thomas McDonnell

Title: CEO

**The Assignee:**

ADVANTAGE OPSCO, LLC

By: 

Name: William N. Plamondon

Title: President

**ANNEX A**  
**Specified Assumed Contracts**

Consolidated Rental Car Facility Lease and License Concession Agreement at Chicago O'Hare International Airport Agreement, by and between the City of Chicago and Simply Wheelz LLC d/b/a Advantage Rent A Car, dated July 26, 2013

Off-Airport Rental Car Concession License Agreement at Chicago O'Hare International Airport, by and between the City of Chicago and Simply Wheelz LLC d/b/a Advantage Rent A Car, dated August 1, 2013

ButlerSnow 25762524v3

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Advantage Opco, LLC d/b/a Advantage Rent A Car

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1.  the Applicant

OR

2.  a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_

OR

3.  a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 101 N.E. Third Street, Suite 1600

Fort Lauderdale, FL 33301

C. Telephone: (954) 522-6307 Fax: (954) 337-3707 Email: Joe.Olivera@advantage.com

D. Name of contact person: Bill Plamondon

E. Federal Employer Identification No. (if you have one) [redacted]

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable): Assignment of (i) Consolidated Rental Car Facility Lease and License Concession Agreement at Chicago O'Hare International Airport dated July 26, 2013 and (ii) Off-Airport Rental Car Concession License Agreement at Chicago O'Hare International Airport dated August 1, 2013.

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

**SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS**

**A. NATURE OF THE DISCLOSING PARTY**

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input checked="" type="checkbox"/> Limited liability company |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership        |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                        |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation           |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?         |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No      |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)               |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

- Yes  No  N/A

**B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:**

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Advantage Holdco, Inc.	Managing Member

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Advantage Holdco, Inc.	101 NE Third Street, Suite 1600 Ft. Lauderdale, FL 33301	100% (direct)
Catalyst Fund Limited Partnership III	181 Bay Street, Suite 4700 Toronto, ON M5J2T3, Canada	33% (indirect, direct in Advantage Holdco, Inc.)
Catalyst Fund Limited Partnership IV	181 Bay Street, Suite 4700 Toronto, ON M5J2T3, Canada	67% (indirect, direct in Advantage Holdco, Inc.)

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

Yes

No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
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(Add sheets if necessary)

Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

**SECTION V -- CERTIFICATIONS**

**A. COURT-ORDERED CHILD SUPPORT COMPLIANCE**

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

Yes       No       No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

Yes       No

**B. FURTHER CERTIFICATIONS**

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").



Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

N/A

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

N/A

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### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

is  is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

Yes                       No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

Yes                       No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

✓ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

**SECTION VII – ACKNOWLEDGMENTS, CONTRACT INCORPORATION,  
COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

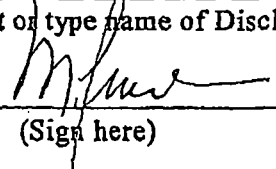
F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

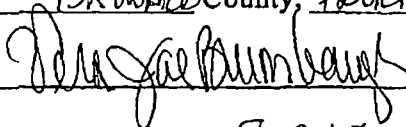
Advantage Opco, LLC  
(Print or type name of Disclosing Party)

By:   
(Sign here)

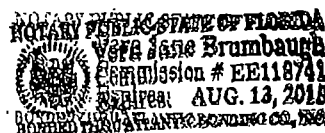
Bill Plamondon  
(Print or type name of person signing)

President  
(Print or type title of person signing)

Signed and sworn to before me on (date) 4-27-15  
at BROWARD County, FLORIDA (state).

 Notary Public.

Commission expires: 8-13-15



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

Yes

No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Advantage Holdco, Inc.

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1.  the Applicant  
OR

2.  a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_  
OR

3.  a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: Advantage Opco, LLC d/b/a Advantage Rent A Car

B. Business address of the Disclosing Party: 101 N.E. Third Street, Suite 1600  
Fort Lauderdale, FL 33301

C. Telephone: (954) 522-6307 Fax: (954) 337-3707 Email: Joe.Olivera@advantage.com

D. Name of contact person: Gabriel de Alba

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable): Assignment of (i) Consolidated Rental Car Facility Lease and License Concession Agreement at Chicago O'Hare International Airport dated July 26, 2013 and (ii) Off-Airport Rental Car Concession License Agreement at Chicago O'Hare International Airport dated August 1, 2013.

G. Which City agency or department is requesting this EDS? Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_



**SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS**

**A. NATURE OF THE DISCLOSING PARTY**

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

- Yes  No  N/A

**B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:**

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Gabriel de Alba	Director, President and Secretary
_____	_____
_____	_____
_____	_____

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Catalyst Fund Limited Partnership III	181 Bay Street, Suite 4700 Toronto, ON M512T3, Canada	33%
Catalyst Fund Limited Partnership IV	181 Bay Street, Suite 4700 Toronto, ON M512T3, Canada	67%

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

Yes  No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
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(Add sheets if necessary)

Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

**SECTION V -- CERTIFICATIONS**

**A. COURT-ORDERED CHILD SUPPORT COMPLIANCE**

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

Yes       No       No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

Yes       No

**B. FURTHER CERTIFICATIONS**

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.I. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

N/A

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

N/A

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### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

is  is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

Yes  No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

Yes  No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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#### SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE:** If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

##### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.



3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

Yes                       No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

Yes                       No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

Yes                       No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

Yes                       No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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**SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION,  
COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Advantage Holdco, Inc.  
(Print or type name of Disclosing Party)

By: [Signature]  
(Sign here)

Gabriel de Alba  
(Print or type name of person signing)

President and Secretary  
(Print or type title of person signing)

Signed and sworn to before me on (date) April 27, 2015  
at The Municipality of Metropolitan Toronto County, Province of Ontario (state).

James R. Riley Notary Public.

Commission expires: is without limitation on time.

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

Yes

No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I – GENERAL INFORMATION**

**A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:**

The Catalyst Capital Group Inc., on behalf of the funds managed by it

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1.  the Applicant  
OR

2.  a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_  
OR

3.  a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: Advantage Opco, LLC d/b/a Advantage Rent A Car

**B. Business address of the Disclosing Party:** 181 Bay Street, Suite 4700  
Toronto, ON M5J2T3, Canada

**C. Telephone:** (416) 945-3000 **Fax:** (416) 945-3060 **Email:** cdawes@catcapital.com

**D. Name of contact person:** Chester Dawes

**E. Federal Employer Identification No. (if you have one):** \_\_\_\_\_

**F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):** Assignment of (i) Consolidated Rental Car Facility Lease and License Concession Agreement at Chicago O'Hare International Airport dated July 26, 2013 and (ii) Off-Airport Rental Car Concession License Agreement at Chicago O'Hare International Airport dated August 1, 2013.

**G. Which City agency or department is requesting this EDS?** Department of Aviation

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

**SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS**

**A. NATURE OF THE DISCLOSING PARTY**

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person   | <input type="checkbox"/> Limited liability company       |
| <input type="checkbox"/> Publicly registered business corporation       | <input type="checkbox"/> Limited liability partnership   |
| <input checked="" type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture                   |
| <input type="checkbox"/> Sole proprietorship                            | <input type="checkbox"/> Not-for-profit corporation      |
| <input type="checkbox"/> General partnership                            | (Is the not-for-profit corporation also a 501(c)(3))?    |
| <input type="checkbox"/> Limited partnership                            | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust  | <input type="checkbox"/> Other (please specify)          |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Canada

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

- Yes  No  N/A

**B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:**

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Newton Glassman	Managing Partner
Gabriel de Alba	Managing Director and Partner

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Newton Glassman	181 Bay Street, Suite 4700 Toronto, ON M5H 2T3, Canada	Jointly hold 95% of shares in corporation
Gabriel de Alba	181 Bay Street, Suite 4700 Toronto, ON M5H 2T3, Canada	Jointly hold 95% of shares in corporation

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

Yes                       No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
Latham & Watkins LLP (retained)	330 N. Wabash Ave, Suite 1800 Chicago, IL 60611	Attorney	Estimated \$20,000
Deloitte (retained)	1 Place Ville Marie, Bureau 300 Montreal, QC H3B4T9	Consultant	Estimated \$10,000

(Add sheets if necessary)

Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V – CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

Yes       No       No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

Yes       No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I") (which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.



2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section H.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

N/A

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

N/A

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### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

is  is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

Yes                       No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

Yes                       No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

\_\_\_\_ 2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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#### **SECTION VI – CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

##### **A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

Yes                       No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

Yes                       No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

Yes                       No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

Yes                       No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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**SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION,  
COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

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Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

The Catalyst Capital Group Inc., on behalf  
of the funds managed by it

(Print or type name of Disclosing Party)

By: \_\_\_\_\_

(Sign here)

Gabriel de Alba

(Print or type name of person signing)

Managing Director and Partner

(Print or type title of person signing)

Signed and sworn to before me on (date) April 27, 2015

at \_\_\_\_\_

County, \_\_\_\_\_

(state), \_\_\_\_\_

James F. Riley

Province of Ontario  
Notary Public.

My Commission expires: is without limitation as to time.



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this BDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

. Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

Yes

No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**FORM ADV**

OMB: 3235-0049

**UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION**

<b>Primary Business Name: THE CATALYST CAPITAL GROUP INC.</b>	<b>IARD/CRD Number: 155299</b>
<b>Rev. 10/2012</b>	

**WARNING:** Complete this form truthfully. False statements or omissions may result in denial of your application, revocation of your registration, or criminal prosecution. You must keep this form updated by filing periodic amendments. See Form ADV General Instruction 4.

**Item 1 Identifying Information**

Responses to this Item tell us who you are, where you are doing business, and how we can contact you.

A. Your full legal name (if you are a sole proprietor, your last, first, and middle names):  
**THE CATALYST CAPITAL GROUP INC.**

B. Name under which you primarily conduct your advisory business, if different from Item 1.A.:  
**THE CATALYST CAPITAL GROUP INC.**

List on Section 1.B. of Schedule D any additional names under which you conduct your advisory business.

C. If this filing is reporting a change in your legal name (Item 1.A.) or primary business name (Item 1.B.), enter the new name and specify whether the name change is of  
 your legal name or  your primary business name:

D. (1) If you are registered with the SEC as an investment adviser, your SEC file number:  
(2) If you report to the SEC as an *exempt reporting adviser*, your SEC file number: **802-73114**

E. If you have a number ("CRD Number") assigned by the *FINRA's CRD* system or by the IARD system, your *CRD* number: **155299**

If your firm does not have a *CRD* number, skip this Item 1.E. Do not provide the *CRD* number of one of your officers, employees, or affiliates.

F. *Principal Office and Place of Business*

(1) Address (do not use a P.O. Box):

Number and Street 1: 181 BAY STREET, SUITE 4700	Number and Street 2: BAY WELLINGTON TOWER, BROOKFIELD PLACE
City: TORONTO	Country: ONTARIO, CANADA
State: 	ZIP+4/Postal Code: M5J 2T3

If this address is a private residence, check this box:

List on Section 1.F. of Schedule D any office, other than your *principal office and place of business*, at which you conduct investment advisory business. If you are applying for registration, or are registered, with one or more state securities authorities, you must list all of your offices in the state or states to which you are applying for registration or with whom you are registered. If you are applying for SEC registration, if you are registered only with the

SEC, or if you are reporting to the SEC as an *exempt reporting adviser*, list the largest five offices in terms of numbers of *employees*.

(2) Days of week that you normally conduct business at your *principal office and place of business*:

Monday - Friday  Other:

Normal business hours at this location:

8:30AM - 5:30PM

(3) Telephone number at this location:

416-945-3000

(4) Facsimile number at this location:

416-945-3060

G. Mailing address, if different from your *principal office and place of business* address:

Number and Street 1:

Number and Street 2:

City:

State:

Country:

ZIP+4/Postal Code:

If this address is a private residence, check this box:

H. If you are a sole proprietor, state your full residence address, if different from your *principal office and place of business* address in Item 1.F.:

Number and Street 1:

Number and Street 2:

City:

State:

Country:

ZIP+4/Postal Code:

Yes No

I. Do you have one or more websites?

If "yes," list all website addresses on Section 1.I. of Schedule D. If a website address serves as a portal through which to access other information you have published on the web, you may list the portal without listing addresses for all of the other information. Some advisers may need to list more than one portal address. Do not provide individual electronic mail (e-mail) addresses in response to this Item.

J. Provide the name and contact information of your Chief Compliance Officer: If you are an *exempt reporting adviser*, you must provide the contact information for your Chief Compliance Officer, if you have one. If not, you must complete Item 1.K. below.

Name:

Other titles, if any:

Telephone number:

Facsimile number:

Number and Street 1:

Number and Street 2:

City:

State:

Country:

ZIP+4/Postal Code:

Electronic mail (e-mail) address, if Chief Compliance Officer has one:

K. Additional Regulatory Contact Person: If a person other than the Chief Compliance Officer is authorized to receive information and respond to questions about this Form ADV, you may provide that information here.

Name: \_\_\_\_\_ Titles: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_ Facsimile number: \_\_\_\_\_  
 Number and Street 1: \_\_\_\_\_ Number and Street 2: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Country: \_\_\_\_\_ ZIP+4/Postal Code: \_\_\_\_\_

Electronic mail (e-mail) address, if contact person has one: \_\_\_\_\_

Yes No

- L. Do you maintain some or all of the books and records you are required to keep under Section 204 of the Advisers Act, or similar state law, somewhere other than your principal office and place of business?  Yes  No

If "yes," complete Section 1.L. of Schedule D.

Yes No

- M. Are you registered with a foreign financial regulatory authority?  Yes  No

Answer "no" if you are not registered with a foreign financial regulatory authority, even if you have an affiliate that is registered with a foreign financial regulatory authority. If "yes," complete Section 1.M. of Schedule D.

Yes No

- N. Are you a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934?  Yes  No

If "yes," provide your CIK number (Central Index Key number that the SEC assigns to each public reporting company): \_\_\_\_\_

Yes No

- O. Did you have \$1 billion or more in assets on the last day of your most recent fiscal year?  Yes  No

- P. Provide your Legal Entity Identifier if you have one: \_\_\_\_\_

A legal entity identifier is a unique number that companies use to identify each other in the financial marketplace. In the first half of 2011, the legal entity identifier standard was still in development. You may not have a legal entity identifier.

## Item 2 SEC Registration/Reporting

### SEC Reporting by Exempt Reporting Advisers

- B. Complete this Item 2.B. only if you are reporting to the SEC as an exempt reporting adviser. Check all that apply. You:
- (1) qualify for the exemption from registration as an adviser solely to one or more venture capital funds;
  - (2) qualify for the exemption from registration because you act solely as an adviser to private funds and have assets under management in the United States of less than \$150 million;
  - (3) act solely as an adviser to private funds but you are no longer eligible to check box 2.B.(2) because you have assets under management in the United States of \$150 million or more.

If you check boxes (2) or (3), complete Section 2.B. of Schedule D.

**Item 3 Form of Organization**

A. How are you organized?

- Corporation
- Sole Proprietorship
- Limited Liability Partnership (LLP)
- Partnership
- Limited Liability Company (LLC)
- Limited Partnership (LP)
- Other (specify):

If you are changing your response to this Item, see Part 1A Instruction 4.

B. In what month does your fiscal year end each year?

DECEMBER

C. Under the laws of what state or country are you organized?

State Country

CANADA

If you are a partnership, provide the name of the state or country under whose laws your partnership was formed. If you are a sole proprietor, provide the name of the state or country where you reside.

If you are changing your response to this Item, see Part 1A Instruction 4.

**Item 6 Other Business Activities**

In this Item, we request information about your firm's other business activities.

A. You are actively engaged in business as a (check all that apply):

- (1) broker-dealer (registered or unregistered)
- (2) registered representative of a broker-dealer
- (3) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
- (4) futures commission merchant
- (5) real estate broker, dealer, or agent
- (6) insurance broker or agent
- (7) bank (including a separately identifiable department or division of a bank)
- (8) trust company
- (9) registered municipal advisor
- (10) registered security-based swap dealer
- (11) major security-based swap participant
- (12) accountant or accounting firm
- (13) lawyer or law firm

(14) other financial product salesperson (specify):

If you engage in other business using a name that is different from the names reported in Items 1.A. or 1.B, complete Section 6.A. of Schedule D.

Yes No

- B. (1) Are you actively engaged in any other business not listed in Item 6.A. (other than giving investment advice)?
- (2) If yes, is this other business your primary business?

*If "yes," describe this other business on Section 6.B.(2) of Schedule D, and if you engage in this business under a different name, provide that name.*

Yes No

- (3) Do you sell products or provide services other than investment advice to your advisory clients?

*If "yes," describe this other business on Section 6.B.(3) of Schedule D, and if you engage in this business under a different name, provide that name.*

### Item 7 Financial Industry Affiliations

In this Item, we request information about your financial industry affiliations and activities. This information identifies areas in which conflicts of interest may occur between you and your *clients*.

- A. This part of Item 7 requires you to provide information about you and your *related persons*, including foreign affiliates. Your *related persons* are all of your *advisory affiliates* and any person that is under common *control* with you.

You have a *related person* that is a (check all that apply):

- (1) broker-dealer, municipal securities dealer, or government securities broker or dealer (registered or unregistered)
- (2) other investment adviser (including financial planners)
- (3) registered municipal advisor
- (4) registered security-based swap dealer
- (5) major security-based swap participant
- (6) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
- (7) futures commission merchant
- (8) banking or thrift institution
- (9) trust company
- (10) accountant or accounting firm
- (11) lawyer or law firm
- (12) insurance company or agency
- (13) pension consultant
- (14) real estate broker or dealer
- (15) sponsor or syndicator of limited partnerships (or equivalent), excluding pooled investment vehicles
- (16) sponsor, general partner, managing member (or equivalent) of pooled investment vehicles

For each *related person*, including foreign affiliates that may not be registered or required to be registered in the United States, complete Section 7.A. of Schedule D.

You do not need to complete Section 7.A. of Schedule D for any *related person* if: (1) you have

no business dealings with the *related person* in connection with advisory services you provide to your *clients*; (2) you do not conduct shared operations with the *related person*; (3) you do not refer *clients* or business to the *related person*, and the *related person* does not refer prospective *clients* or business to you; (4) you do not share supervised persons or premises with the *related person*; and (5) you have no reason to believe that your relationship with the *related person* otherwise creates a conflict of interest with your *clients*.

You must complete Section 7.A. of Schedule D for each *related person* acting as qualified custodian in connection with advisory services you provide to your *clients* (other than any mutual fund transfer agent pursuant to rule 206(4)-2(b)(1)), regardless of whether you have determined the *related person* to be operationally independent under rule 206(4)-2 of the Advisers Act.

### Item 7 Private Fund Reporting

Yes No

B. Are you an adviser to any *private fund*?

If "yes," then for each *private fund* that you advise, you must complete a Section 7.B.(1) of Schedule D, except in certain circumstances described in the next sentence and in Instruction 6 of the Instructions to Part 1A. If another adviser reports this information with respect to any such *private fund* in Section 7.B.(1) of Schedule D of its Form ADV (e.g., if you are a subadviser), do not complete Section 7.B.(1) of Schedule D with respect to that *private fund*. You must, instead, complete Section 7.B.(2) of Schedule D.

In either case, if you seek to preserve the anonymity of a *private fund* client by maintaining its identity in your books and records in numerical or alphabetical code, or similar designation, pursuant to rule 204-2(d), you may identify the *private fund* in Section 7.B.(1) or 7.B.(2) of Schedule D using the same code or designation in place of the fund's name.

### Item 10 Control Persons

In this Item, we ask you to identify every *person* that, directly or indirectly, *controls* you.

If you are submitting an initial application or report, you must complete Schedule A and Schedule B. Schedule A asks for information about your direct owners and executive officers. Schedule B asks for information about your indirect owners. If this is an amendment and you are updating information you reported on either Schedule A or Schedule B (or both) that you filed with your initial application or report, you must complete Schedule C.

Yes No

A. Does any *person* not named in Item 1.A. or Schedules A, B, or C, directly or indirectly, *control* your management or policies?

If yes, complete Section 10.A. of Schedule D.

B. If any *person* named in Schedules A, B, or C or in Section 10.A. of Schedule D is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934, please complete Section 10.B. of Schedule D.

### Item 11 Disclosure Information

In this Item, we ask for information about your disciplinary history and the disciplinary history of all your *advisory affiliates*. We use this information to determine whether to grant your application for registration, to decide whether to revoke your registration or to place limitations on your activities as an investment adviser, and to identify potential problem areas to focus on during our on-site examinations. One event may result in "yes" answers to more than one of the questions below.

Your *advisory affiliates* are: (1) all of your current *employees* (other than *employees* performing only clerical, administrative, support or similar functions); (2) all of your officers, partners, or directors (or any *person* performing similar functions); and (3) all *persons* directly or indirectly *controlling* you or *controlled* by you. If you are a "separately identifiable department or division" (SID) of a bank, see the Glossary of Terms to determine who your *advisory affiliates* are.

If you are registered or registering with the SEC or if you are an exempt reporting adviser, you may limit your disclosure of any event listed in Item 11 to ten years following the date of the event. If you are registered or registering with a state, you must respond to the questions as posed; you may, therefore, limit your disclosure to ten years following the date of an event only in responding to Items 11.A.(1), 11.A.(2), 11.B.(1), 11.B.(2), 11.D.(4), and 11.H.(1)(a). For purposes of calculating this ten-year period, the date of an event is the date the final *order*, *judgment*, or *decree* was entered, or the date any rights of appeal from preliminary *orders*, *judgments*, or *decrees* lapsed.

You must complete the appropriate Disclosure Reporting Page ("DRP") for "yes" answers to the questions in this Item 11.

	<b>Yes No</b>
Do any of the events below involve you or any of your supervised persons?	<input type="radio"/> <input checked="" type="radio"/>

For "yes" answers to the following questions, complete a Criminal Action DRP:

<b>A.</b> In the past ten years, have you or any <i>advisory affiliate</i> :	<b>Yes No</b>
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any <i>felony</i> ?	<input type="radio"/> <input checked="" type="radio"/>
(2) been <i>charged</i> with any <i>felony</i> ?	<input type="radio"/> <input checked="" type="radio"/>

If you are registered or registering with the SEC, or if you are reporting as an exempt reporting adviser, you may limit your response to Item 11.A.(2) to *charges* that are currently pending.

<b>B.</b> In the past ten years, have you or any <i>advisory affiliate</i> :	<b>Yes No</b>
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a <i>misdemeanor</i> involving: investments or an <i>investment-related</i> business, or any fraud, false statements, or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	<input type="radio"/> <input checked="" type="radio"/>
(2) been <i>charged</i> with a <i>misdemeanor</i> listed in Item 11.B.(1)?	<input type="radio"/> <input checked="" type="radio"/>

If you are registered or registering with the SEC, or if you are reporting as an exempt reporting adviser, you may limit your response to Item 11.B.(2) to *charges* that are currently pending.

For "yes" answers to the following questions, complete a Regulatory Action DRP:

<b>C.</b> Has the SEC or the Commodity Futures Trading Commission (CFTC) ever:	<b>Yes No</b>
(1) <i>found</i> you or any <i>advisory affiliate</i> to have made a false statement or omission?	<input type="radio"/> <input checked="" type="radio"/>



- (2) *found* you or any *advisory affiliate* to have been *involved* in a violation of SEC or CFTC regulations or statutes?
- (3) *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?
- (4) entered an *order* against you or any *advisory affiliate* in connection with *investment-related* activity?
- (5) imposed a civil money penalty on you or any *advisory affiliate*, or *ordered* you or any *advisory affiliate* to cease and desist from any activity?
- D. Has any other federal regulatory agency, any state regulatory agency, or any *foreign financial regulatory authority*:
- (1) ever *found* you or any *advisory affiliate* to have made a false statement or omission, or been dishonest, unfair, or unethical?
- (2) ever *found* you or any *advisory affiliate* to have been *involved* in a violation of *investment-related* regulations or statutes?
- (3) ever *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?
- (4) in the past ten years, entered an *order* against you or any *advisory affiliate* in connection with an *investment-related* activity?
- (5) ever denied, suspended, or revoked your or any *advisory affiliate's* registration or license, or otherwise prevented you or any *advisory affiliate*, by *order*, from associating with an *investment-related* business or restricted your or any *advisory affiliate's* activity?
- E. Has any *self-regulatory organization* or commodities exchange ever:
- (1) *found* you or any *advisory affiliate* to have made a false statement or omission?
- (2) *found* you or any *advisory affiliate* to have been *involved* in a violation of its rules (other than a violation designated as a "*minor rule violation*" under a plan approved by the SEC)?
- (3) *found* you or any *advisory affiliate* to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?
- (4) disciplined you or any *advisory affiliate* by expelling or suspending you or the *advisory affiliate* from membership, barring or suspending you or the *advisory affiliate* from association with other members, or otherwise restricting your or the *advisory affiliate's* activities?
- F. Has an authorization to act as an attorney, accountant, or federal contractor granted to you or any *advisory affiliate* ever been revoked or suspended?
- G. Are you or any *advisory affiliate* now the subject of any regulatory proceeding that could result in a "yes" answer to any part of Item 11.C., 11.D., or 11.E.?

For "yes" answers to the following questions, complete a Civil Judicial Action DRP: :

- H. (1) Has any domestic or foreign court: Yes No <sup>0</sup>

- (a) in the past ten years, enjoined you or any *advisory affiliate* in connection with any *investment-related* activity?
- (b) ever *found* that you or any *advisory affiliate* were *involved* in a violation of *investment-related* statutes or regulations?
- (c) ever dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against you or any *advisory affiliate* by a state or *foreign financial regulatory authority*?
- (2) Are you or any *advisory affiliate* now the subject of any civil proceeding that could result in a "yes" answer to any part of Item 11.H.(1)?

## Schedule A

### Direct Owners and Executive Officers

- Complete Schedule A only if you are submitting an initial application or report. Schedule A asks for information about your direct owners and executive officers. Use Schedule C to amend this information.
- Direct Owners and Executive Officers. List below the names of:
  - each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer (Chief Compliance Officer is required if you are registered or applying for registration and cannot be more than one individual), director, and any other individuals with similar status or functions;
  - if you are organized as a corporation, each shareholder that is a direct owner of 5% or more of a class of your voting securities, unless you are a public reporting company (a company subject to Section 12 or 15(d) of the Exchange Act);  
Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5% or more of a class of your voting securities. For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.
  - if you are organized as a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of your capital;
  - in the case of a trust that directly owns 5% or more of a class of your voting securities, or that has the right to receive upon dissolution, or has contributed, 5% or more of your capital, the trust and each trustee; and
  - if you are organized as a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 5% or more of your capital, and (ii) if managed by elected managers, all elected managers.
- Do you have any indirect owners to be reported on Schedule B?  Yes  No
- In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner or executive officer is an individual.
- Complete the Title or Status column by entering board/management titles; status as partner, trustee, sole proprietor, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).
- Ownership codes are:
 

NA - less than 5%	B - 10% but less than 25%	D - 50% but less than 75%
A - 5% but less than 10%	C - 25% but less than 50%	E - 75% or more

7.(a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.

(b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.

(c) Complete each column.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Status	Date Status Acquired MM/YYYY	Ownership Code	Control Person	PR	CRD No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.
GLASSMAN, NEWTON, G.Z.	I	MANAGING PARTNER	02/2002	D	Y	N	4646100
DEALBA, GABRIEL	I	MANAGING DIRECTOR AND PARTNER	02/2002	B	N	N	2655195
RILEY, JAMES, A	I	COO AND PARTNER	02/2011	NA	N	N	5970744
DAWES, CHESTER, RAYMOND	I	CFO AND TREASURER	04/2009	NA	N	N	5873485

## Schedule B

### Indirect Owners

- Complete Schedule B only if you are submitting an initial application. Schedule B asks for information about your indirect owners; you must first complete Schedule A, which asks for information about your direct owners. Use Schedule C to amend this information.
- Indirect Owners. With respect to each owner listed on Schedule A (except individual owners), list below:
  - in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;

For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

- in the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital;
  - in the case of an owner that is a trust, the trust and each trustee; and
  - in the case of an owner that is a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.
- Continue up the chain of ownership listing all 25% owners at each level. Once a public reporting company (a company subject to Sections 12 or 15(d) of the Exchange Act) is reached, no further ownership information need be given.



Number and Street 1: P.O. BOX 3527 STATION A		Number and Street 2:	
City: TORONTO	State:	Country: CANADA	ZIP+4/Postal Code: M5W 3G4

If this address is a private residence, check this box:

Telephone Number: 1-877-459-8326	Facsimile number:
-------------------------------------	-------------------

This is (check one):

one of your branch offices or affiliates.

a third-party unaffiliated recordkeeper.

other.

Briefly describe the books and records kept at this location:  
RECORDS GREATER THAN 2-3 YEARS OLD SINCE INCEPTION OF COMPANY

**SECTION 1.M. Registration with Foreign Financial Regulatory Authorities**

List the name and country, in English, of each *foreign financial regulatory authority* with which you are registered. You must complete a separate Schedule D Section 1.M. for each *foreign financial regulatory authority* with whom you are registered.

Name of Country/*Foreign Financial Regulatory Authority*:

Canada - Ontario Securities Commission

Other:

**SECTION 2.B. Private Fund Assets**

If you check Item 2.B.(2) or (3), what is the amount of the *private fund* assets that you manage? \$ 0

NOTE: "*Private fund assets*" has the same meaning here as it has under rule 203(m)-1. If you are an investment adviser with its *principal office and place of business* outside of the United States only include *private fund assets* that you manage at a place of business in the United States.

**SECTION 6.A. Names of Your Other Businesses**

No Information Filed

**SECTION 6.B.(2) Description of Primary Business**

Describe your primary business (not your investment advisory business):

If you engage in that business under a different name, provide that name:

**SECTION 6.B.(3) Description of Other Products and Services**

Describe other products or services you sell to your *client*, You may omit products and services that you listed in Section 6.B.(2) above.

If you engage in that business under a different name, provide that name.

**SECTION 7.A. Financial Industry Affiliations**

No Information Filed

**SECTION 7.B.(1) Private Fund Reporting****A. PRIVATE FUND****Information About the Private Fund**

1. (a) Name of the *private fund*:

CATALYST FUND II PARALLEL LIMITED PARTNERSHIP

(b) *Private fund* identification number:

(include the "805-" prefix also)

805-2520207444

2. Under the laws of what state or country is the *private fund* organized:

State:

Country:

CANADA

3. Name(s) of General Partner, Manager, Trustee, or Directors (or persons serving in a similar capacity):

**Name of General Partner, Manager, Trustee, or Director**

CATALYST FUND II PARALLEL GENERAL PARTNER INC.

4. The *private fund* (check all that apply; you must check at least one):

- (1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940
- (2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

5. List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

No Information Filed

Yes No

6. (a) Is this a "master fund" in a master-feeder arrangement?

(b) If yes, what is the name and *private fund* identification number (if any) of the feeder funds investing in this *private fund*?

No Information Filed

Yes No

(c) Is this a "feeder fund" in a master-feeder arrangement?

(d) If yes, what is the name and *private fund* identification number (if any) of the master fund in which this *private fund* invests?

Name of the *Private Fund*:

*Private Fund* Identification Number:  
(include the "805-" prefix also)

NOTE: You must complete question 6 for each master-feeder arrangement regardless of whether you are filing a single Schedule D, Section 7.B.(1), for the master-feeder arrangement or reporting on the funds separately.

7. If you are filing a single Schedule D, Section 7.B.(1) for a master-feeder arrangement according to the instructions to this Section 7.B.(1), for each of the feeder funds answer the following questions:

No Information Filed

NOTE: For purposes of questions 6 and 7, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

Yes No

8. (a) Is this *private fund* a "fund of funds"?

(b) If yes, does the *private fund* invest in funds managed by you or by a *related person*?

NOTE: For purposes of this question only, answer "yes" if the fund invests 10 percent or more of its total assets in other pooled investment vehicles, whether or not they are also *private funds*, or registered investment companies.

Yes No

9. During your last fiscal year, did the *private fund* invest in securities issued by investment companies registered under the Investment Company Act of 1940 (other than "money market funds," to the extent provided in Instruction 6.e.)?

10. What type of fund is the *private fund*?

hedge fund  liquidity fund  private equity fund  real estate fund  securitized asset fund  venture capital fund  Other *private fund*

NOTE: For funds of funds, refer to the funds in which the *private fund* invests. For definitions of these fund types, please see Instruction 6 of the Instructions to Part 1A.

11. Current gross asset value of the *private fund*:  
\$ 126,468,751

### Ownership

12. Minimum investment commitment required of an investor in the *private fund*:  
\$ 5,000,000

NOTE: Report the amount routinely required of investors who are not your *related persons* (even if different from the amount set forth in the organizational documents of the fund).

13. Approximate number of the *private fund*'s beneficial owners:  
21

14. What is the approximate percentage of the *private fund* beneficially owned by you and your *related persons*:  
2%

15. What is the approximate percentage of the *private fund* beneficially owned (in the aggregate) by funds of funds:  
11%

16. What is the approximate percentage of the *private fund* beneficially owned by non-United States persons:  
41%

### Your Advisory Services

Yes No

17. (a) Are you a subadviser to this *private fund*?



- (b) If the answer to question 17(a) is "yes," provide the name and SEC file number, if any, of the adviser of the *private fund*. If the answer to question 17(a) is "no," leave this question blank.

No Information Filed

Yes No

18. (a) Do any other investment advisers advise the *private fund*?

- (b) If the answer to question 18(a) is "yes," provide the name and SEC file number, if any, of the other advisers to the *private fund*. If the answer to question 18(a) is "no," leave this question blank.

No Information Filed

Yes No

19. Are your *clients* solicited to invest in the *private fund*?

20. Approximately what percentage of your *clients* has invested in the *private fund*?  
0%

### **Private Offering**

Yes No

21. Does the *private fund* rely on an exemption from registration of its securities under Regulation D of the Securities Act of 1933?

22. If yes, provide the *private fund's* Form D file number (if any):

No Information Filed

## **B. SERVICE PROVIDERS**

### **Auditors**

Yes No

23. (a) (1) Are the *private fund's* financial statements subject to an annual audit?    
(2) Are the financial statements prepared in accordance with U.S. GAAP?

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

#### **Additional Auditor Information : 1 Record(s) Filed.**

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

- (b) Name of the auditing firm:  
KPMG LLP

(c) The location of the auditing firm's office responsible for the *private fund's* audit (city, state and country):

City:

TORONTO

State:

Country:

CANADA

Yes No

(d) Is the auditing firm an *independent public accountant*?

(e) Is the auditing firm registered with the Public Company Accounting Oversight Board?

(f) If "yes" to (e) above, is the auditing firm subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules?

Yes No

(g) Are the *private fund's* audited financial statements distributed to the *private fund's* investors?

(h) Does the report prepared by the auditing firm contain an unqualified opinion?

Yes  No  Report Not Yet Received

*If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the report is available.*

### Prime Broker

Yes No

24. (a) Does the *private fund* use one or more prime brokers?

If the answer to 24(a) is "yes," respond to questions (b) through (e) below for each prime broker the *private fund* uses. If the *private fund* uses more than one prime broker, you must complete questions (b) through (e) separately for each prime broker.

No Information Filed

### Custodian

Yes No

25. (a) Does the *private fund* use any custodians (including the prime brokers listed above) to hold some or all of its assets?

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

**Additional Custodian Information : 1 Record(s) Filed.**

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

(b) Legal name of custodian:  
CANADIAN IMPERIAL BANK OF COMMERCE

(c) Primary business name of custodian:  
CIBC

(d) The location of the custodian's office responsible for *custody* of the *private fund's* assets (city, state and country):

City: TORONTO                      State:                      Country: CANADA

(e) Is the custodian a *related person* of your firm?

Yes No



(f) If the custodian is a broker-dealer, provide its SEC registration number (if any)

-

CRD Number (if any):

### Administrator

26. (a) Does the *private fund* use an administrator other than your firm?

Yes No



If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

### **Additional Administrator Information : 1 Record(s) Filed.**

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

(b) Name of the administrator:  
CITI PRIVATE EQUITY SERVICES, INC.

(c) Location of administrator (city, state and country):

City: NEW YORK                      State: New York                      Country: UNITED STATES

Yes No

(d) Is the administrator a *related person* of your firm?

(e) Does the administrator prepare and send investor account statements to the *private fund's* investors?

Yes (provided to all investors)  Some (provided to some but not all investors)  No (provided to no investors)

(f) If the answer to 26(e) is "no" or "some," who sends the investor account statements to the (rest of the) *private fund's* investors? If investor account statements are not sent to the (rest of the) *private fund's* investors, respond "not applicable."

27. During your last fiscal year, what percentage of the *private fund's* assets (by value) was valued by a *person*, such as an administrator, that is not your *related person*?

0%

Include only those assets where (i) such person carried out the valuation procedure established for that asset, if any, including obtaining any relevant quotes, and (ii) the valuation used for purposes of investor subscriptions, redemptions or distributions, and fee calculations (including allocations) was the valuation determined by such person.

### **Marketers**

Yes No

28. (a) Does the *private fund* use the services of someone other than you or your *employees* for marketing purposes?

You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer the *private fund* uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

No Information Filed

### **A. PRIVATE FUND**

#### **Information About the Private Fund**

1. (a) Name of the *private fund*:

CATALYST FUND IV PARALLEL LIMITED PARTNERSHIP

(b) *Private fund* identification number:

(include the "805-" prefix also)

805-2343142731

2. Under the laws of what state or country is the *private fund* organized:

State:

Country:

CANADA

3. Name(s) of General Partner, Manager, Trustee, or Directors (or persons serving in a similar capacity):

Name of General Partner, Manager, Trustee, or Director
CATALYST FUND IV GENERAL PARTNER INC.

4. The *private fund* (check all that apply; you must check at least one):

(1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940

(2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

5. List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

No Information Filed

Yes No

6. (a) Is this a "master fund" in a master-feeder arrangement?

(b) If yes, what is the name and *private fund* identification number (if any) of the feeder funds investing in this *private fund*?

No Information Filed

Yes No

(c) Is this a "feeder fund" in a master-feeder arrangement?

(d) If yes, what is the name and *private fund* identification number (if any) of the master fund in which this *private fund* invests?

Name of the *Private Fund*:

*Private Fund* Identification Number:  
(include the "805-" prefix also)

NOTE: You must complete question 6 for each master-feeder arrangement regardless of whether you are filing a single Schedule D, Section 7.B.(1), for the master-feeder arrangement or reporting on the funds separately.

7. If you are filing a single Schedule D, Section 7.B.(1) for a master-feeder arrangement according to the instructions to this Section 7.B.(1), for each of the feeder funds answer the following questions:

## No Information Filed

NOTE: For purposes of questions 6 and 7, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

- |   | Yes                   | No                               |
|---|-----------------------|----------------------------------|
| 8. (a) Is this <i>private fund</i> a "fund of funds"?   | <input type="radio"/> | <input checked="" type="radio"/> |
| (b) If yes, does the <i>private fund</i> invest in funds managed by you or by a <i>related person</i> ? | <input type="radio"/> | <input type="radio"/>            |

NOTE: For purposes of this question only, answer "yes" if the fund invests 10 percent or more of its total assets in other pooled investment vehicles, whether or not they are also *private funds*, or registered investment companies.

- |   | Yes                   | No                               |
|---|-----------------------|----------------------------------|
| 9. During your last fiscal year, did the <i>private fund</i> invest in securities issued by investment companies registered under the Investment Company Act of 1940 (other than "money market funds," to the extent provided in Instruction 6.e.)?   | <input type="radio"/> | <input checked="" type="radio"/> |
| 10. What type of fund is the <i>private fund</i> ?  |                       |                                  |
| <input type="radio"/> hedge fund <input type="radio"/> liquidity fund <input checked="" type="radio"/> private equity fund <input type="radio"/> real estate fund <input type="radio"/> securitized asset fund <input type="radio"/> venture capital fund <input type="radio"/> Other <i>private fund</i> |                       |                                  |

NOTE: For funds of funds, refer to the funds in which the *private fund* invests. For definitions of these fund types, please see Instruction 6 of the Instructions to Part 1A.

11. Current gross asset value of the *private fund*:  
\$ 8,862,644

**Ownership**

12. Minimum investment commitment required of an investor in the *private fund*:  
\$ 5,000,000

NOTE: Report the amount routinely required of investors who are not your *related persons* (even if different from the amount set forth in the organizational documents of the fund).

13. Approximate number of the *private fund's* beneficial owners:  
28

14. What is the approximate percentage of the *private fund* beneficially owned by you and your *related persons*:  
2%

15. What is the approximate percentage of the *private fund* beneficially owned (in the aggregate) by funds of funds:

0%

16. What is the approximate percentage of the *private fund* beneficially owned by non-United States persons:

38%

### **Your Advisory Services**

Yes No

17. (a) Are you a subadviser to this *private fund*?

(b) If the answer to question 17(a) is "yes," provide the name and SEC file number, if any, of the adviser of the *private fund*. If the answer to question 17(a) is "no," leave this question blank.

No Information Filed

Yes No

18. (a) Do any other investment advisers advise the *private fund*?

(b) If the answer to question 18(a) is "yes," provide the name and SEC file number, if any, of the other advisers to the *private fund*. If the answer to question 18(a) is "no," leave this question blank.

No Information Filed

Yes No

19. Are your *clients* solicited to invest in the *private fund*?

20. Approximately what percentage of your *clients* has invested in the *private fund*?

0%

### **Private Offering**

Yes No

21. Does the *private fund* rely on an exemption from registration of its securities under Regulation D of the Securities Act of 1933?

22. If yes, provide the *private fund*'s Form D file number (if any):

No Information Filed

## **B. SERVICE PROVIDERS**

### **Auditors**

Yes No

23. (a) (1) Are the *private fund*'s financial statements subject to an annual audit?

(2) Are the financial statements prepared in accordance with U.S. GAAP?

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

**Additional Auditor Information : 1 Record(s) Filed.**

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

(b) Name of the auditing firm:

KPMG LLP

(c) The location of the auditing firm's office responsible for the *private fund's* audit (city, state and country):

City:

TORONTO

State:

Country:

CANADA

(d) Is the auditing firm an *independent public accountant*? Yes No

(e) Is the auditing firm registered with the Public Company Accounting Oversight Board? Yes No

(f) If "yes" to (e) above, is the auditing firm subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules? Yes No

(g) Are the *private fund's* audited financial statements distributed to the *private fund's* investors? Yes No

(h) Does the report prepared by the auditing firm contain an unqualified opinion?

Yes  No  Report Not Yet Received

If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the report is available.

**Prime Broker**

24. (a) Does the *private fund* use one or more prime brokers? Yes No

If the answer to 24(a) is "yes," respond to questions (b) through (e) below for each prime broker the *private fund* uses. If the *private fund* uses more than one prime broker, you must complete questions (b) through (e) separately for each prime broker.

No Information Filed



**Custodian**

Yes No

25. (a) Does the *private fund* use any custodians (including the prime brokers listed above) to hold some or all of its assets?  Yes  No

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

**Additional Custodian Information : 1 Record(s) Filed.**

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

(b) Legal name of custodian:  
CANADIAN IMPERIAL BANK OF COMMERCE

(c) Primary business name of custodian:  
CIBC

(d) The location of the custodian's office responsible for *custody* of the *private fund's* assets (city, state and country):

City: TORONTO State: Country: CANADA

Yes No

(e) Is the custodian a *related person* of your firm?  Yes  No

(f) If the custodian is a broker-dealer, provide its SEC registration number (if any)

-  
CRD Number (if any):

**Administrator**

Yes No

26. (a) Does the *private fund* use an administrator other than your firm?  Yes  No

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

**Additional Administrator Information : 1 Record(s) Filed.**

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

(b) Name of the administrator:  
CITI PRIVATE EQUITY SERVICES, INC.

(c) Location of administrator (city, state and country):  
City: NEW YORK State: Country: CANADA

(d) Is the administrator a *related person* of your firm?

Yes No

(e) Does the administrator prepare and send investor account statements to the *private fund's* investors?

Yes (provided to all investors)  Some (provided to some but not all investors)  No (provided to no investors)

(f) If the answer to 26(e) is "no" or "some," who sends the investor account statements to the (rest of the) *private fund's* investors? If investor account statements are not sent to the (rest of the) *private fund's* investors, respond "not applicable."

27. During your last fiscal year, what percentage of the *private fund's* assets (by value) was valued by a *person*, such as an administrator, that is not your *related person*?

0%

Include only those assets where (i) such person carried out the valuation procedure established for that asset, if any, including obtaining any relevant quotes, and (ii) the valuation used for purposes of investor subscriptions, redemptions or distributions, and fee calculations (including allocations) was the valuation determined by such person.

### **Marketers**

28. (a) Does the *private fund* use the services of someone other than you or your *employees* for marketing purposes?

Yes No

You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer the *private fund* uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

### **Additional Marketer Information : 1 Record(s) Filed.**

You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer

the *private fund* uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

Yes No

(b) Is the marketer a *related person* of your firm?

(c) Name of the marketer:  
ATLANTIC - PACIFIC CAPITAL, INC.

(d) If the marketer is registered with the SEC, its file number (e.g., 801-, 8-, or 866-):

8 - 48198  
and CRD Number (if any):  
38356

(e) Location of the marketer's office used principally by the *private fund* (city, state and country):

City:	State:	Country:
NEW YORK	New York	UNITED STATES

Yes No

(f) Does the marketer market the *private fund* through one or more websites?

(g) If the answer to 28(f) is "yes", list the website address(es):

No Information Filed

## A. PRIVATE FUND

### **Information About the *Private Fund***

1. (a) Name of the *private fund*:

CATALYST FUND LIMITED PARTNERSHIP I

(b) *Private fund* identification number:

(include the "805-" prefix also)

805-1721973648

2. Under the laws of what state or country is the *private fund* organized:

State: Country:

CANADA

3. Name(s) of General Partner, Manager, Trustee, or Directors (or persons serving in a similar capacity):

<b>Name of General Partner, Manager, Trustee, or Director</b>
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CATALYST FUND GENERAL PARTNER I INC.
--------------------------------------

4. The *private fund* (check all that apply; you must check at least one):

(1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940

(2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

5. List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

No Information Filed

Yes No

6. (a) Is this a "master fund" in a master-feeder arrangement?

(b) If yes, what is the name and *private fund* identification number (if any) of the feeder funds investing in this *private fund*?

No Information Filed

Yes No

(c) Is this a "feeder fund" in a master-feeder arrangement?

(d) If yes, what is the name and *private fund* identification number (if any) of the master fund in which this *private fund* invests?

Name of the *Private Fund*:

*Private Fund* Identification Number:  
(include the "805-" prefix also)

NOTE: You must complete question 6 for each master-feeder arrangement regardless of whether you are filing a single Schedule D, Section 7.B.(1). for the master-feeder arrangement or reporting on the funds separately.

7. If you are filing a single Schedule D, Section 7.B.(1) for a master-feeder arrangement according to the instructions to this Section 7.B.(1), for each of the feeder funds answer the following questions:

No Information Filed

NOTE: For purposes of questions 6 and 7, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

- |   | Yes                   | No                               |
|---|-----------------------|----------------------------------|
| 8. (a) Is this <i>private fund</i> a "fund of funds"?   | <input type="radio"/> | <input checked="" type="radio"/> |
| (b) If yes, does the <i>private fund</i> invest in funds managed by you or by a <i>related person</i> ? | <input type="radio"/> | <input type="radio"/>            |

NOTE: For purposes of this question only, answer "yes" if the fund invests 10 percent or more of its total assets in other pooled investment vehicles, whether or not they are also *private funds*, or registered investment companies.

- |   | Yes                   | No                               |
|---|-----------------------|----------------------------------|
| 9. During your last fiscal year, did the <i>private fund</i> invest in securities issued by investment companies registered under the Investment Company Act of 1940 (other than "money market funds," to the extent provided in Instruction 6.e.)?   | <input type="radio"/> | <input checked="" type="radio"/> |
| 10. What type of fund is the <i>private fund</i> ?  |                       |                                  |
| <input type="radio"/> hedge fund <input type="radio"/> liquidity fund <input checked="" type="radio"/> private equity fund <input type="radio"/> real estate fund <input type="radio"/> securitized asset fund <input type="radio"/> venture capital fund <input type="radio"/> Other <i>private fund</i> |                       |                                  |

NOTE: For funds of funds, refer to the funds in which the *private fund* invests. For definitions of these fund types, please see Instruction 6 of the Instructions to Part 1A.

11. Current gross asset value of the *private fund*:  
\$ 79,582

### Ownership

12. Minimum investment commitment required of an investor in the *private fund*:  
\$ 5,000,000  
NOTE: Report the amount routinely required of investors who are not your *related persons* (even if different from the amount set forth in the organizational documents of the fund).
13. Approximate number of the *private fund's* beneficial owners:  
17
14. What is the approximate percentage of the *private fund* beneficially owned by you and your *related persons*:  
2%
15. What is the approximate percentage of the *private fund* beneficially owned (in the aggregate) by funds of funds:  
0%

16. What is the approximate percentage of the *private fund* beneficially owned by non-United States persons:

67%

### Your Advisory Services

17. (a) Are you a subadviser to this *private fund*? Yes No

(b) If the answer to question 17(a) is "yes," provide the name and SEC file number, if any, of the adviser of the *private fund*. If the answer to question 17(a) is "no," leave this question blank.

No Information Filed

18. (a) Do any other investment advisers advise the *private fund*? Yes No

(b) If the answer to question 18(a) is "yes," provide the name and SEC file number, if any, of the other advisers to the *private fund*. If the answer to question 18(a) is "no," leave this question blank.

No Information Filed

19. Are your *clients* solicited to invest in the *private fund*? Yes No

20. Approximately what percentage of your *clients* has invested in the *private fund*?

0%

### Private Offering

21. Does the *private fund* rely on an exemption from registration of its securities under Regulation D of the Securities Act of 1933? Yes No

22. If yes, provide the *private fund's* Form D file number (if any):

No Information Filed

## B. SERVICE PROVIDERS

### Auditors

23. (a) (1) Are the *private fund's* financial statements subject to an annual audit? Yes No

(2) Are the financial statements prepared in accordance with U.S. GAAP?

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

**Additional Auditor Information : 1 Record(s) Filed.**

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

(b) Name of the auditing firm:

KPMG LLP

(c) The location of the auditing firm's office responsible for the *private fund's* audit (city, state and country):

City:

TORONTO

State:

Country:

CANADA

(d) Is the auditing firm an *independent public accountant*? Yes No

(e) Is the auditing firm registered with the Public Company Accounting Oversight Board? Yes No

(f) If "yes" to (e) above, is the auditing firm subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules? Yes No

(g) Are the *private fund's* audited financial statements distributed to the *private fund's* investors? Yes No

(h) Does the report prepared by the auditing firm contain an unqualified opinion?

Yes  No  Report Not Yet Received

If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the report is available.

**Prime Broker**

24. (a) Does the *private fund* use one or more prime brokers? Yes No

If the answer to 24(a) is "yes," respond to questions (b) through (e) below for each prime broker the *private fund* uses. If the *private fund* uses more than one prime broker, you must complete questions (b) through (e) separately for each prime broker.

No Information Filed

**Custodian**

Yes No

25. (a) Does the *private fund* use any custodians (including the prime brokers listed above) to hold some or all of its assets?

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

**Additional Custodian Information : 1 Record(s) Filed.**

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

(b) Legal name of custodian:  
CANADIAN IMPERIAL BANK OF COMMERCE

(c) Primary business name of custodian:  
CIBC

(d) The location of the custodian's office responsible for *custody* of the *private fund's* assets (city, state and country):

City:	State:	Country:
TORONTO		CANADA

Yes No

(e) Is the custodian a *related person* of your firm?

(f) If the custodian is a broker-dealer, provide its SEC registration number (if any)

-  
CRD Number (if any):

**Administrator**

26. (a) Does the *private fund* use an administrator other than your firm?

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

**Additional Administrator Information : 1 Record(s) Filed.**

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

(b) Name of the administrator:



CITI PRIVATE EQUITY SERVICES, INC.

(c) Location of administrator (city, state and country):

City:	State:	Country:
NEW YORK	New York	UNITED STATES

Yes No

(d) Is the administrator a *related person* of your firm?

(e) Does the administrator prepare and send investor account statements to the *private fund's* investors?

Yes (provided to all investors)  Some (provided to some but not all investors)  No (provided to no investors)

(f) If the answer to 26(e) is "no" or "some," who sends the investor account statements to the (rest of the) *private fund's* investors? If investor account statements are not sent to the (rest of the) *private fund's* investors, respond "not applicable."

27. During your last fiscal year, what percentage of the *private fund's* assets (by value) was valued by a *person*, such as an administrator, that is not your *related person*?

0%

Include only those assets where (i) such person carried out the valuation procedure established for that asset, if any, including obtaining any relevant quotes, and (ii) the valuation used for purposes of investor subscriptions, redemptions or distributions, and fee calculations (including allocations) was the valuation determined by such person.

### **Marketers**

Yes No

28. (a) Does the *private fund* use the services of someone other than you or your *employees* for marketing purposes?

You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer the *private fund* uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

No Information Filed

A. PRIVATE FUND

### **Information About the Private Fund**

1. (a) Name of the *private fund*:

CATALYST FUND LIMITED PARTNERSHIP II

- (b) *Private fund* identification number:

(include the "805-" prefix also)

805-2725623792

2. Under the laws of what state or country is the *private fund* organized:

State:

Country:

CANADA

3. Name(s) of General Partner, Manager, Trustee, or Directors (or persons serving in a similar capacity):

Name of General Partner, Manager, Trustee, or Director
CATALYST FUND GENERAL PARTNER II INC.

4. The *private fund* (check all that apply; you must check at least one):

(1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940

(2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

5. List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

No Information Filed

Yes No

6. (a) Is this a "master fund" in a master-feeder arrangement?

(b) If yes, what is the name and *private fund* identification number (if any) of the feeder funds investing in this *private fund*?

No Information Filed

Yes No

(c) Is this a "feeder fund" in a master-feeder arrangement?

(d) If yes, what is the name and *private fund* identification number (if any) of the master fund in which this *private fund* invests?

Name of the *Private Fund*:

*Private Fund* Identification Number:

(include the "805-" prefix also)

NOTE: You must complete question 6 for each master-feeder arrangement regardless of whether you are filing a single Schedule D, Section 7.B.(1). for the master-feeder arrangement or reporting on the funds separately.

7. If you are filing a single Schedule D, Section 7.B.(1) for a master-feeder arrangement according to the instructions to this Section 7.B.(1), for each of the feeder funds answer the following questions:

No Information Filed

NOTE: For purposes of questions 6 and 7, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

8. (a) Is this *private fund* a "fund of funds"?

Yes No

- (b) If yes, does the *private fund* invest in funds managed by you or by a *related person*?

NOTE: For purposes of this question only, answer "yes" if the fund invests 10 percent or more of its total assets in other pooled investment vehicles, whether or not they are also *private funds*, or registered investment companies.

9. During your last fiscal year, did the *private fund* invest in securities issued by investment companies registered under the Investment Company Act of 1940 (other than "money market funds," to the extent provided in Instruction 6.e.)?

Yes No

10. What type of fund is the *private fund*?

hedge fund  liquidity fund  private equity fund  real estate fund  securitized asset fund  venture capital fund  Other *private fund*

NOTE: For funds of funds, refer to the funds in which the *private fund* invests. For definitions of these fund types, please see Instruction 6 of the Instructions to Part 1A.

11. Current gross asset value of the *private fund*:  
\$ 914,609,978

### Ownership

12. Minimum investment commitment required of an investor in the *private fund*:  
\$ 5,000,000

NOTE: Report the amount routinely required of investors who are not your *related persons* (even if different from the amount set forth in the organizational documents of the fund).

13. Approximate number of the *private fund's* beneficial owners:

50

14. What is the approximate percentage of the *private fund* beneficially owned by you and your *related persons*:

2%

15. What is the approximate percentage of the *private fund* beneficially owned (in the aggregate) by funds of funds:

25%

16. What is the approximate percentage of the *private fund* beneficially owned by non-*United States persons*:

39%

### **Your Advisory Services**

17. (a) Are you a subadviser to this *private fund*?

Yes No



(b) If the answer to question 17(a) is "yes," provide the name and SEC file number, if any, of the adviser of the *private fund*. If the answer to question 17(a) is "no," leave this question blank.

No Information Filed

18. (a) Do any other investment advisers advise the *private fund*?

Yes No



(b) If the answer to question 18(a) is "yes," provide the name and SEC file number, if any, of the other advisers to the *private fund*. If the answer to question 18(a) is "no," leave this question blank.

No Information Filed

19. Are your *clients* solicited to invest in the *private fund*?

Yes No



20. Approximately what percentage of your *clients* has invested in the *private fund*?

0%

### **Private Offering**

21. Does the *private fund* rely on an exemption from registration of its securities under Regulation D of the Securities Act of 1933?

Yes No



22. If yes, provide the *private fund's* Form D file number (if any):

No Information Filed

## B. SERVICE PROVIDERS

**Auditors**

23. (a) (1) Are the *private fund's* financial statements subject to an annual audit?  Yes  No
- (2) Are the financial statements prepared in accordance with U.S. GAAP?  Yes  No

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

**Additional Auditor Information : 1 Record(s) Filed.**

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

(b) Name of the auditing firm:  
KPMG LLP

(c) The location of the auditing firm's office responsible for the *private fund's* audit (city, state and country):

City: TORONTO State: Country: CANADA

- (d) Is the auditing firm an *independent public accountant*?  Yes  No
- (e) Is the auditing firm registered with the Public Company Accounting Oversight Board?  Yes  No
- (f) If "yes" to (e) above, is the auditing firm subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules?  Yes  No

(g) Are the *private fund's* audited financial statements distributed to the *private fund's* investors?  Yes  No

(h) Does the report prepared by the auditing firm contain an unqualified opinion?

Yes  No  Report Not Yet Received

If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the report is available.

**Prime Broker**

24. (a) Does the *private fund* use one or more prime brokers?  Yes  No

If the answer to 24(a) is "yes," respond to questions (b) through (e) below for each prime broker the *private fund* uses. If the *private fund* uses more than one prime broker, you must complete questions (b) through (e) separately for each prime broker.

No Information Filed

### Custodian

25. (a) Does the *private fund* use any custodians (including the prime brokers listed above) to hold some or all of its assets?

Yes No



If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

#### **Additional Custodian Information : 1 Record(s) Filed.**

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

(b) Legal name of custodian:  
CANADIAN IMPERIAL BANK OF COMMERCE

(c) Primary business name of custodian:  
CIBC

(d) The location of the custodian's office responsible for *custody* of the *private fund's* assets (city, state and country):

City: TORONTO State: Country: CANADA

(e) Is the custodian a *related person* of your firm?

Yes No



(f) If the custodian is a broker-dealer, provide its SEC registration number (if any)

-  
CRD Number (if any):

### Administrator

26. (a) Does the *private fund* use an administrator other than your firm?

Yes No



If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

**Additional Administrator Information : 1 Record(s) Filed.**

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

(b) Name of the administrator:

CITI PRIVATE EQUITY SERVICES, INC.

(c) Location of administrator (city, state and country):

City:	State:	Country:
NEW YORK	New York	UNITED STATES

Yes No

(d) Is the administrator a *related person* of your firm?

Yes  No

(e) Does the administrator prepare and send investor account statements to the *private fund's* investors?

Yes (provided to all investors)  Some (provided to some but not all investors)  No (provided to no investors)

(f) If the answer to 26(e) is "no" or "some," who sends the investor account statements to the (rest of the) *private fund's* investors? If investor account statements are not sent to the (rest of the) *private fund's* investors, respond "not applicable."

27. During your last fiscal year, what percentage of the *private fund's* assets (by value) was valued by a *person*, such as an administrator, that is not your *related person*?

0%

Include only those assets where (i) such person carried out the valuation procedure established for that asset, if any, including obtaining any relevant quotes, and (ii) the valuation used for purposes of investor subscriptions, redemptions or distributions, and fee calculations (including allocations) was the valuation determined by such person.

**Marketers**

28. (a) Does the *private fund* use the services of someone other than you or your *employees* for marketing purposes?

Yes No

Yes  No

You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer the *private fund*

uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

No Information Filed

#### A. PRIVATE FUND

##### **Information About the Private Fund**

1. (a) Name of the *private fund*:

CATALYST FUND LIMITED PARTNERSHIP III

- (b) *Private fund* identification number:

(include the "805-" prefix also)

805-5319449549

2. Under the laws of what state or country is the *private fund* organized:

State:

Country:

CANADA

3. Name(s) of General Partner, Manager, Trustee, or Directors (or persons serving in a similar capacity):

<b>Name of General Partner, Manager, Trustee, or Director</b>
CATALYST FUND GENERAL PARTNER III INC.

4. The *private fund* (check all that apply; you must check at least one):

(1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940

(2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

5. List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

No Information Filed

Yes No

6. (a) Is this a "master fund" in a master-feeder arrangement?

(b) If yes, what is the name and *private fund* identification number (if any) of the feeder funds investing in this *private fund*?

No Information Filed



Yes No

(c) Is this a "feeder fund" in a master-feeder arrangement?

(d) If yes, what is the name and *private fund* identification number (if any) of the master fund in which this *private fund* invests?

Name of the *Private Fund*:

*Private Fund* Identification Number:  
(include the "805-" prefix also)

NOTE: You must complete question 6 for each master-feeder arrangement regardless of whether you are filing a single Schedule D, Section 7.B.(1). for the master-feeder arrangement or reporting on the funds separately.

7. If you are filing a single Schedule D, Section 7.B.(1) for a master-feeder arrangement according to the instructions to this Section 7.B.(1), for each of the feeder funds answer the following questions:

No Information Filed

NOTE: For purposes of questions 6 and 7, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

Yes No

8. (a) Is this *private fund* a "fund of funds"?

(b) If yes, does the *private fund* invest in funds managed by you or by a *related person*?

NOTE: For purposes of this question only, answer "yes" if the fund invests 10 percent or more of its total assets in other pooled investment vehicles, whether or not they are also *private funds*, or registered investment companies.

Yes No

9. During your last fiscal year, did the *private fund* invest in securities issued by investment companies registered under the Investment Company Act of 1940 (other than "money market funds," to the extent provided in Instruction 6.e.)?

10. What type of fund is the *private fund*?

hedge fund  liquidity fund  private equity fund  real estate fund  securitized asset fund  venture capital fund  Other *private fund*

NOTE: For funds of funds, refer to the funds in which the *private fund* invests. For definitions of these fund types, please see Instruction 6 of the Instructions to Part 1A.

11. Current gross asset value of the *private fund*:  
\$ 1,298,490,227

### **Ownership**

12. Minimum investment commitment required of an investor in the *private fund*:  
\$ 5,000,000  
NOTE: Report the amount routinely required of investors who are not your *related persons* (even if different from the amount set forth in the organizational documents of the fund).
13. Approximate number of the *private fund's* beneficial owners:  
60
14. What is the approximate percentage of the *private fund* beneficially owned by you and your *related persons*:  
2%
15. What is the approximate percentage of the *private fund* beneficially owned (in the aggregate) by funds of funds:  
25%
16. What is the approximate percentage of the *private fund* beneficially owned by non-*United States persons*:  
28%

### **Your Advisory Services**

17. (a) Are you a subadviser to this *private fund*? Yes No
- (b) If the answer to question 17(a) is "yes," provide the name and SEC file number, if any, of the adviser of the *private fund*. If the answer to question 17(a) is "no," leave this question blank.
- No Information Filed
18. (a) Do any other investment advisers advise the *private fund*? Yes No
- (b) If the answer to question 18(a) is "yes," provide the name and SEC file number, if any, of the other advisers to the *private fund*. If the answer to question 18(a) is "no," leave this question blank.
- No Information Filed
19. Are your *clients* solicited to invest in the *private fund*? Yes No
20. Approximately what percentage of your *clients* has invested in the *private fund*?

0%

**Private Offering**

21. Does the *private fund* rely on an exemption from registration of its securities under Regulation D of the Securities Act of 1933?

Yes No



22. If yes, provide the *private fund's* Form D file number (if any):

No Information Filed

**B. SERVICE PROVIDERS****Auditors**

23. (a) (1) Are the *private fund's* financial statements subject to an annual audit?

Yes No



(2) Are the financial statements prepared in accordance with U.S. GAAP?



If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

**Additional Auditor Information : 1 Record(s) Filed.**

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

(b) Name of the auditing firm:

KPMG LLP

(c) The location of the auditing firm's office responsible for the *private fund's* audit (city, state and country):

City:

TORONTO

State:

Country:

CANADA

(d) Is the auditing firm an *independent public accountant*?

Yes No



(e) Is the auditing firm registered with the Public Company Accounting Oversight Board?



(f) If "yes" to (e) above, is the auditing firm subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules?



Yes No

(g) Are the *private fund's* audited financial statements distributed to the *private fund's* investors?

(h) Does the report prepared by the auditing firm contain an unqualified opinion?

Yes  No  Report Not Yet Received

If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the report is available.

### Prime Broker

Yes No

24. (a) Does the *private fund* use one or more prime brokers?

If the answer to 24(a) is "yes," respond to questions (b) through (e) below for each prime broker the *private fund* uses. If the *private fund* uses more than one prime broker, you must complete questions (b) through (e) separately for each prime broker.

No Information Filed

### Custodian

Yes No

25. (a) Does the *private fund* use any custodians (including the prime brokers listed above) to hold some or all of its assets?

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

#### **Additional Custodian Information : 1 Record(s) Filed.**

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

(b) Legal name of custodian:  
CIBC MELLON TRUST COMPANY

(c) Primary business name of custodian:  
CIBC MELLON TRUST

(d) The location of the custodian's office responsible for *custody* of the *private fund's* assets (city, state and country):

City: TORONTO State: Country: CANADA

Yes No

(e) Is the custodian a *related person* of your firm?

(f) If the custodian is a broker-dealer, provide its SEC registration number (if any)

-  
CRD Number (if any):

### **Administrator**

26. (a) Does the *private fund* use an administrator other than your firm?

Yes No



If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

#### **Additional Administrator Information : 1 Record(s) Filed.**

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

(b) Name of the administrator:

CITI PRIVATE EQUITY SERVICES, INC.

(c) Location of administrator (city, state and country):

City:	State:	Country:
NEW YORK	New York	UNITED STATES

(d) Is the administrator a *related person* of your firm?

Yes No



(e) Does the administrator prepare and send investor account statements to the *private fund's* investors?

Yes (provided to all investors)  Some (provided to some but not all investors)  No (provided to no investors)

(f) If the answer to 26(e) is "no" or "some," who sends the investor account statements to the (rest of the) *private fund's* investors? If investor account statements are not sent to the (rest of the) *private fund's* investors, respond "not applicable."

27. During your last fiscal year, what percentage of the *private fund's* assets (by value) was valued by a *person*, such as an administrator, that is not your *related person*?

0%

Include only those assets where (i) such person carried out the valuation procedure established for that asset, if any, including obtaining any relevant quotes, and (ii) the valuation used for purposes of investor subscriptions, redemptions or distributions, and fee calculations (including allocations) was the valuation determined by such person.

**Marketers**

Yes No

28. (a) Does the *private fund* use the services of someone other than you or your employees for marketing purposes?

You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer the *private fund* uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

No Information Filed

**A. PRIVATE FUND**

**Information About the *Private Fund***

1. (a) Name of the *private fund*:

CATALYST FUND LIMITED PARTNERSHIP IV

(b) *Private fund* identification number:

(include the "805-" prefix also)

805-8311792604

2. Under the laws of what state or country is the *private fund* organized:

State:

Country:

CANADA

3. Name(s) of General Partner, Manager, Trustee, or Directors (or persons serving in a similar capacity):

**Name of General Partner, Manager, Trustee, or Director**

CATALYST FUND GENERAL PARTNER IV INC.

4. The *private fund* (check all that apply; you must check at least one):

(1) qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940

(2) qualifies for the exclusion from the definition of investment company under section 3(c)(7) of the Investment Company Act of 1940

5. List the name and country, in English, of each *foreign financial regulatory authority* with which the *private fund* is registered.

No Information Filed

6. (a) Is this a "master fund" in a master-feeder arrangement?

Yes No



- (b) If yes, what is the name and *private fund* identification number (if any) of the feeder funds investing in this *private fund*?

No Information Filed

- (c) Is this a "feeder fund" in a master-feeder arrangement?

Yes No



- (d) If yes, what is the name and *private fund* identification number (if any) of the master fund in which this *private fund* invests?

Name of the *Private Fund*:

*Private Fund* Identification Number:  
(include the "805-" prefix also)

NOTE: You must complete question 6 for each master-feeder arrangement regardless of whether you are filing a single Schedule D, Section 7.B.(1), for the master-feeder arrangement or reporting on the funds separately.

7. If you are filing a single Schedule D, Section 7.B.(1) for a master-feeder arrangement according to the instructions to this Section 7.B.(1), for each of the feeder funds answer the following questions:

No Information Filed

NOTE: For purposes of questions 6 and 7, in a master-feeder arrangement, one or more funds ("feeder funds") invest all or substantially all of their assets in a single fund ("master fund"). A fund would also be a "feeder fund" investing in a "master fund" for purposes of this question if it issued multiple classes (or series) of shares or interests, and each class (or series) invests substantially all of its assets in a single master fund.

8. (a) Is this *private fund* a "fund of funds"?

Yes No



- (b) If yes, does the *private fund* invest in funds managed by you or by a *related person*?



NOTE: For purposes of this question only, answer "yes" if the fund invests 10 percent or more of its total assets in other pooled investment vehicles, whether or not they are also *private funds*, or registered investment companies.

Yes No

9. During your last fiscal year, did the *private fund* invest in securities issued by investment companies registered under the Investment Company Act of 1940 (other than "money market funds," to the extent provided in Instruction 6.e.)?

10. What type of fund is the *private fund*?

hedge fund  liquidity fund  private equity fund  real estate fund  securitized asset fund  venture capital fund  Other *private fund*

NOTE: For funds of funds, refer to the funds in which the *private fund* invests. For definitions of these fund types, please see Instruction 6 of the Instructions to Part 1A.

11. Current gross asset value of the *private fund*:

\$ 631,364,148

### **Ownership**

12. Minimum investment commitment required of an investor in the *private fund*:

\$ 5,000,000

NOTE: Report the amount routinely required of investors who are not your *related persons* (even if different from the amount set forth in the organizational documents of the fund).

13. Approximate number of the *private fund's* beneficial owners:

30

14. What is the approximate percentage of the *private fund* beneficially owned by you and your *related persons*:

2%

15. What is the approximate percentage of the *private fund* beneficially owned (in the aggregate) by funds of funds:

25%

16. What is the approximate percentage of the *private fund* beneficially owned by non-*United States persons*:

23%

### **Your Advisory Services**

17. (a) Are you a subadviser to this *private fund*?

(b) If the answer to question 17(a) is "yes," provide the name and SEC file number, if any, of the adviser of the *private fund*. If the answer to question 17(a) is "no," leave this question blank.

No Information Filed

Yes No

Yes No



18. (a) Do any other investment advisers advise the *private fund*?

(b) If the answer to question 18(a) is "yes," provide the name and SEC file number, if any, of the other advisers to the *private fund*. If the answer to question 18(a) is "no," leave this question blank.

No Information Filed

Yes No

19. Are your *clients* solicited to invest in the *private fund*?

20. Approximately what percentage of your *clients* has invested in the *private fund*?

0%

### **Private Offering**

Yes No

21. Does the *private fund* rely on an exemption from registration of its securities under Regulation D of the Securities Act of 1933?

22. If yes, provide the *private fund's* Form D file number (if any):

No Information Filed

## B. SERVICE PROVIDERS

### **Auditors**

Yes No

23. (a) (1) Are the *private fund's* financial statements subject to an annual audit?

(2) Are the financial statements prepared in accordance with U.S. GAAP?

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

#### **Additional Auditor Information : 1 Record(s) Filed.**

If the answer to 23(a)(1) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one auditing firm, you must complete questions (b) through (f) separately for each auditing firm.

(b) Name of the auditing firm:

KPMG LLP

(c) The location of the auditing firm's office responsible for the *private fund's* audit (city, state and country):

City:

TORONTO

State:

Country:

CANADA

Yes No

- (d) Is the auditing firm an *independent public accountant*?  Yes  No
- (e) Is the auditing firm registered with the Public Company Accounting Oversight Board?  Yes  No
- (f) If "yes" to (e) above, is the auditing firm subject to regular inspection by the Public Company Accounting Oversight Board in accordance with its rules?  Yes  No

- (g) Are the *private fund's* audited financial statements distributed to the *private fund's* investors?  Yes  No
- (h) Does the report prepared by the auditing firm contain an unqualified opinion?  
 Yes  No  Report Not Yet Received

If you check "Report Not Yet Received," you must promptly file an amendment to your Form ADV to update your response when the report is available.

### Prime Broker

24. (a) Does the *private fund* use one or more prime brokers?  Yes  No

If the answer to 24(a) is "yes," respond to questions (b) through (e) below for each prime broker the *private fund* uses. If the *private fund* uses more than one prime broker, you must complete questions (b) through (e) separately for each prime broker.

No Information Filed

### Custodian

25. (a) Does the *private fund* use any custodians (including the prime brokers listed above) to hold some or all of its assets?  Yes  No

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

#### **Additional Custodian Information : 1 Record(s) Filed.**

If the answer to 25(a) is "yes," respond to questions (b) through (f) below for each custodian the *private fund* uses. If the *private fund* uses more than one custodian, you must complete questions (b) through (f) separately for each custodian.

- (b) Legal name of custodian:  
CIBC MELLON TRUST COMPANY

(c) Primary business name of custodian:  
CIBC MELLON TRUST

(d) The location of the custodian's office responsible for *custody* of the *private fund's* assets (city, state and country):

City: TORONTO State: Country: CANADA

Yes No

(e) Is the custodian a *related person* of your firm?

(f) If the custodian is a broker-dealer, provide its SEC registration number (if any)

-  
CRD Number (if any):

### Administrator

26. (a) Does the *private fund* use an administrator other than your firm?

Yes No

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

#### **Additional Administrator Information : 1 Record(s) Filed.**

If the answer to 26(a) is "yes," respond to questions (b) through (f) below. If the *private fund* uses more than one administrator, you must complete questions (b) through (f) separately for each administrator.

(b) Name of the administrator:  
CITI PRIVATE EQUITY SERVICES, INC.

(c) Location of administrator (city, state and country):

City: NEW YORK State: New York Country: UNITED STATES

Yes No

(d) Is the administrator a *related person* of your firm?

(e) Does the administrator prepare and send investor account statements to the *private fund's* investors?

Yes (provided to all investors)  Some (provided to some but not all investors)  No (provided to no investors)

(f) If the answer to 26(e) is "no" or "some," who sends the investor account statements to the (rest of the) *private fund's* investors? If investor account statements are not sent to the (rest of the) *private fund's* investors, respond "not applicable."

27. During your last fiscal year, what percentage of the *private fund's* assets (by value) was valued by a *person*, such as an administrator, that is not your *related person*?

0%

Include only those assets where (i) such person carried out the valuation procedure established for that asset, if any, including obtaining any relevant quotes, and (ii) the valuation used for purposes of investor subscriptions, redemptions or distributions, and fee calculations (including allocations) was the valuation determined by such person.

### **Marketers**

28. (a) Does the *private fund* use the services of someone other than you or your employees for marketing purposes?

Yes No



You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer the *private fund* uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

#### **Additional Marketer Information : 1 Record(s) Filed.**

You must answer "yes" whether the person acts as a placement agent, consultant, finder, introducer, municipal advisor or other solicitor, or similar person. If the answer to 28(a) is "yes", respond to questions (b) through (g) below for each such marketer the *private fund* uses. If the *private fund* uses more than one marketer you must complete questions (b) through (g) separately for each marketer.

- (b) Is the marketer a *related person* of your firm?

Yes No



- (c) Name of the marketer:  
ATLANTIC - PACIFIC CAPITAL, INC.

- (d) If the marketer is registered with the SEC, its file number (e.g., 801-, 8-, or 866-):

8 - 48198

and CRD Number (if any):  
38356

(e) Location of the marketer's office used principally by the *private fund* (city, state and country):

City:

NEW YORK

State:

New York

Country:

UNITED STATES

Yes No

(f) Does the marketer market the *private fund* through one or more websites?

(g) If the answer to 28(f) is "yes", list the website address(es):

No Information Filed

### SECTION 7.B.(2) *Private Fund Reporting*

No Information Filed

### SECTION 10.A. *Control Persons*

No Information Filed

### SECTION 10.B. *Control Person Public Reporting Companies*

No Information Filed

### Schedule D - Miscellaneous

You may use the space below to explain a response to an Item or to provide any other information.

### DRPs

#### CRIMINAL DISCLOSURE REPORTING PAGE (ADV)

No Information Filed

#### CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (ADV)

No Information Filed

#### REGULATORY ACTION DISCLOSURE REPORTING PAGE (ADV)

No Information Filed

**Signature Page****DOMESTIC INVESTMENT ADVISER EXECUTION PAGE**

You must complete the following Execution Page to Form ADV. This execution page must be signed and attached to your initial submission of Form ADV to the SEC and all amendments.

**Appointment of Agent for Service of Process**

By signing this Form ADV Execution Page, you, the undersigned adviser, irrevocably appoint the Secretary of State or other legally designated officer, of the state in which you maintain your *principal office and place of business* and any other state in which you are submitting a *notice filing*, as your agents to receive service, and agree that such *persons* may accept service on your behalf, of any notice, subpoena, summons, *order* instituting *proceedings*, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative *proceeding* or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, *proceeding*, or arbitration (a) arises out of any activity in connection with your investment advisory business that is subject to the jurisdiction of the United States, and (b) is *founded*, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of the state in which you maintain your *principal office and place of business* or of any state in which you are submitting a *notice filing*.

**Signature**

I, the undersigned, sign this Form ADV on behalf of, and with the authority of, the investment adviser. The investment adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct, and that I am signing this Form ADV Execution Page as a free and voluntary act.

I certify that the adviser's books and records will be preserved and available for inspection as required by law. Finally, I authorize any *person* having *custody* or possession of these books and records to make them available to federal and state regulatory representatives.

Signature:

Date: MM/DD/YYYY

Printed Name:

Title:

Adviser CRD Number:

155299

**NON-RESIDENT INVESTMENT ADVISER EXECUTION PAGE**

You must complete the following Execution Page to Form ADV. This execution page must be signed and attached to your initial submission of Form ADV to the SEC and all amendments.

**1. Appointment of Agent for Service of Process**

By signing this Form ADV Execution Page, you, the undersigned adviser, irrevocably appoint each of the Secretary of the SEC, and the Secretary of State or other legally designated officer, of any other state in which you are submitting a *notice filing*, as your agents to receive service, and agree that such persons may accept service on your behalf, of any notice, subpoena, summons, *order*

instituting *proceedings*, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative *proceeding* or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, *proceeding* or arbitration (a) arises out of any activity in connection with your investment advisory business that is subject to the jurisdiction of the United States, and (b) is *founded*, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of any state in which you are submitting a *notice filing*.

## 2. Appointment and Consent: Effect on Partnerships

If you are organized as a partnership, this irrevocable power of attorney and consent to service of process will continue in effect if any partner withdraws from or is admitted to the partnership, provided that the admission or withdrawal does not create a new partnership. If the partnership dissolves, this irrevocable power of attorney and consent shall be in effect for any action brought against you or any of your former partners.

## 3. *Non-Resident* Investment Adviser Undertaking Regarding Books and Records

By signing this Form ADV, you also agree to provide, at your own expense, to the U.S. Securities and Exchange Commission at its principal office in Washington D.C., at any Regional or District Office of the Commission, or at any one of its offices in the United States, as specified by the Commission, correct, current, and complete copies of any or all records that you are required to maintain under Rule 204-2 under the Investment Advisers Act of 1940. This undertaking shall be binding upon you, your heirs, successors and assigns, and any *person* subject to your written irrevocable consents or powers of attorney or any of your general partners and *managing agents*.

### Signature

I, the undersigned, sign this Form ADV on behalf of, and with the authority of, the *non-resident* investment adviser. The investment adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct, and that I am signing this Form ADV Execution Page as a free and voluntary act.

I certify that the adviser's books and records will be preserved and available for inspection as required by law. Finally, I authorize any *person* having *custody* or possession of these books and records to make them available to federal and state regulatory representatives.

Signature:

C. DAWES

Printed Name:

C. DAWES

Adviser CRD Number:

155299

Date: MM/DD/YYYY

03/30/2015

Title:

CFO AND TREASURER