

**RENTAL CAR CONCESSION AGREEMENT
AND
PERMIT FOR COMMERCIAL ACTIVITIES**

THIS AGREEMENT is made by and between the **City of Joplin, Missouri**, a Missouri Municipal Corporation (hereinafter “airport”), and **Carco Capital Corporation**, a Missouri Corporation (hereinafter “operator”) on this ____ day of _____, 2017 (the effective date), for the purpose of providing a rental car concession at the Joplin Regional Airport.

RECITALS

- A. City of Joplin owns and operates the Joplin Regional Airport.
- B. It is necessary in the promotion and accommodation of air commerce and air transportation that qualified, economical, courteous, safe, clean, and efficiently operated rental car facilities be available for the benefit of air travelers and the public.
- C. Operator is awarded the right to operate one of several available rental car concessions at the Joplin Regional Airport.
- D. Operator has been approved to occupy a portion of the airport terminal building and utilize the rental car-ready parking lot for the storage of vehicles.
- E. All of the airport is not required for aeronautical activities. City of Joplin desires to use portions of the airport to provide facilities and services for other than aeronautical activities for the benefit of the general public.

AGREEMENT

1. PREMISES.

- A. Those portions of the Airport to be used exclusively by Operator pursuant to this Agreement are described and depicted at the Airport Terminal Building and the rental car-ready parking lot, attached hereto and incorporated by reference as Exhibit A.
- B. City of Joplin retains the right at any time to change the location of the Premises to be used pursuant to this Agreement. City of Joplin shall provide thirty (30) calendar days’ prior written notice to Operator of any change in the Premises.

2. TERM.

- A. The term of this Agreement shall be for a period of five (5) years, commencing on the effective date.
- B. Operator shall have one (1) five-year option to extend the term of this Agreement. If Operator exercises said option, all of the terms and conditions of this Agreement shall

remain in full force and effect, with the exception of this clause concerning the option. Operator may exercise its option by sending written notice to the City of Joplin no less than ninety (90) calendar days prior to the expiration of the initial term.

- C. The term of this Agreement shall convert to month to month if the original term is exceeded, and a new Agreement has not been entered into by the parties or Operator has failed to exercise its option. All other terms and conditions will remain the same.
- D. This Agreement is entered into with the understanding that the City of Joplin can initiate an open, competitive process for the provision of rental car service beyond the expiration of this Agreement.

3. **TERMINATION.** The City of Joplin may terminate this Agreement, without cause, with ninety (90) days' written notice to Operator.

4. **USE.** Operator is authorized to use the Premises for the sole purpose of operating and maintaining a rental car concession at the Joplin Regional Airport.

- A. Airport Terminal shall be used for the purpose of conducting on airport rental car concession transactions and related operations for the convenience of passengers, patrons and tenants utilizing the Airport.
- B. Rental Car Lot shall be used for the purpose of pre-positioning rental cars for customers and providing a designated area to which customers return rental cars. Operator shall not utilize the ready-car parking spaces for the storage of vehicles larger than twenty (20) feet in length, i.e. recreational vehicles, trucks, nor shall Operator's employees utilize these parking spaces for the purpose of parking their personal vehicles.

5. **Rent**

A. Operator shall pay monthly rent for the use of the above facilities. The Rent to be paid by Operator to City of Joplin/Joplin Regional Airport under this Agreement is outlined below by year:

| | |
|--------|---------|
| Year 1 | \$3,400 |
| Year 2 | \$3,450 |
| Year 3 | \$3,525 |
| Year 4 | \$3,600 |
| Year 5 | \$3,675 |

Rent during the option term, if exercised, will increase by two percent per year over the Year 5 level above.

Operator is allowed but not required to charge customers an airport fee to help offset the rental charges outlined above.

If passenger deplanements decrease by 10% or more from 2016 levels, then Operator has option to renegotiate rent or terminate this agreement. The same would be true if a 3rd Rental Car Operator were allowed to use the airport facilities.

- B. Operator shall pay to City of Joplin/Joplin Regional Airport the Monthly Rental Charge, without deduction, set off, prior notice or demand on or before the twentieth day of each month.
- C. All payments required under this Agreement shall be paid to City of Joplin/Joplin Regional Airport, addressed to the Joplin Regional Airport, at 602 South Main Street, Joplin, MO 64801 or any other place or places that City of Joplin/Joplin Regional Airport may designate by written notice to Operator. Payments not paid when due are subject to late fees and penalty charges.
- D. Operator agrees to pay Airport fees and other charges established by the Airport. It is expressly agreed that time is of the essence in this Agreement for payment of any and all rentals, fees, and charges herein provided. Therefore, if Operator fails to pay any fees or charges herein prescribed and within the time herein prescribed, Airport may upon thirty (30) days written notice to Operator, unless Operator within said period shall have corrected such failure to pay, expel Operator and remove its effects forcibly, if necessary, without prejudice to any remedy. Upon such action, this Agreement may, at the option of the Airport, terminate.
- E. The Operator shall pay to the Airport a late charge equal to 1.5% per month on all fees charges that are 30 days past due. Said late charge shall commence on the past due amount from the date said payment was due and shall be computed to the date the past due amount is paid. Operator shall receive written notice of all past due invoices.

6. TAXES.

Operator shall obtain and pay for all applicable licenses, permits, fees, or other authorization or charges as required under Federal, State, or local (including Airport and City) laws, regulations, ordinances, and policies that are necessary to comply with the requirements of this Agreement and the privileges extended under this Agreement or are required by the imposing authority.

7. SERVICE.

A. Operator shall operate the rental car concession in accordance with the highest standards and practices of the automobile rental trade. Further, Operator understands and acknowledges that the City of Joplin/Joplin Regional Airport's obligation to facilitate air travel of the public at the Airport includes efficiently operated Rental Car Concessions for the use of air travelers and other members of the public. Consequently, and as an additional consideration to the City of Joplin/Joplin Regional Airport for awarding this Agreement to the Operator, Operator covenants as follows:

1. To furnish service on a fair, reasonable and nondiscriminatory basis to all users of the Airport. Operator shall furnish prompt, courteous and efficient service adequate

to meet all reasonable demands for its services at the Airport. It shall maintain and operate the Concession in a first-class manner and shall keep its premises in a safe, clean, orderly and inviting condition at all times satisfactory to the Airport Director.

2. Operator shall maintain on the Premises an adequate number of vehicles to meet reasonable public demand. Such automobiles shall at all times be maintained by Operator, at its own cost and expense, in good operating order and free from known or reasonably discernible mechanical defects, and shall be kept in clean, neat and attractive condition, inside and out. All automobile safety related items must be maintained in an operable condition at all times. Operator agrees that it will at no time use automobiles whose year model is more than two (2) years older than the current year model. All vehicles of the Operator's fleet shall be equipped with factory or dealer-installed air conditioning. City of Joplin/Joplin Regional Airport has the right to disapprove of any automobile supplied by Operator that does not meet or exceed the standards contained herein for public use at the Airport. Notice of such disapproval shall be submitted to Operator by the City of Joplin/Joplin Regional Airport in writing with the reasons therefore and Operator shall take immediate action to withdraw such unsatisfactory automobiles from service at the Airport.
3. Operator's rental counters shall be kept open so as to provide maximum availability of service and adequate rental opportunity to the traveling public during such hours as may be established or reestablished from time to time by the Airport Director. Hours of operation shall be during all hours of Airport operation, in addition to being open during all flights and until ½ hour after the latest flight. The hours of operation may be reduced or modified with the prior written approval of the Airport Director
4. Operator shall select and appoint a full-time manager of its rental car concession herein authorized. Such person shall be qualified and experienced, vested with full power and authority to act in the name of the Operator with respect to method, manner, and conduct of the operation of Operator's rental car concession on the Airport. Such manager or supervisor shall be available at the Airport during regular business hours, and at all times during the manager's absence a duly authorized subordinate shall be in charge and available on the Airport.
5. Operator shall have the capability of providing both local rentals and nationwide one-way rentals.
6. Operator shall be part of a nationwide computerized reservations system allowing rental car reservations to be made from anywhere in the nation through airline and travel agent computer systems.
7. Operator shall have a nationwide "800" telephone number reservation service.
8. Operator shall provide nationwide rental car replacement to the customer for rental cars that develop mechanical problems.
9. All automobiles used by the Operator for the concession must have a business logo

or name placed in a consistent location on the windshield or body of each automobile. Minimum logo size shall be two square inches in area.

10. Except in case of emergency, the Operator shall obtain the approval of the Airport Director prior to any space closure outside of normal operating hours.
11. Operator shall control the conduct, demeanor and appearance of its employees and representatives. Operator and their employees while on duty, shall wear acceptable attire which at all times shall be maintained in a neat, orderly and clean condition.. Cutoff shorts, undershirt-type shirts, or clothing of suggestive nature are prohibited and shoes are required. Employees will wear name-tags which display their name and the name of the rental car concession or company logo. Such employees shall be trained by Operator to render a high degree of courteous and efficient service and it shall be the responsibility of the Operator to maintain close supervision over such employees to assure the rendering of a high standard of service to the public and the patrons of the rental car concession.
12. Operator shall accept major or nationally recognized credit cards.
13. Operator and its employees shall abide by all reasonable rules, regulations, policies, and instructions of the Airport Director or his designee.

8. PARKING AND ACCESS.

- A. Employee Parking. Operator's employees will be allowed to park in the main lot without cost while they are working.
- B. Access to Premises. City of Joplin/Joplin Regional Airport shall provide Operator with keys to access the Premises. Operator is responsible for the cost to replace all lost keys. Operator is responsible for the costs associated with re-keying the Premises if the Airport Director determines that the lost or misplaced key may compromise Operator's security.

9. AIRPORT FACILITIES. Nothing contained in this Agreement shall be construed as entitling Operator to the exclusive use of any services, facilities, or property rights of any nature at the Airport, except for the purpose and use of the Premises as set forth in this Agreement and the Premises as described and set forth.

10. MECHANIC'S LIENS. Operator shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Operator.

11. WASTE; QUIET CONDUCT. Operator shall not commit or suffer to be committed any waste upon the Premises, or any nuisance or other act or thing which may disturb the quiet enjoyment of any other occupant of or user of the Airport or the City of Joplin/Joplin Regional Airport's adjoining property.

11. STORAGE. Operator shall not store anything outside of the Premises without the prior written approval of the Airport Director.

- 12. OPERATOR'S SECURITY RESPONSIBILITIES.** Operator shall completely secure Airport Terminal during non-operating hours. Operator shall pay any fines imposed upon the City of Joplin/Joplin Regional Airport by the Transportation Security Administration or the Federal Aviation Administration for violation of security caused by actions of Operator or its agents, employees, or invitees. Operator shall pay such fine within thirty (30) calendar days of written notice from the City of Joplin/Joplin Regional Airport of the obligation to pay the fine. Failure to comply with the provisions of this section is grounds for termination of this Agreement by the City of Joplin/Joplin Regional Airport.
- 13. RULES AND REGULATIONS; COMPLIANCE WITH LAWS.** Operator shall, at Operator's sole cost and expense, comply with all requirements, statutes and regulations of all City of Joplin/Joplin Regional Airport, state and federal authorities now in force, or which may hereafter be in force, pertaining to Operator's use of the Premises or its services to be performed under this Agreement. Operator's use of the Premises shall conform to all Airport rules and regulations and local building and fire codes.
- 14. MAINTENANCE AND ALTERATIONS.**
- A. Operator shall, at Operator's sole cost and expense and at all times during the term, maintain the Premises in a safe and attractive condition and in the same condition as received at the beginning of the term, ordinary wear and tear excepted. Operator shall do, or cause to be done without delay, all those things which, in the opinion of the Airport Director, are necessary or desirable in the interests of safety or to maintain the Premises in good repair and appearance. All damage caused to the Premises and/or Airport by Operator, its officers, employees, agents and invitees, shall be repaired at Operator's sole expense.
- B. Operator shall not make or cause to be made any alterations or improvements to the Premises, including modifications or alterations of the Premises' electrical installations or equipment, without first securing the written consent of the Airport Director. The Airport Director may impose restrictions upon any proposed alterations or improvements. All such alterations or improvements shall comply with Airport Policy and all applicable building, zoning and fire codes. Upon the termination of this Agreement, at the sole option of the City of Joplin/Joplin Regional Airport: (1) The alterations or improvements shall become the property of the City of Joplin/Joplin Regional Airport and shall remain on the Premises; or (2) Operator shall remove all alterations or improvements and return the Premises to the City of Joplin/Joplin Regional Airport in substantially the same condition as the Premises existed at the commencement of this Agreement.
- C. City of Joplin/Joplin Regional Airport shall maintain electrical, plumbing and HVAC systems within the Airport terminal facility in good condition and repair. The Operator hereby expressly waives any and all claims and holds the City of Joplin/Joplin Regional Airport harmless for damages arising or resulting from failures or interruption of utility services furnished by the City of Joplin/Joplin Regional Airport herein including but not limited to stoppages in electrical energy, the quantity or temperature of water, heating or air- conditioning, or for the failure or interruption of any public or passenger conveniences.

15. RIGHT TO INSPECT.

- A. The City of Joplin/Joplin Regional Airport and its authorized officers, agents, employees, volunteers, contractors, subcontractors and other representatives shall have the right to inspect and enter upon the Premises for any purpose, including, but not limited to, the following:
1. To inspect the Premises at reasonable intervals during regular business hours to determine whether Operator has complied with or is complying with the promises, terms, covenants and conditions of this Agreement;
 2. To make repairs, additions, or alterations as may be necessary or convenient for the conduct, safety, improvement, or preservation of the Airport;
 3. For emergency purposes; and
 4. In the exercise of the City of Joplin/Joplin Regional Airport's police power.
- B. No inspection or entering on the Premises by or on behalf of the City of Joplin/Joplin Regional Airport shall cause or constitute a termination of this Agreement, or be deemed to constitute an interference with Operator's use of the Premises.

16. INDEMNITY.

- A. Airport agrees to indemnify and hold harmless Operator, its directors, officers, employees, agents, representatives, successors, assigns, and subcontractors from and against any and all claims, demands, actions, settlements or judgments, based upon or arising out of the activities described in this Agreement, where such claims, demands, actions, settlements or judgments relate to the reckless or intentional acts of Airport.
- B. Operator agrees to indemnify and hold harmless Airport, its City Council, officers, employees, agents, representatives, successors, assigns, and subcontractors from and against any and all claims, demands, actions, settlements or judgments, based upon or arising out of the activities described in this Agreement, where such claims, demands, actions, settlements or judgments relate to the reckless, or intentional acts of Operator.

17. INSURANCE.

- A. Operator, at its expense, shall procure and keep in force at all times during the term of this Agreement from a financially sound and reputable company that has an A.M. Best Company rating of at least an "A-" rating, or similar rating by another insurance rating company, and is licensed and authorized to conduct business in the State of Missouri, Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, and Independent Contractors. Such coverage shall apply to bodily injury and property damage on an

“Occurrence Form Basis” with limits of at least Two Million Seven Hundred Sixty Two Thousand Seven Hundred Eighty Nine and no/100 Dollars (\$2,762,789.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fourteen Thousand Four Hundred Eighteen and no/100 Dollars (\$414,418.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least \$1,000,000 for all claims to property arising out of a single occurrence and at least \$100,000 to any one owner with respect to damages to property. Operator agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys’ fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys’ fees of Operator, its employees, officers or agents. Operator agrees to cause its insurer to name City as an additional insured on such insurance policy. Operator shall furnish Airport with a certificate of insurance as evidence of coverage. Said insurance policies shall not be canceled or materially modified or non-renewed except upon thirty (30) days advance written notice to Airport. Coverage is to be written on the broadest liability form that is customarily available at reasonable cost. The insurance carrier shall not avoid liability under such policies by claiming Airport governmental immunity. Airport shall be a named insured upon all such policies, but shall have no obligation for the payment of any premiums for such coverage. In the event the scope of the Airport's tort liability as a governmental entity described in Section 537.600 through .650, RSMo., inclusive, is broadened or increased during the term of this Agreement by subsequent legislative or court action, Airport, upon written notice to Operator, may require Operator to provide additional limits of liability sufficient to protect the Airport and the City of Joplin's interests to the extent of any such change. If the Airport's current limitations upon tort liability are abolished entirely, Airport may require Operator to provide such coverage to protect the Airport and the City of Joplin's interests as may be reasonable and prudent for the risks associated with the activities allowed under this Agreement. Statutory Workers’ Compensation required by the Labor Code of the State of Missouri and Employers' Liability Insurance in an amount not less than \$1,000,000 per occurrence. Both the Workers’ Compensation and Employers' Liability policies shall contain the insurer's waiver of subrogation in favor of City of Joplin/Joplin Regional Airport, its elected officials, officers, employees, agents and volunteers.

- B. Non-limitation. Nothing contained herein shall be deemed to limit or otherwise reduce Operator's liability hereunder to the insurance limits herein provided.
- C. Independent Contractor. Operator is an independent contractor and not an agent or employee of Airport with respect to its acts, errors, or omissions.

18. FEDERAL REQUIREMENTS. To comply with FAA requirements, Operator, its representatives, successors and assigns, as part of the consideration hereof, does hereby covenant and agree:

- A. That in the event facilities are constructed, maintained, or otherwise operated on the Premises described in this Agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Operator shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A,

Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as the Regulations may be amended.

- B. That: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in use of the facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Operator shall occupy and use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as the Regulations may be amended.
- C. That in the event of breach of any of the above nondiscrimination covenants, the City of Joplin/Joplin Regional Airport shall have the right to terminate this Agreement and to reenter and repossess the land and the facilities thereon, and hold the same as if this Agreement had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.
- D. That Operator shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Operator may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to purchasers.
- E. That non-compliance with subdivision D above shall constitute a material breach thereof and in the event of such non-compliance the City of Joplin/Joplin Regional Airport shall have the right to terminate this Agreement without liability therefore or at the election of the City of Joplin/Joplin Regional Airport or the United States either or both said Governments shall have the right to judicially enforce Provisions.
- F. That Operator shall insert the above five provisions, subdivisions A through E, in any agreement, contract, etc., by which Operator grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises herein;
- G. The Operator, for himself, his heirs, personal representatives, successors in interest, and assigns as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Operator shall maintain and operate such facilities and services in

compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federal Assisted Programs of the Department of Transportation, as said Regulations may be amended.

1. The Operator for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Operator shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- H. That the City of Joplin/Joplin Regional Airport reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of Operator and without interference or hindrance.
- I. That the City of Joplin/Joplin Regional Airport reserves the right, but shall not be obligated to Operator to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of Operator in this regard.
- J. That this Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the City of Joplin/Joplin Regional Airport and the United States relative to the development, operation or maintenance of the airport.
- K. That there is hereby reserved to the City of Joplin/Joplin Regional Airport, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight 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 said airspace or landing at, taking off from or operation on the Joplin Regional Airport.
- L. That Operator agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.
- M. That Operator, its officers, administrators, representatives, successors and assigns will not erect nor permit the erection of any structure or object, nor permit the growth of any tree or vegetation on the Premises above ground level elevation of eighty (80) feet. In the event the aforesaid covenants are breached, the City of Joplin/Joplin Regional Airport reserves the

right to enter upon the Premises and to remove the offending structure or object and cut the offending tree or vegetation, all of which shall be at the expense of Operator.

- N. That Operator, its officers, administrators, representatives, successors and assigns will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from Joplin Regional Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City of Joplin/Joplin Regional Airport reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Operator.
- O. That this Agreement and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Joplin Regional Airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

19. ASSIGNMENT. Operator shall not voluntarily assign or encumber its interest in this Agreement or in the Premises, or allow any other person or entity (except its authorized representatives) to occupy or use any or all part(s) of the Premises, without first obtaining the City of Joplin/Joplin Regional Airport's prior written consent. Said consent shall not unreasonably be withheld. Any assignment or encumbrance without the City of Joplin/Joplin Regional Airport's consent shall be voidable and, at the sole election of the City of Joplin/Joplin Regional Airport, shall constitute a default of this Agreement. No consent to any assignment or encumbrance shall constitute a further waiver of the provisions of this section.

20. INVOLUNTARY ASSIGNMENT.

- A. No interest of Operator in this Agreement shall be assignable by operation of law. Each of the following acts shall be considered an involuntary assignment:
 - 1. If Operator is or becomes bankrupt (whether voluntary or involuntary) or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which Operator is the bankrupt; or, if Operator is a partnership or consists of more than one person or entity, if any partner of the partnership, or other person or entity, is or becomes bankrupt (whether voluntary or involuntary) or insolvent, or makes an assignment for the benefit of creditors;
 - 2. If a writ of attachment or execution is levied on this Agreement;
 - 3. If, in any proceeding or action to which Operator is a party, a receiver is appointed with authority to take possession of the Premises; or
 - 4. The abandonment or discontinuance of any operation at the Airport by Operator, or the failure to conduct any service, operation or activity permitted by this Agreement. If this condition exists for a period of seven (7) consecutive calendar days without the prior written consent of the City of Joplin/Joplin Regional Airport, it will constitute an abandonment of the land, facility or location, and this Agreement and

the Permit shall become null and void.

- B. An involuntary assignment shall constitute a default by Operator, and the City of Joplin/Joplin Regional Airport shall have the right to elect to terminate this Agreement. In no event shall this Agreement be deemed or treated as an asset of Operator.

21. DEFAULT.

- A. The occurrence of any of the following shall constitute a material breach or default of this Agreement by Operator:
 - 1. Failure to pay any payment due under this Agreement when due, if the failure to pay continues for seven (7) calendar days after notice of the failure has been given to Operator;
 - 2. Failure of the Operator to operate the business authorized in this Agreement.
 - 3. Cessation or deterioration of any service for any period which, in the determination of the City of Joplin/Joplin Regional Airport, materially and adversely affects the operation or service required to be performed by Operator under this Agreement.
 - 4. Failure to maintain current licenses, if any, required for the permitted operation.
 - 5. Intentionally supplying the City of Joplin/Joplin Regional Airport with false or misleading information or misrepresenting any material fact on documents or in statements to or before the City of Joplin/Joplin Regional Airport and its employees, or the intentional failure to make full disclosure on a financial statement, statement of gross sales, or other required documents.
 - 6. Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) calendar days after notice of the failure has been given to Operator. If the breach or default cannot be reasonably cured within thirty (30) calendar days, Operator shall not be in breach or default of this Agreement if Operator commences to cure the breach or default within the thirty (30) calendar day period and diligently and in good faith continues to cure the default.
- B. Notices given under this section shall specify the alleged breach or default, and shall demand that Operator perform the provisions of this Agreement or pay the payment that is in arrears, as the case may be, within the applicable time period, or this Agreement is terminated. No such notice shall be deemed a forfeiture or a termination of this Agreement or a revocation of the Permit unless the City of Joplin/Joplin Regional Airport so elects in the notice.
- C. The City of Joplin/Joplin Regional Airport, at any time after Operator commits a breach or default of this Agreement, can cure the breach or default at Operator's cost. If the City of Joplin/Joplin Regional Airport, at any time, by reason of Operator's breach or default, pays any sum or does any act that requires the payment of any sum, the sum paid by the City of Joplin/Joplin Regional Airport shall be due immediately from Operator to the City of Joplin/Joplin Regional Airport at the time the sum is paid, and if paid at a later date

shall be subject to late fees and penalty charges. The sum, together with the late fees or penalty charges, shall be an additional payment owed to the City of Joplin/Joplin Regional Airport pursuant to this Agreement.

22. CITY OF JOPLIN/JOPLIN REGIONAL AIRPORT'S REMEDIES FOR DEFAULT.

A. Upon the occurrence of a default that is not timely cured by Operator, the City of Joplin/Joplin Regional Airport may terminate this Agreement and Operator shall immediately surrender the Premises to the City of Joplin/Joplin Regional Airport. On termination of this Agreement, the City of Joplin/Joplin Regional Airport may recover from Operator all of the following:

- 1 The worth at the time of the award of any unpaid fees that had been earned at the time of the termination, to be computed by allowing interest at the maximum amount of interest permitted by law;
- 2 The worth at the time of the award of the amount by which the unpaid fees that would have been earned between the time of the termination and the time of the award exceeds the amount of unpaid fees that Operator proves could reasonably have been avoided, to be computed by allowing interest at the maximum amount of interest permitted by law;
- 3 The worth at the time of the award of the amount by which the unpaid fees for the balance of the Agreement term after the time of the award exceeds the amount of unpaid fees that Operator proves could reasonably have been avoided, to be computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%);
- 4 Any other amount necessary to compensate the City of Joplin/Joplin Regional Airport for all the detriment proximately caused by Operator's failure to perform obligations under this Agreement, including advertising expenses, expenses of remodeling the Premises for a new Operator (whether for the same or a different use), and any special concessions made to obtain a new Operator; and
- 5 Any other amounts, in addition to or in lieu of those listed above, that may be permitted by applicable law.

B. City of Joplin/Joplin Regional Airport reserves the right, during the full term of the Agreement, to use the succession of proposers in the event an Operator is found in default or breach of this Agreement and this Agreement is terminated.

23. SURRENDER OF PREMISES. On the expiration, cancellation or termination of this Agreement, Operator shall surrender the Premises to the City of Joplin/Joplin Regional Airport and deliver all keys to any locks on the Premises. Licensee shall reimburse the City of Joplin/Joplin Regional Airport for any damage done to the Premises caused by Operator's use of the Premises or Operator's actions or omissions.

24. **VOLUNTEER ASSISTANCE.** Under no circumstances will Operator use City of Joplin/Joplin Regional Airport employees whom are on duty to perform work at the Premises. Under no circumstances will Operator use City of Joplin/Joplin Regional Airport employees whom are off duty to perform work at the Premises if the nature of the work is substantially similar to the employee's regular work duties for the City of Joplin/Joplin Regional Airport.

25. **SIGNS, BANNERS, FLAGS.** Operator is required to provide a business "logo" type sign at its corresponding terminal counter location and appropriate signage for their ready-car parking spaces. The size and location of signs, banners, flags, etc., located on the Premises or at the Airport shall be subject to the prior written approval and control of the Airport Director. The size and location of all signs, banners and flags located off the Airport advertising the activities of Operator shall be subject to the City of Joplin/Joplin Regional Airport's sign ordinance.

26. **NOTICES.** Any notices required to be given under this Agreement shall be in writing and shall be deemed properly delivered, given or served when personally delivered to the City of Joplin/Joplin Regional Airport or Operator, or in lieu of such personal service, sent by United States mail, registered or certified, return receipt requested, addressed as follows:

TO JOPLIN REGIONAL AIRPORT:

Joplin Regional Airport
Attn.: Airport Manager
602 South Main Street
Joplin, Missouri 64801

TO OPERATOR:

27. **ADMINISTRATION BY CITY OF JOPLIN/JOPLIN REGIONAL AIRPORT.** Whenever Operator is required to secure the approval or consent of the City of Joplin/Joplin Regional Airport pursuant to this Agreement, the City of Joplin/Joplin Regional Airport shall mean the Airport Director. When the City Manager is signatory to this Agreement, the Airport Director shall have authority to execute any amendment to this Agreement which does not increase the amount of compensation allowable to Operator, or otherwise substantially change the nature or scope of the services provided herein.

28. **CONTRACT INTERPRETATION AND VENUE.**

A. This document, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding each may have had prior to the execution of this Agreement. This Agreement shall not be altered, amended or modified except by a writing signed by City of Joplin/Joplin Regional Airport and Operator. No verbal agreement or conversation with any official, officer, agent or employee of City of Joplin/Joplin Regional Airport, either before, during or after the execution of this Agreement, shall affect or modify any of the terms or conditions contained in this Agreement.

B. No covenant or condition to be performed by Operator under this Agreement can be waived except by the written consent of City of Joplin/Joplin Regional Airport. Forbearance or indulgence by City of Joplin/Joplin Regional Airport in any regard whatsoever shall not

constitute a waiver of the covenant or condition in question. Until performance by Operator of said covenant or condition is complete, City of Joplin/Joplin Regional Airport shall be entitled to invoke any remedy available to City of Joplin/Joplin Regional Airport under this Agreement or by law or in equity despite said forbearance or indulgence.

- C. If any portion of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- D. The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof.
- E. Each party to this Agreement declares and represents that in entering into this Agreement, it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is made without reliance upon any statement or representation not contained herein of any other party or any representative, agent or attorney of the other party. The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this Agreement and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties. Accordingly, no party shall be deemed to have been the drafter hereof, and the principle of law set forth in Civil Code § 1654 that contracts are construed against the drafter shall not apply.

29. AUTHORITY TO CONTRACT. Each of the undersigned signatories hereby represents and warrants that they are authorized to execute this Agreement on behalf of the respective parties to this Agreement, that they have full right, power and lawful authority to undertake all obligations as provided in this Agreement; and that the execution, performance and delivery of this Agreement by said signatories has been fully authorized by all requisite actions on the part of the respective parties to this Agreement.

30. CHOICE OF LAW AND VENUE. This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Jasper County, Missouri, or the United States District Court for the Western District of Missouri.

DATE OF AGREEMENT. This Agreement shall bind and inure to the benefit of any assigns or successors of Airport and any assigns or successors of Operator.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

CITY OF JOPLIN, MISSOURI,
A Municipal Corporation

Sam Anselm, City Manager

Attest:

Barbara Hogelin, City Clerk

Approved as to form:

Peter Edwards, City Attorney

OPERATOR
Bob's Rentals, Inc.

(Print)
Its: authorized signatory