

**OFF-PREMISE RENTAL CAR CONCESSION AGREEMENT BETWEEN RAPID CITY  
REGIONAL AIRPORT BOARD AND \_\_\_\_\_**

THIS CONCESSION AGREEMENT effective this 1<sup>st</sup> day of January, 2024, between the City of Rapid City by and through the Rapid City Regional Airport Board, located at 4550 Terminal Road, Suite 102, Rapid City, South Dakota 57703-8706, hereinafter called "Airport" and \_\_\_\_\_, located at \_\_\_\_\_, Rapid City, SD 57701, hereinafter called "Concessionaire."

**WITNESSETH:**

WHEREAS, Airport owns, controls, and operates the Rapid City Regional Airport located in Rapid City, South Dakota, hereinafter called the "Airport"; and

WHEREAS, automobile rental services at the Airport are essential for proper accommodation of passengers arriving and departing from the Airport; and

WHEREAS, Airport has at this time leased all of its available terminal building car rental spaces including car parking area to other agencies and, therefore, has no like facilities to lease to Concessionaire; and

WHEREAS, Concessionaire recognizes and accepts the fact that Airport has no terminal building car rental space, and limited car parking area to lease to Concessionaire; therefore, Concessionaire requests the privilege of picking up and dropping off their customers at the terminal building with its courtesy vehicle, during normal business hours.

NOW, THEREFORE, in consideration of the forgoing and of the mutual covenants hereinafter contained, the parties agree for themselves their successors, legal representatives, and assignees as follows:

1. Airport hereby grants to Concessionaire, for the period and subject to the terms and conditions hereinafter states, the rights and privileges hereinafter described in this Agreement. During the term of this Agreement, Concessionaire is authorized by Airport to pick up and drop off Concessionaire's customers at the Rapid City Regional Terminal and conclude a rental agreement at Concessionaire's business address. Upon completion of a rental period, Concessionaire shall require its customer to return the car to the Concessionaire's facilities. However, during hours when the Concessionaire's facilities are closed, customers may drop off vehicles in the Rapid City Regional Airport P2 parking lot and Concessionaire shall pay for parking of such vehicles at Airport's current rates and charges.
2. Term. The Term of this Agreement shall be from January 1, 2024, through December 31, 2028.
3. Payment. As payment for the rights and privileges of conducting business on Airport property, Concessionaire agrees to pay to Airport an amount equal to \_\_\_\_\_ percent

## Exhibit A

(\_\_\_\_%) of all Concessionaire's "Gross Revenue" (as defined in Section 4) derived from customers originating at the Airport and/or dropping off vehicles at the Airport. Concessionaire shall make such payment on or before the 10<sup>th</sup> day of each calendar month for all amounts due for each preceding calendar month. No later than the 10<sup>th</sup> day of each month during the term hereof, Concessionaire shall furnish to Airport a certified statement of the "Gross Revenue" which originated at the Airport for the preceding month.

4. Gross Revenue. The term "Gross Revenue" as used herein shall mean the full time and mileage charges for rental of automobiles originating and/or dropping off at the Rapid City Regional Airport by Concessionaire hereunder and shall not include the amount of any federal, state, or municipal sales or other similar taxes separately stated and collected from customers of Concessionaire now or hereafter levied or imposed, any sums received as insurance or otherwise, or damage to automobiles or other property of Concessionaire for loss, conversion, or abandonment of such vehicles, any amounts paid by customers of Concessionaire separately billed as additional charges for waiver of Concessionaire of its rights to recover damages from customers for damages to the vehicle rented, separately billed items such as refueling fees, nor revenues generated at Concessionaire's parking defined above shall be paid or made by delivery to Airport's Executive Director at the office at the Airport.
5. Concessionaire shall have the right to identify the \_\_\_\_\_ percent (\_\_\_\_%) on time and mileage charges to its customers as an "Airport User Fee" and shall be entitled to collect these fees from its customers identifying it as a separate item in its rental contract.
6. During the term hereof, Concessionaire shall have the right to contract for advertising space with the Airport in accordance with the Airport's advertising policy.
7. Concessionaire hereby covenants and agrees:
  - a) To furnish good, prompt, and efficient service adequate to meet all the demands for its service at the Airport.
  - b) To furnish said service on a fair, equal, and nondiscriminatory basis to all users thereof.
  - c) To charge fair, reasonable, and nondiscriminatory prices for each unit of sale or service, provided that the Concessionaire may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchases.
  - d) That Concessionaire, its agents, and employees will not discriminate against any person or class of persons by reasons of race, color, creed, or national origin in providing any services or in the use of any of its facilities provided for the public, in any manner prohibited by Part 21 of the Code of Federal Regulations. Concessionaire further agrees to comply with such enforcement procedures as the United States might demand that the Airport take and order to comply with its assurances.

## Exhibit A

- e) That during the Term of this Agreement, Concessionaire, for itself, its assignees, and successors in interest agrees to comply with the Federally Mandated Contract Clauses attached hereto and incorporated herein as Exhibit A. The Concessionaire shall indemnify and hold harmless Airport from any claims and demands of third persons, including the United States of America, resulting from the Concessionaire's noncompliance with any of the provisions of this Section and the Concessionaire shall reimburse Airport for any loss or expense incurred by reason of such noncompliance.
- f) That rental automobiles made available hereunder shall be maintained at Concessionaire's sole expense, in good operative order, free from known mechanical defects, and in clean, neat, and attractive condition, inside and outside.
- g) That it shall abide by and be subject to all reasonable rules and regulations which are now, or may from time to time be formulated by Airport concerning management, operations, or use of the Airport.
- h) That it will keep, or cause to be kept, true, accurate, and complete records of business conducted hereunder, and Concessionaire further agrees that Airport shall have the right, through its duly authorized agents or representatives, to examine all pertinent records at any and all reasonable times, for the purpose of determining the accuracy thereof and of the reports required to be made by Concessionaire pursuant to this Agreement.
- i) That it will meet all expenses in connection with the use of the rights and privileges herein granted, including without limitation by reason of enumerations, taxes, permit fees, license fees, and assessments lawfully levied or assessed and that it will secure all such permits and licenses.
- j) Indemnification. Concessionaire agrees to indemnify, defend, and hold harmless Airport from and against any and all claims, demands, suites judgments, costs, and expenses asserted bay any person or persons, including agents or employees of Concessionaire, by reason of death or injury to persons, or loss of damage to property, resulting from Concessionaire's operation hereunder, or sustained in or upon the Airport premises or as the result of anything claimed to be done or omitted to be done by Concessionaire hereunder.
- k) Insurance. Concessionaire shall obtain and maintain continuously in effect at all times during the term hereof, at Concessionaire's sole expense, general liability insurance protecting Airport against liability which may accrue against Airport by reason of Concessionaire's wrongful conduct incident to the use of the Airport premises or resulting from any accidents occurring on or about the roads, driveways, other public places used by Concessionaire at the Airport in the operations hereunder. Such insurance must be in the minimum amount of \$1,000,000 per occurrence of bodily injury and the minimum sum of \$100,000 covering property damage, or \$1,000,000 combined single limit and shall contain, or be endorsed to contain, the following provision: *"City of Rapid City and the Rapid City Regional Airport Board, individually and collectively, and its representatives, officers, officials, employees, agents, and volunteers are to be covered as*

Exhibit A

additional insured.” Concessionaire shall also, without cost to Airport, obtain and maintain on its courtesy vehicle, during the term hereof, automobile public liability insurance providing against loss of damage to persons or property from operation hereunder with minimum liability limits of \$1,000,000 for bodily injury to or death of any one person in any one accident, and liability of \$500,000 for bodily injury to or death of two or more persons in any one accident, and \$100,000 for damage to property in any one accident, or \$500,000 combined single limit. Concessionaire shall provide certificates evidencing all such insurance to Airport. Airport acknowledges that vehicles in the possession of a rental customer driving a vehicle under a rental contract are provided the minimum insurance requirements as provided under the laws of the State of South Dakota. The aforesaid dollar amount and coverage may be adjusted throughout the term of this lease by the Airport if it determines additional coverage is needed.

11. Airport shall:

- a) Maintain and operate with adequate and efficient personnel or contractors and to keep in good repair the Airport and passenger terminal building and appurtenances, facilities, and parking areas.
- b) Keep Airport and passenger terminal building and appurtenances, facilities and parking areas free from obstructions for the safe, convenient and proper use thereof by Concessionaire.
- c) Maintain and operate the Airport in all respects equal to the highest rating issued by the Federal Aviation Administration for comparable airports and in accordance with all rules and regulations of any federal, state, or local governmental agency having jurisdiction thereof.
- d) Provide Concessionaire’s customers the use in common with others of all public space in the passenger terminal building and keep areas attractively furnished.
- b) Provide adequate parking for vehicles dropped off at the Airport and shall keep said parking area well maintained and plowed during snow season.

13. In the event that the United States Government or any of its agencies shall occupy the Airport or any substantial part thereof to such an extent as to materially interfere with Concessionaire’s operations, or in the event of destruction by fire or other cause of all or a material portion of the Airport or the Airport facilities, or if Concessionaire’s operations shall for any reason, similar or dissimilar, be materially interfered with for a period in the excess of thirty (30) days, then, and in any of these events, Concessionaire shall have the right upon written notice to Airport to terminate this Agreement and Concessionaire’s further obligations hereunder.

14. Any notice or communication to Airport or Concessionaire shall be deemed validly served upon deposit in the United States mail, registered and proper postage prepaid, addressed to

Exhibit A

the respective party at the address as either party may designate to the other by notice in accordance with the provision hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by the duly authorized officers as of the day and year first above written.

RAPID CITY REGIONAL AIRPORT BOARD

OFF SITE CAR RENTAL COMPANY

\_\_\_\_\_  
Dustin Dale, President

\_\_\_\_\_  
Printed Name & Title

Attest:

\_\_\_\_\_  
Bob Conway, Secretary

**EXHIBIT "A"**

**CIVIL RIGHTS NON-DISCRIMINATION**

1. In all its activities within the scope of its airport program, CONCESSIONAIRE agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If CONCESSIONAIRE transfers its obligation to another, the transferee is obligated in the same manner as CONCESSIONAIRE. This provision obligates CONCESSIONAIRE for the period during which the property is used or possessed by CONCESSIONAIRE and the Airport remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.
2. During the performance of this Agreement, CONCESSIONAIRE for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities:
  - A. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
  - B. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
  - C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
  - D. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

## Exhibit A

- E. The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- F. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- G. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- H. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101 *et seq.*), (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681 *et seq.*).

## Exhibit A

3. CONCESSIONAIRE, including 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 (1) no person on the ground of race, color, or national origin, will 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 ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that CONCESSIONAIRE will use the premises in compliance with all other requirements imposed by or pursuant to the List of non-discrimination Acts and Authorities. In the event of breach of any of the above nondiscrimination covenants, AIRPORT will have the right to terminate this Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if the Agreement had never been made or issued.
4. During the performance of this Agreement, CONCESSIONAIRE, for itself, its assignees, and successors in interest, agrees as follows:
  - A. Compliance with Regulations: CONCESSIONAIRE (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
  - B. Nondiscrimination: CONCESSIONAIRE, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. CONCESSIONAIRE will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
  - C. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by



## Exhibit A

CONCESSIONAIRE for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by CONCESSIONAIRE of contractor's obligations under this Agreement and the Nondiscrimination Acts and Authorities.

- D. Information and Reports: CONCESSIONAIRE will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AIRPORT or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, CONCESSIONAIRE will so certify to AIRPORT or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of CONCESSIONAIRE'S noncompliance with the non-discrimination provisions of this Agreement, AIRPORT will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to, cancelling, terminating, or suspending this Agreement, in whole or in part.
- F. Incorporation of Provisions: CONCESSIONAIRE will include the provisions of this subsection in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. CONCESSIONAIRE will take action with respect to any subcontract or procurement as AIRPORT or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if CONCESSIONAIRE becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, CONCESSIONAIRE may request AIRPORT to enter into any litigation to protect the interests of AIRPORT. In addition, CONCESSIONAIRE may request the United States to enter into the litigation to protect the interests of the United States.