

**ON-AIRPORT NON-EXCLUSIVE RENTAL CAR  
CONCESSIONS AGREEMENT**

This “On-Airport Non-Exclusive Rental Car Concessions Agreement”, herein called the “Agreement”, is entered into, by and between AVIS BUDGET CAR RENTAL, LLC (dba AVIS CAR RENTAL AND BUDGET CAR RENTAL), a Delaware limited liability company authorized to conduct business in the State of California herein called “CONCESSIONER”, and the COUNTY OF HUMBOLDT, a political subdivision of the State of California, herein called “COUNTY”, and is made on the last date signed below for the following consideration:

WHEREAS, COUNTY owns, controls, operates and maintains an airport known as the California Redwood Coast-Humboldt County Airport (ACV), hereinafter called “Airport”, with the power to grant rights and privileges with respect thereto; and

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

WHEREAS, pursuant to Government Code Section 25536, the Board of Supervisors, by a four-fifths vote, may enter into leases, or concession or managerial contracts at a county airport property without competitive bidding; and

WHEREAS, CONCESSIONER is fully qualified to conduct a rental car concession, currently offers passenger automobile rental services at several other California airports and desires to operate a rental car concession in the Airport terminal for its on-airport car rental service;

NOW, THEREFORE, for and in consideration of the privileges, premises, mutual covenants and agreements contained herein, COUNTY and CONCESSIONER agree as follows:

**I. CONCESSIONER’S RIGHTS, PRIVILEGES AND OBLIGATIONS**

**A. COMPANY STATUS**

1. CONCESSIONER represents and affirms it is a limited liability company in good standing in the State of Delaware, is duly qualified in good standing to do business in/under the laws of the State of California, is not in violation of any provision of its governing documents (e.g., articles of incorporation, bylaws, company agreement, etc.), has full power to own its properties and conduct its business, has full legal right, power and authority to enter into this Agreement and to consummate all transactions contemplated hereby and by proper action has duly authorized the execution and delivery of this Agreement.

2. CONCESSIONER is an entity doing business as Avis Car Rental, Budget Car Rental, Payless Car Rental and Zipcar.

**B. USE OF PREMISES**

1. In exchange for the fees agreed upon in this Agreement, CONCESSIONER shall have the non-exclusive right, privilege and obligation to conduct a rental car business at the Airport for the benefit and convenience of County Airport patrons in accordance with this Agreement and functions incidental and related thereto. CONCESSIONER shall not engage in any other business at the Airport.

2. CONCESSIONER shall have the right, for itself, its agents, employees, patrons, suppliers and other persons doing business with CONCESSIONER, of ingress and egress to and from CONCESSIONER's facilities at the Airport, over Airport roadways, including the use of the roadways, subject only to law and such reasonable rules, regulations and use restrictions as the Airport Director may establish.

3. CONCESSIONER shall have the obligation, where required, to hold a license, franchise, agency agreement or other form of consent from CONCESSIONER and to do business at the Airport under the trade name and style of that CONCESSIONER.

4. CONCESSIONER'S approved operation at the Airport shall be exclusively limited to the pickup and drop off of CONCESSIONER'S on airport rental car operations.

a. CONCESSIONER is not authorized to perform any other services on Airport premises, nor the transportation of persons for purposes other than the on-Airport rental of cars from CONCESSIONER.

b. The method and arrangements for operating on-Airport shall be subject to procedures established by the Airport Director or his/her authorized representative.

5. All of CONCESSIONER's operations shall be in accordance with the laws of the Federal Government and the State of California, rules, regulations, procedures, and Chapter 5, Division 6, Title 2 of Humboldt County Code Section 265-1, et seq., the regulations of the Federal Aviation Administration, Transportation Security Administration and the Department of Transportation, and the requirements of any other duly authorized government agency.

6. CONCESSIONER shall, within reason, control the conduct, demeanor and appearance of its employees and, upon reasonable objection from the Aviation Director concerning the conduct, demeanor or appearance of any such person, immediately take all reasonable steps necessary to remove the cause of the objection.

7. CONCESSIONER shall commit no nuisance, waste or injury, and shall not do, or permit to be done, anything which may result in the creation, commission or maintenance of such nuisance, waste or injury on the Airport premises.

8. CONCESSIONER shall not produce on the Airport through the operation of machinery or equipment any electrical, electronic or other disturbance that interferes with the Airport operations by the COUNTY, the Federal Aviation Administration or the scheduled airlines, of air navigational, communication or flight equipment on the Airport or on aircraft using the Airport, or with ground transportation communications.

9. CONCESSIONER shall not permit rubbish, debris, waste materials or anything unsightly or detrimental to health, or likely to cause a fire hazard, or conducive to deterioration, to remain on any portion of the premises used by CONCESSIONER or to

be properly disposed of in provided receptacles.

10. CONCESSIONER shall not engage in the maintenance, servicing or storage of rental cars which are not intended to be rented or returned to the CONCESSIONER at the Airport, or which are intended for retail sale to the public.

11. CONCESSIONER is prohibited from selling fuel to any person or entity not renting a rental car and is prohibited from servicing, parking or storing any vehicles other than those rental cars used by CONCESSIONER in its business at the Airport.

12. COUNTY reserves the right to adopt, amend and enforce reasonable rules, regulations and minimum standards governing the Airport and the accommodations granted to CONCESSIONER.

## **II. TERM**

A. The term of this Agreement shall commence upon acceptance by the Board of Supervisors and shall terminate one (1) year from date of commencement.

B. Either party may exercise its option to renew this Agreement for one additional five (5) year period, upon the terms and conditions herein or as otherwise mutually agreed upon by the Parties in writing, provided that in to event shall this Agreement remain in force beyond six (6) years from approval by the Board of Supervisors.

1. Written notice of either Party's intent to extend this Agreement shall be provided no less than sixty (60) days before the end of the original term.

2. Both Parties must mutually agree in writing to the extension on the same terms and conditions of this Agreement or written modification for the additional five (5) year period.

C. No notice to cease operations at the termination date of the Term of this Agreement shall be necessary.

D. CONCESSIONER covenants and agrees that at the Termination Date of the Term of this Agreement or earlier termination thereof, CONCESSIONER, of its own accord, shall peaceably cease its operations at the Airport and vacate the premises.

E. Any holding over with COUNTY'S consent beyond the term of this Agreement shall be on a month-to-month basis until terminated by either party upon thirty (30) days written notice prior to the end of any one (1) month period by either party.

## **III. RENTAL, CONCESSION FEES AND OTHER CHARGES.**

CONCESSIONER shall pay to COUNTY a concession fee for the rights and privileges herein granted as follows:

A. Rent. Commencing on the date last signed by the parties, CONCESSIONER shall pay rent consisting of a monthly sum calculated on the basis of One Dollar and Seventy-Five Cents

(\$ 1.75) per square foot for rental of terminal space. This rate will be adjusted annually by Consumer Price Index (CPI).

B. Gross Receipts. For each calendar month during this Agreement, CONCESSIONER shall pay COUNTY an on-airport car rental concession fee equal to ten percent (10%) of CONCESSIONER'S gross receipts or as stipulated in the annual County Fee Schedule (the "Minimum Guarantee"), whichever is greater. The Minimum Guarantee or ten percent (10%) of gross receipts for the preceding calendar month, whichever is greater, is due by the 10<sup>th</sup> day of each following month. If said fee is not paid by the tenth day of the following month, a late fee of 10% of the unpaid amount shall be charged.

1. "Gross receipts" means all revenues which CONCESSIONER receives in cash or credit under rental transactions it secures through its operations at the Airport or derives from the rental of rental cars to Airport patrons.

2. There must be no deductions to gross receipts for the payment of franchise taxes, sales and excise taxes, or taxes levied on concessions activities, facilities, equipment, or real or personal property of CONCESSIONER.

3. CONCESSIONER shall have the right to conduct its rental car business at the Airport as authorized under this Agreement on a credit basis; provided, however, that the risk of such operation shall be borne solely by CONCESSIONER.

4. CONCESSIONER shall report all income, both cash and credit, in its monthly statements of gross receipts.

C. Parking Spaces. For each parking space allocated to the CONCESSIONER in the rental car customer lot, CONCESSIONER shall pay to COUNTY a monthly fee of fifty dollars per space, per month (\$50/space/month). This rate will be adjusted annually by CPI.

D. Statement. The aforesaid concession fee shall be accompanied by a written statement showing, in a manner satisfactory to COUNTY, the manner in which the gross receipts were calculated. The term "gross receipts", as used herein, shall mean the time and mileage charges, whether by cash or credit, received for rental of automobiles by CONCESSIONER hereunder whenever CONCESSIONER picks up or delivers people to and from said Airport.

E. Within ninety (90) days following the close of each annual term of this Agreement, CONCESSIONER shall furnish to the COUNTY a sworn statement certified by an independent certified public accountant or firm of certified public accountants showing the total gross receipts at the Airport for said annual period and stating the gross receipts collections have been correctly reported in accordance with the terms of this Agreement.

F. Security Deposit. COUNTY shall not require a security deposit nor a portion of the Minimum Guarantee as a security deposit under this Agreement.

G. Place & Manner of Payment. CONCESSIONER shall make payment in legal tender of the United States of America at the office of the COUNTY's Aviation Department, 3561 Boeing Ave., McKinleyville, CA 95519, Attn: Accounts Receivable.

H. Customer Facility Charges. COUNTY does not currently administer a Customer

Facility Charge (CFC) to rental car entities. Nothing within this Agreement shall prevent the COUNTY from developing a CFC during the term of this Agreement, and CONCESSIONER shall not unreasonably withhold its consent to amend this Agreement accordingly.

#### **IV. CONCESSIONER'S RECORDS AND ACCOUNTS**

A. CONCESSIONER shall maintain its accounting records in accordance with generally accepted accounting principles.

B. CONCESSIONER shall properly and accurately record the gross receipts on all sales and services made by CONCESSIONER under this Agreement. Such accounting records shall be maintained in a manner to provide detailed records related to Airport transactions separate and apart from other business activities of CONCESSIONER.

C. RECORD RETENTION. CONCESSIONER agrees it will make available to the COUNTY within ten (10) business days of written request, the books and records of accounts of CONCESSIONER for the last two (2) months completed operations showing the information determining gross revenues.

1. Upon the COUNTY's prior written notice such books and records of accounts shall be made accessible to COUNTY or its duly authorized agents or auditors, during regular business hours only for the purpose of verifying compliance by CONCESSIONER with the terms of this Agreement.

2. In the event the COUNTY determines that the auditors need to travel to the CONCESSIONER's location where the books and records are maintained, CONCESSIONER shall pay for the reasonable and customary travel and other incidental costs incurred by COUNTY's auditors.

3. CONCESSIONER shall maintain its books and records regarding this contract for three (3) years after the termination of this Agreement.

#### **D. COUNTY'S RIGHT TO AUDIT STATEMENTS AND REPORTS.**

COUNTY shall have the right of confidential review of records and the right to audit the accounts and records of CONCESSIONER. All relevant accounts and records of CONCESSIONER shall be made available at a location in Humboldt County within ten (10) days of a request by COUNTY. If a discrepancy of five percent (5%) or more is found in gross receipts reported to COUNTY, the cost of the audit and the discrepancy shall be borne by CONCESSIONER within thirty (30) days of notice.

#### **E. POSSESSORY INTEREST**

Any interest in real property which exists as a result of possession or a right of possession of any real property (land and/or improvements located therein or thereon), which is owned by the COUNTY is a taxable possessory interest, unless the possessor of interest in such property is exempt from taxation. With regard to any possessory interest to be acquired by CONCESSIONER, CONCESSIONER by its signature affixed to this Agreement, warrants, stipulates, confirms,

acknowledges and agrees that, prior to its executing this Agreement, concessioner either took a copy hereof to the office of the Humboldt County Tax Assessor or by some other appropriate means, independent of COUNTY determined how much CONCESSIONER shall be taxed, if at all.

## **V. CONCESSIONER'S OPERATIONS**

A. CONCESSIONER agrees that it shall provide rental car services which are generally equal in quality in an accessible manner for all Airport patrons and air travelers. CONCESSIONER shall perform the permitted services by adhering standards of excellence in operations including but not limited to:

1. CONCESSIONER will be open for and will conduct business and furnish services seven (7) days per week, at a minimum, for each arriving airline flight scheduled for that day, from fifteen (15) minutes prior to each daily arrival to thirty (30) minutes after each daily arrival.

a. The schedule of business hours so established shall be subject to review upon written request of CONCESSIONER to COUNTY through the Aviation Director.

b. Upon review, the Aviation Director may require an expansion or allow reduction of the hours of operation as public demand requires.

c. Hours shall be adjusted daily, as necessary, for delayed flight arrivals.

2. CONCESSIONER will select and appoint a manager of the CONCESSIONER's operation at the Airport who must be a qualified and experienced manager or superior vested with full power and authority with respect to the conduct of the rental car operations at the Airport.

3. CONCESSIONER's personnel performing services under this Agreement to Airport patrons shall be distinctively uniformed, neat, clean and courteous.

4. CONCESSIONER must provide and maintain rental cars made available hereunder at the CONCESSIONER's sole expense, in good operative order, free from known mechanical defects, and in a clean and neat condition inside and out.

5. A current copy of the rental car agreement form covering the use of the concessioner's rental cars shall at all times be available to the Aviation Director.

6. Any action taken by the CONCESSIONER intentionally to diminish the gross revenue of the CONCESSIONER under this Agreement shall constitute a material breach hereof and be cause for termination of the Agreement by the COUNTY.

## **B. AIRPORT MAINTENANCE, REPAIRS, AND IMPROVEMENTS**

1. COUNTY reserves the right, but shall not be obligated to CONCESSIONER, to maintain, repair, or improve runways, taxiways, parking area, or any other part of said Airport.

2. CONCESSIONER waives any and all claims against COUNTY for any loss of profit or increased costs due to COUNTY'S maintenance, repair, or improvements on or about said Airport.

C. SECURITY

CONCESSIONER shall comply with the Code of Federal Regulations (CFR) Title 49 Chapter XII Part 1544 and the Transportation Security Administration (TSA) approved Airport Security Program. COUNTY shall abide by CFR Title 49 Chapter XII Part 1542 and CONCESSIONER shall abide by any programs implemented by COUNTY as it relates to its operations.

D. EXEMPTION OF COUNTY. CONCESSIONER warrants, covenants and agrees that COUNTY shall not be liable for injury to CONCESSIONER's business or any loss of income therefrom or from damage to the goods, wares, merchandise or other property located in, upon or about the Airport, whether belonging to CONCESSIONER, or any employee, agent, contractor, sub-contractor, tenant, or any person whomsoever.

1. The COUNTY shall not be liable for any injury to CONCESSIONER's employees, agents, contractors, subcontractors or invitees,

2. CONCESSIONER agrees the COUNTY shall not be liable for any damages arising from any act or neglect on the part of any third party.

E. SIGNS.

1. CONCESSIONER shall be required to provide, at its own cost and expense, any directional or service identification signs, which bear the CONCESSIONER'S name and/or logo and/or brand.

2. CONCESSIONER shall obtain any permits or approvals required for such signs and shall bear the costs and expenses pertaining to the construction, installation, maintenance, repair and removal of any and all such signs.

3. Any and all such signs shall be professionally fabricated and installed in accordance with plans and specifications on file with the aviation Director. These signs shall remain the property of the CONCESSIONER, and upon termination of this Agreement, all such signs shall be removed by CONCESSIONER at CONCESSIONER's expense and replaced with blank media.

4. Any damage caused to the premises from the removal of signs shall be repaired by the CONCESSIONER.

F. LEASED SPACE MODIFICATIONS AND MAINTENANCE

1. CONCESSIONER shall be required to make any improvements, at their sole cost and expense, to the leased space, parking lots, wash facilities, and/or any other spaces they utilize prior to the commencement of operations.

2. CONCESSIONER shall provide the Aviation Director and/or his/her designee with modification plans prior to any improvement work commencing and shall obtain, in writing, the Aviation Director and/or his/her designee's approval for said modifications.

3. CONCESSIONER shall be responsible for the cleaning and maintenance of said spaces and will implement repairs, at their sole expense, at the request of the Director of Aviation and/or his/her designee to clean and maintain the space

- in good condition throughout the life of this Agreement.
4. CONCESSIONER shall be responsible for all costs and expenses for repairs deemed necessary to spaces utilized by their operation at the expiration, or termination, of this Agreement at the request of the Aviation Director and/or his/her designee.

## **VI. INDEMNIFICATION & INSURANCE**

A. CONCESSIONER shall indemnify, defend and hold harmless COUNTY and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with CONCESSIONER'S duties and obligations under this Agreement and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. Acceptance of insurance does not relieve CONCESSIONER from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by CONCESSIONER'S operations regardless if any insurance is applicable or not.

### **C. CONCESSIONER'S INSURANCE**

1. This agreement shall not be executed by COUNTY and CONCESSIONER is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors

2. Without limiting CONCESSIONER'S indemnification obligations provided for herein, CONCESSIONER shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Agreement and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current AM Bests rating of no less than A. VII or its equivalent in against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of CONCESSIONER, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

a. Comprehensive or Commercial General Liability Insurance: Comprehensive or General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of two million dollars (\$2,000,000) for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.

b. Workers Compensation Insurance Compensation Coverage:  
If required by California Law, and in accordance with the statutory limits set forth therein, said policy shall contain or be endorsed to contain a waiver of subrogation against COUNTY, its officers, agents, and employees and provide for thirty (30) days prior written notice



in the event of cancellation.

c. Automobile Liability Insurance:

With coverage at least as broad as Insurance Services Office Form CA 0001 06092, Code 1 (any auto), for vehicles used in the performance of this Agreement with minimum coverage of not less than two million dollars (\$2,000,000) per accident combined single limit (CSL). Such policy shall contain or be endorsed with the provision that coverage shall not be cancelled or materially reduced in coverage without thirty (30) days prior written notice, ten (10) days for non-payment of premium, to COUNTY by certified mail.

3. SPECIAL INSURANCE REQUIREMENTS

Said policies shall unless otherwise specified herein be endorsed with the following provisions.

a. The Comprehensive General Liability Policy shall provide that COUNTY, its officers, officials, employees, and volunteers are endorsed as additional insured for liability arising out of the operations performed by or on behalf of CONCESSIONER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:

- i. Includes contractual liability.
- ii. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- iii. Is primary insurance as regards to County of Humboldt.
- iv. Does not contain a pro-rata, excess only, and/or escape clause.
- v. Contains a cross liability, severability of interest or separation of insureds clause.
- vi. Shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section IX.A, below. It is further understood that CONCESSIONER shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.
- vii. Is primary coverage to COUNTY, and insurance or self-insurance programs maintained by COUNTY are excess to CONCESSIONER'S insurance and will not be called upon to contribute with it until the primary coverage is exhausted.

b. CONCESSIONER shall furnish COUNTY with certificates and original endorsements affecting the required coverage prior to execution of this Agreement by COUNTY. The endorsements shall be on forms as approved by COUNTY'S Risk Manager or County Counsel. Any deductible or self-insured retention over one hundred thousand dollars (\$100,000) shall be disclosed to and approved of by COUNTY. If CONCESSIONER does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONCESSIONER agrees to pay

the cost of said insurance.

c. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and CONCESSIONER shall be required to purchase additional coverage to meet the aggregate limits set forth above.

d. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

e. Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to CONCESSIONER, COUNTY, their officers, officials, employees, and volunteers.

## **VII. TERMINATION**

A. Except as provided elsewhere herein, COUNTY reserves the right to terminate this Agreement on seven (7) days written notice for any cause or reason provided by the Agreement itself, or by law, or upon the happening of one or more of the following:

1.. Filing a petition of voluntary or involuntary bankruptcy with respect to the CONCESSIONER.

2. The making by CONCESSIONER of any general assignment for the benefit of creditors.

3. The abandonment or discontinuance of any operation or activity which CONCESSIONER has agreed to provide under the terms of the Agreement. If this condition exists for a period of ten (10) days without prior written consent of the COUNTY, it will constitute an abandonment of the land or facilities and of this Agreement.

4. The failure of CONCESSIONER to pay promptly when due all rents, charges, fees, or other payments in accordance with this Agreement.

5. The failure of CONCESSIONER to remedy any default, breach, or violation of COUNTY'S Airport rules and regulations by it or its employees.

6. Violation of any of the provisions of this Agreement or failure to maintain current licenses required for its operation.

7. Intentionally supplying COUNTY with false or misleading information or misrepresenting any material fact on its application or documents, or in its statement to or before COUNTY, or intentional failure to make full disclosure on its financial statement or other documents.

B. COUNTY may terminate this Agreement without cause upon sixty (60) days advance written notice which states the effective date of the termination.

C. CONCESSIONER may terminate this contract for cause on seven (7) days written notice provided COUNTY has previously been given five (5) business days to cure any event of default CONCESSIONER gives COUNTY written notice of and COUNTY failed to cure said event of default.

## **VIII. DEFAULT AND REMEDIES**

### **A. CONCESSIONER'S DEFAULT**

Except where another time limit is specifically provided in this Agreement, CONCESSIONER shall be in default of this Agreement if it fails or refuses to perform any material provision of this Agreement that it is obligated to perform if the failure to perform is not cured within ten (10) calendar days after written notice of the default has been given by COUNTY to CONCESSIONER. If the default cannot reasonably be cured within ten (10) days, CONCESSIONER shall not be in default of this Agreement if CONCESSIONER commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default.

### **B. COUNTY'S REMEDIES ON CONCESSIONER'S DEFAULT**

COUNTY, at any time after CONCESSIONER is in default, may terminate this Agreement or may cure the default at CONCESSIONER'S expense. If COUNTY at any time, by reason of CONCESSIONER'S uncured default, pays any sum or does any act that requires the payment of any sum, the sum paid by COUNTY to cure the default shall be due from CONCESSIONER to COUNTY within five (5) business days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate COUNTY is permitted by law to charge from the date the sum is paid by COUNTY until COUNTY is fully reimbursed by CONCESSIONER. The remedies set forth in this Section are in addition to and do not in any manner limit other remedies set forth in particular sections of this Agreement or at law.

### **C. BREACH**

In the event of breach of this Agreement by either party, the non-breaching party shall have all rights and remedies provided by law.

### **D. CUMULATIVE REMEDIES.**

Each right and remedy of COUNTY provided for in this Section or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and shall not preclude COUNTY from exercising any other rights or from pursuing any other remedies provided for in this Agreement or now or hereafter available to COUNTY under the laws or judicial decision of the State of California.

## **IX. GENERAL TERMS**

### **A. NOTICE**

#### **1. General Contract Matters:**

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and may be served personally, sent by certified mail, return receipt requested, or by electronic mail with the date and time embedded in the message header to the respective addresses set forth below. Notice shall be

effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

**CONCESSIONER:**

Avis Budget Car Rental, LLC  
6 Sylvan Way, 3rd Floor  
Parsippany, NJ 07054

**Contact:**

Don Pierce  
1611 W. Vista Way  
Vista, CA 92083

**COUNTY:**

County of Humboldt  
Department of Aviation  
3561 Boeing Avenue  
McKinleyville, CA 95519  
E-mail: aviation@co.humboldt.ca.us

All insurance notifications shall also be addressed to:

County of Humboldt  
Attn: Human Resources - Risk Management  
825 5<sup>th</sup> Street, Room 131  
Eureka, CA 95501

Each party may at any time change its address for notice by giving written notice of such change to the other party in the manner provided in this Section.

2. Emergency Contacts: CONCESSIONER shall provide to Aviation Director, and keep current, a list of telephone numbers and street addresses of managerial personnel for emergency use.

6:00 a.m. – 6:00 p.m. Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
e-mail: \_\_\_\_\_

6:00 p.m. – 6:00 a.m. Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
e-mail: \_\_\_\_\_

**B. FORCE MAJEUR**

1. **LABOR STRIKE**

In the event all service by the air carrier(s) ceases due to third-party labor strike the minimum guarantee shall be waived, at the request of CONCESSIONER, for the actual days the carrier(s) is not serving Airport. In lieu of the minimum, CONCESSIONER shall pay ten percent (10%) of gross receipts.

2. **ACTS OF GOD, WAR/TERRORISM AND OTHER CASUALTIES** COUNTY shall not be responsible for monetary losses or damage to personal property, equipment, or materials of CONCESSIONER caused by Acts of God, fire, epidemics, labor strikes, or public

enemy including but not limited to acts of war and/or terrorism. CONCESSIONER hereby waives any claims for damages against COUNTY resulting from said acts.

C. ASSIGNMENT

1. COUNTY'S prior written consent to CONCESSIONER'S transfer, assignment, or hypothecation of this Agreement or a portion thereof for similar and compatible use shall be required. Any such approved transfer, assignment, or hypothecation of this Agreement, however, shall not alter, affect, defeat or diminish CONCESSIONER'S liability and responsibility under the Agreement.

2. Prior to any assignment of this Agreement, COUNTY shall be paid a five hundred dollar (\$500) non-refundable fee to offset personnel time required to review and process the proposed assignment.

D. NON-DISCRIMINATION AND COMPLIANCE WITH LAWS

1. NON-DISCRIMINATION AND AFFIRMATIVE ACTION PROVISIONS - FAA RULES. CONCESSIONER assures that it will undertake an affirmative action program as required by federal and state regulations, to ensure that no person shall, on the grounds of race, color, religion, sex, sexual orientation, gender identity, or national origin, be excluded from participating in any employment activities. CONCESSIONER assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered under this subpart. CONCESSIONER assures that it will require that its covered sub-organizations provide assurance to COUNTY that they similarly will require assurances from their sub- organizations, as required by federal and state regulations, to the same effect.

2. COMPLIANCE WITH FAA, STATE, AND COUNTY REGULATIONS. CONCESSIONER agrees to abide by all FAA rules and regulations pertaining to the non-exclusive operation of the on-airport rental car concession.

3. CONCESSIONER and its officers, agents, and employees shall carry on their activities and operations at the Airport in compliance with Federal Laws and Federal Aviation Administration regulations, State statutes, and the rules and regulations governing the use of the Airport and all other applicable COUNTY ordinances and regulations.

E. NON-EXCLUSIVE RIGHTS

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S. Code Sections 40103(e) and 47107(a)(4).

F. CONCESSIONER NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY

While engaged in carrying out and complying with the terms and conditions of this Agreement, CONCESSIONER is an independent contractor and not an officer, employee, or agent of COUNTY. No joint venture, limited partnership or other collaborative business entity is formed amongst the parties by this Agreement.

G. ATTORNEYS' FEES

If either party is in breach of this Agreement and the non-breaching party commences any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorneys' fees (including reasonable value of services rendered by County Counsel) including on appeal, if any. As used herein, "the party prevailing" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

H. WAIVER OF BREACH

The waiver by COUNTY of any breach of any provisions of this Agreement shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this Agreement.

I. BINDING EFFECT

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, successors, and assigns.

J. AGREEMENT MODIFICATION

This Agreement may be modified or amended only by subsequent written agreement signed by COUNTY and CONCESSIONER.

K. JURISDICTION AND VENUE

This Agreement shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the courts of the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure, Sections 394 and 395.

L. ACCORD AND SATISFACTION.

No payment by CONCESSIONER or receipt by COUNTY of a lesser amount than the rent, fees and/or charges due to be made by CONCESSIONER hereunder shall be deemed to be other than on account of the rent, fees and/or charges due. No endorsement or statement on any check or in any letter accompanying any check or payment as rent, fees and/or charges shall be deemed an accord and satisfaction. COUNTY may accept such check and payment without prejudice to COUNTY's right to recover the balance of such rent, fees and/or charges or to pursue any other remedy provided in this agreement.

**M. INTERPRETATION**

As this Agreement was jointly prepared by both parties, the language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

**N. SEVERABILITY OF PROVISIONS**

In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this agreement shall be valid unless the court finds that the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provision 9s0 that it cannot be presumed that the parties to this Agreement could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions standing alone are incapable of being performed in accordance with the intention of the parties.

**O. CONFLICTS OF INTEREST**

CONCESSIONER certifies that no officer or employee of COUNTY has, or will have, a direct or indirect financial or personal interest in this Agreement, and that no officer or employee of COUNTY or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of CONCESSIONER in this Agreement.

**P. ENTIRE AGREEMENT**

This Agreement, together with all documents referenced herein and any exhibits attached thereto, constitutes the entire Agreement between the parties. All other representations or statements heretofore made, verbal or written, are merged herein. Anything not contained in this Agreement and alleged to have been discussed or stated between the parties did not reach the final Agreement.

**X. SPECIAL TERMS**

**A. NO SMOKING ORDINANCE**

Pursuant to Humboldt County Code Section 971-1 et seq., COUNTY owned premises are smoke free. CONCESSIONER shall comply with said provision.

**B. NUCLEAR FREE CLAUSE**

CONCESSIONER certifies by its signature below that CONCESSIONER is not a nuclear weapons contractor, in that CONCESSIONER is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONCESSIONER agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this Agreement if it

determines that the foregoing certification is false or if CONCESSIONER becomes a nuclear weapons contractor.

**C. MODIFICATION FOR GRANTING FAA FUNDS/BOND REIMBURSEMENT.**

In the event the FAA requires modification or changes to this Agreement, CONCESSIONER agrees to consent to such reasonable amendments, modifications, revisions, supplements or deletions of any terms, conditions or requirements of this agreement as reasonably may be required to enable COUNTY to obtain FAA funds.

**IN WITNESS WHEREOF**, this Agreement has been executed by the parties hereto upon the date first written above.

**CONCESSIONER:**

**COUNTY OF HUMBOLDT**

**AVIS BUDGET CAR RENTAL, LLC (dba  
AVIS CAR RENTAL & BUDGET CAR  
RENTAL)**

BY: *Paul Muller*

BY: \_\_\_\_\_  
CHAIRPERSON,

NAME: ~~Anne D. Morrison~~ *Paul Gallagher*  
*Assistant Secretary*  
TITLE: ~~Vice President Properties & Facilities~~

BOARD OF SUPERVISORS  
COUNTY OF HUMBOLDT  
STATE OF CALIFORNIA

DATE: *4/24/2023*

DATE: \_\_\_\_\_

INSURANCE CERTIFICATES  
REVIEWED AND APPROVED:

BY *Krista Freeman* *5-2-2023*  
RISK MANAGEMENT