

AN ORDINANCE 2008-01-17-0024

AUTHORIZING THE EXECUTION OF A SEVEN-YEAR LEASE AGREEMENT WITH AVIS RENT A CAR SYSTEM, LLC FOR 135,907 SQUARE FEET OF GROUND SPACE AND 6,949 SQUARE FEET OF BUILDING SPACE AT SAN ANTONIO INTERNATIONAL AIRPORT, EFFECTIVE FEBRUARY 1, 2008, WITH ASSOCIATED ANNUAL RENTALS OF \$248,058.

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WHEREAS, Avis Rent A Car System, LLC (Avis) must relocate from its current premises at San Antonio International Airport ("SAT") due to the future expansion of San Antonio Aerospace at SAT; and

WHEREAS, the Aviation Department has negotiated a seven-year lease agreement with Avis for 135,907 square feet of ground space and 6,949 square feet of building space; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee is authorized to execute the attached Lease Agreement with Avis Rent A Car System, LLC.

SECTION 2. Funds generated by this ordinance are to be deposited into Fund 51001000 Aviation Operations and Maintenance, Internal Order 233000000004 Aviation Service Area, General Ledger 4409016 Aviation Building Rental.

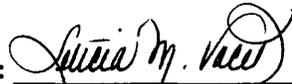
SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

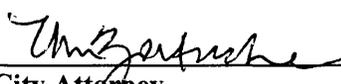
SECTION 4. This Ordinance shall take effect immediately upon passage by eight (8) affirmative votes; otherwise it shall be effective ten (10) days after its passage.

PASSED AND APPROVED this 17th day of January, 2008.


M A Y O R

PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney

Agenda Item:	9 (in consent vote: 7, 9, 10, 13, 15, 16, 17)						
Date:	01/17/2008						
Time:	11:27:46 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a seven-year lease agreement, commencing February 1, 2008, with Avis Rent A Car System LLC for 135,907 square feet of ground space and 6,949 square feet of building space San Antonio International Airport with associated annual rentals of \$248,058.39. [Penny Postoak Ferguson, Assistant City Manager; Mark Webb, Director, Aviation]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
District 3	District 3		x				
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				x
District 9	District 9		x				
John G. Clamp	District 10		x			x	



CMS or Ordinance Number: CN0040002620

TSLGRS File Code:1000-25

Document Title:
CONT - Avis Rent a Car

Commencement Date:

7/1/2008

Expiration Date:

6/30/2013

SAN ANTONIO INTERNATIONAL AIRPORT LEASE

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This San Antonio International Airport Lease (hereinafter "Lease") is entered into by and between the **CITY OF SAN ANTONIO**, a Texas Municipal Corporation, acting by and through its City Manager, pursuant to Ordinance No. 2008-01-17-0024, adopted on JANUARY 17, 2008 ("Lessor" or the "City") and **AVIS RENT A CAR SYSTEM LLC**, a Delaware limited liability company, duly authorized to do business in Texas, (hereinafter "Lessee"), acting by its authorized officer pursuant to its articles of organization and bylaws, **WITNESSETH:**

WHEREAS, Lessee is a current tenant at the San Antonio International Airport of the real property having the street address of 9603 John Saunders Road, San Antonio, Texas, 78216, under Lease No. 132054 (the "Existing Lease"), and operates therefrom a retail rental car facility; and

WHEREAS, the City has elected, pursuant to its rights under the Existing Lease, to recapture the premises subject to the Existing Lease; and

WHEREAS, the City and Lessee have agreed that Lessee shall be permitted to lease certain ground space and existing buildings thereon located at the San Antonio International Airport, San Antonio, Texas (the "Airport") having the street address of 9215 John Saunders Road, San Antonio, Texas 78216, being the real property hereinafter defined as the "Leased Premises", and to be allowed to operate its retail rental car facility from such location pursuant to the terms hereof; and

WHEREAS, in order to facilitate and expedite the Lessee's use of the Existing Buildings at the Leased Premises (the "Existing Buildings") that are necessary for Lessee's beneficial use thereof within certain time parameters, Lessee has agreed to contract for and pay the cost of conducting certain renovations and repairs of the Existing Buildings which are generally described on Schedule 1 attached hereto (the "Existing Building Renovations"); and

WHEREAS, the City has agreed to provide reimbursement in the form of future rent credits to Lessee for certain costs incurred by Lessee in connection with the Existing Building Renovations, as more particularly described below; and

WHEREAS, it is in the best interests of the City to enter into a new Lease Agreement in order to effectuate the agreement of the parties as to these matters; **NOW THEREFORE:**

Lessor and Lessee for and in consideration of the mutual covenants and promises herein expressed do hereby agree as follows:

I. DESCRIPTION OF LEASED PREMISES

1.1 Lessor, for and in consideration of the rents, covenants and promises herein contained to be kept, performed and observed by Lessee, does hereby lease unto Lessee, for Lessee's exclusive possession and use subject to the terms and conditions hereof, and Lessee does hereby accept from Lessor, approximately 135,907 Square Feet of Ground Space, being shown

on the survey attached hereto as **Exhibit "A"** (the "Survey"), and being more particularly described by metes and bounds on **Exhibit "B"** attached hereto, together with all improvements now or hereafter situated thereon (collectively referred to as "Leased Premises"). A site plan of the Leased Premises is attached hereto as **Exhibit "C"** (the "Site Plan"). The term "Building A", as used herein, means the building shown as Building A on the Site Plan, and the term "Building B", as used herein, means the building shown as Building B on the Site Plan.

II. RENTAL

2.1 Lessee agrees to pay Lessor as rental as indicated on the table below, monthly in advance (without notice or demand, both of which are expressly waived) for the use and occupancy of the Leased Premises, at the times and in the manner hereinafter provided.

	<u>Total Sq. Footage</u>	<u>Annual Rate Per Sq. Ft.</u>	<u>Annual Rental</u>	<u>Monthly Rental</u>
<u>Ground:</u>	135,907	\$1.65	\$224,246.55	\$18,687.21
<u>Building A:</u>	5,970	\$3.29	\$19,641.30	\$1,636.78
<u>Building B:</u>	979	\$4.26	\$4,170.54	\$347.55
TOTAL:			\$248,058.39	\$20,671.54

2.2 All rentals shall be calculated on an annual basis and shall be paid by Lessee to Lessor in advance without invoicing, notice or demand, in equal monthly installments on or before the first day of each calendar month beginning on the Rent Commencement Date, as defined below, and continuing throughout the remainder of the term of this Lease Agreement and any extension(s) hereof.

2.2.1 Rent Commencement Date. The "Rent Commencement Date" is defined as, the date that Lessee receives a Certificate of Occupancy for the Existing Buildings following the completion of the Existing Building Renovations. In the event that the Rent Commencement Date shall fall on a day other than the first day of any calendar month, or the Lease Term shall expire on a day other than the last day of a calendar month, then, in such event, rental installments will be prorated for the first or last month as the case may be. Notwithstanding anything contained in this Agreement, the Rental Commencement Date shall not be later than eighteen (18) months after the commencement of the Term; provided, however, that the Aviation Director (at his sole discretion) may delay the Rental Commencement Date to account for unforeseen delays attributable to the City or to force majeure events which delay the completion of the Existing Building Renovations.

2.3 All rentals and payments that become due and payable by the Lessee shall be made to the City of San Antonio, Office of the Aviation Director, San Antonio International Airport, 9800 Airport Blvd., San Antonio, Bexar County, Texas, unless otherwise notified in writing. All rentals and payments unpaid for ten (10) days after the date due shall bear interest at the rate of ten (10) percent per annum from that date until paid.

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III. ECONOMIC DEVELOPMENT PROGRAM INCENTIVES AND CONTRACTUAL GROUND RENTAL ABATEMENTS

3.1 As part of the Existing Building Renovations, Lessee has agreed to perform and pay for the cost of the following work which the City has agreed to reimburse Lessee for as provided in Section 3.2 below (the "Reimbursable Renovations"):

- a. Replacement of the roof on Building A and the roof on Building B.
- b. Removal and disposal of the floor tiles in Building A in accordance with the recommendations set out in the Phase I Environmental Report for the Leased Premises dated November 12, 2007, prepared by Pastor, Behling & Wheeler, LLC (the "Phase I Report").
- c. Removal of the three (3) double-post hydraulic lifts situated in Building A in accordance with the recommendations set out in the Phase I Report.
- d. Removal of the underground storage tank (if found to exist) located south of the maintenance garage in Building A in accordance with the recommendations of the Phase I Report.
- e. Repair of the structural failure in concrete slab located along the south side of the Leased Premises.

3.2 In return for Lessee's payment of the costs of performing the Reimbursable Renovations (the "Costs"), Lessor agrees to provide Lessee with a credit not to exceed \$207,900.00 for all such Costs against Lessee's rent payments due to Lessor under this Lease (the "Rent Credits"), and the rental payable by Lessee hereunder shall be abated until such time as all Costs shall have been offset. Such Rent Credits shall be provided upon receipt and approval (which approval shall not be unreasonably withheld) by the Aviation Director, or his designee, of itemized contractor's invoices, not more often than once per month, detailing the Costs incurred by Lessee for the Reimbursable Renovations (including Costs incurred prior to the Commencement Date of this Lease). Rent payments payable by Lessee hereunder shall be abated until such time as such all Rent Credits awarded in accordance with this paragraph shall have been utilized.

IV. USE OF LEASED PREMISES

4.1 Lessee shall use the Leased Premises solely for (a) the operation of a commercial rental car facility, and all other uses reasonably incidental thereto, including, without limitation, passenger shuttle service, motor vehicle maintenance and repair, motor vehicle cleaning (exterior and interior), and motor vehicle refueling; (b) general office uses relating to the activities described in Section 4.1(i) above and all other uses reasonably incidental thereto, and (c) activities relating the completion of the Existing Building Renovations.

V. LEASE TERM

5.1 The term of this Lease Agreement shall be seven (7) years, and shall commence on the first day of the month following passage by the City Council of the ordinance authorizing the execution of this Lease Agreement ("Commencement Date"), and shall terminate (unless earlier terminated in accordance with this Lease) at midnight of the last day of the seven (7) year term. The Lease term will at all times be subject to the provisions for early termination herein contained.

5.2 Notwithstanding Paragraph 5.1 above, in the event that Lessor constructs a consolidated rental car facility and the facility's date of beneficial occupancy occurs during the term of this Agreement, this Agreement shall automatically terminate on such date of beneficial occupancy.

Lessor will communicate with Lessee to keep Lessee informed of any such expected termination date as soon as possible and shall give Lessor 180-day-advance notice of such lease termination.

VI. INDEMNIFICATION

6.1 **LESSEE** covenants and agrees to **FULLY INDEMNIFY** and **HOLD HARMLESS**, the **CITY OF SAN ANTONIO ("CITY")** and the elected officials, employees, officers, directors, volunteers and representatives of the **CITY**, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the **CITY** directly or indirectly arising out of, resulting from or related to **LESSEE's** activities under this **LEASE**, including any acts or omissions of **LESSEE**, any agent, officer, director, representative, employee, consultant or subcontractor of **LESSEE**, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this **LEASE**, all without however, the City waiving any governmental immunity available to the **CITY** under Texas Law and without waiving any defenses of the parties under Texas law. **IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS LEASE.** The provisions of this **INDEMNITY** are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. **LESSEE** shall promptly advise the **CITY** in writing of any claim or demand against the **CITY** known to **LESSEE**, and shall see to the investigation and defense of such claim or demand at **LESSEE's** cost. The **CITY** shall have the right, at its option and at its own expense, to participate in such defense without relieving **LESSEE** of any of its obligations under this paragraph.

6.2 It is the **EXPRESS INTENT** of the parties to this **LEASE**, that the **INDEMNITY** provided for in this Article 6, is an **INDEMNITY** extended by **LESSEE** to **INDEMNIFY, PROTECT** and **HOLD HARMLESS**, the **CITY** from the consequences of the **CITY's OWN NEGLIGENCE**, provided however, that the **INDEMNITY** provided for in this Article 6 **SHALL APPLY** only when the **NEGLIGENT ACT** of the **CITY** is a **CONTRIBUTORY CAUSE** of the resultant injury, death, or damage, and shall have no application when the negligent act of the **CITY** is the sole cause of the resultant injury, death, or damage. **LESSEE** further **AGREES TO DEFEND, AT ITS OWN EXPENSE** and **ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY**, any claim or litigation brought against the **CITY** and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this **INDEMNITY** shall apply, as set forth above.

VII. INSURANCE

7.1 Prior to occupancy of the Leased Premises and the conduct of any business thereupon, Lessee shall furnish certificates of insurance to Lessor, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, and which shall verify Lessee's compliance with its obligations under Sections 7.3 and 7.5 ("Certificates of Insurance"). Lessor shall have no duty

to perform under this Lease Agreement until such Certificates of Insurance shall have been delivered to the Lessor, and no officer or employee shall have authority to waive this requirement.

7.2 Lessor reserves the right to review the insurance requirements of this section during the effective period of the Lease Agreement and any extension or renewal hereof and to modify insurance coverage and their limits as may be commercially reasonable when deemed necessary and prudent by the Lessor's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding the Lease Agreement, but in no instance will Lessor allow modification whereupon Lessor may incur increased risk.

7.3 Lessee's financial integrity is of interest to Lessor, therefore, subject to Lessee's right to maintain reasonable deductibles in such amounts as are approved by Lessor (which approval will not be unreasonably withheld), Lessee shall obtain and maintain in full force and effect for the duration of the Lease Agreement, and any extension hereof, at Lessee's sole expense, insurance coverage written by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise reasonably acceptable to Lessor, in the following types and amounts:

<u>Type</u>	<u>Amount</u>
(1) Worker's Compensation & Employer's Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
(2) Commercial General Liability Policy to include coverage for the following:	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000.00 per occurrence or its equivalent with an aggregate of not less than \$5,000,000.00
(A) Premises/Operations	
(B) Independent Contractors	
(C) Personal Injury	
(D) Contractual Liability	
(E) Broad Form Property Damage to include Fire and Legal Liability	
(F) Products/Completed Operations	
(3) Property Insurance for physical damage to any of Lessee's improvements and betterments to the leased Property (excluding the Existing Building and the Existing Building Renovations)	Replacement Cost coverage or eighty percent (80%) of actual cash value Coverage
(4) Automobile Liability (any auto)	Combined Single Limit for Bodily Injury and Property Damage of \$5,000,000.00 per occurrence or its equivalent.
(5) Plate Glass Coverage for Leased Premises	Replacement Cost Insurance Coverage
(6) Above Ground and/or Storage Tank Storage Tank Liability	\$10,000,000.00 per claim

Lessee may satisfy the limits required above with primary coverage alone or with primary coverage combined with excess (umbrella) coverage.

7.4 Lessor shall be entitled, upon request and without expense, to receive current Certificates of Insurance, copies of the policies and all endorsements thereto as they apply to the limits required or approved by Lessor, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by Lessor, the Lessee shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

7.5 Lessee agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions.

- Name Lessor and its officers, employees, agents and elected representatives as additional insureds (as the interest of each insured may appear), as to all applicable coverage, with the exception of the worker's compensation and employer's liability policy;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where Lessor is an additional insured shown on the policy;
- Worker's compensation and employer's liability policy will provide a waiver of subrogation in favor of Lessor.

7.6 Lessee shall notify Lessor in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, which notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the Lessor by Certified Mail at the following addresses:

Aviation Director
CITY OF SAN ANTONIO
9800 Airport Blvd.
San Antonio, Texas 78216-9990

7.7 The proceeds for any such insurance, paid on account of fire, explosion or other damage shall be used to defray the cost of repairing, restoring or reconstructing said improvements, as necessary.

7.8 It is expressly understood and agreed that all operations of Lessee under this Lease Agreement between Lessor and Lessee shall be covered by such policies of insurance or self insurance as approved by Lessor's Risk Manager and that all personal property placed in the Leased Premises shall be at the sole risk of Lessee. The procuring of policies of insurance shall not be construed to be a limitation upon Lessee's liability or as a full performance on its part of the indemnification provisions of this Lease. Lessee's obligation is, notwithstanding said policy of insurance, for the full and total amount of any damage, injury or loss caused by or

attributable to its activities conducted at or upon the Airport and covered by the indemnification provisions of this Lease.

VIII. PERFORMANCE GUARANTEE

8.1 Lessee shall deliver to the Aviation Director, on or before the execution of this Lease, and shall keep in force throughout the term hereof, either an irrevocable letter of credit in favor of Lessor, drawn upon a bank satisfactory to Lessor, or a surety bond, payable to Lessor. (the "Performance Guaranty"). The foregoing shall be in a form and content satisfactory to Lessor, shall be conditioned upon satisfactory performance of all terms, conditions and covenants contained herein during the term hereof, and shall stand as security for payment by Lessee of all valid claims by Lessor hereunder. If a bond shall be delivered, it shall be issued by a sound indemnity company, authorized to do business in Texas. The amount of the irrevocable letter of credit or surety bond shall be **TWO HUNDRED FORTY-EIGHT THOUSAND FIVE HUNDRED FIFTY-EIGHT AND 00/100 DOLLARS \$248,058.00**. Said amount shall be adjusted, as necessary, so that it shall at all times equal at least the total annual rental (without adjustment pursuant to Section 3.2 hereof), payable by Lessee to Lessor hereunder.

IX. STANDARD PROVISIONS AND COVENANTS

9.1 Except as amended below, the Standard Provisions and Covenants (Rev. 6/12/06 whd), attached hereto as **Exhibit "D"**, (the "Standard Provisions") are incorporated herein and made a part hereof for all purposes.

9.1.1 **Provision 1** is deleted and replaced with the following: "The rental rates shall increase, in the case of holdover, by fifteen (15%) on the fifth anniversary date of this Lease Agreement; and shall be increased by an additional 3% of the original rental rate on every anniversary date thereafter."

9.1.2 **Provisions 2.1 and 2.2** are deleted.

9.1.3 **Provision 3.1**, Subpart A is deleted.

9.1.4 In **Provision 4.1** of the Standard Provisions the phrase "or reasonably discoverable by" is deleted.

9.1.5 The following is hereby added at the end of **Provision 5.2**: "Lessor shall not unreasonably withhold its approval of Lessee's plans and specifications for the Existing Building Renovations. In the event Lessee's proposed plans and specifications for the Existing Building Renovations are not approved by Lessor within ninety (90) days following Lessee's submissions thereof, Lessee may, at its option, terminate this Lease by providing written notice thereof to Lessor. Notwithstanding any provision to the contrary contained herein, Lessor's consent shall not be required for a nonstructural alteration to the interior of the buildings situated on the Leased Premises that does not materially reduce the value of the Leased Premises and for which no building permit issued by the City is required or is otherwise regulated by a governmental entity.

9.1.6 The following is hereby added to the end of **Provision 5.4**: "Lessee shall provide Lessor a copy of any building permit application (including any plans) submitted to the City. In the event the approval of the Aviation Department is required by the applicable City department prior to the issuance of such permit, the Aviation Department shall either grant such approval or

deny such approval by the later to occur of (i) the thirty (30) day period described in Paragraph 5.3 above, or (ii) ten (10) days following receipt by the Aviation Department of request for approval from the City.

9.1.7 The first sentence of **Provision 5.7** is deleted. The second sentence of Provision 5.7 is modified by adding the word "material" between the words "cause and flowage", and by adding the word "materially" between the words "cause" and "flowage". The following sentence is added at the end of **Provision 5.7** "In the event that improvements constructed by Lessee in all material respects in accordance with plans and specifications approved by the Aviation Director cause such flowage, Lessee shall not be in default hereunder by reason thereof, but Lessee agrees to cooperate in all reasonable respects both operationally and economically to correct and minimize such situation.

9.1.8 **Provision 7.2** is amended as follows: (i) in Subpart B, add the following after the word "equipment" whenever it appears: "(excluding equipment which is moveable and not incorporated into the Improvements)", (ii) in Subpart G, add the words "reasonably necessary" after the word "take", and add the words "or other suitable ground cover" between the words "grass" and "on", and (iii) in Subpart G, replace the words "and the preservation of as many trees as possible, consistent with Lessee's construction and operations" with the words "and comply with the City's Tree Ordinance."

9.1.9 **Provision 8.2** is amended as follows: (i) at the end of the first sentence, add ", excluding the Existing Buildings and any alterations thereto made by Lessee in accordance with the terms of this Lease (including the Existing Building Renovations), which shall remain the property of Lessor.", (ii) in the second sentence add the words "owned by Lessee" after the word "Improvements" and before the word "shall", and change the words "own the Improvements" to read "own such Lessee-owned Improvements, and (iii) in the third sentence, change the words "assignment of Improvements" to read "assignment of such Lessee-owned Improvements,".

9.1.10 **Provisions 8.3 and 8.4** shall not apply to any Improvements that are owned by Lessor pursuant to **Provision 8.2**. In addition, the instruments described in **Provision 8.3** shall be in a form and substance mutually acceptable to Lessor and Lessee.

9.1.11 **Provision 9.1** shall be amended to read as follows: Lessee acknowledges that it is the owner of any and all fuel storage facilities that may in the future be placed by Lessee, its sublessees, licensees or permittees in, on or upon the Leased Premises (collectively, the "Lessee Fuel Storage Facilities"). (For purposes of this provision, "facilities" are defined as any mobile or fixed, onshore building, structure, installation, equipment, pipe, or pipeline used in fuel storage, fuel gathering, fuel transfer, or fuel distribution.) Lessee agrees that it shall, at its sole expense, comply with all applicable federal, state and local statutes, laws, ordinances, rules and regulations concerning the Lessee Fuel Storage Facilities, including, but not limited to, regulations promulgated by the Environmental Protection Agency, as well as all inspection, financial liability and inventory control recording requirements, and that it shall provide Lessor with copies of certificates of registration from the Texas Commission on Environmental Quality, or any successor agency (hereinafter "TCEQ"), for any new fuel storage facilities, together with copies of any required proof of financial responsibility and other documentation reasonably required by the Aviation Director or applicable regulatory agency.

9.1.12 **Provision 9.2** shall be amended to read as follows: During the term of this Lease Agreement and any extensions thereof, should changes in applicable statutes, laws,

rules or regulations regarding fuel storage facilities necessitate the removal, modification or replacement of any or all of the Lessee Fuel Storage Facilities in, on, upon or under the Leased Premises, then such removal, modification or replacement shall be timely undertaken and performed by Lessee, at its sole cost and expense. Ownership of the Lessee Fuel Storage Facilities shall, at all times, remain in the Lessee, its sublessees, licensees and permittees. Furthermore, if requested by Lessor, Lessee shall, within ninety (90) days following the termination or expiration of this Lease Agreement, or as soon thereafter as may be reasonably practical, at its sole cost, remove said Lessee Fuel Storage Facilities from the Leased Premises. If requested by Lessor, Lessee shall, within ninety (90) days following the termination or expiration of this Lease Agreement, or as soon thereafter as may be reasonably practical, at its sole cost, perform any soil or other investigations required by law or regulation or directed to be performed by appropriate regulatory agencies in connection with Lessee's removal of the Lessee Fuel Storage Facilities, perform regulatory remediation required by law or regulation in connection with Lessee's removal of the Lessee Fuel Storage Facilities, and restore the Leased Premises to a condition in compliance with all applicable statutes, laws, rules, or regulations governing the Lessee Fuel Storage Facilities; provided, however, that Lessee's duty to restore the Leased Premises shall extend only to environmental contamination resulting from the operations of Lessee, its agents, employees, contractors or invitees, on or about the Leased Premises. Any Performance Guarantee required under the terms of this Lease Agreement shall not be returned or restored to Lessee until any such removal and/or remediation (if requested and required as described herein) is accomplished to the satisfaction of TCEQ. Notwithstanding the foregoing, Lessee shall only be responsible for remediating contamination attributable to operations upon the Leased Premises by Lessee, its agents, employees, contractors or invitees.

9.1.13 In **Provision 9.3**, the second sentence is amended by adding the words "in violation of applicable law" after the word "release" where it appears.

9.1.14 In **Provision 9.4**, (i) in the first sentence add "of hazardous materials, special wastes or other environmental contamination" after the word "release", (ii) in the third sentence, add the word "reasonable" after the word "any", and (iii) in the last sentence, add the word "such" after the word "enforcing".

9.1.15 In **Provision 9.5**, the phrase "or reasonably discoverable by Lessee prior to the commencement of this Lease Agreement" is deleted from the first sentence.

9.1.16 In **Provision 9.6**, (i) after the second sentence, add a new sentence to read as follows: "Such demand for testing shall only be made upon Lessor's reasonable belief that a release of hazardous material, contaminants or toxic chemicals in violation of any applicable environmental law or regulation and caused by the action or inaction by Lessee, its agents, employees, contractors or invitees has occurred.", and (ii) in the next to last sentence, add after the word "therefor" the following: ", which shall be accompanied by reasonable supporting documentation."

9.1.17 **Provision 9.9** will be added, as follows: Lessee shall have the right, at its sole expense, to contest any decision, order, or finding of any governmental body or agency under this Section through and including receipt of a final order of the appropriate regulatory authority, provided that Lessee shall diligently seek such final order.

9.1.18 **Provision 12** is deleted.

9.1.19 **Provision 13** is deleted.

9.1.20 **Provision 14** is amended by adding the following sentence at the end: "Nothing herein shall be construed to be a waiver of Lessee's right to pursue a "takings" claim against appropriate governmental entities, i.e. to pursue its rights under applicable eminent domain/condemnation law."

9.1.21 **Provision 15.** As long as Lessee maintains the Performance Guarantee in accordance with Article VIII, Provision 15 shall be suspended, and the Aviation Director or his designee shall confirm that Lessee is in compliance with Article VIII hereof upon Lessee's reasonable request. Provision 15 shall in no event apply with respect to rental vehicle inventory located at any time on the Leased Premises.

9.1.22 **Provision 16.1** is deleted. **Provisions 16.2 and 16.3** are amended by adding at the end thereof "applicable to Lessee's operations at the Leased Premises".

9.1.23 All references in **Provision 17** to "default" or "event of default" shall mean a continuance of such default or event of default without cure after any applicable notice and cure period provided herein.

9.1.24 **Provision 17.1**, Subpart E is amended by deleting the word "thirty (30)" and substituting therefor the word "ninety (90)".

9.1.25 **Provision 17.1**, Subpart F is amended by deleting the word "fifteen (15)" and substituting therefor the word "sixty (60)".

9.1.26 **Provision 17.1**, Subpart G is amended by adding after the word "charter" the following: "; provided that in the event of an involuntary forfeiture of its charter Lessee shall not be in default if such charter is fully reinstated within ninety (90) days thereafter."

9.1.27 **Provision 17.1**, Subpart I is deleted in its entirety and the following substituted therefor:

"I. Lessee shall voluntarily abandon and discontinue all operations at the Leased Premises for a period of ninety (90) consecutive days."

9.1.28 **Provision 17.2** is amended by adding the following after the last sentence: "Notwithstanding the foregoing, if an event of default under Provision 17.1.I shall occur, Lessor's sole remedy shall be to terminate this Lease Agreement by providing not less than ninety (90) days prior notice to Lessee of such termination"

9.1.29 The last sentence of **Provision 17.4** is amended by adding after the phrase "sign on the Leased Premises" the words "which is clearly visible from one of the roadways adjacent to the Leased Premises and which includes an appropriate name and telephone number for inquiries".

9.1.30 **Provision 17.8** is amended by deleting the words "of which Lessee shall have made" and substituting therefor the words "with respect to which Lessee shall be in."

9.1.31 **Provision 17.9** shall apply to both parties, not Lessor alone.

9.1.32 **Provision 17.11** is amended by adding after the word "Lessee" the words "pursuant to Lessor's rights under this Lease or applicable law".

9.1.33 **Provision 18** is amended as follows: (i) in the first sentence the words "after the termination" are deleted and the words "the expiration of the primary term" are substituted therefor, and (ii) in the second sentence, the words "Ground and Building Rental" are deleted and the word "rental" is substituted therefor, and the words "plus applicable Fuel Flowage Fees" are deleted.

9.1.34 **Provision 19.1** is amended by deleting therefrom the words "corporation, or other entity with which Lessee may merge or consolidate or which may succeed to a controlling interest in the business of Lessee", and substituting therefor the following: "Lessee Affiliate. As used herein, the term "Lessee Affiliate" means an entity which (i) is Lessee's parent company (ii) is Lessee's sister company (iii) is under common control with Lessee, either directly or indirectly; (iv) results from a merger or consolidation with or reorganization of Lessee or Lessee's parent company; or (v) acquires all or substantially all of the assets of Lessee. "

9.1.35 **Provision 19.6** is amended by adding the following sentence at the end thereof: "No provision of this Lease Agreement shall be deemed to have been waived by Lessee, unless such waiver be in writing, signed by the president or any vice president of Lessee or any other duly authorized officer of Lessee."

9.1.36 **Provision 20.1** is amended to read as follows: "In the event a City-owned building on the Leased Premise shall be wholly or partially damaged by fire or other casualty, Lessee shall give immediate notice thereof to Lessor and the same shall be repaired, at Lessor's expense, without unreasonable delay unless this Lease is terminated as to such building pursuant to Provision 20.2 hereof. From the date of such casualty until repair, monthly rental payments hereunder shall abate in an equitable manner."

9.1.37 **Provision 20.2** is amended to read as follows: "Lessor's obligations to rebuild or repair under this Provision shall, in any event, be limited to restoring said Building A to substantially the condition that existed prior to the occurrence of the casualty, excluding, however, any additions or alterations made by lessee in addition to the Existing Building Renovations. In the event Building B is Substantially Destroyed (as hereinafter defined) by fire or other casualty at any time during the lease term, Lessor may elect not to rebuild same, in which event this Lease shall terminate as to Building B only and rental payments hereunder shall abate in an equitable manner from the date of such casualty. Lessor shall notify Lessee of its election within thirty (30) days following the occurrence of such casualty. In the event Building A is Substantially Destroyed by fire or other casualty after the date which is eighteen (18) months prior to the expiration of the primary term, either party may terminate this Lease in its entirety by providing notice to the other party within thirty (30) days following the occurrence of such casualty. In the event of termination rental payments shall be apportioned and paid up to the date of such casualty. As used herein, the term "Substantially Destroyed" means destruction of more than seventy percent (70%) of the total improvements. Lessee agrees that if Lessor has the obligation to rebuild as set forth in this Provision, then Lessee will proceed with reasonable diligence, at its sole cost and expense, to rebuild, repair and restore its improvements, signs, fixtures, furnishings, equipment and other items provided or installed by Lessee in or about the Leased Premises (exclusive of the Existing Building Renovations) in a manner and to a condition at least equal to that which existed prior to the damage or destruction. Lessor and Lessee shall cooperate with each other in all commercially reasonable

respects with regard to any rebuilding, restoration and repair they are required to undertake pursuant to this Provision 20.2.

9.1.38 **Provision 20.3** is amended as follows: In the event that the improvements upon the Leased Premises constructed and owned by Lessee are damaged or destroyed by fire or any other casualty during the term of this Lease Agreement or any extension hereof, regardless of the extent of such damage or destruction, the rent payable hereunder shall not abate. Lessee shall have no obligation to repair or rebuild such improvements, but may do so at Lessee's election. If Lessee elects not to repair or rebuild such improvements in accordance with this Provision, Lessee shall remove all debris and restore the Leased Premises to a safe, neat and orderly condition.

9.1.39 **Provision 23** shall apply only where applicable to the Lessee and only in connection with its operations on or in connection with the Leased Premises.

9.1.41 **Provision 23.3** is amended to read as follows: "Lessee for itself, its representatives, successors and assigns, does hereby covenant and agree, as a covenant running with the land, that: (1) no person, on the grounds of race, color, creed, sex, age, religion, national origin or disability shall be excluded by Lessee 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, creed, sex, age, religion, national origin or disability shall be excluded by Lessee from participation, denied the benefits of, or otherwise be subjected to discrimination by Lessee; and (3) Lessee shall comply with all other applicable Federal nondiscrimination laws and regulations.

9.1.42 **Provisions 23.4, 23.5, 23.6 and 23.7** are deleted in their entirety; provided that in the event and to the extent it is now or hereafter legally mandated by applicable federal or state law that any of such Provisions are required to be included in real property leases at the Airport, (whether by any law, rule, regulation, court opinion, Attorney General opinion, FAA Advisory Circular or FAA guidance letter, then such Provisions shall automatically be reinstated into this Agreement and be immediately effective.

9.1.43 **Provision 26** is deleted.

X. SPECIAL PROVISIONS

10.1 "As Is" Acceptance. Lessee understands, recognizes and agrees that Lessee takes the Leased Premises on an "As Is" basis, subject to the express provisions of this Lease, including Lessor's obligations under Section 10.5 of this Lease. Further, Lessor is not responsible for any improvements on the Leased Premises, and Lessor does not warrant any of the ground, buildings, concrete, asphalt, or any other pavement thereupon.

10.2. Certificates of Occupancy. It is the express agreement of the parties that Lessee at Lessee's sole cost and expense will obtain and deliver to the Director any required Certificates of Occupancy for the Leased Premises prior to occupancy of the building to be constructed on the Leased Premises and any required building permits prior to any construction unless otherwise agreed to in writing by the Aviation Director.

10.3 Lessor acknowledges and agrees that the indemnity provisions contained in this Lease Agreement do not include or cover any claims, demands, costs, or liens relating solely to any construction activities engaged in by Lessor or Lessor's contractors as part of Lessor's general Airport renovations.

10.4 Lessee may install its own on-site above-ground fuel storage tanks on the Leased Premises for use in connection with Lessee's operations at the Leased Premises, provided that such tank may not exceed a capacity of 12,000 gallons. Lessee and its third-party suppliers shall have access to and from the Leased Premises for purposes of delivering fuel thereto. Lessee agrees to comply with all applicable Airport Rules and Regulations related to Fueling and Flammables, which are set forth in the San Antonio City Code, Chapter 3, Article II, Sections 3.12 et seq., as well as all applicable local, state and Federal laws related to fuel and flammables storage and distribution.

10.5 Lessor shall be responsible for any and all waste (including, without limitation, municipal solid waste, whether hazardous or not) and/or hazardous waste, substances and/or materials that are generated or found in connection with Lessor's activities described in Section 10.3, including, without limitation, for the disposal and/or remediation (including all costs and expenses related thereto) thereof in accordance with applicable federal, state, and local laws, regulations, rules, codes, and ordinances. In addition, Lessor shall be responsible for any and all waste (including, without limitation, municipal solid waste, whether hazardous or not) and/or hazardous waste, substances and/or materials existing on the Leased Premises prior to the Commencement Date, including, without limitation, for the disposal and/or remediation (including all costs and expenses relating thereto) thereof to the extent required by and in accordance with applicable federal, state, or local laws, statutes, regulations, rules, codes or ordinances or to the extent necessary for Lessee to perform the Existing Building Renovations. Without limiting the foregoing, Lessor shall be solely responsible for removing in accordance with applicable law all hazardous wastes, substances or materials that are contained in the buildings or other improvements situated on the Leased Premises on the Commencement Date. Hazardous wastes, substances, or materials shall have the same meaning as hazardous substances in Paragraph 9.3 of Exhibit "D". Notwithstanding its obligation to dispose of or remediate the hazardous wastes, substances, or materials provided in this paragraph, Lessor, should it, in its sole discretion, deem the cost of such disposal or remediation to be cost prohibitive, elect to terminate this Lease Agreement and all obligations of either party thereunder, provided that any such termination election must be made prior to Lessee's commencement of construction of Improvements in accordance with Provision 5 of the Standard Provisions. Lessor shall in addition undertake at its expense any additional environmental remediation or corrective action which may be required by virtue of the Lessee's removal of the hydraulic lifts and underground storage tank as described in Sections 3.1 (c) and 3.1 (d) of this Lease, and shall do so with reasonable promptness; provided that such obligation shall not apply if the contamination was caused by Lessee, its agents, employees, invitees or contractors.

10.6 Each party hereby represents and warrants to the other party that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this Lease Agreement. Each party hereby releases the other from any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization by, through, or under such party in connection with this Lease Agreement.

10.7 Lessee is aware that Lessor owns and maintains an electronic sign within the Leased Premises (the "Lessor Sign"). Lessee agrees to grant Lessor reasonable access to the Leased Premises for the purpose of maintaining the Lessor Sign whenever necessary, upon not less

than 24 hours advance notice. Furthermore, Lessee agrees to not erect any sign or other structure that would substantially interfere with the visibility of the Lessor Sign to automobile traffic on U.S. Hwy 281 and/or IH 410.

EXECUTED THIS THE 30th day of January 2008.

LESSEE: AVIS RENT A CAR SYSTEM LLC, a Delaware limited liability company.

LESSOR: City of San Antonio

By: Robert Bouta

Robert Bouta, Senior Vice President
For Properties & Facilities for, Avis Budget Car Rental LLC,
an authorized representative of Avis Rent A Car System, LLC

TAX ID #: 11-1998661

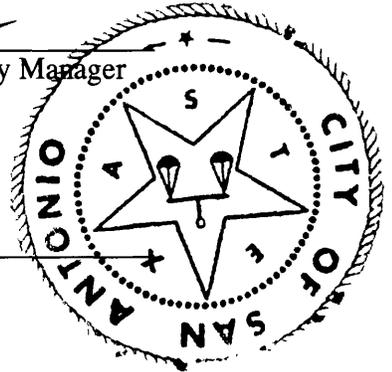
ATTEST:

Fred Grumman
Fred Grumman, Assistant Secretary

By: Sheryl Sculley
Sheryl Sculley, City Manager

ATTEST:

Lucinda M. Vaet
City Clerk



APPROVED AS TO FORM:

for Doretha Sainy
City Attorney

SCHEDULE 1

DESCRIPTION OF EXISTING BUILDING RENOVATIONS

[See Attached]

I. **Site Work**

1. Lot clean up, concrete pavement patching
2. Allowance for 1,000' guard rail
3. 35'x45' concrete pad for above ground fuel tank and tanker truck
4. Pipe bollards around fuel tank
5. Landscape allowance
6. Pavement striping & graphics
7. Install three new light poles in center of lot
8. Concrete pad and traffic control island at exit booth
9. Concrete pad and bollards at Preferred Service booth
10. Off load / relo & install booths
11. Install tiger teeth entrance, customer exit, bus exit
12. Install relocated exit booth canopy
13. Electrical & communications to booths and bus exit tiger teeth (550')
14. Assemble & place Hanley stall signs
15. Remove 3 two post in ground lifts from shop bays (remediation not incl)

16. Remove used oil UST (remediation not incl)
17. Repair failed slab along south side of property

II. **General Construction**

1. Renovate lobby bathrooms for ADA compliance
2. Renovate rental office lobby (approx 26'x35')
3. Install new counter and inserts
4. Electrical for rental counter
5. Renovate back office area (approx 26'x52')
6. New employee restrooms & breakroom in ext'g shop bays approx (25'x28')
7. Paint building exterior
8. Preferred Service booth fabric canopy (approx 20'x20')
9. Bus pick up fabric canopy at main building (approx 25'x45')
10. New ten year roof on main building
11. Allowance for shop equipment installation
12. Allowance for electrical & plumbing modifications in wash bay
13. Fuel system installation
14. Vacuum system installation
15. Compressed air & windshield washer fluid installation at gas island
16. Renovate 900 sq ft office bldg at rear of lot
17. New ten year roof on small building

III. Cendant Supplied Equipment and Materials

1. Furnish counter front wall and inserts (assume 22 ft)
2. Furnish vinyl wall covering
3. Furnish & install backwall signs
4. Furnish & install exterior building signs
5. Furnish & install monument sign
6. Furnish ready stall signs using Hanley S-M2 style 285 stalls
7. Furnish & install signs for booths
8. Furnish & install lot directional signs (exit warning, car return etc)
9. Furnish Preferred Service customer booth
10. Furnish lot security tiger teeth
11. Furnish 12K above ground gasoline tank
12. Furnish gasoline dispensing equipment
13. Furnish tank monitoring system
14. Furnish vacuum and associated piping
15. Furnish air & ww reels, ww pump at gas island
16. Furnish compressor and air dryer
17. Furnish & install car wash machine
18. Furnish two post above ground lift
19. Furnish oil, air reels, oil pump, evac pump, air regulators, drain cart
20. Furnish 450 gal two comp new & used oil AST
21. Allowance for furniture

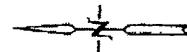
V. Reused Furniture, Fixtures and Equipment

1. Re-use fabric canopy over ext'g exit booth
2. Re-use existing exit booth
3. Potential re-use of 12K AST from Spokane if tank is compliant with San Antonio code requirements

EXHIBIT "A"

SURVEY OF LEASED PREMISES

[See Attached]



Scale: 1" = 100'

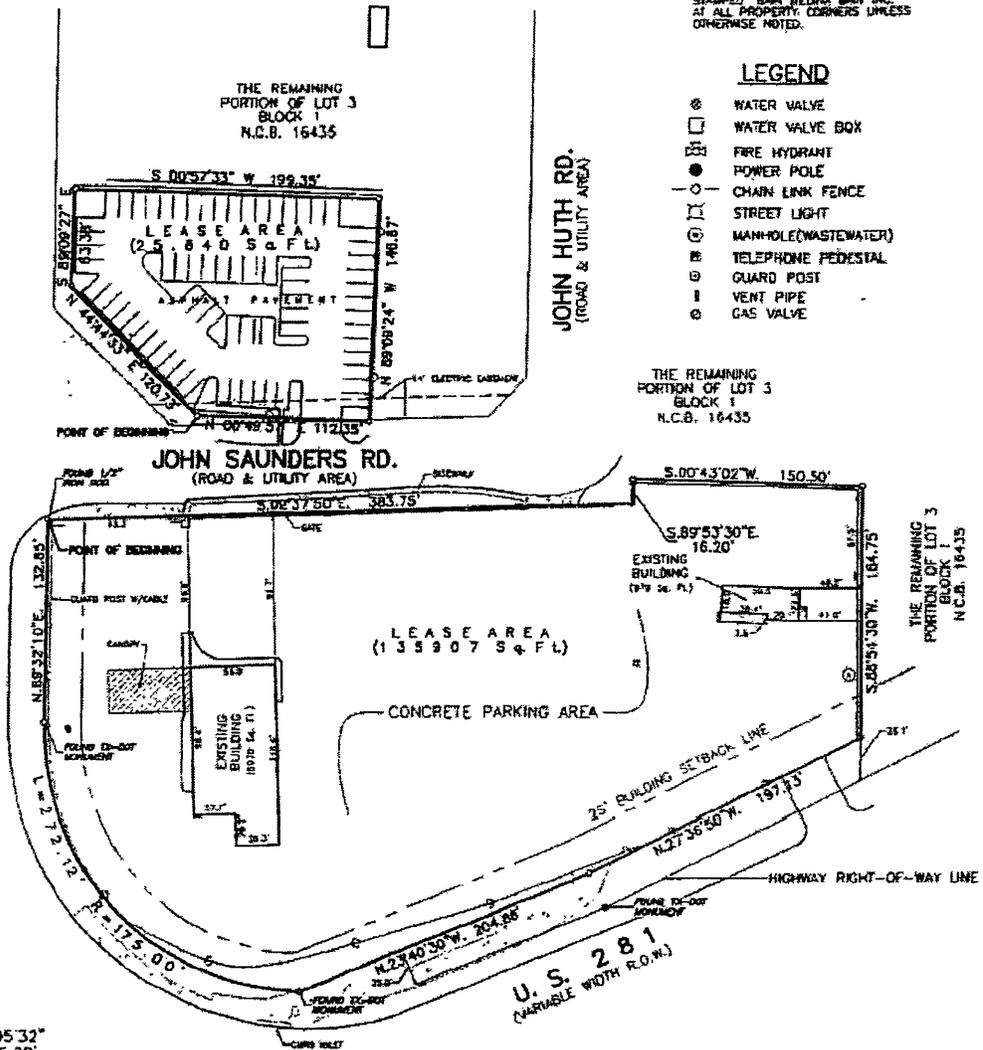
SET 1/2" IRON PIN WITH ORANGE CAP
STAMPED "RAM MEDINA BARY INC."
AT ALL PROPERTY CORNERS UNLESS
OTHERWISE NOTED.

LEGEND

- ⊗ WATER VALVE
- WATER VALVE BOX
- ⊕ FIRE HYDRANT
- POWER POLE
- CHAIN LINK FENCE
- ⊠ STREET LIGHT
- ⊙ MANHOLE (WASTEWATER)
- ⊞ TELEPHONE PEDESTAL
- ⊟ GUARD POST
- ⊠ VENT PIPE
- ⊙ GAS VALVE

SOUTH TERMINAL DR.
(ROAD & UTILITY AREA)

JOHN HUTH RD.
(ROAD & UTILITY AREA)



[Handwritten Signature]

BARY MEDINA BARY, INC.
 1200 Coastal Parkway, Suite 200
 The Woodlands, Texas 77380
 281/499-7222

EXHIBIT
 FOR PREMISES LEASED
 to
BUDGET RENT-A-CAR
 International Airport
 Municipal Airport

LEASE No. _____

Revised: 7-8-99

A METEOROLOGICAL DESCRIPTION OF EACH
DATE HEREON DESCRIBES THIS SURVEY PLAT.

EXHIBIT "B"

METES AND BOUNDS DESCRIPTION OF LEASED PREMISES

[See Attached]

Metes and bounds description for 3.120 acres (135,907 sq. ft.) of land out of Lot 3, Block 1, NCB 16435, San Antonio International Airport Unit 2 Subdivision according to plat thereof recorded in Volume 9522, Pages 21-23 of the Plat Records of Bexar County, Texas and being more particularly described by metes and bounds as follows:

- BEGINNING:** At a found ½ inch diameter iron pin at the intersection of the south line of South Terminal and the west line of John Saunders.
- THENCE:** S 02°37'50" E, 383.75 feet along the west line of John Saunders to a set ½ inch diameter iron pin with a cap stamped "Bain Medina Bain, Inc." for a corner.
- THENCE:** S 89°53'30" E, 16.20 feet to a set ½ inch diameter iron pin with a cap stamped "Bain Medina Bain, Inc." for a corner.
- THENCE:** S 00°43'02" W, 150.50 feet to a set ½ inch diameter iron pin with a cap stamped "Bain Medina Bain, Inc." for the southeast corner of the herein described tract.
- THENCE:** S 88°54'30" W, 164.75 feet along the south line of the herein described tract to a found ½ inch diameter iron pin for the southwest corner of same.
- THENCE:** Along the west line of the herein described tract as follows;
- N 27°36'50" W, 197.13 feet to a set ½ inch diameter iron pin with a cap stamped "Bain Medina Bain, Inc." for an angle point.
- N 23°40'30" W, 204.86 feet to a found TXDoT concrete monument for a point of curvature and northwest corner of the herein described tract;
- THENCE:** 272.12 feet along the south line of South Terminal and with the arc of a curve to the right having a radius of 175.00 feet, a central angle of 89°05'32", a chord distance of 245.52 feet which bears N 44°59'27" E, to a found TXDoT concrete monument for a point of tangency.
- THENCE:** N 89°32'10" E, 132.85 feet along the south line of South Terminal to the POINT OF BEGINNING containing 3.120 acres (135,907 sq. ft.) of land.

A survey plat of even date herewith accompanies this metes and bounds description.

EXHIBIT "C"

SITE PLAN OF LEASED PREMISES

[See Attached]

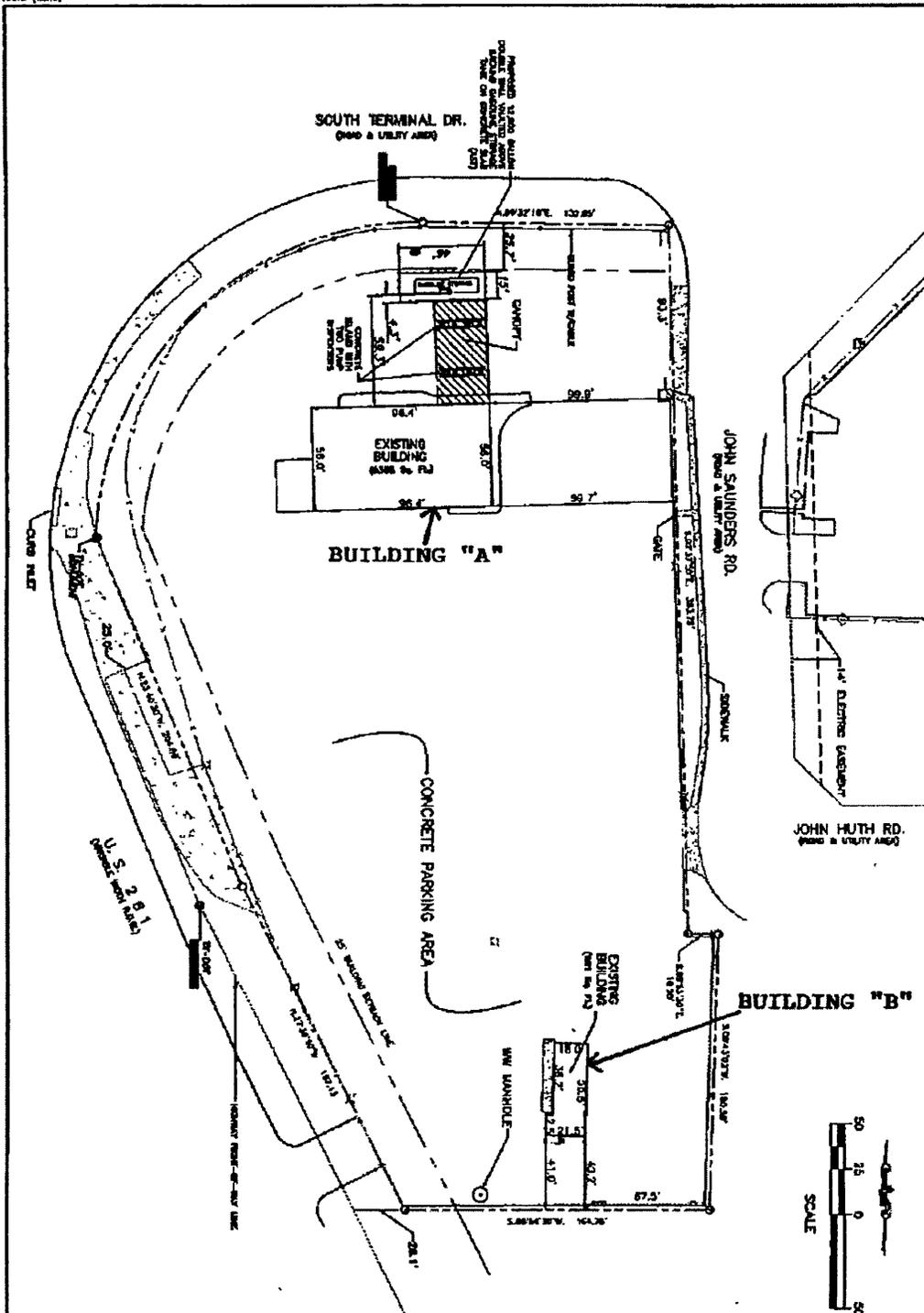


EXHIBIT "C"

EXHIBIT B	SITE STUDY FOR AVIS PARKING LOT	VACANT LOT AT 8215 JOHN SAUNDERS SAN ANTONIO INTERNATIONAL AIRPORT	D AVCAR ENGINEERING 1010 LAND CREEK COVE SUITE 200 SAN ANTONIO, TEXAS 78246 (512) 528-4428 (512) 500-8230 FAX
	PROPOSED RELOCATION OF AVIS PARKING		

EXHIBIT D

STANDARD PROVISIONS

SAN ANTONIO INTERNATIONAL AIRPORT LEASES

PROVISION 1

ADJUSTMENT IN RENTAL RATES

1.1 Economic Adjustment

A. On August 1, 2009, and every five (5) years thereafter during the term of this Lease Agreement and any renewal or extension thereof, the basic rental shall be adjusted for the ensuing five (5) year period, according to any increase or decrease in:

- (a) the average of the monthly indices, published by the Bureau of Labor Statistics, U.S. Department of Labor, for AGGREGATE WEEKLY PAYROLLS OF PRODUCTION-MANUFACTURING and for PRODUCER PRICES - ALL COMMODITIES for the twelve (12) month period, ending with December 31, of the preceding calendar year,

as compared to:

- (b) the average of the above-named indices for the twelve (12) month period, ending with December 31, 2004.

The computation for said adjustment shall be as follows:

$$\frac{\text{(a)}}{\text{(b)}} \times \text{Base Rental Rate(s)} = \text{Adjusted Rental Rate(s)}$$

That is, the BASE RENTAL RATE shall be multiplied by a fraction, the denominator of which shall be the common average of the two (2) averages of the twelve (12) monthly indices of AGGREGATE WEEKLY PAYROLLS OF PRODUCTION-MANUFACTURING and of PRODUCER PRICES - ALL COMMODITIES for the twelve (12) month period, ending December 31, 2004, and the numerator of which shall be the similar common average for the twelve (12) months ending December 31st of the calendar year immediately preceding the adjustment date. All index figures must be final.

B. The BASE RENTAL RATE(S) shall be the rental rate(s) set forth in this Lease Agreement, and the ADJUSTED RENTAL RATE(S) shall be such BASE RENTAL RATE(S), plus or minus any increase or decrease, computed according to the formula set out in Paragraph 1.1, above.

C. This provision shall be effective in this manner as long as both above-mentioned indices are published by the said government authorities in the same form and based on the same data as at the date of the granting of this Lease Agreement. In the event the Bureau of Labor Statistics amends its method of calculating the indices, or changes the base year on which such indices are calculated, such amendments and changes shall govern calculations or adjustments.

D. Notwithstanding anything contrary herein, the parties agree that, for all buildings transferred to City ownership, the denominator for the building rental adjustment shall be the average of the above-named indices for the twelve (12) month period, ending with December 31st of the year in which ownership is transferred to the City.

1.2 Appraisal Adjustment

In the event that the Lease Agreement provides that ground or building rental shall be adjusted according to appraisal value, then said value shall be calculated by the appraisal method as set forth below (hereinafter "Appraisal Method"). Annual ground rental rate shall be ten percent (10%) of the appraised value of the ground. Annual building rental shall be ten percent (10%) of the appraised value of the building, such value to be calculated using a cost approach (replacement cost minus depreciation, such depreciation to be based on the estimated useful life of the building in question and the components thereof, determined in a recognized and acceptable manner, including physical and economic depreciation and functional obsolescence, if any) and excluding personal property (including, but not limited to, furniture, furnishings and equipment), pavements, fencing, curbs, gutters and landscaping. All such appraisals (hereinafter, "Lessor's Appraisal") shall be undertaken by an MAI or equivalent appraiser (hereinafter, "Lessor's Appraiser"), experienced in airport appraisal and selected by the Aviation Director, and be performed within the six (6) month period preceding the date upon which a change in rental rates, based upon the Appraisal Method, is due to be implemented. In the event that Lessee certifies, in writing, to the Aviation Director that it does not agree with the Lessor's Appraisal, then and in such event Lessee shall appoint a recognized, qualified and impartial MAI or equivalent appraiser (hereinafter, "Lessee Appraiser"). Such appointment shall be signed and noticed in writing, by Lessee to Lessor. The Lessor's Appraiser along with Lessee's Appraiser shall, in turn, appoint a third appraiser, qualified as stated above. If Lessee shall fail to so appoint an appraiser for a period of twenty (20) days after written notice from Lessor to make such appointment, then the Lessor's Appraiser shall appoint a second appraiser and the two (2) appraisers together shall appoint a third appraiser. No two (2) appraisers may be employed by, or office within, the same company, firm or organization. Each newly appointed appraiser (i.e., Lessee's Appraiser and the third appraiser) shall make an independent appraisal, as set forth herein. The three (3) appraisals (i.e., Lessor's, Lessee's, and third appraiser's) shall then be compared and the two (2) appraised values which differ the least shall be averaged, and such average shall be the appraised value to be used for the purpose of computing any appraisal adjustment to be made hereunder. The cost of the aforesaid two (2) appraisals (i.e., Lessee's and third appraiser's) shall be shared and paid equally by Lessor and Lessee.

1.3 Abatement Adjustment

Lessor has, by Ordinance No. 74982, approved on December 19, 1991, adopted an Airport Economic Development Program (hereinafter "Program"), as may be amended from time to time, which may result in the partial abatement of the ground rental payable hereunder. If facilities or improvements, constructed by or on behalf of Lessee, or the number of new jobs created by Lessee, shall satisfy the abatement criteria set out in the Program, a partial ground rental abatement will be granted to Lessee in accordance therewith. A writing reflecting said abatement, executed by the Aviation Director and Lessee, shall be filed with the City Clerk, and automatically become a part of this Lease Agreement. Lessor reserves the right to discontinue the Program at any time, prospectively only, leaving unaffected any prior abatement to Lessee.

PROVISION 2
ADDITIONAL FEES AND CHARGES

2.1 Fuel flowage fees shall be paid by Lessee, its sublessees, permittees and licensees (hereinafter, for purposes of Provision 2, collectively "Lessee"), to the Lessor for fuel delivered to Lessee at the Airport, in the amount per gallon, now or hereafter, established by City ordinance. Lessee agrees to keep accurate books, records and accounts of its purchase and sale of aircraft fuel delivered to it on the Airport Premises. All such books, records, accounts, and supporting documentation shall be preserved by Lessee for thirty-six (36) months, either at the Leased Premises or at the home or regional offices of Lessee, and made available, for audit purposes, to Lessor and its authorized agents or representatives, at the Leased Premises, upon request. Lessee agrees to remit, to the Aviation Director, payment and related statements, certified by the various suppliers, as to the amount of aircraft fuel delivered to the Leased Premises, by the 10th day of the month following such delivery. If no such delivery is made during a particular month, Lessee shall provide the Aviation Director with a written statement to that effect.

2.2 Lessee and all tenants and operators at the Airport, other than those engaged in the carriage of persons, cargo, mail or other property for hire (commercial aircraft operators), pursuant to City ordinance, are obligated to pay a fuel flowage fee on aircraft fuel delivered to them. Nothing herein shall relieve Lessee, its customers or others, from any field use charges levied generally by Lessor, directly or indirectly, upon the operation of aircraft at the Airport. The parties acknowledge that aircraft operators using the Airport must pay either a fuel flowage fee or a landing fee. When Lessee deducts, from its fuel flowage report, gallons sold to commercial aircraft operators, Lessee shall submit, to the Aviation Director, landing reports and payments, calculated in accordance with City ordinance, by the 10th day of the month following the date of such commercial aircraft landing.

2.3 Fees and charges for miscellaneous items and services, including, but not limited to, employee badges, parking charges and personal property storage, shall be agreed to, in writing, by the parties hereto or be assessed, by City ordinance, in connection with the ordinary usage of Airport facilities.

2.4 All rentals, fees and charges payable by Lessee to Lessor under the terms hereof, whether or not expressly denominated as rent, shall constitute rent for all purposes, including, but not limited to, purposes of the United States Bankruptcy Code.

PROVISION 3
PRIVILEGES AND CONDITIONS

3.1 Lessor hereby grants to Lessee the following general, non-exclusive privileges, uses and rights, subject to the terms, conditions and covenants herein set forth:

A. The general use by Lessee, for commercial aviation activities, of all common aircraft facilities and improvements, which are now, or may hereafter be, connected with or appurtenant to said Airport, except as hereinafter provided. "Common airport facilities" shall include all necessary landing area appurtenances, including, but not limited to, approach areas, runways, taxiways, aprons, roadways, sidewalks, navigational and aviation aids, lighting facilities, terminal facilities or other common or public facilities appurtenant to said Airport.

B. The right of ingress to and egress from the Leased Premises, over and across common or public roadways serving the Airport for Lessee, its agents, servants, patrons, invitees, suppliers of service and furnishers of material. Said right shall be subject to such ordinances, rules and regulations as now, or may hereafter, apply at the Airport.

3.2 The granting and acceptance of this Lease Agreement is conditioned upon compliance with the covenant that the right to use said common Airport facilities, in common with others so authorized, shall be exercised subject to and in accordance with the laws of the United States, State of Texas and City of San Antonio, the rules and regulations promulgated by their authority with reference to aviation and navigation, and all reasonable and applicable rules, regulations and ordinances of Lessor, now in force or hereafter prescribed or promulgated by charter authority or by law.

3.3 Lessor reserves the right to enter the Leased Premises at any reasonable time for the purpose of inspecting same or verifying that fire, safety, sanitation regulations and other provisions contained in this Lease Agreement are being adhered to by Lessee.

PROVISION 4
ACCEPTANCE AND CONDITION OF PREMISES

4.1 Lessee has had full opportunity to examine the Leased Premises. Except for environmental matters not caused by or reasonably discoverable by Lessee prior to the commencement of this Lease Agreement, Lessee's taking possession of the Leased Premises shall be conclusive evidence of Lessee's acceptance thereof in an "AS IS" condition, and Lessee hereby accepts same in its present condition as suitable for the purpose for which leased.

4.2 Lessee agrees that no representations respecting the condition of the Leased Premises and no promises to improve same, either before or after the execution hereof, have been made by Lessor or its agents to Lessee, unless contained herein or made a part hereof by specific reference.

PROVISION 5
CONSTRUCTION BY LESSEE

5.1 Should this Lease Agreement be for premises unimproved at the time of the commencement of the lease term, Lessee shall have the right and duty to improve same. Lessee agrees that five (5) sets of plans and specifications, detailing the improvements to be made by Lessee and prepared by registered architects and engineers, must be submitted to the Aviation Director, for his approval as set forth below, no later than one hundred eighty (180) days following the execution of this Lease Agreement. In the event that construction of said improvements is not completed within one (1) year following such approval, if any, this Lease Agreement may, at the option of Lessor, be terminated.

5.2 In all circumstances other than as set forth in Paragraph 5.1 above, Lessee shall have the right to erect, alter, remodel and renovate buildings and other improvements on the Leased Premises, provided that it shall submit to the Aviation Director plans and specifications prepared by registered architects and engineers setting forth the renovations, construction, alterations or improvements that Lessee desires to perform, in such detail as may be required by the Aviation Director, and provided that approval of such plans and specifications by said Director is obtained as set forth below.

5.3 Lessor agrees to examine and approve or disapprove plans and specifications submitted in accordance with the provisions of Paragraphs 5.1 and 5.2 above, within thirty (30) business days after receipt thereof, and to give Lessee written notification of same. The approval by Lessor of such plans and specifications refers only to the conformity of same to the general architectural plan for the Leased Premises, as opposed to their architectural or engineering design. Lessor, by giving its approval, assumes no liability or responsibility therefor or for any defect in any work performed according to such plans and specifications. Lessee agrees not to commence any renovations, construction, alterations or improvements until Lessor, through the Aviation Director, has given written approval regarding Lessee's plans and specifications.

5.4 Further, prior to the commencement of construction, Lessee shall procure any and all additional approvals of the plans and specifications for its buildings and improvements required by any federal, state or municipal authorities, agencies, officers and departments having jurisdiction thereof and shall obtain any and all requisite building or construction licenses, permits or approvals. Construction shall comply with applicable building code requirements and with applicable regulations promulgated by any federal, state or municipal agency or department having jurisdiction thereof. Lessee specifically agrees that it shall hold Lessor completely harmless from and against any and all claims, causes of action or liabilities, whether actual or potential, associated with any construction undertaken by Lessee hereunder.

5.5 The cost of any renovations, construction, alterations or improvements upon the Leased Premises shall be borne and paid for solely by Lessee. Except as may be otherwise set forth herein, Lessor has no financial or other obligation of any kind under this Lease Agreement, other than the rental to Lessee of the premises which are the subject hereof for the term and consideration hereinbefore set forth.

5.6 Upon completion of all renovations, construction, alterations or improvements, a conformed set of "as built" plans and a Certificate of Occupancy shall be provided by Lessee to the Aviation Director.

5.7 In undertaking any such renovations, construction, alterations or improvements, it is expressly understood that, where applicable, unless otherwise agreed to in writing by the parties, Lessee shall be responsible, at its sole expense, for any and all construction and maintenance of taxiways and connections to the Airport's runway and taxiway system, along an alignment and in accordance with designs and plans approved in advance, in writing, by the Aviation Director. It is further expressly understood and agreed that any improvements and access thereto constructed by Lessee on the Leased Premises shall be performed in such a manner that shall not cause flowage of surface drainage onto adjacent tracts or interrupt flow to the storm drainage system.

PROVISION 6 **LIENS PROHIBITED**

6.1 Lessee shall not suffer or permit any mechanics' or other liens to be filed against the fee of the Leased Premises, or against Lessee's leasehold interest in the land, buildings or improvements thereon, by reason of any work, labor, services or materials supplied, or claimed to have been supplied, to Lessee or to anyone holding the Leased Premises, or any part thereof, through or under Lessee.

6.2 If any such mechanics' lien or materialmen's lien described in Paragraph 6.1 above shall be recorded against the Leased Premises, or any improvements thereon, Lessee shall cause the same to be removed or, bonded around pursuant to the terms of the Texas Property Code. In the alternative, if Lessee, in good faith, desires to contest the same, it shall be privileged to do so; however, in such case, Lessee hereby agrees to indemnify and save Lessor harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure on said mechanics' lien, cause the same to be discharged and removed prior to sale of the property or execution of such judgment.

PROVISION 7
MAINTENANCE AND REPAIR

7.1 Lessee shall pay or cause to be paid, any and all charges for water, heat, gas, electricity, sewer and any and all other utilities used on the Leased Premises, throughout the term of, or any extension of, this Lease Agreement, including, but not limited to, any connection fees and any and all additional costs related to utility connection, metering, maintenance, repair and usage.

7.2 Except as may be otherwise provided herein, Lessee shall, throughout the term of this Lease Agreement and any extension hereof, assume the entire responsibility, cost and expense, for all repair and maintenance of the Leased Premises and all buildings and improvements thereon, whether such repair or maintenance be ordinary, extraordinary, structural or otherwise. Additionally, without limiting the foregoing, Lessee shall:

- A. at all times maintain the buildings and improvements in a good state of repair and preservation, excepting ordinary wear and tear and obsolescence in spite of repair; and
- B. replace or substitute any fixtures and equipment which have become inadequate, obsolete, worn out, unsuitable or undesirable, with replacement or substitute fixtures and equipment, free of all liens and encumbrances, which shall automatically become a part of the buildings and improvements; and
- C. at all times keep the Leased Premises, its buildings, improvements, fixtures, equipment and personal property, in a clean and orderly condition and appearance; and
- D. provide, and maintain in good working order, all obstruction lights and similar devices, fire protection and safety equipment, and all other equipment of every kind and nature required by applicable laws, rules, orders, ordinances, resolutions or regulations of any competent authority, including Lessor and Aviation Director; and
- E. observe all insurance regulations and requirements concerning the use and condition of the Leased Premises, for the purpose of reducing fire hazards and insurance rates on the Airport; and
- F. repair any damage caused by Lessee to paving or other surfaces of the Leased Premises or the Airport, in connection with the scope of the Lease Agreement, caused by any oil, gasoline, grease, lubricants, flammable liquids and/or substances having a corrosive or detrimental effect thereon, or by any other reason whatsoever; and

G. take measures to prevent erosion, including, but not limited to, the planting and replanting of grass on all unpaved or undeveloped portions of the Leased Premises; the planting, maintaining and replanting of any landscaped areas; the designing and constructing of improvements on the Leased Premises; and the preservation of as many trees as possible, consistent with Lessee's construction and operations; and

H. be responsible for the maintenance and repair of all utility services lines upon the Leased Premises, including, but not limited to, water and gas lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers; and

I. keep and maintain all vehicles and equipment operated by Lessee on the Airport in safe condition, good repair and insured, as required by this Lease Agreement; and

J. replace broken or cracked plate glass, paint/repaint structures upon the Leased Premises and, where applicable, mow the grass; and

K. provide and use suitable covered metal receptacles for all garbage, trash and other refuse; assure that boxes, cartons, barrels or similar items are not piled in an unsightly, unsafe manner, on or about the Leased Premises; provide a complete and proper arrangement, satisfactory to the Aviation Director, for the adequate sanitary handling and disposal away from the Airport, of all trash, garbage and refuse caused as a result of the operation of Lessee's business.

7.3 The adequacy of the performance of the foregoing maintenance and repair by Lessee shall be determined by the Aviation Director, whose reasonably exercised judgment shall be conclusive. Should Lessee refuse or neglect to undertake any such maintenance or repair, or if Lessor is required to perform any maintenance or repair necessitated by the negligent acts or omissions of Lessee, its employees, agents, assignees, subtenants or licensees, then Lessor shall have the right, but not the obligation, to perform such maintenance or repair on behalf of and for Lessee. The costs of such maintenance or repair, plus any associated overhead reasonably determined by Lessor, shall be reimbursed by Lessee to Lessor no later than ten (10) days following receipt by Lessee of written demand from Lessor for same. In cases not involving maintenance or repair requiring exigent action, Lessor shall provide Lessee a written request that Lessee perform such maintenance or repair, at least thirty (30) days before Lessor effects such maintenance or repair on behalf of Lessee.

PROVISION 8 **TITLE**

8.1 It is expressly understood and agreed that any and all items of personal property owned, placed or maintained by Lessee on the Leased Premises during the term hereof shall be and remain Lessee's property. Provided that Lessee is not in default under this Lease Agreement, it may remove or cause to be removed all such items from the Leased Premises. At Lessor's sole election, any such items remaining on the Leased Premises more than thirty (30) days after the expiration of the term hereof, shall then belong to Lessor without payment of consideration therefor.

8.2 All foundations, buildings, alterations, additions or improvements (hereinafter "Improvements") made upon the Leased Premises by Lessee are and shall be the property of Lessee during the Lease Term hereof. During said term, absent the Aviation Director's written approval, such Improvements shall be conveyed, transferred or assigned, only to a person or entity to whom this Lease Agreement simultaneously is being transferred or assigned,

whereupon the holder of the leasehold interest hereunder shall own the Improvements. Absent such written approval of the Director any attempted conveyance, transfer or assignment of Improvements, to any person or entity, whether voluntary, by operation of law or otherwise, shall be void and of no effect.

8.3 With the exception of fuel storage facilities as set forth in Provision 9 below, at Lessor's sole option, title to Improvements made upon the Leased Premises by Lessee, and fixtures annexed thereto, shall vest in and become the property of Lessor, at no cost to Lessor and without any instrument of conveyance, upon the expiration of the primary term of this Lease Agreement or upon earlier termination thereof. Notwithstanding the foregoing, Lessee covenants and agrees, upon Lessor's demand, on or after termination of the Lease Agreement, to execute any instruments requested by Lessor in connection with the conveyance of such Improvements. Lessor shall notify Lessee whether or not Lessor intends take title to Improvements, or any portion thereof, as herein provided, at least sixty (60) days prior to the expiration of the primary term of this Lease Agreement or earlier termination thereof. Lessor's failure to provide such notice, however, shall not act as a waiver of its rights hereunder; provided that Lessor, within a reasonable time after receipt of Lessee's written request, advises Lessee of its election hereunder.

8.4 Should Lessor elect not to take title to Improvements, or any portion thereof, as provided in Paragraph 8.3 above, same shall be removed by Lessee, at its sole cost and risk, in compliance with all applicable laws and regulations and, to the degree reasonably possible, the Leased Premises shall be restored to the condition that existed prior to the construction of same. Should Lessee fail to undertake such removal within ninety (90) days following the expiration or termination of this Lease Agreement, Lessor may undertake such removal at Lessee's expense. The Performance Guarantee, required under this Lease Agreement, may, at Lessor's option, be applied towards any costs incurred by Lessor for such removal.

PROVISION 9 ENVIRONMENTAL COMPLIANCE

9.1 Lessee acknowledges that it is the owner of any and all fuel storage facilities presently existing upon the Leased Premises and any fuel storage facilities that may in the future be placed by Lessee, its sublessees, licensees or permittees in, on or upon the Leased Premises. (For purposes of this provision, "facilities" are defined as any mobile or fixed, onshore building, structure, installation, equipment, pipe, or pipeline used in fuel storage, fuel gathering, fuel transfer, or fuel distribution.) Lessee agrees that it shall, at its sole expense, comply with all applicable federal, state and local statutes, laws, ordinances, rules and regulations concerning fuel storage facilities, including, but not limited to, regulations promulgated by the Environmental Protection Agency, as well as all inspection, financial liability and inventory control recording requirements, and that it shall provide Lessor with copies of certificates of registration from the Texas Commission on Environmental Quality (hereinafter "TCEQ") for any existing or new fuel storage facilities, together with copies of any required proof of financial responsibility and other documentation reasonably required by the Aviation Director or applicable regulatory agency.

9.2 During the term of this Lease Agreement and any extensions thereof, should changes in applicable statutes, laws, rules or regulations regarding fuel storage facilities necessitate the removal, modification or replacement of such fuel storage facilities in, on, upon or under the Leased Premises, then such removal, modification or replacement shall be timely undertaken and performed by Lessee, at its sole cost and expense. Ownership of the fuel storage facilities shall, at all times, remain in the Lessee, its sublessees, licensees and permittees. Furthermore,

if requested by Lessor, Lessee shall within ninety (90) days following the termination or expiration of this Lease Agreement, at its sole cost, remove said Items from the Leased Premises, perform any required soil or other investigations, perform regulatory remediation and restore the Leased Premises to a condition in compliance with all applicable statutes, laws, rules, or regulations governing fuel storage facilities. The Performance Guarantee required under the terms of this Lease Agreement shall not be returned or restored to Lessee until such removal, if requested, is accomplished and/or remediation is accomplished to the satisfaction of TCEQ.

9.3 Lessee shall, in conducting any activity or business on the Leased Premises, including environmental response or remedial activities, comply with all environmental laws, including, but not limited to, those regarding the generation, storage, use, transportation and disposal of solid wastes, hazardous materials, toxic chemicals, special wastes or other contaminants, and all laws, regulations and notice requirements pertaining to releases or threatened releases of hazardous materials, toxic chemicals, special wastes or other contaminants into the environment. Lessee shall not cause the release, or permit its employees, agents, permittees, contractors, subcontractors, sublessees, or others in Lessee's control, supervision, or employment, to release (whether by way of uncapping, pouring, spilling, spraying, spreading, attaching or otherwise), into or onto the Leased Premises or any other location upon or above the Airport (including the air, ground and ground water thereunder and the sewer and storm water drainage systems thereon), any quantity of hazardous substances (as defined or established from time to time by applicable local, state, or federal law and including, among other things, hazardous waste and any other substances that have been or may in the future be determined to be toxic, hazardous or unsafe). To the extent any such release may exceed quantities or volumes permitted by applicable federal, Texas or local law, Lessee shall immediately notify the Aviation Director, TCEQ, and Local Emergency Planning Committee, as may be required under the federal Emergency Planning and Community Right To Know Act. The Lessee, or any occupant of Leased Premises, shall be responsible for compliance with said Act, in the event of any such release.

9.4 Lessee shall remedy any release or threatened release caused by Lessee's operations at the Airport, as described above and, whether resulting from such release or otherwise, remove any hazardous materials, special wastes and any other environmental contamination caused by Lessee on, under or upon the Leased Premises, as may be required by a governmental or regulatory agency responsible for enforcing environmental laws and regulations. Such work shall be performed, at Lessee's sole expense, after Lessee submits to Lessor a written plan for completing such work. Lessor shall have the right to review and inspect all such work at any time, using consultants and representatives of its choice, at Lessor's sole cost and expense. Specific cleanup levels for any environmental remedial work shall be designed to meet all of the applicable environmental laws and regulations, to the satisfaction of the appropriate government or regulatory agency responsible for enforcing environmental laws and regulations.

9.5 With the exception of environmental matters not caused by Lessee, or reasonably discoverable by Lessee prior to the commencement of this Lease Agreement, Lessee agrees to defend, indemnify and hold harmless Lessor, its elected and appointed officials, officers, agents and employees, from and against any and all reasonable losses, claims, liability, damages, injunctive relief, injuries to person, property or natural resources, costs, expenses, enforcement actions, actions or causes of action, fines and penalties, arising as a result of action or inaction of Lessee, its employees, agents or contractors, in connection with the release, threatened release or presence of any hazardous material, contaminants, or toxic chemicals at, on, under, over or upon the Leased Premises and Airport, whether or not foreseeable, regardless of the

source or timing of occurrence, release, threatened release, presence or discovery of same. The foregoing indemnity includes, without limitation, all reasonable costs at law or in equity for removal, clean-up, remediation and disposal of any kind, as well as all reasonable costs associated with determining whether the Airport is in compliance, and causing the Airport to be in compliance with, all applicable environmental laws and regulations and all reasonable costs associated with claims for damages to persons, property or natural resources. In the event that Lessor is named in any enforcement action or lawsuit by any party in connection with the environmental condition of the Leased Premises caused by the action or inaction of the Lessee, Lessee shall defend Lessor and indemnify and hold harmless Lessor from any reasonable costs, damages, fines and penalties resulting therefrom.

9.6 In addition to any other rights of access herein regarding the Leased Premises, Lessor shall, upon reasonable notice, have access thereto in order to inspect and confirm that the Lessee is using same in accordance with all applicable environmental laws and regulations. Lessee shall, upon the Aviation Director's demand and at Lessee's sole expense, demonstrate to said Director (through such tests, professional inspections, samplings, or other methods as may be reasonably required by said Director) that Lessee has not caused or permitted any release of hazardous substances or contaminants in excess of quantities or volumes permitted by applicable federal, Texas or local law. Qualified independent experts, chosen by Lessee, subject to Lessor's approval, which approval shall not be unreasonably withheld, shall conduct any such tests and assessments. Lessee shall provide copies of reports from any such testing or assessments to Lessor upon receipt. Should Lessee not provide same to Lessor, Lessor may conduct, or cause to be conducted, such tests, inspections, samplings and assessments, and Lessee shall reimburse Lessor for all costs of such actions, no later than thirty (30) days following receipt by Lessee of invoices therefor. Lessor reserves the right to conduct any of the above actions, at the Aviation Director's discretion, when in the opinion of same, additional or supplemental assessments are in Lessor's best interest.

9.7 Lessee, at Lessor's request, shall make available for inspection and copying, upon reasonable notice and at reasonable times, any or all of the non-privileged documents and materials Lessee has prepared pursuant to any environmental law or regulation, which may be retained by Lessor or submitted to any governmental regulatory agency; provided, such documents and materials relate to environmental regulatory compliance and pertain to the Airport or the Leased Premises. If any environmental law or regulation requires Lessee to file any notice or report of a release or threatened release of regulated materials on, under or about the Leased Premises or the Airport, Lessee shall promptly submit such notice or report to the appropriate governmental agency and simultaneously provide a copy of such report or notice to Lessor. In the event that any written allegation, claim, demand, action or notice is made against Lessee regarding Lessee's failure or alleged failure to comply with any environmental law or regulation, Lessee, as soon as practicable, shall notify Lessor in writing and provide same with copies of any such written allegations, claims, demands, notices or actions so made.

9.8 The parties to this Lease Agreement, including the tenants or sublessees who may enjoy a future right of occupation through Lessee, acknowledge a right and a duty in Lessor, exercised by the Aviation Director, to review safety and potential environmental impacts of any proposed operation, business, maintenance or other activity of the Lessee and its sublessees. To this end, said Director shall have authority to disapprove an activity of the Lessee and/or any sublessee, on the basis of a risk assessment. The parties understand that Airport premises are not intended for use involving refining, processing, manufacturing, maintenance, overhaul, or similar heavy industrial activities entailing use, storage, manufacture, or transport of critical volumes of regulated or hazardous materials or toxic chemicals. For purposes of this Lease Agreement, "critical volumes" are those which, in the discretion and judgment of the Aviation

Director, pose or may pose an unreasonable risk to Airport property, its occupants, employees or the traveling public. Discretion and judgment are reserved to the Aviation Director due to the fact that combinations and proximity of such materials are synergistic. The Aviation Director's decision in this regard is final, and said Director shall exercise such review prior to any lease or sublease, from time to time, as he may deem necessary for appropriate risk assessment of existing leases and subleases.

PROVISION 10
SIGNS

Lessee shall neither erect signs nor distribute advertising matter upon Airport Premises, without the prior written consent of the Aviation Director. Such consent will not be unreasonably withheld or delayed.

PROVISION 11
REGULATIONS

Lessee's officers, agents, employees and servants shall obey all rules and regulations promulgated by Lessor, its authorized agents in charge of the Airport, or other lawful authority, to insure the safe and orderly conduct of operations and traffic thereon.

PROVISION 12
QUALITY OF SERVICES

Lessee shall, at all times, furnish good, prompt and efficient commercial aviation services, adequate to meet demand for same at the Airport, furnish said services on a non-discriminatory basis to all users thereof, and charge non-discriminatory prices for each unit of sale or service; provided, however, that Lessee will be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

PROVISION 13
TIME OF EMERGENCY

During time of war or national emergency, Lessor shall have the right to lease the landing area or any part thereof to the United States for government use, and, if such lease is executed, the provisions of this Lease Agreement, insofar as they are inconsistent with those of the Government lease, shall be suspended.

PROVISION 14
SUBORDINATION OF LEASE

This Lease Agreement shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States regarding operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. Should the effect of such agreement with the United States be to take any of the property under lease, or substantially alter or destroy the commercial value of the leasehold interest granted herein, Lessor shall not be held liable therefore, but, in such event, Lessee may cancel this Lease Agreement upon ten (10) days' written notice to Lessor. Notwithstanding the foregoing, Lessor agrees that, in the event it becomes aware of any such proposed or pending agreement or taking, Lessor shall utilize its best efforts to (i) give the maximum possible notice thereof to Lessee; and (ii)

cooperate with Lessee to mitigate the impact of such agreement or taking or other government action upon Lessee, including, but not limited to, reasonably assisting Lessee in securing alternate premises and minimizing any disruption of or interference with Lessee's business.

PROVISION 15
LANDLORD'S LIEN

15.1 Lessee hereby gives to Lessor a lien upon all of its property now, or at any time hereafter, in or upon the Leased Premises, to secure the prompt payment of charges herein stipulated to be paid for the use of said Premises; all exemptions of such property, or any of it, being hereby waived.

15.2 In the event that the amount of the Performance Guarantee provided by Lessee under the terms of this Lease Agreement, at all times during the term hereof, shall equal the greater of the rentals, fees and charges payable by Lessee to Lessor for the current calendar year, or double the amount of the Performance Guarantee set forth in the main body of this Lease Agreement, then the provisions set forth in Paragraph 15.1, above, shall not apply hereto.

PROVISION 16
SECURITY

16.1 Lessee shall provide for the security of the Air Operations Area (hereinafter "A.O.A.") and/or Security Identification Display Area (hereinafter "S.I.D.A.") to prevent entry or movement of unauthorized persons thereupon, in accordance with Chapter 3, Section 3-23, of the City Code of San Antonio, Texas, as currently written, or as amended or replaced in future. In appropriate cases, physical barriers to prevent access to the A.O.A. and/or the S.I.D.A. must be placed and supervised by Lessee during construction upon the Leased Premises.

16.2 Lessee shall comply with all rules, regulations, statutes, orders, directives or other mandates of the United States or State of Texas, regarding Airport security requirements or measures.

16.3 Lessee shall comply with all current and future mandates of the Transportation Security Agency for background investigations of its personnel.

16.4 Lessee shall indemnify and hold harmless Lessor, its officers and employees from any charges, fines or penalties that may be assessed or levied by any department or agency of the United States or State of Texas, by reason of Lessee's failure to comply with any applicable security provision and/or requirement for compliance set forth herein.

PROVISION 17
DEFAULT AND REMEDIES

17.1 Each of the following shall constitute an event of default by Lessee:

A. Lessee shall fail to pay any rent as provided for in this Lease Agreement and such failure shall continue for a period of ten (10) days after receipt by Lessee of written notice thereof.

B. Lessee shall neglect or fail to perform or observe any of the terms, provisions, conditions or covenants herein contained, and if such neglect or failure should continue for a period of thirty (30) days after receipt by Lessee of written notice of same, or if

more than thirty (30) days shall be required because of the nature of the default, if Lessee shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default.

C. Lessee shall become insolvent; take the benefit of any present or future insolvency statute; make a general assignment for the benefit of creditors; file a voluntary petition in bankruptcy or a petition or answer seeking a reorganization or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or of any state thereof; or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property.

D. An Order of Relief shall be entered, at the request of Lessee or any of its creditors, under federal bankruptcy, reorganization laws or any law or statute of the United States or any state thereof.

E. A petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, shall be filed against Lessee and shall not be dismissed within thirty (30) days after the filing thereof.

F. Pursuant to, or under the authority of, any legislative act, resolution, rule, or any court, governmental, agency or board order or decree or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Lessee and such possession or control shall continue in effect for a period of fifteen (15) days.

G. Lessee shall become a corporation in dissolution or voluntarily or involuntarily forfeit its corporate charter.

H. The rights of Lessee hereunder shall be transferred to, pass to or devolve upon, by operations of law or otherwise, any other person, firm, corporation or other entity, in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation or other proceeding or occurrence described in paragraphs C through G of this Provision 17.1.

I. Lessee shall voluntarily discontinue its operations at the Airport for a period of sixty (60) consecutive days.

17.2 In the event any default shall occur, Lessor then, or at any time thereafter, but prior to the removal of such condition of default, shall have the right, at its election, either to terminate this Lease Agreement, by giving at least five (5) days written notice to Lessee, at which time Lessee will then quit and surrender the Leased Premises to Lessor, but Lessee shall remain liable as hereinafter provided, or enter upon and take possession of the Leased Premises (or any part thereof in the name of the whole), without demand or notice, and repossess the same as of the Lessor's former estate, expelling Lessee and those claiming under Lessee, forcibly if necessary, without prejudice to any remedy for arrears of rent or preceding breach of covenant and without any liability to Lessee or those claiming under Lessee for such repossession.

17.3 Lessor's repossession of the Leased Premises shall not be construed as an election to terminate this Lease Agreement nor shall it cause a forfeiture of rents or other charges remaining to be paid during the balance of the term hereof, unless a written notice of such intention be given to Lessee, or unless such termination is decreed by a court of competent jurisdiction.

17.4 Upon repossession, Lessor shall have the right, at its election and whether or not this Lease Agreement shall be terminated, to relet the Leased Premises or any part thereof for such period(s), which may extend beyond the term hereof, at such rent and upon such other terms and conditions as Lessor may, in good faith, deem advisable. Notwithstanding any law or anything contained herein to the contrary, to the full extent permitted under applicable law, Lessee and Lessor agree that Lessor's duty to relet the Leased Premises or otherwise to mitigate damages hereunder shall be limited to those requirements set forth in the Texas Property Code, as amended. Lessor shall in no event be liable, and Lessee's liability shall not be affected or diminished whatsoever, for failure to relet the Leased Premises, or in the event the Leased Premises are relet, for failure to collect any rental under such reletting, so long as the Lessor uses objectively reasonable efforts to comply with said Property Code. Lessor and Lessee agree that any such duty shall be satisfied and Lessor shall be deemed to have used objective reasonable efforts to relet the Leased Premises and mitigate Lessor's damages by: (1) posting a "For Lease" sign on the Leased Premises; (2) advising Lessor's lease agent, if any, of the availability of the Leased Premises; and (3) advising at least one (1) outside commercial brokerage entity of the availability of the Premises.

17.5 In the event that Lessor elects to relet, rentals received by same from such reletting shall be applied: first, to the payment of any indebtedness, other than rent due hereunder from Lessee under this Lease Agreement; second, to the payment of any cost of such reletting; third, to the payment of rent due and unpaid hereunder; and finally, the residue, if any, shall be held by Lessor and applied hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of rent hereunder, be less than the rent payable during that month by Lessee hereunder, then Lessee shall pay such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. Lessee shall also pay to Lessor, as soon as ascertained, any costs and expenses incurred by Lessor in such reletting not covered by the rentals received from such reletting of the Leased Premises.

17.6 If Lessor shall terminate this Lease Agreement or take possession of the Leased Premises by reason of a condition of default, Lessee and those holding under Lessee, shall forthwith remove their goods and effects from the Leased Premises. If Lessee or any such claimant shall fail to effect such removal forthwith, Lessor may, without liability to Lessee or those claiming under Lessee, remove such goods and effects and store same for the account of Lessee or of the owner thereof at any place selected by Lessor, or, at Lessor's election, and upon giving fifteen (15) days' written notice to Lessee of date, time and location of sale, Lessor may sell the same at public auction or private sale on such terms and conditions as to price, payment and otherwise, as Lessor in its sole discretion may deem advisable. If, in Lessor's judgment, the cost of removing and storing, or of removing and selling any such goods and effects, exceeds the value thereof or the probable sale price thereof, as the case may be, Lessor shall have the right to dispose of such goods in any manner Lessor may deem advisable.

17.7 Lessee shall be responsible for all costs of removal, storage and sale, and Lessor shall have the right to reimburse the Airport Revenue Fund from the proceeds of any sale for all such costs paid or incurred by Lessor. If any surplus sale proceeds remain after such reimbursement, Lessor may deduct from such surplus any other sum due to Lessor hereunder and shall pay over to Lessee any remaining balance of such surplus sale proceeds.

17.8 If Lessor shall enter into and repossess the Leased Premises as a result of Lessee's default in the performance of any of the terms, covenants or conditions herein contained, then Lessee hereby covenants and agrees that it will not claim the right to redeem or re-enter the

said Premises to restore the operation of this Lease Agreement, and Lessee hereby waives the right to such redemption and re-entrance under any present or future law, and does hereby further, for any party claiming through or under Lessee, expressly waive its right, if any, to make payment of any sum or sums of rent, or otherwise, of which Lessee shall have made default under any of the covenants of the Lease Agreement and to claim any subrogation of the rights of Lessee under these presents, or any of the covenants thereof, by reason of such payment.

17.9 All rights and remedies of Lessor herein created or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently, whenever and as often as deemed desirable.

17.10 If proceedings shall, at any time, be commenced for recovery of possession, as aforesaid, and compromise or settlement shall be effected either before or after judgment whereby Lessee shall be permitted to retain possession of the Leased Premises, then such proceeding shall not constitute a waiver of any condition or agreement contained herein or of any subsequent breach thereof or to this Agreement.

17.11 Any amount paid or expense or liability incurred by Lessor for the account of Lessee may be deemed to be additional rental and the same may, at the option of Lessor, be added to any rent then due or thereafter falling due hereunder.

PROVISION 18 **HOLDING OVER**

It is agreed and understood that any holding over by Lessee, with Lessor's consent, after the termination of this Lease Agreement, shall not renew and extend same, but shall operate and be construed as a tenancy from month-to-month, upon all the terms and conditions set forth herein, except that rental, as reasonably determined by the Aviation Director, shall also be paid to Lessor by Lessee for all buildings on the Leased Premises, as of the end of the primary term of this Lease Agreement. Should Lessee hold over against Lessor's will, Lessee agrees to pay to Lessor, as monthly rent during such period of holding over, for such Premises (including all buildings located thereon, whether title to such buildings is in the name of Lessor or Lessee) for each month of such tenancy, triple the Ground and Building Rental paid for the last month of the Lease Agreement term, plus applicable Fuel Flowage Fees. Lessee shall be liable to Lessor for all loss or damage resulting from such holding over against Lessor's will after the termination of this Lease Agreement, whether such loss or damage may be contemplated at this time or not. It is expressly agreed that acceptance of the foregoing rental by Lessor, in the event that Lessee fails or refuses to surrender possession, shall not operate to give Lessee any right to remain in possession beyond the period for which such amount has been paid nor shall it constitute a waiver by Lessor of its right to immediate possession thereafter.

PROVISION 19 **ASSIGNMENT AND SUBLET**

19.1 Lessee shall not transfer or assign this Lease Agreement or Lessee's interest in or to the Leased Premises, or any part thereof, without having first obtained Lessor's prior written consent, which may be given only by or pursuant to an ordinance enacted by the City Council of the City of San Antonio, Texas; provided, however, that the foregoing shall not apply to and prevent the assignment of this Lease Agreement to any corporation, or other entity with which Lessee may merge or consolidate or which may succeed to a controlling interest in the business of Lessee. Notwithstanding the foregoing and for so long as any pledge or collateral

assignment of Lessee's interest in the Lease Agreement shall be by instrument substantially in such form as shall have previously been approved by the City Council, the consent of Lessor to such pledge or collateral assignment may be given by Lessor acting by and through the Aviation Director.

19.2 Lessee shall not sublet the Leased Premises or any part thereof without having first obtained the Aviation Director's written consent. In the event Lessee requests permission to sublease, the request shall be submitted to the said Director, prior to the effective date of the sublease requested, and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the sublessee, the area or space to be subleased, the rental to be charged, the type of business to be conducted, reasonable financial history and all other information requested by said Director shall be specified. Lessee shall not sublease a total of more than fifty percent (50%) of the Leased Premises. If such limit is exceeded, Lessor shall have the right, upon thirty (30) days' written notice, to recapture the space described in the sublease, and terminate the entire Lease Agreement on the expiration of such thirty (30) day period. In the event of any recapture, Lessee's rental payments shall be adjusted on a pro-rata basis; provided, however, that all options of Lessor contained in Provision 17 shall be available to Lessor.

19.3 In the event of a sublease where the rental per square foot established in the sublease exceeds the rental for same established in the Lease Agreement, Lessee shall pay to Lessor, as additional rent, the excess of the rental received from the sublessee over that specified to be paid by Lessee herein per square foot, provided that Lessee may charge a reasonable fee for administrative costs in addition to the sublease rental, not to exceed fifteen percent (15%) of the specified sublease rental. Such fifteen percent (15%) shall not be considered as excess rental. Nothing herein shall prevent Lessee from charging a reasonable fee to others for the use of capital equipment and facilities on the subleased premises and charging for use of utilities and other services being paid for by Lessee. Should any method of computation of rental to be paid by a sublessee, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Leased Premises by Lessee exceeds the rental paid to Lessor for said proportionate area of the Leased Premises.

19.4 Each transfer, assignment or subletting to which there has been consent shall be by written instrument, in a form satisfactory to Lessor, and shall be executed by the transferee, assignee or sublessee who shall agree, in writing, for the benefit of Lessor to be bound by and to perform the terms, covenants and conditions of this Lease Agreement. Four (4) executed copies of such written instrument shall be delivered to Lessor. Failure either to obtain Lessor's prior written consent or to comply with the provisions herein contained, shall operate to prevent any such transfer, assignment or subletting from becoming effective.

19.5 Should the assignment of this Lease Agreement be approved by Lessor and to the extent that such assignee assumes Lessee's obligation hereunder, Lessee shall, by virtue of such assignment, be released from such obligation. Should the subletting of the Leased Premises be approved by Lessor, however, Lessee agrees and acknowledges that it shall remain fully and primarily liable under this Lease Agreement, notwithstanding any such sublease and that any such sublessee shall be required to attorn to Lessor hereunder.

19.6 The receipt by the Lessor of rent from an assignee, subtenant or occupant of the Leased Premises shall not be deemed a waiver of the covenant in this Lease Agreement against assignment and subletting or an acceptance of the assignee, subtenant or occupant as a tenant or a release of the Lessee from further observance or performance by Lessee of the covenants

contained in this Lease Agreement. No provision of this Lease Agreement shall be deemed to have been waived by the Lessor, unless such waiver be in writing, signed by the Aviation Director.

PROVISION 20
FIRE AND OTHER DAMAGE

20.1 In the event a City-owned building on the Leased Premises shall be partially damaged by fire or other casualty, Lessee shall give immediate notice thereof to Lessor and the same shall be repaired, at Lessor's expense, without unreasonable delay, unless Lessor determines that the damage is so extensive that repair or rebuilding is not feasible. From the date of such casualty until repair, monthly rental payments hereunder shall abate based on the proportion the part of the building destroyed, or rendered untenable, bears to the total building space; provided, however, that if said building shall be so slightly injured in any such casualty as not to be rendered unfit for occupancy, the rent hereunder shall not cease or be abated during any repair period. In the event that the damage to the building, by fire or other casualty, is so extensive that the building is rendered wholly untenable, and such damage to the building, in the exclusive judgment of Lessor, makes rebuilding same to be impractical, then at the option of the Lessor, and upon notice to Lessee, this Lease Agreement, as it applies to said building, shall cease, and the rent hereunder shall be apportioned and paid up to date of such damage. If Lessor elects to rebuild such building, Lessor shall notify Lessee of such intention within thirty (30) days of the date of the damage, otherwise the Lease Agreement, as applicable to said building, shall be deemed canceled and of no further force or effect. Notwithstanding any provision above, should the destruction or damage to said building (to the extent of work that is to be provided as part of Lessor's obligation) be so great that it will not be reasonably repaired or restored by Lessor within one hundred twenty (120) days to the state of fitness that existed prior to the commencement of improvements, if any, performed by Lessee, Lessee may, at its option, terminate this Lease Agreement, as it applies to said building, by written notification of same given to Lessor within thirty (30) days after the occurrence of such casualty, or upon notification that the work will not be completed within the one hundred twenty (120) days.

20.2 Lessor's obligations to rebuild or repair under this Provision shall, in any event, be limited to restoring said building to substantially the condition that existed prior to the commencement of improvements, if any, performed by Lessee and shall further be limited to the extent of the insurance proceeds available to Lessor for such restoration. Lessee agrees that if Lessor elects to repair or rebuild as set forth in this Provision, then Lessee will proceed with reasonable diligence, at its sole cost and expense, to rebuild, repair and restore its improvements, signs, fixtures, furnishings, equipment and other items provided or installed by Lessee in or about the Leased Premises in a manner and to a condition at least equal to that which existed prior to the damage or destruction.

20.3 In the event that the building or other improvements upon the Leased Premises constructed by and/or owned by Lessee are damaged or destroyed by fire or any other casualty during the term of this Lease Agreement or any extension hereof, regardless of the extent of such damage or destruction, the rent payable hereunder shall not abate. Furthermore, Lessee shall, no later than one hundred twenty (120) days following the date of such damage or destruction, commence to repair, reconstruct or replace the damaged or destroyed building or improvement and prosecute the same with reasonable diligence, so that the building or improvement shall, at Lessee's sole expense, be restored no later than one (1) year following such damage or destruction to substantially the condition it was in prior to said damage or destruction. Should the commencement, construction or completion of said repair, reconstruction or replacement be prevented or delayed by reason of war, civil commotion, acts

of God, strikes, governmental restrictions or regulations, fire or other casualty, or any other reason beyond the control of Lessee, the time for commencing or completing the repair, reconstruction or replacement, as the case may be, shall automatically be extended for the period of each such delay.

PROVISION 21
LAWS AND ORDINANCES

Lessee agrees to comply promptly with all laws, ordinances, orders and regulations affecting the Leased Premises, including, but not limited to, those related to its cleanliness, safety, operation, use and business operations. Lessee shall comply with all Federal and State regulations concerning its operation on the Airport and shall indemnify and hold harmless Lessor, its officers and employees, from any charges, fines or penalties that may be assessed or levied by any department or agency of the United States or the State of Texas, by reason of Lessee's failure to comply with the terms of this Provision or with any other terms set forth in this Lease Agreement.

PROVISION 22
TAXES AND LICENSES

Lessee shall pay, on or before their respective due dates, to the appropriate collecting authority, all Federal, State and local taxes and fees, which are now or may hereafter be levied upon the Lessee, Leased Premises, the business conducted thereon or upon any of Lessee's property used in connection therewith. Lessee shall also maintain, in current status, all Federal, State and local licenses and permits required for the operation of its business.

PROVISION 23
NONDISCRIMINATION & AFFIRMATIVE ACTION REGULATIONS

23.1 Any discrimination by Lessee, its sublessees, agents or employees, based on race, color, creed, sex, age, religion, national origin or handicap, in employment practices, use of or admission to the Leased Premises, is prohibited.

23.2 Lessee for itself, its heirs, representatives, successors 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 Leased Premises, for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

23.3 Lessee for itself, its representatives, successors 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 grounds of race, color, creed, sex, age, religion, national origin or handicap, 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, creed, sex, age, religion, national origin or handicap shall be excluded from participation, denied the benefits of, or otherwise be subjected to discrimination; and (3) that Lessee shall use the Leased 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.

23.4 Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, color, creed, sex, age, religion, national origin or handicap, be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee 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 by said Subpart. Lessee assures that it will require that its covered sub-organizations provide assurances to Lessee that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

23.5 Lessee agrees to bind contractually all its sub-organizations and sublessees to all the foregoing terms and conditions.

23.6 With respect to its operations at the Airport, Lessee shall conform to Lessor's Small and/or Minority Business Enterprises Program. Lessee shall comply with the Good Faith Efforts requirements thereof, furnishing to Lessor such documentation as it shall require to verify same. Lessee's failure to furnish such documentation within thirty (30) days following its receipt of Lessor's written demand therefor, and/or its willful or unjustified failure, as determined by Lessor, to make such Good Faith Efforts shall, at Lessor's option, cause this Lease Agreement to terminate as of the date specified in a written termination notice to Lessee provided by the Aviation Director.

23.7 Lessee shall comply with Lessor's Nondiscrimination Clause, including the development and use of an Affirmative Action plan for equal employment opportunity. If requested by Lessor, this plan shall be submitted annually and monitored through an annual status report, reflecting the prior year's activity. Quarterly affirmative action status reports shall also be provided, upon Lessor's request. Any and all provisions of this Lease Agreement pertaining to Lessee shall apply as well to any Minority Business utilized by Lessee in its operations hereunder.

PROVISION 24
WAGES

Lessee shall pay at least the minimum wage, as required by Federal and State statutes and City ordinances, to employees of its operations hereunder.

PROVISION 25
FORCE MAJEURE

25.1 If either party shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, war, terrorism, inability to procure materials, restrictive governmental laws or regulations or other cause, without fault and beyond the control of the party obligated (the financial inability of the party excepted), performance of such act shall be extended by a period equal to the period of such delay; provided, however, that nothing in this paragraph shall excuse Lessee from the prompt payment of any rental except as may be expressly provided otherwise in this Lease; and further provided that the party relying on this paragraph shall provide written notice to the other party notifying such other party of the force majeure event promptly after such force majeure event, and shall proceed with all diligence to complete the performance of the act upon the cessation of the force majeure event.

PROVISION 26
ATTORNEYS' FEES

In the event that Lessor brings an action under this Lease Agreement, and prevails therein, it shall be entitled to recover from Lessee its reasonable attorneys' fees, not to exceed the actual amount of attorneys' fees incurred in the defense or prosecution thereof.

PROVISION 27
SEVERABILITY

If any clause or Provision of this Lease Agreement is illegal, invalid or unenforceable under present or future laws, it is the parties' intention that the remainder hereof not be affected. In lieu of each clause or provision that is illegal, invalid or unenforceable, the parties intend that there be added, as a part of this Lease Agreement, a clause or Provision, as similar in terms to such illegal, invalid or unenforceable clause or Provision, as may be possible, yet be legal, valid and enforceable.

PROVISION 28
AMENDMENT

This Lease Agreement, together with its authorizing ordinance, constitutes the entire agreement between the parties. No amendment, modification or alteration of the terms of this Lease Agreement shall be binding, unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

PROVISION 29
NOTICES

Notices to Lessor shall be deemed sufficient if in writing and sent, registered or certified mail, postage prepaid, addressed to City Clerk, P. O. Box 839966, San Antonio, Texas 78283-3966 and to Aviation Director, City of San Antonio, Department of Aviation, 9800 Airport Boulevard, San Antonio, Texas 78216, and to such other address as may be designated, in writing, by the Aviation Director from time to time. Notices to Lessee shall be deemed sufficient if in writing and sent, registered or certified mail, postage prepaid, addressed to Lessee at the address shown herein. Either party to this Lease Agreement may change its address by giving notice of such change as herein provided.

PROVISION 30
RELATIONSHIP OF PARTIES

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship, between the parties hereto. It is understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, creates a relationship other than one of Lessor and Lessee.

**PROVISION 31
CUMULATIVE REMEDIES
NO WAIVER - NO ORAL CHANGE**

The specific remedies of the parties under this Lease Agreement are cumulative and do not exclude any other remedies to which they may be lawfully entitled, in the event of a breach or threatened breach hereof. The failure of either party ever to insist upon the strict performance of any covenant of this Lease Agreement, or to exercise any option herein contained, shall not be construed as its future waiver or relinquishment thereof. Lessor's receipt of a rent payment, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach. Further, no waiver, change, modification or discharge by either party of any provision of this Lease Agreement shall be deemed to have been made or be effective, unless in writing and signed by the party to be charged. In addition to other remedies herein, the parties shall be entitled to an injunction restraining the violation, or attempted violation, of any of the covenants, conditions or Provisions hereof, or to a decree compelling performance of same; subject, however, to other Provisions herein.

**PROVISION 32
ENTIRE AGREEMENT**

This Lease Agreement comprises the final and entire agreement, including all terms and conditions thereof, between the parties hereto, and supersedes all other agreements, oral or otherwise, regarding the subject matter hereof, none of which shall hereafter be deemed to exist or to bind the parties hereto. The parties intend that neither shall be bound by any term, condition or representation not herein written.

**PROVISION 33
CONFLICT OF INTEREST**

Lessee acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

Pursuant to the subsection above, Lessee warrants and certifies, and this contract is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Lessee further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

PROVISION 34
PARTIES BOUND

This Lease Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as permitted hereby.

PROVISION 35
TEXAS LAW TO APPLY

All obligations under this Lease Agreement are performable in Bexar County, Texas, and shall be construed pursuant to the laws of the State of Texas, except where state law shall be preempted by any rules, laws or regulations of the United States.

PROVISION 36
APPROVALS BY LESSOR

Whenever this Lease Agreement calls for approval by Lessor, such approval shall be evidenced, in writing, by either the Aviation Director or the City Manager of the City of San Antonio or his designee.

PROVISION 37
GENDER

Words of either gender used in this Lease Agreement shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

PROVISION 38
CAPTIONS

The captions of the provisions contained herein are for convenience in reference and are not intended to define, extend or limit the scope of any provision of this Lease Agreement.

DM ✓



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ORD - Avis Rent a Car

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1/17/2008