

RESOLUTION NO. 1288-22

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA, EXTENDING AND AMENDING THE LEASE WITH LAKE POWELL CAR RENTAL COMPANIES, LLC; AND AUTHORIZING THE MAYOR TO EXECUTE SAID LEASE AGREEMENT.**

**WHEREAS**, on December 19, 2018, the City of Page entered into a three year lease with Lake Powell Car Rental Companies, LLC, for space known as Area C located on the first level of the Airport Main Terminal at 238 10th Ave., Page, Arizona, plus the exclusive use of twenty parking lot spaces at the Old Terminal; and

**WHEREAS**, the 2018 lease allowed for a three year extension of the lease under the terms as set forth in the lease; and

**WHEREAS**, the parties desire to amend and extend the lease for three additional years under the terms set forth in the lease agreement attached hereto as Exhibit 1 and incorporated herein by reference.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, AS FOLLOWS:**

**Section 1. Approval of Lease Agreement**

That the Mayor and City Council of the City of Page hereby approve the Lease Agreement which is attached hereto as Exhibit 1 and authorize the Mayor to execute said agreement.

**PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, ARIZONA this 22<sup>nd</sup> day of June, 2022, by the following vote:**

Ayes	<u>7</u>
Nays	<u>0</u>
Abstentions	<u>0</u>
Absent	<u>0</u>



CITY OF PAGE

BY William R. Deak  
Mayor

ATTEST:

[Signature]  
City Clerk

APPROVED AS TO FORM:

[Signature]  
City Attorney

## Exhibit 1

### CAR RENTAL ENTERPRISE AIRPORT LEASE AGREEMENT

This Airport Lease Agreement ("Agreement" or "Lease") is made and entered into this 22<sup>nd</sup> day of June 2022, by and between the City of Page, a municipal corporation organized and existing under the laws of the State of Arizona ("Lessor"), and Lake Powell Car Rental Companies, LLC, an Avis System Licensee ("Lessee").

#### RECITALS

- A. Lessor owns, operates, and regulates the Page Municipal Airport located in the City of Page, County of Coconino, State of Arizona, including all real property, facilities, public services, and public utilities thereon ("Airport").
- B. Lessor has designated specific areas of the Airport as suitable for a location and operation of certain operations.
- C. Lessor desires to lease a portion of the Airport to Lessee for the purpose of conducting car rental enterprises as more specifically defined herein.
- D. Lessor desires to lease certain areas, facilities, rights, licenses, services, and privileges in connection with its operation on the Airport.

#### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

#### ARTICLE I Definitions

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise.

1.1 City. The term "City" shall refer to the City of Page, Arizona, an Arizona municipal corporation.

12 Environmental Laws. The term "Environmental Laws" shall refer to any one or all of the following as amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq; the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq; the Safe Drinking Water Act, 42 U.S.C. Section 300 h et seq; the

Clean Air Act, 42 U.S.C. Section 7401 *et seq*; the Arizona Environmental Quality Act, A.R.S. Section 49-201 *et seq*; The Arizona Hazardous Waste Management Act, A.R.S. Section 49-921 *et seq*; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land including sub-strata land.

13 Extraordinary Repairs. The term "Extraordinary Repairs" shall refer to those repairs necessary to restore portions of the Airport which otherwise would not be required in connection with routine maintenance and repair activities associated with the normal wear and tear of the Public Airport Facilities.

14 Hazardous Materials. The term "Hazardous Materials" shall refer to the following:

(a) Those substances included within the definitions of hazardous substance, hazardous material, toxic substance, regulated substance, or solid waste in the Comprehensive Environmental Response, Compensation and Liability Act, U.S.C. Section 9601 *et seq*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq*; and the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 *et seq* and in the regulations promulgated thereto;

(b) Those substances included within the definitions of hazardous substance, pollutant, toxic pollutant, regulated substance, hazardous or solid waste in the Arizona Environmental Quality Act, A.R.S. Section 49-201 *et seq*; including, but not limited to, the Water Quality Assurance Revolving Fund statute, A.R.S. Section 49-281 *et seq*; the Solid Waste Management statute, A.R.S. Section 49-701 *et seq*; and the Underground Storage Tank Regulation statute, A.R.S. Section 49-1001 *et seq*;

(c) Those substances listed in the United States Department of Transportation Table (49 C.F.R. Section 172.101 and amendments thereto) or by the Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302 and amendments thereto); and,

(d) All substances, materials, and wastes that are or may be regulated or that are classified as hazardous or toxic under any environmental law.

15 Improvements. The term "Improvements" shall mean and refer to all structures, buildings, facilities, walls, landscaping and improvements of any type or kind constructed or built on the Premises.

16 Premises. The term "Premises" shall mean and refer to that portion

of the City of Page Airport property that is provided to Lessee for its exclusive and non-exclusive use and enjoyment pursuant to the terms of this Agreement and as set forth in the descriptions attached as Exhibit "A".

17 Property. The term "Property" shall mean and refer to that portion of the Airport property that is leased to Lessor by the City. (See "Premises").

18 Public Airport Facilities. The term "Public Airport Facilities" shall mean and refer to all necessary airport facilities and appurtenances including, but not limited to, approach areas, runways, taxiways, aprons, aircraft and automobile parking areas, roadways, sidewalks, navigational and navigational aides, lighting facilities, and other public facilities of the Airport exclusive of the Premises as defined herein.

19 Release. The term "Release" shall mean and refer to any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping of substances.

## ARTICLE II Premises and Privileges

21 Premises. The Lessor does hereby lease to Lessee and Lessee does hereby lease from Lessor those certain Premises of the Airport comprised of and more particularly described and depicted in Exhibit "A", attached hereto, subject to the terms and conditions set forth herein (the "Premises").

22 Use of Airport. The Premises shall be used by the Lessee only for conducting the car rental enterprise specified in this Agreement and shall be used for no other purpose unless the Lessor otherwise agrees in writing in advance. Lessor hereby grants the Lessee the following general privileges, uses, and rights, all of which are subject to the terms, conditions, and covenants hereinafter set forth and all of which will be non-exclusive relative to the Airport.

23 Use of Airport Public Facilities. Lessee shall be allowed the general use of all Public Airport Facilities and improvements which are now or may hereafter be constructed and are appurtenant to the Airport, except as hereinafter provided, to be used by the Lessee for the operations herein defined. The right of ingress and egress from the Premises over and across the public roadways serving the Airport may be utilized by Lessee, its agents, patrons, and invitees, subject to the City's ordinances, rules and regulations as now or may hereinafter be applicable to the Airport. Use of the Premises including any hangars, tie-downs and movable or portable hangars for the repair, maintenance, or storage of automobiles, boats, travel trailers, recreational vehicles, or other property not related to aircraft or air aviation business is expressly prohibited.

24 Use of Airport Parking Lot. Provided that Lessee is not in default

under the term of this Agreement, Lessor agrees to provide Lessee with twenty-eight (28) reserved spaces at the Old Terminal (also known as the Jet Center). The Lessee may also temporarily use up to five (5) spaces in the Main Terminal parking area, but may not have exclusive use of those spaces and may not occupy any such spaces overnight. The Lessor also authorizes the use of up to 10 spaces in the airport's long-term parking lot for overflow and temporary (no more than 30 consecutive days) storage of disabled vehicles awaiting pickup. The use of the parking lots during the effective term(s) of this Agreement, are subject to restriction by the Federal Aviation Administration (FAA) or Transportation Security Administration (TSA) for security purposes.

25 Permitted Services. Auto rental agency or service concession, in compliance with the current Page Municipal Airport Disadvantaged Business Enterprise (DBE) Concession Plan.

26 Disadvantaged Business Enterprise (DBE) Concession Plan.

(a) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. The concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

(b) The concessionaire agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.

(c) The concessionaire agrees to report to the City of Page its annual Page Airport gross revenues for DBE reporting purposes based on the Federal Fiscal Year (October 1 – September 30), by October 31 of each year.

### ARTICLE III Term

3.1 Term. The effective date of this Lease shall commence on the 22<sup>nd</sup> day of June, 2022 and shall, subject to the terms hereof, including renewal options described in Section 4.1, remain in full force and effect for three (3) years following the effective date of this Lease, unless sooner terminated as herein provided

### ARTICLE IV Options to Renew

4.1 Additional Lease Options. In the event that this Lease is in full force and effect and the Lessee shall not be in default hereunder, the privilege is granted to the Lessee to renew the Lease for one (1) additional term of three (3) years upon the terms and conditions identical to those provided herein other than

the rents and fees to be paid by the Lessee. Said renewal shall be subject to renegotiation of the Lease rate pursuant to Section 5.1 and applicable subsections. The renewal of the Lease as provided for herein shall occur only upon Lessee providing Lessor with written notice of its intention to exercise the option at least six (6) months prior and no more than twelve (12) months prior to the expiration of the current term. If the Lessee does not exercise its option to renew the Lease as set forth herein, then this Lease shall expire at the end of the current term. If the option is properly exercised, the Lessee shall pay rents and fees at the then existing rates.

## ARTICLE V Lease Rates and Fees

5.1 Lease Rates and Fees. The Lessee agrees to pay the Lessor, for the use and enjoyment of the Premises, Property, Public Airport Facilities, rights, licenses, services, and privileges granted hereunder, the following lease rates, fees, and charges.

5.1.1 Base Lease Rate. For premises described herein, the Lessee agrees to pay 10% of gross revenues per month, without exclusions, or a minimum base rate of \$1,800.00 per month, whichever is higher, but the base rate shall not exceed \$5000.00 in any month. Each monthly payment, together with any additional fees as provided herein, shall be payable in arrears within thirty (30) days of the end of each preceding calendar month. The Lessee shall provide the Lessor all documents reasonably necessary to verify the gross month revenue of the Lessee. Failure to provide documentation in a timely manner shall be deemed a breach of this agreement. Late payments will be subject to late charges pursuant to 5.1.2.

5.1.2 Late Payment. Lessee hereby acknowledges that late payment by Lessee to Lessor of sums due hereunder will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Lessor by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of fees or any other sum due from Lessee shall not be received by Lessor or Lessor's designee after such amount shall be due, Lessee shall pay to Lessor a late charge equal to 1.5% of the amount due for each month such amount is overdue. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by Lessor shall neither constitute a waiver of Lessee's default with respect to such overdue amount nor prevent Lessor from exercising any of the other rights and remedies granted hereunder.

5.1.3. Reserved

5.1.4 Utilities. In addition to any rental or other fee amounts due, the Lessee shall be responsible for all utilities for the Premises rented by Lessee in

proportion to the total space rented.

5.1.5 Miscellaneous Charges. In addition to lease fees, Lessee shall pay to the City of Page all applicable sales and use taxes applicable to Lessee's gross sales/lease of the Premises.

**ARTICLE VI**  
**Construction and Installations by Lessee**

6.1 Permission of Lessor Required. Except as provided for elsewhere in this lease, the Lessee shall neither construct any building, structure, or improvement upon the Premises, nor undertake any major alteration, structural improvement, or major repair upon the Premises unless the written permission of the Lessor has been obtained. Notwithstanding anything to the contrary, and set forth more fully in Section 9 of this Agreement, Lessee shall be entitled to impose a mortgage or other encumbrance on the improvements without obtaining prior written consent of the Lessor; provided, however, that said mortgage or lien will be imposed for the purpose of obtaining financing associated with the development of the Premises.

6.2 Construction of Improvements. Any construction that may be performed by the Lessee pursuant to written permission of the Lessor shall be done at Lessee's sole expense. The location, design, type of construction, dimensions and other features of any improvements constructed on the Premises by the Lessee shall be submitted to Lessor for its reasonable review and approval prior to commencement of construction.

**ARTICLE VII**  
**Custodial Services and Maintenance by Lessor**

7.1 Maintenance by City. The City shall maintain or cause to be maintained and repaired in good condition the Public Airport Facilities including the buildings, runways, taxi strips, parking aprons including the parking apron that is a portion of the Premises; provided, however, that Lessor shall not be responsible for repairs to Public Airport Facilities that are caused by Lessee's employees and agents which are in excess of ordinary wear and tear.

72 Maintenance by Lessor. The Lessor shall provide common area terminal janitorial services. Lessee shall maintain their leased areas, including parking areas and car wash area.

**ARTICLE VIII  
Maintenance by Lessee**

8.1 Maintenance by Lessee. The Lessee agrees to maintain the Premises and shall keep the Premises and immediate grounds free from trash and litter and in a safe, clean, and orderly condition. With respect to the improvements constructed by Lessee on the Premises, Lessee shall, at its own expense, maintain all such improvements and appurtenances hereto in a good condition.

**ARTICLE IX  
Encumbrances upon Property**

9.2 9.1 Limitations on Right to Encumber. Except as provided in Section below, neither the Lessee nor any successors-in-interest to the Lessee shall engage in any financing or any other transaction creating any general leasehold mortgage or other encumbrance or lien upon the Property, or suffer any encumbrance or lien to be made against or attached to the Property without the prior written consent of the Lessor. In the event any Mortgagee of Lessee requests confirmation that any proposed lien is authorized by this Agreement, the City Manager shall be authorized to provide such written confirmation as may be required.

9.2 Consent Required. Notwithstanding the provision of Section 9.1 above, Lessee shall be entitled to impose a leasehold Mortgage or other leasehold encumbrance or lien upon the Property without obtaining the prior consent of the Lessor if the mortgage or lien has been imposed for the purpose of obtaining any financing associated with developing the Property as defined in this Agreement.

9.3 Delivery of Notice. The Lessee shall be obligated to notify the Lessor in writing in advance of any financing secured by a leasehold deed of trust or other similar lien and security instruments it proposes to enter into with respect to the Property. The notice shall set forth the name and address of the proposed Mortgagee, as well as the general terms and conditions of the mortgage. Failure of the Lessee to notify the Lessor in writing in advance of any encumbrance or lien of the leasehold shall be considered a material breach of this Lease.



**ARTICLE X**  
**Construction Lien Indemnity**

**10.1 Construction Lien Indemnity.** Any and all construction activity occurring on the Property by Lessee with written permission by Lessor shall be conducted in accordance with all applicable laws, rules, and regulations of the City of Page, the State of Arizona, and the United States Government. During the course of construction, the Lessee will comply with all applicable Worker's Compensation and other labor laws. The Lessee shall pay and discharge all claims for labor and material prior to the expiration of the time provided for filing of liens for claims of such nature. The Lessee shall indemnify and hold Lessor harmless from any and all liability or claims for damage, of every kind and nature, which might be asserted against the Lessor.

**ARTICLE XI**  
**Indemnity and Certificate of Insurance**

**11.1 Indemnity.** The Lessee does hereby covenant and agree to indemnify and hold the City and Lessor harmless from any and all fines, suits, claims, demands, actions, and/or causes of action pertaining to personal injury, death, or property damage arising out of or in connection with any activity or operation of the Lessee on the Premises or in connection with its use of the Premises; provided, however, that the Lessee shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of the Lessor, its agents or employees. The Lessor shall give to the Lessee prompt and timely notice of any claim or suits instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect the Lessee, and Lessee shall have the right to compromise and defend the same to the extent of its own interest.

The Lessee further agrees to and shall indemnify and hold the Lessor harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorney fees and court costs) arising from or in any way related to Worker's Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of Lessee and/or its contractors and subcontractors or claims under similar such laws and obligations.

Lessee hereby agrees that Lessor shall neither be liable for injury to Lessee's business or any loss of income or for damage to goods, wares, merchandise, or other property of Lessee, Lessee's employees, invitees, customers, or any other person in or about the Premises, nor liable for injury to the person of the Lessee, Lessee's employees, agents, or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water, or rain, or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures,

or from any other cause, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Lessee. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant, if any, of the building in which the Premises is located.

112 Certificates of Insurance. In addition to the indemnity required in Section 10.1 of this Agreement, Lessee shall maintain the following policies of insurance. Failure on the part of the Lessee to procure or maintain the required insurance, as well as name the Lessor and the City, its officers, agents, commissions, and employees as Additional Insured's on the subject policies, shall constitute a material breach upon which the Lessor may immediately terminate the Agreement. Said Certificate of Insurance shall be filed with the City Clerk and City Risk Manager prior to the Lessor's issuance of an Agreement for the Premises.

(a) Commercial General Liability: Per "occurrence form" for a combined single limit of One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) Annual Aggregate. The commercial General Liability Policy, including automobile liability, shall name the City of Page, its officers, agents, commissions, and employees as additional insured's. All insurance shall be primary and non-contributory with any other coverage available to the City of Page, et al.

(b) Worker's Compensation and Employees Liability. When required, Lessee shall provide Lessor with evidence of current Worker's Compensation and Employer's Liability insurance for Statutory Limits (Coverage A); for the limits of One Hundred Thousand Dollars (\$100,000) per accident; One Hundred Thousand Dollars (\$100,000) Disease each employee; Five Hundred Thousand Dollars (\$500,000) Disease Policy Limit (Coverage B), and a waiver of Subrogation Endorsement must be provided.

All such Certificates of Insurance described in Section 11.2 shall be filed with the City Clerk and City Risk Manager within thirty (30) days prior to commencement of business or construction. All Certificates of Insurance shall provide that such insurance coverage will not be canceled or reduced without at least sixty (60) days prior written notice to Lessor and the City.

All insurance companies shall be A.M. Best rated A-VI or better. An Umbrella or Following Form Excess Liability Policy may be used to complete the One Million Dollar (\$1,000,000) limits required.

The insurance requirements established herein are minimums only, and the Lessor reserves the right to require higher limits of liability insurance if, in its

sole discretion, it determines that such higher limits are necessary in accordance with industry standards.

## ARTICLE XII Rules and Regulations

121 Compliance with all law. The Lessee shall observe and comply with all laws, ordinances, rules, and regulations of the United States Government, the State of Arizona, the County of Coconino, and the City of Page, and all agencies thereof which may be applicable to its operations or to the operation, management, maintenance, or administration of the Airport now in effect or hereafter promulgated. The Lessee further agrees to display to the Lessor any and all permits, licenses, or other evidence of compliance with all laws upon request of the Lessor. Lessee acknowledges that it shall obtain any and all licenses and/or permits required in connection with operating the business conducted by Lessee on the Premises or Property at Lessee's sole expense.

122 Compliance with FAA Regulations. Lessee agrees to comply with the following Federal Aviation Administration (FAA) regulations:

(a) Non-Discrimination for Another Similar Service. The Lessee does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on said Property described in this Lease Agreement for a purpose for which U.S. Department of Transportation (USDOT) programs or activity is extended for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, USDOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(b) Non-Discrimination in Construction and Use of Premises. The Lessee does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities, (2) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) the Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(c) Non-Discrimination Breach. That in the event of breach of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease Agreement and to re-enter and repossess said land and cause the removal of the facilities thereon at Lessee's expense, and to hold the same property as if said Lease Agreement had never been made or issued. This provision does not become effective until proper notice according to the Lease Agreement has been made and the procedures of 49 CFR, Part 21, are followed and completed, including expiration of appeal rights.

(d) Non-Discriminatory Pricing. Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type price reductions to volume purchasers.

(e) Non-Compliance. Non-compliance with Provision (d) above shall constitute a material breach of this Lease, and in the event of such non-compliance, the Lessor shall have the right to terminate this Lease Agreement without liability therefor, or at the election of the Lessor or the United States or both, said governments shall have the right to judicially enforce the Provisions of paragraph (d) above.

(f) Provisions Applicable to Sublease Tenants. Lessor agrees to insert the above five provisions in any Agreements by which said Lessor grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Premises herein leased. No rights or privileges shall be granted to any person, firm, or corporation without the written permission of the Lessor and the City.

(g) Affirmative Action Program. Lessee assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex 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 this Subpart. Lessee assures it will require that its covered sub-organizations provide assurance to the Lessor that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR, Part 152, Subpart E, to the same effort.

(h) Right to Improve Landing Area. City reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of the Lessee and without hindrance or interference.

(j) **Right to Control Activities.** City reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the Lessee in this regard.

(k) **Subordination.** This Lease Agreement shall be subordinate to the provisions and requirements of any existing or future Agreement between City and the United States, relative to the development, operation, or maintenance of the airport.

(l) **Reservation of Airspace.** There is hereby reserved to City, its successors and assigns, for the use and benefit of the whole public, a right of passage of aircraft in the airspace above the surface of the Premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Page Municipal Airport.

(m) **Airspace Notice of Construction.** Lessee agrees to comply with the Airport Master Plan, Airport Layout Plan and the notification and review requirements covered in Part 77 of the Federal Aviation Administration Regulations in the event future construction of a building is planned for the leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased Premises.

(n) **Limitation on Height of Structures.** Lessee by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder in excess of twenty-five (25) feet above the existing grade of the Premises. In the event the aforesaid covenants are breached, the Lessor reserves the right to enter upon the Premises leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.

(o) **No Interference with Airport Operations.** Lessee by accepting this Lease Agreement agrees for itself, its successors and assigns that it will not make use of the leased Premises in any manner that might interfere with the landing and taking off of aircraft from the Page Municipal Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the Premises leased and to cause the abatement of such interference at the expense of Lessee.

(p) **No Exclusive Right.** It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of

1958 (49 U.S.C. 1349a).

(p) War or National Emergency. This Agreement shall be subject to any right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, and take over of the Airport or the exclusive use or nonexclusive use of the Airport by the United States during time of declared or undeclared war, national emergency, or pursuant to acts of terrorism.

123 Subletting and Assignment.

(a) The leased Premises shall not be let, sublet, or assigned in whole or part. (This provision shall not apply to placing of mortgages, deeds of trust, or similar liens on the improvements made on such leased Premises, or to voluntary or involuntary transfers or such security instruments.)

(b) The Lessee shall not permit the Improvements under construction or constructed on such leased Premises or its interest therein at any time during the term of this lease to become subject to any lien, charge or encumbrance whatsoever, other than a mortgage, deed of trust, easement, or similar encumbrance in connection with the long-term financing thereof, or liens of non-delinquent taxes or assessments for local improvements. Lessor reserves the right to pay funds on behalf of the Lessee to remove liens in violation of this Lease and Lessee will reimburse Lessor for such payments and shall indemnify the Lessor if any losses result from the failure by the Lessee to avoid any such lien, charge, or encumbrance.

ARTICLE XIII

**Total or Partial Destruction of Improvements**

13.1 Total or Partial Destruction of Improvements. If at any time during the term of this Agreement, the Premises, or the Improvements thereon, shall be totally or partially destroyed by fire, earthquake, or other calamity, and if the destruction or damage is of such nature as to render the Airport unsuitable for airport operations by the Lessee as determined by City, Lessor and Lessee, the Lessee within ninety (90) days following such damage or destruction shall give written notice to the Lessor and this Agreement shall thereupon terminate.

ARTICLE XIV

**Termination by Lessor**

14.1 Termination by Either Party. The Lessor and/or the Lessee may cancel this Agreement by giving thirty (30) days advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:

(a) The failure or refusal of the FAA or TSA, at any time during the term of this Agreement, to permit Lessee to operate in or from the Airport and such refusal or failure is not reversed or cured within the thirty (30) days notice period.

(b) Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport or any part thereof for airport purposes which affects the Lessee's operation; and the remaining in force of such injunction for a minimum period of ninety (90) days if the injunction materially affects the Lessee's normal operations.

(c) The inability of Lessee to use, for a period in excess of ninety (90) days, the Airport or the Premises, rights, licenses, services, or privileges leased to Lessee hereunder because of any law or any order, rule, regulation, or other action or any non-action of the FAA or any other governmental authority, or because of fire, earthquake, or other casualty or acts of God or the public enemy.

(d) The assumption by the United States Government or any authorized agency thereof of the operation, control, or use of the Airport or any substantial portions thereof, in such a manner as to substantially restrict Lessee, for a period of ninety (90) days, from operating Lessee's normal operations thereon.

**142 Modification of Lease Due to Relocation.** This lease may be modified by City should the need arise to relocate the Lessor elsewhere on the airport or the City builds a new airport elsewhere. In such event, City will provide Lessor with at least ninety (90) days advance written notice. In the event relocation on the present Airport of Lessor's leasehold improvements constructed by Lessor is required by City, City will relocate Lessor's affected improvements to another site on the existing facility and provide Lessor with such improvements that are comparable to those then in existence. In the event relocation of the present airport occurs during the period of this lease, Lessor shall have first purchase option at the present airport, if offered and available, on any improved portions of the leased Premises at the appraised fair market value.

**143 Termination of Lease Due to Conflict of Interest (A.R.S. §38-511).** Pursuant to ARS §38.511, the Lessor may cancel this Agreement, without penalty of further obligations, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the Lessor, is at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

ARTICLE XV  
**Expiration of Lease**

151 Removal of Property. Upon the termination of this Agreement by expiration thereof, or by the virtue of the total or partial destruction of the Premises, or pursuant to the relocation or removal of the Airport, the Lessee shall have the right to remove all machinery, equipment, and property of the Lessee placed on the Premises, which are capable of being removed without injury or damage to the Premises, or which are not part of the Property; provided, however, the Lessee shall not be in default.

152 Ownership of Improvements. In all leases where the Lessee constructs permanent improvements to the leased Premises, including but not limited to buildings, parking lots, hangars, parking aprons, etc., such improvements shall become the property of the Lessor at the termination of the lease or any extensions thereof unless the Lessor determines that it would not be in its best interest to own such improvements. In that event, Lessee shall remove such improvements, within sixty (60) days of the termination of the lease, at Lessee's sole expense, or purchase improved portions of the leased Premises, if offered, pursuant to Section 14.2 herein.

ARTICLE XVI  
**Miscellaneous**

161 Independent Contractor. It is expressly agreed and understood by and between the parties that the Lessee is being retained by the Lessor as an independent contractor, and as such the Lessee shall not become a City Employee, and is not entitled to payment or compensation or any fringe benefits to which other City employees are entitled other than that compensation as set forth herein. As an independent contractor the Lessee further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any government entity whatsoever as a result of this Agreement. As an independent contractor, the Lessee further agrees that he will conduct himself in a manner consistent with such status, and that he will neither hold himself out nor claim to be an officer or employee of the Lessor by reason therefor, and that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the Lessor, including but not limited to Worker's Compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or medical, dental, or life insurance coverage.

162 Drug-Free Workplace. The Lessee hereby certifies compliance with U.S. Code Section 8355 in matters relating to providing a drug-free workplace. If applicable, the Lessee will:

- (a) Publish a statement notifying employees, if any, that



unlawful manufacture distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by U.S. Code Section 8355(a).

(b) Establish a Drug-Free Awareness Program as required U.S Code Section 8355(b), to inform any employees about all the following:

- (1) The dangers of drug abuse in the workplace;
- (2) The person's or organization's policy of maintaining a drug-free workplace;
- (3) Any available counseling, rehabilitation, and employees assistance programs; and
- (4) Penalties that may be imposed upon employees for a drug abuse violation.

(c) Provide as required by U.S. Code Section 8355(c), that every employee who works on the Premises:

- (1) Will receive a copy of the Lessee's drug-free policy statement; and
- (2) Will agree to abide by the terms of the Lessee's statement as a condition of employment.

163 **Notices.** Any notice desired or required to be served by either party upon the other or any notice provided for in this Agreement shall be in writing and shall be deemed given upon hand-delivery or, if mailed, three (3) business days after being deposited in the United States mail, certified, return receipt requested, to the party to whom addressed, as set forth herein below:

Lessor: City of Page  
P.O. Box 1180  
Page, Arizona 86040

Lessee: Lake Powell Car Rental Companies, LLC  
P.O. Box 2609  
Page, AZ 86040

Any party may change the address to which notice shall be delivered or mailed by notice duly given.

164 **Applicable Law and Venue.** This Agreement shall be interpreted and enforced according to Arizona Law, except when pre-empted by Federal

Law. Any State actions or proceedings between the parties arising from or related to this Agreement shall be brought and maintained in Coconino County, Arizona, Superior Court.

165 Attorney Fees. In the event that either party hereto shall institute and prevail in any action or suit for the enforcement of any of its rights hereunder, the prevailing party in said action shall be entitled to collect reasonable attorney fees and costs arising therefrom.

166 Severability. In the event any provision of the Agreement is held invalid and unenforceable, the other provisions of this Agreement shall be valid and binding on the parties hereto.

167 Entire Agreement. This Agreement contains the complete Agreement and understanding between the parties, and this Agreement shall not be modified, except in writing executed by both parties.

168 Good Faith. The parties agree to operate under this agreement in good faith.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective as of the day and year first hereinabove written.

LESSOR:

BY:

  
City Manager

LESSEE:

BY:

  
Lake Powell Car Rental Co. LLC

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

**EXHIBIT "A"**  
**PREMISES**

**"Premises", as used herein, is described as follows (see attached):**

- 1) Terminal Space C (303 sq.ft.)**
- 2) Up to twenty (28) exclusive Rental Vehicle Parking Spaces in the Old Terminal/Lake Powell Jet Center Lot**
- 3) 10 spaces in the airport's long-term parking lot for overflow and temporary (no more than 30 consecutive days) storage of disabled vehicles awaiting pickup.**
- 4) Main Parking Lot: Up to five (5) non-exclusive, temporary, day use Rental Vehicle Parking Spaces**

PAGE  
AIRPORT  
TERMINAL  
[1ST  
FLOOR]

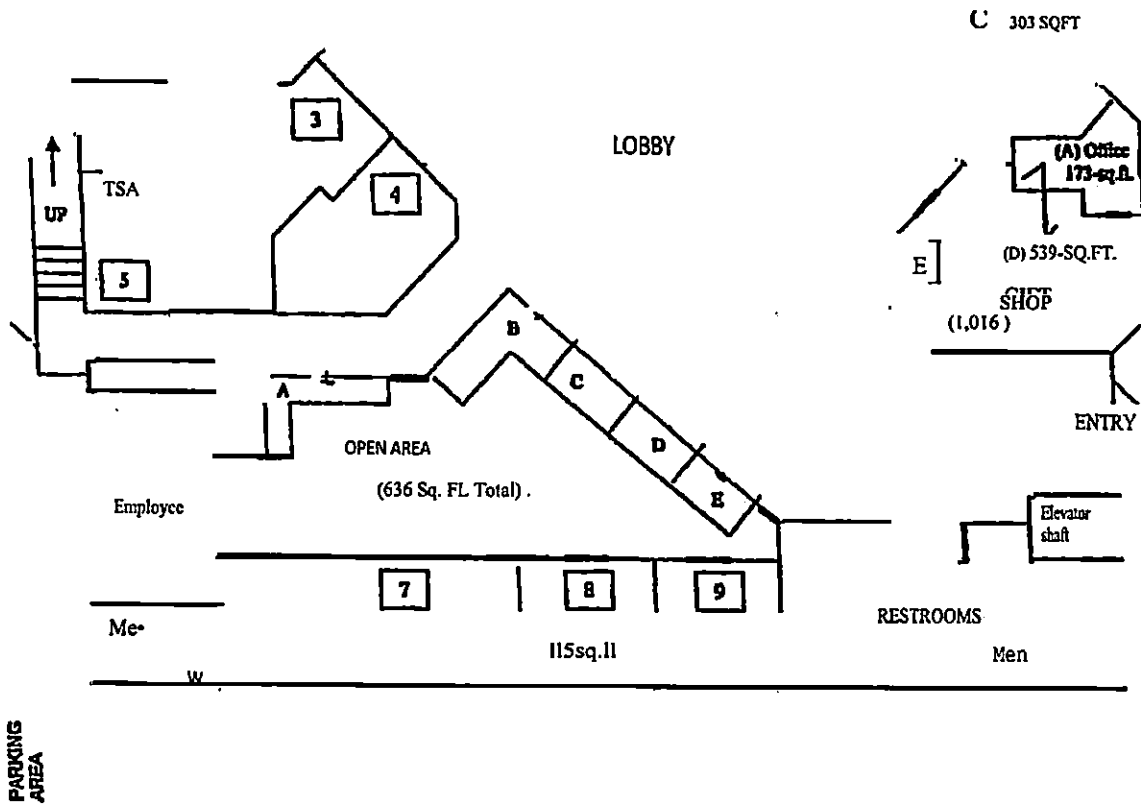


EXHIBIT -A-