

# **BUILDING AND LAND LEASE**

between

**La Crosse Municipal Airport  
City of La Crosse, Wisconsin**

and

**Midwestern Wheels Inc.  
d/b/a Avis  
Appleton, WI**

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**AIRPORT LEASE  
MIDWESTERN WHEELS, INC.**

THIS LEASE ("Lease"), made and entered into this 15<sup>th</sup> day of October 2013, by and between the City of La Crosse (the "City"), a municipal corporation and existing under the laws of the State of Wisconsin, whose address is 400 La Crosse St., La Crosse, Wisconsin 54601, hereinafter referred to as "City" and "Midwestern Wheels Inc. ", (hereinafter referred to as "Lessee"), a corporation with its office and address being PO Box 1935, Appleton WI 54912.

**WITNESSETH:**

WHEREAS, City controls, owns, operates, and maintains an airport in the City of La Crosse, County of La Crosse, State of Wisconsin, known as La Crosse Municipal Airport (hereinafter referred to as "Airport"), and has the power to grant rights and privileges with respect thereto, and

WHEREAS, the Lessee desires to lease a portion of the former airport maintenance shop building at said Airport to be used for a rental car servicing facility.

**NOW, THEREFORE, THE PARTIES AGREE:**

**DEFINITIONS**

The following terms and phrases shall have the following meanings for purposes of this Lease:

1. "City" shall mean the public body corporation existing under the laws of the State of Wisconsin which controls, operates, and maintains the La Crosse Municipal Airport. The Aviation Board is authorized as agent for City within this Lease.
2. "Airport Manager" shall mean the Airport Manager of the City's Airport, or his or her designee.
3. "Aviation Board" shall mean the Board responsible for overseeing Airport operations
4. "Leasehold Improvements" shall mean all improvements and equipment which are affixed to the Leased Premises and which cannot be removed without material damage to the Premises.
5. "Personal Property" shall mean all movable property of the Lessee, including, office furniture, office equipment, and office supplies.
6. "Refurbish" or "Refurbishment" shall mean the routine repainting or redecoration within the Leased Premises, as necessary, including the replacement or repair of worn carpet, tile, furniture, or furnishings.
7. "Trade Fixtures" shall mean all non-affixed items, except expendables and Personal Property, which

can be removed without damage to the Leased Premises, including cash registers, safes, patron tables and chairs, display fixtures, and the like.

### **SECTION 1 – LEASED PREMISES**

1. City hereby leases to Lessee and Lessee hereby agrees to lease from City the following premises, which, collectively, are hereinafter called the "Leased Premises" or "Premises": one thousand five hundred ninety-six (1,596) square feet of the south end of the former airport maintenance shop building and fifteen thousand six hundred sixty (15,660) square feet of land for storage. Said Leased Premises is more particularly shown on **Exhibit A** and **Exhibit B** attached hereto and by this reference made a part hereof.
2. Lessee agrees that its Leased Premises have been inspected by Lessee and are accepted and will be occupied by Lessee on an "as is" basis. The Lessee specifically waives any covenants or warranties regarding the Premises, including but not limited to any warranty of suitability and warranty of fitness. City and Lessee shall mutually agree to any increases in the amount of space leased herein. City has the right to decrease the amount of space leased herein to the Lessee upon sixty (60) days advance written notice to Lessee.
3. Lessee and City's Airport Manager may agree, in writing, to add additional land to the space leased in **Exhibit B** at the rates set within this Lease.

### **SECTION 2 - TERM**

The term of this Lease is for a five (5) year period commencing on August 1, 2013 and terminating on July 31, 2018 unless sooner terminated or canceled as hereinafter provided. At the completion of the initial term this Lease will revert to a month-to-month Lease and either party may cancel this Lease at any time upon thirty (30) day written notice to the other party.

### **SECTION 3 - USES, PRIVILEGES, AND OBLIGATIONS**

Lessee shall have the following uses, privileges, and obligations in connection with its use of the Leased Premises:

1. The non-exclusive right, privilege, and obligation to conduct and operate a rental car servicing business at the Airport.
2. The right of ingress and egress to and from the Premises, over Airport roadways, are subject to such reasonable rules and regulations as may be established by Airport as respecting such use and subject to law.
3. Lessee shall install no signs on or about the Premises without the prior written approval of the Airport Manager, said approval being solely discretionary with the Airport Manager

4. Lessee agrees that all outside storage of vehicles and equipment shall be exclusively on the Leased Premises.

#### **SECTION 4 - RESTRICTIONS ON USES AND PRIVILEGES**

The Premises shall be used only for the purposes specified in this Lease and in accordance with Airport Minimum Standards. Lessee understands and agrees that City has the right to grant additional privileges under separate leases and agreements with other companies.

#### **SECTION 5 – RENTALS AND FEES**

1. Lessee agrees to pay to the City, in advance and without demand, on the 1<sup>st</sup> day of each month the following amounts for the rental of land and structure as herein leased:
  - a) Structure: For the structure, Lessee shall pay five hundred six dollars and seventy-three cents (\$506.73) per month. This amount is based upon three dollars and eighty-one cents (\$3.81) per square foot per year for space leased (1,596 sq. ft.) under Section 1 herein. (Thus, 1,596 sq. ft. X \$3.81 = \$6,080.76/yr.) divided by 12 = \$506.73 per month.) Land: For the land, Lessee shall pay three hundred seventy-eight dollars and forty-five cents (\$378.45) per month. This amount is based upon twenty-nine cents (\$0.29) per square foot per year for land leased (15,660 sq. ft.) under Section 1 herein. (Thus, 15,660 sq. ft. X \$0.29 = \$4,541.40/yr.) divided by 12 = \$378.45 per month.)
  - b) CPI Index. On August 1 of each year for the period of this Lease, commencing August 1, 2014, the rental amounts for the leased Premises, including the structure and the land, shall be adjusted in accordance with the Consumer Price Index – National Index for All Urban Consumers for the previous calendar year. Said adjustment shall be computed as follows:

Most recent year's rate x

(CPI for June of most recent year /

CPI for June of the next most recent year) = New Rate

2. Parties to this Lease understand and agree that the CPI adjustment will be effective on August 1, 2014 and each successive August 1st during the term of this lease.
3. Lessee agrees to pay all amounts due the City in a timely manner. Unpaid amounts over ten (10) days past due shall accrue interest at the rate of One and a Half Percent (1.5%) per month, plus a late payment fee of \$50.00.
4. In the event that the commencement or termination of the terms, with respect to any of the particular premises, facilities, rights, licenses, services, and privileges herein provided, falls on



any date other than the first or last day of a calendar month the applicable rentals, fees, and charges for that month shall be paid pro-rata according to the number of days in that month during which said privileges were enjoyed.

5. Any and all payments due to the City by Lessee shall be remitted to the following address:

La Crosse Municipal Airport  
Attn: Airport Manager  
2850 Airport Road  
La Crosse, WI 54603

## **SECTION 6 - INITIAL INVESTMENT**

Lessee, at its sole expense, shall move and extend the fence on the south end of the Leased Premises out from the building to provide for a walk lane to the rear parking area. Lessee shall provide City a plan to be approved, in writing, by the Airport Manager prior to commencing work. Work shall be completed within ninety (90) days of commencement of agreement.

## **SECTION 7 - INSTALLATION OF IMPROVEMENTS AND DESIGN, FURNISHING, AND EQUIPPING OF PREMISES**

### *Subsection 7.1 - Building Services*

1. City Improvements and Services. City shall initially insure and provide occupancy of the Leased Premises to Lessee with said Leased Premises meeting all federal, state and local code requirements. If Lessee requires additional improvements, adjustments or services related to lighting, electrical power, water, telephone or communication system, technology systems, or the heating or air-conditioning system, such additional improvements or services shall be subject to the prior written approval of Airport Manager, and any such approved improvements or services shall be made at Lessee's sole expense.

### *Subsection 7.2 - Approval of Plans and Specifications; Provision of Drawings.*

1. General. Any improvements to be made to or upon the Leased Premises by Lessee, and any subsequent alterations or additions to such improvements, shall be subject to the prior written approval of Airport Manager. Full and complete plans and specifications for all work, facilities, improvements, and finishes, and the time required to complete same, shall be submitted to and receive the written approval of Airport Manager before any work or construction is commenced, which shall not be unreasonably withheld or delayed. Standards of design and construction shall be complied with in connection with all such work, facilities, and improvements; and all construction shall conform to the general architectural requirements of Airport Manager as

established for each improvement program. Two (2) copies of plans for all improvements or subsequent changes therein or alterations thereof shall be given to Airport Manager for review prior to commencement of construction; after final approval by Airport Manager, Airport Manager shall return to Lessee one (1) approved copy for Lessee's records and shall retain one (1) approved copy as an official record thereof.

2. Improvements Conform to Statutes, Ordinances, Etc. All improvements, furniture, fixtures, equipment, and finishes, including the plans and specifications therefore, constructed or installed by Lessee, its agents, or contractors, shall conform in all respects to applicable statutes, ordinances, building codes, and rules and regulations, and public bidding laws. Any approval given by City shall not constitute a representation or warranty as to such conformity; responsibility therefore shall at all times remain with Lessee.
3. Approvals Extend to Architectural and Aesthetic Matters. Approval of City shall extend to and include architectural and aesthetic matters and City reserves the right to reasonably reject any layout or design proposals submitted and to require Lessee to resubmit any such layout or design proposals until they meet Airport Manager approval.
4. Disapprovals. In the event of disapproval by City of any portion of any plans or specifications, Lessee shall promptly submit necessary modifications and revisions thereof for approval by Airport Manager. City agrees to act promptly upon such plans and specifications and upon requests for approval of changes or alterations in said plans or specifications. No substantial changes or alterations shall be made in said plans or specifications after initial approval by City, and no alterations or improvements shall be made to or upon the Leased Premises without the prior written approval of Airport Manager.
5. Provision of As-Built Drawings. Upon completion of any construction project, Lessee shall provide City two (2) completed sets of as-built drawings in reproducible form as specified by City. Lessee agrees that, upon the request of City, Lessee will inspect the Leased Premises jointly with City to verify the as-built drawings.

## **SECTION 8 - TITLE TO IMPROVEMENTS, STRUCTURAL ALTERATIONS, ETC.**

*Subsection 8.1 Title.* All improvements made to the Leased Premises by Lessee, and any additions and alterations thereto made by Lessee, shall be and remain the property of Lessee until the termination of this Lease (whether by expiration of the term, cancellation, forfeiture or otherwise), at which time said improvements, except for Trade Fixtures, personal property, and expendables, shall become the property of City, at no cost to City.

**Subsection 8.2 Structural Alterations.** Lessee shall make no structural alterations to the Leased Premises without the prior written consent of Airport Manager.

**Subsection 8.3 Alterations and Improvements to Airport.** Lessee acknowledges that from time to time City may undertake construction, repair, or other activities related to the operation, maintenance and repair of the Building which may temporarily affect Lessee's operations hereunder. Lessee agrees to accommodate City in such matters, even though Lessee's own activities may be inconvenienced, and Lessee agrees that no liability shall attach to City, its members, employees, or agents by reason of such inconvenience or impairment. Lessee agrees that if relocation is required that Lessee shall move its operations as reasonably directed by Airport Manager and said move is at Lessee's sole cost and expense.

**Subsection 8.4 Removal and Demolition.** Lessee shall not remove or demolish, in whole or in part, any Leasehold Improvements upon the Leased Premises without the prior written consent of Aviation Board which may, at its sole discretion, condition such consent upon the obligation of Lessee, at Lessee's cost, to replace the same by an improvement specified in such consent.

## **SECTION 9 - MAINTENANCE OF PREMISES**

### **Subsection 9.1 Airport Maintenance Obligations.**

1. **General Maintenance and Operation.** City agrees that it will with reasonable diligence, maintain, operate, and keep in good repair the Airport.
2. **Structural Maintenance.** City shall provide, or cause to be provided, structural maintenance of the Premises. However, City shall not be required to perform maintenance and make repairs occasioned by the negligence of Lessee, its employees, patrons, invitees, or agents. However, City may perform such maintenance or make such repairs and charge the cost of same to Lessee, and Lessee agrees to reimburse Lessor for all costs incurred by City in performing such maintenance and repair work.
3. **Systems.** City agrees to provide a 1 year warranty for mechanical systems including heating, electrical, plumbing, and mechanical to the extent that required repairs were not occasioned by the negligence of Lessee, its employees, patrons, invitees, or agents.
4. **Maintain Access.** City shall, throughout the term of this Lease, maintain all airport-owned roads on the Airport giving access to the Premises in good and adequate condition for use by cars and trucks and shall maintain free and uninterrupted access to the Premises over said road at all times.
5. **Snow Removal.** City shall remove snow, at its timely discretion and at no cost to Lessee, on

Airport-owned roadways and paved surfaces up to a distance of five (5) feet from the perimeter of Leased Premises.

*Subsection 9.2 Lessee's Maintenance Obligations.*

1. **Lessee's General Obligations.** Except for maintenance of the Structure, as provided in Subsection 9.1, Lessee shall be obligated, without cost to City, to maintain the Leased Premises and every part thereof in good appearance, repair, and safe condition. Lessee shall maintain and repair all Leasehold Improvements on the Leased Premises and all furnishings, fixtures, and equipment therein, whether installed by Lessee or by others, including repainting or redecorating as necessary, and replacing or repairing worn carpet, tile, fixtures, or furnishings. All such maintenance and repairs shall be at least of quality equal to the original in materials and workmanship, and all work, including paint colors, shall be subject to the prior written approval of Airport Manager.
2. **Hazardous Conditions.** Upon discovery, Lessee shall immediately give oral notice to City of any hazardous or potentially hazardous conditions in the Leased Premises. Any hazardous or potentially hazardous condition in the Leased Premises shall be corrected immediately upon receipt of oral notice from the Airport Manager. At the direction of said Manager, Lessee shall close the Leased Premises until such hazardous or potentially hazardous condition is removed.
3. **Trash and Refuse.** Lessee shall provide, at no cost to City, a container for the adequate sanitary handling of all trash and other refuse caused as a result of the operation of the Leased Premises. Piling of boxes, cartons, barrels, or other similar items in view of a public area is prohibited. Lessee shall keep any areas used for trash and garbage storage prior to removal from Airport in a reasonably clean and orderly condition so as not to unduly attract rodents, pests, or birds, or create an offensive odor.
4. **Transporting Trash and Refuse.** In transporting trash and refuse from the Leased Premises, Lessee shall ensure that trash is not strewn around while taking refuse to the dump site. Such disposal shall take place during hours as may be approved by the City.
5. **Snow Removal.** Lessee shall be responsible for the removal of snow on the Leased Premises and to a distance of five (5) feet from the Leased Premises.

**SECTION 10 - LIENS, PAYMENT, AND PERFORMANCE BONDS**

*Subsection 10.1 Construction Surety Bond.* Lessee shall not allow any liens or encumbrances to be attached to the Leased Premises. Prior to the commencement of any construction or alteration hereunder which exceeds \$10,000 in cost, Lessee or its contractor shall furnish to City, and without expense to City, a surety bond, issued by a surety lessee licensed to transact business in the State of Wisconsin and

satisfactory to and approved by City with Lessee's contractor or contractors as principals, in a sum not less than one hundred percent (100%) of the total cost of the contract or contracts for the construction or alteration of the improvements and facilities mentioned herein. Said bond shall guarantee the prompt payment to all persons supplying labor, materials, provisions, supplies, and equipment used directly or indirectly by said contractor, subcontractor(s), and suppliers in the prosecution of the work provided for in said construction contract and shall protect City from any liability, losses, or damages arising there from.

*Subsection 10.2 Compliance with Federal Aviation Regulations and Security Requirements Parts 49 CFR Part 1452 and 14 CFR Part 139.* Lessee agrees to comply with Federal Aviation Regulations, and 1452 (Airport Security) and the Cities policies as outlined in Cities Federal Aviation Administration approved Operations Plan and Airport Security Plan. Lessee further agrees that any fines levied upon the City or Lessee through enforcement of these regulations because of acts by Lessee's employees, agents, suppliers, guests, or patrons shall be borne by Lessee to the extent said acts contributed to said fines.

## **SECTION 11 – UTILITIES AND OPERATION OF LEASED PREMISES**

### *Subsection 11.1 Utilities.*

1. City shall provide the Leased Premises with water service at City's expense.
2. Lessee shall provide the Leased Premises with heating, air conditioning, electrical services, telephone or communication system services, and technology services at Lessee's expense. Lessee agrees to provide for Lessee's connections with utilities and to make separate arrangements with the agencies responsible for these utilities. Lessee shall pay for all utility service as set forth in the provision supplied to the said premises and install and pay for standard metering devices for the measurement of such services. In the event it shall become necessary to make changes upon the premises, or within the structures covered by this Lease, such as any wiring, plumbing or similar installations, as a condition of the continuance of utility services, and Lessee desires to continue such services, Lessee will promptly make such changes and installations, at its expense, as directed and required by the utility organizations. It is further agreed that City shall have the right, without cost to Lessee, to install and maintain in, on or across the demised premises, sewer, water, gas, electric, steam and telephone lines, electric substations, railroad trackage, street widening or other installations necessary to the operation of the Airport, or to service other tenants of Lessor. Provided, however, that Lessor shall carry out such work and locate any above-ground structures and tracks in a manner so as not to unreasonably interfere with Lessee's use of the premises.

## **SECTION 12 - ENVIRONMENTAL**

***Subsection 12.1 Storage.*** Lessee shall not cause or permit any Hazardous Materials to be stored or used on or about the premises by Lessee, its agents, employees, licensees or contractors, except in compliance with Environmental Laws as hereinafter defined.

***Subsection 12.2 Compliance.*** Lessee shall comply with all local, state, and federal laws, ordinances, regulations, and orders relating to industrial hygiene, environmental protection, or the use, generation, manufacture, storage, disposal, or transportation of Hazardous Materials, (collectively, "Environmental Laws") on or about the premises.

***Subsection 12.3 Handling of Hazardous Materials.***

1. Lessee shall, at its expense, procure, maintain, and comply with any necessary permits, licenses, and other governmental and regulatory approvals required for Lessee's use of the Leased Premises, including, without limitation, discharge of materials or wastes into or through any storm or sanitary sewer serving the Leased Premises. Lessee shall in all respects handle, treat and manage any and all Hazardous Materials on or about the Leased Premises in conformity with all applicable Environmental Laws and prudent industry practices regarding the management of such Hazardous Materials. Except for lawful discharges, emissions, or releases of Hazardous Materials, Lessee shall cause any spent or waste Hazardous Materials it generates to be removed from the Premises and to be properly managed in compliance with Environmental Laws. Upon the expiration or earlier termination of the term of its Lease except for lawful or de minimis releases of Hazardous Materials, Lessee shall cause all Hazardous Materials it owns, possesses, controls or is otherwise responsible for to be removed from the Leased Premises in compliance with all applicable Environmental Laws; provided, however, that Lessee shall not enter into any settlement agreement, consent decree, or other compromise with respect to any claims relating to such Hazardous Materials in any way connected with the Leased Premises, without first notifying the Airport Manager of Lessee's intention to do so and affording the Airport Manager ample opportunity to appear, intervene, or otherwise appropriately assert and protect the City's interest with respect thereto.
2. If at any time Lessee shall become aware, or has reasonable cause to believe, that any Hazardous Material used, owned, possessed or controlled by, or for which the Lessee is responsible for, has come to be located on or about the premises in violation or potential violation of Environmental Laws, or has been released or discharged into the environment in violation or potential violation of Environmental Laws, the Lessee shall, immediately upon discovery of the presence or suspected presence of the Hazardous Material, provide the Airport Manager with written notice of that condition. In addition, Lessee shall immediately notify the Airport Manager in

writing of (1) any enforcement, cleanup, removal, or other governmental or regulatory action instituted or threatened against Lessee concerning its unlawful use or release of any Hazardous Material on the premises pursuant to any Environmental Laws, (2) any claim or threatened claim by any person against Lessee or its use of the premises relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or claimed to result from the unlawful use of any Hazardous Materials on the premises by the Lessee, and (3) any reports made by the Lessee to any local, state, or federal environmental agency arising out of or in connection with any allegations of violation or potential violation of Environmental Laws associated with Hazardous Materials used on, or removed from, the premises by the Lessee, including any complaints, notices, warnings, or asserted violations in connection therewith. Lessee shall also supply to the Airport Manager as promptly as possible, and in any event within five (5) calendar days after Lessee first receives or sends the same, copies of all claims, reports, complaints, notices, warnings, or asserted violations in connection therewith. Lessee shall promptly deliver to the Airport Manager copies of hazardous waste manifests concerning its lawful disposal of all Hazardous Materials generated and removed from the premises by the Lessee.

*Subsection 12.4 Indemnification.* Except to the extent caused or contributed to by the City, its agents or employees, or other tenants of the Airport, Lessee shall indemnify, and hold harmless the City, its officers, employees, successors and assigns, from and against any and all claims, liabilities, penalties, fines, judgments, forfeitures, losses, damages, costs, or expenses (including reasonable attorneys' fees, consultant fees, and expert fees) for the death of or injury to any person or damage to the premises or any property whatsoever, arising from the Lessee's failure to comply with any Environmental Laws or any covenants, terms or conditions relating to environmental matters in this Lease. Lessee's obligation under this Paragraph shall include any and all reasonable investigation costs incurred in connection with any unlawful release of Hazardous Materials on the premises by the Lessee, and any associated costs of any required repair, cleanup, decontamination or remediation of the premises and the preparation and implementation of any required closure, remediation, or other required action in connection therewith. Lessee's obligations under this Paragraph shall survive the expiration or earlier termination of the term of the Lease concerning the premises for a period of two (2) years.

## **SECTION 13 - SIGNS AND ADVERTISING**

*Subsection 13.1 Definitions of Signs.* For purposes of this Section, signs shall include, but not necessarily be limited to, identification signs, lessee logos, advertising or promotions, photographs, art displays, and the like.

*Subsection 13.2 Right to Install.* Lessee shall have the right to install and operate upon or in the Leased Premises at Lessee's sole cost and expense, signs containing its name and representing its business. Lessee acknowledges City's desire to maintain a high level of aesthetic quality. Therefore, Lessee covenants and agrees that, in the exercise of its privilege to install and maintain appropriate signs on the Leased Premises, it will submit to City the size, design, content, and intended location of each and every sign it proposes to install on or within the Leased Premises and that no signs of any type shall be installed on or within the Leased Premises without the specific prior written approval of the Airport Manager as to the size, design, content, and location. Handwritten, or hand lettered signs are prohibited. Notwithstanding any prior written approval, upon written notice from the Airport Manager at any time during the term of this Lease, Lessee shall install, remove, or modify any signs which the Airport Manager deems necessary or unnecessary for identification or information to the public, passengers, or other Airport users. Failure to require removal of any sign placed on or about the Leased Premises without written permission shall not limit the Airport Manager's authority to require removal of any unapproved sign.

*Subsection 13.3 Signs and Fixtures Outside Premises.* Lessee shall not place or install any racks, stands, trade fixtures, pedestal signs, or other displays of products outside the boundaries of the Leased Premises without the express prior written approval of the Airport Manager.

*Subsection 13.4 Removals of Signs.* Upon the expiration or sooner termination of this Lease, Lessee shall, if requested by the Airport Manager, remove any and all identification signs and similar devices placed by Lessee on or in the Leased Premises. In the event of the failure on the part of Lessee to so remove each and every sign as requested by the Airport Manager, the Airport Manager may perform such work and, upon demand, Lessee shall pay the cost thereof to City.

## **SECTION 14 – NON-DISCRIMINATION**

This Lease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, pursuant to law, it is unlawful and Lessee agrees not to willfully refuse to employ, to discharge, or to discriminate against any person otherwise qualified because of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status; not to discriminate for the same reason in regard to tenure, terms, or conditions of employment, not to deny promotion or increase in compensation solely for these reasons; not to adopt or enforce any employment policy which discriminates between employees on account of race, color, religion, sex, creed, age, disability, national origin or ancestry, lawful source of income, marital status or familial status; not to seek such information as to any employee as a condition of employment; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of



race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed or familial status.

Lessee shall include or cause to be included in each subcontract covering any of the services to be performed under this Lease a provision similar to the above paragraph, together with a clause requiring such insertion in further subcontracts that may in turn be made.

## **SECTION 15 - IDEMNIFICATION AND INSURANCE**

*Subsection 15.1 Indemnification.* To the fullest extent allowable by law, Lessee hereby indemnifies and shall defend and hold harmless, at Lessee's expense, City, its elected and appointed officials, committee members, officers, employees or authorized representatives or volunteers, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, losses, interest, attorney's fees (including in-house counsel legal fees), costs and expenses of whatsoever kind, character or nature whether arising before, during, or after completion of the Lease hereunder and in any manner directly or indirectly caused or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive of Lessee, or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Lease, regardless if liability without fault is sought to be imposed on City. Lessee's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the negligent or willful misconduct of City, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Nothing in this Lease shall be construed as City waiving its statutory limitation and/or immunities as set forth in the applicable Wisconsin Statutes or other applicable law. This indemnity provision shall survive the termination or expiration of this Lease.

Lessee shall reimburse City, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Lessee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

*Subsection 15.2 Lessee to Provide General Liability Insurance.* Lessee shall, at its sole expense, obtain and maintain in effect at all times during this Lease the following insurance coverage:

1. Commercial General Liability Insurance of not less than \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage;
2. To the extent that Lessee employs any employees or as otherwise required by law, Workers'

**Compensation and Employees' Liability Insurance with Wisconsin statutory limits.**

***Subsection 15.3 Lessee to Provide Property, Fire and Allied Insurance.*** Lessee, at its own expense, shall insure all Leasehold Improvements and furnishings, fixtures and equipment for fire, extended coverage, vandalism, and malicious mischief. Such insurance shall be in an amount equal to the full insurable replacement value of such improvements. All property insurance policies shall contain loss payable endorsements in favor of the parties as their respective interests may appear hereunder and shall contain a waiver of subrogation provision in favor of the City. Lessee and City agree that any payments received by either from such insuring companies by reason of loss under such policy or policies shall be applied toward repair and reconstruction of said Leasehold Improvements and repair or replacement of Leasehold Improvements, furnishings, fixtures and equipment.

***Subsection 15.4 Both Lessee and City to Carry Fire Insurance.*** It is understood that both Lessee and City carry insurance in the form of fire, extended coverage, vandalism, and malicious mischief (hereinafter called "Insurance Coverage") on the leased structural part of the premises, permanent improvements and loss of income, (in the case of City) and on Leasehold Improvements, furniture, furnishings, equipment, inventory and loss of income, (in the case of Lessee), and said Insurance Coverage authorizes a waiver of subrogation between City and Lessee, and the parties wish to enter into such waiver of subrogation to the extent of the said Insurance Coverage; therefore, to the extent that City collects under its Insurance Coverage, City waives any and all claims against Lessee, its agents, servants, and employees, for loss or damage to City's property resulting from risks included in said Insurance Coverage; and, to the extent that Lessee collects under its Insurance Coverage, Lessee waives any and all claims against City, its agents, servants, and employees, for loss or damage to Lessee's property resulting from risks included in said Insurance Coverage. If this waiver by the parties shall render fully any such insurance policy or shall result in the denial of coverage for a party under such policy, then the provision paragraph shall be deemed to be null and void.

***Subsection 15.5 Insurance Certificate.*** A certificate evidencing insurance required by Subsection 15.2 and 15.3, and listing the City of La Crosse as additional insured, shall be filed with City prior to the commencement of construction, furnishing and equipping of Leasehold Improvements by Lessee upon the Leased Premises, and such certificate shall provide that such Insurance Coverage will not be canceled or reduced without at least thirty (30) days prior written notice to City. At least ten (10) days prior to the expiration of any such policy, a certificate showing that such Insurance Coverage has been renewed shall be filed with City. If such Insurance Coverage is canceled or reduced, Lessee shall within fifteen (15) days after receipt of written notice from City of such cancellation or reduction in coverage, file with City a

certificate showing that the required insurance has been reinstated or provided through another insurance lessee or companies.

*Subsection 15.6 Lessee Failure to Provide Certificates.* In the event that Lessee shall at any time fail to furnish City with the certificate or certificates required under this Section, City, upon written notice to Lessee of its intention so to do, shall have the right to obtain the required insurance, at the cost and expense of Lessee, and Lessee agrees to promptly reimburse City for the cost thereof, plus fifteen percent (15%) thereof for administrative overhead.

## **SECTION 16 - DAMAGE OR DESTRUCTION OF PREMISES**

*Subsection 16.1 Partial Damage.* If all or a portion of the Leased Premises is partially damaged by fire, explosion, the elements, public enemy, or other casualty, but not rendered untenable, the same will be repaired with due diligence by City subject to the limitations of Subsection 16.4; provided, however, to the extent that such damage or destruction is not covered by insurance, Lessee shall be responsible for reimbursing City for the cost and expenses insured in such repair to the extent that the damage is caused by the negligent act or omission of Lessee, its sublessees, agents, or employees.

*Subsection 16.2 Extensive Damage.* If the damages referred to in Subsection 16.1 shall be so extensive as to render the Leased Premises untenable, but capable of being repaired in thirty (30) days, the same shall be repaired with due diligence by City subject to the limitations of Subsection 16.4; and, the charges payable herein for Fees under Subsection 5.1 shall abate from the time of such damage or destruction until such time as the said Leased Premises are fully restored and certified by City's Engineers as ready for occupancy; provided, however, the said fees and charges will not abate and to the extent that such damage or destruction is not covered by insurance, Lessee shall be responsible for reimbursing City for the cost and expenses incurred in such repair to the extent that the damage is caused by the negligent act or omission of Lessee, its sublessees, agents, or employees.

*Subsection 16.3 Complete Destruction.* In the event the Premises are completely destroyed by fire, explosion, the elements, the public enemy, or other casualty, or so damaged that they are untenable and cannot be replaced for more than thirty (30) days, City shall undertake the repair, replacement, and reconstruction of said Leased Premises; and charges payable herein for the Fees under Subsection 5.1, shall abate as of the time of such damage or destruction until such time as the said Premises are fully restored and certified by City's Airport Manager as ready for occupancy; provided, however, the said fees and charges will not abate and to the extent that such damage or destruction is not covered by insurance, Lessee shall be responsible for reimbursing City for the costs and expenses incurred in said repair to the

extent that the damage is caused by the negligent act or omission of Lessee, its sublessees, agents, or employees; provided further, however, if within twelve (12) months after the time of such damage or destruction said Leased Premises shall not have been repaired or reconstructed, Lessee may cancel this Lease in its entirety.

*Subsection 16.4 Limits of City's Obligations Defined.* It is understood that, in the application of the foregoing Subsections, City's obligations shall be limited to repair or reconstruction of the Premises to the same extent and of equal quality as obtained at the commencement of operations hereunder, subject to funding and appropriation. Redecoration and replacement of furniture, fixtures, equipment, and supplies shall be the responsibility of Lessee and any such redecoration and refurnishing/re-equipping shall be of equivalent quality to that originally installed hereunder.

## **SECTION 17 - CANCELLATION**

*Subsection 17.1 Cancellation by Lessee.* Lessee may cancel this Lease and terminate all its obligations hereunder upon or after the happening of one or more of the following events and provided that Lessee is not in default in the payment of any fees or charges to City:

1. The inability of Lessee to use the Airport for a period of longer than sixty (60) days, because of the issuance of any order, rule, or regulation by any competent governmental authority or court having jurisdiction over Lessee or City, preventing Lessee from operating its business; provided, however, that such inability or such order, rule, or regulation is not primarily due to any fault of Lessee.
2. The material breach by City in the performance of any covenant or agreement herein required to be performed by City and the failure of City to remedy such breach for a period of sixty (60) days after receipt from Lessee of written notice to remedy the same.

*Subsection 17.2 Cancellation by City.* City may cancel this Lease and terminate all of its obligations hereunder at any time that City is not in default, upon or after the happening of any of the following events:

1. Lessee shall file a voluntary petition in bankruptcy; or
2. Proceedings in bankruptcy shall be instituted against Lessee and Lessee is thereafter adjudicated bankrupt pursuant to such proceedings; or
3. A court shall take jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any federal reorganization act; or
4. A receiver of Lessee's assets shall be appointed; or
5. Lessee voluntarily abandons its conduct of its business at the Airport for a period of thirty (30) days, except if such is due to a labor strike or labor dispute in which Lessee is involved; or

6. Any assignment is made by Lessee for the benefit of its creditors; or
7. The material breach by Lessee of any of the covenants or agreements herein contained and the failure of Lessee to remedy such breach as hereinafter provided. In this regard it is understood that nonpayment of fees or charges hereunder is a material breach. In the event of such material breach, City shall give to Lessee notice in writing to correct such breach and if such breach shall continue for fifteen (15) days after the receipt of such notice by Lessee, City may, after the lapse of said fifteen (15) day period, cancel this Lease, without forfeiture, waiver, or release of City's rights to any sum of money due or to become due under the provisions of this Lease.
8. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such manner as to substantially restrict Lessee, for a period of at least thirty (30) days, from its Airport operation.

*Subsection 17.3 Termination.* Should an early termination of this Lease occur pursuant to the terms of Subsection 17.2 hereof, City shall have the right to re-enter the Leased Premises, make repairs as necessary, and enter into another lease for the Leased Premises and privileges, or any part thereof, for the remainder of the term hereof.

*Subsection 17.4 Automatic Termination.* Upon completion of a Consolidated Rental Car Facility for the purpose of providing a single facility for rental car agencies Lessee and City shall jointly construct a new agreement for said Consolidated Rental Car Facility. This agreement shall terminate upon execution of said Consolidated Rental Car Facility agreement.

*Subsection 17.5 Notice of Termination.* If any of the events enumerated in Subsections 17.1 and 17.2 shall occur and after due notice the defaulting party has failed to cure or correct same, the complaining party may, at any time thereafter during the continuance of said default, terminate this Lease by notice in writing, such cancellation and termination to be effective upon the date specified in such notice.

## **SECTION 18 - PROPERTY RIGHTS UPON TERMINATION OR CANCELLATION**

*Subsection 18.1 Rights Upon Termination or Cancellation.* Upon proper termination or cancellation of this Lease for any reason except those outlined in Subsections 17.1 and 17.2, City shall have the right to require removal by Lessee of all Trade Fixtures, personal property, and expendables owned by Lessee; and Lessee shall immediately remove such Trade Fixtures, personal property, and expendables. Lessee shall reimburse City for the cost of any repairs required as a result of Lessee's removal of said Trade Fixtures, personal property, and expendables. At the request of Lessee, City may, at its sole discretion,

take title to any or all such Trade Fixtures, personal property, or expendables, in which event City shall pay to Lessee the fair market value of each such fixtures, property, or expendables as of the date of such termination.

*Subsection 18.2 Rights Upon Termination Because of Default by City.* In the event this Lease is canceled by Lessee for any of the reasons outlined in Section 17.1, damages to the Lessee shall be limited as follows:

1. Leasehold or Fixed Improvements. With respect to Leasehold Improvements paid for by Lessee from its own funds, said damages shall be Net Book Value of said improvements, determined on a straight-line basis over the term of the lease. Upon payment by City to Lessee of said damages, all such Leasehold Improvements shall become the sole property of City. Lessee may, at its option, remove such permanent improvements in lieu of accepting said Net Book Value.
2. Personal Property and Proprietary Trade Fixtures. Except as provided herein above, Lessee shall remove all personal property and Trade Fixtures, and shall reimburse City for the cost of any repairs required as a result of Lessee's removal of such property and fixtures.

#### **SECTION 19 - NONWAIVER OF RIGHTS**

Continued performance by either party hereto pursuant to the terms of this Lease after a default of any of the terms, covenants, and conditions herein contained to be performed, kept, or observed by the other party hereto shall not be deemed a waiver of any right to cancel this Lease for any subsequent default; and no waiver of any such default shall be construed or act as a waiver of any subsequent default.

#### **SECTION 20 - SURRENDER OF POSSESSION**

Lessee shall, upon termination of this Lease or cancellation, quit and deliver up the Leased Premises and privileges to City peaceably and quietly, with the Leased Premises being in as good order and condition as the same now are or may be hereafter improved by Lessee or City, reasonable use and wear thereof excepted. In addition to any lien provided by Wisconsin law, City shall have a specific lien on all property of Lessee, and related equipment on the Leased Premises as security for nonpayment. Lessee shall have the right to remove all of its trade fixtures and equipment installed or placed by it at its own expense, in, on or about the Premises; subject however, to any valid lien which City may have thereon for unpaid charges or fees.

#### **SECTION 21 - TAXES AND LICENSES**

Lessee shall obtain and pay for all licenses or permits necessary or required by law for the construction of improvements, the installation of equipment and furnishings, and any other licenses necessary for the

conduct of its operations hereunder. City shall assist Lessee where necessary in obtaining said permits. City shall be responsible for any and all real estate taxes due and owing relative to the Leased Premises during the term of this Lease. Lessee shall, during the term of this Lease, pay and discharge as they become due, promptly and before delinquency, all personal property taxes, assessments, rates, license fees, municipal liens, levies, excises or imports of every nature and kind levied, assessed, charged, or imposed on or against the Leased Premises, Lessee's leasehold interest in the Premises or personal property of any kind owned or placed on the Leased Premises by Lessee. Lessee's responsibility shall include any lease taxes imposed regardless of who the governing body assessing the tax shall deem responsible for payment. Lessee shall only be obligated to pay installments of special assessments (using the longest amortization schedule available) coming due during the term, or extensions thereof, of this Lease.

#### **SECTION 22 - INSPECTION OF PREMISES**

City or its duly authorized representatives, or agents, and other persons for it, may enter upon said Leased Premises at any and all reasonable times during the term of this Lease for the purpose and conditions hereof or for any other purpose incidental to rights of City.

#### **SECTION 23 - HOLDING OVER**

Should Lessee holdover said Leased Premises after this Lease has terminated in any manner, Lessee shall continue such holding over only at sufferance to City. All other terms and conditions in such holdover shall be the same as herein provided.

#### **SECTION 24 - QUIET ENJOYMENT**

City agrees that Lessee, upon payment of the fees and charges and all other payments to be paid by Lessee under the terms of this Lease, and upon observing and keeping the leases and covenants of this Lease on the part of Lessee to be observed and kept, shall lawfully and quietly hold, occupy, and enjoy the Leased Premises during the term of this Lease.

#### **SECTION 25 - NO LIENS**

Lessee shall pay for all labor done or materials furnished in the repair, replacement, development, or improvement of the Premises by Lessee, and shall keep said Leased Premises and Lessee's possessory interest therein free and clear of any lien or encumbrance of any kind whatsoever created by Lessee's act or omission.

#### **SECTION 26 - SECURITY**

City shall provide, or cause to be provided, during the term of this Lease, all proper and appropriate public fire and police protection similar to that afforded to other Landside tenants or licensees at the Airport, and it will issue and enforce rules and regulations with respect thereto for all portions of the Airport. Lessee shall comply with the Airport Security Plan and shall have the right, but shall not be obligated, to provide such additional or supplemental public protection as it may desire, but such right, whether or not exercised by Lessee, shall not in any way be construed to limit or reduce the obligations of City hereunder.

#### **SECTION 27 - LEASE SUBORDINATE TO AGREEMENT WITH THE UNITED STATES**

This Lease is subject and subordinate to the terms, reservations, restrictions, and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for Airport purposes, and the expenditure of federal funds for the extension, expansion, or development of the La Crosse Municipal Airport. Should the effect of such agreement with the United States government be to take any of the property under lease or substantially destroy the commercial value of such improvements, City shall terminate this Lease.

#### **SECTION 28 - RIGHTS AND PRIVILEGES OF CITY**

1. City shall have the right to enforce, and adopt from time to time, reasonable rules and regulations, which Lessee agrees to observe and obey, with respect to the use of the Airport, Premises and appurtenances, provided that such rules and regulations shall not be inconsistent with safety, current rules and regulations of the FAA, and any future changes prescribed from time to time by the FAA.
2. City's Airport Manager and/or the City Attorney are hereby designated as its official representative for the enforcement of all provisions in this Lease with full power to represent City with dealings with Lessee in connection with the rights herein granted.
3. All actions relating to policy determination, modification of this Lease, termination of this contract, and any similar matters affecting the terms of this Lease shall emanate from the Aviation Board and/or City Council, their successors or assigns.
4. The Airport Manager or designee may enter upon the Leased Premises, now or hereafter leased to Lessee hereunder, at any reasonable time, for any purpose necessary, incidental to, or connected with, the performance of its obligations hereunder, or in the exercise of its governmental functions.
5. City reserves the right to further plan, develop, improve, remodel and/or reconfigure the Airport, including the Leased Premises and existing vehicle and pedestrian traffic patterns, as the City deems appropriate, regardless of the desires or views of Lessee, and without interference or



hindrance.

6. During the time of war or National Emergency, City shall have the right to lease the landing area of the Airport, or any part of La Crosse Municipal Airport, thereof, to the United States Government for military or national use, and if any lease is executed, the provisions of this instrument insofar as they are inconsistent with the provision of the lease to the Government, shall be suspended.
7. City hereby reserves for the use and benefit of the public, the right of aircraft to fly in the airspace overlying the land herein leased, together with the right of said aircraft to cause such noise as may be inherent in the operation of aircraft landing at, taking off from, or operating on or in the vicinity of La Crosse Municipal Airport, and the right to pursue all operations of the La Crosse Municipal Airport.
8. City reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport, which, in the opinion of the City, would limit the usefulness of the Airport, or constitute a hazard to aircraft.
9. City may from time to time increase the size or capacity of any such Public Aircraft Facilities or Common Use Portion of the Airport or make alterations thereto or reconstruct or relocate them or modify the design and type of construction thereof or close them or any portions of them, either temporarily or permanently, provided notice is given to Lessee.
10. This Lease at any time may be reopened for renegotiation if Federal Aviation Administration (FAA) Airport Certification or Security Requirements, FAR Part 139 and CFR 1542 respectively, result in major expenditures to City due to Lessee's tenancy on the La Crosse Municipal Airport. If said renegotiation is desired, written notice must be given to Lessee sixty (60) days prior to such renegotiations.
11. City reserves the right to relocate the Leased Premises. City will not be liable for the costs associated with the moving or reinstallation of Lessee's equipment.

#### **SECTION 29 - ACCESS CONTROL**

1. Lessee shall upon termination of this Lease return all issued keys to City. If all issued keys are not returned to City at the termination of this Lease Lessee shall pay to City cost to re-core premises locks and cut new keys at the rate set at the time of such re-core.
2. Lessee is responsible for all keys issued to employees of Lessee. If a key is lost, Lessee shall immediately notify City and shall pay to City cost to re-core premises locks and cut new keys at the rate set at the time of such re-core.
3. Lessee is ultimately responsible for all access cards issued for employee parking including all

fees levied for failure to return said cards.

### **SECTION 30 – NO PERSONAL LIABILITY**

Under no circumstances shall any trustee, officer, official, commissioner, Manager, member, partner or employee of City have any personal liability arising out of this Lease, and Lessee shall not seek or claim any such personal liability.

### **SECTION 31 – GOVERNING LAW**

This Lease and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Lease shall be exclusively in La Crosse County, Wisconsin. Each party waives its right to challenge venue.

### **SECTION 32 – JURY TRIAL WAIVER**

The parties hereby waive their respective rights to a jury trial on any claim or cause of action based upon or arising from or otherwise related to this Lease. This waiver of right to trial by jury is given knowingly and voluntarily by the parties and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver by the other party.

### **SECTION 33 – NOTIFICATION**

Lessee shall:

1. As soon as possible and in any event within a reasonable period of time after the occurrence of any default, notify City in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by Lessee with respect thereto.
2. Promptly notify City of the commencement of any litigation or administrative proceeding that would cause any representation and warranty of Lessee contained in this Lease to be untrue.
3. Notify City, and provide copies, immediately, upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by Lessee or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of Lessee or any guarantor under any environmental laws, rules, regulations, ordinances or which seeks damages or civil, criminal or punitive penalties from or against Lessee or any guarantor for an alleged violation of any environmental laws, rules,

regulations or ordinances.

#### **SECTION 34 – SEVERABILITY**

The provisions of this Lease are severable. If any provision or part of this Lease or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Lease and the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

#### **SECTION 35 – ASSIGNMENT, SUBLET, AND TRANSFER**

Lessee shall not assign, sublet, or transfer its interests or obligations under the provisions of this Lease without the prior written consent of City. This Lease shall be binding on the heirs, successors, and assigns of each party hereto. Lessee shall provide not less than forty-five (45) days advance written notice of any intended assignment, sublet or transfer.

#### **SECTION 36 – NO WAIVER**

The failure of any party to insist, in any one or more instance, upon performance of any of the terms, covenants, or conditions of this Lease shall not be construed as a waiver, or relinquishment of the future performance of any such term, covenant, or condition by any other party hereto but the obligation of such other party with respect to such future performance shall continue in full force and effect.

#### **SECTION 37 – CONFLICTS OF INTEREST**

Lessee covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Lessee further covenants that in the performance of this Lease no person having any conflicting interest shall be employed. Any interest on the part of Lessee or its employee must be disclosed to City.

#### **SECTION 38 – POLITICAL ACTIVITIES**

Lessee shall not engage in any political activities while in performance of any and all services and work under this Lease.

#### **SECTION 39 – ENTIRE AND SUPERSEDING AGREEMENT**

This writing, all Exhibits hereto, and the other documents and agreements referenced herein, constitute the entire Lease between the parties with respect to the subject matter hereof, and all prior agreements, correspondences, discussions and understandings of the parties (whether written or oral) are merged

herein and made a part hereof. This Lease, however, shall be deemed and read to include and incorporate such minutes, approvals, plans, and specifications, as referenced in this Lease, and in the event of a conflict between this Lease and any action of City, granting approvals or conditions attendant with such approval, the specific action of City shall be deemed controlling.

**SECTION 40 – AMENDMENT**

This Lease shall be amended only by formal written supplementary amendment. No oral amendment of this Lease shall be given any effect. All amendments to this Lease shall be in writing executed by both parties.

**SECTION 41 – TIME COMPUTATION**

Any period of time described in this Lease by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Lease by reference to a number of business days does not include Saturdays, Sundays or any state or national holidays. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

**SECTION 42 – NOTICES**

Any notice, demand, certificate or other communication under this Lease shall be given in writing and deemed effective: a) when personally delivered; b) three (3) days after deposit within the United States Postal Service, postage prepaid, certified, return receipt requested; or c) one (1) business day after deposit with a nationally recognized overnight courier service, addressed by name and to the party or person intended as follows:

To the City:	La Crosse Municipal Airport	Copy to:	Attn. City Attorney
	Attn: Airport Manager		City of La Crosse
	2850 Airport Rd		400 La Crosse Street
	La Crosse, WI 54603		La Crosse, WI 54601

City's notice to Lessee shall be deemed effective three days after mailing first class United States Post Office mailing. Lessee shall identify in writing and provide to City the contact person and address for notices under this Lease.

**SECTION 43 – PUBLIC RECORDS LAW**

Lessee understands and acknowledges that City is subject to the Public Records Law of the State of Wisconsin. As such, Lessee agrees to retain all records as defined by Wisconsin Statute § 19.32(2) applicable to this Lease for a period of not less than seven (7) years after the termination or expiration of this Lease. Lessee agrees to assist City in complying with any public records request that City receives pertaining to this Lease. Additionally, Lessee agrees to indemnify and hold harmless City, its elected and appointed officials, officers, employees, and authorized representatives for any liability, including without limitation, attorney fees related to or in any way arising from Lessee's actions or omissions which contribute to City's inability to comply with the Public Records Law. In the event that Lessee decides not to retain its records for a period of seven (7) years, then it shall provide written notice to City whereupon La Crosse shall take custody of said records assuming such records are not already maintained by City. This provision shall survive the termination of this Lease.

#### **SECTION 44 – CONSTRUCTION**

This Lease shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted. This Lease shall be deemed to have been drafted by the parties of equal bargaining strength. The captions appearing at the first of each numbered section of this Lease are inserted and included solely for convenience but shall never be considered or given any effect in construing this Lease with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any questions of intent should arise. All terms and words used in this Lease, whether singular or plural and regardless of the gender thereof, shall be deemed to include any other number and any other gender as the context may require.

#### **SECTION 45 – NO THIRD PARTY BENEFICIARY**

Nothing contained in this Lease, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party.

#### **SECTION 46 – COMPLIANCE WITH LAW**

The parties shall comply in all material respects with any and all applicable federal, state and local laws, regulations and ordinances.

#### **SECTION 47 – FORCE MAJEURE**

City shall not be responsible to Lessee and Lessee shall not be responsible to City for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Lease is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of

materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

#### **SECTION 48 – GOOD STANDING**

Lessee affirms that it is a lessee duly formed and validly existing and in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Lessee is duly licensed or qualified to do business and is in good standing in the State of Wisconsin and in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

#### **SECTION 49 - INDEPENDENT CONTRACTORS**

The parties, their employees, agents, volunteers, and representative shall be deemed independent contractors of each other and shall in no way be deemed as a result of this Lease to be employees of the other. The parties, their employees, agents, volunteers, and representatives are not entitled to any of the benefits that the other provides for its employees. The parties shall not be considered joint agents, joint venturers, or partners.

#### **SECTION 50 - GOVERNMENTAL APPROVALS**

Lessee acknowledges that various of the specific undertakings of City described in this Lease may require approvals from the City of La Crosse Council, City of La Crosse bodies, and/or other public bodies, some of which may require public hearings and other legal proceedings as conditions precedent thereto. Lessee further acknowledges that this Lease is subject to appropriation by the La Crosse Common Council. City's obligation to perform under this Lease is conditioned upon obtaining all such approvals in the manner required by law. City cannot assure that all such approvals will be obtained, however, it agrees to use good faith efforts to obtain such approvals on a timely basis.

#### **SECTION 51 – AUTHORITY**

The persons signing this Lease warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

#### **SECTION 52 – COUNTERPARTS**

This Lease may be executed in one or more counterparts, all of which shall be considered but one and the same lease and shall become effective when one or more counterparts have been signed by each of the

parties and delivered to the other party.

**SECTION 53 – SURVIVAL**

All express representations, indemnifications and limitations of liability included in this Lease will survive its completion or termination for any reason.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the dates set forth below.

ATTEST:

LESSEE: MIDWESTERN WHEELS, INC.

By: Nancy J. Umland

By: William J. Wallschlaeger

Print Name: William J. Wallschlaeger

Title: President

Date: September 27, 2013

LESSOR: CITY OF LA CROSSE

By: Timothy Kabat  
Mayor Timothy Kabat

Date: 10-15-2013

By: Teri Lehrke  
City Clerk Teri Lehrke

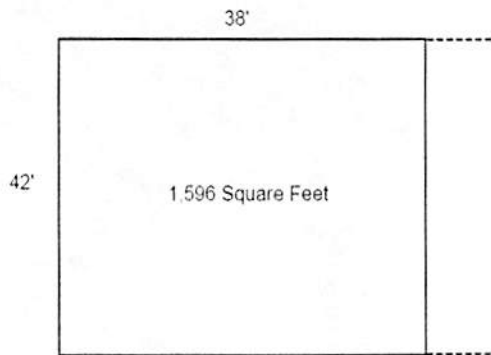
Date: 10-15-13



EXHIBIT A - STRUCTURE



South End of 2842 Fanta Reed Road



Not to Scale

EXHIBIT B - LAND

