



**LEASE AGREEMENT**

**BETWEEN**

**THE OKLAHOMA CITY AIRPORT TRUST**

**AND**

**HAROLD LOUIS SMITH, JR.**

**FOR**

**SHOESHINE OPERATIONS**

**Effective Date: April 1, 2025**

# LEASE AGREEMENT

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## LEASE AGREEMENT

This Lease Agreement (“Agreement”), is made and entered into by and between the Trustees of the Oklahoma City Airport Trust (“Lessor”), a public trust, and Harold Louis Smith, Jr., (“Lessee”),

### WITNESSETH:

**WHEREAS**, the Lessor leases, operates, and maintains certain real estate for the benefit of The City of Oklahoma City (“City”) known as the OKC Will Rogers International Airport (“Airport”) which is located in Oklahoma County, Oklahoma; and

**WHEREAS**, the Lessee desires to lease certain premises from the Lessor on the Airport on which to conduct a shoe-shine operation at said Airport; and

**WHEREAS**, Lessor and Lessee desire to enter into this Agreement (“Agreement”) to allow Lessee to conduct his shoe-shine operation for the traveling public.

**NOW, THEREFORE**, for and in consideration of the mutual obligations, covenants, and agreements hereinafter set forth, Lessor and Lessee agree as follows, to wit:

### ARTICLE 1. DEFINITIONS

#### 1.01 Definitions

Except as otherwise clearly indicated by the context, the words and phrases defined in this section shall have the following meanings when used elsewhere in this Agreement:

“Director of Airports” or “Director” shall mean the person designated by the Oklahoma City Airport Trust to exercise functions with respect to the rights and obligations of the Oklahoma City Airport Trust under this Agreement. Said term shall also include any person expressly delegated by the Director of Airports to exercise functions with respect to the rights and obligations of the Director of Airports under this Agreement.

“Effective Date” shall mean April 1, 2025.

“Event of Default” shall mean failure to perform, keep, and observe any of the terms, covenants, or conditions to be performed, kept, and observed under this Agreement.

“Rent” shall mean the annual rent paid monthly to the Lessor during the Lease Period for the use of the Leased Premises.

“Leased Premises” shall mean the area of the Airport that the Lessee leases as depicted on Exhibit “A”.

“Lease Period” shall mean the term of the Agreement and shall be for a period of five (5) years from the Effective Date of the Agreement.

“Termination Date” shall mean the date on which the Lease Period terminates March 31, 2030.

1.02 Interpretation

- A. The terms "herein," "hereof," "hereto," and "hereunder," and any similar terms used in this Agreement refer to this Agreement.
- B. Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies, as well as natural persons.
- C. Any headings preceding the text of the articles and paragraphs of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience or reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.
- D. Words importing the singular shall include the plural and vice versa.
- E. Capitalized words or terms other than paragraph or article headings and names of persons are technical and pertain strictly to this Agreement and are defined in Article 1/herein.

1.03 Incorporation of Exhibits

The following Exhibit is hereby made a part of this Agreement:

Exhibit A – Leased Premises Depiction

**ARTICLE 2. LEASED PREMISES**

Lessor does hereby provide, demise and lease to Lessee, and Lessee does hereby accept and lease from Lessor the Leased Premises together with associated improvements. Lessor reserves the right to relocate Lessee at any time during the term of this Agreement without any cost or expense to the Lessor or any compensation owed to the Lessee. The parties agree that the Director shall have discretion to modify Exhibit A, as needed, without formal approval of the exhibit but with written acknowledgement and confirmation by both parties.

**ARTICLE 3. TERM**

3.01 Lease Period

The Agreement shall commence on the Effective Date and shall terminate on the Termination Date, unless terminated earlier as provided herein.

3.02 Compliance with Applicable Federal, State, or Local Law or Regulation

During the Lease Period, the provisions of this Agreement shall be modified as necessary to affirm compliance requirements with applicable federal, state, or local laws, policies or administrative regulation and all amendments thereto.

**ARTICLE 4. PERMITTED USE OF THE LEASED PREMISES**

Lessee shall have the right and privilege of the use and occupancy of the Leased Premises only for conducting a shoe-shine business. Any other use must be approved by the parties through written amendment hereto. As consideration for this right and privilege, Lessee agrees and is hereby obligated to maintain and operate said Leased Premises in accordance with the terms and conditions set forth herein. Moreover, no sales to the public, whether wholesale or retail, shall be conducted from the Leased Premises in any manner prohibited by federal, state, or local laws or regulations.

**ARTICLE 5. RENT**

5.01 Rent

Commencing on the Effective Date and during the Lease Period, Lessee shall pay monthly rent to the Lessor for the use of Leased Premises. Rent shall be adjusted two percent (2%) per year from the previous year's Rent:

<u>DATE</u>		<u>RATE</u>	<u>TOTAL RENT</u>	
<u>BEG</u>	<u>END</u>		<u>ANNUAL</u>	<u>MONTHLY</u>
04/01/2025	03/31/2026	2%	1,188.48	99.04
04/01/2026	03/31/2027	2%	1,212.24	101.02
04/01/2027	03/31/2028	2%	1,236.48	103.04
04/01/2028	03/31/2029	2%	1,261.20	105.10
04/01/2029	03/31/2030	2%	1,286.40	107.20

5.02 Prorated Rates and Fees

In the event the rates or fees herein do not commence on the first day of the month or the Termination Date ends on the last day of the month, then any rents or fees due under this Article shall be prorated for the number of remaining days in the month.

**ARTICLE 6. DELINQUENT RENTS AND FEES**

6.01 Due Date

All rents and fees shall be delinquent if not received by Lessor on or before the last day of each and every month of when due during the term hereof unless specified otherwise.

6.02 Delinquency Charges

It is hereby agreed by and between the Lessor and Lessee that should Lessee fail, for any reason whatsoever, to make timely remittance of the monthly rents, fees and/or compensation as required under any of the provisions hereof, then and in that event, the payment shall be immediately delinquent, and the outstanding balance of such delinquency shall earn interest at the rate of one and one-half percent (1.5%) per month. Moreover, said interest shall be considered additional rental and/or compensation for the Leased Premises and shall become due and payable to, and received by, Lessor on or before the last day of each month. To aid in the timely receipt of rental payments, the Lessee is encouraged to make all payments through the bank-to-bank automated clearing house ("ACH") network.

## **ARTICLE 7. BOOKS AND RECORDS RETENTION**

In order to ensure that the Lessor, by and through the Director, is able to adequately monitor the Lessee's performance under the terms of this Agreement, the Lessee will keep and maintain true and accurate records relating to the service provided herein in accordance with generally accepted accounting principles, and will make the same readily available for examination by the Director during normal business hours during the term of this Agreement and shall be maintained for a period of no less than five (5) years after the end of the term of this Agreement.

## **ARTICLE 8. INGRESS AND EGRESS**

Upon paying the rent hereunder and performing the covenants of this Agreement and subject to the security protocols and procedures at the Airport, the Lessee shall have the right of ingress to and egress from said Leased Premises for the Lessee, its officers, employees, agents, servants, customers, vendors, suppliers, patrons, and invitees over the roadway provided by Lessor, serving said premises jointly with other tenants on the Airport; and the Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities.

## **ARTICLE 9. LESSEE'S MAINTENANCE AND REPAIR OBLIGATIONS**

### 9.01 Lessee Obligation

The Lessee was previously in possession of the Leased Premises and accepts them in their present "as-is" condition. Unless otherwise expressly provided in Article 10, Lessor has no obligation to provide any maintenance or to make any improvements, alterations, or repairs to the Leased Premises.

### 9.02 Maintenance and Operation by Lessee

The Lessee shall always maintain the Leased Premises in a safe, clean, neat, attractive, and healthful condition and shall not permit the accumulation of any trash or debris or allow the Leased Premises of the Airport to be in a state of disrepair or unkept condition. If said Leased Premises are not maintained and kept in a safe, clean, neat, attractive, and healthful condition in compliance with the Operation, the Lessor may terminate this Agreement as an Event of Default pursuant to, and in accordance with all notice and cure periods set forth in Article 19 herein.

## **ARTICLE 10. LESSOR'S MAINTENANCE AND REPAIR OBLIGATIONS**

The parties agree that the Lessor shall only be responsible to maintain and repair all interior, electrical and plumbing, repairs and maintenance in the common areas of the Terminal at the Airport during the Lease Period.

## **ARTICLE 11. HAZARDOUS MATERIAL(S) AND COMPLIANCE WITH ENVIRONMENTAL LAW(S)**

### 11.01 Definitions

For the purpose of this article, the following definitions apply:

- A. “Best Management Practices” shall mean those best management practices applicable and relevant to the Lessee's activities, including but not limited to the best management practices identified for Lessee's activity by federal, state, or local regulatory requirement, regulatory guidance documents, fact sheets, Oklahoma Department of Environmental Quality (“ODEQ”) General Permits, any plan or policy in effect for the Airport, Federal Aviation Administration Circulars (“FAA ACs”), or other applicable industry guidance.
- B. “Contamination” shall mean the presence of any Hazardous Materials in concentrations exceeding those identified as relevant and appropriate pursuant to Environmental Laws.
- C. “Hazardous Material(s)” shall mean all substances whose use, handling, treatment, storage, disposal, discharge, or transportation is governed, controlled, restricted, or regulated by Environmental Laws, or that have been defined, designated, or listed by any responsible governmental authority with competent jurisdiction as being hazardous waste, hazardous substance, toxic, or radioactive, including those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law. Hazardous Materials shall be interpreted in the broadest sense to include any and all substances, materials, wastes, pollutants, oils, or governmental regulated substances or contaminants as defined or designated as hazardous, caustic, corrosive, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws, including but not limited to asbestos and asbestos containing materials, petroleum products including crude oil or any fraction thereof, gasoline, diesel fuel, lubricating oils and solvents, urea formaldehyde, flammable explosives, chemical paint removers and other caustics, PCBs, radioactive materials or waste, per- and poly-fluoroalkyl substances (“PFAS”), or any other substance that, because of its quantity, concentration, physical, chemical, or infectious characteristics may cause or threaten a present or potential hazard to human health or the environment when generated, used, stored, handled, treated, discharged, distributed, disposed, or Released.
- D. “Environmental Law(s)” shall mean in the broadest sense any and all applicable federal, state and local statutes, ordinances, regulations, rules, and FAA ACs now or hereafter in effect, as the same may be amended from time to time relating to the protection of human health, safety, and/or the environment, and include but are not limited to: the Solid Waste Disposal Act (“SWDA”), 42 U.S.C. § 6901 *et seq.*, as amended, including, but not limited to, the Resources Conservation and Recovery Act (“RCRA”) of 1976, Pub. Law No. 94-580, and the Hazardous and Solid Waste Amendments of 1984, Pub. Law No. 96-482; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. § 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act (“SARA”) of 1986, Pub. Law No. 99-499; the Emergency Planning and Community Right to Know Act (“EPCRA”), 42 U.S.C. § 11001 *et seq.*; the Toxic

Substances Control Act (“TSCA”), 15 U.S.C. § 2601 *et seq.*; the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136 *et seq.*; the Clean Air Act (“CAA”), 42 U.S.C. § 7401 *et seq.*; the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et seq.*; the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300(f) *et seq.*; the Oil Pollution Act of 1990 (“OPA”), 33 U.S.C. § 2701 *et seq.*; the Hazardous Materials Transportation Act (“HMTA”), 49 U.S.C. § 5101 *et seq.*; and the Occupational Safety and Health Act of 1970 (“OSHA”), 29 U.S.C. § 651 *et seq.*

E. “Release(d)” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, and shall include a substantial likelihood of a Release that requires action to prevent or mitigate damage to the environment that may result from such Release.

F. “SDS” shall mean Safety Data Sheets.

#### 11.02 Hazardous Material(s)

Lessee covenants not to permit or introduce any Hazardous Materials to be brought upon, kept, generated, or used in or about the Airport property by Lessee, or Lessee’s Personnel, without first obtaining Director's written consent which shall not be unreasonably withheld as long as Lessee demonstrates such Hazardous Materials are necessary to Lessee’s operations hereunder, and such Hazardous Materials must be used, kept, generated, disposed, and stored in a manner complying with all applicable federal, state, and local Environmental Laws or ordinances pertaining to the transportation, storage, use, generation, or disposal of such Hazardous Material(s). Lessee shall maintain SDS for all Hazardous Materials. Lessee shall be responsible for obtaining any permits and shall only store Hazardous Materials temporarily with the approval of the Director while further disposition is pending.

#### 11.03 Immediate Response

After notifying 9-1-1 and providing any other notifications required by Environmental Laws, Lessee shall immediately notify Airport Operations Center at 405-316-3300 of any Release of Hazardous Material(s) in a reportable quantity as such Release is known to Lessee or Lessee’s sublessee. Lessee shall immediately respond to such Release in order to contain, remove, recover, clean, and dispose as necessary, and shall remove, to the extent reasonably practicable but in all cases in compliance with Environmental Law, all Released or accumulated fuel, oil, grease, Hazardous Material or Contamination caused by Lessee’s operations. In the event of a Release of Hazardous Material in a reportable quantity, Lessee shall timely complete all required reporting obligations, including to the regulatory agency or agencies with jurisdiction over the Hazardous Material Release.

#### 11.04 Remediation

After consultation and approval by the Director and at Lessee’s sole expense, Lessee shall clean up and remediate permanently any Release of Hazardous Material(s) or Contamination caused by or permitted by Lessee or Lessee’s Personnel in full compliance with all applicable statutes, regulations, and standards so that the Leased Premises is permanently mitigated to prevent further reoccurrence and remediated to such a condition that a “No Further Action” determination of completion or its equivalent is obtained from

the regulatory or equivalent agency or agencies with jurisdiction over the Hazardous Material Release or Contamination and/or the Airport's property is reasonably demonstrated as having been returned to the condition existing prior to the introduction of any such Hazardous Materials or Contamination, or as otherwise agreed to by the Director in his or her reasonable discretion; and

11.05 Environmental Indemnification

In addition to all other indemnities provided in this Agreement, Lessee agrees to defend, indemnify, and hold the Lessor and the City free and harmless from and against any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including expert and consulting fees and costs, reasonable attorneys' fees and costs, and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the generation, manufacture, processing, use, Release of chemicals and products that are or may become Hazardous Materials, the existence or discovery of any Hazardous Materials or violations of the Environmental Laws on the Leased Premises, the subsurface or the migration of any Hazardous Material from the Leased Premises to other properties or into the surrounding environment, in each case caused by the Lessee or its operations whether or not: (a) made, commenced, or incurred during the term; or (b) made, commenced, or incurred after the expiration or termination of this Agreement if arising out of events occurring during the term; provided, however, Lessee's obligation to indemnify and defend the Trust and City pursuant to this Paragraph shall not apply with respect to either: (a) any Hazardous Material Released by the Trust, its Trustees, officers, agents and employees; (b) any Hazardous Material demonstrated to have been Released by a third-party's activities unrelated to Lessee's activities; or (c) any Hazardous Material (for which Lessee is not otherwise responsible) clearly demonstrated to have: (a) existed prior to this Agreement or be migrating onto the Leased Premises from some other location, and (b) through no action, inaction, or fault of Lessee.

The foregoing indemnity shall survive the expiration or earlier termination of this Agreement and will not be affected in any way by the amount of or the absence in any case of covering insurance or the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Leased Premises. In addition, Lessee shall be responsible for any environmental cost associated with negligence or willful acts or omission by Lessee, and notifications to appropriate regulatory agencies arising there-from.

**ARTICLE 12. LESSOR'S RESERVED RIGHTS**

12.01 Airport Development Reservation

Lessor reserves the right to further develop or improve the aircraft operating area of the Airport as it sees fit and to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, 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 Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

12.02 War or National Emergency

During a time of war or national emergency declared by Congress, Lessor shall have the right to lease the Airport or any part thereof to the United States Government for military or naval use, and if any such lease is executed, the provisions of this instrument insofar as they are inconsistent with the lease to the Government shall be suspended and, in that event, a just and proportionate part of the rent hereunder shall be abated.

12.03 Subordination

Any other provision of this Agreement notwithstanding, this Agreement shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States, relative to the operation or maintenance of the Airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to Lessor of Federal funds for the development of the Airport. To the extent any provision of this Agreement is in conflict with any grant assurance, rule or regulation imposed on the Lessor by the United States Government or other regulatory entity, the provision of the grant assurance, rule or regulation shall be incorporated in this Agreement as if written specifically herein and Lessee shall agree to abide by such grant assurance, rule or regulation as a condition precedent to the use of any facilities or premises of the Lessor.

12.04 Right to Enter

Lessor, through its duly authorized agent, shall have at any and all times the full and unrestricted right to enter the Leased Premises for the purpose of inspection or maintenance and for the purpose of doing any and all things which it is obligated and has a right to do under this Agreement during normal business hours with advanced notice provided to the Lessee except no notice shall be required when such entry is to prevent injury, damage, or harm to persons or property on the Leased Premises in an emergency.

12.05 Reservation of Rights

Lessor reserves all rights and remedies that Lessor may otherwise have at law or in equity and the exercise of one or more rights or remedies will not prejudice the concurrent or subsequent exercise of other rights of remedies.

**ARTICLE 13. NONINTERFERENCE WITH OPERATION OF AIRPORT**

Lessee covenants and agrees that it will not allow any condition on the Leased Premises, nor permit the conduct of any activity on such premises, which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities; nor will Lessee use or permit the Leased Premises to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard. If any proscribed or prohibited condition or activity, as described above, shall be permitted to exist on the Leased Premises, the Lessor may terminate the Agreement. Provided, however, should the condition create a health, safety or welfare condition necessitating immediate abatement or correction of the condition interfering with operation of Airport, the Lessor, by and through the Director may immediately abate or correct the condition at Lessee’s expense without any prior notice as described in Article 19.

**ARTICLE 14. PERSONS AND PROPERTY ON LEASED PREMISES AT RISK OF LESSEE**

All persons and property of every kind which may be on said Leased Premises during the term hereof shall be at the sole risk of the Lessee or those claiming under it and the Lessor shall not be liable to the Lessee, or any person whatsoever, for any injury, loss, or damage to any persons or property in or upon said Leased Premises, or upon the sidewalks and alleyways or other contiguous areas thereto. The Lessee hereby covenants and agrees to assume all liability for or on account of any injury, loss, or damage above described, and to defend and to save the Lessor and the City harmless therefrom. Lessor shall not be liable for acts of injury or damage that may arise to persons or property on said Leased Premises or Facility, or that may occur during the Lessee's tenancy or occupancy.

**ARTICLE 15. TAXES**

15.01 Payment of Taxes

To the extent any taxes are assessed pursuant to applicable law or any assessment is not subject to the Trust's exempt status, Lessee agrees to pay all present and future taxes or, in lieu of taxes, special assessments now or hereafter levied or assessed for taxes arising during the term of this Agreement: (a) upon the Leased Premises and Facilities; (b) upon property owned or possessed by Lessee and situated on the Leased Premises; or (c) upon Lessee's interest in or use of the Leased Premises. Lessee shall defend, indemnify, and save Lessor and the City harmless from any claims or liens in connection with such taxes or, in lieu of taxes, assessments.

15.02 Depreciation and Investment Credit

Neither Lessee nor any successor of Lessee under this Agreement may claim depreciation or an investment credit under the Internal Revenue Code of 1986, as amended ("IRS Code"), with respect to Lessor-owned improvements in the Leased Premises, the Terminal Building, or other leased facilities. Lessee represents as an irrevocable election under Section 142(b)(1)(B) of the IRS Code that it will not claim depreciation or an investment credit with respect to such Lessor-owned improvements in the Premises, the Terminal building, or other leased facilities. The Lessor acknowledges this representation and election as part of its books and records.

**ARTICLE 16. MISCELLANEOUS COVENANTS**

16.01 Rules and Regulation Compliance

Lessee shall observe and comply with any and all present and future requirements of the constituted public authorities and with all federal, state, or local laws, policies, administrative regulations, and standard rules applicable to Lessee or Lessor for the intended use of the Leased Premises, including by way of example, but not of limitation, all general rules and regulations promulgated from time to time by the Director in connection with the administration of the Airport.

16.02 Signs and Advertising

Lessee shall not erect, maintain, or display any signs or other advertising at or on the Leased Premises or other Airport premises without first obtaining the written approval of the Director, such approval not to be unreasonably withheld.

16.03 Noise or Sound Shock Waves

Lessee hereby agrees to make no claims or file or cause to be filed any legal or equitable actions against Lessor or the City for any kind of damages which results from noise, vibration, or sound shock waves due to aircraft use of the Airport's facilities.

16.04 Communications Equipment

Lessee shall not install, maintain, or operate, or to grant to any third party the right to install, maintain, or operate any wireless network, satellite dish, antenna, wireless communications equipment, meteorological, aerial navigation, distributed antenna system, UHF and VHF radio system, internet access equipment or systems, or other similar related equipment or systems (collectively "Communications Equipment") that could cause or be used to create electrical interference with communication between the Airport, the control tower, and any aircraft, make it difficult for flyers to distinguish between airport lights and others, impair visibility in the vicinity of the Airport, or endanger the landing, take off or maneuvering aircraft or interfere with security systems or the services provided by any Airport communications.

Lessee must first obtain written approval of the Director, such approval being at the sole discretion of the Director before installing any Communications Equipment. In the event that any of Lessee's Communication Equipment should create an Airport Interference or violate this section at any time, the Lessee shall disable such system immediately upon notification from the Director and collaboratively work with Lessor's staff to resolve any conflicts before such Communications Equipment may resume operations.

**ARTICLE 17. MINIMUM STANDARDS FOR COMMERCIAL LEASING**

Commercial Standards shall be defined as "Commercial Leasing Standards" dated May 26, 2010, and as the same may be amended and revised from time to time. Said Commercial Standards are incorporated herein and made a part hereof by reference. To the extent the Commercial Standards and this Agreement conflict, this Agreement shall control.

**ARTICLE 18. INDEMNITY AND INSURANCE**

18.01 Indemnity

Except as otherwise provided in Article 11, Lessee hereby agrees to release, defend, indemnify, and save harmless the Lessor and the City and their officers, agents, and employees from and against any and all loss of or damage to property or injuries to or death of any person(s), or all claims, damages, suits, costs, expense, liability, actions, demands, liens, fines, encumbrances, or proceedings (including all reasonable legal fees and expenses) of any kind or nature whatsoever in matters resulting from, or arising out of: (a) Lessee's acts or omissions, negligence, misconduct, operations, or activities under or in connection with this Agreement; or (b) in matters resulting from, or arising out of Lessee's use and occupancy of any portion of the Airport, and including, without limiting the

generality of the foregoing, acts and omissions of Lessee's Personnel, and representatives. Provided, however, Lessee shall not be liable or be required to release Lessor for any loss, damage, claims, suits, cost, expense or actions occasioned by the negligence or willful misconduct of the Lessor, the City, or their officers, trustees, and employees. The parties covenant to give each other prompt notice of any claims. The foregoing indemnity shall survive the expiration or earlier termination of this Agreement.

18.02 Insurance

Lessee shall purchase, or cause to be purchased, and maintain in effect during the Term of this Agreement with insurance carriers or risk retention groups having an AM Best rating of A-VII or better, or equivalent rating from a comparable and reputable rating service, who are authorized to do business in the State of Oklahoma, any insurance required by this paragraph. The insurance and additional insured requirements contained in this Agreement are considered minimum coverage amounts and Lessee may elect greater coverage limits than what is specified in this Agreement or as may be required by law. All applicable coverage, unless specified otherwise, shall remain in full force and effect until the expiration, cancellation, or termination of the Agreement and for the subsequent two (2) years following the expiration, cancellation, or termination for loss covered by and occurring during the term of the Agreement.

Commercial General Liability Insurance

Lessee shall carry a policy of Commercial General Liability Insurance, which must include coverage for contractual liability, to protect the Lessee and any additional insured parties from claims for bodily injury, including death, as well as from claims for property damages or loss which may arise from activities, omissions, and operations of the Lessee under the Agreement, whether such activities, omissions, and operations be by the Lessee, subcontractor, or by anyone employed by or acting for the benefit of the Lessee in conjunction with this Agreement in a combined single occurrence or accident of \$1,000,000 for any number of property or bodily injury claims arising out of a single act, accident, or occurrence.

18.03 Certificates of Insurance

A. Deductibles

Any policy, having a deductible or retained self-insurance that exceeds \$25,000 shall not be allowed unless such insurance program is approved in advance by the Director, such approval shall not be unreasonably withheld. Lessee shall notify the Director immediately if Lessee has deductibles or retains self-insurance in excess of this stated amount. Lessee shall be solely responsible for any allowed deductible or retained self-insurance amounts. Any elected deductible or self-insured retention of the Lessee will not diminish Lessee's liability under this Agreement for claims or losses falling within any such deductible or self-insured retention amounts. Failure by Lessee to assume and pay for any deductible or retained self-insurance amount may be considered a material breach and may result in immediate termination at the Lessor's option. During the term of the Agreement, the Lessee's elected insurance program exceeds any previously approved deductible or retained self-insurance amount, or if there is a change in the financial conditions of the Lessee which in the Director's sole discretion may impact the Lessee's ability to satisfy any deductible or retained self-insurance, then the Director may require

Lessee to take such reasonable actions to ensure first dollar of loss coverage to the Lessor and City including reducing or eliminating such deductibles or self-insured retentions or providing a financial guarantee for the deductible or retained self-insurance amount.

B. Certificate of Insurance

Certificate(s) of Insurance approved by the Oklahoma Insurance Department for any policy providing coverage at the Airport shall be submitted to the Lessor prior to the Effective Date of this Agreement and maintained throughout the Term of this Agreement. The Certificate(s) of Insurance must include all of the line(s) of insurance, name(s) of insurance companies, policy number(s), amount of any deductible, and coverage limits as required in the Agreement, all additional insured parties, and any required contractual liability coverage as required within this Paragraph 18.03 and be signed by the authorized representative of the insurance company.

C. Additional Insured

The Certificates of Insurance shall name Lessee as insured and the Oklahoma City Airport Trust and The City of Oklahoma City as additional insured (equivalent in coverage provided to the Lessee as a named insured). Additional insured status must be shown on the Certificates of Insurance.

D. Subordination and Subrogation

Any insurance policy or liability coverage of the City or the Lessor shall be considered subordinate, if applicable at all, to any coverage of the Lessee and Lessee's coverage shall at all times provide and state that it shall be primary coverage. Lessee waives right of subrogation or claims of contribution by the Trust or the City.

E. Notice of Change in Policy

Lessee must provide the Lessor at least thirty (30) days prior written notice of any cancellation, non-renewal, or material coverage change in their policies or to have an endorsement made to each policy to include such notice periods in the event the policy provides a different notice period for any additional insured(s).

F. Inspection of Policy

In the event of a claim related to the Lessee's operations at or from the Airport and the Trust or City is a named party, then the Trust and the City reserves the right to inspect complete copies of any insurance policies required in Article 18 that name the City or Trust as an additional insured. In this event, said policies shall be made available by the Lessee for inspection and review on a timely basis at the Airport.

G. Signatory

The Certificates of Insurance must be signed by an authorized representative of the insurance company(s).

H. Contractual Liability

The Certificate of Insurance for the Commercial General Liability Insurance shall provide coverage for Lessee's contractual liabilities as required herein. In the event the Certificate of Insurance does not delineate coverage for Lessee's contractual liabilities or the Lessee's insurance policy does not provide sufficient coverage for the Lessee's contractual obligations contained in this Agreement, Lessee agrees that Lessee's contractual obligations to the Lessor are not diminished by the Lessee's elected insurance provisions. Applicable coverage, unless specified otherwise, shall remain in full force and effect until the expiration, cancellation, or termination of the Agreement.

I. Failure to Maintain Insurance Liability

If Lessee fails to maintain the foregoing insurance or fails to provide a current certificate of insurance to the Trust, the Director may assess a \$100 per day fee on the Lessee for each day that the Lessee is not in compliance.

J. Umbrella Coverage

In the event the Lessee relies on excess or umbrella insurance to satisfy the requirement of this Article, any such policy shall follow form and be no less broad than the underlying policy, shall cover the term of the underlying policy without interruption, and shall include a dropdown provision with no gap in policy limits.

**ARTICLE 19. TERMINATION FOR EVENTS OF DEFAULT**

19.01 Termination by Lessor

In the event that Lessee shall fail to perform, keep, and observe any of the terms, covenants, or conditions to be performed, kept, and observed ("Event of Default"), Lessor may terminate the agreement. Prior to termination for non-monetary Events of Default, Lessor shall give thirty (30) days written notice to Lessee to use due diligence to correct such condition or Event of Default. If Lessee shall not abate or correct such condition or Event of Default for thirty (30) days after receipt of such notice, or such other time as agreed to in writing by the Lessee, the non-defaulting party may terminate this Agreement after giving ten (10) day termination notice and the term hereby demised shall thereupon cease and expire at the end of such ten (10) day notice period in the same manner and effect as if it were the expiration of the lease term. Prior to termination for Events of Default for the non-payment of rent, fees or other monies as set forth in this Agreement and also known as monetary Events of Default, the Lessor shall give thirty (30) days written notice to Lessee to pay said delinquent amount and if said amount is not paid in full by the expiration of the thirty (30) day notice period, Lessor, by and through the Director, may elect to immediately terminate the Agreement without further notice or time to cure provided to the other party.

19.02 Lessor's Option to Eliminate Event of Default

As an alternative to termination of the Agreement for any non-monetary Event of Default by the Lessee, Lessor may enter the Leased Premises itself or by its agents, servants, or employees, during normal business hours with advanced notice provided to the Lessee when reasonably possible, without such entering causing or constituting a termination of this Agreement or an interference with possession of the premises by the Lessee, and the

Lessor may correct such condition and the Lessee shall pay the Lessor, within thirty (30) days after submission of an invoice, the expenses Lessor incurred to correct said condition.

19.03 Meeting

Within the thirty (30) day notice period set forth in paragraph 19.01 for monetary or non-monetary Events of Default, the parties may meet to discuss and to try to resolve any Events of Default in lieu of termination of this Agreement.

19.04 Notices

Notwithstanding paragraphs 19.01, 19.02 and 19.03, Lessor may terminate this Agreement and all of its obligations hereunder after providing thirty (30) day written notice of termination if Lessee shall voluntarily abandon the Lease Premises except when such abandonment be caused by acts of God or force majeure events that are beyond either Lessee's or Lessor's reasonable control including fire, floods, earthquake, tornadoes, labor disputes, war, acts of terrorism, health related pandemic, or other similar calamity.

19.05 Repossession

In the event the Lessor terminates this Agreement for default of the Lessee and after the expiration of the notice of termination has expired, Lessor may enter upon and repossess the Leased Premises or any part thereof and possess the improvements thereon, or any part thereof, and declare all rent remaining for the unexpired term of the Agreement to be due and owing (said repossession and possession being hereinafter referred to as "repossession") by force, summary proceedings, ejectment or otherwise without being deemed guilty of any manner of trespass, and may remove Lessee and all other persons and property therefrom. In the event of repossession by the Lessor, the Lessee shall release, defend, indemnify and save harmless Lessor and the City, and their officers, agents and employees, from all claims, damages, suits, actions, costs, expense or liability of whatsoever nature arising from the Lessor's repossession of the Leased Premises as authorized herein; provided, however, Lessee shall not be liable for or release the Lessor or the City from any loss or damage caused by the sole negligence or willful misconduct of the Lessor, the City, or their officers, agents or employees in connection with any repossession activities authorized herein.

19.06 Relet of Leased Premises

From time to time after the repossession of the Leased Premises or any part thereof whether or not the lease term has been terminated, the Lessor may, but shall be under no obligation to: (a) relet the Leased Premises or any part thereof, for the account of Lessee in the name of Lessor or otherwise, or (b) issue one or more revocable permits for the occupancy or use of the Leased Premises or any part thereof, for such term or terms (which may be greater or less than the period which otherwise would have constituted the balance of the lease term) and on such terms (which may include concessions or reduced rent or fees) and for such uses as Lessor in its sole discretion may determine, and may collect and receive as rent or fees therefor. Lessee shall indemnify and hold Lessor harmless for any deficiency received by Lessor upon such reletting or issuance of one or more revocable permits, all without prejudice to any other remedy available to Lessor.

19.07 Monies Due After Termination

No termination of this Agreement and no repossession of the Leased Premises or any part

thereof shall relieve the Lessee of Lessee's obligations and liabilities under this Agreement, all of which shall survive any such termination or repossession. In the event of any such termination or repossession, whether or not the Leased Premises or any part thereof shall have been relet or shall have been reoccupied or used pursuant to a revocable permit, Lessee shall pay to Lessor the rent and other sums and charges to be paid by Lessee up to the time of such termination or repossession. Thereafter Lessee, until the end of what would have been the full term of this Agreement, shall pay to Lessor, as and for liquidated and agreed current damages for Lessee's default, the equivalent amount of the rent and such other sums and charges which would be payable under this Agreement by Lessee if this Agreement were still in effect, less the net proceeds, if any, of any reletting, or of any issuing of a revocable permit, effected after deducting therefrom all expenses in connection with such reletting by Lessor, or in connection with such issuance of a revocable permit by the Director, including, without limiting the generality thereof, all repossession costs, operating expenses, reasonable attorneys' fees, alteration costs, and expense of preparing for such reletting by Lessor, or for the issuing of a revocable permit by the Director.

19.08 Strict Performance

No failure by Lessor to insist upon the strict performances of any term hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term.

19.09 Breach

In the event of any breach or threatened breach by Lessee of any of the terms contained in this Agreement, Lessor shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise, except this Agreement shall be terminated only in the manner set forth herein.

**ARTICLE 20. WAIVER OF STATUTORY NOTICE**

In the event Lessor exercises its option to terminate this Agreement for any reason, any notice of termination given by Lessor to Lessee as provided in this Agreement shall be sufficient to cancel and terminate this Agreement. In this connection, Lessee hereby expressly waives the receipt of any notice to quit or notice of termination which would otherwise be given by Lessor under any provisions of the laws of the State of Oklahoma, including, but not limited to, notices required to be given under any section of Title 41 of the Oklahoma Statutes. Upon such termination, Lessee hereby agrees that it will forthwith surrender up possession of the demised premises to the Lessor.

**ARTICLE 21. REMOVAL OF PERSONAL PROPERTY**

It is mutually covenanted and agreed that all personal property, including furniture, fixtures, and equipment, that is owned and not affixed to the Leased Premises, or personal property that is affixed to the Leased Premises but which can be removed without causing any damage to the Leased Premises, shall be removed by the Lessee by the termination or expiration of this Agreement Lease Period. Any damage resulting from the removal of personal property shall be repaired by Lessee by the termination or expiration date of this Agreement. Should the Lessee fail to remove said personal property by the time stated herein, title to all such personal property shall

vest in the Lessor and Lessor may cause the removal of all or any portion of such property at the sole risk and expense of the Lessee.

## **ARTICLE 22. ASSIGNMENT AND SUBLETTING**

### 22.01 Written Approval for Assignment

Lessee shall not assign this Agreement or any interest therein by operation of law, process or proceeding of any court or otherwise.

### 22.02 No Subleasing

Subleasing all or any portion of the Leased Premises or interest in this Agreement is not allowed.

## **ARTICLE 23. GENERAL CIVIL RIGHTS PROVISIONS**

In all its activities within the scope of its airport program, the Lessee agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

If the Lessee transfers its obligation to another, the transferee is obligated in the same manner as the Lessee. The above provision obligates the Lessee for the period during which the property is owned, used, or possessed by the Lessee and the Lessor remains obligated to the Federal Aviation Administration.

## **ARTICLE 24. CIVIL RIGHTS TITLE VI ASSURANCE**

### 24.01 Title VI Clauses for Compliance with Nondiscrimination Requirements

During the performance of this Agreement, the Lessee, for itself, its assignees, and successors in interest agree as follows:

#### A. Compliance with Regulations

The Lessee (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

#### B. Nondiscrimination

The Lessee, with regard to the work performed by it during the Lease Period, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of contractors, including procurements of materials and leases of equipment. The Lessee will not participate directly or indirectly in the discrimination prohibited by the [Title VI] Nondiscrimination Acts and Authorities, including employment practices when the

Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

- C. Solicitations for Subcontracts, including Procurements of Materials and Equipment  
In all solicitations, either by competitive bidding or negotiation made by the Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Lessee of the Lessee's obligations under this Agreement and the [Title VI] Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- D. Information and Reports  
The Lessee will provide all information and reports required by the Acts, the Regulations, and the directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such [Title VI] Nondiscrimination Acts and Authorities and instructions. Where any information required of a Lessee is in the exclusive possession of another who fails or refuses to furnish the information, the Lessee will so certify to the Lessor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance  
In the event of a Lessee's noncompliance with the nondiscrimination provisions of this Agreement, the Lessor will impose such contract sanction [in accordance with any applicable notice and cure provisions provided for in this Contract] as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
1. Withholding any payments to the Lessee under the Agreement until the Lessee complies; and/or
  2. Cancelling, terminating, or suspending an Agreement, in whole or in part.
- F. Incorporation of Provisions  
The Lessee will include the provisions of [Paragraph 24.01, subparagraphs] A through F, in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Lessee will take action with respect to any subcontract or procurement as the Lessor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Lessee may request the Lessor to enter into any litigation to protect the interests of the Lessor. In addition, the Lessee may request the United States to enter into the litigation to protect the interests of the United States.

24.02 Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this Agreement, the Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and

authorities including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-259), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and Contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C § 12101, *et seq.*), which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. at 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

**ARTICLE 25. TITLE VI CLAUSES FOR THE TRANSFER OF OR  
CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED OR IMPROVED  
UNDER THE AIRPORT IMPROVEMENT PROGRAM**

25.01 Property Acquired or Improved Under Airport Improvement Program

The following clause will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Lessor pursuant to the provisions of the Airport Improvement Program grant assurances.

The Lessee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

25.02 Construction/Use/Access to Property Under Activity, Facility, or Program

The following clause will be included in deeds, licenses, permits, or similar instruments entered into by the Lessor pursuant to the provisions of the Airport Improvement Program grant assurances.

The Lessee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (a) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (b) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (c) that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

25.03 Right to Terminate

With respect to this Agreement, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Agreement and to enter or re-enter and repossess said land and the facilities thereon and hold the same as if said Agreement had never been made or issued.

25.04 Right to Enter

With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the Lessor will have the right to enter or re-enter the lands and facilities thereon,

and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of Lessor and its assigns.

## **ARTICLE 26. EMPLOYEE BADGING AND BACKGROUND CHECKS**

### 26.01 Requirements

Lessee shall be responsible for requesting the issuance of Airport security badges to all Lessee's Personnel and suppliers, who will be employed in the terminal building or will need access to secured areas at the Airport. Lessee's Personnel, and suppliers, must abide by all applicable security regulations of the Department of Airports (DOA), Federal Aviation Administration (FAA) and the Transportation Security Administration (TSA). Any of Lessee's Personnel, and suppliers, who require unescorted access to any secured areas of the Airport where access is controlled must make application for, and wear, the properly designated Airport security badge. Lessee's Personnel seeking access to secured areas must submit a set of fingerprints for a Criminal History Records Check (CHRC) conducted by the Federal Bureau of Investigation (FBI) as required by TSA Regulation Part 1542. In addition, the applicant must submit biographical information for a Security Threat Assessment (STA) conducted by the TSA. At the time the application is made, Lessee shall be responsible for payment of the then current fee for fingerprinting and the fee for issuance of an initial security badge, based on the Trust's current Miscellaneous Fee and Rental Schedule. Upon satisfactory completion of the CHRC and STA, the applicant must then attend a security badging session to receive training and have a security badge issued.

### 26.02 Lost, Stolen Badges, or Termination of Employment

Lessee shall or cause Lessee's Personnel and suppliers to: (a) immediately report lost or stolen security badges; (b) immediately return security badges of all personnel transferred, or terminated, from Airport assignment; (c) immediately return all security badges of Lessee's Personnel terminated from the Lessee's employment; (d) immediately return all security badges upon termination or cancellation of this Agreement; and (e) immediately report to the Director or his designated representative the names of all persons from whom Lessee is unable to obtain the return of security badge.

### 26.03 Renewal of Badges

Upon expiration of any badge, Lessee shall ensure that all Lessee's Personnel, and suppliers, timely renew their badge and pay the then applicable badge renewal fee.

### 26.04 Airport Worker Inspection

Lessee shall notify its employees and any new hire that any employee with a security badge that allows access and enters secured areas of the Terminal from access points accessible by the public are subject to inspection of their person and property at any time in accordance with applicable TSA requirements. If Lessee escorts any of Lessee's Personnel, suppliers, or any other person into said areas, those persons are also subject to inspection of their person and property.

## **ARTICLE 27. CIVIL PENALTIES**

### 27.01 Assessment

Lessee shall be responsible for any civil penalties which may be assessed upon it, or the Lessor, or the City, for violations occurring at the Airport by Lessee, Lessee's Personnel and/or suppliers. Should a civil penalty assessment be made to Lessee, the Lessor, or the City as a result of the actions of Lessee, Lessee's Personnel and/or suppliers, the Lessor shall also charge and bill Lessee a processing fee of two hundred fifty dollars (\$250.00) plus the amount of any civil penalty. Lessee shall pay Lessor such amount immediately upon receipt of such invoice.

### 27.02 Indemnification

In this regard, Lessee will indemnify, defend, and hold the Lessor and the City harmless from and against any claims, suits, causes of action, costs and fees, including attorney's fees, arising from or connected with any such civil penalty assessment, or claim of such civil penalty assessment. This provision shall survive the termination of this Agreement.

## **ARTICLE 28. AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)**

### 28.01 ACDBE Participation

The Lessor, as a recipient of federal financial assistance, is required to develop a program aimed at strengthening the participation of Airport Concessions Disadvantaged Business Enterprises ("ACDBE") in the Airport's programs, projects, and facilities.

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire or contractor 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, management contract, or subcontract, purchase or Agreement, or other agreement covered by 49 CFR Part 23.

The Lessee agrees to include the above statements in any subsequent concession agreement, subcontract, or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements."

### 28.02 ACDBE Goal

The Airport has an annual non-rental car overall goal for ACDBE participation in Airport concession agreements of 6.97%. However, this Agreement does not have a concession specific ACDBE goal. Even though there is not a concession specific goal associated with this Agreement, if Concessionaire is unable to qualify directly as an ACDBE then Concessionaire shall utilize best efforts throughout the term of this Agreement to reasonably utilize the services of or to purchases goods and supplies from an ACDBE and/or to identify and to encourage ACDBE qualified subcontractors or suppliers to become ACDBE certified.

Concessionaire understands that it may satisfy the requirements herein by direct certification as an ACDBE, through an approved joint venture arrangement, or by

contracting with a certified ACDBE for the purchase of supplies, goods or services associated with this Agreement.

In order to be considered as an ACDBE, the Concessionaire or its contractor/subcontractor must be certified as such by the State of Oklahoma, Department of Transportation (ODOT) under its Uniform Certification Program. Contact information for such certification may be obtained by contacting the ODOT website at <http://www.okladot.state.ok.us/> or by phone (405) 522-3379. Current ACDBE's may also be found on the ODOT website.

#### 28.03 Reporting Requirements

An ACDBE concession specific goal or ACDBE participation when no specific goal is established in this Article is based on a percentage of the gross revenues or gross sales of the ACDBE's to the Lessee and Lessee shall report the gross revenues or gross sales of an ACDBE along with the Lessee's gross revenues monthly/annually in writing to the Director or his designated representative for this concession.

Lessee may be required to submit the following information:

- A. Documentation that the ACDBE participant(s) are properly certified with ODOT.
- B. The names and addresses of ACDBE companies and/or suppliers that will participate in the concession.
- C. A copy of any agreement(s) with ACDBE participant(s).
- D. A description of the type of business or businesses that ACDBE participant will operate or goods or services to be provided to Lessee by the ACDBE participant.
- E. The dollars paid to an ACDBE or the gross revenues or gross payments made for the participation of each ACDBE firm participating in this Agreement.
- F. Information on the estimated investment required on the part of the ACDBE and any unusual management or financial arrangements between the Concessionaire and ACDBE.
- G. Information on the estimated gross receipts and net profit to be earned by the ACDBE.
- H. Written and signed documentation of commitment to use an ACDBE whose participation it submits to meet a contract goal.
- I. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment.
- J. If the contract goal stated above is not met for each year of the Agreement, or if there is no stated concession specific goal, evidence of good faith efforts to obtain participation or to meet the goal.

#### 28.04 Monitoring and Good Faith Efforts – No Specific Goal

Lessee shall make good faith efforts as required in Part 23 and defined in 49 CFR Part 26, Appendix A, to utilize ACDBE participation in the performance of this concession even though no concession specific goal is established. The Lessor reserves the right to implement monitoring and enforcement mechanisms to ensure Lessee compliance with 49 CFR Part 23. Lessee must make reasonable efforts to provide any requested documents to assist the Lessor in its enforcement and monitoring efforts. Lessee will be required to periodically substantiate its good faith efforts to utilize ACDBE participation during the Airport's ACDBE compliance and reporting term.

28.05 Good Faith Efforts When Terminating or Substituting an ACDBE sub-concessionaire  
Concessionaire shall make good faith efforts to replace or to substitute an ACDBE sub-concessionaire that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE to the extent needed to meet any concession specific goal. Concessionaire must give five (5) days prior written notice to the ACDBE sub-concession and to Lessor of its intent to request to terminate and/or substitute and the reason for the request before such termination and/or substitution is effective. The Concessionaire must give the ACDBE sub-concessionaire at least five (5) days to respond to the Concessionaire's notice if the ACDBE objects with the termination or substitution. Such response by the ACDBE shall be provided to the Concessionaire and the Lessor. Lessor shall then have five (5) days to approve or to deny the Concessionaire's action. If required in a particular case as a matter of public necessity (*e.g.*, safety), the Lessor may provide a response period shorter than five (5) days. No termination or substitution of an ACDBE shall be effective until approved by the Lessor.

Lessee's good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its work on a concession with another certified ACDBE shall include reasonable efforts in a timely manner to find another ACDBE to perform at least the same amount of work under the agreement as the ACDBE that was terminated, to the extent needed to meet the agreement goal that the Lessor established for the procurement. The good faith efforts shall be documented by the Lessee. If the Lessor requests documentation from the Lessee under this provision, the Lessee shall submit the documentation to Lessor within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the Lessee, and the Lessor shall provide a written determination to the Lessee stating whether or not good faith efforts have been demonstrated.

28.06 Failure to Comply

Lessee further understands that failure to cooperate in good faith with these provisions may result in:

- A. Suspension or debarment pursuant to 49 CFR Part 23 and 2 CFR parts 180 and 1200;
- B. Enforcement action pursuant to 49 CFR Part 31;
- C. Prosecution pursuant to 18 U.S.C § 1001; or
- D. Termination of this Agreement as provided in this Agreement.

**ARTICLE 29. GENERAL CONDITIONS**

29.01 Notices

Notices to Lessor or Lessee pursuant to the provisions hereof shall be sufficient if sent by: (a) registered or certified mail, return receipt requested, postage prepaid, and deemed received on the third business day after the date mailed if recipient refused proper delivery; (b) a nationally recognized overnight courier (receipt requested) and deemed received the next business day following the date it was sent if the recipient refused proper delivery; (c) electronic mail and deemed received on the date sent if sent during normal business hours of the recipient and on the next business day if sent after normal business hours of the recipient; or (d) hand delivered, addressed to:

For the Lessor: Oklahoma City Airport Trust  
OKC Will Rogers International Airport  
7100 Terminal Drive, Unit 937  
Oklahoma City, Oklahoma 73159-0937  
Telephone: (405) 316-3200  
Email: [wrwabusinessproperties@okc.gov](mailto:wrwabusinessproperties@okc.gov)

For the Lessee: Harold Smith, Jr.  
917 Covington Ln  
Midwest City, OK 73140  
Cell Number: (405) 388-1824

A party may designate a change to the physical address by written notice given to the other Party in accordance with this paragraph 29.01.

Unless otherwise stated herein, notice to each party shall be sufficient and deemed received on the third business day if sent by U.S. Postal Service regular mail, postage prepaid, to the address listed herein whether accepted, or if hand delivered. Bills, statements, and other communication to Lessee or Lessor may be through telephone or sent through the U.S. Postal Service regular delivery, or electronic mail.

29.02 Non-Waiver

The waiver by Lessor of any breach of the Lessee of any term, covenant, provision, or condition hereof shall not operate as a waiver of any subsequent breach of the same or a waiver of any breach of any other covenant, term, provision, or condition hereof, nor shall any forbearance by the non-breaching party to seek a remedy for any breach by the breaching party be a waiver by the non-breaching party of its rights and remedies with respect to such or any subsequent breach of the same or with respect to any other breach.

29.03 Binding Effect

This Agreement shall be binding upon the parties, and their respective successors and assigns, as of the Effective Date.

29.04 Severability

In the event any terms, covenants, conditions, or provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other term, covenant, condition, or provision hereof.

29.05 Entire Agreement; Modification Hereof

This Agreement (including the Exhibits hereto) expresses the entire understanding of Lessor and the Lessee concerning the Agreement at the Airport and all agreements of Lessor and of Lessee with each other, and neither Lessor nor Lessee has made or shall be bound by any agreement or any representation to the other concerning the Agreement which is not expressly set forth in this Agreement (including the Exhibits hereto). This Agreement (including the Exhibits hereto) may be modified only by a written agreement of subsequent date hereto signed by Lessor and Lessee.

29.06 Execution of Counterparts

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

29.07 Effect of Saturdays, Sundays, and Legal Holidays

Whenever this Agreement requires any action to be taken on a Sunday, a Saturday, or a legal holiday, such action shall be taken on the first business day occurring thereafter in the place where the action is to be taken. Whenever in this Agreement the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on Sunday, a Saturday, or a legal holiday recognized by the City of Oklahoma City, such time shall continue to run until 11:59 p.m. on the next succeeding business day.

29.08 Descriptive Headings: Table of Contents

The descriptive headings of the sections of this Agreement and any table of contents annexed thereto or copies hereof are inserted or annexed for convenience of reference only and do not constitute a part of this Agreement, and shall not affect the meaning, construction, interpretation, or effect of this Agreement.

29.09 Construction and Enforcement

This Agreement shall be construed and enforced in accordance with the laws of the State of Oklahoma. Whenever in this Agreement it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform or not to perform, as the case may be, such act or obligation.

29.10 Venue

The parties acknowledge and agree that in the event of any dispute or disagreement that necessitates court intervention, the venue for all litigation shall be the District Court of Oklahoma County, Oklahoma.

29.11 Construction of Agreement

In the event of ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party on the basis that such party did or did not author the same.

29.12 Recitals Contractual in Nature

The parties acknowledge and agree that the recitals as contained hereinabove in this Agreement are contractual in nature and binding on the parties.

29.13 Holding Over

If Lessee shall hold over without the written consent of Lessor, by and through the Director and remain in possession of the Leased Premises after the expiration of the term specified herein, such possession by Lessee shall be deemed to be merely a month-to-month tenancy for up to six (6) months from the expiration date, terminable earlier at any time by either party upon thirty (30) day written notice to the other party. During any such month-to-month tenancy for a holdover not consented to by the Lessor, Lessee shall promptly pay at a rate of 125% of the total monthly rents, fees and charges. All other provisions of this Agreement shall apply to said month-to-month tenancy. A holdover agreed to by the

parties shall be at the terms set forth herein unless otherwise agreed upon by the parties at the time of holdover.

29.14 Conflicts

If there is a conflict between any provision within the Agreement or any Exhibit, then the language contained in any article, paragraph or section within the Agreement shall govern and control over any conflicting language, term, or provisions in any Exhibit.

29.15 Surrender of the Leased Premises

Except as otherwise expressly provided in this Agreement, at the expiration or sooner termination of this Agreement, or any extension hereof, Lessee agrees to surrender possession of Leased Premises peacefully and promptly to Lessor in as good condition as existed at the effective date of this Agreement, ordinary wear, tear and obsolescence only excepted. Lessor reserves the right to make periodic inspection of Leased Premises, Facilities, and equipment therein during normal business hours with advanced notice provided to the Lessee when reasonably possible.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have hereunto set their hands to this Agreement as of the Effective Date stated above.

**HAROLD LOUIS SMITH, JR**  
**LESSEE**

  
Signature

**APPROVED** by the Oklahoma City Airport Trust and signed by the Chairman this 27TH  
day of MARCH, 2025.

**ATTEST:**

Amy K. Simpson  
Trust Secretary



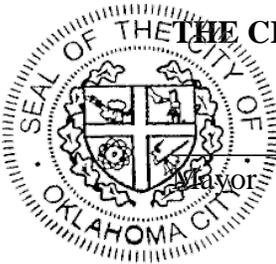
**OKLAHOMA CITY AIRPORT TRUST**

Jerry Salmon  
Chairman

**APPROVED** by the City Council and signed by the Mayor of the City of Oklahoma City this  
8TH day of APRIL, 2025.

**ATTEST:**

Amy K. Simpson  
City Clerk



**THE CITY OF OKLAHOMA CITY**

David Holt

**REVIEWED** for form and legality.

Jami Blocker  
Assistant Municipal Counselor/  
Attorney for the Trust

**EXHIBIT A – LEASED PREMISES DEPICTION**

