OP HOLDINGS JV LLC

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

DATED AS OF APRIL 24, 2015
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AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF OP HOLDINGS JV LLC (the “Company”), dated as of April 24, 2015, by and among OP Holdings JV Member LLC, a Delaware limited liability company (the “Majority Member”), and Parking Acquisition Ventures, LLC, a Delaware limited liability company (the “PAV Member”), and such other persons as shall hereinafter become members as hereinafter provided (each a “Member” and, collectively, the “Members”).

Preliminary Statement

WHEREAS, the Company was formed as a Delaware limited liability company pursuant to the filing of a Certificate of Formation in the office of the Secretary of State of the State of Delaware on March 4, 2015 (the “Certificate”);

WHEREAS, prior to the date hereof, the Company was governed by that certain Limited Liability Company Agreement, dated as of March 4, 2015 (the “Prior Agreement”), pursuant to which the Majority Member was the sole member;

WHEREAS, on the date hereof, certain parties entered into the agreements set forth on Schedule I hereto (collectively, the “Acquisition Agreements”);

WHEREAS, on the date hereof, (i) the Company (directly or indirectly through one or more Subsidiaries) consummated the acquisition of the Initial Properties pursuant to the Acquisition Agreements and this Agreement and (ii) the PAV Member is being admitted as a member of the Company;

WHEREAS, the Company (directly or indirectly through one or more Subsidiaries) intends to pursue the acquisition of Investment Opportunities (as hereinafter defined) in accordance with the terms hereof; and

WHEREAS, the Members desire to amend and restate the Prior Agreement and to enter into this Agreement to provide for the regulation and establishment of the affairs of the Company, the conduct of the Company’s business and the relations among them as Members of the Company.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

ARTICLE I

Definitions

Section 1.1. Definitions. Unless the context otherwise requires, the following terms shall have the following meanings for purposes of this Agreement:

“Acquisition Agreements” has the meaning given in the preliminary statement to this Agreement.

“Acquisition Fee” has the meaning given in Section 4.6(b).
“Administrator” has the meaning given in Section 4.1(a).

“Administrator Default” means either of (i) David Schmid or (ii) Rick Baxter (or, if applicable, a PAV Replacement) ceases to be involved in the day-to-day management of the Administrator for any reason other than death or disability.

“Affiliate” means, with respect to any person, (i) any other person who Controls, is Controlled by or is under common Control with such person, (ii) any director, officer, partner or employee of such person or any person specified in clause (i) above or (iii) any immediate family member of any person specified in clause (i) or (ii) above. For purposes of this Agreement, (x) the Property Manager and each of the sellers under the Acquisition Agreements shall be deemed an Affiliate of each of the PAV Member and the PAV Principals and (y) none of the Company or any Subsidiary that owns a Property is an Affiliate of the Majority Member or the PAV Member.

“Aggregate Properties Purchase Price” means, as of any applicable date of determination, the sum of (i) the Initial Properties Purchase Price as of such date, plus (ii) the aggregate of all Investment Opportunity Purchase Prices as of such date.

“Agreement” means this Amended and Restated Limited Liability Company Agreement, as it may be further amended, supplemented, restated or otherwise modified from time to time.

“Allocable Share” means, as to Pursuit Costs incurred in connection with any Investment Opportunity, (i) with respect to the PAV Member, an amount equal to the lesser of (x) twenty-five percent (25%) of all such Pursuit Costs incurred by the Members with respect to such Investment Opportunity and (y) Two Hundred Thousand Dollars ($200,000), and (ii) with respect to the Majority Member, the balance of all such Pursuit Costs incurred by the Members with respect to such Investment Opportunity that are not borne by the PAV Member pursuant to the foregoing clause (i).

“Appraised Value” means the sum of the values of the Company Assets (i) as determined by agreement between the Manager and the PAV Member within twenty (20) Business Days after the occurrence of an event giving rise to the need to determine the Appraised Value or (ii) failing such agreement, as determined by an Appraiser appointed by agreement between the Manager and the PAV Member within ten (10) Business Days of the expiration of the twenty (20) Business Day period during which the Manager and PAV Member attempt to jointly determine the Appraised Value or (iii) failing such agreement to appoint, as determined by process pursuant to which each of the Manager and the PAV Member will select an Appraiser to determine the fair market value of the Company Assets, such Appraisers to be appointed within ten (10) days, and each of the Appraisers must deliver its appraisal report to the Company and the Members within sixty (60) days of such appointment. Failure to adhere to these deadlines will result in the waiver of the right to present an appraisal absent exigent circumstances. If the proposed fair market values pursuant to the validly presented appraisal reports are within ten percent (10%) of each other, “Appraised Value” will be the average of the two valuations. If the valuations are not within ten percent (10%) of each other, the
Appraisers will together, within ten (10) days, select a third Appraiser who must choose one of the two original valuations and the valuation so chosen will establish the “Appraised Value”. Each party will bear the cost of its own Appraiser, and the parties will split the cost of the third Appraiser equally. The Appraisers will determine (and will be instructed by the Members to determine) the Appraised Value by deriving the fair market value of the Company Assets utilizing customary appraisal methodology and taking into account the highest and best use (which may include as a going concern) that is then permitted with respect to each of the Company Assets.

“Appraiser” means a certified member of the Appraisal Institute with a national practice who has at least ten (10) years’ standing and established experience in appraising properties and businesses of the same type and in the geographic area as any Company Assets that are the subject of such appraisal.

“Asset Management Fee” has the meaning given in Section 4.6(a).

“Asset Sale” has the meaning given in Section 4.9(a).

“Authorized Person” has the meaning given in Section 4.3(a).


“Bankruptcy Event” means, with respect to any Person, (i) the voluntary or involuntary commencement of a case by or against such Person under Title 11 of the United States Code (the “Bankruptcy Code”) or any other bankruptcy, insolvency, reorganization, debt arrangement, dissolution similar provision of state law now or hereafter in effect; (ii) the consent by such Person to any such case or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) for such Person; (iii) such Person makes an assignment for the benefit of creditors or agrees to a similar procedure under state law; (iv) such Person shall fail to, or admit in writing its inability to, pay its debts generally as they become due; (v) the imposition of a judicial or statutory lien on all or a substantial part of such Person’s assets; (vi) the entry of an order for relief under the Bankruptcy Code against such Person; and/or (vii) such Person or its board of directors, members, partners or managers shall vote to implement, or otherwise consent to, any of the foregoing. Notwithstanding the preceding sentence, the involuntary commencement of a bankruptcy case under the Bankruptcy Code shall not be deemed a “Bankruptcy Event” if such case was not directly or indirectly solicited by or on behalf such Person and such case is dismissed seventy-five (75) Business Days after the filing of the involuntary petition for relief.

“Base NOI” has the meaning given in Section 8.6(b)(i).

“Book Basis” means, with respect to any asset of the Company, the asset’s adjusted basis for federal income tax purposes, except as follows:

(a) The initial Book Basis of any asset contributed by a Member to the Company shall be the gross fair market value of such asset.
(b) The Book Basis of the Company Assets shall be adjusted to equal their respective gross fair market values if the Manager determines to restate Capital Accounts in accordance with the Regulations.

(c) The Book Basis of any item of Company Assets distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the Manager.

(d) The Book Basis of Company Assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations and subparagraphs (vi) of the definitions of “Net Profits” and “Net Losses” herein; provided, however, that Book Basis shall not be adjusted pursuant to this subparagraph (d) to the extent that an adjustment pursuant to subparagraph (b) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (d).

If the Book Basis of an asset has been determined or adjusted pursuant to subparagraph (a), (b) or (d), such Book Basis shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Profits and Net Losses.

“Business Day” means any day other than Saturday, Sunday or any other day on which commercial banks in New York, New York are generally closed for commercial banking business.

“Canopy Property” means the parking facility known as Canopy Airport Parking, consisting of 4,207 spaces and located at 8100 Tower Road, Commerce City, Colorado 80022.

“Capital Account” means, when used with respect to any Member, the capital account maintained for such Member in accordance with Section 5.7 hereof, as such capital account may be increased or decreased from time to time pursuant to the provisions of Section 5.7.

“Capital Contributions” means the amount of money and/or the agreed upon net fair market value of property contributed to the Company by a Member or its predecessor in interest on the date of contribution and shall include the contributions of such Member made pursuant to Sections 5.1, 5.2 and 5.4 and deemed to be made pursuant to Sections 5.2(a)(ii) and 5.3.

“Capital Event” means (a) the direct or indirect sale, exchange, transfer, assignment or other disposition by the Company or a Subsidiary of any Property or any material portion thereof or interest therein, including disposition of interests in an entity that owns a Property (other than to the Company, another Subsidiary or their respective Affiliates), master leases and ground leases for all or substantially all of a Property, but excluding leases for space in a Property, (b) any financing by the Company or a
Subsidiary, or any refinancing of any indebtedness of the Company or a Subsidiary or any other indebtedness secured by a Property or an interest in a Subsidiary, (c) the condemnation or deed in lieu of condemnation of a Property or any portion thereof, (d) any casualty with respect to a Property or any portion thereof (to the extent proceeds derived therefrom are available for distribution hereunder), (e) a Drag-Along Sale, or (f) any other similar transaction which is, in accordance with GAAP, treated as a capital or financing transaction.

“Certificate” has the meaning given in the preliminary statement to this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute. Any reference herein to a particular provision of the Code shall mean, where appropriate, the corresponding provision in any successor statute.

“Company” has the meaning given in the preliminary statement to this Agreement.

“Company Assets” means all right, title and interest of the Company in and to all or any portion of the assets of the Company and any business property (real or personal) or estate acquired in exchange therefor or in connection therewith, including (as applicable) the Properties and any membership or other interest in each Subsidiary.

“Company Nonrecourse Debt” has the meaning given the term “nonrecourse liability” in Regulation § 1.752-1(a)(2).

“Company Nonrecourse Deductions” has the meaning given the term “nonrecourse deductions” in Regulation § 1.704-2(b)(1) and Regulation § 1.704-2(b)(2). The amount of Company Nonrecourse Deductions for a Fiscal Year is determined in accordance with Regulation § 1.704-2(c).

“Contributing Member” has the meaning given in Section 5.2(e).

“Contribution Percentage” means (i) with respect to the Majority Member, ninety-five percent (95%), and (ii) with respect to the PAV Member, five percent (5%); provided however that the PAV Member may elect to increase (but not decrease) its percentage of the Contribution Percentage to a maximum of ten percent (10%) upon written notice to the Majority Member on each of the first (1st) and second (2nd) anniversary dates of this Agreement. Upon any such election, the Contribution Percentage will be adjusted accordingly.

“Control” (including its correlative meanings, “Controlled by” and “under common Control with”) means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

“Dead Deal” has the meaning given in Section 10.1(d).
“Default Purchase Notice” has the meaning given in Section 9.3(a).

“Depreciation” means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such taxable year, except that if the Book Basis of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Book Basis as the federal income tax depreciation, amortization, or other cost recovery deduction for such taxable year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such taxable year is zero, Depreciation shall be determined with reference to such beginning Book Basis using any reasonable method selected by the Manager.

“Distribution” means any cash, securities, property or other assets distributed to a Member by the Company.

“Drag-Along Sale” means the sale of the Company, in a single transaction or a series of related transactions, pursuant to the acquisition of one hundred percent (100%) of the outstanding Interests (whether by merger, consolidation, recapitalization, reorganization, purchase of the outstanding Interests or otherwise) to a bona fide third party in which none of the Majority Member or any of its Affiliates have any interest.

“Due Diligence Budget” has the meaning given in Section 10.1(c).

“Earn-Out Distributions” means, collectively, the First Earn-Out Distribution, the Second Earn-Out Distribution and any Distributions made to the PAV Member pursuant to Sections 6.4(b)(ii)(x) and/or 6.4(c)(iii).


“Expresso Property” means the parking facility known as Expresso Airport Parking, consisting of 1,900 spaces and located at 800 Doolittle Drive, San Leandro, California 94577.

“First Earn-Out Distribution” has the meaning given in Section 6.8(b).
“First Earn-Out Period” means the first twelve (12) complete calendar months commencing after the date hereof.

“First NOI” has the meaning given in Section 6.8(b).

“Fiscal Year” means the fiscal year for the Company that is designated by the Manager. As of the date hereof, the Fiscal Year is the calendar year ending on December 31 of each year.

“GAAP” means generally accepted accounting principles in effect from time to time in the United States of America.

“Governmental Entity” shall mean any court, tribunal, department, body, board, bureau, administrative agency or commission or other governmental authority or instrumentality, whether federal, state, local or foreign.

“Guaranty” has the meaning given in Section 4.1(h).

“Hazardous Materials” means gasoline, petroleum and other petroleum by-products, asbestos (including, without limitation, ACM’s), explosives, PCBs, radioactive materials or any “hazardous” or “toxic” material, substance or waste which is defined by those or similar terms or is regulated as such under any Environmental Laws, including any material, substance or waste which is: (i) defined as a “hazardous substance” under Section 311 of the Water Pollution Control Act (33 U.S.C. 1317), as amended; (ii) defined as a “hazardous waste” under Section 1004 of The Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., as amended; (iii) defined as a “hazardous substance” or “hazardous waste” under Section 101 of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq., or any so-called “superfund” or “superlien” law, including the judicial interpretations thereof; (iv) defined as a “pollutant or contaminant” under 42 U.S.C.A. § 9601(33); (v) defined as a “hazardous waste” pursuant to 40 C.F.R. Part 260; or (vi) defined as a “hazardous chemical” under 29 C.F.R. Part 1910.

“Initial Properties” means each of (i) the Canopy Property, (ii) the parking garage known as Chapel Square Garage, consisting of 325 spaces and located at 155 Temple Street, New Haven, Connecticut 06510, (iii) the Expresso Property, (iv) the parking lot known as Riccio Surface Lot, consisting of 120 spaces located at 8 and 28 Legion Avenue, New Haven, Connecticut 06519, (v) the parking lot known as Terra Park Surface Lot, consisting of 240 spaces and located at 317 Water Street, Jacksonville, Florida 32202, and (vi) the parking facility known as Z Airport Parking, consisting of 792 spaces and located at 3 International Drive, East Granby, Connecticut 06026.

“Initial Properties Purchase Price” means, as of any applicable date of determination, the aggregate amount paid or distributed by the Company (or any of its Subsidiaries) (including the assumption of debt for the Canopy Property and the Expresso Property) to the PAV Member (or the sellers under the Acquisition Agreements) for the Initial Properties pursuant to the terms of the Acquisition Agreements or Sections 6.4(b),
6.4(c) and 6.8, net of any financing fees, closing costs and other similar costs and expenses and including the value of any equity amounts that have been contributed, directly or indirectly, to the Company as capital contributions under Section 721 of the Code as specified in the applicable Acquisition Agreements.

“Initial Property Capital Proceeds” means the sum of (a) the gross proceeds received by the Company from a Capital Event solely to the extent attributable to the Initial Properties and (b) any reduction in Reserves previously established from Initial Property Capital Proceeds, less the sum of (i) all costs and expenses incurred in connection therewith, (ii) the principal of and interest on any indebtedness of the Company and its Subsidiaries that is then required to be and is paid, in whole or part, with such proceeds, and (iii) any additions to Reserves from such proceeds.

“Initial Property Cash Flow” means, for any period, the sum of (a) all Company receipts during such period attributable to the Initial Properties other than Capital Contributions and Initial Property Capital Proceeds, and (b) any reduction in Reserves established from such receipts in prior fiscal periods, reduced by (i) all cash expenditures (including management and other fees and debt service) made by the Company during such period relating to the Initial Properties (but not including expenditures made from Capital Contributions, Reserves or Initial Property Capital Proceeds during such fiscal period) and (ii) any additions to Reserves during such period from such receipts.

“Intent to Cure Notice” has the meaning given in Section 4.1(d).

“Interest” means the interest of a Member in the Company, including the right of such Member in the capital, profits and losses of, and Distributions from, the Company, and the right of such Member to any and all benefits to which such Member may be entitled under this Agreement.

“Investment Opportunity” has the meaning given in Section 10.1(a).

“Investment Opportunity Notice” has the meaning given in Section 10.1(b).

“Investment Opportunity Purchase Price” means, with respect to any Investment Opportunity acquired by the Company or a Subsidiary pursuant to the terms hereof, the amount paid by the Company or such Subsidiary to the seller for the purchase of such Investment Opportunity pursuant to the terms of the applicable agreement of purchase and sale (or other analogous instrument), net of any financing fees, closing costs and other similar costs and expenses.

“IRR” means, as of the date of any distribution under Section 6.4, the discount rate that causes the net present value as of such date of all Distributions made to all of the Members (other than Promote Distributions and Earn-Out Distributions) to equal the net present value as of such date of all Capital Contributions made (or deemed made pursuant to this Agreement) by all of the Members. In determining IRR, (i) the rate of return shall be calculated with a Microsoft Excel worksheet using its “XIRR” function, (ii) net present value shall be determined based on the actual date each Capital Contribution and Distribution was made (or deemed to have been made pursuant to this Agreement),
including distributions (if any) that were made prior to the date hereof, and (iii) all Distributions shall be based on the amount of such Distribution prior to the application of any federal, state or local taxation to Members (including any withholding or deduction requirements).

“Liquidator” means (i) the Manager or (ii) such other Person who is appointed by the Manager or in accordance with applicable law to take all actions related to the winding up of the Company’s business and the distribution of the Company’s assets.

“LLC Act” means the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101, et seq., as it may be amended from time to time, and any successor to such statute.

“Lockout Date” means:

(a) With respect to a Drag-Along Sale, the date that is thirty-six (36) months after the date hereof.

(b) With respect to a direct or indirect sale of any Initial Property, the earlier of (i) the date that is thirty-six (36) months after the date hereof, or (ii) the date that is six (6) months prior to the maturity date of any loan secured by such Property; provided that the Lockout Date for each of the Canopy Property and Expresso Property shall be no earlier than the date that is eighteen (18) months after the date hereof.

“Losses” has the meaning given in Section 4.8(b).

“Major Action” has the meaning given in Section 4.1(c).

“Majority Member” has the meaning given in the preliminary statement to this Agreement.

“Manager” has the meaning given in Section 4.2(a).

“Material Administrator Default” means (i) the commission by the Administrator, any Person Controlling the PAV Member or any PAV Principal of fraud, theft or misappropriation, whether or not relating to or affecting the Company, any Subsidiary or the Company Assets; (ii) the Administrator, any Person Controlling the PAV Member or any PAV Principal being convicted of a felony or indicted for a felony involving moral turpitude; (iii) willful misconduct or gross negligence in connection with the performance of the Administrator’s duties hereunder; (iv) breach (that has not been cured within the Cure Period) by any of the Administrator, any Person Controlling the PAV Member or any PAV Principal of any material provision of this Agreement; (v) the occurrence of any material default or breach with respect to the Administrator, any Affiliate of the PAV Member or any PAV Principal (including the Property Manager and the sellers under the Acquisition Agreements) or termination of any such party for cause pursuant to the terms of any other agreement between one of such parties and the Company or a Subsidiary (including the Acquisition Agreements and each Property Management Agreement), in each case solely if such material default or breach has not been cured within any
applicable cure period provided in such agreement; (vi) the occurrence of a Bankruptcy Event with respect to the PAV Member, David Schmid or Rick Baxter (or, if applicable, a PAV Replacement); (vii) if (x) both David Schmid and Rick Baxter (or, if applicable, a PAV Replacement) cease to be involved in the day-to-day management of the Administrator for any reason other than death or disability or (y) in the event of the death or disability of both of David Schmid and Rick Baxter (or, if applicable, a PAV Replacement), no PAV Principals are involved in the day-to-day management of the Administrator for any reason; (viii) failure of the PAV Member to timely fund Capital Contributions required pursuant to Section 5.2(b); or (ix) if the PAV Member, any PAV Principal or any of their respective Affiliates that provides any Guaranties materially breaches any financial covenant under any applicable Guaranty or any of the loan documents related thereto, in each case after the lapse of any applicable notice and cure periods. For purposes of this Agreement, the parties hereto agree that the “Cure Period” shall be sixty (60) days after notice of any breach, violation or failure is given to the Administrator. For purposes of the foregoing definition of Material Administrator Default, the termination of a Property Management Agreement “for cause” shall not encompass the termination of such Property Management Agreement pursuant to any provision thereof that expressly allows the Company or its applicable Subsidiary who is a party thereto to terminate such Property Management Agreement upon the occurrence of (a) a sale, transfer, assignment or conveyance of the Property (including in connection with a foreclosure), (b) the expiration or termination of the ground or underlying lease pursuant to which the Company or its Subsidiary has a leasehold estate in the applicable Property unless caused by any act or omission of the Property Manager, subject, in each case to all applicable cure rights (if any), (c) casualty damage, (d) condemnation, (e) loss of any operating permit or other government approval that renders a Property inoperable as a parking facility or (f) the occurrence of a Property Manager Change of Control; provided, however, if there is an occurrence that causes a termination of a Property Management Agreement that is not deemed a “for cause” termination under the foregoing, but that occurrence nevertheless constitutes a Material Administrator Default under any other clause of the definition of Material Administrator Default, then a Material Administrator Default shall have occurred, it being the agreement and intention of the Members that the foregoing shall not waive, limit or modify the other grounds set forth herein for a Material Administrator Default. By way of example and not limitation, if there is a sale due to foreclosure and that foreclosure terminates the Property Management Agreement but was the result of a PAV Principal’s material breach of a financial covenant in a Guaranty, after the lapse of any applicable notice and cure periods, then a Material Administrator Default will have occurred due to such PAV Principal’s conduct, even though the termination of the Property Management Agreement in connection therewith does not constitute a “for cause” termination hereunder.

“Material Property Manager Default” means, with respect to a Property, a material default by a Property Manager under a Property Management Agreement for such Property, including (i) any material default under Paragraphs 20 and 21 of any Property Management Agreement effective as of the date hereof, (ii) any material default under Paragraph 23 of the Property Management Agreement for the Initial Property known as Chapel Square Garage effective as of the date hereof and (iii) any material
default under any provisions analogous to the foregoing in any Property Management Agreement entered into after the date hereof.

“Member” has the meaning given in the preliminary statement to this Agreement.

“Member IRR” means, as of the date of any distribution under Section 6.4, the discount rate that causes the net present value as of such date of all Distributions made to a Member to equal the net present value as of such date of all Capital Contributions made (or deemed made pursuant to this Agreement) by such Member. In determining IRR, (i) the rate of return shall be calculated with a Microsoft Excel worksheet using its “XIRR” function, (ii) net present value shall be determined based on the actual date each Capital Contribution and Distribution was made (or deemed to have been made pursuant to this Agreement), including distributions (if any) that were made prior to the date hereof, and (iii) all Distributions shall be based on the amount of such Distribution prior to the application of any federal, state or local taxation to Members (including any withholding or deduction requirements).

“Member Nonrecourse Debt” means a partner nonrecourse debt within the meaning of Section 1.704-2(b)(4) of the Regulations.

“Member Nonrecourse Deductions” means the items of loss, deduction, and expenditure attributable to Member Nonrecourse Debt within the meaning of Section 1.704-2(i)(2) of the Regulations.

“Net Losses” means, for each Fiscal Year or other period, an amount equal to the excess of (a) the Company’s items of loss and deduction for such year or other period over (b) the Company’s items of income and gain for such year or other period, determined in accordance with Section 703(a) of the Code (including all items of income, gain, loss and deduction required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax, and not otherwise taken into account in computing Net Losses, will be considered an item of income.

(ii) Gain or loss resulting from any disposition of any Company Asset with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such asset, notwithstanding that the adjusted tax basis of such asset may differ from its Book Basis.

(iii) Any increase or decrease to Capital Accounts as a result of any adjustment to the Book Basis of Company Assets pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations shall constitute an item of income or loss, respectively.

(iv) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) expenditures under Section 1.704-1(b)(2)(iv)(i) of the Regulations, and not otherwise taken into account in computing Net Losses, will be considered an item of deduction.
(v) In lieu of depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account the Depreciation for the taxable year or other period as determined hereunder.

(vi) To the extent an adjustment to the adjusted tax basis of any of the Company Assets pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Section 1.704-1(b)(2)(iv)(m)(4) of the Regulations to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member’s Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Losses.

(vii) Notwithstanding any other provision of this definition, any items of income, gain, loss or deduction which are specially allocated pursuant to Section 6.2 shall not be taken into account in computing Net Losses.

The amounts of items of Company income, gain, loss or deduction available to be specially allocated pursuant to Section 6.2 shall be determined by applying rules comparable to those set forth in subparagraphs (i)-(vi) above.

“Net Profits” means, for each Fiscal Year or other period, an amount equal to the excess of (a) the Company’s items of income and gain for such year or other period over (b) the Company’s items of deduction and loss for such year or other period, determined in accordance with Section 703(a) of the Code (including all items of income, gain, loss and deduction required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax, and not otherwise taken into account in computing Net Profits, will be considered an item of income.

(ii) Gain or loss resulting from any disposition of any Company Asset with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such asset, notwithstanding that the adjusted tax basis of such asset may differ from its Book Basis.

(iii) Any increase or decrease to Capital Accounts as a result of any adjustment to the Book Basis of Company Assets pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations shall constitute an item of income or loss, respectively.

(iv) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) expenditures under Section 1.704-1(b)(2)(iv)(i) of the Regulations, and not otherwise taken into account in computing Net Profits, will be considered an item of deduction.
(v) In lieu of depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account the Depreciation for the taxable year or other period as determined hereunder.

(vi) To the extent an adjustment to the adjusted tax basis of any of the Company Assets pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Section 1.704-1(b)(2)(iv)(m)(4) of the Regulations to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member’s Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Profits.

(vii) Notwithstanding any other provision of this Paragraph, any items of income, gain, loss or deduction which are specially allocated pursuant to Section 6.2 of this Agreement shall not be taken into account in computing Net Profits.

The amounts of items of Company income, gain, loss or deduction available to be specially allocated pursuant to Section 6.2 of this Agreement shall be determined by applying rules comparable to those set forth in subparagraphs (i)-(vi) above.

“Non-Contributing Member” has the meaning given in Section 5.2(e).

“Notification Period” has the meaning given in Section 10.1(c).

“Objection Notice” has the meaning given in Section 4.4(b).

“Offset Member” has the meaning given in Section 6.5.

“Opportunity Outside Date” means, with respect to an Investment Opportunity, the earliest of (i) any outside date set forth in the Due Diligence Budget for such Investment Opportunity, (ii) the date (if any) on which the Manager notifies the PAV Member that it declines to cause the Company to participate in the acquisition of such Investment Opportunity, and (iii) the date immediately following the expiration of the Notification Period for such Investment Opportunity, as such date may be extended from time to time by mutual agreement of the Manager and the PAV Member.

“Other Available Cash” means, for any period, the sum of (a) all Company receipts during such period derived from the conduct of the Company’s business or from financing obtained by the Company other than Capital Contributions, Initial Property Capital Proceeds or Initial Property Cash Flow, plus (b) any reduction in Reserves established from such receipts in prior fiscal periods, reduced by (i) all cash expenditures (including management and other fees and debt service) made by the Company during such period (but not including expenditures made from Capital Contributions, Reserves, Initial Property Capital Proceeds or Initial Property Cash Flow during such fiscal period) and (ii) any additions to Reserves from such receipts.

“Outstanding Pursuit Costs” has the meaning given in Section 10.1(d).
“Parkit” has the meaning given in Section 11.3(f).

“PAV Group” has the meaning given in Section 10.1(a).

“PAV Member” has the meaning given in the preliminary statement to this Agreement.

“PAV Principals” means:

(i) initially, each of (x) David Schmid and Rick Baxter and (y) John Schmid, Simon Buckett, Tom Bechard and Patrick Bonney (provided, however, that if the Manager at any time determines, in the exercise of its reasonable discretion, that any of the foregoing persons referenced in the foregoing clause (y) should no longer be deemed a PAV Principal hereunder, then, upon notice to the PAV Member, such person shall no longer be deemed a PAV Principal for any purpose under this Agreement);

(ii) upon the death or disability of David Schmid and Rick Baxter (or, if applicable, a PAV Replacement), any qualified replacement designated by the PAV Member within ten (10) days after such death or disability and reasonably approved by the Manager; and

(iii) if at any time Rick Baxter is no longer serving as chief executive officer of Parkit and the PAV Member determines that Rick Baxter should no longer be deemed a PAV Principal hereunder, any qualified replacement designated by the PAV Member within ten (10) days after written notice is delivered to the Manager informing same of such determination and approved by the Manager in its sole and absolute discretion (any such replacement pursuant to this clause (iii), a “PAV Replacement”).

“PAV Replacement” has the meaning given in clause (iii) of the definition of “PAV Principals”.

“Percentage Interest” means, with respect to each Member as of any date, such Member’s percentage interest in the Company, calculated by dividing (i) the amount of all Capital Contributions made (or deemed made) by such Member on or prior to such date by (ii) the amount of all Capital Contributions made (or deemed made) by all the Members on or prior to such date, subject to adjustment in accordance with Section 5.4. As of the date of this Agreement, the Majority Member’s Percentage Interest and the PAV Member’s Percentage Interest are as set forth on Schedule 3.1 hereto.
“Permitted Transfer” means:

(a) If the Transferring Member is the Majority Member, any direct or indirect Transfer of a Member’s Interest, in whole or in part, as long as (i) Control over the Majority Member’s original Interest following such Transfer is vested in Och-Ziff Real Estate Capital III L.P., a Delaware limited partnership, and (ii) such Transfer is not prohibited under the terms of any material loan or other financing arrangement with respect to any Property.

(b) If the Transferring Member is the PAV Member, any direct or indirect Transfer of an interest in the PAV Member (as opposed to a direct Transfer of the PAV Member’s Interest in the Company), in whole or in part, so long as such Transfer (x) does not violate Section 11.3(a) and (y) is not prohibited under the terms of any material loan or other financing arrangement with respect to any Property.

“Person” or “person” means an individual, corporation, association, partnership, limited liability company, trust, joint venture, business trust or unincorporated organization or other entity or organization, or a Governmental Entity.

“Prior Agreement” has the meaning given in the preliminary statement to this Agreement.

“Promote Adjustment Amount” means an amount, initially equal to zero, that following the occurrence of an Administrator Default shall be (a) increased by the amount of all fees and promoted interests paid to any Person other than the PAV Member or PAV Principals that is appointed as a successor Administrator or Replacement Principal, and (b) decreased (but not below zero) by the sum of the amount of any reduction in Promote Distributions effected pursuant to Section 6.4(d).

“Promote Distributions” means the amounts distributable to the PAV Member pursuant to clause (x) of each of Sections 6.4(a)(ii), 6.4(a)(iii) and 6.4(a)(iv) (without taking into account Sections 6.4(d), (e) or (f)).

“Promote First Tier Percentage” means seventeen percent (17%), subject to adjustment in accordance with Section 5.4.

“Promote Percentages” means each of the Promote First Tier Percentage, Promote Second Tier Percentage and Promote Third Tier Percentage.

“Promote Second Tier Percentage” means twenty-two percent (22%), subject to adjustment in accordance with Section 5.4.

“Promote Third Tier Percentage” means thirty percent (30%), subject to adjustment in accordance with Section 5.4.

“Property” means each of the Initial Properties and each Investment Opportunity that is actually acquired by the Company (or a Subsidiary thereof) pursuant to the terms hereof.
“Property Budget” means, with respect to each Property, the annual operating budget for such Property (as approved pursuant to Section 4.4), which shall include, but not be limited to, an annual operating budget, annual capital expenditures (to the extent applicable), annual leasing guidelines (to the extent applicable), Reserves and the amount of capital, if any, to be called by the Company during a Fiscal Year pursuant to such operating budget. For clarity, each Property Budget shall contain direct property level costs and expenses with respect to the applicable Property for the applicable Fiscal Year and shall not in any event include any overhead or other similar costs or expenses of the Administrator or the Property Manager.

“Property Management Agreement” means, with respect to each Property, a management agreement in the applicable form attached hereto as Exhibit A entered into by the Company or a Subsidiary, on the one hand, and a Property Manager, on the other hand, pursuant to which such Property Manager shall manage, supervise and operate such Property, upon the terms and subject to the conditions set forth therein.

“Property Manager” means either of (i) Pro Park, Inc., a Connecticut corporation, or (ii) Propark America West, LLC, a Connecticut limited liability company.

“Property Manager Change of Control” means that, with respect to a Property Manager, (i) a Property Manager Principal no longer owns a greater than fifty percent (50%) direct or indirect interest in such Property Manager or (ii) a Property Manager Principal no longer possesses, directly or indirectly, the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise) of such Property Manager.

“Property Manager Principal” means David Schmid or John Schmid; provided, however, upon the death or disability of David Schmid or John Schmid, the Property Manager may designate a qualified replacement designated therefor within ten (10) days after such death or disability subject to such qualified replacement being reasonably acceptable to the Manager.

“Pursuit Costs” has the meaning given in Section 10.1(c).

“Regulations” means the regulations promulgated under the Code.

“Replacement Principal” has the meaning given in Section 4.1(e).

“Reserves” means funds or other amounts set aside or otherwise allocated or designated by the Manager in its reasonable discretion, (a) to pay taxes, insurance premiums, future or anticipated obligations, contingent or unforeseen obligations, and all other costs, expenses, and liabilities incident to the Company’s operations and ownership of the Company Assets, including amounts that may be needed to fund the Company’s operating deficits or to service the Company’s debt obligations; (b) to allow the Company to make repairs, capital improvements, acquisitions, replacements, or renewals; or (c) for any other valid purpose relating to the Company determined by the Manager.
“Sale Closing Deadline” has the meaning given in Section 4.9(d).

“Sale Deposit Period” has the meaning given in Section 4.9(d).

“Sale Market Period” has the meaning given in Section 4.9(c).

“Sale Notice” has the meaning given in Section 4.9(b).

“Sale Notice Period” has the meaning given in Section 4.9(b).

“Sale Offer” has the meaning given in Section 4.9(b).

“Sale Purchase Price” has the meaning given in Section 4.9(b).

“Sale Rejection” has the meaning given in Section 4.9(b).

“Sale Subject Matter” has the meaning given in Section 4.9(b).

“Sale Valuation” has the meaning given in Section 4.9(b).

“Specified Interest” has the meaning given in Section 9.3(b).

“Second Earn-Out Distribution” has the meaning given in Section 6.8(c).

“Second Earn-Out Period” means the first twelve (12) complete calendar months commencing after the expiration of the First Earn-Out Period.

“Second NOI” has the meaning given in Section 6.8(c).

“Subsidiary” means any Person directly or indirectly owned in whole or in part by the Company.

“Transfer” has the meaning given in Section 9.1(a).

“Transferee” has the meaning given in Section 9.1(b).

“Unanimous Action” has the meaning given in Section 4.2(a).

“Unfunded Amount” has the meaning given in Section 5.2(e).

“Withheld Member” has the meaning given in Section 6.7.

Section 1.2. Terms Generally. The definitions in Section 1.1 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. Unless the context requires otherwise, the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The term “hereunder” shall mean this entire Agreement as a whole unless reference to a specific section of this Agreement is made.
All references in this Agreement to a section or article shall mean a section or article of this Agreement, unless otherwise expressly specified.

ARTICLE II

General Provisions

Section 2.1. **Formation.** One or more Persons has acted as the organizer or organizers of the Company by preparing, executing and filing with the Delaware Secretary of State the Certificate pursuant to the LLC Act, as such Certificate may have been or may be amended from time to time. The Company was formed under the name OP Holdings JV LLC. The acts of such Persons are hereby authorized and ratified. The Administrator, the Manager or either’s attorney is hereby designated as an authorized person, within the meaning of the LLC Act, to execute, deliver and file any amendments and/or restatements thereof and any other certificates necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business. The execution by the Administrator, the Manager or either’s attorney of any of the foregoing certificates (and any amendments and/or restatements thereof) shall be sufficient.

Section 2.2. **Name.** The Company shall conduct its activities under the name of OP Holdings JV LLC.

Section 2.3. **Term.** The Company’s existence shall be perpetual, unless sooner dissolved, wound up or terminated in accordance with Article VIII of this Agreement or the LLC Act.

Section 2.4. **Purpose; Powers.** (a) The purpose of the Company shall be to conduct and engage in the following activities: (i) directly or indirectly (through each of the Subsidiaries or other Persons) acquire, purchase, own, hold, manage, develop, operate, improve, rent, lease, fund, finance, encumber, sell, transfer, exchange, dispose of, invest in or otherwise deal with the Properties and any other Company Assets and any direct or indirect interest therein or any securities of any kind issued by any entity primarily engaged in such activities, (ii) to own, directly or indirectly, a limited liability company or other interest in, and act as a member of each of the Subsidiaries, (iii) to conduct such other lawful business activities related or incidental thereto or as the Members may otherwise determine and (iv) to exercise all powers enumerated in the LLC Act necessary to the conduct, promotion or attainment of the purposes set forth herein and for the protection and benefit of the Company.

(b) The Company is authorized and empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to, or convenient for the furtherance and accomplishment of its purposes and for the protection and benefit of the Company, including all acts and things permitted under the LLC Act and this Agreement.

Section 2.5. **Place of Business; Registered Office and Registered Agent.** The Company shall maintain a registered office at The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801, or such other office as is approved by the Manager. The Company shall maintain an office and principal place of business at c/o Propark America, One
Union Place, Hartford, Connecticut 06103, or at such other place as may from time to time be determined as its principal place of business by the Manager. The name and address of the Company’s registered agent as of the date of this Agreement is The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

ARTICLE III

Members

Section 3.1. Name and Address. The name, address and initial Percentage Interest of each Member as of the date of this Agreement are set forth on Schedule 3.1 hereto. Such schedule shall be amended from time to time by the Manager to reflect the admission or withdrawal of a Member or the transfer or assignment of Interests in accordance with the terms of this Agreement and other modifications to or changes in the information set forth therein including additional Capital Contributions. The Manager shall promptly distribute such amendments in writing to each of the Members.

Section 3.2. Limitation of Liability; Indemnification. Subject to Section 3.3, each Member’s liability to the Company, to any other Member, to any Subsidiary or to any other third party shall be limited to the maximum extent permitted by law. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain liable for the payment of its Capital Contribution and as otherwise expressly set forth in this Agreement, the LLC Act and any other applicable law. The Company shall indemnify, defend and hold harmless each Member from and against all third-party claims and demands to the maximum extent permitted under the LLC Act, except those resulting from such Member’s willful misconduct, gross negligence, fraud or intentional disregard of the terms of this Agreement.

Section 3.3. Liability of a Member to the Company. (a) A Member that rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the LLC Act. A Member that receives a Distribution made by the Company in violation of this Agreement or made when the Company’s liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for the amount of such Distribution only to the extent now or hereafter provided by the LLC Act.

(b) Except as expressly provided in this Agreement, no Member is an agent of the Company solely by virtue of being a Member, and no Member has authority to sign, act for or bind the Company solely by virtue of being a Member, all of such powers being vested in the Administrator and the Manager. Any Member that executes any document or instrument or otherwise takes any action to bind the Company in violation of this Section 3.3 shall be solely responsible for, and shall indemnify, defend and hold harmless the Company and each other Member against, any losses that the Company, or such other Member, as the case may be, may at any time become subject to or liable for by reason of the actions specified above. The provisions of this Section 3.3 shall survive the termination of this Agreement.
Section 3.4. **Action by Members Without a Meeting.** Whenever the Members of the Company are required or permitted to take any action by vote, such action may be taken without a meeting, and without a vote, if a consent or consents in writing (including in electronic format), setting forth the action so taken, shall be signed by the Members who hold voting interests having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the Members entitled to vote thereon were present and voted and shall be delivered to the administrative office of the Company, or to an employee or agent of the Company and to the other Members; provided, however, that the Majority Member shall endeavor to provide the PAV Member with ten (10) Business Days prior notice (or, if the Majority Member deems necessary, such shorter period) of any such proposed action; provided further, however, that this sentence shall not limit or restrict any right, power or authority granted to, and reserved for, the Majority Member hereunder.

Section 3.5. **Certain Duties and Obligations of the Members.** (a) The Members shall take all action which may be reasonably necessary or appropriate (i) for the formation and continuation of the Company as a limited liability company under the laws of the State of Delaware and (ii) for the development, maintenance, preservation and operation of the business of the Company in accordance with the provisions of this Agreement and applicable laws and regulations. The Members shall take all action which is reasonably necessary and appropriate to form or qualify the Company to conduct the business in which the Company is engaged under the laws of any jurisdiction in which the Company is doing business and to continue in effect such formation or qualification.

(b) No Member shall take any action so as to cause the Company to be classified for Federal income tax purposes as an association taxable as a corporation and not as a partnership.

(c) Except as expressly provided herein, neither this Agreement nor a Person’s status as a Member of the Company shall preclude any Member or any of its Affiliates from engaging in any activity whatsoever permitted by applicable law (whether or not such activity might compete, or constitute a conflict of interest, with the Company), including the provision of financial or investment advisory services to any person, managing investments or receiving compensation or profit from any of the foregoing.

**ARTICLE IV**

**Management and Operation of the Company**

Section 4.1. **Administrator.** (a) Subject to the express restrictions set forth in Section 4.1(c) and the Manager’s rights in 4.1(d) and 4.2, the PAV Member shall have the right, power and authority, and the duty, to manage the day-to-day business and affairs of the Company, unless and until the PAV Member is removed as the Administrator pursuant to Section 4.1(e) below (the PAV Member, acting in the capacity described in this sentence, the “Administrator”). In addition, the PAV Member (in its capacity as the Administrator) shall, at the request of the Manager, implement, on behalf of the Company, any Major Actions that the Manager elects to have the Company take. The Administrator and each of the PAV Principals shall devote such time to the Company and its business and affairs as shall be necessary to
conduct the business and affairs of the Company in an efficient manner and to carry out the Administrator’s responsibilities as set forth herein. Without limiting the generality of the foregoing (but subject to the express restrictions set forth in Section 4.1(c) and Section 4.1(e)), the Administrator shall have the right and duty to do, accomplish and complete, for and on behalf of the Company all of the actions set forth on Schedule 4.1(a) hereto. The Administrator shall perform all of its obligations under this Agreement with reasonable diligence and in a prompt and businesslike manner, exercising such care and skill as a prudent investor with sophistication and experience in acquiring, owning, operating and managing property and projects like the Properties would exercise in dealing with its own assets. The Administrator shall comply, and shall cause each of its employees and agents to comply, with all applicable laws. The Administrator shall not have any fiduciary duties to the Company, any Member or other Person bound by this Agreement; provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing. To the fullest extent permitted by law, including Section 18-1101(e) of the LLC Act, the Administrator shall not be liable to the Company, any Member or any other Person bound by this Agreement for breach of duties (including fiduciary duties) unless the Administrator acted in bad faith or engaged in willful misconduct.

(b) Except as provided in Section 4.6, the Administrator shall not be entitled to compensation for serving as Administrator. Subject to Sections 4.1(c) and 4.1(e), the Administrator shall be entitled to the reimbursement of any out-of-pocket expenses it incurs on behalf of the Company to unaffiliated third parties in accordance with the applicable Property Budget. The Administrator shall be permitted to retain outside professional service providers in connection with the business conducted by the Company within the scope of the Property Budget or as otherwise approved in writing by the Manager in advance, and the Company shall be responsible for paying, and shall pay, all direct costs and expenses of such outside professional service providers to the extent provided within the scope of the Property Budget or otherwise approved in writing by the Manager in advance.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Administrator shall not (and shall not have any right, power or authority to) take or cause or permit the Company (or any Subsidiary) to take (or commit the Company or any Subsidiary to take) (i) any action that is not expressly authorized by a then current Property Budget (any such action, a “Major Action”), or (ii) any Unanimous Action (which, as set forth below, require the consent of all the Members). For the avoidance of doubt, to the extent that any action is expressly authorized by a then current Property Budget, the Administrator may take such action without any further consent of the Manager or any other Member. The Administrator may not (i) cause or permit any line item in a then current Property Budget to be exceeded by more than ten percent (10%) without the consent of the Manager (provided, however, that notwithstanding the foregoing, the Administrator shall be permitted (without the approval of the Manager) to exceed any such line item by an amount that is less than Fifty Thousand Dollars ($50,000)) or (ii) cause or permit the expenses in a then current Property Budget to be exceeded by more than five percent (5%) without the consent of the Manager.

(d) Without limiting any of the rights of the Manager set forth in this Agreement, if the Administrator fails to perform or comply with, or to cause the performance of or compliance with, any obligation or duty imposed on it pursuant to this Agreement, then, if the
Manager desires to exercise the rights afforded to it pursuant to the last sentence of this Section 4.1(d) during the pendency of any applicable Cure Period hereunder, the Manager shall provide the Administrator with written notice (each, an “Intent to Cure Notice”) of its intention to exercise such rights hereunder. Upon the receipt by the Administrator of an Intent to Cure Notice, the Administrator shall have the right to cure such failure (subject to the Manager’s satisfaction) within such applicable Cure Period. If the Administrator cures such failure within such Cure Period (subject to the Manager’s satisfaction), then the Manager shall not be entitled to exercise the rights otherwise afforded to it pursuant to the last sentence of this Section 4.1(d) solely with respect to such failure that has been cured by the Administrator. In the event that the Administrator fails to timely cure any such failure (subject to the Manager’s satisfaction) or at any time notifies the Manager that it does not intend to cure such failure, then, without limiting any other remedy available to the Manager, the Manager may perform or comply with, or cause the performance of or compliance with, that obligation or duty and any reasonable out-of-pocket expense arising from that performance or compliance, other than any expense that would have been incurred by the Company had the Administrator so acted, will be borne by the Administrator.

(e) Notwithstanding anything to the contrary contained herein, if a Material Administrator Default or an Administrator Default occurs, then at any time thereafter the Manager may elect to remove the PAV Member as the Administrator, such removal to be effective upon the PAV Member’s receipt of written notice thereof from the Manager. Without limiting the generality of the foregoing, upon such removal the PAV Member shall have no further rights as the “Administrator” under this Agreement. For clarity, the Manager has no rights to remove the PAV Member as the Administrator except in connection with a Material Administrator Default or an Administrator Default. The Members acknowledge and agree that at any time after the occurrence of an Administrator Default and so long as the PAV Member is serving as Administrator hereunder, and without limiting any other right or remedy of the Manager hereunder, the Manager shall have the right to appoint third party individuals to replace either of David Schmid or Rick Baxter (or, if applicable, a PAV Replacement), as applicable, in their roles performing duties of the Administrator (each, a “Replacement Principal”).

(f) In the event of any removal of the PAV Member as the Administrator hereunder, (i) the PAV Member shall cooperate with the Company with respect to the transition of the business of the Administrator, (ii) a successor Administrator designated by the Majority Member shall undertake and assume all responsibilities of the initial Administrator and (iii) to the extent that the PAV Member and/or any Affiliate thereof is a guarantor under any Guaranty, the Majority Member shall use commercially reasonable efforts (for a period of up to sixty (60) days) to obtain a release of each such guarantor from any and all Guaranty liability arising from events occurring from and after the date of removal (other than liability arising from acts or omissions of such guarantor), and, from the time of such removal until such a release is actually obtained (whether or not in such sixty (60)-day period), the Majority Member shall indemnify each such guarantor for any Guaranty liability arising from events occurring from and after the date of removal, including reasonable and actual fees and expenses incurred by such guarantor with respect to such Guaranty liability (other than liability, fees and expenses arising from acts or omissions of such guarantor).
(g) Notwithstanding anything to the contrary in this Agreement, if, at any time, the Company enters into an agreement with an Affiliate of the Administrator, then the Manager shall have the exclusive right to act on behalf of the Company with respect to the negotiation and approval of such agreement, as well as the enforcement of the rights and remedies of the Company and defaults under any such agreement (including the exercise of any applicable right of termination in accordance with the terms thereof). Without limiting the foregoing, in the event that the PAV Member is removed as Administrator in accordance with this Agreement, the Manager may in its sole discretion cause any and all agreements with any Affiliates of the Administrator to be terminated.

(h) It is anticipated that the Administrator may provide customary and reasonable non-recourse carveout guaranties and hazardous materials indemnification agreements to the lenders of any loan involving any Property or any other Company Assets (each, a “Guaranty”) from appropriate Persons that are Affiliates of the PAV Member. None of the Members nor any of their Affiliates shall be required to provide any Guaranties. Except to the extent caused by the acts or omissions of the guarantor or its Affiliates, and solely if such guarantor (or its Affiliates) is not entitled to indemnification for Guaranty liability hereunder, any amounts funded under any Guaranty shall constitute a Capital Contribution that is deemed to have been called by the Manager under Section 5.2(c); provided, however, that a Member shall not be deemed a Non-Contributing Member for any purpose hereunder with respect to any such deemed Capital Contribution and, accordingly, the remedies set forth in Sections 5.3 and 5.4 shall not apply with respect to any such deemed Capital Contribution. If the PAV Member and/or any Affiliate thereof provides a Guaranty (in form and substance approved by the Manager), then the Majority Member shall indemnify the PAV Member and its Affiliated guarantor(s) for one hundred percent (100%) of any payments to be made under such Guaranty (including reasonable and actual fees and expenses incurred by such guarantor with respect to such Guaranty) to the extent such payments arise solely from the intentional acts of the Majority Member or any of its Affiliates.

(i) Each of the Members hereby agrees that if the Administrator actually knows, or reasonably suspects that, there is, or may be, any Hazardous Materials in, on or under any of the Properties, or in the soil, groundwater or soil vapor on, over or under any of the Properties, then the Administrator shall be permitted to designate one or more consultants to address any such suspected release of Hazardous Materials, which proposed consultant(s) shall be subject to the reasonable approval of the Manager. If any consultant designated by the Administrator and reasonably approved by the Manager confirms that a release of Hazardous Materials actually exists and recommends the adoption and implementation of an operation and maintenance program or any other program that is required by Environmental Law to remove or otherwise remediate such release of Hazardous Materials, then the Administrator shall be permitted (without the consent of the Manager) to cause the adoption and implementation of any such program; provided, however, that Administrator shall report to the Manager, and keep the Manager informed, with respect to the status of such program and the subject matter thereof. If, however, any such approved consultant recommends the adoption and implementation of an operation and maintenance program or any other program that is not required by Environmental Law, then the adoption and implementation of such program shall in all cases require the prior written consent of the Manager. In connection with the adoption and implementation of any operation and maintenance program for any Property in accordance with this Agreement, the
Administrator shall make the Property Manager aware of each such program and instruct and require the Property Manager to cooperate with the adoption and implementation of each such program.

Section 4.2. **Manager.** (a) The full right, power, authority and discretion to conduct the business and affairs of the Company, and to do all things necessary to carry on the business of the Company, shall be vested in a manager (the “Manager”) (who may, but need not be, a Member), acting alone and without the consent of any other Member; provided that (i) unless the PAV Member is removed as Administrator pursuant to this Agreement, the Administrator shall have responsibility and authority for the day-to-day operations of the Company in accordance with Section 4.1 and elsewhere in this Agreement, and (ii) the actions set forth on Schedule 4.2(a) hereto (the “Unanimous Actions”) shall require the consent of both Members. Without limiting the generality of the foregoing, (A) the Manager shall have the full and exclusive right, power and authority to make all decisions (affirmative or negative) and to take any actions on behalf of the Company with respect to Major Actions or to revoke any such Major Actions, and to take any and all other actions, and to make any and all other decisions in respect of the Company as determined by the Manager in its sole discretion (with the understanding, however, that (I) the Manager shall, prior to taking any action in respect of the management of the day-to-day business and affairs of the Company, provide the Administrator with five (5) Business Days’ notice of its intention to take any such action (unless in response to an emergency situation with respect to the Company or any of the Company Assets, in which case no such notice is required), and (II) Unanimous Actions shall require the consent of both Members); and (B) except as otherwise provided herein, the Manager is hereby authorized to execute and deliver on behalf of the Company any and all documents, contracts, certificates, agreements and instruments, and to take any action of any kind and to do anything and everything the Manager deems necessary, desirable or appropriate in accordance with the provisions of this Agreement and the LLC Act. The Manager shall endeavor to provide the PAV Member with ten (10) Business Days’ prior notice (or, if the Manager deems necessary, such shorter period) of any Major Action to be taken by, or on behalf of, the Company or a Subsidiary; provided, however, that this sentence shall not limit or restrict the right, power and authority granted to, and reserved for, the Manager hereunder.

(b) The Manager shall be appointed by the Majority Member. The Majority Member is hereby appointed as the initial Manager.

(c) The Manager may be removed only by the Majority Member. The Manager may resign as Manager by giving not less than thirty (30) days written notice to the Company and each Member, and such resignation shall take effect at such time as is specified in such notice of resignation. The resignation of the Manager shall not affect such Manager’s rights as a Member, if any, and shall not constitute a withdrawal of a Member. Upon the resignation of the Manager, the successor Manager shall be selected by the Majority Member.

(d) The Manager shall not be entitled to compensation for serving as Manager. The Manager shall be entitled to the reimbursement of any out-of-pocket expenses it incurs on behalf of the Company.
Whenever pursuant to this Agreement the Manager exercises any right given to it to approve or disapprove or to provide or withhold consent or any arrangement or term is to be satisfactory or acceptable to the Manager, all such decisions, directions and determinations made by the Manager shall be in the sole and absolute discretion of the Manager, except as otherwise expressly provided for in this Agreement, and shall be final and conclusive. The Manager shall not have any fiduciary duties to any Member or other Person bound by this Agreement; provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing. To the fullest extent permitted by law, including Section 18-1101(e) of the LLC Act, the Manager shall not be liable to the Company, any Member or any other Person bound by this Agreement for breach of duties (including fiduciary duties) unless the Manager acted in bad faith or engaged in willful misconduct.

Section 4.3. Officers and Authorized Persons. (a) The Manager may designate one or more individuals as officers or agents of the Company, who may but need not have titles, and shall exercise and perform such powers and duties as shall be assigned and delegated to them from time to time by the Manager. Any such officer or agent (an “Authorized Person”) may be removed by the decision of the Manager at any time, with or without cause. Each Authorized Person shall hold office until his or her successor is elected and qualified, unless earlier removed in accordance with this Section 4.3. Any number of offices may be held by the same individual.

(b) The Authorized Persons, to the extent of their powers set forth in this Agreement or otherwise vested in them by action of the Manager not inconsistent with this Agreement, are agents of the Company for the purpose of the Company’s business, and the actions of the Authorized Persons taken in accordance with such powers shall bind the Company.

Section 4.4. Property Budgets. (a) Attached hereto as Schedule 4.4(a) is the Property Budget for each of the Initial Properties for Fiscal Year 2015. The Manager may direct the Administrator at any time to prepare, and the Administrator shall prepare, taking into account such circumstances as the Manager deems appropriate, a proposed revised annual budget for a Property for the balance of the then-current Fiscal Year, which shall become the Property Budget for such Property upon written approval by the Manager.

(b) Not later than sixty (60) days prior to the beginning of each Fiscal Year beginning with Fiscal Year 2016, the Administrator shall prepare for the Company and present to the Manager a proposed annual budget for each Property for such Fiscal Year (containing such detail as reasonably requested by the Manager). Such proposed annual budget shall not be deemed the Property Budget for such Fiscal Year until accepted by the Manager’s express written approval. Not later than thirty (30) days after receipt by the Manager of a proposed annual budget (or such longer period as the Manager may reasonably request on notice to the Administrator), the Manager may deliver a notice (an “Objection Notice”) to the Administrator stating that the Manager objects to any information contained in or omitted from such proposed annual budget and setting forth the nature of such objections. Failure of the Manager to deliver an Objection Notice or an approval notice shall be deemed rejection of the Administrator’s proposed annual budget in its entirety. Upon receipt of any Objection Notice, the Administrator shall modify the proposed annual budget, taking into account the Manager’s objections, and shall resubmit the same to the Manager for the Manager’s approval within fifteen (15) days thereafter, and the Manager may deliver further Objection Notices (if any) within fifteen (15) days
thereafter (in which event, the re-submission and review process described above in this sentence shall continue until the annual budget in question is accepted and consented to by the Manager). As to any portion of a proposed annual budget for a Property that is the subject of an Objection Notice, the Property Budget for the immediately preceding Fiscal Year (plus a two percent (2%) annual increase for each expense line-item) shall be deemed to control pending resolution of the disputed items to the extent it is applicable thereto.

(c) If the Administrator and the Manager have not agreed on a Property Budget for a Fiscal Year within three (3) months after the start of such Fiscal Year, the Property Budget for the immediately preceding Fiscal Year (plus a two percent (2%) annual increase for each expense line-item) shall be deemed to by the Property Budget for such Fiscal Year.

Section 4.5. Company Expenses. Each of the Members shall be responsible for its own (i) formation and organizational expenses with respect to the entities constituting each of the Members and (ii) costs relating to the negotiation and execution of this Agreement (and for the avoidance of doubt, the Company shall not be deemed to have any costs relating to the negotiation and execution of this Agreement). Subject to Sections 5.2(b), 10.1(d) and 10.1(e), all costs and expenses incurred in connection with the formation of the Company (but not including the negotiation and execution of this Agreement) and due diligence with respect to, and the acquisition by the Subsidiaries of, the Properties (including any inspection fees and costs of any engineering reviews and/or appraisals) shall be borne by the Company (other than any recording charges, title insurance costs, transfer taxes and fees and survey costs incurred in connection therewith, which shall be borne according to local custom with respect to each acquired Property). All other reasonable costs and fees of third party professionals, consultants, advisors and other contractors retained by the Company in accordance with this Agreement shall be an expense of the Company to the extent approved in writing by the Manager in advance.

Section 4.6. Fees. (a) The Company shall pay to the Administrator an asset management fee (the “Asset Management Fee”), payable as follows: (i) during the period commencing on the date hereof and ending on the first (1st) anniversary of the date hereof, an amount equal to six-tenths of one percent (0.60%) of the Aggregate Properties Purchase Price, (ii) during the period commencing on the day immediately following the first anniversary of the date hereof and ending on the second (2nd) anniversary of the date hereof, one-half of one percent (0.50%) of the Aggregate Properties Purchase Price, and (iii) thereafter, four-tenths of one percent (.40%) of the Aggregate Properties Purchase Price. The Asset Management Fee shall be payable quarterly in arrears within twenty (20) days after the end of each calendar quarter.

(b) In addition to the Asset Management Fee, upon the closing of the acquisition by the Company or a Subsidiary of each Investment Opportunity in accordance with the terms hereof, the Company shall pay to the Administrator an acquisition fee (the “Acquisition Fee”) equal to one-half of one percent (0.50%) of the Investment Opportunity Purchase Price of such Investment Opportunity.

(c) Notwithstanding the foregoing or anything to the contrary contained herein, if the PAV Member is removed as Administrator as a result of a Material Administrator Default or an Administrator Default, then no Asset Management Fee or Acquisition Fee accruing after the effective date of such removal shall be payable to the PAV Member or any of its
Affiliates under this Section 4.6 and any prepaid (but not yet accrued) amounts shall be immediately repaid to the Company.

Section 4.7. Management of Subsidiaries. All of the provisions of this Agreement regarding the management and governance of the Company shall apply to the management and governance of the Subsidiary and any other Person owned in whole or part by the Company, whether any such Subsidiary or other Person is managed or controlled directly or indirectly by the Company, as member, manager, partner, stockholder or otherwise. Any action to be taken by the Subsidiary or any other Person owned in whole or part by the Company shall for all purposes hereof be construed as an action taken by the Company and shall be subject to the same rights and limitations granted and imposed on the Members under this Agreement. Any and all references herein to the Company or any Manager, Administrator or Member causing or directing any action on behalf of the Subsidiary or such other Person shall be deemed to refer to the Company causing (or such Manager, Administrator or Member causing the Company to cause), in its capacity as the sole member of the Subsidiary or in its capacity to Control to such other Person, such action to be taken for and on behalf of such Subsidiary or other Person. The Administrator shall perform, with no additional compensation, the same or substantially identical services for the Subsidiary as the Administrator performs for the Company, subject to the terms, conditions, limitations and restrictions set forth in this Agreement and provided that if and to the extent any one or more of the Administrator’s services are to be performed by a third-party property manager pursuant to a property management agreement, then such property manager shall perform the same. The Administrator agrees to perform such duties, and in such circumstances and with regard to such duties, the Administrator shall be subject to the same standards of conduct and shall have the same duties and obligations in performing such services on behalf of the Subsidiary as are set forth in this Agreement. Without limiting the generality of the foregoing (and notwithstanding anything contained herein to the contrary), any action or decision to be taken or made by or on behalf of the Subsidiary that, if taken or made by or on behalf of the Company, would constitute (a) a Major Action, will require the approval of the Manager and (b) a Unanimous Action, will require the approval of the Members as set forth in Section 4.2.

Section 4.8. Indemnification. (a) The Company shall indemnify, defend and hold harmless the Manager, the Administrator, the Members, the PAV Principals and each Authorized Person of the Company from and against any and all third-party claims, demands, liabilities and expenses (including attorneys’ fees and any amounts expended in the settlement of any such claim, demand, liability or expense) to the maximum extent permitted under the LLC Act, except to the extent that any such third-party claims, demands, liabilities or expenses arise as a result of the willful misconduct, gross negligence, intentional disregard of the terms of this Agreement or fraud of the Manager, the Administrator, the Members, the PAV Principals or Authorized Person of the Company, as the case may be. The Company shall advance to the indemnified party referred to above the amount of such expenses and fees at the time they become due, unless the Manager makes a good faith reasonable determination that such indemnified party will not be entitled to indemnification according to the standard set forth above. If expenses have been advanced to the indemnified party and it is ultimately determined that such indemnified party did not meet the above standard then the amounts advanced to the indemnified party shall be repaid by such indemnified party.
(b) The PAV Member shall indemnify, defend and hold harmless the Majority Member (and its Affiliates), the Company and each Subsidiary from and against any and all claims, demands, liabilities and expenses (including attorneys’ fees and any amounts expended in the settlement of any such claim, demand, liability or expense) (collectively, “Losses”), as and when incurred (subject to the following proviso), in connection with, or resulting from, (i) any Material Property Manager Default and (ii) any breach of Section 11.3(e); provided, however, that none of the Majority Member, its Affiliates, the Company or the Subsidiaries shall be entitled to recover from the PAV Member (either directly from the PAV Member or pursuant to any set off right afforded to the Majority Member, the Subsidiaries or the Company hereunder) any Losses pursuant to the indemnity obligation set forth in the foregoing clause (i) unless and until the total of all such Losses collectively exceeds Two Hundred Fifty Thousand Dollars ($250,000), and then the Majority Member, its Affiliates, the Subsidiaries and the Company may recover all such Losses and not just the excess. The provisions of this Section 4.8(b) shall survive the termination of the Company.

Section 4.9. Rights of Sale and First Offer. (a) Notwithstanding anything to the contrary contained herein, at any time (i) solely as to the Initial Properties, from and after the applicable Lockout Date, or as to any other Property, from and after the date hereof, the Manager shall have the unilateral right to cause a sale (directly or indirectly through a sale of all of the interests in one or more Subsidiaries owning such Property or Properties) of any or all of the Properties to a bona fide third party buyer (an “Asset Sale”), and (ii) the Majority Member shall have the right to cause a Drag-Along Sale pursuant to Section 9.2, in each case subject to the PAV Member’s right of first offer as set forth in this Section 4.9. Notwithstanding the foregoing or anything to the contrary in Section 9.2, the Manager shall have the right to initiate an Asset Sale involving one or more of the Initial Properties or a Drag-Along Sale prior to the applicable Lockout Date, but may only close on an Asset Sale or Drag-Along Sale initiated prior to the Lockout Date if either (x) the Manager accepted a Sale Offer with respect thereto in accordance with this Section 4.9 or (y) the Initial Property Capital Proceeds to be distributed from such sale are sufficient for the PAV Member to actually receive (i) a Member IRR of fifteen percent (15%) solely with respect to Distributions and Capital Contributions attributable to the Initial Properties and (ii) the $3,000,000 Distribution pursuant to Section 6.4(b)(ii)(x) and Section 6.4(c)(iii). Notwithstanding the foregoing or anything to the contrary contained herein, in no event shall an Asset Sale or a Drag-Along Sale be initiated earlier than the date that is eighteen (18) months after the date hereof with respect to the Canopy Property or the Expresso Property.

(b) To cause an Asset Sale or a Drag-Along Sale pursuant to Sections 4.9(a)(ii) and 9.2, the Manager shall give written notice of such desire (a “Sale Notice”) to the PAV Member (i) identifying which of the Properties are the subject matter of such Asset Sale or (ii) informing the PAV Member of the Majority Member’s desires to cause a Drag-Along Sale (such Property(ies) or Interests to be sold, the “Sale Subject Matter”). If the Sale Subject Matter consists of all of the Properties or all of the Interests to be sold pursuant to a Drag-Along Sale, then the PAV Member shall have the right, but not the obligation, to purchase all of the Majority Member’s Interest. If the Sale Subject Matter consists of one Property, then the PAV Member shall have the right, but not the obligation, to purchase such Property (or the Company’s interests in the applicable Subsidiaries). In either case, the PAV Member shall provide written notice (a “Sale Offer”) to the Manager within twenty (20) days after receipt of the Sale Notice (the “Sale Notice Period”). The Sale Offer shall specify (i) a valuation stating the aggregate dollar amount
that the PAV Member would be willing to pay if it were a third party for the Sale Subject Matter as of that date free and clear of all liabilities on such assets (the “Sale Valuation”), and (ii) the net proceeds that would be paid to the Majority Member in connection with such Asset Sale or Drag-Along Sale if the Company sold the Sale Subject Matter for the Sale Valuation, paid all the Company’s related expenses and liabilities (and liabilities secured by the Sale Subject Matter) and distributed the resulting net proceeds received in accordance with this Agreement (the “Sale Purchase Price”). In the event the Manager believes, in its sole discretion, that it can obtain a more favorable gross purchase price for the Sale Subject Matter than the Sale Valuation, the Manager may reject the Sale Offer by providing the PAV Member with written notice of the same (a “Sale Rejection”). The PAV Member’s failure to deliver a Sale Offer prior to the expiration of the Sale Notice Period shall be deemed to be a Sale Rejection delivered by the Manager as of the date of the expiration of the Sale Notice Period with respect to a Sale Offer with a Sale Valuation of zero.

(c) In the event of a Sale Rejection, the Manager shall have the right to sell the Sale Subject Matter to a bona fide third-party purchaser during a nine (9) month period following the date of such Sale Rejection (the “Sale Market Period”); provided that the purchase price paid by the third-party purchaser shall be based on a gross valuation of the Sale Subject Matter that is at least ninety five percent (95%) of the Sale Valuation. In the event that the Asset Sale or Drag-Along Sale is not consummated prior to the expiration of the Sale Market Period, the Manager must again comply with all of the requirements of this Section 4.9 and the PAV Member shall have all of the rights set forth in this Section 4.9.

(d) In the event that the Manager accepts the Sale Offer, then the PAV Member shall provide the Majority Member with a non-refundable deposit of ten percent (10%) of the Sale Purchase Price within ten (10) Business Days after such acceptance (the “Sale Deposit Period”), and the Majority Member and the PAV Member shall proceed toward the closing of the purchase of the Sale Subject Matter (or, if the Sale Subject Matter consists of all of the Properties, the Majority Member’s Interest), which closing shall occur not earlier than sixty (60) days, but not later than ninety (90) days, following the expiration of the Sale Deposit Period (the “Sale Closing Deadline”). At the closing, the PAV Member shall pay to the Majority Member the Sale Purchase Price (less the amount of the deposit) and the Majority Member shall execute and deliver to the PAV Member assignments of interest, deeds, bills of sale, instruments of conveyance and other instruments as the PAV Member may reasonably require to give the PAV Member title to the Sale Subject Matter, the applicable Subsidiary or Subsidiaries that own the Sale Subject Matter, or the Majority Member’s Interest (as applicable).

(e) If the PAV Member fails to provide a deposit prior to the expiration of the Sale Deposit Period or the closing of the sale of the Sale Subject Matter fails to occur prior to the Sale Closing Deadline (through no fault of the Majority Member (in its capacity as a Member or Manager hereunder)), the PAV Member shall forfeit any rights to make a Sale Offer in connection with a future Asset Sale or Drag-Along Sale under this Section 4.9, the Majority Member shall be entitled to retain the deposit as liquidated damages and the Manager shall thereafter be free, at any time and from time to time, to cause an Asset Sale or Drag-Along Sale of any Sale Subject Matter in an arms-length transaction with a third-party at such price as the Manager determines to be satisfactory without compliance with the provisions of this Section 4.9. The parties acknowledge that it would be impractical and extremely difficult to estimate the
damages which the Majority Member may suffer in connection with a default by the PAV Member under this Section 4.9. Therefore, the parties have agreed that a reasonable estimate of the total net detriment that the Majority Member would suffer in such event is and shall be the right of the Majority Member to receive the Sale Purchase Price deposit as liquidated damages, as its sole and exclusive remedy under this Section 4.9. Such liquidated damages are not intended as a forfeiture or penalty within the meaning of applicable law.

(f) The Members shall cooperate and act in good faith in connection with any Asset Sale or Drag-Along Sale that is to be effectuated in accordance with the provisions of this Section 4.9 and shall otherwise reasonably assist the Manager in connection therewith. Without limiting the generality of the foregoing, each Member shall (i) promptly furnish the Manager with and/or provide all books, records and other information in such Member’s (or any of its Affiliates’) possession or control with respect to the Company (including leases, financial statements, operating statements, budgets, then existing third party reports, each in electronic form), and (ii) execute any document or instrument reasonably requested by the Manager to effectuate any such Asset Sale or Drag-Along Sale, provided that such document or instrument does not materially alter the rights or responsibilities of such Member or its Affiliates hereunder or create any new actual or contingent liability of such Member or its Affiliates.

ARTICLE V

Capital Contributions

Section 5.1. Initial Capital Contributions. As of the date hereof, the Members have made or are deemed to have made the Capital Contributions set forth on Schedule 3.1 hereto, which amounts represent the funds necessary to cause each Member to have funded its Percentage Interest (as of the date hereof) of the sum of all pursuit costs and closing costs required in connection with the acquisition of the Initial Properties.

Section 5.2. Subsequent Fundings. (a) Each of the Members hereby acknowledges and agrees that the Earn-Out Distributions shall, to the extent required, be distributed (and, pursuant to Section 6.8(e), be deemed to have been distributed) to the PAV Member in accordance with the provisions of Section 6.8. To accomplish the foregoing, the Manager shall require that the Members make further Capital Contributions pursuant to this Section 5.2(a) in such amounts as necessary to allow the Company to distribute the entire amount of such Earn-Out Distributions (taking into account the provisions of Section 6.8(e)) required pursuant to Section 6.8 (if any). If Earn-Out Distributions are required to be made by the Company pursuant to Section 6.8, then, within ten (10) days after written notice from the Manager, (i) the Majority Member shall make a further Capital Contribution in an amount equal to seventy-five percent (75%) of such Earn-Out Distribution and (ii) as of the date that the Majority Member actually funds the foregoing amount, the PAV Member shall be deemed to have made a further Capital Contribution in an amount equal to twenty-five percent (25%) of such Earn-Out Distribution, which Capital Contributions shall be distributed (or, in the case of the PAV Member’s deemed Capital Contribution, deemed to have been distributed) in accordance with Section 6.8.
(b) Upon the closing of the acquisition of any Investment Opportunity in accordance with the terms hereof, (i) as set forth in Section 10.1(d), each Member will receive credit for having made a Capital Contribution in the amount of all Outstanding Pursuit Costs funded by such Member prior to the date of such closing, and (ii) each Member shall make additional Capital Contributions (or, if applicable, receive a portion of the other Member’s Capital Contributions as a special Distribution) in the amounts necessary so that upon the consummation of the acquisition of such Investment Opportunity, each Member shall have funded its Contribution Percentage of the sum of all Outstanding Pursuit Costs and additional closing costs required in connection with the acquisition of such Investment Opportunity.

(c) In the event it is determined by the Manager that funds are required other than in connection with the purposes set forth in Sections 5.2(a) and 5.2(b), but rather (i) to pay for fees, costs or expenses payable by the Company pursuant to this Agreement or (ii) otherwise to meet the Company’s then existing obligations, then within ten (10) days after written notice from the Manager, each of the Members shall make further Capital Contributions pro rata in accordance with their respective Contribution Percentages.

(d) No Member shall be required to make a Capital Contribution except as provided in this Agreement.

(e) If any Member shall fail to timely make a Capital Contribution called pursuant to Section 5.2 (such Member is hereinafter referred to as a “Non-Contributing Member” and the amount the Non-Contributing Member failed to fund is referred to as an “Unfunded Amount”) and such failure is not cured within ten (10) days after the due date for such Capital Contribution, then any other Member (a “Contributing Member”) may fund all or any part of the Unfunded Amount. The Contributing Member shall elect at the time of such funding whether to apply the remedy of making a member loan under Section 5.3 or diluting the Non-Contributing Member’s Interest under Section 5.4. Such remedies shall constitute the sole and exclusive remedies available with respect to a Non-Contributing Member’s failure to fund a Capital Contribution. The Contributing Member’s failure to specify its election automatically shall be deemed an election to make a member loan under Section 5.3.

Section 5.3. Member Loans for Failure to Fund Capital Contributions. To the extent the Contributing Member elects (or is deemed to have elected) pursuant to Section 5.2(e) to make a member loan under this Section 5.3, any amounts funded by a Contributing Member on behalf of a Non-Contributing Member shall be treated as (i) a non-recourse demand loan (except to the extent of the Non-Contributing Member’s Interest) made by the Contributing Member to the Non-Contributing Member (bearing interest at a rate of eighteen percent (18%) per annum with interest compounding quarterly), followed by (ii) a Capital Contribution by such Non-Contributing Member to the Company. Any such non-recourse loan shall be repaid directly by the Company on behalf of the Non-Contributing Member to the Contributing Member only from Distributions otherwise distributable to the Non-Contributing Member, and shall have priority over any other amounts to be distributed to the Non-Contributing Member. Amounts paid directly by the Company to the Contributing Member on account of the loan shall be deemed Distributions to the Non-Contributing Member and a corresponding loan payment by the Non-Contributing Member to
the Contributing Member. Any Distributions used to repay such loan shall be applied first to the interest on and then to principal of such loan.

Section 5.4. **Dilution for Failure to Fund Capital Contributions.** (a) To the extent the Contributing Member elects (or is deemed to have elected) pursuant to Section 5.2(e) to dilute the Non-Contributing Member’s Interest under this Section 5.4, then the Non-Contributing Member’s Percentage Interest and, if the Non-Contributing Member is the PAV Member, each of the Promote Percentages, shall be adjusted pursuant to Section 5.4(b) below as of the day on which the Contributing Member contributes such funds. In such an event, the contribution of such funds shall be treated as a Capital Contribution to the Company by the Contributing Member.

(b) After calculation of the Percentage Interests based on the actual Capital Contributions (without including the Unfunded Amount but taking into account any prior dilution of the Percentage Interests pursuant to this Section 5.4(b)), the Percentage Interest of the Non-Contributing Member shall be reduced (but not below zero) by an amount equal to the product of (i) one and eight tenths (1.8) multiplied by (ii) a fraction expressed as a percentage, (A) the numerator of which is the Unfunded Amount and (B) the denominator of which is the aggregate of the Capital Contributions made or to be made by the Members up to and including such time, including the Unfunded Amount. In addition, if the Non-Contributing Member is the PAV Member, each of the Promote Percentages shall be reduced so that the ratio of each such Promote Percentage before and after reduction is the same as the ratio of the Percentage Interest of the PAV Member before and after reduction. The Percentage Interest of the Contributing Member shall be increased by the amount of the reduction in the Percentage Interest of the Non-Contributing Member. In the event of an adjustment of the Percentage Interests as a result of the operation of the dilution provisions of the first sentence of this Section 5.4(b), the Capital Accounts of the Members shall be readjusted such that the sum of the Capital Account balances of the Members at such time is allocated amongst the Members in proportion to the Distributions each Member would receive if an amount of Available Cash equal to such sum (allocated between Initial Property Capital Proceeds and Other Available Cash as reasonably determined by the Manager) were distributed to the Members at such time in accordance with Section 6.4.

Section 5.5. **Priority and Return of Capital.** No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution except as provided herein; provided, however, that this Section 5.5 shall not apply to any loan, guaranty, endorsement, collateral or other indebtedness (as distinguished from a Capital Contribution) given, made or incurred by a Member to the Company or any creditor of the Company or to any indebtedness of the Company to a Member in connection with any business transaction.

Section 5.6. **Withdrawal or Reduction of Capital Contributions.** Except as otherwise expressly provided in this Agreement, no Member shall be entitled to demand or receive the return of its Capital Contribution.

Section 5.7. **Capital Accounts.** A Capital Account shall be maintained for each Member. Said Capital Account shall be kept in accordance with the provisions of Section 1.704-1(b)(2)(iv) of the Regulations. Without limiting the foregoing, each Member’s Capital Account
shall be (a) increased by the net fair market value of each Capital Contribution made by such Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to Section 6.2, and (b) decreased by the net agreed value of each Distribution made to such Member by the Company, allocations to such Member of Net Losses and other allocations to such Member pursuant to Section 6.2. The Manager shall restate Capital Accounts upon any event for which such restatement is permitted pursuant to the Regulations promulgated under Code Section 704(b), unless otherwise determined by the Manager with the consent of the PAV Member, which consent will not be unreasonably withheld, except with respect to any event occurring pursuant to Section 5.4(b) hereof.

Section 5.8. Transfers. Upon a permitted sale or other Transfer of an Interest, the Capital Account of the Member transferring its Interest shall become the Capital Account of the Person to whom such Interest is sold or transferred in accordance with Section 1.704-1(b)(2)(iv) of the Regulations.

Section 5.9. Deficit Capital Account. No Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account, except as otherwise provided in this Agreement.

Section 5.10. Modifications. The manner in which Capital Accounts are to be maintained pursuant to this Agreement is intended to comply with the requirements of Section 704(b) of the Code. If the Manager reasonably determines in writing that the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

ARTICLE VI

Allocations; Distributions

Section 6.1. Allocations of Net Profits and Net Losses. For purposes of maintaining the Capital Accounts of the Company, Net Profits or Net Losses for any tax year (or portion thereof) shall be allocated among the Members, to the extent possible, in such a manner as to cause the balance in the Capital Account of each Member, as adjusted to reflect the allocations provided hereunder and the allocations under Section 6.2, to be equal to the aggregate amount of cash such Member would receive if the Company were liquidated and each of the Company Assets were sold for an amount of cash equal to its respective Book Basis, all debt obligations were satisfied in accordance with their respective terms (limited with respect to each Company Nonrecourse Debt or Member Nonrecourse Debt to the Book Basis of the asset(s) securing such debt) and the remaining cash were distributed as provided in Section 6.4.

Section 6.2. Required Special Allocations. Notwithstanding Section 6.1 hereof:

(a) Any Member Nonrecourse Deductions shall be specially allocated to the Member(s) that bear(s) the economic risk of loss with respect to the Member Nonrecourse Debt
to which the Member Nonrecourse Deductions are attributable in accordance with Section 1.704-2(i)(1) of the Regulations.

(b) Appropriate allocations of income, gain, loss or deduction shall be made to the extent required to comply with the “qualified income offset” provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations, the Company “minimum gain chargeback” provisions of Section 1.704-2(f) of the Regulations, and the Member “minimum gain chargeback” provisions of Section 1.704-2(i)(4) of the Regulations, all issued pursuant to Section 704(b) of the Code. To the extent permitted by such Regulations, the allocations in such year and subsequent years shall be further adjusted so that the cumulative effect of all the allocations shall be the same as if all such allocations were made pursuant to Section 6.1 hereof without regard to Section 6.2(a) and this Section 6.2(b).

(c) In the event any Member has a deficit Capital Account balance at the end of a Fiscal Year that is in excess of the sum of (i) the amount (if any) such Member is obligated to restore pursuant to the Agreement, and (ii) the amount (if any) such member is deemed to be obligated to restore pursuant to the Regulations, taking into account all other allocations and adjustments under this Agreement (made as if this Section 6.2(c) were not in this Agreement), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible.

(d) Any Company Nonrecourse Deductions for a Fiscal Year shall be specially allocated to the Members in accordance with their Percentage Interests. Solely for purposes of determining a Member’s proportionate share of any excess nonrecourse liability of the Company, as described in Section 1.752-3(a)(3) of the Regulations, the Members’ interests in Company profits shall be deemed to equal their respective Percentage Interests (or such other percentages as the Manager shall determine).

(e) In accordance with Code § 704(c) (and the principles thereof) and the Regulations issued with respect thereto, income, gain, loss and deduction with respect to any property contributed to the capital of the Company, or after Company Assets has been revalued under Section 1.704-1(b)(2)(iv) of the Regulations, shall, solely for tax purposes, be allocated among the Members so as to take into account any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Basis using any reasonable method permitted under the Regulations that is selected by the Manager. Allocations pursuant to this Section 6.2(e) are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member’s Capital Account or share of Net Profit, Net Loss, other items, or distributions pursuant to any provision of this Agreement.

(f) Net Profits, Net Losses, income, gain, deductions and credits allocated to a Company interest transferred, issued, or reissued during a Fiscal Year shall be allocated to the Persons who were the holders of such Company interest during such Fiscal Year, using any method reasonably selected by the Manager to the extent permitted by the Code.

(g) In the event that Net Profits, Net Losses, income, gain, or deductions are allocated to one or more Persons pursuant to Sections 6.2(a), (b), (c), or (d), subsequent Net
Profits, Net Losses, income, gain, or deductions will first be allocated (subject to the other provisions of this Section 6.2) to the Members in a manner designed to result in each such Member having a Capital Account balance equal to what it would have been had the original allocation of Net Profits, Net Losses, income, gain, or deductions pursuant to Sections 6.2(a), (b), (c), or (d) not occurred.

Section 6.3. Distributions. The Manager may from time to time make Distributions at such times and in such amounts as it shall reasonably determine, which amounts shall be distributed in accordance with Section 6.4. At such times as the Manager makes Distributions, it shall provide the Members with a statement setting forth in reasonable detail the manner in which the Distributions were calculated and determined. Notwithstanding any provisions to the contrary in this Agreement, the Company shall not make a Distribution if such Distribution would violate the LLC Act or any provision of applicable law.

Section 6.4. Priority of Distributions. (a) Subject to Sections 5.2(a), 5.3, 6.4(d), 6.4(e), 6.4(f), 6.5, 6.8 and 8.3, any Distributions of Other Available Cash and (to the extent provided in Sections 6.4(b) and/or 6.4(c)) Initial Property Cash Flow and Initial Property Capital Proceeds shall be applied and Distributed to each of the Members as follows:

(i) First, all such Available Cash shall be distributed one hundred percent (100%) to the Members pro rata in accordance with Percentage Interests until an IRR of twelve percent (12%) has been achieved;

(ii) Second, any remaining Available Cash (after the distribution of Available Cash described in clause (i) above) shall be distributed (x) the Promote First Tier Percentage to the PAV Member and (y) the remainder to the Members in the ratio of their respective Percentage Interests until an IRR of seventeen percent (17%) has been achieved;

(iii) Third, any remaining Available Cash (after the distribution of Available Cash described in clauses (i) and (ii) above) shall be distributed (x) the Promote Second Tier Percentage to the PAV Member and (y) the remainder to the Members in the ratio of their respective Percentage Interests until both (A) an IRR of twenty-two percent (22%) has been achieved and (B) the Majority Member has received aggregate Distributions under this Agreement in excess of one hundred seventy-five percent (175%) of the aggregate Capital Contributions made by the Majority Member; and

(iv) Thereafter, any remaining Available Cash (after the distribution of Available Cash described in clauses (i), (ii) and (iii) above) shall be distributed (x) the Promote Third Tier Percentage to the PAV Member and (y) the remainder to the Members in the ratio of their respective Percentage Interests.

(b) Subject to Sections 5.2(a), 5.3, 6.4(d), 6.4(e), 6.4(f), 6.5, 6.8 and 8.3, any Distributions of Initial Property Cash Flow shall be applied and Distributed to each of the Members as follows:

(i) First, all Initial Property Cash Flow shall be distributed to the Members in accordance with Section 6.4(a) until an IRR of fifteen percent (15%) has been
achieved with respect to all Distributions and all Capital Contributions with respect to the Initial Properties only;

(ii) Second, any remaining Initial Property Cash Flow (after the distribution of Initial Property Cash Flow described in clause (i) above) shall be distributed (x) seventy-three and one third percent (73.33%) to the PAV Member and (y) the remainder to the Members in accordance with Section 6.4(a), until the PAV Member has received a total of Three Million Dollars ($3,000,000.00) in Distributions pursuant to this Section 6.4(b)(ii)(x) and Section 6.4(c)(iii); and

(iii) Thereafter, any remaining Initial Property Cash Flow (after the distribution of Initial Property Cash Flow described in clauses (i) and (ii) above) shall be distributed in accordance with Section 6.4(a).

Any Distributions made to the PAV Member pursuant to Section 6.4(b)(ii)(x) shall, for income tax purposes, be treated as additional consideration for a deemed sale for the acquisition of the Initial Properties pursuant to the Acquisition Agreements.

(c) Subject to Sections 5.2(a), 5.3, 6.4(d), 6.4(e), 6.4(f), 6.5, 6.8 and 8.3, any Distributions of Initial Property Capital Proceeds shall be applied and Distributed to each of the Members as follows:

(i) First, all Initial Property Capital Proceeds shall be distributed one hundred percent (100%) to the Majority Member until the Majority Member has received a Member IRR of fifteen percent (15%) solely with respect to Distributions and Capital Contributions attributable to the Initial Properties;

(ii) Second, any remaining Initial Property Capital Proceeds (after the distribution of Initial Property Capital Proceeds described in clause (i) above) shall be distributed one hundred percent (100%) to the PAV Member until the PAV Member has received a Member IRR of fifteen percent (15%) solely with respect to Distributions and Capital Contributions attributable to the Initial Properties;

(iii) Third, any remaining Initial Property Capital Proceeds (after the distribution of Initial Property Capital Proceeds described in clauses (i) and (ii) above) shall be distributed one hundred percent (100%) to the PAV Member until the PAV Member has received a total of Three Million Dollars ($3,000,000.00) in Distributions pursuant to Section 6.4(b)(ii)(x) and this Section 6.4(c)(iii); and

(iv) Thereafter, any remaining Initial Property Capital Proceeds (after the distribution of Initial Property Capital Proceeds described in clauses (i), (ii) and (iii) above) shall be distributed in accordance with Section 6.4(a).

Any Distributions made to the PAV Member pursuant to Section 6.4(c)(iii) shall, for income tax purposes, be treated as additional consideration for a deemed sale for the acquisition of the Initial Properties pursuant to the Acquisition Agreements.
(d) Notwithstanding the foregoing, but subject to Section 6.4(e), upon the occurrence of an Administrator Default, Promote Distributions that would otherwise be made to the PAV Member pursuant to Section 6.4(a) shall be reduced (but not below zero) by the Promote Adjustment Amount (if any) that exists immediately prior to such Distribution, and the amount of such reduction shall be added to Initial Property Cash Flow, Initial Property Capital Proceeds or Other Available Cash (as applicable) for subsequent distribution in accordance with this Agreement.

(e) Upon the removal of the Administrator as a result of a Material Administrator Default, notwithstanding Sections 6.4(a) and 6.4(d), all Distributions that would otherwise be made pursuant to Section 6.4(a)(i)-(iv) shall be made to the Members in the ratio of their respective Percentage Interests; provided, however, that the Distributions under Sections 6.4(b) and 6.4(c) shall continue to be paid in the manner set forth in Section 6.4(b) or 6.4(c), as applicable.

(f) Notwithstanding anything to the contrary in this Agreement, if, at any point in time, the total of all Distributions since the formation of the Company have not, on an aggregate basis, been made in the order of the priorities set forth in this Section 6.4 (after taking into account Sections 6.4(d) and 6.4(e), if applicable, solely with respect to Distributions made after the removal of the Administrator and not retroactively), then (i) each of the Members, as applicable, shall, on demand, return to the Company prior Distributions made to such Member that are in excess of the Distributions that such Member would have received (as of such point in time) if the total of all Distributions since the formation of the Company were, on an aggregate basis, made in the order of the priorities set forth in this Section 6.4 (after taking into account Sections 6.4(d) and 6.4(e), if applicable, solely with respect to Distributions made after the removal of the Administrator and not retroactively), and (ii) the amount so returned shall be Distributed to the other Member.

Section 6.5. **Offset.** (a) A Member may cause the Company to offset against any Distribution (including any Earn-Out Distribution) to be made to a Member (the “**Offset Member**”) all amounts owing to the Company, any Subsidiary or another Member by such Offset Member or its Affiliate (including with respect to amounts owed to any Member (or an Affiliate thereof), including as a result of the breach by the Offset Member or its Affiliate of any of the representations, warranties or covenants made by such Offset Member or its Affiliate hereunder or under the Acquisition Agreements).

(b) The Manager may cause any applicable Subsidiary to offset against any management fee or any other amounts (that are not reimbursements for expenses) due and payable to a Property Manager under a Property Management Agreement all amounts owing to the Majority Member, its Affiliates, the Subsidiaries or the Company by the PAV Member pursuant to the indemnification obligation set forth in Section 4.8(b)(i).

Section 6.6. **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on its Capital Contribution or to a return of his Capital Contribution, except as specifically set forth in this Agreement.
Section 6.7. **Withholding.** Notwithstanding any other provision contained in this Agreement, in the event that the Company is required to pay or remit any tax (including estimated tax and withholdings) to the Internal Revenue Service or any other taxing authority with respect to any Member (the “Withheld Member”), then each such Withheld Member shall be required to make additional Capital Contributions at such times and in such amounts as determined by the Manager sufficient to fund, or reimburse the Company for, such obligations of the Company. Such capital contributions shall not be deemed Capital Contributions for purposes of this Agreement (but shall increase the Capital Account balance of such Member), and shall not change the Distributions that would otherwise be made to such Withheld Member. The amount of any such taxes remitted by the Company with respect to a Withheld Member for any year shall be a reduction of such Member’s Capital Account balance as if such amount were distributed to such Member but, provided that such Member has made the contribution required by the previous sentence, shall not reduce the actual cash Distribution to be made to such Member pursuant to this Agreement. Notwithstanding the previous sentence, the Manager may offset any Distribution to be made to a Member against any contribution required to be made by such Member and thereby reduce the contribution required to be made by such Member.

Section 6.8. **Earn-Out Distributions.** (a) Within ninety (90) days after the end of the First Earn-Out Period and the Second Earn-Out Period, an independent accountant reasonably selected by the Manager shall calculate (in a manner consistent with GAAP) the net operating income of the Initial Properties for each such period, taking into account any capital reserves with respect thereto.

(b) Within ten (10) Business Days after the later of (x) the determination of the net operating income for the Initial Properties for the First Earn-Out Period (“First NOI”) or (y) the first anniversary of the date hereof, the Company shall make a Distribution to the PAV Member in the applicable amount below (but taking into account the provisions of Section 6.8(e)), which amount shall for all purposes be deemed additional purchase price payable by the Company in respect of the Initial Properties (the “First Earn-Out Distribution”):

(i) If First NOI is less than or equal to Six Million Seven Hundred Thousand and No/100 Dollars ($6,700,000.00) (“Base NOI”), the First Earn-Out Distribution shall be Zero and No/100 Dollars ($0.00);

(ii) If First NOI is greater than Base NOI but less than Six Million Nine Hundred Thousand and No/100 Dollars ($6,900,000.00), the First Earn-Out Distribution shall be the product of (x) Four Million One Hundred Thousand and No/100 Dollars ($4,100,000.00), multiplied by (y) a fraction, the numerator of which is the difference of First NOI minus Base NOI, and the denominator of which is Two Hundred Thousand and No/100 Dollars ($200,000.00); and

(iii) If First NOI is greater than or equal to Six Million Nine Hundred Thousand and No/100 Dollars ($6,900,000.00), the First Earn-Out Distribution shall be Four Million One Hundred Thousand and No/100 Dollars ($4,100,000.00).
(c) Within ten (10) Business Days after the later of (x) the
determination of the net operating income for the Initial Properties for the Second Earn-Out
Period (“Second NOI”) or (y) the second anniversary of the date hereof, the Company shall make
a Distribution to the PAV Member in the applicable amount below (but taking into account the
provisions of Section 6.8(e)), which amount shall for all purposes be deemed additional purchase
price payable by the Company in respect of the Initial Properties (the “Second Earn-Out
Distribution”):

(i) If Second NOI is less than or equal to Base NOI, the
Second Earn-Out Distribution shall be Zero and No/100 Dollars ($0.00);

(ii) If Second NOI is greater than Base NOI but less than Seven
Million Four Hundred Thousand and No/100 Dollars ($7,400,000.00), the Second Earn-Out
Distribution shall be the positive difference of (A) the product of (x) Eight Million Six Hundred
Thousand and No/100 Dollars ($8,600,000.00), multiplied by (y) a fraction, the numerator of
which is the difference of Second NOI minus Base NOI, and the denominator of which is Seven
Hundred Thousand and No/100 Dollars ($700,000.00), minus (B) the amount of the First Earn-
Out Distribution; and

(iii) If Second NOI is greater than or equal to Seven Million
Four Hundred Thousand and No/100 Dollars ($7,400,000.00), the Second Earn-Out Distribution
shall be the positive difference of (A) Eight Million Six Hundred Thousand and No/100 Dollars
($8,600,000.00), minus (B) the First Earn-Out Distribution.

(d) Any Distributions made pursuant to this Section 6.8 shall, for
income tax purposes, be treated as additional consideration for a deemed sale for the acquisition
of the Initial Properties pursuant to the Acquisition Agreements.

(e) Notwithstanding anything herein to the contrary (including
Sections 5.2(a), 6.8(b) and 6.8(c) above), each of the Members hereby acknowledges and agrees
that solely to the extent that the PAV Member is required to make a Capital Contribution
pursuant to Section 5.2(a) to fund a portion of the First Earn-Out Distribution or Second Earn-
Out Distribution, the PAV Member shall not be required to actually fund such amount, but shall
be deemed to make such Capital Contribution pursuant to Section 5.2(a) and shall be deemed to
have received (in lieu of the Company actually making such distribution pursuant to this Section
6.8) such portion of such Earn-Out Distribution pursuant to the foregoing provisions of Section
6.8 upon receipt of the remainder of such Earn-Out Distribution.

ARTICLE VII
Taxes; Books and Records; Information

Section 7.1. Tax Returns. The Administrator shall cause to be prepared and
filed all necessary federal, state and local income tax returns for the Company. Each Member
shall furnish to the Administrator all pertinent information in its possession relating to Company
operations that is necessary to enable the Company’s income tax returns to be prepared and filed.
The Manager shall provide commercially reasonable cooperation with all requests from the
Administrator in connection with the Administrator’s role in preparing and filing such tax returns.

Section 7.2. **Tax Elections.** The Company tax returns shall include such elections, and shall otherwise be completed, as the Manager shall reasonably determine; provided, however, at the request of any Member, the Manager shall cause the Company to make the election described under Section 754 of the Code. Neither the Company nor any Member may make an election for the Company or any Subsidiary to be taxed as a corporation under the Code or any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

Section 7.3. **Tax Matters Partners.** The Manager shall designate a Member to be the “tax matters partner” of the Company pursuant to Section 6231(a)(7) of the Code, and such Member so designated is hereby authorized and required to represent the Company (at the expense of the Company) in connection with all examinations of the affairs of the Company by tax authorities. The Majority Member is hereby designated as the initial “tax matters partner.” The Manager and the tax matters partner shall (i) timely apprise the PAV Member of the existence of any tax administrative proceeding to which the Company is a party, (ii) arrange for the PAV Member to be a “notice partner” under Section 6231(a)(8) of the Code and (iii) send to the PAV Member in a timely manner full, complete, and accurate copies of any material correspondence or other documentation received by the tax matters partner or the Manager from the Internal Revenue Service or any other tax authority with respect to the Company. Without the prior written consent of the PAV Member, neither the Manager nor the tax matters partner shall (I) enter into any binding settlement with the Internal Revenue Service or any other tax authority with respect to the Company, (II) agree to the extension of any statute of limitations, or (III) file a substituted tax return or request for an administrative adjustment.

Section 7.4. **General Accounting Matters.** On behalf of the Company, the Administrator shall keep or cause to be kept books and records pertaining to the Company’s business showing all of its assets and liabilities, receipts and disbursements and all transactions entered into by the Company or any Subsidiary. Such books and records, and all supporting data, of the Company shall be kept at the office of the Company and the Members and their representatives shall at all reasonable times have free access thereto for the purpose of inspecting or copying the same. The Company’s books of account shall be kept on an accrual basis or as otherwise determined by the Manager and otherwise in accordance with generally accepted accounting principles, except that for income tax purposes such books shall be kept in accordance with applicable tax accounting principles. The Manager may, upon reasonable prior notice to the Administrator, require that the Administrator engage an outside auditor to perform an audit of the Company at the Company’s expense.

Section 7.5. **Information.** (a) A Member may inspect during ordinary business hours and at the principal place of business of the Company the Certificate, this Agreement, any tax returns of the Company for the immediately preceding three Fiscal Years, and all other business records in the possession of the Company; provided that such inspection does not unreasonably interfere with the day-to-day operations of the Company and is for a purpose reasonably related to the Member’s Interest. Such inspection by a Member may be made in
person or by agent or attorney, and the right of inspection includes the right to copy and make
extracts or to require the Company to make copies at the Member’s expense.

(b) The Administrator:

(i) shall provide each Member with monthly (and if so requested by a
Member at any other such reasonable time) written updates including bank statements
and financial statements of the Company and the status of the Company Assets;

(ii) shall provide each Member with quarterly financial statements of
the Company no later than thirty (30) days after the last day of each fiscal quarter
(including a balance sheet and income statements for the year to date each prepared in
accordance with GAAP);

(iii) shall provide each Member with year-end financial statements of
the Company no later than sixty (60) days after the last day of each Fiscal Year
(including a balance sheet and income statements for the year to date each prepared in
accordance with GAAP), provided the Administrator shall have an additional fifteen (15)
days to complete such statements if the Administrator is diligently preparing the same;

(iv) shall no later than thirty (30) days after the end of each fiscal
quarter, provide each Member with the amount in each Member’s Capital Account as of
the last day of each fiscal quarter;

(v) shall provide each Member with timely updates as to any
construction, renovation and/or leasing projects related to the Company or any
Subsidiary;

(vi) shall provide each Member with notice promptly upon becoming
aware of any fact that could result in a deviation in excess of (A) ten percent (10%) with
respect to any one or more individual line items in a Property Budget provided, however,
that notwithstanding the foregoing, no such notice shall be required if the line item
exceeded is in an amount less than Fifty Thousand Dollars ($50,000) or (B) five percent
(5%) with respect to an overall Property Budget;

(vii) shall use commercially reasonable efforts to transmit to each
Member as soon as practicable following each Fiscal Year, but in any event within (i)
seventy-five (75) days after the close of each Fiscal Year, a computation of the
distributions to such Member and the allocation to such Member of the profits or losses,
as the case may be, during such prior Fiscal Year and (ii) seventy (70) days after the close
of each Fiscal Year, a Schedule K-1, each as shall be necessary for the preparation by
such Member of a federal, state and local income tax return for the prior Fiscal Year,
together with a true and complete copy of each federal, state and local tax return of the
Company; and

(viii) shall provide each Member with any other information the
Manager shall from time to time reasonably request, including any information required
by any mortgage lender with respect to any of the Company Assets.
Section 7.6. **Bank Accounts.** All receipts, funds and income of the Company shall be deposited in the name of the Company in such banks or other financial institutions as are determined or approved by the Manager. Withdrawals from said banks or other financial institutions shall be made on signatures of such person or persons as shall be authorized by the Manager.

Section 7.7. **Accounting Period.** The accounting period of the Company shall be the Fiscal Year.

ARTICLE VIII

**Dissolution**

Section 8.1. **Dissolution.** The Company shall be dissolved and subsequently terminated upon the occurrence of the first of the following events:

(a) unanimous written agreement of the Members to dissolve and subsequently terminate the Company;

(b) any other event that terminates the continued membership of any Member, but only if all of the remaining Members agree in writing to dissolve the Company;

(c) the entry of a decree of judicial dissolution under the LLC Act;

(d) the occurrence of any other event of dissolution under the provisions of this Agreement or, subject to the provisions of this Agreement to the contrary, the LLC Act; and

(e) if all or substantially all of the Company Assets are sold or otherwise disposed of and the proceeds thereof distributed.

Section 8.2. **Winding-up.** When the Company is dissolved, the business and property of the Company shall be wound up and liquidated by the Liquidator. The Liquidator shall use its best efforts to reduce to cash and cash equivalent items such Company Assets as the Liquidator shall deem it advisable to sell, subject to obtaining fair value for such assets and any tax or other legal considerations.

Section 8.3. **Final Distribution.** Upon winding up of the Company, the assets of the Company shall be distributed in the following manner and order:

(a) to the payment of the expenses of the winding-up, liquidation and dissolution of the Company;

(b) to pay all creditors of the Company, other than Members, either by the payment thereof or the making of reasonable provision therefor;

(c) to the setting up of any reserves which the Liquidator may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company as provided in Section 18-804(b) of the LLC Act and, subject to such Section 18-804(b), at the
expiration of such period as the aforesaid person or persons may deem advisable, for distribution in the manner hereinafter provided; and

(d) to pay, in accordance with the provisions of this Agreement applicable to such loans or in accordance with the terms agreed among them and otherwise on a pro rata basis, all creditors of the Company that are Members, either by the payment thereof or the making of reasonable provision therefor.

The remaining assets of the Company shall be applied and distributed to the Members in accordance with Section 6.4 (allocated between Initial Property Capital Proceeds and Other Available Cash as reasonably determined by the Manager).

Section 8.4. Termination. The Company shall terminate when all of the assets of the Company have been distributed in the manner provided for in this Article VIII, and the existence of the Company shall have been terminated in the manner required by the LLC Act. The Liquidator (or Members if necessary) shall take all other actions as may be necessary to terminate the Company.

Section 8.5. Claims of the Members. Current Members and former Members shall look solely to the Company’s assets for the return of their Capital Contributions, and if the assets of the Company remaining after payment of or due provision for all debts, liabilities and obligations of the Company are insufficient to return such Capital Contributions, the Members and former Members shall have no recourse against the Company or any other Member or former Member.

Section 8.6. Distribution in Kind. (a) Notwithstanding the provisions of this Article VIII which require the liquidation of the assets of the Company, but subject to the order of priorities provided thereunder, if on dissolution of the Company the Liquidator determines that an immediate sale of part or all of the assets of the Company would be impractical or would cause undue loss to the Members, the Liquidator may, with the prior written consent of the Manager, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Company (other than those to Members) and may, with the prior written consent of the Manager, distribute to the Members, in lieu of cash, as tenants in common, undivided interests in such Company Assets as the Liquidator deems not suitable for liquidation, and unless otherwise agreed by unanimous consent of the Members, such tenant in common interests shall be distributed pro rata in accordance with the distribution priorities set forth in Section 6.4 and not on an asset by asset basis.

(b) Subject to the approval of the Manager, any distributions in kind shall be subject to such conditions relating to the disposition and management of such assets as the Liquidator deems reasonable and equitable and to any agreements governing the operating of such assets at such time. The Liquidator shall use the Appraised Value as the fair market value of any property distributed in kind.
ARTICLE IX

Transfer of Members’ Interests

Section 9.1. Restrictions on Transfer of Company Interests. (a) No Member may, directly or indirectly, assign, sell, exchange, transfer, pledge, hypothecate or otherwise dispose of all or any part of its Interest, including any non-economic right provided to a Member, or any direct or indirect interest (whether legal or beneficial) in such Member (any assignment, sale, exchange, transfer, pledge, hypothecation or other disposition of an Interest being herein collectively called a “Transfer”) to any person, except as provided herein or with the consent of all of the Members. Notwithstanding the foregoing, no Member’s consent shall be required with respect to (i) any Permitted Transfer or (ii) Transfers made in accordance with the terms of Sections 4.9, 9.2 or 9.3. Other than as set forth herein, any change in the ultimate beneficial ownership of a Member shall be deemed a Transfer for purposes of this Agreement. In the event of a partial Transfer of an Interest, such Transferee (as defined below) shall, for the purposes of this Article IX, be treated, together with the Member who transferred such Interest to the Transferee, as a single entity, with such transferor Member having the authority to make elections and give notices hereunder on behalf of such transferor Member and Transferee. Any such partial Transferee will be bound by the elections made by such transferor Member.

(b) Upon any direct Transfer of a Member’s Interest in compliance with this Article IX, the Person (the “Transferee”) to whom the Member’s Interest was Transferred shall be admitted as a Member upon the Transferee’s written acceptance and adoption of all of the terms and provisions of this Agreement and delivery to the Manager by the transferring Member and its Transferee of any other documents and instruments, including any legal opinions, reasonably requested by the Manager. For purposes hereof, the term “Majority Member” shall be deemed to include any Transferee of the Majority Member and the term “PAV Member” shall be deemed to include any Transferee of the PAV Member.

(c) Notwithstanding the foregoing, no Transfer or substitution shall be recognized if the Manager reasonably believes that such Transfer or substitution would pose a material risk that the Company will be treated as a “publicly traded partnership” within the meaning of Section 7704 of the Code and the Regulations promulgated thereunder.

Section 9.2. Drag-Along Sale. (a) Subject in all cases to Section 4.9, the Majority Member shall have the right to cause a Drag-Along Sale pursuant to this Section 9.2 at any time from and after the Lockout Date. For the avoidance of doubt, prior to any Drag-Along Sale, the Majority Member must comply with the provisions of Section 4.9 hereof (unless it is not required to do so pursuant to the provisions of Section 4.9 hereof). In the event of a Drag-Along Sale, the PAV Member (i) will consent to and raise no objections against a Drag-Along Sale or the process pursuant to which the Drag-Along Sale was arranged and (ii) if the Drag-Along Sale is structured as a sale of Interests, the PAV Member agrees to sell its Interest on the terms and conditions of the Drag-Along Sale; provided that the terms of the Drag-Along Sale provide that the purchase of the Interest of the PAV Member shall be upon the same terms and conditions as the purchase of the Interest of the Majority Member.
(b) Upon the completion of a Drag-Along Sale, the Members will be entitled to receive all the amounts they would have received if the Company had sold all the Company Assets for the gross valuation implied by the purchase price, paid all the Company’s liabilities (and liabilities secured by the Company Assets) and distributed the resulting net proceeds received in accordance with this Agreement. Each Member will take all reasonably necessary and desirable actions as directed by the Majority Member in connection with the consummation of any Drag-Along Sale, including without limitation, executing the applicable agreements; provided, however, that the representations, warranties and indemnities to be made and/or provided by the PAV Member in connection with any such applicable agreement shall be no greater (proportionally) than those to be made and/or provided by the Majority Member thereunder. Each of the Majority Member and the PAV Member shall bear its respective Percentage Interest of all transactions costs (including any and all brokerage commissions, attorneys’ fees, transfer taxes and loan assumption fees) associated with such Drag-Along Sale if such Drag-Along Sale is actually consummated.

Section 9.3. Notice of Election to Purchase. (a) At any time after the removal of the Administrator as a result of a Material Administrator Default or an Administrator Default, the Manager may deliver to the PAV Member a notice stating that it will exercise its right to purchase the Interest of the PAV Member (such notice, a “Default Purchase Notice”), in which case the provisions of this Section 9.3 will apply.

(b) If a Default Purchase Notice is delivered, the Majority Member (or its designee) will have the right to purchase, and the PAV Member shall be required to sell, the Interest of the PAV Member (the “Specified Interest”) on the following terms.

(i) The purchase price for the Specified Interest shall be an amount equal to the aggregate amount the PAV Member would have been entitled to receive if the Company sold the Company Assets for the Appraised Value, paid all the Company’s liabilities (and liabilities secured by the Company Assets (but not including the amount of any non-recourse liability to the extent it exceeds the fair market value of the asset securing such non-recourse liability)) and distributed the resulting net proceeds received in accordance with this Agreement, less any amounts owed by the PAV Member to the Company, any Subsidiary or the Majority Member.

(ii) If the Manager elects to consummate the purchase, the purchase price for the Specified Interest will be paid to the PAV Member on the closing of the purchase. Simultaneously with the receipt of the purchase price, the PAV Member shall execute and deliver, and the PAV Member hereby irrevocably constitutes and appoints the Manager as the PAV Member’s true and lawful attorney-in-fact to execute and to deliver for and on the PAV Member’s behalf all documents that may be necessary, in the opinion of counsel for the Manager, to Transfer the PAV Member’s entire Interest to the Manager or any Person or Persons the Manager designates; provided, however, the Manager shall provide at least fifteen (15) days advance written notice to the PAV Member of its intention to exercise such appointment together with a description of the documents to be so executed. Closing costs and all other charges (except for payment of transfer and gains taxes, which shall be payable by the PAV Member) involved in closing.
the sale will be divided pro rata (in accordance with their relative Percentage Interests) between the PAV Member on the one hand, and the purchasers on the other hand.

(c) In any sale of the Specified Interest pursuant to this Section 9.3:

(i) The PAV Member shall convey the Specified Interest free and clear of all liens upon payment of the purchase price. If the PAV Member has created or suffered any liens, encumbrances or other adverse interest upon the Specified Interest, the Manager may either (A) bring an action for specific performance to compel the PAV Member to have the liens removed, in which case the closing will be adjourned for that purpose, or (B) deduct an appropriate offset against the purchase price.

(ii) Each Person will bear its own legal fees and expenses for the purchase, except that the PAV Member shall pay for reasonable attorneys’ fees and costs incurred by the Manager in removing liens on the Specified Interest.

(iii) The transfer of the Specified Interest will be evidenced by written instruments and documents in a form reasonably requested by the purchaser of that Specified Interest.

Section 9.4. Other Transfer Provisions. (a) Any purported Transfer by a Member of all or any part of its Interest in violation of this Article IX shall be null and void and of no force or effect.

(b) Except as provided in this Article IX, no Member shall have the right to withdraw from the Company prior to its termination and no additional Member may be admitted to the Company unless approved by all of the Members. In the event that a Member purports to resign as a Member, such Member shall not be entitled to receive any Distributions or fees and shall not otherwise be entitled to receive value for or in respect of its Interest except as otherwise expressly provided herein. Notwithstanding any provision of this Agreement to the contrary, a Member may not Transfer all or any part of its Interest if such Transfer would jeopardize the status of the Company as a partnership for federal income tax purposes, or would violate, or would cause the Company to violate, any applicable law or regulation, including any applicable federal or state securities laws or any document or instrument evidencing indebtedness of the Company secured by the Company Assets.

(c) Concurrently with the admission of any substitute or additional Member, the Members shall forthwith cause any necessary papers to be filed and recorded and notice to be given wherever and to the extent required showing the substitution of a Transferee as a substitute Member in place of the Member Transferring its Interest, or the admission of an additional Member, all at the expense, including payment of any professional and filing fees incurred, of such substituted or additional Member. The admission of any person as a substitute or additional Member shall be conditioned upon such person or entity’s written acceptance and adoption of all the terms and provisions of this Agreement.

(d) If any Interest of a Member is Transferred during any accounting period in compliance with the provisions of this Article IX, each item of income, gain, loss, expense, deduction and credit and all other items attributable to such Interest for such period shall be
divided and allocated between the transferor and the transferee by taking into account their varying Interests during such period in accordance with Section 706(d) of the Code, using any conventions permitted by law and selected by the Manager. All Distributions on or before the date of such Transfer shall be made to the transferor, and all Distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and Distributions, the Company shall recognize a Transfer on the date that the Manager receives notice of the Transfer which complies with this Article IX from the Member Transferring its Interest.

ARTICLE X

Rights and Obligations of the Members

Section 10.1. Investment Opportunities. (a) Each of the PAV Principals, the PAV Member and the Property Manager each hereby agrees, for itself and its Affiliates (collectively, the “PAV Group”), that prior to any member of the PAV Group purchasing or acquiring a direct or indirect interest in any direct or indirect debt, equity or title interest in any Investment Opportunity, the PAV Group shall first offer to the Company the right to purchase or invest in such Investment Opportunity in accordance with this Section 10.1 and on substantially the same terms and conditions offered to the PAV Group. “Investment Opportunity” means any real property asset related to parking located in North America. The Members acknowledge and agree that, subject to the terms of this Agreement, the Company is targeting Investment Opportunities requiring equity contributions in an aggregate amount equal to One Hundred Sixty Million Dollars ($160,000,000). The provisions of this Article X (other than subsection (x) of the last sentence of Section 10.1(f)) shall not apply after the Company has invested One Hundred Sixty Million Dollars ($160,000,000) of equity contributions in Investment Opportunities.

(b) The PAV Member shall promptly notify the Manager in writing of any Investment Opportunity that the PAV Group is considering. This written notice (the “Investment Opportunity Notice”) shall set forth a reasonably detailed description of such Investment Opportunity, including (i) the terms and conditions of the Investment Opportunity (including the purchase price) (ii) a proposed due diligence budget for such Investment Opportunity (including the PAV Group’s good faith estimate of the total acquisition costs thereof) and a proposed annual operating budget for such Investment Opportunity, (iii) the PAV Group’s good faith estimate of projected returns on such Investment Opportunity, (iv) pro forma income statements reflecting the first through third years of net cash flow relating to such Investment Opportunity, (v) the current property rent roll on such Investment Opportunity, (vi) a brief description of the parking related asset (including the year built, the number of spaces and the physical condition of the asset), and (vii) to the extent applicable, the PAV Group’s good faith estimate as to the timing of the commencement and completion of construction of the parking related asset; provided that, other than with respect to the foregoing clause (ii), the PAV Group shall provide the above information only to the extent it is prepared and readily available. Any contracts, agreements and/or other understandings relating to such Investment Opportunity shall be attached to the Investment Opportunity Notice. As soon as the PAV Group begins to collect material information on any such Investment Opportunity, the PAV Group will immediately advise the Manager that it is exploring such Investment Opportunity and will provide all material interim information relating to such Investment Opportunity so that the Manager may begin its preliminary due diligence on such Investment Opportunity.
The Manager shall have ten (10) Business Days from its receipt of any Investment Opportunity Notice (and all information required to be included with such Investment Opportunity Notice) (the “Notification Period”) to notify the PAV Member in writing whether or not it intends to have the Company participate in such Investment Opportunity. If, following the Manager’s timely election to cause the Company to proceed with such Investment Opportunity, the Manager and the PAV Member agree in writing on a due diligence budget for an Investment Opportunity (as approved, the “Due Diligence Budget”), then the Members shall each be responsible for their respective Allocable Shares of any earnest money deposits, due diligence expenses and other reasonable pursuit costs incurred in accordance with such Due Diligence Budget prior to the Opportunity Outside Date (collectively, “Pursuit Costs”), subject to Sections 5.2(b), 10.1(d), 10.1(e) and 10.1(f). If at any time after adoption of a Due Diligence Budget either Member believes it has incurred more than its Allocable Share of the Pursuit Costs incurred in respect of an Investment Opportunity, it may notify the other Member (which notice shall include reasonable documentation of the Pursuit Costs incurred), and within ten (10) Business Days after such notice, the Members shall reimburse each other so that each has borne its Allocable Share of all Pursuit Costs in respect of such Investment Opportunity, subject to Sections 5.2(b), 10.1(d), 10.1(e) and 10.1(f).

(d) Until the closing (if any) of the acquisition of an Investment Opportunity by the Company or a Subsidiary, all Pursuit Costs shall be considered expenses of the Members (rather than expenses of the Company). Accordingly, (i) all amounts incurred in respect of Pursuit Costs, and all amounts paid to another Member as a reimbursement of Pursuit Costs pursuant to Sections 10.1(c) and 10.1(f), shall not be deemed Capital Contributions, and (ii) reimbursements of Pursuit Costs by another Member pursuant to Sections 10.1(c) and 10.1(f) shall not be deemed Distributions. If at any time the Company ceases pursuing an Investment Opportunity in accordance with the terms of this Agreement (such Investment Opportunity, a “Dead Deal”), then, except as otherwise provided in Section 10.1(f), upon notice from the Manager that such Investment Opportunity is a Dead Deal, the Members shall promptly reimburse each other and the Company so that all Pursuit Costs incurred by the Members for such Dead Deal have been borne by the Members in accordance with their respective Allocable Shares (after taking into account all payments, refunds and reimbursements among them). Notwithstanding the foregoing, upon the closing of the acquisition of any Investment Opportunity in accordance with this Agreement, in calculating the amount of Capital Contributions required from each Member pursuant to Section 5.2(b) at the closing of such Investment Opportunity, each Member shall be given credit for (x) any Pursuit Costs funded by such Member in respect of such Investment Opportunity and (y) any Pursuit Costs funded by such Member in connection with any Dead Deal(s) to the extent such Pursuit Costs were not previously credited toward the closing of another Investment Opportunity (collectively, “Outstanding Pursuit Costs”), and, following such calculation, the provisions of Section 5.2(b) shall apply.

(e) If the Manager and the PAV Member agree in writing to cause the Company or a Subsidiary to consummate the acquisition of an Investment Opportunity, then (i) the provisions of Section 5.2(b) shall apply (provided, however, that a Property Budget shall be adopted for such Investment Opportunity (subject to the written approval of the Manager and the PAV Member) prior to the time the Company (or a Subsidiary thereof) acquires such Investment Opportunity in accordance with the terms hereof) and (ii) to the extent contemplated
by the terms of such Investment Opportunity, simultaneously with such closing, the applicable parties shall enter into a Property Management Agreement covering such Investment Opportunity. Each of the Members acknowledges and agrees that (x) none of the Company or any Subsidiary shall acquire any Investment Opportunity unless each of the Manager and the PAV Member so agrees in writing, and (y) nothing in this Agreement shall obligate a Member, the Company or any Subsidiary to acquire any direct or indirect interest in any Investment Opportunity.

(f) After any applicable Opportunity Outside Date, any member or Affiliate of PAV Group may, subject to the last sentence of this Section 10.1(f), acquire any direct or indirect interest in an Investment Opportunity for its own account and other than through the Company and upon the earlier of (i) the closing of such acquisition or (ii) the execution of a joint venture agreement between any member of the PAV Group and a third party investor for purposes of acquiring such Investment Opportunity, the PAV Member shall reimburse the Majority Member for all Pursuit Costs incurred by the Majority Member (after taking into account all previous reimbursements between them and provided that the Manager has provided (or made available) to the PAV Member all third-party materials and reports requested by the PAV Member in writing to the Manager and related to such Pursuit Costs) and the Majority Member shall have no further rights with respect to such Investment Opportunity. Notwithstanding anything herein to the contrary, no member of the PAV Group may (independently without the participation of the Company or a Subsidiary) pursue or acquire any direct or indirect interest in any Investment Opportunity (x) that is located within a one quarter (1/4) mile radius of any Property or is directly competitive with any Property, or (y) for a purchase price less than ninety-seven and one-half percent (97.5%) of the purchase price offered in accordance with this Section 10.1, or on other material terms and conditions more favorable than, those presented to the Company in accordance with this Section 10.1. For purposes of this Section 10.1(f), any Investment Opportunity with respect to parking at any airport shall be deemed to be directly competitive with any Property that provides parking for such airport.

ARTICLE XI

Miscellaneous

Section 11.1. Equitable Relief. The Members hereby confirm that damages at law may be an inadequate remedy for a breach or threatened breach of this Agreement and agree that, except as provided in Section 5.2(e), in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy, but, nothing herein contained is intended to, nor shall it, limit or affect any right or rights at law or by statute or otherwise of a Member aggrieved as against the other for a breach or threatened breach of any provision hereof, it being the intention by this Section 11.1 to make clear the agreement of the Members that the respective rights and obligations of the Members hereunder shall be enforceable in equity as well as at law or otherwise and that the mention herein of any particular remedy shall not preclude a Member from any other remedy it or he might have, either in law or in equity.

Section 11.2. Representations and Covenants by the Members. Each Member represents, warrants, covenants, acknowledges and agrees that:
(a) It is a corporation, limited liability company or partnership, as applicable, duly organized or formed and validly existing and in good standing under the laws of the state of its organization or formation; it has all requisite power and authority to enter into this Agreement, to acquire and hold its Interest and to perform its obligations hereunder; and the execution, delivery and performance of this Agreement has been duly authorized.

(b) This Agreement and all agreements, instruments and documents herein provided to be executed or caused to be executed by it are duly authorized, executed and delivered by and are and will be binding and enforceable against it.

(c) Its execution and delivery of this Agreement and the performance of its obligations hereunder will not conflict with, result in a breach of or constitute a default (or any event that, with notice or lapse of time, or both, would constitute a default) or result in the acceleration of any obligation under any of the terms, conditions or provisions of any other agreement or instrument to which it (or any of its Affiliates) is a party or by which it (or any of its Affiliates) is bound or to which any of its (or any of its Affiliates’) property or assets are subject, conflict with or violate any of the provisions of its organizational documents, or violate any statute or any order, rule or regulation of any Governmental Entity, that would materially and adversely affect the performance of its duties hereunder; such Member has obtained any consent, approval, authorization or order of any court or governmental agency or body required for the execution, delivery and performance by such Member of its obligations hereunder.

(d) There is no action, suit or proceeding pending or, to its knowledge, threatened against it in any court or by or before any other Governmental Entity that would prohibit its entry into or performance of this Agreement.

(e) This Agreement is a binding agreement on the part of such Member enforceable in accordance with its terms against such Member.

(f) It has been advised to engage, and has engaged, its own counsel (whether in-house or external) and any other advisors it deems necessary and appropriate. By reason of its business or financial experience, or by reason of the business or financial experience of its own attorneys, accountants and financial advisors (which advisors, attorneys and accountants are not Affiliates of the Company or any other Member), it is capable of evaluating the risks and merits of an investment in the Interest and of protecting its own interests in connection with this investment. Nothing in this Agreement should or may be construed to allow any Member to rely upon the advice of counsel acting for another Member or to create an attorney-client relationship between a Member and counsel for another Member.

(g) It is acquiring its Interest for investment purposes for its own account only and not with a view to, or for sale in connection with, any distribution of all or a part of the Interest.

(h) It is familiar with the definition of “accredited investor” in Rule 501(a) of Regulation D of the Securities Act of 1933, as amended, and it represents that it is an “accredited investor” within the meaning of that Rule.
(i) It is not required to register as an “investment company” within the meaning ascribed to such term by the Investment Company Act of 1940, as amended, and covenants that it shall at no time while it is a Member of the Company conduct its business in a manner that requires it to register as an “investment company”.

(j) None of such Member, any one Person owning a ten percent (10%) or greater direct or indirect interest in, or Controlling, such Member, or any group of Persons owning a fifty percent (50%) or greater direct or indirect interest in, or Controlling, such Member, (A) is currently identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury (or any other similar list maintained by the Office of Foreign Assets Control pursuant to any authorizing statute, executive order or regulation), (B) is a Person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order of the President of the United States, (C) is incorporated in any country subject to U.S. country-based economic sanctions in violation of any applicable law, rule or regulation, or (D) illegally conducts business in any country subject to U.S. country-based economic sanctions. Such Member has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

(k) It shall comply, and (to the extent of its authority hereunder) shall cause the Company to comply, with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010) and shall immediately notify the other Members in writing if it becomes aware that any of the foregoing representations, warranties or covenants are no longer true or have been breached or if the Member has a reasonable basis to believe that they may no longer be true or have been breached.

(l) Other than as set forth on Schedule 11.2(l), it has not dealt with any broker or finder in connection with its entering into this Agreement and shall indemnify the other Member for all costs, damages and expenses (including reasonable attorneys’ fees) which may arise out of a breach of the aforesaid representation and warranty. Each Member agrees to pay any applicable fees and expenses due any broker or finder that (i) it has engaged without the prior written consent of the other Member or (ii) is not set forth on Schedule 11.2(l).

Section 11.3. Additional Representations and Covenants of the PAV Member. In addition to the representations and covenants of the PAV Member set forth in Section 11.2, the PAV Member hereby represents, warrants, covenants, acknowledges or agrees as follows:

(a) The PAV Member represents, warrants, covenants, acknowledges and agrees that at all times (i) during the existence of the Company, Control (i.e., Control that is exercisable without the consent or approval of any other Person) over the PAV Member is (and shall be) vested in the PAV Principals, and (ii) during the period commencing on the second (2nd) anniversary of the date hereof and ending on the date on which the PAV Member has made Capital Contributions pursuant to Section 5.2(b) (taking into account all such Capital Contributions made by PAV Member thereunder since inception of the Company) in an
aggregate amount equal to One Million Dollars ($1,000,000), no less than twenty percent (20%) of the Capital Contributions to be made by the PAV Member pursuant to Section 5.2(b) during such period shall be contributed out of the personal funds of the PAV Principals, immediate family members of the PAV Principals and/or trusts or other estate planning vehicles for the benefit thereof (collectively);

(b) The PAV Member (i) represents and warrants that the ownership and control structure of the PAV Member as of the date hereof is shown on Schedule 11.3(b) and (ii) covenants, acknowledges and agrees that it shall promptly notify the Manager of any changes in the ownership structures, control rights or interests from what is shown on Schedule 11.3(b);

(c) The PAV Member represents and warrants that nothing contained in this Agreement, and no action taken in furtherance of this Agreement, will conflict with, result in a breach of or constitute a default (or any event that, with notice or lapse of time, or both, would constitute a default) or result in the acceleration of any obligation, express or implied by law, under any of the terms, conditions or provisions of any other agreement, instrument or legal obligation to which the PAV Member is a party or is subject, including any confidentiality, noncompetition, nonsolicitation, duty of loyalty or other provision of any agreement or obligation that in any way restricts him, her or it from competing with, soliciting employees or customers from, or disclosing or using the confidential information of, any third party; and

(d) The PAV Member (i) represents and warrants that a true, correct and complete copy of the limited liability company agreement of the PAV Member has been provided to the Majority Member on or prior to the date hereof, and (ii) covenants that the terms of such agreement shall not be modified in a manner that in any way contradicts the terms of Sections 11.3(a) or 11.3(b) hereof.

(e) Each of the representations and warrantees made by each of the applicable Subsidiaries (excluding any representation or warranty related to conduct after the date hereof or any ongoing obligation with respect to such representations and warrantees) pursuant to documents evidencing or securing financing obtained by such Subsidiaries on the date hereof are hereby incorporated and restated into this Agreement by reference, mutatis mutandi, with the same effect as though each such representation and warranty had been made or given by the PAV Member for the benefit of the Majority Member and the Company but only on and as of the date hereof.

(f) The PAV Member represents and warrants that (i) Parkit Enterprise, Inc., a Canadian corporation ("Parkit") that owns an indirect beneficial interest in the PAV Member’s Interest in the manner shown on the ownership and control structure of the PAV Member set forth on Schedule 11.3(b) hereof, has all requisite power and authority to acquire and hold its interest in the PAV Member’s Interest, (ii) each of the execution, delivery and performance by the PAV Member of this Agreement and the Acquisition Agreements, the execution, delivery and performance of the operating agreement of the PAV Member, and the consummation of the transactions contemplated hereunder and thereunder, has been authorized by any and all corporate action required by Parkit, (iii) the transactions referenced in the foregoing clauses (i) and (ii) will not (x) conflict with, result in a breach of, or constitute a default (or any event that, with notice or lapse of time, or both, would constitute a default) or result in the acceleration of
any obligation under any of the terms, conditions or provisions of any agreement or instrument to which Parkit (or any of its Affiliates) is a party or by which Parkit (or any of its Affiliates) is bound or to which any of Parkit’s (or any of its Affiliates’) property or assets are subject, (y) conflict with, or violate, any of the provisions of Parkit’s organizational documents, or (z) violate any statute or any order, rule or regulation of any Governmental Entity or any requirements of any exchange on which shares of Parkit are listed for trading, and (iv) Parkit has obtained any consent, approval, authorization or order of any court or governmental agency or body or any other third party required for the transactions referenced in the foregoing clauses (i) and (ii).

(g) The PAV Member represents, warrants and covenants that (i) none of Rick Baxter, Patrick Bonney or Simon Buckett is entitled (or shall be entitled) to directly or indirectly receive (and each shall not receive) any Promote Distributions in their individual capacities, except pursuant to their respective ownership interests in Parkit and/or compensation arrangements duly authorized by any and all corporate action required by Parkit and otherwise permitted by law, and (ii) none of the PAV Member, Rick Baxter, Patrick Bonney, Simon Buckett or any of their respective Affiliates are party to, and none of the foregoing Persons shall enter into, any contracts, agreements and/or other understandings that in any way contradicts, contravenes or circumvents the terms and intent of this Section 11.3(g).

Section 11.4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware. In particular, the Company is formed pursuant to the LLC Act, and the rights and liabilities of the Members shall be as provided therein, except as herein otherwise expressly provided.

Section 11.5. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and permitted assigns.

Section 11.6. Confidentiality. By executing this Agreement, each Member expressly agrees, at all times during the term of the Company and thereafter and whether or not at the time a Member of the Company (a) not to issue any press release or advertisement or take any similar action concerning the Company’s business or affairs without first obtaining consent of the Manager which shall not be unreasonably withheld, (b) not to publicize detailed financial information concerning the Company and (c) not to disclose the Company’s affairs generally; provided that the foregoing shall not restrict any Member from disclosing information concerning such Member’s investment in the Company to its officers, directors, employees, agents, legal counsel, accountants, other professional advisors, limited partners, members and Affiliates, or to prospective or existing investors of such Member or its Affiliates or to prospective or existing lenders to such Member or its Affiliates. Nothing herein shall restrict any Member from disclosing information that: (i) is in the public domain (except where such information entered the public domain in violation of this Section 11.6); (ii) was made available or becomes available to a Member on a non-confidential basis prior to its disclosure by the Company; (iii) was available or becomes available to a Member on a non-confidential basis from a Person other than the Company who is not otherwise bound by a confidentiality agreement with the Company or its representatives, or is not otherwise prohibited from transmitting the information to the Member; (iv) is developed independently by the Member; (v) is required to be
disclosed by applicable law (provided that prior to any such required disclosure, the disclosing
party shall, to the extent possible, consult with the Manager and use best efforts to incorporate
any reasonable comments of the Manager prior to such disclosure); or (vi) is expressly approved
in writing by the Company. Notwithstanding anything to the contrary contained in this
Agreement, in no event will any announcement or disclosure by one Member (or its Affiliates)
reference any name of the other Member (including, for the Majority Member the names “Och-
Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate”) or any derivation thereof, without the prior
written consent of the other Member. The provisions of this Section 11.6 shall survive the
termination of the Company.

Section 11.7. Notices. Whenever notice is required or permitted by this
Agreement to be given, such notice shall be in writing and shall be given to any Member,
Administrator or Manager at its address (including via electronic mail) or facsimile number
shown either in the Company’s books and records or on Schedule 3.1 hereto. Each such notice
shall be effective (a) if given by facsimile or electronic mail, upon transmission, (b) if given by
mail, on the fourth (4th) day after deposit in the mails (certified or registered return receipt
requested) addressed as aforesaid and (c) if given by overnight courier service or by hand
delivery, when received and (d) if given by any other means, when delivered to and receipted for
at the address of such Member, Administrator or Manager specified as aforesaid.

Section 11.8. Counterparts. This Agreement may be executed in any number of
counterparts, all of which together shall constitute a single instrument. In addition, the parties
may execute this Agreement by telecopy or other facsimile machine or electronic transmission
and such facsimile signature or electronic transmission shall be deemed an original.

Section 11.9. Entire Agreement. This Agreement embodies the entire agreement
and understanding of the parties hereto in respect of the subject matter contained herein. There
are no restrictions, promises, representations, warranties, covenants or undertakings, other than
those expressly set forth or referred to herein. This Agreement supersedes all prior agreements
and understandings between the parties with respect to such subject matter hereof.

Section 11.10. Amendments. Any amendment to this Agreement or the
Certificate shall be effective only if such amendment is evidenced by a written instrument duly
executed and delivered by each of (a) the Majority Member, (b) to the extent the PAV Member
has not been removed as Administrator, the PAV Member, and (c) even if the PAV Member has
been removed as Administrator, the PAV Member to the extent it (or any affiliated guarantor
under any Guaranty) would be materially, adversely and disproportionately affected by such
amendment (it being acknowledged and agreed by the Members that any amendment to Schedule
4.2(a) hereto or Section 9.3 that would limit, restrict or diminish in any manner any of the rights
or remedies afforded to PAV Member thereunder would materially, adversely and
disproportionately affect the PAV Member).

Section 11.11. Waivers. No waiver of any breach of any term of this Agreement
shall be effective unless made in writing signed by the party against whom enforcement of the
waiver is sought, and no such waiver of any breach of that term or any other term of the same or
different nature shall be construed as a waiver of any subsequent breach of that term of the same
or different nature.
Section 11.12. Severability. It is the express intention of the parties that the agreements contained herein shall have the widest application possible. If any agreement contained herein is found by a court having jurisdiction to be unreasonable in scope or character, the agreement shall not be rendered unenforceable thereby, but rather the scope or character of such agreement shall be deemed reduced or modified with retroactive effect to render such agreement reasonable and such agreement shall be enforced as thus modified. If the court having jurisdiction will not review the agreement, then the parties shall mutually agree to revise the unenforceable provision to as close as permitted by law to the provision declared unenforceable. The parties further agree that in the event a court having jurisdiction determines, despite the express intent of the parties, that any portion of any covenant or agreement contained herein is not enforceable, the remaining provisions of this Agreement shall nonetheless remain valid and enforceable.

Section 11.13. No Partition. The Members hereby waive any right of partition they may have with respect to any assets of the Company, now existing or hereafter acquired.

Section 11.14. Exhibits and Schedules. The Schedules and Exhibits attached hereto are hereby incorporated herein and made a part of this Agreement.

Section 11.15. Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 11.16. Cumulative Remedies. Except as otherwise expressly provided herein, the rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law or otherwise.

Section 11.17. Section Titles. Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text hereof.

Section 11.18. No Third Party Beneficiaries. No provision of this Agreement (including any obligation of any Member to make Capital Contributions) shall be interpreted as bestowing any rights whatsoever upon any third party.

Section 11.19. Time of the Essence. Time is of the essence as to the parties’ obligations under this Agreement.

[Signature Pages Follow]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

MEMBERS:

**OP HOLDINGS JV MEMBER LLC,**
a Delaware limited liability company

By: [Signature]

Name: Steven E. Orbuch
Title: Authorized Person

[Signatures Continue on Following Page]

[Signature Page to Amended and Restated LLC Agreement of OP Holdings JV LLC]
PARKING ACQUISITION VENTURES, LLC,
a Delaware limited liability company

By:  
Name: David Schmid
Title: Authorized Person

Agreed solely for purposes of Sections 4.1(a) and 10.1:

David Schmid

Rick Baxter

John Schmid

Simon Buckett

Tom Bechard

Patrick Bonney

Agreed solely for purposes of Section 10.1:

PROPARK AMERICA, INC.

By:  
Name: David Schmid
Title: Authorized Person

PRO PARK, INC.

By:  
Name: David Schmid
Title: Authorized Person

[Signature Page to Amended and Restated LLC Agreement of OP Holdings JV LLC]
PARKING ACQUISITION VENTURES, LLC,
a Delaware limited liability company

By: ____________________________
   Name: David Schmid
   Title: Authorized Person

Agreed solely for purposes of Sections 4.1(a) and 10.1:

David Schmid

Rick Baxter

John Schmid

Simon Buckett

Tom Bechard

Patrick Bonney

Agreed solely for purposes of Section 10.1:

PROPARK AMERICA, INC.

By: ____________________________
   Name: _______________________
   Title: _______________________

PRO PARK, INC.

By: ____________________________
   Name: _______________________
   Title: _______________________

[Signature Page to Amended and Restated LLC Agreement of OP Holdings JV LLC]
PARKING ACQUISITION VENTURES, LLC,
a Delaware limited liability company

By: ______________________________________
Name: David Schmid
Title: Authorized Person

Agreed solely for purposes of Sections 4.1(a) and 10.1:

______________________________
David Schmid

______________________________
Rick Baxter

______________________________
Tom Schmid

______________________________
Simon Buckett

______________________________
Tom Bechard

______________________________
Patrick Bonney

Agreed solely for purposes of Section 10.1:

PROPARK AMERICA, INC.

By: ______________________________________
Name:
Title:

PRO PARK, INC.

By: ______________________________________
Name:
Title:

[Signature Page to Amended and Restated LLC Agreement of OP Holdings JV LLC]
PARKING ACQUISITION VENTURES, LLC,
a Delaware limited liability company

By: ____________________________
Name: David Schmid
Title: Authorized Person

Agreed solely for purposes of Sections 4.1(a) and 10.1:

David Schmid

Rick Baxter

John Schmid

Simon Buckett

Tom Bechard

Patrick Bonney

Agreed solely for purposes of Section 10.1:

PROPARK AMERICA, INC.

By: ____________________________
Name:
Title:

PROPARK, INC.

By: ____________________________
Name:
Title:

[Signature Page to Amended and Restated LLC Agreement of OP Holdings JV LLC]
PROPARK AMERICA WEST, LLC

By: [Signature]

Name: DAVID SCHMID
Title: AUTHORIZED PERSON

Agreed solely for purposes of Section 6.5(b):

PRO PARK, INC.

By: [Signature]

Name: DAVID SCHMID
Title: AUTHORIZED PERSON

PROPARK AMERICA WEST, LLC

By: [Signature]

Name: DAVID SCHMID
Title: AUTHORIZED PERSON
### Schedule 3.1

Members, Addresses, Initial Capital Contributions, Initial Percentage Interests

<table>
<thead>
<tr>
<th>Member Name and Address</th>
<th>Initial Capital Contribution</th>
<th>Initial Percentage Interest</th>
</tr>
</thead>
</table>
| **OP HOLDINGS JV MEMBER LLC**
a Delaware limited liability company | $21,385,596.65 | **75%** |
| Address: c/o Och-Ziff Real Estate  
9 West 57th Street, 39th Floor  
New York, New York 10019  
Attention: Steven E. Orbuch  
Facsimile: (212) 790-0005  
E-mail: sorbuch@ozcap.com  
with a copy to:  
Address: Bryan Cave LLP  
1290 Avenue of the Americas  
New York, New York 10104  
Attention: Ronald Emanuel, Esq.  
Facsimile: (212) 541-1434  
E-mail: rbemanuel@bryancave.com |  |  |
| **PARKING ACQUISITION VENTURES, LLC**, a Delaware limited liability company | $7,128,532.21 | **25%** |
| Address: c/o Propark America  
One Union Place  
Hartford, Connecticut 06103  
Attention: David Schmid  
with a copy to:  
Address: Hinckley, Allen & Snyder LLP  
20 Church Street  
Hartford, CT 06103  
Attention: William S. Fish, Jr., Esq.  
Facsimile: (860) 331-2701  
E-mail: wfish@hinckleyallen.com |  |  |
Schedule 4.1(a)

Administrator’s Duties

In addition to its specified duties and obligations in the body of this Agreement, the Administrator shall have the following additional duties and responsibilities (subject in each instance to Section 4.1(c) of this Agreement):

1. Administer the day-to-day operations of the Properties pursuant to the Property Budgets.

2. Oversee and manage all professionals, consultants, advisors and other contractors retained by the Company; and, at the request of the Manager, the Administrator shall make recommendations as to which such professionals, consultants, advisors and other contractors should be so retained.

3. Cause all revenues, receipts and all other payments, cash or income of any kind, type or nature, received by the Company to be deposited into such accounts at such banks or other financial institutions as are determined by the Manager (and, upon request of the Manager, establish those accounts).

4. At the request of the Manager, perform such advisory, consultation and asset management services as are customarily provided in asset management agreements for properties similar to the Properties.

5. Subject to approval by the Manager, cause the Company to procure (and thereafter ensure that such insurance remains in effect) all insurance required by the Manager to be carried; and, at the request of the Manager, make recommendations with respect thereto.

6. (i) Prepare for approval by the Manager each Property Budget, (ii) implement and track each Property Budget and promptly notify the Manager if any line item thereof is (or is about to be) exceeded, (iii) coordinate with the Property Manager to timely generate and deliver all reports required pursuant to the Property Management Agreements, (iv) timely prepare (or cause to be prepared) all financial reports required by any and all documents evidencing or securing financing obtained by the Company or any Subsidiary and (v) periodically make recommendations to the Manager about whether or not any Reserves should be maintained.

7. Without limiting the generality of any other provision hereof, (i) upon learning thereof, promptly notify the Manager of any material event, occurrence or condition that occurs or arises with respect to the Company Assets or any portion thereof, including the Properties, and (ii) provide the Manager with such information as the Manager may reasonably request from time to time.

8. Subject to approval of the Manager, negotiate and prepare documentation for mortgage debt to be secured by any Property.

9. Perform all duties and obligations imposed on the Administrator pursuant to any other provisions of this Agreement.
Schedule 4.2(a)

Unanimous Actions

1. (a) So long as the PAV Member has not been removed as Administrator hereunder, admit new members to the Company and (b) if the PAV Member has been removed as Administrator hereunder, admit new members to the Company in a manner that dilutes the PAV Member’s Percentage Interest by a higher percentage than the percentage by which the Majority Member’s Percentage Interest is diluted in connection with such admission.

2. Cause the Company to acquire (directly or indirectly) any assets outside the ordinary course of business, including any real property or ground lease interests.

3. Cause the Company to enter into, modify, or terminate any agreement or transaction with any Affiliate of a Member.

4. Take any action on behalf of the Company or a Subsidiary that reasonably would be expected to create personal liability for any guarantor under any Guaranty (including file a voluntary petition for bankruptcy of the Company or incurring or modifying the terms of any indebtedness) if the Manager did not first cause an indemnitor reasonably acceptable to the indemnitee(s) to indemnify such guarantor(s) for any guaranty or indemnity payments that such guarantor may be required to make as a result of such action; provided that (a) in no way shall the foregoing limit the Manager’s ability to remove the PAV Member as the Administrator or appoint a replacement Administrator in accordance with the terms of this Agreement and (b) notwithstanding the foregoing, the Majority Member shall not be liable in any manner for any guaranty or indemnity payment under a Guaranty that results from a removal or replacement of the Administrator (or any of its Affiliates) that is made from and after the occurrence of a Material Administrator Default or an Administrator Default.

5. Request or accept any Capital Contributions other than as expressly provided in Section 5.2.

6. For so long as the PAV Member is the Administrator, the selection of any Property Manager; provided, however, that in no way shall the foregoing limit the Manager’s ability to terminate any property manager providing services to the Company or a Subsidiary pursuant to the terms of any such management agreement.

7. Causing the Company to change the principal use of any of the Company Assets.

8. Causing any Asset Sale without complying with Section 4.9.

9. Any business activity of the Company or any of its Subsidiaries that is not expressly within the purposes of the Company set forth in Section 2.4(a).

10. Any action that would cause the Company to cease being taxed as a partnership for income tax purposes or that would cause any Subsidiary of the Company to be taxed as a corporation.
11. Filing any petition or consenting to any filing of any petition that would subject the Company or all or any part of the Company Assets to a Bankruptcy Event.

12. Causing the Company to agree to any of the foregoing.
Schedule 4.4(a)

Initial Property Budgets

[Attached]
## Canopy – 12 Month Budget

<table>
<thead>
<tr>
<th></th>
<th>Canopy</th>
<th>First 12 months</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
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<td></td>
</tr>
<tr>
<td>Open Air Revenue</td>
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<td>Covered Revenue</td>
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<td>Valet Revenue</td>
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<td>961,148.46</td>
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<td>Car Wash Revenue</td>
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<td>SilverCar</td>
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<tr>
<td>Silver Car - Car Washes</td>
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<tr>
<td>Silver Car - Add’t Car Rent</td>
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<tr>
<td>Silver Car - Percentage Rent</td>
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<td><strong>Gross Parking Revenue</strong></td>
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<tr>
<td>Airport Access Fee, Airport Excise Tax, Sales Tax</td>
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<td>Exiting Guest Fee</td>
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<td><strong>Total Revenue</strong></td>
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<td><strong>Operating Expenses</strong></td>
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<td>Amenities</td>
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<td>Auto Damage</td>
<td></td>
<td>18,000.00</td>
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<tr>
<td>Bank &amp; Other Service Fees Expenses</td>
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<td>Management Fee Expense</td>
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<td>Car Wash Expense</td>
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<td>Command Center Expenses</td>
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<td>Landscaping</td>
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<td>Dues / Fees / Subscriptions</td>
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<td>E-470 Equipment Lease</td>
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<td>Facility Rent</td>
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<td>FICA</td>
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<td>Fleet Expenses - Fuel Cost</td>
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<td>376,854.23</td>
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<td>Fleet Expenses - Service Cost</td>
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<td>Frontier Parker Fee</td>
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<td>FUTA</td>
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<td>Health Insurance &amp; Expense - Hourly</td>
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<td>Health Insurance &amp; Expense - Salary</td>
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<td>Liability Insurance/Shuttle/WC</td>
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<td>Property Insurance</td>
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<td>License &amp; Permits</td>
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<td>Medicare</td>
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<td>Mystery Shopper Expenses</td>
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<td>Off-Airport Marketing Expense</td>
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<td>Office Supplies</td>
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<td>Operating Supplies</td>
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<td>Postage &amp; Freight</td>
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<td>Printing</td>
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<td>Professional Fees</td>
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<td>Repairs &amp; Maintenance</td>
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<td>Salaries &amp; Wages - Hourly</td>
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<td>Salaries &amp; Wages - Hourly OT</td>
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<td>Salaries &amp; Wages - Salary</td>
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<td>Signage (Signs)</td>
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<td>Snow Plowing / Removal</td>
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<td>Dwell Fees</td>
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<td>SUTA</td>
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<td>Telephone</td>
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<td>Travel &amp; Entertainment Expenses</td>
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<td>Uniforms &amp; Laundry</td>
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<td>12,900.00</td>
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<td>Utilities</td>
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<td>Vehicle Lease Expense</td>
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<td><strong>Total Expenses</strong></td>
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<td>5,582,580.26</td>
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<td><strong>Operating Income before Taxes</strong></td>
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<td>Real Estate Taxes</td>
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<tr>
<td><strong>NET OPERATING INCOME</strong></td>
<td></td>
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## Chapel Square Garage – 12 Month Budget

<table>
<thead>
<tr>
<th></th>
<th>Chapel Square Garage</th>
<th>First 12 months</th>
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</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
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<td></td>
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<tr>
<td>Day Parking Income</td>
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<tr>
<td>Night Parking Income</td>
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<td>Validation Income</td>
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<tr>
<td>Coupon Income</td>
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<td>Keycard Income</td>
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<tr>
<td>Monthly Parking Income</td>
<td>489,787.69</td>
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<tr>
<td>Interest Income</td>
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<tr>
<td>Miscellaneous Income</td>
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<td>Sales Tax Collected</td>
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<td><strong>Total Revenue</strong></td>
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<td><strong>Operating Expenses</strong></td>
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<td>Credit Card &amp; Bank Fees</td>
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| Gross Net Operating Income                   | **2,564,661.49**|
| Operator Incentive Fee                       | **426,478.21**  |
| Real Property Tax                            | **335,608.33**  |
| **Net Operating Income**                     | **1,802,574.95**|
### Riccio – 12 Month Budget

<table>
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<th>First 12 months</th>
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<td><strong>Revenue</strong></td>
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<td>Daily Parking</td>
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**NET OPERATING INCOME**: 278,815.47
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<td>655,002.76</td>
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</table>

|                      |           |                 |
| **Expenses**         |           |                 |
| Salaries & Wages     | 21,155.55 |                 |
| P/R Taxes Employer   | 1,796.39  |                 |
| Credit Card & Bank Fees | 12,554.60 |             |
| Health Insurance     | 1,765.89  |                 |
| Liability Insurance  | 4,138.85  |                 |
| Professional Fees    | 9,091.43  |                 |
| Repairs & Maintenance| 12,419.51 |                 |
| Management Fee       | 12,000.00 |                 |
| Telephone Exp        | 3,439.81  |                 |
| Utilities            | 5,344.17  |                 |
| Property Tax         | 64,745.71 |                 |
| Miscellaneous        | 132.40    |                 |
| Office Supplies      | 116.30    |                 |
| Postage & Express Mail | 343.27    |               |
| Leased Equipment     | -         |                 |
| Supplies             | 1,477.06  |                 |
| Tickets & Keycards   | 2,994.05  |                 |
| Uniform Expense      | 635.21    |                 |
| Travel               | 17.21     |                 |
| Bank & Other Service Fees Expenses | 360.00  |             |
| Data Processing      | 546.00    |                 |
| Mystery Shopper Expenses | 720.00 |             |
| Signage (Signs)      | 1,000.00  |                 |
| Workers Compensation | 1,068.33  |                 |
| **Total Expenses**   |           | 157,861.74      |

<p>| | | |
|                      |           |                 |
| <strong>Net Operating Income</strong> |       | 497,141.01     |</p>
<table>
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<tr>
<th>Z Park</th>
<th>First 12 Months</th>
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<td><strong>Expenses</strong></td>
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<td>Salaries &amp; Wages</td>
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<td>Equipment Lease</td>
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<tr>
<td><strong>Net Operating Income</strong></td>
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Schedule 11.2(l)

Broker Fees

Terrix Financial Corporation

In connection with the acquisition financing of one of the Initial Properties known as Terra Park Surface Lot, consisting of 240 spaces and located at 317 Water Street, Jacksonville, Florida 32202, a financing fee equal to one percent (1%) of the loan amount or Forty Four Thousand Eight Hundred Dollars ($44,800) is due and payable at the closing of the acquisition financing to Terrix Financial Corporation.

Salem Partners LLC

Reference is made to that certain Fee Agreement, dated as of the date hereof, by and among the Company, Salem Partners LLC (“Salem Partners”) and ProPark America (as amended from time to time, the “Salem Agreement”). All Fees (as such term is defined in the Salem Agreement) and other expenses due and payable to Salem Partners pursuant to the Salem Agreement shall be payable by the Company.
Schedule 11.3(b)

PAV Member Ownership and Control Structure

[Attached]
Schedule 11.3(b)

PAV Ownership Structure

Parking Acquisition Ventures, LLC
Manager: PAVe Admin, LLC

- 85% Class A
- 15% Class A
- 100% Class B

Greenswitch America, Inc.

Greenswitch Capital, Ltd. – 100%

Parkit Enterprise, Inc. 100%
(publicly traded)

Parking Real Estate Investors, LLC

Tom Bechard
David Schmid
John Schmid
650 Howard, L.P.

PAVe Admin, LLC
Managers: Rick Baxter &
David Schmid

Parking Real Estate,
LLC

John Schmid
David Schmid
Tom Bechard
Joe Coppola
Tim Willey
Rick DiPietro
Patrick Boeshans

Parking Ventures (US),
Ltd.

Parking Ventures, Ltd.

Rick Baxter
Patrick Bonney
Simon Buckett

Greenswitch America, Inc.

Greenswitch Capital,
Ltd. – 100%

Parkit Enterprise, Inc.
100%
(publicly traded)

Note: Parking Acquisition Ventures, LLC also has Class C and Class D Interests, which are non-voting and will track certain economic rights.

Class C Member Canopy Airport Parking, LLC (see attached)

Class D Members Canopy Airport Parking, LLC (see attached)
Marvin Gardens of CT, LLC (John Schmid; Joseph Coppola; David Schmid)

* As of Closing Date
Schedule I

Acquisition Agreements

(Each dated as of the date hereof)

1. Contribution Agreement (Riccio) by and among Marvin Gardens of CT, LLC, the PAV Member, the Majority Member and the Company;

2. Contribution Agreement (Canopy) by and among Canopy Airport Parking, LLC, the PAV Member, the Majority Member and the Company;

3. Contribution Agreement (Expresso) by and among 880 Doolittle Dr., LLC, the PAV Member, the Majority Member and the Company;

4. Contribution Agreement (Chapel Square) by and among Chapel Square Garage, LLC, Store Avenue, LLC, Propartners in Parking, LLC, the PAV Member, the Majority Member and the Company;

5. Purchase and Sale Agreement (Terra) by and among Bechard, LLC, Ventnor Avenue, LLC, SJS RE Investments, LLC, DJPM Investments, LLC, the PAV Member, the Majority Member and the Company; and

6. Purchase and Sale Agreement (Z Parking) by and among Cloud 9, LLC, Propartners in Parking, LLC, Bechard, LLC, the PAV Member, the Majority Member and the Company.
Exhibit A

Forms of Property Management Agreement

[Attached]
PARKING MANAGEMENT AGREEMENT
(CANOPY)

THIS PARKING MANAGEMENT AGREEMENT ("Agreement") entered into as of this _____ day of April, 2015 (the “Effective Date”) by and between OP CANOPY OWNER LLC, a Delaware limited liability company (herein referred to as "OWNER") PROPARK AMERICA WEST, LLC, a Connecticut limited liability company and having its place of business at One Union Place, Hartford, Connecticut 06103 (herein referred to as "MANAGER"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in that certain Amended and Restated Limited Liability Company Agreement of OP Holdings JV LLC, a Delaware limited liability company (the “JV”), dated as of the Effective Date, by and between OP Holdings JV Member LLC, a Delaware limited liability company (“OP Holdings”), and Parking Acquisition Ventures, LLC, a Delaware limited liability company (“PAV”), (as may be further amended, restated, supplemented and/or otherwise modified, the “JV Agreement”). Nothing herein shall modify or amend the terms of the JV Agreement, including, without limitation, Section 10.1 thereof, and in the event of any conflict between the JV Agreement and this Agreement, the JV Agreement shall control.

WITNESSETH:

1. Agreement Purpose.

a. OWNER hereby contracts with MANAGER under the terms, conditions, and provisions set forth in this Agreement for MANAGER to operate a certain parking facility located at 8100 Tower Road, Commerce City, Colorado, commonly known as Canopy, which hereinafter will be referred to as the (“Parking Facility”). OWNER hereby authorizes MANAGER to exercise such powers with respect to the Parking Facility as may be necessary for the performance of MANAGER’s obligations under the terms of this Agreement (subject in all cases to the Property Budget), and MANAGER accepts such appointment under the terms and conditions hereinafter set forth.

b. MANAGER shall have no right or authority, expressed or implied, to commit or otherwise obligate OWNER in any manner whatsoever except to the extent specifically provided herein, or to the extent necessary to carry out or implement its obligations under the terms and provisions of this Agreement. MANAGER shall not hold itself out as having authority to act on behalf of OWNER in any manner which is beyond the scope of this Agreement.

c. MANAGER shall perform, or shall retain and cause other appropriate persons to perform, its duties hereunder in a diligent manner consistent with good industry standards and in accordance with the terms and conditions of this Agreement. MANAGER, on behalf of OWNER, shall implement, or cause to be implemented, the written decisions of OWNER and shall conduct the ordinary and usual business affairs of OWNER, to the extent and as provided in this Agreement. MANAGER shall at all times conform to the reasonable written policies, programs and instructions established by OWNER in accordance with the JV Agreement and the scope of MANAGER’s authority shall be limited to said policies, programs and instructions.

d. MANAGER shall, in keeping with the authority granted to MANAGER herein, keep OWNER reasonably informed regarding the Parking Facility, and abide by those reasonable written standards and instructions which OWNER may issue from time to time in accordance with the JV Agreement regarding the operation of the Parking Facility.
e. MANAGER (on behalf of itself and its Affiliates) acknowledges and agrees that only OP Holdings (in its capacity as “MANAGER” of the JV (the sole owner, directly or indirectly, of OWNER), on behalf of OWNER, shall have the right to enforce OWNER’s rights and remedies under this Agreement. OWNER (on behalf of itself and its Affiliates) acknowledges and agrees that PAV (in its capacity as “ADMINISTRATOR” of the JV) also has certain day-to-day responsibilities to act on behalf of OWNER pursuant and subject to the terms of the JV Agreement.

2. Term. The term of this Agreement shall commence the date first written above and continue for a period of five (5) years thereafter (“Term”). Upon expiration of the Term, provided there are not unresolved disputes or uncured defaults and this Agreement has not been terminated, this Agreement shall be automatically extended upon the same terms and conditions, covenants and provisions as set forth herein, for additional and consecutive one (1) year extension terms unless and until written notice of non-renewal is given by either party no less than ninety (90) days prior to the expiration of the initial Term or then current extension term. During this time, either party may terminate this Agreement as provided in Paragraph 3 below.

3. Termination.

a. Either party may terminate this Agreement under the following circumstances:

i. Either party may terminate this Agreement in the event the other party files a voluntary petition or similar pleading for bankruptcy, insolvency, receivership, becomes insolvent, or makes an assignment for the benefit of creditors, with such termination to be effective upon giving notice.

ii. Upon the breach by the other party of any covenant, term or condition hereof, provided the breaching party first receives written notice of such breach and fails to remedy same within thirty (30) days of such notice.

b. OWNER shall have the right to terminate this Agreement immediately upon the occurrence of any of the following:

i. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility to a bona-fide, non-related party; provided, however, that such sale, transfer, assignment or conveyance by OWNER shall have been caused in a manner that complies with the provisions of Section 4.9 of the JV Agreement, if and to the extent such provisions apply to such sale, transfer, assignment or conveyance by OWNER.

ii. The expiration or earlier termination of the Ground Lease for any reason

iii. In the event any act or omission of MANAGER causes a breach by OWNER under the Ground Lease or any financing documents, subject in each case to all applicable cure rights (if any).

iv. In the event of the misappropriation, theft or fraud by MANAGER or any employee of MANAGER; provided, however, that upon written notice to MANAGER that one of its employees has perpetrated misappropriation, theft or fraud without MANAGER’S knowledge, then MANAGER shall have a thirty (30) day right to investigate and cure (such cure including reimbursement in full for all amounts stolen by such employee of MANAGER).
v. In the event of the gross negligence or willful misconduct of MANAGER in connection with its performance of its obligations under this Agreement, provided MANAGER first receives written notice of such breach and fails to remedy same within twenty (20) days of such notice.

vi. Upon thirty (30) days’ notice to MANAGER, in the event of any (A) damage to the Parking Facility or any portion thereof by fire or other casualty that, in OWNER’s discretion, reasonably may be expected to preclude the normal operations of the Parking Facility, (B) taking of the Parking Facility which results in the reduction or restriction of access to the Parking Facility or the failure of the Parking Facility, or any portion thereof, to remain in compliance with any applicable laws or (C) loss of any operating permit or other governmental approval that renders the Parking Facility inoperable as a parking facility; and, in any such case, either (1) the foregoing causes an acceleration of any senior bank debt relating to the Parking Facility or (2) as a result thereof, OWNER decides to cease use of the Parking Facility for parking operations because OWNER has determined that reopening is either not economically feasible or not legally possible;

vii. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility in connection with a foreclosure of any mortgage or deed of trust on the Parking Facility.

viii. In the event MANAGER shall intentionally fail to fully and faithfully deposit all the Receipts from the operation of the Parking Facility.

ix. The occurrence of an “Administrator Default” or “Material Administrator Default” under the JV Agreement.

x. Upon thirty (30) days’ notice to MANAGER, in the event that a “Property Manager Change of Control” under the JV Agreement occurs with respect to MANAGER.

In the event of any of the foregoing occurrences, OWNER shall have the right to forthwith terminate this Agreement, with such termination to be effective upon giving notice, and regain immediate possession of the Parking Facility.

c. Upon any termination of this Agreement, the Term of this Agreement shall be deemed to have expired on the date of such termination.

4. Annual Budget. MANAGER shall cooperate with PAV (acting in its capacity as “Administrator” of the JV) to prepare and present to OP Holdings (in its capacity as “MANAGER” of the JV) a proposed annual operating budget for the OWNER and the Parking Facility (as applicable) for each applicable Fiscal Year, in each case in accordance with Section 4.4 of the JV Agreement. For the avoidance of doubt, the adoption of any operating budget (and any modifications or revisions thereto) for the OWNER or the Parking Facility shall require the express written approval of OP Holdings (acting in its capacity as “MANAGER” of the JV), and to the extent required, the approval of the lender(s) under a financing, in order to be deemed the “Property Budget” for a Fiscal Year. Notwithstanding anything to the contrary contained herein, the applicable terms and provisions of the JV Agreement shall govern and control the preparation, approval, adoption, modification, revision and all other matters relating to the Property Budget. The adoption of the Property Budget in accordance with Section 4.4 of the JV Agreement (including any “deemed” Property Budget pursuant to Section 4.4(c) of the JV Agreement) shall constitute an authorization for MANAGER to incur charges to manage and operate the Parking Facility solely in accordance with this Agreement and the Property Budget. Subject to any other terms and limitations set forth in the JV Agreement MANAGER may not (i) cause or permit any line item in a then
current Property Budget to be exceeded by more than ten percent (10%) without the consent of the OWNER (provided, however, that notwithstanding the foregoing, MANAGER shall be permitted (without the approval of OWNER) to exceed any such line item by an amount that is less than Fifty Thousand Dollars ($50,000)) or (ii) cause or permit the expenses in a then current Property Budget to be exceeded by more than five percent (5%) without the consent of the OWNER, but, in any of the foregoing cases only to the extent the Administrator under the JV Agreement has equal or greater authority to exceed the Property Budget under the terms thereof (it being understood that MANAGER shall not have authority that exceeds the authority of the Administrator under the JV Agreement). Any such authorization to incur charges shall be limited to amounts specifically set forth within the Property Budget.

5. Definition of Operating Expenses.

   a. “Operating Expenses” shall mean and include any and all costs and expenses of maintaining, operating, conducting, insuring and supervising the operation of the Parking Facility, including, without limitation, any expenses of ancillary services provided to customers at the Parking Facility (such as a car wash and shuttle service) and the following, without restricting the generality of the foregoing:

   i. Wages of personnel assigned, budgeted or approved to the Parking Facility including supervisors, parking attendants, maintenance personnel, cashiers, clerical and audit staff. The term wages (“Wages”) as used herein includes monetary fringe benefits (excluding severance to the extent not required by any statute) such as health insurance, pension costs, and statutorily required payments for workers’ compensation insurance, unemployment insurance and social security;

   ii. Business-related telephone and data expenses and utility expenses of the Parking Facility;

   iii. Business taxes and airport access fees and assessments (if any), other than franchise or income taxes on income or profits;

   iv. License and permit costs and expenses, business license fees, development assessments and fees, impact fees, surcharges, and payments in lieu of taxes;

   v. Sales taxes, excise taxes, gross receipts taxes, parking taxes, airport-related taxes, transaction privilege taxes, use taxes, occupancy taxes, gross receipts taxes (excluding income and similar taxes), parking taxes and similar impositions and airport access charges that collected directly from customers or included as part of the sales price of any goods or services, including, without limitation, affording a parking space or shuttle service, whether remitted to the appropriate taxing authorities or otherwise imposed by the state, county, and/or municipality where the Parking Facility is located;

   vi. Services charges, interest and collection expenses imposed for sales on credit and debit cards and other charges or fees paid from revenues of the Parking Facility to credit card companies, banks and clearinghouses, and similar organizations resulting from use of credit or debit cards or other payment methods used by customers;

   vii. Advertising, marketing and promotion costs including any expenses related to any website for the Parking Facility approved by OWNER and all other costs and expenses of any advertising, business promotion or personnel training program of the Parking Facility that directly benefits the Parking Facility;

   viii. The costs of insurance required of the MANAGER in this Agreement;

   ix. The costs of all operating supplies and sundry items such as, but not limited to uniforms, tickets, parking office and operating supplies, and janitorial supplies, and the maintenance or replacement of same;
x. Payroll processing fees, bank charges, credit card processing fees, secret shopper fees, tenant amenity program fees and administrative and bookkeeping fees including monthly parker and accounts payable processing;

xi. Utility expenses, fuel costs, toll costs and other expenses for operating the Equipment, shuttles and other property used in connection with Parking Facility operations and normal maintenance and repairs of the Parking Facility, GPS system (if any) and any shuttle vehicle(s) including but not limited to, power sweeping, power washing, maintenance equipment repair, lighting repairs & bulb replacement, Fire Control System maintenance, snow removal, HVAC and elevator maintenance, repainting of stall markings, replacement or repair of signs and parking access and revenue control equipment;

xii. Legal or audit charges and other routine professional fees directly attributable to the operation of the Parking Facility other than those services performed by the staff of OWNER or MANAGER, if approved in advance by OWNER, and any costs to store the books and records related to the Parking Facility pursuant to Paragraph 9;

xiii. The cost of special audits to be performed from time to time by MANAGER’s staff auditor for the mutual benefit of OWNER and MANAGER; provided, however, that the time and manner of the taking of the audit is approved in writing by OWNER in advance. Costs qualifying as audit expenses shall be limited to a mutually agreed upon per diem rate and the actual out-of-pocket expenses of the auditor during the period of an approved special audit;

xiv. Debt service of loans and rent and other charges under lease financing for the acquisition and use of approved parking access and revenue control equipment, operating equipment, and/or shuttle vehicles (if applicable), including, without limitation, under any equipment leases for vehicle and personal property which would constitute “operating leases” under GAAP, consistently applied;

xv. Command Center Fees;

xvi. The cost of insurance;

xvii. Technology costs;

xviii. All rent and other charges payable under any ground or underlying leases with third parties affecting the Parking Facility;

xix. Amounts payable under any covenants or assessments or other charges for use of shared or offsite facilities or upkeep of the same related to the Parking Facility;

xx. Out-of-pocket expenses incurred for the account of or in connection with the operation of the Parking Facility and all costs and expenses incurred in connection with the maintenance and repair of the Parking Facility;

xxi. Costs of compliance with law with respect to any physical or operational conditions;

xxii. Real estate taxes and other similar assessments and impositions;

xxiii. Payment of claims for damage, personal injury, or loss of personal property (including, without limitation, auto damage) except to the extent such claim is an Excluded Expense as defined below;

xxiv. Payment of any deductible amount of insurance claims settlement and payment of claims in excess of policy limits except to the extent such claim is an Excluded Expense as defined below; and

xxv. Management Fees payable pursuant to Paragraph 8 below.

For clarity, Operating Expenses shall include only direct property level costs and expenses with respect to the applicable Property and shall not in any event include any mark-up or other similar charge of the MANAGER or any of its Affiliates. To the extent OWNER approves Operating Expenses that MANAGER incurs on a shared basis with other parking operations that it owns or manages, such Operating Expenses shall be equitably apportioned between the Parking Facility and such other operations (and shall provide OWNER, upon request, with reasonable back-up and details concerning the costs and how such apportionment was made) and in no event shall
MANAGER recover reimbursements from OWNER and others with respect to the apportioned charges that exceed the actual amount of the apportioned charges.

Notwithstanding the foregoing, Operating Expenses shall not include multiple audit charges in a Fiscal Year unless there is a material finding in such audit and then only to the extent that such audit charges are reasonable.

As used herein, “Command Center Fees” shall mean a fixed amount of $18,000 per Fiscal Year, charged in equal monthly installments of $1,500 (as prorated for any fractional period).

b. OWNER shall have the right, from time to time, as OWNER shall determine, to pay any Operating Expenses directly, in lieu of having MANAGER handle incurring and paying same, but such Operating Expenses shall be Operating Expenses for purposes of Paragraph 8 below, even though OWNER, as opposed to MANAGER, is paying such expenses.

c. “Excluded Expenses” are those designated expenses arising from the operation of the Parking Facility which shall not be deemed Operating Expenses and which shall therefore be borne by the respective parties. The Excluded Expenses of the MANAGER are those set forth in Schedule “A” to this Agreement and incorporated by reference herein. The Excluded Expenses of OWNER are set forth in Schedule “B” attached to this Agreement and incorporated by reference herein. In the event of any conflict between Paragraph 5 and Schedules “A” and “B,” Schedules “A” and “B” shall control.

6. Additional Services. In addition to the daily operation of the Parking Facility, MANAGER’s services shall include consulting and advisory services to OWNER concerning the Parking Facility. These services shall be provided without additional charge or fee except for reimbursement of pre-approved out of pocket expenses such as postage, printing and supply charges, mileage and phone charges in connection with the performance of services requested or required by OWNER, and any other similar out of pocket expenses. MANAGER shall document and support such expenses by cash receipts or other documentary proof of payment.

7. Collection of Receipts. MANAGER covenants that it will collect or cause to be collected all fees, charges and other monies derived from the Parking Facility. At OWNER’s request, MANAGER shall open and maintain a bank account (the “Operating Account”) in accordance with this Paragraph 7. OWNER shall have the sole right to designate persons as authorized signatories on the Operating Account and such authorized signatories shall have sole authority to make disbursements therefrom; provided however that OWNER will arrange for an authorized signatory of MANAGER to have signature authority to draw funds on the Operating Account without additional signatures from other parties unless and until any breach of this Agreement allegedly committed by MANAGER occurs, a termination of this Agreement occurs or any misappropriation, theft or fraud allegedly committed by such signatory occurs, it being understood and agreed that MANAGER shall not be required to advance any of its own funds for the Operating Expenses of the Parking Facility and it shall not be a default by MANAGER that it fails to pay an Operating Expense hereunder to the extent such failure is caused by OWNER’s failure to furnish MANAGER with funds necessary for the discharge thereof. The Operating Account (a) shall be a trust account for the benefit of OWNER, (b) shall explicitly state in the name of such Operating Account that such Operating Account is held in trust for OWNER and (c) shall not be commingled with other funds held by MANAGER (even if such other funds relate to projects owned by OWNER or any Affiliate of OWNER). At all times the funds deposited in the Operating Account shall be the sole and exclusive property of OWNER. OWNER shall have the sole and exclusive right to make any decision or election with respect to the establishment, maintenance and closing of the Operating Account (and any other account established with respect to OWNER and/or the Parking Facility). All fees, charges and other
monies collected by MANAGER (the “Receipts”) shall be promptly deposited into the Operating Account. MANAGER shall thereafter, on or before the twentieth (20th) day of the month, disperse the Receipts for each prior month’s operation as follows:

a. MANAGER shall pay all Operating Expenses as defined in Paragraph 5.a, subject to and in compliance with the Property Budget (consistent with the expenses contemplated in the applicable provisions of the JV Agreement concerning the Property Budget) and subject to OWNER exercising its rights under Paragraph 5.b.

b. MANAGER shall pay on behalf of OWNER, from Receipts it receives, all city and county and airport parking taxes and fees prior to the date such payment(s) become delinquent which may be due and owing in connection with the operation of the Parking Facility as a public parking facility.

c. MANAGER shall pay the Management Fee due MANAGER from the Receipts it receives in the amounts set forth in Paragraph 8 herein (subject in all cases to the Property Budget).

d. After payment of the amounts as directed in (a), (b) and (c) above, the balance of the Receipts from the Parking Facility shall be immediately paid to OWNER.

e. In the event any government-mandated employment cost (such as a required wage) is imposed, increased, adjusted or introduced with respect to work performed by MANAGER for OWNER, MANAGER will notify OWNER and add such cost, without markup, as an Operating Expense to the Property Budget, unless and until OWNER and MANAGER agree otherwise.

f. In the event of an emergency situation, MANAGER may add, without markup, as an Operating Expense to the Property Budget, costs and expenditures reasonably incurred by MANAGER where such cost or expenditure will prevent or mitigate (or is reasonably believed to prevent or mitigate) the injury or death to person or damage to property that OWNER or MANAGER may be liable for and, prior to incurring any such cost or expenditures, MANAGER is unable to contact OWNER to obtain OWNER’S approval. MANAGER shall contact and advise OWNER as soon as possible after the emergency situation and follow OWNER’S reasonable directions with respect thereto.

g. OWNER shall have reviewed and approved any revenue information submitted to any lessor under any ground or underlying lease or any governmental or airport authority, prior to submission.

h. Payment of claims for damage, personal injury, or loss of personal property shall be authorized by OWNER in writing, in advance, unless such payment is $500.00 or less in which case no authorization is required.

Except for the disbursements from the Operating Account made in accordance with this Agreement, the JV Agreement and the Property Budget, funds will be disbursed or transferred from the Operating Account solely as OWNER may from time to time direct in writing.

8. Payments to MANAGER.

a. For each Fiscal Year during the Term, MANAGER shall be entitled to receive an amount equal to twelve percent (12%) of the Operating Surplus for such Fiscal Year (“Management Fee”); the
Management Fee will be prorated for partial Fiscal Years. MANAGER shall receive $42,224 at the end of each calendar month during the Term as an advance on such Management Fee. This amount will be prorated for partial months. The monthly payments to MANAGER hereunder during any such Fiscal Year shall be subject to the determination of the actual Management Fee for such Fiscal Year pursuant to the annual reconciliation (the “Reconciliation”) in accordance with Paragraph 8.d below. The monthly advance amount paid during any such Fiscal Year is meant to serve as a reasonable estimate of the Management Fee for that Fiscal Year, and the amount of that monthly advance also may be adjusted by mutual agreement of the parties, each acting reasonably, from time to time to reasonably minimize adjustments during the Reconciliation.

b. For purposes of this Agreement, the following terms shall be given the following meanings:

i. “Gross Revenues” shall mean, for the applicable period in question during the Term, all parking revenues earned and received from the Parking Facility and all revenues earned and received from ancillary services provided to customers at the Parking Facility; provided, however, that notwithstanding the foregoing: (A) Gross Revenues shall not include the following: (1) gratuities to employees paid directly by a customer or other third party; (2) accounts receivable written off as uncollectible, except to the extent amounts are recovered by the sale thereof or otherwise; (3) proceeds of insurance (other than business interruption insurance after deducting therefrom all reasonable expenses incurred in the adjustment or collection thereof) or proceeds of awards received in condemnation (but excluding compensation received for loss of business to the extent attributable to the period in question); (4) proceeds of the sale or disposition of the Parking Facility or any capital assets or of the refinancing of, or loans with respect to, the Parking Facility; (5) any amounts reimbursed by OWNER to MANAGER or otherwise advanced and deposited into the Operating Account or other bank accounts used for the operation of the Parking Facility; (6) interest earned on any amounts deposited into any such bank accounts; any security deposits or similar deposits (except as applied or forfeited); (7) any rebates or credits received by MANAGER pursuant to any service contract or purchase order or other contracts relating to the Parking Facility; (8) any discounts, coupons or complimentary validations to customers from the stated or advertised rates or from any other rates charged to other customers; and (9) discounts, rebates, coupons and reimbursements and add-ons, including as required under any marketing partnerships and alliance; and (B) in computing Gross Revenues, payments for parking made in advance (advance validations) shall not be included unless and until the parking service is rendered and cancellation refunds shall reduce Gross Revenues in the period in which same is made. Gross Revenues shall include cash only and shall not include exchanges for services or barter. Any Gross Revenue from the Parking Facility collected directly by OWNER shall be accurately reported in writing to MANAGER. Gross Revenue shall include any cash refunds received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility including any tax refunds.

Gross Revenue shall not include any reserves and escrows that are existing or funded on or about the date hereof in connection with OWNER’s acquisition of the Parking Facility; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such reserves or escrows in the future and paid for the account of OWNER, those funds shall be Gross Revenue when so paid, but only to the extent that such funds are offset by the Operating Expenses paid for (or reimbursed) with such funds (which offset shall be deemed to have occurred in the same Fiscal Year for purpose of calculating the Management Fee). During the Term, for purposes of calculating the Management Fee, amounts paid from Gross Revenues to fund any other future reserves or escrows required by any financing
documents with respect to the Parking Facility or otherwise required by OWNER or any Parking Facility Agreements shall not be Operating Expenses when reserved or escrowed; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such future reserves or escrows, those funds shall not be Gross Revenue when paid or applied and, accordingly, Operating Expenses will not be offset if paid for (or reimbursed) with such funds or escrows, regardless of whether those funds were reserved or escrowed from Gross Revenue or OWNER’s capital, it being understood that if Gross Revenue is not sufficient to fund such reserves and escrows, the capital that OWNER provides to meet that funding or escrow obligation shall not be Gross Revenue. By way of example, if Gross Revenue in Year 1 is $1,000, Operating Expenses are $200 and 10% of Gross Revenue is put into a reserve, then the Operating Surplus will be $800. In Year 2, if Gross Revenue is again $1,000, Operating Expenses are $250 and no money is put into reserves, but the reserves from the prior year are used to pay $100 of Operating Expenses, the Operating Surplus will be $750.

ii. “Operating Surplus” shall mean for the Parking Facility, for the applicable period in question during the Term, an amount calculated on an cash basis, equal to the excess of Gross Revenues for such period over the Operating Expenses for such period; provided, however, Debt Service Expenses and the Management Fee for such period shall not be treated as Operating Expenses for purposes of calculating the Operating Surplus.

iii. “Debt Service Expenses” means all principal, interest and other similar charges paid to any lenders under any loan documents secured by a mortgage or deed of trust on OWNER’s interest in the land and improvements comprising the Parking Facility.

c. Within fifteen (15) days after the end of each calendar month of the Term (prorated for any fractional calendar month), MANAGER shall provide to OWNER a statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such calendar month and each of the components thereof, together with reasonable supporting evidence and any other information reasonably requested by OWNER. The Management Fee calculation shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

d. Within sixty (60) days after the end of each Fiscal Year occurring during the Term (prorated for any fractional Fiscal Year), MANAGER shall provide to OWNER a reconciliation statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such Fiscal Year and each of the components thereof (calculated based on the Operating Surplus for that Fiscal Year), together with reasonable supporting evidence and any other information reasonably requested by OWNER, and showing the aggregate amount of Management Fees received by MANAGER and calculating any overpayment or underpayment of the Management Fee. MANAGER shall refund OWNER any overpayment by applying the amount thereof as a credit against the Management Fee next due or becoming due, provided if the Term expires or is terminated before the determination of the overpayment, MANAGER shall refund any overpayment to OWNER with a payment accompanying the applicable reconciliation statement or if such overpayment has not been fully credited within ninety (90) days of the applicable reconciliation, MANAGER shall refund the outstanding amount of the overpayment to OWNER within ten (10) days following the end of such 90-day period. MANAGER shall collect any underpayment of Management Fee as a credit against the Operating Surplus for the succeeding month(s) until fully paid, provided if the Term expires or is terminated before the determination of the underpayment, OWNER shall pay MANAGER, within thirty (30) days after its receipt of
the reconciliation statement or if such under payment has not been fully credited within ninety (90) days of the applicable reconciliation, OWNER shall pay the outstanding amount of the underpayment to MANAGER within ten (10) days following the end of such 90-day period. The Management Fee, as reconciled hereunder, shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

9. MANAGER’s Report. MANAGER agrees that it will keep complete records of all receipts and disbursements (including Receipts) pertaining to the operation of the Parking Facility and such books of account and all other records relating to or reflecting the operation of the Parking Facility shall at all times be the property of OWNER, and such books and records shall be kept in a location or locations acceptable to OWNER and shall not be destroyed or discarded without the prior written approval of OWNER. On or before the twentieth (20th) day of each month (beginning with the second month of the Term of this Agreement) MANAGER shall render to the OWNER a complete accounting ("MANAGER’s Report") of all receipts and disbursements (including Receipts) for the preceding month and render payment to OWNER under Paragraph 7.d of this Agreement if any such payment is due. In addition, from time to time, upon OWNER’s reasonable request, MANAGER shall provide such other financial and operations reports concerning the Parking Facility, including, without limitation operating statements and revenue reports, as may be required by the terms of the Parking Facility Agreements, including, without limitation, any financing documents, operating permits and ground leases, and reasonably cooperate with operational reviews by lenders, auditors and prospective purchasers and investors, from time to time, as reasonably requested by OWNER. OWNER and/or its representative shall have the right to audit MANAGER’s books and records relating to the Parking Facility upon reasonable notice. OWNER also reserves the right to perform any audit tests relating to MANAGER’s activities, provided such audit tests are related to those activities performed by MANAGER for OWNER. Should OWNER discover either weaknesses in internal control or errors in record keeping, MANAGER shall promptly correct such audit discrepancies. On the twentieth (20th) day of the month following the termination or expiration of this Agreement MANAGER shall render to OWNER a preliminary MANAGER’s Report with the final MANAGER’s Report due within sixty (60) days following the termination or expiration date.

10. Insufficiency of Receipts. If the Receipts for any month are insufficient to make the payments required by Paragraph 7, subparagraphs (a), (b) and (c) above, OWNER agrees to pay into the Operating Account the amount of such deficit (solely in accordance with the Property Budget) within ten (10) days after receipt of MANAGER’s Report of Receipts.


a. MANAGER agrees to manage, market, operate and maintain the Parking Facility in an efficient and professional manner 24 hours per day, 7 days per week or during the hours otherwise directed by OWNER in writing, and in all cases in accordance with the Operating Standard. MANAGER further agrees that rates for parking in the Parking Facility shall be approved in advance by OWNER in writing; such rates shall not be varied without written approval of the OWNER. MANAGER, on behalf of OWNER, shall conduct the ordinary and usual business affairs of OWNER as provided in this Agreement and in accordance with the Property Budget. MANAGER agrees to perform its duties hereunder to manage, market, operate and maintain the Parking Facility in accordance with the standards set forth herein, and to comply with such written instructions and policies as may be reasonably requested by OWNER subject to the Property Budget. MANAGER will not incur any expenses or make any expenditure except as expressly permitted in or by this Agreement and the Property Budget. Notwithstanding anything to the contrary contained in this Agreement, MANAGER shall not be permitted to take any action
or make any expenditure that would constitute a Major Action under the JV Agreement without in each case obtaining the prior written approval of OWNER therefor.

b. As used herein, “Operating Standard” shall mean: (i) (A) in a commercially reasonable, prudent, diligent and workmanlike manner, (ii) in accordance with the terms and conditions of this Agreement and in conformity with the then current Property Budget, (iii) in accordance with the terms and provisions of the Parking Facility Agreements (as hereinafter defined), to the extent that MANAGER shall have received or have in its possession or control a full and complete copy thereof, (iv) in accordance with the requirements of any carrier having insurance on the Parking Facility or any part thereof and (v) in accordance with such written standards for operations as OWNER and MANAGER may develop and approve, working cooperatively and in good faith, with respect to the Parking Facility. As used herein, “Parking Facility Agreements” shall mean those agreements listed and/or described on Schedule “C” attached hereto and incorporated herein by reference, as revised from time to time with the approval of Owner or at the direction of Owner. MANAGER shall act in a fiduciary capacity with respect to the handling and accounting of funds of OWNER.

c. MANAGER shall have no authority on behalf of OWNER to do, and shall not do, any of the following without OWNER’s written approval in each instance: (a) remove any fixed assets, supplies, furniture, fixtures, equipment, inventories or operating supplies from the Parking Facility, except in the ordinary course of business or in connection with the disposition of obsolete, worn-out damaged items; (b) borrow money, guaranty the debts of any third person, or mortgage, pledge, grant a security interest in or otherwise encumber all or any part of the Parking Facility; (c) make, execute or deliver on behalf of OWNER any assignment for the benefit of creditors, or any guaranty, indemnity bond, or surety bond; (d) confess any judgment on behalf of OWNER or the Parking Facility; (e) file a voluntary or consent to an involuntary bankruptcy with respect to the Parking Facility; (f) enter into, modify, or terminate any lease, agreement to lease, option to lease, sublease, license, parking agreement, operating agreement, management agreement or similar arrangement relating to any occupancy of space in the Parking Facility, except for parking agreements with customers in accordance with Paragraph 11.d below (for sake of clarification, use of the Parking Facility by a car rental company if the car rental company is conducting its car rental business on-site shall not be deemed a parking agreement for purposes of Paragraph 11.d); (g) select or retain a construction manager, general contractor, architect, managing agent, legal counsel, rental agent, accountant or insurance carrier for the Parking Facility, or the election as to whether and when to have an audit conducted of the fiscal affairs of the Parking Facility, provided however if OWNER requires MANAGER to retain professionals and the cost of such retention is not in the Property Budget, the Property Budget shall be increased to include such costs, with OWNER’s approval (and MANAGER shall not be required to retain such professionals if OWNER does not approve the cost thereof to do so); (h) institute or defend litigation on behalf of the Parking Facility; (i) enter into, amend or terminate any Parking Facility Agreement including any service contract, contract for goods or services of any kind or similar agreement, except in accordance with Paragraph 11.d below or in accordance with the Property Budget; (j) communicate with the media in any written or oral form which names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member, or otherwise communicate with media about any matter concerning the Parking Facility other than related to operations, incidents at or marketing of the Parking Facility; (k) write-off, forgive or otherwise defer any receivable or rent in excess of such amounts as may be instructed by OWNER (excluding any complimentary validations in accordance with guidelines approved by OWNER); (l) take any other action or decision outside the scope of the ordinary, day-to-day business affairs of the Parking Facility; or (m) operate or permit the operation of any business at the Parking Facility or the sale of any customer
information or provision of services to customers of the Parking Facility (e.g., car washes, vending machines etc.), the revenues of which are not included in Receipts.

d. MANAGER shall negotiate and, subject to the limitations set forth in this Agreement and the Parking Facility Agreements, enter into on behalf of OWNER parking agreements with customers for parking vehicles at the Parking Facility, service contracts and leases for equipment reasonably necessary or desirable in connection with the operation of the Parking Facility in the usual course of business, including, without limitation, vehicle maintenance, utility services, maintenance, heating and air conditioning maintenance, internet, phone service, landscaping care and uniform laundry services. Unless approved in writing by OWNER, all such contracts that involve work or services being performed at the Parking Facility shall contain an obligation on the part of the vendor to indemnify OWNER to a customary and reasonable degree and require the vendor to obtain insurance coverages as required by any Parking Facility Agreements and as otherwise necessary to protect OWNER to the extent customary for similar contracts. In the case of any service contract for labor or materials, the nonpayment of which could give rise to lien rights on the part of the contracting party against the Parking Facility, then prior to and as a condition of any payment, MANAGER shall use reasonable efforts to obtain appropriate lien waivers at the time of execution and shall obtain acceptable lien waivers from the contracting party conditioned upon receipt of the specified payment and thereafter upon completion of the contract work, a full, unconditional lien waiver from the contracting party. MANAGER shall supervise and, utilizing the funds available or made available for this purpose pursuant to terms hereof, purchase, or arrange for the purchase of, all furniture, fixtures and equipment and personalty which in the normal course of business are necessary and proper to maintain the Parking Facility in accordance with the standards required hereunder and the Property Budget. Any refunds, rebates or credits received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility shall be Receipts and shall be deposited into the Operating Account or otherwise applied for the benefit of the Parking Facility, and the benefits of any discounts received by MANAGER pursuant thereto shall be applied for the benefit of the Parking Facility such that only the net amounts (after such discounts) payable thereunder shall be charged to the Parking Facility. Notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any service contracts, purchase orders or other contracts that may otherwise be permitted hereunder, unless (a) the expenditure thereunder is provided for in the Property Budget, and (b) such service contract, purchase order or contract is cancelable without penalty on not more than thirty (30) days’ notice, unless otherwise agreed by OWNER in writing. In addition, notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any parking agreements or contracts to permit the use of the parking spaces at the Parking Facility or to provide reduced or fixed rates for use of parking at the Parking Facility that might otherwise be permitted hereunder, unless (a) the parking rates thereunder are in accordance with the then current schedule for parking rates and permitted discounted rates for the Parking Facility that has been approved in writing by OWNER, from time to time (OWNER hereby approves (i) the parking rates and permitted discount rates and (ii) the hours of operation for the Parking Facilities set forth in Schedule “D” attached to this Agreement and incorporated by reference herein) and (b) such agreement or contract is cancelable without penalty on not more than thirty (30) days’ notice, without penalty, unless otherwise agreed by OWNER in writing. Insurance certificates and copies of service contracts shall be forwarded to OWNER promptly upon execution of the same or otherwise upon request and any entry into a service contract by MANAGER hereunder shall be signed by MANAGER as the disclosed agent of OWNER.

12. Permits and Licenses. MANAGER shall use commercially reasonable efforts to obtain under OWNER’s name (or its own, as applicable, if required under applicable law) and maintain, in full force and effect, throughout the Term hereof any and all permits and licenses required by any public or quasi-
public authority for the use, maintenance and operation of the Parking Facility as a public parking facility in accordance with the Operating Standard.

13. **Relationship of Parties.** Nothing in this Agreement shall be construed as creating a partnership, employer/employee relationship or joint venture between OWNER and MANAGER. Except as set forth in the Agreement, neither party hereto shall have the right or authority to bind or obligate the other party in any manner whatsoever or expressly or impliedly incur any liability or obligation on behalf of the other party, nor shall OWNER be liable for any debts incurred by MANAGER.

14. **Additional Responsibilities of the Parties.**

   a. MANAGER agrees to use commercially reasonable diligence in the care and protection of the Parking Facility during the Term of this Agreement. OWNER acknowledges that MANAGER is not a security company and does not employ personnel for that purpose. MANAGER assumes no liability or responsibility with respect to injuries, damage or costs sustained to any person or property as a result of its alleged failure to warn, guard or protect persons or property in or about the Parking Facility from and against intentional threats, harm or injury except for the negligent or intentionally committed acts of or by MANAGER or its employees; provided, however, the foregoing shall not relieve MANAGER of its obligation to obtain insurance in accordance with the other provisions of this Agreement.

   b. MANAGER further agrees to comply (and cause the Parking Facility to comply, subject to the Property Budget) with all government laws, ordinances and regulations pertaining to the Parking Facility.

   c. With respect to the following events, conditions or occurrences, MANAGER shall notify OWNER promptly upon MANAGER’S knowledge thereof (together with copies of supporting documentation) of: (a) any violation of any laws, ordinances, rules, regulations or other governmental requirements (and make recommendations regarding compliance therewith); (b) any defect or unsafe condition in or at the Parking Facility; (c) any condemnation proceedings, rezoning or other governmental order, lawsuit or threat thereof involving the Parking Facility; (d) any notice of default under any Parking Facility Agreement or other material agreement relating to OWNER or the Parking Facility; (e) any notice of violation of any insurance requirement; (f) any claim, incident that may be covered by insurance or could lead to legal liability, demand, suit or other legal proceeding made or instituted against, or otherwise relating to, OWNER and/or the Parking Facility; or (g) any damage or destruction to the Parking Facility (including fire, theft or vandalism) or personal injury at the Parking Facility. MANAGER shall keep OWNER reasonably informed of the status of the particular matter through the final resolution thereof. MANAGER shall retain in the records it maintains for the Parking Facility copies of all supporting documentation with reference to any of the foregoing notices.

   d. MANAGER shall cause all revenues, receipts and all other payments, cash or income of any kind, type or nature, derived from the Parking Facility to be deposited into the Operating Account and such accounts at such banks or other financial institutions as are determined by OWNER, as and when determined by OWNER. In its capacity, MANAGER shall deal at arm’s length with all third parties, and subject to that limitation, MANAGER may not enter into agreements with affiliates of MANAGER, without the prior, written approval of OWNER; it being agreed that any such agreement entered into with any such affiliate shall be on reasonably competitive terms and such other terms as are not less favorable to OWNER than those reasonably obtainable from an unrelated third party.
15. Insurance Carried by MANAGER. MANAGER agrees to carry the insurance listed below, with limits not less than the amounts as shown below and pay all premiums thereon when due.

a. Commercial General Liability insurance (Garage Liability), including coverage for bodily injury (including coverage for death, mental anguish), Premises-Operations, Independent Contractors’ Protective, Products-Completed Operations, Blanket Contractual Liability, Personal Injury and Broad form Property Damage (including coverage for Explosion, Collapse and Underground hazards), and including Cross Liability and Severability of Interests, with coverage for libel, false arrest, assault & battery, discrimination, sexual molestation, detention or imprisonment, wrongful eviction from, wrongful entry into, invasion of the right of privacy, and slander and/or defamation of character. This coverage must be maintained for the full Term of this Agreement with the following minimum limits:

   i. $1,000,000 Each Occurrence;
   ii. $2,000,000 General Aggregate;
   iii. $1,000,000 Personal and Advertising Injury; and
   iv. $2,000,000 Products-Completed Operations Aggregate.

b. Garagekeeper’s Legal Liability insurance for any and all automobiles that are parked at the Parking Facility by MANAGER’s attendants or for which a bailment is otherwise created, whether implied or in fact, with limits of liability not less than $1,000,000 per occurrence. The limit of liability for the Garage Keeper’s Legal Liability coverage must be sufficient to insure the payment of any loss without prorating of that loss based on the maximum facility capacity. Any deductible the MANAGER may carry shall be of industry standard, approved by management and the MANAGER’s sole responsibility.

c. Worker’s Compensation insurance in compliance with statutory requirements of the state(s) in which the employee resides, is hired and in which the services are being performed and shall apply to all persons employed by MANAGER.

d. Employer’s Liability insurance in the amount of $500,000 each accident for bodily injury by accident, $500,000 each employee for bodily injury by disease, and $500,000 policy limit for bodily injury by disease, or such other amount as may be required by umbrella policy to effect umbrella coverage.

e. Comprehensive Automobile Liability insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage if automobiles are used in the performance of MANAGER’s obligations hereunder;

f. Umbrella/Excess Liability insurance on a follow form basis with a per occurrence and annual aggregate limit of $10,000,000 per location / project. Coverage shall be excess of Garage Liability (including products and completed operations coverage), Auto Liability, Garagekeeper’s Legal Liability and Employer’s Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

g. Inside and Outside the Premises insurance including to protect against loss due to robbery, theft or burglary with not less than $100,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.
h. Employee Dishonesty insurance including to protect against loss due to employee dishonesty and depositor forgery with not less than $1,000,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.

i. Employment Practices Liability insurance, including third party coverage, in an amount of $1,000,000.

MANAGER, at the direction of OWNER from time to time, shall secure and maintain, at Owner’s cost and expense (as set forth in the Property Budget), such additional insurance (including, without limitation, reasonable increases to coverage described above) sufficient to furnish Owner and MANAGER reasonable and adequate protection in the management and operation of the Parking Facility, as determined by OWNER. All insurance shall conform to the reasonable requirements of OWNER and to the requirements of the Parking Facility Agreement, as applicable. OWNER shall have the right to approve the amount, scope and terms of all insurance coverages (including, without limitation, the amount of any deductibles) obtained hereunder. All such insurance shall be in the name of OWNER or MANAGER (with OWNER as a named insured), as OWNER shall reasonably require, and if not in the name of a party, such party shall be an additional insured, and with such other parties as additional insureds as OWNER may require, including, without limitation, any holders of any mortgages, deeds of trust or security agreements with respect to the Parking Facility or any related assets thereof, shall contain, as applicable, a standard mortgagee clause and shall contain riders and endorsements adequately protecting the interests of MANAGER as it may appear, including, without limitation, provisions for at least thirty (30) days’ notice to OWNER and MANAGER of cancellation or of any material change therein. All policies of property insurance shall provide that the insurance company will have no right of subrogation against either party hereto or their respective agents or employees.

MANAGER’s insurance shall be primary and non-contributory with regard to any other insurance that may be available to OWNER and additional insureds.

MANAGER shall cause each contractor and any subcontractors to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Garage Liability and Worker’s Compensation limits required above. MANAGER shall cause each subcontractor to include the same additional insured requirements and certificates of insurance as noted above for MANAGER.

Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on MANAGER under this Agreement.

16. Indemnification.

a. OWNER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of MANAGER’s operations, actions or inactions hereunder, including but not limited to damage to vehicles. MANAGER shall indemnify, defend, and hold OWNER and its respective officers, employees, partners, members or agents (the “Indemnitees”), harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the acts, omissions, breach of contract or violation of law by MANAGER or its agents, officers, representatives or employees.

b. MANAGER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of OWNER’s operations hereunder. OWNER shall indemnify, defend, and hold MANAGER and its respective Indemnitees, harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit,
incurred by any such Indemnitees, and resulting from the gross negligence or willful misconduct of OWNER.

c. The provisions of this Paragraph 16 shall survive termination or expiration of this Agreement.

17. Parking Facility. It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from the Parking Facility’s design, structural faults or defects are not the responsibility of MANAGER (other than if OWNER is entitled to indemnification from MANAGER as set forth above and except that the foregoing shall not modify or limit in any way the rights of OWNER or any of its Affiliates or the obligations of MANAGER or any of its Affiliates under any other agreement to which any of them is a party that concerns the Parking Facility).

18. Compliance with Laws. MANAGER agrees to manage, operate, and promote the use of the Parking facility in accordance with all local state and federal laws and government regulations.

19. Employees.

a. MANAGER shall investigate, select, employ, promote, terminate where appropriate, supervise, direct, train and assign duties of all employees in connection with the operation and maintenance of the Parking Facility. MANAGER shall have in its employ at all times sufficient number of capable employees to properly, safely, and economically manage, operate and maintain the Parking Facility, subject to the Property Budget. All matters pertaining to the employment, supervision, compensation, promotion, and discharge of such employees are the responsibility of MANAGER. MANAGER represents, warrants and covenants that it is, and shall continue to be, an equal opportunity employer and is, and shall continue to be, in compliance with all applicable employment laws. In addition, MANAGER shall from time to time develop and implement policies, procedures and programs for the Parking Facility designed to effect compliance with all applicable employment laws. The employment policies shall be consistent with industry standards from time to time for reputable parking management companies. MANAGER shall cause to be prepared and filed all necessary forms and returns for unemployment, insurance, withholding and social security taxes and all other tax and other forms relating to employment of its employees required by federal, state or municipal authorities. OWNER and MANAGER agree that, during the Term of this Agreement, all personnel employed to operate the Parking Facility shall be solely the employees of MANAGER and shall have no contractual relationship with OWNER.

b. In the event that the employees at the Parking Facility become represented by a labor organization, MANAGER shall assume all responsibilities to meet and confer with such labor organization, and if MANAGER deems appropriate, MANAGER shall execute on its own behalf (and not on behalf of OWNER) a collective bargaining agreement (including, without limitation, any amendments thereto or modifications thereof) with respect to the employees; provided, however, that (i) OWNER shall have approved in advance of such execution and in writing any and all costs to be incurred under such collective bargaining agreement (which approval shall not be unreasonably withheld or delayed) and (ii) OWNER acknowledges that such costs shall be a cost of and charged to the operation of the Parking Facility. MANAGER shall keep OWNER reasonably well-apprised of the status of such matters and shall give OWNER at least ten (10) business days’ prior written notice before MANAGER enters into any such collective bargaining agreement. At all times, MANAGER shall use its reasonable efforts to maintain labor harmony at the Parking Facility.
20. Transfers of Assets Termination. Upon termination of this Agreement for any reason in accordance with the terms hereof, MANAGER hereby agrees that it will take all reasonable and necessary measures to ensure that any and all contracts and assets held in MANAGER’s name and directly relating to the on-going operation of the Parking Facility are promptly transferred to OWNER (the “Manager-Held Assets”), including, without limitation, executing and delivering all such documents and instruments as shall be reasonably required to effectuate such transfers, except as otherwise may be instructed or directed by OWNER, subject to the terms of Paragraph 21 below and subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts. MANAGER represents and warrants that, as of the Effective Date, (1) all existing agreements, leases, licenses and contracts of any kind or nature (including, without limitation, all amendments, modifications and other agreements with respect thereto) comprising Manager-Held Assets are identified and listed in Schedule “C” as Manager Parking Facility Agreements (including, without limitation, all leases and financing agreements pursuant to which MANAGER has the right to use the Equipment), (2) all furniture, fixtures, equipment and other personal property (including, without limitation, vehicles) comprising Manager-Held Assets are identified and listed on Schedule “E” attached hereto and incorporated herein by this reference and (3) no other Manager-Held Assets exist as of the Effective Date. MANAGER covenants that it shall not enter into any new Manager Parking Facility Agreements or modify or amend any Manager Parking Facility Agreements, or purchase, lease or dispose of any Manager-Held Assets (including, without limitation, the Equipment) in the future, without obtaining the prior written consent of OWNER, in each instance, or unless set forth in the Property Budget. From time to time, upon request, MANAGER shall identify, in writing, all existing Manager-Held Assets, within ten (10) business days of Owner’s written request therefor. In addition, upon termination of this Agreement for any reason in accordance with the terms hereof, (i) deliver to OWNER, or such other person or persons designated by OWNER, copies of all books and records of the Parking Facility and all funds in the possession of MANAGER belonging to OWNER or received by MANAGER pursuant to the terms of this Agreement, and all keys or combinations to locks then in MANAGER’s possession, (ii) peacefully vacate and surrender the Parking Facility to OWNER on the effective date of such termination, (iii) assign, transfer or convey to such person or persons as may be designated by OWNER all service contracts relating to or used in the operation and maintenance of the Parking Facility, subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts; (iv) execute and deliver any termination or other necessary agreements requested for the purpose of evidencing the termination of this Agreement, and otherwise cooperate fully with OWNER in the smooth and orderly transition of the Parking Facility to a replacement manager; any transferee of OWNER or to any managing operator designated by OWNER or any transferee of OWNER; (v) immediately release and transfer to OWNER any of OWNER’s funds which are held or controlled by MANAGER with respect to the Parking Facility and transfer the Operating Account and any other bank accounts relating to the Parking Facility as directed by OWNER, in each case subject to all outstanding expenses accrued in accordance with Paragraph 5, which expenses OWNER agrees to pay; (vi) to the extent applicable, comply with OWNER’s direction to remove MANAGER and/or its agents, servants or employees as authorized signatories from the Operating Account and any other bank accounts maintained hereunder; (vii) make available to OWNER such books and records respecting the Parking Facility (including, without limitation, those from prior years during the term of this Agreement) as will be needed by OWNER to prepare the accounting statements, in accordance with the terms hereof, for the Parking Facility for the year in which the expiration or termination occurs and for any subsequent year; (viii) to the extent permitted by law, assign to OWNER or to the new property manager (as directed by OWNER) all operating licenses and permits for the Parking Facility which have been issued in MANAGER’s name; and (ix) reasonably cooperate with OWNER to assist OWNER to obtain new licenses or to continue all operations without interruption following termination while OWNER is attempting to obtain new licenses. Within sixty (60) days following expiration or earlier termination of this Agreement, MANAGER shall deliver to OWNER a final accounting, in writing, with respect to the operations of the
Parking Facility. The obligations set forth in this Paragraph shall survive expiration or earlier termination of this Agreement.

21. **Equipment.** It is the understanding between the MANAGER and OWNER that MANAGER is purchasing (on an installment sale basis) or leasing the equipment listed in Schedule “E” attached hereto and incorporated herein by this reference (“Equipment”) for the sole use (and, in the future, at the sole request of OWNER) (solely in accordance with the Property Budget). MANAGER agrees that when any such Equipment shall have been fully purchased and paid for, MANAGER shall immediately transfer such Equipment to OWNER. However, if the Term of this Agreement is terminated, for any reason, by either party prior to the then current date for expiration of the Term (as determined in accordance with Paragraph 2 hereof), the OWNER shall assume all liabilities and obligations of MANAGER under the then existing leases or installment sale contracts made in accordance with the terms of this Agreement for the Equipment, subject to the prior approval of the lessor(s) thereunder, in which cases MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in all such Equipment to OWNER. In the event any such lessor will not approve any such assignment, then OWNER, at its option, shall either (i) purchase the applicable Equipment, whereupon OWNER shall pay to the vendor or lessor of the applicable Equipment an amount equal to the full unamortized cost of all Equipment that is required to purchase the Equipment (MANAGER represents and warrants that that MANAGER has the right under the agreements with such vendors and lessors with respect to all Equipment to purchase the Equipment in such event on terms that upon written request, MANAGER will fully and accurately disclose to OWNER, and MANAGER agrees that it has fully and accurately disclosed to OWNER prior to the date hereof all such rights under all existing agreements), including but not limited to applicable sales and property taxes, termination fees, registration fees, interest, transfer fees, acquisition fees and any applicable residual or end value fees and, in such event, MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in such Equipment to OWNER or (ii) have MANAGER turn in the applicable Equipment provided that OWNER shall pay any fees, costs or other charges incurred as a result of returning the applicable Equipment under the agreements. Such transfer to OWNER shall occur, if it all, no later than the last day that MANAGER provides parking management services to the OWNER as to the Parking Facility hereunder.

22. **General.**

a. **Assignment.** MANAGER may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of OWNER. MANAGER hereby represents and warrants that the direct and indirect ownership and Control of MANAGER as of the date hereof is shown on Schedule “F” annexed hereto and made a part hereof and is true and complete in all respects. MANAGER shall notify OWNER in writing of the occurrence of any Property Manager Change of Control with respect to MANAGER, within ten (10) days following such occurrence. In addition, from time to time, MANAGER shall execute a certification making the same representation and warranty as to its direct and indirect ownership and Control, updated as of the date of such certification, promptly upon OWNER’s written request therefor. OWNER may assign its rights and obligations under this Agreement at any time, without the consent of MANAGER; provided however, that OWNER shall use reasonable efforts to notify MANAGER in writing of any such assignment at least thirty (30) days in advance thereof and any transfer or assignment of this Agreement by OWNER shall include an express assumption by the transferee or assignee of OWNER’s obligations hereunder. For purposes of this Agreement, any change in or any sale, conveyance, transfer or other disposition of, whether voluntarily, involuntarily or otherwise, the direct or indirect ownership interests in OWNER shall not be deemed to be an assignment hereunder.
b. **Binding Effect.** It is understood that this Agreement shall be binding upon and inure to the benefits of the heirs, personal representatives, successors and permitted assigns of the parties.

c. **No Property Interest.** Notwithstanding all provisions of this Agreement, it is mutually understood and agreed between the parties hereto, that this Agreement shall not in any way be construed to be a lease, but is merely a recitation of contract provisions. This Agreement shall not be recorded in the public records of any jurisdiction. This Agreement shall not create an interest in real property in favor of MANAGER and nothing herein shall create an agency coupled with an interest; MANAGER expressly waives any such interests.

d. **Notices.** Notice to both OWNER and MANAGER shall be sent to the following addresses (including via electronic mail or facsimile number):

   **If to OWNER**
   
   c/o Och-Ziff Real Estate  
   9 West 57th Street, 40th Floor  
   New York, New York 10019  
   Attention: Steven E. Orbuch  
   Facsimile: (212) 790-0005  
   E-mail: sorbuch@ozcap.com

   with a copy to:

   Bryan Cave LLP  
   1290 Avenue of the Americas  
   New York, New York 10104  
   Attention: Ronald Emanuel, Esq.  
   Facsimile: (212) 541-1434  
   E-mail: rbemanuel@bryancave.com

   **If to Manager:**

   Chief Administrative Officer  
   Pro Park, Inc.  
   1 Union Place  
   Hartford, CT 06103  
   Facsimile: N/A  
   E-mail: dave.schmid@propark.com

   With a copy to:

   Hinckley Allen & Snyder, LLP  
   20 Church Street  
   18th floor  
   Hartford, Connecticut 06103  
   Attention: William S. Fish, Jr.  
   E-mail: wfish@hinckleyallen.com

   Each such notice shall be effective (a) if given by facsimile or electronic mail, upon transmission, (b) if given by mail, on the fourth (4th) day after deposit in the mails (certified or registered return receipt requested) addressed as aforesaid and (c) if given by overnight courier service or by hand delivery, when received and (d) if given by any other means, when delivered to and receipted for at the address of such OWNER or MANAGER specified as aforesaid.

e. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State in which the Parking Facility is located.
f. **Modifications.** No modification, amendment, supplement to or waiver of this Agreement or any Schedule hereunder, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties.

g. **Waiver.** A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.

h. **Complete Agreement.** This Agreement and each Schedule attached hereto set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by both parties.

i. **Severability.** In the event any one or more of the provisions of this Agreement or of any Schedule is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.

j. **Limited Agent.** Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between OWNER, its successors or assigns, and MANAGER, its successors or assigns. MANAGER shall act as an independent contractor with the limited powers of agency expressly authorized by OWNER in this Agreement (which agency shall not be coupled with an interest) and, in exercising such powers of agency, MANAGER shall be an agent of OWNER solely for the purpose of performing the applicable management functions for OWNER within the scope of this Agreement. This Agreement does not create in MANAGER any interest in the Parking Facility, including, without limitation, any of the fixtures or equipment therein.

k. **Non-Recourse.** MANAGER shall look only to OWNER’s interest in the Parking Facility for the satisfaction of MANAGER’s remedies or for the collection of a judgment (or other judicial process) requiring the payment of money by OWNER in the event of any default by OWNER (or any other claim) hereunder, and no other property or assets of OWNER or its direct or indirect members, partners, officers, directors, shareholders or principals, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of MANAGER’s remedies under or with respect to this Agreement.

l. **Rules of Construction.** Whenever pursuant to this Agreement, OWNER exercises any right given to it to approve or disapprove or to provide or withhold consent, or any arrangement or term is to be satisfactory or acceptable to OWNER, all such decisions, directions and determinations made by OWNER shall be in the sole and absolute discretion of OWNER, except as otherwise expressly provided for in this Agreement, and shall be final and conclusive.

m. **Force Majeure.** Neither party shall be liable for any delay or default in rendering service hereunder where occasioned by any cause beyond its reasonable control; including, but not limited to: armed conflict or economic dislocation resulting therefrom; strikes; civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fires, floods, earthquakes and any other natural disasters; provided, however, that the party whose performance is being interrupted shall provide reasonably prompt notice to the other party.

n. **Attorney’s Fees.** If litigation is commenced by either party hereto against the other to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover all of its costs and other expenses of such litigation, including reasonable attorney’s fees. The
amount so allowed, as attorney’s fees and costs shall be charged to the losing party as costs of suit. The provision of this Paragraph shall survive the expiration or earlier termination of this Agreement.

o. **TRIAL BY JURY WAIVER.** EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY OF ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

p. **PUNITIVE DAMAGES WAIVER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, IN ANY ARBITRATION, LAW SUIT, LEGAL ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING FORM OR RELATING OT THIS AGREEMENT OR THE PARKING FACILITY, THE PARTIES UNCONDITIONALLY AND IRREVOCABLY WAIVE AND DISCLAIM, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ALL RIGHTS TO ANY PUNITIVE, EXEMPLARY, OR TREBLE DAMAGES, AND ACKNOWLEDGE AND AGREE THAT THE RIGHTS AND REMEDIES IN THIS AGREEMENT, AND ALL OTHER RIGHTS AND REMEDIES AT LAW AND IN EQUITY, WILL BE ADEQUATE IN ALL CIRCUMSTANCES FOR ANY CLAIMS THE PARTIES MIGHT HAVE WITH RESPECT THERETO. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

q. **Further Assurance: Financing Documents:** The parties hereto shall do and procure to be done all such acts, matters and things and shall execute and deliver all such documents and instruments as shall be reasonably required to enable the parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement. MANAGER shall promptly execute any customary assignment, subordination, estoppel certificate or other agreement required by any lender providing financing as to the Parking Facility. MANAGER agrees to and does hereby subordinate all of its right, title and interest in, to and under this Agreement, including without limitation, any present and future right to receive payments under this Agreement, to all liens and rights of any lender under any financing and any and all documents executed and delivered in connection therewith.

r. **Representations.** MANAGER hereby represents, warrants and covenants that:

(1) MANAGER has been duly organized and is validly existing and in good standing with the requisite power and authority to transact the business in which it is now engaged. MANAGER is duly qualified to do business and is in good standing in the jurisdiction of its incorporation and in the jurisdiction where the Parking Facility is located. MANAGER possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to transact the businesses in which it is now engaged.

(2) MANAGER has all requisite power and authority to enter into this Agreement, and to perform their respective obligations hereunder. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of MANAGER. This Agreement has been duly executed and delivered by MANAGER and this Agreement constitutes the legal, valid and binding obligation of MANAGER, enforceable against MANAGER in accordance with its terms, except as such enforceability may be limited by
bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(3) MANAGER has secured prior to the Effective Date and thereafter maintain at all times during the Term of this Agreement all necessary licenses, permits and authorizations to enable MANAGER and its agents and employees to perform all of their duties and obligations under this Agreement and shall notify OWNER should any such license, permit or authorization no longer be in effect or in good standing promptly (but, in any event, within 48 hours of MANAGER learning of the same).

(4)(A) MANAGER is not: (A) currently listed on the Specially Designated Nationals List (“SDN List”) or any similar list maintained by the Office of Foreign Assets Control (“OFAC”) at the United States Department of the Treasury; (B) owned or controlled, directly or indirectly, by a person or entity who is listed on the SDN List or any similar list maintained by OFAC; (C) a person or entity with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order; or (D) incorporated in any country subject to U.S. country-based economic sanctions whereby conducting transactions with that person or entity would be in violation of any applicable law, rule, or regulation. MANAGER has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

(B) MANAGER shall comply with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including, without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010).

(C) MANAGER shall immediately notify OWNER in writing if it becomes aware that any of the foregoing representations, warranties, or covenants are no longer true or have been breached or if MANAGER has a reasonable basis to believe that they may no longer be true or have been breached.

The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

s. Confidentiality. To the maximum extent permitted by applicable law, MANAGER shall keep confidential the books of account and all other records and documents relating to or reflecting the operation of the Parking Facility and the information therein (including, without limitation, marketing plans, customer lists, pricing information, projections, budgets and reports) for the sole and exclusive benefit of OWNER and, without the prior written consent of OWNER, MANAGER shall not disclose any information contained therein or relating to the operation of the Parking Facility in any respect to any person or entity, other than OWNER and OWNER’s employees, representatives, accountants, lawyers and other professionals as directed by OWNER. MANAGER may, however, disclose such documents and information to those of its directors, officers, employees, agents and advisors who need to know such information in connection with MANAGER’s fulfillment of its duties and obligations under this Agreement; provided that (a) prior to such disclosure, MANAGER agrees to inform such persons of the confidential nature of such documents and information and (b) MANAGER shall use reasonable efforts to cause such persons to keep such documents and information confidential and shall be fully responsible and liable for the consequences of their failure to do so. In addition, notwithstanding anything to the contrary
contained in this Agreement, in no event will MANAGER make any announcement or
disclosure referencing the names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any
derivation thereof, without the prior written consent of OP Holdings Member. The
provisions of this Paragraph shall survive the expiration or earlier termination of this
Agreement.

1. **Counterparts.** This Agreement may be executed in any number of counterparts, each of
which when so executed and delivered shall be deemed an original, but all of which taken
together shall constitute but one and the same original. Such executed counterparts may be
delivered by facsimile, electronic mail or portable document format which, in each case, upon
transmission to the other party, shall have the same force and effect as delivery of the original
signed counterpart.

[Signature Page to Immediately Follow.]
IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, have executed this Agreement as of the date first written above.

MANAGER:

PROPARK AMERICA WEST, LLC, a Connecticut limited liability company

By: __________________________
   Name: _______________________
   Title: ________________________
   Date: _________________________

OWNER:

OP CANOPY OWNER LLC, a Delaware limited liability company

By: __________________________
   Name: _______________________
   Title: ________________________
   Date: _________________________
SCHEDULE “A”
EXCLUDED EXPENSES OF MANAGER

1. Salaries, travel and accommodation expenses of all executive personnel of MANAGER unless specifically requested by Owner (but such expenses for other employees shall be subject to the applicable Property Budget).

2. General and administrative expenses of MANAGER not allocable directly to operations at the Parking Facility (including, without limitation, expenses for office equipment or office supplies) excluding any and all legal fees associated with MANAGER’s hiring and firing the employees and/or MANAGER’s development and administration of the employment policies.

3. Personal property taxes of MANAGER’s property not used exclusively for the Parking Facility.

4. Settlements, payments or awards on claims arising from the misconduct of MANAGER’s employees, servants or agents.

5. Any income taxes related to fees or other amounts paid to MANAGER.

6. Costs for which MANAGER is liable under Paragraph 16.a of the Agreement.

7. Political or charitable contributions by MANAGER.

8. Costs of comprehensive crime insurance or fidelity bonds purchased by MANAGER for its own account and the cost of the insurance described in Paragraph 15.g, Paragraph 15.h and Paragraph 15.h of the Agreement.

10. Advertising expenses of MANAGER, except to the extent the advertising is of and for the Parking Facility and set forth in the Property Budget.

11. Any other costs and expenses not set forth in the Property Budget or otherwise approved by OWNER (in writing and in accordance with the JV Agreement) or which MANAGER is expressly authorized to incur under the terms of this Agreement.
SCHEDULE “B”
EXCLUDED EXPENSES OF OWNER

1. Real and personal property taxes of OWNER’s property (if OWNER elects to pay the same directly).
2. Debt service with respect to land, building and equipment (if OWNER elects to pay the same directly).
3. Costs of legal and auditing fees of OWNER.
4. Salaries and wages of all employees of OWNER.
5. Costs incurred by OWNER in the supervision of obligations of MANAGER.
6. Costs for which OWNER is liable under Paragraph 16.b of the Agreement.
7. Costs of premiums for fire and extended coverage insurance (if OWNER elects to pay the same directly).
SCHEDULE “C”

PARKING FACILITY AGREEMENTS

Any and all ground or underlying leases, space leases, license agreements, parking agreements, licenses (including, without limitation, any license or trademark agreements governing the use of the intellectual property of others at the Parking Facility), equipment leases, service contracts, maintenance agreements, construction contracts, utility contracts, any covenants, restrictions, easements and similar instruments, and notes and other instruments of indebtedness with regard to the Parking Facility or OWNER, together with any mortgages, deeds of trust, loan agreements, credit agreements, security instruments, environmental indemnities or other loan documents executed in connection therewith, to the extent affecting the Parking Facility or any part thereof, including, without limitations, the following:

AGREEMENTS TO WHICH OWNER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Owner Parking Facility Agreements”):

1. That certain Ground Lease dated as of October 17, 2008 by and between, Allied Waste Systems of Colorado, LLC, a Colorado limited liability company (as successor in interest to BFI Waste Systems of North America, LLC), as lessor, and OWNER (as successor in interest to Canopy Airport Parking, LLC, as successor in interest to Green Park Denver, LLC, successor in interest to Rocky Mountain Parking, LLC), as lessee, as amended by that certain Amendment to Ground Lease dated November 21, 2008, Second Amendment to Ground Lease dated October 19, 2009, Third Amendment to Ground Lease dated April 1, 2010, Fourth Amendment to Ground Lease dated May 25, 2010 and Fifth Amendment to Ground Lease dated September, 2013 and as hereinafter may be amended from time to time (as amended, from time to time, Ground Lease”)
2. Sand Trap Service Three-Year Contracted Pricing Proposal, dated January 17, 2012, by and between Enviro-Vac Inc. and OWNER (as successor in interest to Canopy Airport Parking, LLC)
3. Vehicle Services Agreement, dated May 1, 2014, by and between B&R, LLC and OWNER (as successor in interest to Canopy Airport Parking, LLC)
4. Business Class Discount Rewards Program Agreement, dated November 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Advanced Emissions Solutions / ADA-ES
5. Business Class Discount Rewards Program Agreement, dated October 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and American Red Cross
6. Business Class Discount Rewards Program Agreement, dated February 7, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and BCD Travel
7. Agreement, dated February 6, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and BCD Travel
8. Corporate Account Agreement, dated October 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Children’s Hospital – Anschutz Medical Campus
9. Business Class Discount Rewards Program Agreement, dated October 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Cintas
10. Business Class Discount Rewards Program Agreement, dated January 26, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and CoBank
11. Business Class Discount Rewards Program Agreement, dated August 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and CoBank
12. Business Class Discount Rewards Program Agreement, dated January 8, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Google, Inc.
13. Business Class Discount Rewards Program Agreement, dated October 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Great-West Financial
14. Business Class Discount Rewards Program Agreement, dated December 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and IHS
15. Business Class Discount Rewards Program Agreement, dated September 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and In-Situ Inc.
16. Business Class Discount Rewards Program Agreement, dated January 15, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Leidos
17. Business Class Discount Rewards Program Agreement, dated November 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Outlast Technologies LLC
18. Business Class Discount Rewards Program Agreement, dated November 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Reynolds & Reynolds Company
19. Business Class Discount Rewards Program Agreement, dated January 1, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Rob Clark Golf Travel LLC
20. Business Class Discount Rewards Program Agreement, dated November 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Sage Hospitality
21. Business Class Discount Rewards Program Agreement, dated October 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Simpson Property Group
22. Business Class Discount Rewards Program Agreement, dated November 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Tendril
23. Corporate Account Agreement, dated February 12, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Trimble
24. Business Class Discount Rewards Program Agreement, dated January 20, 2015, by and between Canopy Airport Parking and Tuff Shed
25. Business Class Discount Rewards Program Agreement, dated November 1, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Vaisala
26. Partnership Agreement, dated February 13, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and CBS Collegiate Sports Properties, Inc.
27. Advertising and Marketing Agreement, dated as of _______, 2014 by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and E-470 Public Highway Authority
28. Letter of Agreement, dated May 9, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Susan G. Komen Colorado, Inc. d/b/a Susan G. Komen for the Cure
29. Marketing and Sponsorship Agreement, dated December 5, 2014, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and University of Wyoming Sports Properties, LLC
30. Service Agreement, dated _______, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) and Garlic Media Group
31. Regional Insertion Order Agreement, dated February 12, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) – Commerce City and National CineMedia, LLC regarding “Canopy Parking Redo Q1/Q2 2015 30 second ads”
32. Regional Insertion Order Agreement, dated February 12, 2015, by and between OWNER (as successor in interest to Canopy Airport Parking, LLC) Commerce City and National CineMedia, LLC regarding “Canopy Parking May-December 2015 Redo 30 Second Ads”
33. Economic Development Agreement, dated as of April 23, 2009, by and between OWNER (as successor in interest to Rocky Mountain Parking, LLC) and City of Commerce City, as amended by that certain Amendment to Economic Development Agreement dated as of April 27, 2010.
34. Parking Use Agreement, dated as of April __, 2015, by and between Silvercar, Inc., Propark America West, LLC, and OWNER.

That certain Ground Lease dated as of October 17, 2008 by and between, Allied Waste Systems of Colorado, LLC, a Colorado limited liability company (as successor in interest to BFI Waste Systems of North America, LLC), as lessor, and OWNER (as successor in interest to Canopy Airport Parking, LLC, as successor in interest to Green Park Denver, LLC, successor in interest to Rocky Mountain Parking, LLC), as lessee, as amended by that certain Amendment to Ground Lease dated November 21, 2008, Second Amendment to Ground Lease dated October 19, 2009, Third Amendment to Ground Lease dated April 1, 2010, Fourth Amendment to Ground Lease dated May 25, 2010 and Fifth Amendment to Ground Leased dated September, 2013 and as hereinafter may be amended from time to time (as amended, from time to time, Ground Lease“)

AGREEMENTS TO WHICH MANAGER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Manager Parking Facility Agreements”):

1. Agreement, dated January 18, 2012, by and between Propark America West, LLC and The Regents of the University of Colorado
2. Preliminary Vehicle Lease Confirmation, dated September 29, 2011, by and between the American Lease Exchange and Propark America West, LLC (VIN6193)
3. Preliminary Vehicle Lease Confirmation, dated September 29, 2011, by and between the American Lease Exchange and Propark America West, LLC (VIN6194)
4. Preliminary Vehicle Lease Confirmation, dated September 29, 2011, by and between the American Lease Exchange and Propark America West, LLC (VIN6195)
5. Preliminary Vehicle Lease Confirmation, dated January 25, 2014, by and between the American Lease Exchange and Propark America West, LLC (“ITC Transfer”)
6. National CineMedia, LLC Agreement, dated as of August 1, 2014 by and between National CineMedia, LLC and Propark
7. Lease, dated August 26, 2013, by and between Green Park Denver, LLC and TCF Equipment Finance, Inc. (4 Ford Buses)
8. Lease, dated August 26, 2013, by and between Green Park Denver, LLC and TCF Equipment Finance, Inc. (2 Ford Buses)
11. Certificate of Acceptance and Acknowledgement of Assignment, dated 12/1/09, start date 7/1/12 by and between Westport Funding, LLC and Propark, Inc.
12. Certificate of Acceptance and Acknowledgement of Assignment, dated 12/1/09, start date 2/1/15 by and between Westport Funding, LLC and Propark, Inc.
13. Certificate of Acceptance and Acknowledgement of Assignment, dated 12/1/09, start date 12/1/13 by and between Westport Funding, LLC and Propark, Inc.
14. Counterpart #1 to Master Lease Agreement Reference Number 091201 by and between Westport Funding, LLC and Propark, Inc.

MANAGER hereby acknowledges that it has complete copies of all Owner Parking Facility Agreements, as of the date hereof.
SCHEDULE “D”
PARKING RATES AND PERMITTED DISCOUNT RATES

**Current Posted Rates**
- Self-Park Open Air: $10
- Self-Park Covered: $16
- Valet: $21

**Monthly Rates**
- Self-Park Open Air: $150 / Month
- Self-Park Covered: $275 / Month
- Valet: $375 / Month

**Annual/Monthly Parkers**
The following is a list of annual and monthly parking clients at the parking facility, including applicable parking rates. These customers have a prepaid, non-transferable right to park at the parking facility on a monthly or annual basis, as applicable.

<table>
<thead>
<tr>
<th>LAST NAME</th>
<th>FIRST NAME</th>
<th>BILLING FREQUENCY</th>
<th>RATE</th>
<th>AREA</th>
</tr>
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<tbody>
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<tr>
<td>Alcorn</td>
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<td>Stephen &amp; Deborah</td>
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<td>Valet</td>
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</tr>
<tr>
<td>Weier</td>
<td>William</td>
<td>Annual</td>
<td>$3,750</td>
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<td>Wheeler</td>
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<td>Jeremy</td>
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<td>William/Renee</td>
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<td>$1,500</td>
<td>Open Air</td>
</tr>
<tr>
<td>Willms</td>
<td>Brian</td>
<td>Monthly</td>
<td>$150</td>
<td>Open Air</td>
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<tr>
<td>Wolf</td>
<td>Barry</td>
<td>Monthly</td>
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<td>Open Air</td>
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<td>Wood</td>
<td>Greg</td>
<td>Monthly</td>
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<td>Rod</td>
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<td>Jackie</td>
<td>Monthly</td>
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<td>Open Air</td>
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<td>Zachman</td>
<td>Eugene</td>
<td>Monthly</td>
<td>$275</td>
<td>Covered</td>
</tr>
</tbody>
</table>

### Corporate Discount Rates

The following is a list of current discount rates in place at the parking facility.

The corporate account employees are given an access card for use at exit that is linked to a credit card on file and charged on a per-stay basis.

<table>
<thead>
<tr>
<th>Account Name</th>
<th>Current Discount %</th>
<th># Cardholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advanced Emission Solutions/ADA-ES</td>
<td>18</td>
<td>8</td>
</tr>
<tr>
<td>American Red Cross</td>
<td>18</td>
<td>15</td>
</tr>
<tr>
<td>Ball</td>
<td>25</td>
<td>14</td>
</tr>
<tr>
<td>BCD Travel</td>
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<td>25</td>
</tr>
<tr>
<td>Boeing</td>
<td>25</td>
<td>22</td>
</tr>
<tr>
<td>Children's Hospital</td>
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<td>0</td>
</tr>
<tr>
<td>Cintas</td>
<td>25</td>
<td>10</td>
</tr>
<tr>
<td>CoBank</td>
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<td>1</td>
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<td>Google, Inc</td>
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<tr>
<td>Great-West Financial</td>
<td>15</td>
<td>10</td>
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<tr>
<td>IBM</td>
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<td>IHS</td>
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<tr>
<td>In-Situ Inc.</td>
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<td>2</td>
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<tr>
<td>Leidos</td>
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<tr>
<td>Lockheed Martin</td>
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<td>20</td>
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<tr>
<td>Outlast Technologies, LLC</td>
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<td>Raytheon</td>
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<td>33</td>
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<tr>
<td>Reynolds &amp; Reynolds Co.</td>
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<tr>
<td>Richey May &amp; Co.</td>
<td>39</td>
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<tr>
<td>Rob Clark Golf Travel, LLC</td>
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<tr>
<td>Sage Hospitality</td>
<td>18</td>
<td>46</td>
</tr>
<tr>
<td>Account Name</td>
<td>Current Discount %</td>
<td># Cardholders</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Schlumberger</td>
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<td>Simpson Property Group</td>
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<td>Tendril</td>
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<td>Trimble</td>
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<td>Tuff Shed</td>
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<td>Vaisala</td>
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<td>14</td>
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<tr>
<td>iHeartMedia</td>
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<td></td>
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<tr>
<td>Capitol Tours Travel</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Transwest Truck Trailor Rv</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

**Other Discount Rates/Coupons**

- Canopy Open Air Parking Website Coupon – 20% off
- Canopy Covered Parking Website Coupon – 10% off
- Canopy Military Website Coupon – 20% off
- Canopy Frequent Parker Program Discount - 15% off
- E470 Express Toll Rewards Discount – 25% off
- University of Colorado Staff Discount – 50% off
- AAA Discount – 20% off
- Friends and Family Discount – 50% off
- Facebook Coupon – 20% off
- Social Media Coupon – 20% off
- Movie Theatre Coupon – 20% off
- Yelp Coupon – 20% off
- University of Denver Discount – 20% off
- University of Wyoming Discount – 20% off
- University of Wyoming Coaches Discount – 50% off
- Susan G. Komen Coupon – 15% off
- Chinook Book Coupon – 20% off
- Fox 31 Coupon – 20% off
- Frontier Discount – 10% off
- About Airport Parking Reservations Rate – 20% off
- Long Term Parking Reservations Rate – 20% Off
- Airport Parking Reservations Rate – $2 off Open/$3 off covered/$4 off valet
- Global Airport Parking Reservations – $2 off Open/$3 off covered/$4 off valet
- Foursquare – 20% off
- Money Mailer – $3 off Open Air
- Eye2Design Coffee Sleeves – $2 off
- 5280 Club – 15%
- Survey Discount – 20% off
- Community Connections – 20%
- ADA Environmental – 25% off
- Advanced IT – 25% off
- AMS – 25% off
- BCD Travel – 25% off
- Bio Lynceus – 30% off
- Boeing – 25% off
- Childrens Hospital – 20% off
- Cintas – 25% off
- CoBank – 25% off
- CU Medicine – 50% off
Frequent Parker Program

The parking facility offers a frequent parking program, pursuant to which customers earn points for each time they use the parking facility. These points are redeemable for free parking once customers obtain certain threshold point levels.

Parking Facility Hours:

24 hours per day, 7 days per week
## MANAGER-HELD FURNITURE, FIXTURES AND EQUIPMENT

### Vehicles

<table>
<thead>
<tr>
<th>Year</th>
<th>Model</th>
<th>VIN Number</th>
</tr>
</thead>
<tbody>
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<td>2003</td>
<td>London Executive Taxi</td>
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<tr>
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<tr>
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<tr>
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<td>2014</td>
<td>Ford F250 PU with Boss Power DXT- V Blade Stainless Steel Plow and Box Tailgate Spreader TGS-800</td>
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Equipment

- 11 Express Toll 3M Sirit Readers
- 1 Parking Booth
- 1 Level 2 Juice Bar Electric Charging Station
- 1 DC Fast Charging Juice Bar
- Omni Data – Command Center Audio & Visual Equipment
SCHEDULE “F”
MANAGER STRUCTURE CHART

As of April ___, 2015

ProPark America West, LLC

33.33% 16.67% 16.67% 16.67% 8.33% 8.33%
John Schmid Joseph Coppola David Schmid Tom Bechard Scott Manos Connie Keedle

Current Management Team: John Schmid, Chief Executive Officer
Richard DiPietro, President
Tim Willey, Chief Financial Officer
Patrick Boeshans, Chief Administrative Officer
David Schmid, Chief Investment Officer

PARKING MANAGEMENT AGREEMENT  
(CHAPEL SQUARE)

THIS PARKING MANAGEMENT AGREEMENT ("Agreement") entered into as of this _____ day of April, 2015 (the “Effective Date”) by and between OP CHAPEL SQUARE OWNER LLC, a Delaware limited liability company (herein referred to as "OWNER") and PRO PARK, INC., a Connecticut corporation and having its place of business at One Union Place, Hartford, Connecticut 06103 (herein referred to as "MANAGER"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in that certain Amended and Restated Limited Liability Company Agreement of OP Holdings JV LLC, a Delaware limited liability company (the “JV”), dated as of the Effective Date, by and between OP Holdings JV Member LLC, a Delaware limited liability company ("OP Holdings"), and Parking Acquisition Ventures, LLC, a Delaware limited liability company ("PAV"), (as may be further amended, restated, supplemented and/or otherwise modified, the “JV Agreement”). Nothing herein shall modify or amend the terms of the JV Agreement, including, without limitation, Section 10.1 thereof, and in the event of any conflict between the JV Agreement and this Agreement, the JV Agreement shall control.

WITNESSETH:

1. Agreement Purpose.

a. OWNER hereby contracts with MANAGER under the terms, conditions, and provisions set forth in this Agreement for MANAGER to operate a certain parking facility located at 155 Temple Street, New Haven, Connecticut, commonly known as Chapel Square, which hereinafter will be referred to as the ("Parking Facility"). OWNERT hereby authorizes MANAGER to exercise such powers with respect to the Parking Facility as may be necessary for the performance of MANAGER’s obligations under the terms of this Agreement (subject in all cases to the Property Budget), and MANAGER accepts such appointment under the terms and conditions hereinafter set forth.

b. MANAGER shall have no right or authority, expressed or implied, to commit or otherwise obligate OWNER in any manner whatsoever except to the extent specifically provided herein, or to the extent necessary to carry out or implement its obligations under the terms and provisions of this Agreement. MANAGER shall not hold itself out as having authority to act on behalf of OWNER in any manner which is beyond the scope of this Agreement.

c. MANAGER shall perform, or shall retain and cause other appropriate persons to perform, its duties hereunder in a diligent manner consistent with good industry standards and in accordance with the terms and conditions of this Agreement. MANAGER, on behalf of OWNER, shall implement, or cause to be implemented, the written decisions of OWNER and shall conduct the ordinary and usual business affairs of OWNER, to the extent and as provided in this Agreement. MANAGER shall at all times conform to the reasonable written policies, programs and instructions established by OWNER in accordance with the JV Agreement and the scope of MANAGER’s authority shall be limited to said policies, programs and instructions.

d. MANAGER shall, in keeping with the authority granted to MANAGER herein, keep OWNER reasonably informed regarding the Parking Facility, and abide by those reasonable written standards and instructions which OWNER may issue from time to time in accordance with the JV Agreement regarding the operation of the Parking Facility.
e. MANAGER (on behalf of itself and its Affiliates) acknowledges and agrees that only OP Holdings (in its capacity as “MANAGER” of the JV (the sole owner, directly or indirectly, of OWNER)), on behalf of OWNER, shall have the right to enforce OWNER’s rights and remedies under this Agreement. OWNER (on behalf of itself and its Affiliates) acknowledges and agrees that PAV (in its capacity as “ADMINISTRATOR” of the JV) also has certain day-to-day responsibilities to act on behalf of OWNER pursuant and subject to the terms of the JV Agreement.

2. Term. The term of this Agreement shall commence the date first written above and continue for a period of five (5) years thereafter (“Term”). Upon expiration of the Term, provided there are not unresolved disputes or uncured defaults and this Agreement has not been terminated, this Agreement shall be automatically extended upon the same terms and conditions, covenants and provisions as set forth herein, for additional and consecutive one (1) year extension terms unless and until written notice of non-renewal is given by either party no less than ninety (90) days prior to the expiration of the initial Term or then current extension term. During this time, either party may terminate this Agreement as provided in Paragraph 3 below.

3. Termination.

a. Either party may terminate this Agreement under the following circumstances:

i. Either party may terminate this Agreement in the event the other party files a voluntary petition or similar pleading for bankruptcy, insolvency, receivership, becomes insolvent, or makes an assignment for the benefit of creditors, with such termination to be effective upon giving notice.

ii. Upon the breach by the other party of any covenant, term or condition hereof, provided the breaching party first receives written notice of such breach and fails to remedy same within thirty (30) days of such notice.

b. OWNER shall have the right to terminate this Agreement immediately upon the occurrence of any of the following:

i. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility to a bona-fide, non-related party; provided, however, that such sale, transfer, assignment or conveyance by OWNER shall have been caused in a manner that complies with the provisions of Section 4.9 of the JV Agreement, if and to the extent such provisions apply to such sale, transfer, assignment or conveyance by OWNER.

ii. The expiration or earlier termination of the Ground Lease for any reason

iii. In the event any act or omission of MANAGER causes a breach by OWNER under the Ground Lease or any financing documents, subject in each case to all applicable cure rights (if any).

iv. In the event of the misappropriation, theft or fraud by MANAGER or any employee of MANAGER; provided, however, that upon written notice to MANAGER that one of its employees has perpetrated misappropriation, theft or fraud without MANAGER’S knowledge, then MANAGER shall have a thirty (30) day right to investigate and cure (such cure including reimbursement in full for all amounts stolen by such employee of MANAGER).
v. In the event of the gross negligence or willful misconduct of MANAGER in connection with its performance of its obligations under this Agreement, provided MANAGER first receives written notice of such breach and fails to remedy same within twenty (20) days of such notice.

vi. Upon thirty (30) days’ notice to MANAGER, in the event of any (A) damage to the Parking Facility or any portion thereof by fire or other casualty that, in OWNER’s discretion, reasonably may be expected to preclude the normal operations of the Parking Facility, (B) taking of the Parking Facility which results in the reduction or restriction of access to the Parking Facility or the failure of the Parking Facility, or any portion thereof, to remain in compliance with any applicable laws or (C) loss of any operating permit or other governmental approval that renders the Parking Facility inoperable as a parking facility; and, in any such case, either (1) the foregoing causes an acceleration of any senior bank debt relating to the Parking Facility or (2) as a result thereof, OWNER decides to cease use of the Parking Facility for parking operations because OWNER has determined that reopening is either not economically feasible or not legally possible;

vii. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility in connection with a foreclosure of any mortgage or deed of trust on the Parking Facility.

viii. In the event MANAGER shall intentionally fail to fully and faithfully deposit all the Receipts from the operation of the Parking Facility.

ix. The occurrence of an “Administrator Default” or “Material Administrator Default” under the JV Agreement.

x. Upon thirty (30) days’ notice to MANAGER, in the event that a “Property Manager Change of Control” under the JV Agreement occurs with respect to MANAGER.

In the event of any of the foregoing occurrences, OWNER shall have the right to forthwith terminate this Agreement, with such termination to be effective upon giving notice, and regain immediate possession of the Parking Facility.

c. Upon any termination of this Agreement, the Term of this Agreement shall be deemed to have expired on the date of such termination.

4. Annual Budget. MANAGER shall cooperate with PAV (acting in its capacity as “Administrator” of the JV) to prepare and present to OP Holdings (in its capacity as “MANAGER” of the JV) a proposed annual operating budget for the OWNER and the Parking Facility (as applicable) for each applicable Fiscal Year, in each case in accordance with Section 4.4 of the JV Agreement. For the avoidance of doubt, the adoption of any operating budget (and any modifications or revisions thereto) for the OWNER or the Parking Facility shall require the express written approval of OP Holdings (acting in its capacity as “MANAGER” of the JV), and to the extent required, the approval of the lender(s) under a financing, in order to be deemed the “Property Budget” for a Fiscal Year. Notwithstanding anything to the contrary contained herein, the applicable terms and provisions of the JV Agreement shall govern and control the preparation, approval, adoption, modification, revision and all other matters relating to the Property Budget. The adoption of the Property Budget in accordance with Section 4.4 of the JV Agreement (including any “deemed” Property Budget pursuant to Section 4.4(c) of the JV Agreement) shall constitute an authorization for MANAGER to incur charges to manage and operate the Parking Facility solely in accordance with this Agreement and the Property Budget. Subject to any other terms and limitations set forth in the JV Agreement MANAGER may not (i) cause or permit any line item in a then

3
current Property Budget to be exceeded by more than ten percent (10%) without the consent of the OWNER (provided, however, that notwithstanding the foregoing, MANAGER shall be permitted (without the approval of OWNER) to exceed any such line item by an amount that is less than Fifty Thousand Dollars ($50,000)) or (ii) cause or permit the expenses in a then current Property Budget to be exceeded by more than five percent (5%) without the consent of the OWNER, but, in any of the foregoing cases only to the extent the Administrator under the JV Agreement has equal or greater authority to exceed the Property Budget under the terms thereof (it being understood that MANAGER shall not have authority that exceeds the authority of the Administrator under the JV Agreement). Any such authorization to incur charges shall be limited to amounts specifically set forth within the Property Budget.

5. Definition of Operating Expenses.

a. “Operating Expenses” shall mean and include any and all costs and expenses of maintaining, operating, conducting, insuring and supervising the operation of the Parking Facility, including, without limitation, any expenses of ancillary services provided to customers at the Parking Facility (such as a car wash and shuttle service) and the following, without restricting the generality of the foregoing:

i. Wages of personnel assigned, budgeted or approved to the Parking Facility including supervisors, parking attendants, maintenance personnel, cashiers, clerical and audit staff. The term wages (“Wages”) as used herein includes monetary fringe benefits (excluding severance to the extent not required by any statute) such as health insurance, pension costs, and statutorily required payments for workers’ compensation insurance, unemployment insurance and social security;

ii. Business-related telephone and data expenses and utility expenses of the Parking Facility;

iii. Business taxes and airport access fees and assessments (if any), other than franchise or income taxes on income or profits;

iv. License and permit costs and expenses, business license fees, development assessments and fees, impact fees, surcharges, and payments in lieu of taxes;

v. Sales taxes, excise taxes, gross receipts taxes, parking taxes, airport-related taxes, transaction privilege taxes, use taxes, occupancy taxes, gross receipts taxes (excluding income and similar taxes), parking taxes and similar impositions and airport access charges that collected directly from customers or included as part of the sales price of any goods or services, including, without limitation, affording a parking space or shuttle service, whether remitted to the appropriate taxing authorities or otherwise imposed by the state, county, and/or municipality where the Parking Facility is located;

vi. Services charges, interest and collection expenses imposed for sales on credit and debit cards and other charges or fees paid from revenues of the Parking Facility to credit card companies, banks and clearinghouses, and similar organizations resulting from use of credit or debit cards or other payment methods used by customers;

vii. Advertising, marketing and promotion costs including any expenses related to any website for the Parking Facility approved by OWNER and all other costs and expenses of any advertising, business promotion or personnel training program of the Parking Facility that directly benefits the Parking Facility;

viii. The costs of insurance required of the MANAGER in this Agreement;

ix. The costs of all operating supplies and sundry items such as, but not limited to uniforms, tickets, parking office and operating supplies, and janitorial supplies, and the maintenance or replacement of same;
x. Payroll processing fees, bank charges, credit card processing fees, secret shopper fees, tenant amenity program fees and administrative and bookkeeping fees including monthly parker and accounts payable processing;

xi. Utility expenses, fuel costs, toll costs and other expenses for operating the Equipment, shuttles and other property used in connection with Parking Facility operations and normal maintenance and repairs of the Parking Facility, GPS system (if any) and any shuttle vehicle(s) including but not limited to, power sweeping, power washing, maintenance equipment repair, lighting repairs & bulb replacement, Fire Control System maintenance, snow removal, HVAC and elevator maintenance, repainting of stall markings, replacement or repair of signs and parking access and revenue control equipment;

xii. Legal or audit charges and other routine professional fees directly attributable to the operation of the Parking Facility other than those services performed by the staff of OWNER or MANAGER, if approved in advance by OWNER, and any costs to store the books and records related to the Parking Facility pursuant to Paragraph 9;

xiii. The cost of special audits to be performed from time to time by MANAGER’s staff auditor for the mutual benefit of OWNER and MANAGER; provided, however, that the time and manner of the taking of the audit is approved in writing by OWNER in advance. Costs qualifying as audit expenses shall be limited to a mutually agreed upon per diem rate and the actual out-of-pocket expenses of the auditor during the period of an approved special audit;

xiv. Debt service of loans and rent and other charges under lease financing for the acquisition and use of approved parking access and revenue control equipment, operating equipment, and/or shuttle vehicles (if applicable), including, without limitation, under any equipment leases for vehicle and personal property which would constitute “operating leases” under GAAP, consistently applied;

xv. Command Center Fees;

xvi. The cost of insurance;

xvii. Technology costs;

xviii. All rent and other charges payable under any ground or underlying leases with third parties affecting the Parking Facility;

xix. Amounts payable under any covenants or assessments or other charges for use of shared or offsite facilities or upkeep of the same related to the Parking Facility;

xx. Out-of-pocket expenses incurred for the account of or in connection with the operation of the Parking Facility and all costs and expenses incurred in connection with the maintenance and repair of the Parking Facility;

xxi. Costs of compliance with law with respect to any physical or operational conditions;

xxii. Real estate taxes and other similar assessments and impositions;

xxiii. Payment of claims for damage, personal injury, or loss of personal property (including, without limitation, auto damage) except to the extent such claim is an Excluded Expense as defined below;

xxiv. Payment of any deductible amount of insurance claims settlement and payment of claims in excess of policy limits except to the extent such claim is an Excluded Expense as defined below; and

xxv. Management Fees payable pursuant to Paragraph 8 below.

For clarity, Operating Expenses shall include only direct property level costs and expenses with respect to the applicable Property and shall not in any event include any mark-up or other similar charge of the MANAGER or any of its Affiliates. To the extent OWNER approves Operating Expenses that MANAGER incurs on a shared basis with other parking operations that it owns or manages, such Operating Expenses shall be equitably apportioned between the Parking Facility and such other operations (and shall provide OWNER, upon request, with reasonable back-up and details concerning the costs and how such apportionment was made) and in no event shall
MANAGER recover reimbursements from OWNER and others with respect to the apportioned charges that exceed the actual amount of the apportioned charges.

Notwithstanding the foregoing, Operating Expenses shall not include multiple audit charges in a Fiscal Year unless there is a material finding in such audit and then only to the extent that such audit charges are reasonable.

As used herein, “Command Center Fees” shall mean $30,000 per Fiscal Year, charged in equal monthly installments of $2,500 (as prorated for any fractional period).

b. OWNER shall have the right, from time to time, as OWNER shall determine, to pay any Operating Expenses directly, in lieu of having MANAGER handle incurring and paying same, but such Operating Expenses shall be Operating Expenses for purposes of Paragraph 8 below, even though OWNER, as opposed to MANAGER, is paying such expenses.

c. “Excluded Expenses” are those designated expenses arising from the operation of the Parking Facility which shall not be deemed Operating Expenses and which shall therefore be borne by the respective parties. The Excluded Expenses of the MANAGER are those set forth in Schedule “A” to this Agreement and incorporated by reference herein. The Excluded Expenses of OWNER are set forth in Schedule “B” attached to this Agreement and incorporated by reference herein. In the event of any conflict between Schedule “A” and Schedule “B,” Schedule “A” and “B” shall control.

6. Additional Services. In addition to the daily operation of the Parking Facility, MANAGER’s services shall include consulting and advisory services to OWNER concerning the Parking Facility. These services shall be provided without additional charge or fee except for reimbursement of pre-approved out of pocket expenses such as postage, printing and supply charges, mileage and phone charges in connection with the performance of services requested or required by OWNER, and any other similar out of pocket expenses. MANAGER shall document and support such expenses by cash receipts or other documentary proof of payment.

7. Collection of Receipts. MANAGER covenants that it will collect or cause to be collected all fees, charges and other monies derived from the Parking Facility. At OWNER’s request, MANAGER shall open and maintain a bank account (the “Operating Account”) in accordance with this Paragraph 7. OWNER shall have the sole right to designate persons as authorized signatories on the Operating Account and such authorized signatories shall have sole authority to make disbursements therefrom; provided however that OWNER will arrange for an authorized signatory of MANAGER to have signature authority to draw funds on the Operating Account without additional signatures from other parties unless and until any breach of this Agreement allegedly committed by MANAGER occurs, a termination of this Agreement occurs or any misappropriation, theft or fraud allegedly committed by such signatory occurs, it being understood and agreed that MANAGER shall not be required to advance any of its own funds for the Operating Expenses of the Parking Facility and it shall not be a default by MANAGER that it fails to pay an Operating Expense hereunder to the extent such failure is caused by OWNER’s failure to furnish MANAGER with funds necessary for the discharge thereof. The Operating Account (a) shall be a trust account for the benefit of OWNER, (b) shall explicitly state in the name of such Operating Account that such Operating Account is held in trust for OWNER and (c) shall not be commingled with other funds held by MANAGER (even if such other funds relate to projects owned by OWNER or any Affiliate of OWNER). At all times the funds deposited in the Operating Account shall be the sole and exclusive property of OWNER. OWNER shall have the sole and exclusive right to make any decision or election with respect to the establishment, maintenance and closing of the Operating Account (and any other account established with respect to OWNER and/or the Parking Facility). All fees, charges and other
monies collected by MANAGER (the “Receipts”) shall be promptly deposited into the Operating Account. MANAGER shall thereafter, on or before the twentieth (20th) day of the month, disperse the Receipts for each prior month’s operation as follows:

a. MANAGER shall pay all Operating Expenses as defined in Paragraph 5.a, subject to and in compliance with the Property Budget (consistent with the expenses contemplated in the applicable provisions of the JV Agreement concerning the Property Budget) and subject to OWNER exercising its rights under Paragraph 5.b.

b. MANAGER shall pay on behalf of OWNER, from Receipts it receives, all city and county and airport parking taxes and fees prior to the date such payment(s) become delinquent which may be due and owing in connection with the operation of the Parking Facility as a public parking facility.

c. MANAGER shall pay the Management Fee due MANAGER from the Receipts it receives in the amounts set forth in Paragraph 8 herein (subject in all cases to the Property Budget).

d. After payment of the amounts as directed in (a), (b) and (c) above, the balance of the Receipts from the Parking Facility shall be immediately paid to OWNER.

e. In the event any government-mandated employment cost (such as a required wage) is imposed, increased, adjusted or introduced with respect to work performed by MANAGER for OWNER, MANAGER will notify OWNER and add such cost, without markup, as an Operating Expense to the Property Budget, unless and until OWNER and MANAGER agree otherwise.

f. In the event of an emergency situation, MANAGER may add, without markup, as an Operating Expense to the Property Budget, costs and expenditures reasonably incurred by MANAGER where such cost or expenditure will prevent or mitigate (or is reasonably believed to prevent or mitigate) the injury or death to person or damage to property that OWNER or MANAGER may be liable for and, prior to incurring any such cost or expenditures, MANAGER is unable to contact OWNER to obtain OWNER’S approval. MANAGER shall contact and advise OWNER as soon as possible after the emergency situation and follow OWNER’S reasonable directions with respect thereto.

g. OWNER shall have reviewed and approved any revenue information submitted to any lessor under any ground or underlying lease or any governmental or airport authority, prior to submission.

h. Payment of claims for damage, personal injury, or loss of personal property shall be authorized by OWNER in writing, in advance, unless such payment is $500.00 or less in which case no authorization is required.

Except for the disbursements from the Operating Account made in accordance with this Agreement, the JV Agreement and the Property Budget, funds will be disbursed or transferred from the Operating Account solely as OWNER may from time to time direct in writing.

8. Payments to MANAGER.

a. For each Fiscal Year during the Term, MANAGER shall be entitled to receive an amount equal to twelve percent (12%) of the Operating Surplus for such Fiscal Year ("Management Fee"); the
Management Fee will be prorated for partial Fiscal Years. MANAGER shall receive $7,934 at the end of each calendar month during the Term as an advance on such Management Fee. This amount will be prorated for partial months. The monthly payments to MANAGER hereunder during any such Fiscal Year shall be subject to the determination of the actual Management Fee for such Fiscal Year pursuant to the annual reconciliation (the “Reconciliation”) in accordance with Paragraph 8.d below. The monthly advance amount paid during any such Fiscal Year is meant to serve as a reasonable estimate of the Management Fee for that Fiscal Year, and the amount of that monthly advance also may be adjusted by mutual agreement of the parties, each acting reasonably, from time to time to reasonably minimize adjustments during the Reconciliation.

b. For purposes of this Agreement, the following terms shall be given the following meanings:

i. “Gross Revenues” shall mean, for the applicable period in question during the Term, all parking revenues earned and received from the Parking Facility and all revenues earned and received from ancillary services provided to customers at the Parking Facility; provided, however, that notwithstanding the foregoing: (A) Gross Revenues shall not include the following: (1) gratuities to employees paid directly by a customer or other third party; (2) accounts receivable written off as uncollectible, except to the extent amounts are recovered by the sale thereof or otherwise; (3) proceeds of insurance (other than business interruption insurance after deducting therefrom all reasonable expenses incurred in the adjustment or collection thereof) or proceeds of awards received in condemnation (but excluding compensation received for loss of business to the extent attributable to the period in question); (4) proceeds of the sale or disposition of the Parking Facility or any capital assets or of the refinancing of, or loans with respect to, the Parking Facility; (5) any amounts reimbursed by OWNER to MANAGER or otherwise advanced and deposited into the Operating Account or other bank accounts used for the operation of the Parking Facility; (6) interest earned on any amounts deposited into any such bank accounts; any security deposits or similar deposits (except as applied or forfeited); (7) any rebates or credits received by MANAGER pursuant to any service contract or purchase order or other contracts relating to the Parking Facility; (8) any discounts, coupons or complimentary validations to customers from the stated or advertised rates or from any other rates charged to other customers; and (9) discounts, rebates, coupons and reimbursements and add-ons, including as required under any marketing partnerships and alliance; and (B) in computing Gross Revenues, payments for parking made in advance (advance validations) shall not be included unless and until the parking service is rendered and cancellation refunds shall reduce Gross Revenues in the period in which same is made. Gross Revenues shall include cash only and shall not include exchanges for services or barter. Any Gross Revenue from the Parking Facility collected directly by OWNER shall be accurately reported in writing to MANAGER. Gross Revenue shall include any cash refunds received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility including any tax refunds.

Gross Revenue shall not include any reserves and escrows that are existing or funded on or about the date hereof in connection with OWNER’s acquisition of the Parking Facility; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such reserves or escrows in the future and paid for the account of OWNER, those funds shall be Gross Revenue when so paid, but only to the extent that such funds are offset by the Operating Expenses paid for (or reimbursed) with such funds (which offset shall be deemed to have occurred in the same Fiscal Year for purpose of calculating the Management Fee). During the Term, for purposes of calculating the Management Fee, amounts paid from Gross Revenues to fund any other future reserves or escrows required by any financing
documents with respect to the Parking Facility or otherwise required by OWNER or any Parking Facility Agreements shall not be Operating Expenses when reserved or escrowed; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such future reserves or escrows, those funds shall not be Gross Revenue when paid or applied and, accordingly, Operating Expenses will not be offset if paid for (or reimbursed) with such funds or escrows, regardless of whether those funds were reserved or escrowed from Gross Revenue or OWNER’s capital, it being understood that if Gross Revenue is not sufficient to fund such reserves and escrows, the capital that OWNER provides to meet that funding or escrow obligation shall not be Gross Revenue. By way of example, if Gross Revenue in Year 1 is $1,000, Operating Expenses are $200 and 10% of Gross Revenue is put into a reserve, then the Operating Surplus will be $800. In Year 2, if Gross Revenue is again $1,000, Operating Expenses are $250 and no money is put into reserves, but the reserves from the prior year are used to pay $100 of Operating Expenses, the Operating Surplus will be $750.

ii. “Operating Surplus” shall mean for the Parking Facility, for the applicable period in question during the Term, an amount calculated on an cash basis, equal to the excess of Gross Revenues for such period over the Operating Expenses for such period; provided, however, Debt Service Expenses and the Management Fee for such period shall not be treated as Operating Expenses for purposes of calculating the Operating Surplus.

iii. “Debt Service Expenses” means all principal, interest and other similar charges paid to any lenders under any loan documents secured by a mortgage or deed of trust on OWNER’s interest in the land and improvements comprising the Parking Facility.

c. Within fifteen (15) days after the end of each calendar month of the Term (prorated for any fractional calendar month), MANAGER shall provide to OWNER a statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such calendar month and each of the components thereof, together with reasonable supporting evidence and any other information reasonably requested by OWNER. The Management Fee calculation shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

d. Within sixty (60) days after the end of each Fiscal Year occurring during the Term (prorated for any fractional Fiscal Year), MANAGER shall provide to OWNER a reconciliation statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such Fiscal Year and each of the components thereof (calculated based on the Operating Surplus for that Fiscal Year), together with reasonable supporting evidence and any other information reasonably requested by OWNER, and showing the aggregate amount of Management Fees received by MANAGER and calculating any overpayment or underpayment of the Management Fee. MANAGER shall refund OWNER any overpayment by applying the amount thereof as a credit against the Management Fee next due or becoming due, provided if the Term expires or is terminated before the determination of the overpayment, then MANAGER shall refund any overpayment to OWNER with a payment accompanying the applicable reconciliation statement or if such overpayment has not been fully credited within ninety (90) days of the applicable reconciliation, MANAGER shall refund the outstanding amount of the overpayment to OWNER within ten (10) days following the end of such 90-day period. MANAGER shall collect any underpayment of Management Fee as a credit against the Operating Surplus for the succeeding month(s) until fully paid, provided if the Term expires or is terminated before the determination of the underpayment, OWNER shall pay MANAGER, within thirty (30) days after its receipt of
the reconciliation statement or if such under payment has not been fully credited within ninety (90) days of the applicable reconciliation, OWNER shall pay the outstanding amount of the underpayment to MANAGER within ten (10) days following the end of such 90-day period. The Management Fee, as reconciled hereunder, shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

9. MANAGER’s Report. MANAGER agrees that it will keep complete records of all receipts and disbursements (including Receipts) pertaining to the operation of the Parking Facility and such books of account and all other records relating to or reflecting the operation of the Parking Facility shall at all times be the property of OWNER, and such books and records shall be kept in a location or locations acceptable to OWNER and shall not be destroyed or discarded without the prior written approval of OWNER. On or before the twentieth (20th) day of each month (beginning with the second month of the Term of this Agreement) MANAGER shall render to the OWNER a complete accounting ("MANAGER’s Report") of all receipts and disbursements (including Receipts) for the preceding month and render payment to OWNER under Paragraph 7.d of this Agreement if any such payment is due. In addition, from time to time, upon OWNER’s reasonable request, MANAGER shall provide such other financial and operations reports concerning the Parking Facility, including, without limitation operating statements and revenue reports, as may be required by the terms of the Parking Facility Agreements, including, without limitation, any financing documents, operating permits and ground leases, and reasonably cooperate with operational reviews by lenders, auditors and prospective purchasers and investors, from time to time, as reasonably requested by OWNER. OWNER and/or its representative shall have the right to audit MANAGER’s books and records relating to the Parking Facility upon reasonable notice. OWNER also reserves the right to perform any audit tests relating to MANAGER’s activities, provided such audit tests are related to those activities performed by MANAGER for OWNER. Should OWNER discover either weaknesses in internal control or errors in record keeping, MANAGER shall promptly correct such audit discrepancies. On the twentieth (20th) day of the month following the termination or expiration of this Agreement MANAGER shall render to OWNER a preliminary MANAGER’s Report with the final MANAGER’s Report due within sixty (60) days following the termination or expiration date.

10. Insufficiency of Receipts. If the Receipts for any month are insufficient to make the payments required by Paragraph 7, subparagraphs (a), (b) and (c) above, OWNER agrees to pay into the Operating Account the amount of such deficit (solely in accordance with the Property Budget) within ten (10) days after receipt of MANAGER’s Report of Receipts.


a. MANAGER agrees to manage, market, operate and maintain the Parking Facility in an efficient and professional manner 24 hours per day, 7 days per week or during the hours otherwise directed by OWNER in writing, and in all cases in accordance with the Operating Standard. MANAGER further agrees that rates for parking in the Parking Facility shall be approved in advance by OWNER in writing; such rates shall not be varied without written approval of the OWNER. MANAGER, on behalf of OWNER, shall conduct the ordinary and usual business affairs of OWNER as provided in this Agreement and in accordance with the Property Budget. MANAGER agrees to perform its duties hereunder to manage, market, operate and maintain the Parking Facility in accordance with the standards set forth herein, and to comply with such written instructions and policies as may be reasonably requested by OWNER subject to the Property Budget. MANAGER will not incur any expenses or make any expenditure except as expressly permitted in or by this Agreement and the Property Budget. Notwithstanding anything to the contrary contained in this Agreement, MANAGER shall not be permitted to take any action
or make any expenditure that would constitute a Major Action under the JV Agreement without in each case obtaining the prior written approval of OWNER therefor.

b. As used herein, “Operating Standard” shall mean: (i) (A) in a commercially reasonable, prudent, diligent and workmanlike manner, (ii) in accordance with the terms and conditions of this Agreement and in conformity with the then current Property Budget, (iii) in accordance with the terms and provisions of the Parking Facility Agreements (as hereinafter defined), to the extent that MANAGER shall have received or have in its possession or control a full and complete copy thereof, (iv) in accordance with the requirements of any carrier having insurance on the Parking Facility or any part thereof and (v) in accordance with such written standards for operations as OWNER and MANAGER may develop and approve, working cooperatively and in good faith, with respect to the Parking Facility. As used herein, “Parking Facility Agreements” shall mean those agreements listed and/or described on Schedule “C” attached hereto and incorporated herein by reference, as revised from time to time with the approval of Owner or at the direction of Owner. MANAGER shall act in a fiduciary capacity with respect to the handling and accounting of funds of OWNER.

c. MANAGER shall have no authority on behalf of OWNER to do, and shall not do, any of the following without OWNER’s written approval in each instance: (a) remove any fixed assets, supplies, furniture, fixtures, equipment, inventories or operating supplies from the Parking Facility, except in the ordinary course of business or in connection with the disposition of obsolete, worn-out damaged items; (b) borrow money, guaranty the debts of any third person, or mortgage, pledge, grant a security interest in or otherwise encumber all or any part of the Parking Facility; (c) make, execute or deliver on behalf of OWNER any assignment for the benefit of creditors, or any guaranty, indemnity bond, or surety bond; (d) confess any judgment on behalf of OWNER or the Parking Facility; (e) file a voluntary or consent to an involuntary bankruptcy with respect to the Parking Facility; (f) enter into, modify, or terminate any lease, agreement to lease, option to lease, sublease, license, parking agreement, operating agreement, management agreement or similar arrangement relating to any occupancy of space in the Parking Facility, except for parking agreements with customers in accordance with Paragraph 11.d below (for sake of clarification, use of the Parking Facility by a car rental company if the car rental company is conducting its car rental business on-site shall not be deemed a parking agreement for purposes of Paragraph 11.d); (g) select or retain a construction manager, general contractor, architect, managing agent, legal counsel, rental agent, accountant or insurance carrier for the Parking Facility, or the election as to whether and when to have an audit conducted of the fiscal affairs of the Parking Facility, provided however if OWNER requires MANAGER to retain professionals and the cost of such retention is not in the Property Budget, the Property Budget shall be increased to include such costs, with OWNER’s approval (and MANAGER shall not be required to retain such professionals if OWNER does not approve the cost thereof to do so); (h) institute or defend litigation on behalf of the Parking Facility; (i) enter into, amend or terminate any Parking Facility Agreement including any service contract, contract for goods or services of any kind or similar agreement, except in accordance with Paragraph 11.d below or in accordance with the Property Budget; (j) communicate with the media in any written or oral form which names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member, or otherwise communicate with media about any matter concerning the Parking Facility other than related to operations, incidents at or marketing of the Parking Facility; (k) write-off, forgive or otherwise defer any receivable or rent in excess of such amounts as may be instructed by OWNER (excluding any complimentary validations in accordance with guidelines approved by OWNER); (l) take any other action or decision outside the scope of the ordinary, day-to-day business affairs of the Parking Facility; or (m) operate or permit the operation of any business at the Parking Facility or the sale of any customer
information or provision of services to customers of the Parking Facility (e.g., car washes, vending machines etc.), the revenues of which are not included in Receipts.

d. MANAGER shall negotiate and, subject to the limitations set forth in this Agreement and the Parking Facility Agreements, enter into on behalf of OWNER parking agreements with customers for parking vehicles at the Parking Facility, service contracts and leases for equipment reasonably necessary or desirable in connection with the operation of the Parking Facility in the usual course of business, including, without limitation, vehicle maintenance, utility services, maintenance, heating and air conditioning maintenance, internet, phone service, landscaping care and uniform laundry services. Unless approved in writing by OWNER, all such contracts that involve work or services being performed at the Parking Facility shall contain an obligation on the part of the vendor to indemnify OWNER to a customary and reasonable degree and require the vendor to obtain insurance coverages as required by any Parking Facility Agreements and as otherwise necessary to protect OWNER to the extent customary for similar contracts. In the case of any service contract for labor or materials, the nonpayment of which could give rise to lien rights on the part of the contracting party against the Parking Facility, then prior to and as a condition of any payment, MANAGER shall use reasonable efforts to obtain appropriate lien waivers at the time of execution and shall obtain appropriate lien waivers from the contracting party conditioned upon receipt of the specified payment and thereafter upon completion of the contract work, a full, unconditional lien waiver from the contracting party. MANAGER shall supervise and, utilizing the funds available or made available for this purpose pursuant to terms hereof, purchase, or arrange for the purchase of, all furniture, fixtures and equipment and personality which in the normal course of business are necessary and proper to maintain the Parking Facility in accordance with the standards required hereunder and the Property Budget. Any refunds, rebates or credits received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility shall be Receipts and shall be deposited into the Operating Account or otherwise applied for the benefit of the Parking Facility, and the benefits of any discounts received by MANAGER pursuant thereto shall be applied for the benefit of the Parking Facility such that only the net amounts (after such discounts) payable thereunder shall be charged to the Parking Facility. Notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any service contracts, purchase orders or other contracts that may otherwise be permitted hereunder, unless (a) the expenditure thereunder is provided for in the Property Budget, and (b) such service contract, purchase order or contract is cancelable without penalty on not more than thirty (30) days’ notice, unless otherwise agreed by OWNER in writing. In addition, notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any parking agreements or contracts to permit the use of the parking spaces at the Parking Facility or to provide reduced or fixed rates for use of parking at the Parking Facility that might otherwise be permitted hereunder, unless (a) the parking rates thereunder are in accordance with the then current schedule for parking rates and permitted discounted rates for the Parking Facility that has been approved in writing by OWNER, from time to time (OWNER hereby approves (i) the parking rates and permitted discount rates and (ii) the hours of operation for the Parking Facilities set forth in Schedule “D” attached to this Agreement and incorporated by reference herein) and (b) such agreement or contract is cancelable without penalty on not more than thirty (30) days’ notice, without penalty, unless otherwise agreed by OWNER in writing. Insurance certificates and copies of service contracts shall be forwarded to OWNER promptly upon execution of the same or otherwise upon request and any entry into a service contract by MANAGER hereunder shall be signed by MANAGER as the disclosed agent of OWNER.

12. Permits and Licenses. MANAGER shall use commercially reasonable efforts to obtain under OWNER’s name (or its own, as applicable, if required under applicable law) and maintain, in full force and effect, throughout the Term hereof any and all permits and licenses required by any public or quasi-
public authority for the use, maintenance and operation of the Parking Facility as a public parking facility in accordance with the Operating Standard.

13. Relationship of Parties. Nothing in this Agreement shall be construed as creating a partnership, employer/employee relationship or joint venture between OWNER and MANAGER. Except as set forth in the Agreement, neither party hereto shall have the right or authority to bind or obligate the other party in any manner whatsoever or expressly or impliedly incur any liability or obligation on behalf of the other party, nor shall OWNER be liable for any debts incurred by MANAGER.


a. MANAGER agrees to use commercially reasonable diligence in the care and protection of the Parking Facility during the Term of this Agreement. OWNER acknowledges that MANAGER is not a security company and does not employ personnel for that purpose. MANAGER assumes no liability or responsibility with respect to injuries, damage or costs sustained to any person or property as a result of its alleged failure to warn, guard or protect persons or property in or about the Parking Facility from and against intentional threats, harm or injury except for the negligent or intentionally committed acts of or by MANAGER or its employees; provided, however, the foregoing shall not relieve MANAGER of its obligation to obtain insurance in accordance with the other provisions of this Agreement.

b. MANAGER further agrees to comply (and cause the Parking Facility to comply, subject to the Property Budget) with all government laws, ordinances and regulations pertaining to the Parking Facility.

c. With respect to the following events, conditions or occurrences, MANAGER shall notify OWNER promptly upon MANAGER’S knowledge thereof (together with copies of supporting documentation) of: (a) any violation of any laws, ordinances, rules, regulations or other governmental requirements (and make recommendations regarding compliance therewith); (b) any defect or unsafe condition in or at the Parking Facility; (c) any condemnation proceedings, rezoning or other governmental order, lawsuit or threat thereof involving the Parking Facility; (d) any notice of default under any Parking Facility Agreement or other material agreement relating to OWNER or the Parking Facility; (e) any notice of violation of any insurance requirement; (f) any claim, incident that may be covered by insurance or could lead to legal liability, demand, suit or other legal proceeding made or instituted against, or otherwise relating to, OWNER and/or the Parking Facility; or (g) any damage or destruction to the Parking Facility (including fire, theft or vandalism) or personal injury at the Parking Facility. MANAGER shall keep OWNER reasonably informed of the status of the particular matter through the final resolution thereof. MANAGER shall retain in the records it maintains for the Parking Facility copies of all supporting documentation with reference to any of the foregoing notices.

d. MANAGER shall cause all revenues, receipts and all other payments, cash or income of any kind, type or nature, derived from the Parking Facility to be deposited into the Operating Account and such accounts at such banks or other financial institutions as are determined by OWNER, as and when determined by OWNER. In its capacity, MANAGER shall deal at arm’s length with all third parties, and subject to that limitation, MANAGER may not enter into agreements with affiliates of MANAGER, without the prior, written approval of OWNER; it being agreed that any such agreement entered into with any such affiliate shall be on reasonably competitive terms and such other terms as are not less favorable to OWNER than those reasonably obtainable from an unrelated third party.
15. **Insurance Carried by MANAGER.** MANAGER agrees to carry the insurance listed below, with limits not less than the amounts as shown below and pay all premiums thereon when due.

   a. Commercial General Liability insurance (Garage Liability), including coverage for bodily injury (including coverage for death, mental anguish), Premises-Operations, Independent Contractors’ Protective, Products-Completed Operations, Blanket Contractual Liability, Personal Injury and Broad form Property Damage (including coverage for Explosion, Collapse and Underground hazards), and including Cross Liability and Severability of Interests, with coverage for libel, false arrest, assault & battery, discrimination, sexual molestation, detention or imprisonment, wrongful eviction from, wrongful entry into, invasion of the right of privacy, and slander and/or defamation of character. This coverage must be maintained for the full Term of this Agreement with the following minimum limits:

   i. $1,000,000 Each Occurrence;
   ii. $2,000,000 General Aggregate;
   iii. $1,000,000 Personal and Advertising Injury; and
   iv. $2,000,000 Products-Completed Operations Aggregate.

   b. Garagekeeper’s Legal Liability insurance for any and all automobiles that are parked at the Parking Facility by MANAGER’s attendants or for which a bailment is otherwise created, whether implied or in fact, with limits of liability not less than $1,000,000 per occurrence. The limit of liability for the Garage Keeper’s Legal Liability coverage must be sufficient to insure the payment of any loss without prorating of that loss based on the maximum facility capacity. Any deductible the MANAGER may carry shall be of industry standard, approved by management and the MANAGER’s sole responsibility.

   c. Worker’s Compensation insurance in compliance with statutory requirements of the state(s) in which the employee resides, is hired and in which the services are being performed and shall apply to all persons employed by MANAGER.

   d. Employer’s Liability insurance in the amount of $500,000 each accident for bodily injury by accident, $500,000 each employee for bodily injury by disease, and $500,000 policy limit for bodily injury by disease, or such other amount as may be required by umbrella policy to effect umbrella coverage.

   e. Comprehensive Automobile Liability insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage if automobiles are used in the performance of MANAGER’s obligations hereunder;

   f. Umbrella/Excess Liability insurance on a follow form basis with a per occurrence and annual aggregate limit of $10,000,000 per location / project. Coverage shall be excess of Garage Liability (including products and completed operations coverage), Auto Liability, Garagekeeper’s Legal Liability and Employer’s Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

   g. Inside and Outside the Premises insurance including to protect against loss due to robbery, theft or burglary with not less than $100,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.
h. Employee Dishonesty insurance including to protect against loss due to employee dishonesty and depositor forgery with not less than $1,000,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.

i. Employment Practices Liability insurance, including third party coverage, in an amount of $1,000,000.

MANAGER, at the direction of OWNER from time to time, shall secure and maintain, at Owner’s cost and expense (as set forth in the Property Budget), such additional insurance (including, without limitation, reasonable increases to coverage described above) sufficient to furnish Owner and MANAGER reasonable and adequate protection in the management and operation of the Parking Facility, as determined by OWNER. All insurance shall conform to the reasonable requirements of OWNER and to the requirements of the Parking Facility Agreement, as applicable. OWNER shall have the right to approve the amount, scope and terms of all insurance coverages (including, without limitation, the amount of any deductibles) obtained hereunder. All such insurance shall be in the name of OWNER or MANAGER (with OWNER as a named insured), as OWNER shall reasonably require, and if not in the name of a party, such party shall be an additional insured, and with such other parties as additional insureds as OWNER may require, including, without limitation, any holders of any mortgages, deeds of trust or security agreements with respect to the Parking Facility or any related assets thereof, shall contain, as applicable, a standard mortgagee clause and shall contain riders and endorsements adequately protecting the interests of MANAGER as it may appear, including, without limitation, provisions for at least thirty (30) days’ notice to OWNER and MANAGER of cancellation or of any material change therein. All policies of property insurance shall provide that the insurance company will have no right of subrogation against either party hereto or their respective agents or employees.

MANAGER’s insurance shall be primary and non-contributory with regard to any other insurance that may be available to OWNER and additional insureds.

MANAGER shall cause each contractor and any subcontractors to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Garage Liability and Worker’s Compensation limits required above. MANAGER shall cause each subcontractor to include the same additional insured requirements and certificates of insurance as noted above for MANAGER.

Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on MANAGER under this Agreement.

16. Indemnification.

a. OWNER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of MANAGER’s operations, actions or inactions hereunder, including but not limited to damage to vehicles. MANAGER shall indemnify, defend, and hold OWNER and its respective officers, employees, partners, members or agents (the “Indemnitees”), harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the acts, omissions, breach of contract or violation of law by MANAGER or its agents, officers, representatives or employees.

b. MANAGER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of OWNER’s operations hereunder. OWNER shall indemnify, defend, and hold MANAGER and its respective Indemnitees, harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit,
incurred by any such Indemnitees, and resulting from the gross negligence or willful misconduct of OWNER.

c. The provisions of this Paragraph 16 shall survive termination or expiration of this Agreement.

17. Parking Facility. It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from the Parking Facility’s design, structural faults or defects are not the responsibility of MANAGER (other than if OWNER is entitled to indemnification from MANAGER as set forth above and except that the foregoing shall not modify or limit in any way the rights of OWNER or any of its Affiliates or the obligations of MANAGER or any of its Affiliates under any other agreement to which any of them is a party that concerns the Parking Facility).

18. Compliance with Laws. MANAGER agrees to manage, operate, and promote the use of the Parking facility in accordance with all local state and federal laws and government regulations.

19. Employees.

a. MANAGER shall investigate, select, employ, promote, terminate where appropriate, supervise, direct, train and assign duties of all employees in connection with the operation and maintenance of the Parking Facility. MANAGER shall have in its employ at all times sufficient number of capable employees to properly, safely, and economically manage, operate and maintain the Parking Facility, subject to the Property Budget. All matters pertaining to the employment, supervision, compensation, promotion, and discharge of such employees are the responsibility of MANAGER. MANAGER represents, warrants and covenants that it is, and shall continue to be, an equal opportunity employer and is, and shall continue to be, in compliance with all applicable employment laws. In addition, MANAGER shall from time to time develop and implement policies, procedures and programs for the Parking Facility designed to effect compliance with all applicable employment laws. The employment policies shall be consistent with industry standards from time to time for reputable parking management companies. MANAGER shall cause to be prepared and filed all necessary forms and returns for unemployment, insurance, withholding and social security taxes and all other tax and other forms relating to employment of its employees required by federal, state or municipal authorities. OWNER and MANAGER agree that, during the Term of this Agreement, all personnel employed to operate the Parking Facility shall be solely the employees of MANAGER and shall have no contractual relationship with OWNER.

b. In the event that the employees at the Parking Facility become represented by a labor organization, MANAGER shall assume all responsibilities to meet and confer with such labor organization, and if MANAGER deems appropriate, MANAGER shall execute on its own behalf (and not on behalf of OWNER) a collective bargaining agreement (including, without limitation, any amendments thereto or modifications thereof) with respect to the employees; provided, however, that (i) OWNER shall have approved in advance of such execution and in writing any and all costs to be incurred under such collective bargaining agreement (which approval shall not be unreasonably withheld or delayed) and (ii) OWNER acknowledges that such costs shall be a cost of and charged to the operation of the Parking Facility. MANAGER shall keep OWNER reasonably well-apprised of the status of such matters and shall give OWNER at least ten (10) business days’ prior written notice before MANAGER enters into any such collective bargaining agreement. At all times, MANAGER shall use its reasonable efforts to maintain labor harmony at the Parking Facility.
20. Transfers of Assets Termination. Upon termination of this Agreement for any reason in accordance with the terms hereof, MANAGER hereby agrees that it will take all reasonable and necessary measures to ensure that any and all contracts and assets held in MANAGER’s name and directly relating to the on-going operation of the Parking Facility are promptly transferred to OWNER (the “Manager-Held Assets”), including, without limitation, executing and delivering all such documents and instruments as shall be reasonably required to effectuate such transfers, except as otherwise may be instructed or directed by OWNER, subject to the terms of Paragraph 21 below and subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts. MANAGER represents and warrants that, as of the Effective Date, (1) all existing agreements, leases, licenses and contracts of any kind or nature (including, without limitation, all amendments, modifications and other agreements with respect thereto) comprising Manager-Held Assets are identified and listed in Schedule “C” as Manager Parking Facility Agreements (including, without limitation, all leases and financing agreements pursuant to which MANAGER has the right to use the Equipment), (2) all furniture, fixtures, equipment and other personal property (including, without limitation, vehicles) comprising Manager-Held Assets are identified and listed on Schedule “E” attached hereto and incorporated herein by this reference and (3) no other Manager-Held Assets exist as of the Effective Date. MANAGER covenants that it shall not enter into any new Manager Parking Facility Agreements or modify or amend any Manager Parking Facility Agreements, or purchase, lease or dispose of any Manager-Held Assets (including, without limitation, the Equipment) in the future, without obtaining the prior written consent of OWNER, in each instance, or unless set forth in the Property Budget. From time to time, upon request, MANAGER shall identify, in writing, all existing Manager-Held Assets, within ten (10) business days of Owner’s written request therefor. In addition, upon termination of this Agreement for any reason in accordance with the terms hereof, (i) deliver to OWNER, or such other person or persons designated by OWNER, copies of all books and records of the Parking Facility and all funds in the possession of MANAGER belonging to OWNER or received by MANAGER pursuant to the terms of this Agreement, and all keys or combinations to locks then in MANAGER’s possession, (ii) peacefully vacate and surrender the Parking Facility to OWNER on the effective date of such termination, (iii) assign, transfer or convey to such person or persons as may be designated by OWNER all service contracts relating to or used in the operation and maintenance of the Parking Facility, subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts; (iv) execute and deliver any termination or other necessary agreements requested for the purpose of evidencing the termination of this Agreement, and otherwise cooperate fully with OWNER in the smooth and orderly transition of the Parking Facility to a replacement manager, any transferee of OWNER or to any managing operator designated by OWNER or any transferee of OWNER; (v) immediately release and transfer to OWNER any of OWNER’s funds which are held or controlled by MANAGER with respect to the Parking Facility and transfer the Operating Account and any other bank accounts relating to the Parking Facility as directed by OWNER, in each case subject to all outstanding expenses accrued in accordance with Paragraph 5, which expenses OWNER agrees to pay; (vi) to the extent applicable, comply with OWNER’S direction to remove MANAGER and/or its agents, servants or employees as authorized signatories from the Operating Account and any other bank accounts maintained hereunder; (vii) make available to OWNER such books and records respecting the Parking Facility (including, without limitation, those from prior years during the term of this Agreement) as will be needed by OWNER to prepare the accounting statements, in accordance with the terms hereof, for the Parking Facility for the year in which the expiration or termination occurs and for any subsequent year; (viii) to the extent permitted by law, assign to OWNER or to the new property manager (as directed by OWNER) all operating licenses and permits for the Parking Facility which have been issued in MANAGER’s name; and (ix) reasonably cooperate with OWNER to assist OWNER to obtain new licenses or to continue all operations without interruption following termination while OWNER is attempting to obtain new licenses. Within sixty (60) days following expiration or earlier termination of this Agreement, MANAGER shall deliver to OWNER a final accounting, in writing, with respect to the operations of the
Parking Facility. The obligations set forth in this Paragraph shall survive expiration or earlier termination of this Agreement.

21. Equipment. It is the understanding between the MANAGER and OWNER that MANAGER is purchasing (on an installment sale basis) or leasing the equipment listed in Schedule “E” attached hereto and incorporated herein by this reference (“Equipment”) for the sole use (and, in the future, at the sole request of OWNER) (solely in accordance with the Property Budget). MANAGER agrees that when any such Equipment shall have been fully purchased and paid for, MANAGER shall immediately transfer such Equipment to OWNER. However, if the Term of this Agreement is terminated, for any reason, by either party prior to the then current date for expiration of the Term (as determined in accordance with Paragraph 2 hereof), the OWNER shall assume all liabilities and obligations of MANAGER under the then existing leases or installment sale contracts made in accordance with the terms of this Agreement for the Equipment, subject to the prior approval of the lessor(s) thereunder, in which cases MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in all such Equipment to OWNER. In the event any such lessor will not approve any such assignment, then OWNER, at its option, shall either (i) purchase the applicable Equipment, whereupon OWNER shall pay to the vendor or lessor of the applicable Equipment an amount equal to the full unamortized cost of all Equipment that is required to purchase the Equipment (MANAGER represents and warrants that that MANAGER has the right under the agreements with such vendors and lessors with respect to all Equipment to purchase the Equipment in such event on terms that upon written request, MANAGER will fully and accurately disclose to OWNER, and MANAGER agrees that it has fully and accurately disclosed to OWNER prior to the date hereof all such rights under all existing agreements), including but not limited to applicable sales and property taxes, termination fees, registration fees, interest, transfer fees, acquisition fees and any applicable residual or end value fees and, in such event, MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in such Equipment to OWNER or (ii) have MANAGER turn in the applicable Equipment provided that OWNER shall pay any fees, costs or other charges incurred as a result of returning the applicable Equipment under the agreements. Such transfer to OWNER shall occur, if it all, no later than the last day that MANAGER provides parking management services to the OWNER as to the Parking Facility hereunder.

22. General.

a. Assignment. MANAGER may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of OWNER. MANAGER hereby represents and warrants that the direct and indirect ownership and Control of MANAGER as of the date hereof is shown on Schedule “F” annexed hereto and made a part hereof and is true and complete in all respects. MANAGER shall notify OWNER in writing of the occurrence of any Property Manager Change of Control with respect to MANAGER, within ten (10) days following such occurrence. In addition, from time to time, MANAGER shall execute a certification making the same representation and warranty as to its direct and indirect ownership and Control, updated as of the date of such certification, promptly upon OWNER’s written request therefor. OWNER may assign its rights and obligations under this Agreement at any time, without the consent of MANAGER; provided however, that OWNER shall use reasonable efforts to notify MANAGER in writing of any such assignment at least thirty (30) days in advance thereof and any transfer or assignment of this Agreement by OWNER shall include an express assumption by the transferee or assignee of OWNER’s obligations hereunder. For purposes of this Agreement, any change in or any sale, conveyance, transfer or other disposition of, whether voluntarily, involuntarily or otherwise, the direct or indirect ownership interests in OWNER shall not be deemed to be an assignment hereunder.
b. **Binding Effect.** It is understood that this Agreement shall be binding upon and inure to the benefits of the heirs, personal representatives, successors and permitted assigns of the parties.

c. **No Property Interest.** Notwithstanding all provisions of this Agreement, it is mutually understood and agreed between the parties hereto, that this Agreement shall not in any way be construed to be a lease, but is merely a recitation of contract provisions. This Agreement shall not be recorded in the public records of any jurisdiction. This Agreement shall not create an interest in real property in favor of MANAGER and nothing herein shall create an agency coupled with an interest; MANAGER expressly waives any such interests.

d. **Notices.** Notice to both OWNER and MANAGER shall be sent to the following addresses (including via electronic mail or facsimile number):

If to OWNER

c/o Och-Ziff Real Estate
9 West 57th Street, 40th Floor
New York, New York 10019
Attention: Steven E. Orbuch
Facsimile: (212) 790-0005
E-mail: sorbuch@ozcap.com

with a copy to:
Bryan Cave LLP
1290 Avenue of the Americas
New York, New York 10104
Attention: Ronald Emanuel, Esq.
Facsimile: (212) 541-1434
E-mail: rbemanuel@bryancave.com

If to Manager :
Chief Administrative Officer
Pro Park, Inc.
1 Union Place
Hartford, CT 06103
Facsimile: N/A
E-mail: dave.schmid@propark.com

With a copy to:
Hinckley Allen & Snyder, LLP
20 Church Street
18th floor
Hartford, Connecticut 06103
Attention: William S. Fish, Jr.
E-mail: wfish@hinckleyallen.com

Each such notice shall be effective (a) if given by facsimile or electronic mail, upon transmission, (b) if given by mail, on the fourth (4th) day after deposit in the mails (certified or registered return receipt requested) addressed as aforesaid and (c) if given by overnight courier service or by hand delivery, when received and (d) if given by any other means, when delivered to and receipted for at the address of such OWNER or MANAGER specified as aforesaid.

e. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State in which the Parking Facility is located.
f. **Modifications.** No modification, amendment, supplement to or waiver of this Agreement or any Schedule hereunder, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties.

g. **Waiver.** A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.

h. **Complete Agreement.** This Agreement and each Schedule attached hereto set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by both parties.

i. **Severability.** In the event any one or more of the provisions of this Agreement or of any Schedule is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.

j. **Limited Agent.** Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between OWNER, its successors or assigns, and MANAGER, its successors or assigns. MANAGER shall act as an independent contractor with the limited powers of agency expressly authorized by OWNER in this Agreement (which agency shall not be coupled with an interest) and, in exercising such powers of agency, MANAGER shall be an agent of OWNER solely for the purpose of performing the applicable management functions for OWNER within the scope of this Agreement. This Agreement does not create in MANAGER any interest in the Parking Facility, including, without limitation, any of the fixtures or equipment therein.

k. **Non-Recourse.** MANAGER shall look only to OWNER’s interest in the Parking Facility for the satisfaction of MANAGER’s remedies or for the collection of a judgment (or other judicial process) requiring the payment of money by OWNER in the event of any default by OWNER (or any other claim) hereunder, and no other property or assets of OWNER or its direct or indirect members, partners, officers, directors, shareholders or principals, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of MANAGER’s remedies under or with respect to this Agreement.

l. **Rules of Construction.** Whenever pursuant to this Agreement, OWNER exercises any right given to it to approve or disapprove or to provide or withhold consent, or any arrangement or term is to be satisfactory or acceptable to OWNER, all such decisions, directions and determinations made by OWNER shall be in the sole and absolute discretion of OWNER, except as otherwise expressly provided for in this Agreement, and shall be final and conclusive.

m. **Force Majeure.** Neither party shall be liable for any delay or default in rendering service hereunder where occasioned by any cause beyond its reasonable control; including, but not limited to: armed conflict or economic dislocation resulting therefrom; strikes; civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fires, floods, earthquakes and any other natural disasters; provided, however, that the party whose performance is being interrupted shall provide reasonably prompt notice to the other party.

n. **Attorney’s Fees.** If litigation is commenced by either party hereto against the other to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover all of its costs and other expenses of such litigation, including reasonable attorney’s fees. The
amount so allowed, as attorney’s fees and costs shall be charged to the losing party as costs of suit. The provision of this Paragraph shall survive the expiration or earlier termination of this Agreement.

o. **TRIAL BY JURY WAIVER.** EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY OF ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

p. **PUNITIVE DAMAGES WAIVER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, IN ANY ARBITRATION, LAW SUIT, LEGAL ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING FORM OR RELATING OT THIS AGREEMENT OR THE PARKING FACILITY, THE PARTIES UNCONDITIONALLY AND IRREVOCABLY WAIVE AND DISCLAIM, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ALL RIGHTS TO ANY PUNITIVE, EXEMPLARY, OR TREBLE DAMAGES, AND ACKNOWLEDGE AND AGREE THAT THE RIGHTS AND REMEDIES IN THIS AGREEMENT, AND ALL OTHER RIGHTS AND REMEDIES AT LAW AND IN EQUITY, WILL BE ADEQUATE IN ALL CIRCUMSTANCES FOR ANY CLAIMS THE PARTIES MIGHT HAVE WITH RESPECT THERETO. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

q. **Further Assurance: Financing Documents:** The parties hereto shall do and procure to be done all such acts, matters and things and shall execute and deliver all such documents and instruments as shall be reasonably required to enable the parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement. MANAGER shall promptly execute any customary assignment, subordination, estoppel certificate or other agreement required by any lender providing financing as to the Parking Facility. MANAGER agrees to and does hereby subordinate all of its right, title and interest in, to and under this Agreement, including without limitation, any present and future right to receive payments under this Agreement, to all liens and rights of any lender under any financing and any and all documents executed and delivered in connection therewith.

r. **Representations.** MANAGER hereby represents, warrants and covenants that:

(1) MANAGER has been duly organized and is validly existing and in good standing with the requisite power and authority to transact the business in which it is now engaged. MANAGER is duly qualified to do business and is in good standing in the jurisdiction of its incorporation and in the jurisdiction where the Parking Facility is located. MANAGER possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to transact the businesses in which it is now engaged.

(2) MANAGER has all requisite power and authority to enter into this Agreement, and to perform their respective obligations hereunder. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of MANAGER. This Agreement has been duly executed and delivered by MANAGER and this Agreement constitutes the legal, valid and binding obligation of MANAGER, enforceable against MANAGER in accordance with its terms, except as such enforceability may be limited by
bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(3) MANAGER has secured prior to the Effective Date and thereafter maintain at all times during the Term of this Agreement all necessary licenses, permits and authorizations to enable MANAGER and its agents and employees to perform all of their duties and obligations under this Agreement and shall notify OWNER should any such license, permit or authorization no longer be in effect or in good standing promptly (but, in any event, within 48 hours of MANAGER learning of the same).

(4)(A) MANAGER is not: (A) currently listed on the Specially Designated Nationals List ("SDN List") or any similar list maintained by the Office of Foreign Assets Control ("OFAC") at the United States Department of the Treasury; (B) owned or controlled, directly or indirectly, by a person or entity who is listed on the SDN List or any similar list maintained by OFAC; (C) a person or entity with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order; or (D) incorporated in any country subject to U.S. country-based economic sanctions whereby conducting transactions with that person or entity would be in violation of any applicable law, rule, or regulation. MANAGER has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

(B) MANAGER shall comply with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including, without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010).

(C) MANAGER shall immediately notify OWNER in writing if it becomes aware that any of the foregoing representations, warranties, or covenants are no longer true or have been breached or if MANAGER has a reasonable basis to believe that they may no longer be true or have been breached.

The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

s. Confidentiality. To the maximum extent permitted by applicable law, MANAGER shall keep confidential the books of account and all other records and documents relating to or reflecting the operation of the Parking Facility and the information therein (including, without limitation, marketing plans, customer lists, pricing information, projections, budgets and reports) for the sole and exclusive benefit of OWNER and, without the prior written consent of OWNER, MANAGER shall not disclose any information contained therein or relating to the operation of the Parking Facility in any respect to any person or entity, other than OWNER and OWNER’s employees, representatives, accountants, lawyers and other professionals as directed by OWNER. MANAGER may, however, disclose such documents and information to those of its directors, officers, employees, agents and advisors who need to know such information in connection with MANAGER’s fulfillment of its duties and obligations under this Agreement; provided that (a) prior to such disclosure, MANAGER agrees to inform such persons of the confidential nature of such documents and information and (b) MANAGER shall use reasonable efforts to cause such persons to keep such documents and information confidential and shall be fully responsible and liable for the consequences of their failure to do so. In addition, notwithstanding anything to the contrary
t. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same original. Such executed counterparts may be delivered by facsimile, electronic mail or portable document format which, in each case, upon transmission to the other party, shall have the same force and effect as delivery of the original signed counterpart.


a. MANAGER is a party to that certain Parking Services Agreement dated as of April 1, 2008, by and between MANAGER and Omni Hotels Management Company (the “Hotel Owner”), as amended by that certain First Amendment to Parking Services Contract dated as of March __, 2011 and that certain Second Amendment to Parking Services Contract dated as of ____., 2014 (as so amended, the “Hotel Valet Agreement”). MANAGER represents and warrants that it has provided OWNER with a true, accurate and complete copy of the Hotel Valet Agreement and any other agreement or understanding between MANAGER and HOTEL with respect to the use of Parking Facility by the Hotel Owner and the guests or patrons of the hotel operated by the Hotel Owner located at 155 Temple Street in New Haven, Connecticut (the “Hotel”). The Hotel Owner has rights to park in the Parking Facility in accordance with the terms of that certain First Amended and Restated Parking Agreement, dated June 6, 1995, by and between New Haven Parking Authority and 155 Temple Street LLC (the “Hotel Parking Agreement”).

b. MANAGER may continue to provide services to the Hotel Owner under the terms of the Hotel Valet Agreement, on and subject to the terms of this Agreement. The Hotel Valet Agreement may not be amended or modified without the consent of OWNER. Without limiting the generality of the foregoing, MANAGER may not enter into any agreement to modify the parking rates charged to the Hotel Owner and its employees, guests and anyone else claiming by, through or under the Hotel Owner without the consent of OWNER. If the Hotel Owner requests that MANAGER approve increases to its overnight parking rates, MANAGER can approve those increases without OWNER’s approval. If the Hotel Owner requests that MANAGER approve decreases to its overnight parking rates, MANAGER cannot approve those decreases without OWNER’s prior written approval.

c. MANAGER shall be solely responsible for the costs of providing the services that it agrees to provide to the Hotel Owner under the Hotel Valet Agreement (excluding, however, all utility charges in connection with the operation of the Juice Bar (as defined in the Hotel Valet Agreement), without reimbursement from OWNER.

d. MANAGER shall pay OWNER, as part of the Receipts, (1) a monthly rate that is the same as the monthly rate charged to employees at the Hotel under Section 4.f of the Hotel Valet Agreement for a monthly parking pass, for each of the ten (10) monthly parking passes that MANAGER is required to provide the Hotel Owner during the Term, on a complimentary basis, under the terms of the Hotel Valet Agreement, (2) all amounts received for any and all parking passes sold to the staff of the Hotel for spaces in the Parking Facility at the applicable parking rates set forth in Section 4.f of the Hotel Valet Agreement or as otherwise may be paid by any such staff to park at the Hotel. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.
the Parking Facility during the Term, (3) the Flat Usage Fee Payment (which is at the applicable parking rate in accordance with the Hotel Parking Agreement) per parking space per day throughout the Term for each and every space used in connection with MANAGER’s operations under the Hotel Valet Agreement, and (4) $2 per vehicle for all event parking that is included in gross revenues under Section 7 of the Parking Valet Agreement.

e. MANAGER shall not provide valet services to any person or entity other than guests of the Hotel and for any payments that do not come directly from the Hotel under the terms of the Hotel Valet Agreement. Without limiting the foregoing, MANAGER shall not advertise its valet services for the Hotel in a manner that would undercut the parking rates offered at the Parking Facility to parkers other than the Hotel Owner (and its guests who use the parking spaces paid for by the Hotel Owner) and shall not offer valet services for hourly pricing.

f. MANAGER agrees that it will keep complete records of all receipts, expenses and disbursements, as well as parking space usage, pertaining to its administration and performance of its obligations under the Hotel Valet Agreement and, from time to time, OWNER and/or its representative shall have the right to inspect those records upon reasonable notice.

g. OWNER shall have no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of MANAGER’s administration and performance of the Hotel Valet Agreement and MANAGER shall not act as OWNER’s agent under the terms thereof. MANAGER shall indemnify, defend, and hold OWNER and its Indemnitees, harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit (including, without limitation, any liability that may arise as a result of any valet service operation under the Hotel Valet Agreement), incurred by any such Indemnitees, and resulting from the acts, omissions, breach of contract or violation of law by MANAGER or its agents, officers, representatives or employees in respect of the Hotel Valet Agreement and the services thereunder provided. The provisions of this Paragraph 23.g shall survive termination or expiration of this Agreement.

h. In connection with any sale, transfer, assignment or conveyance by OWNER of the Parking Facility, MANAGER agrees that, upon OWNER’s request, MANAGER will enter into a new agreement with the new owner of the Parking Facility at the closing of such sale, transfer, assignment or conveyance which memorializes, essentially, the assignment of the rights and obligations of OWNER and MANAGER under this Paragraph 23 (on a standalone basis) and is otherwise reasonably acceptable in form and substance to MANAGER and the new owner. The provisions of this Paragraph 23.h shall survive termination or expiration of this Agreement.
IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, have executed this Agreement as of the date first written above.

MANAGER:

PRO PARK, INC., a Connecticut corporation

By: ____________________________
   Name: __________________________
   Title: ___________________________
   Date: ___________________________

OWNER:

OP CHAPEL SQUARE OWNER LLC, a Delaware limited liability company

By: ____________________________
   Name: __________________________
   Title: ___________________________
   Date: ___________________________
SCHEDULE “A”
EXCLUDED EXPENSES OF MANAGER

1. Salaries, travel and accommodation expenses of all executive personnel of MANAGER unless specifically requested by Owner (but such expenses for other employees shall be subject to the applicable Property Budget).
2. General and administrative expenses of MANAGER not allocable directly to operations at the Parking Facility (including, without limitation, expenses for office equipment or office supplies) excluding any and all legal fees associated with MANAGER’s hiring and firing the employees and/or MANAGER’s development and administration of the employment policies.
3. Personal property taxes of MANAGER’s property not used exclusively for the Parking Facility.
4. Settlements, payments or awards on claims arising from the misconduct of MANAGER’s employees, servants or agents.
5. Any income taxes related to fees or other amounts paid to MANAGER.
6. Costs for which MANAGER is liable under Paragraph 16.a of the Agreement.
7. Political or charitable contributions by MANAGER.
8. Costs of comprehensive crime insurance or fidelity bonds purchased by MANAGER for its own account and the cost of the insurance described in Paragraph 15.g, Paragraph 15.h and Paragraph 15.h of the Agreement.
9. Advertising expenses of MANAGER, except to the extent the advertising is of and for the Parking Facility and set forth in the Property Budget.
10. Any other costs and expenses not set forth in the Property Budget or otherwise approved by OWNER (in writing and in accordance with the JV Agreement) or which MANAGER is expressly authorized to incur under the terms of this Agreement.
SCHEDULE “B”
EXCLUDED EXPENSES OF OWNER

1. Real and personal property taxes of OWNER’s property (if OWNER elects to pay the same directly).
2. Debt service with respect to land, building and equipment (if OWNER elects to pay the same directly).
4. Costs of legal and auditing fees of OWNER.
5. Salaries and wages of all employees of OWNER.
6. Costs incurred by OWNER in the supervision of obligations of MANAGER.
7. Costs for which OWNER is liable under Paragraph 16.b of the Agreement.
8. Costs of premiums for fire and extended coverage insurance (if OWNER elects to pay the same directly).
SCHEDULE “C”
PARKING FACILITY AGREEMENTS

Any and all ground or underlying leases, space leases, license agreements, parking agreements, licenses (including, without limitation, any license or trademark agreements governing the use of the intellectual property of others at the Parking Facility), equipment leases, service contracts, maintenance agreements, construction contracts, utility contracts, any covenants, restrictions, easements and similar instruments, and notes and other instruments of indebtedness with regard to the Parking Facility or OWNER, together with any mortgages, deeds of trust, loan agreements, credit agreements, security instruments, environmental indemnities or other loan documents executed in connection therewith, to the extent affecting the Parking Facility or any part thereof, including, without limitations, the following:

AGREEMENTS TO WHICH OWNER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Owner Parking Facility Agreements”):

1. First Amended and Restated Parking Agreement, dated June 6, 1995, by and between New Haven Parking Authority and 155 Temple Street LLC
2. Parking Lease, dated as of January 2005, by and between Chapel Square Garage Partners and Chapel Square Development, LLC and CSD Tower LLC. Note that this Parking Lease has expired, but the parties are currently honoring the rates and treating Parking Lease as a month-to-month agreement.
3. That certain Lease dated as of December 23, 2004 by and between The City of New Haven Acting By and Through The New Haven Parking Authority, as lessor, and OWNER (as successor in interest to Chapel Square Garage, LLC, Propartners In Parking, LLC, and Store Avenue, LLC), as lessee, as amended pursuant to Amendment No. 1, dated June 1, 2010 and as hereinafter may be amended from time to time (as amended, from time to time, Ground Lease”)

AGREEMENTS TO WHICH MANAGER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Manager Parking Facility Agreements”):

1. License Agreement, dated September 1, 2011, by and between Propark, Inc. and Jobella Salon and Spa
2. Certificate of Acceptance and Acknowledgement of Assignment, dated 12/1/09, start date 2/1/14 by and between Westport Funding, LLC and Propark, Inc.
3. Certificate of Acceptance and Acknowledgement of Assignment, dated 12/1/09, start date 4/1/14 by and between Westport Funding, LLC and Propark, Inc.
4. Certificate of Acceptance and Acknowledgement of Assignment, dated 12/1/09, start date 6/1/13 by and between Westport Funding, LLC and Propark, Inc.

MANAGER hereby acknowledges that it has complete copies of all Owner Parking Facility Agreements, as of the date hereof.
Parking Facility Hours: The Parking Facility is currently open 24 hours per day, 7 days per week; however the Parking Facility is not staffed 24x7; it is an automated garage. The Parking Facility is staffed for events, maintenance time, manager time, busy garage days and when garage valets are needed.

Current Posted Rates
- Daily Rate: $6 per hour – max of $20
- Evening Rate: $6 per hour – max of $12
  **In by 6PM, out by 3AM**
- Lost Ticket: $60

Monthly Rates
- Individual Rate: $190 / Month
- Group Rate: $170 / Month
- Yale Student Special Rate: $1,900 / Year

Group Monthly Parking Rates

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<tr>
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<tr>
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<tr>
<td>Omni</td>
<td>$94 1′ 60, then $164 for each additional Bill Back</td>
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<tr>
<td>CT Conference of Municipalities</td>
<td>$163 Bill Back</td>
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Validations
Bill back validations are billed on the first of the month for the previous month

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1. The following leased equipment pursuant to Westport Funding, LLC Master Lease Agreement Schedule 091201-45:
   1. Omni Garage Video Surveillance Avigilon HD NVR/work station 3.0TB Storage
   1. Sony Network Rapid Dome Outdoor Camera, Tripe Stream JPEG/MPEG-4/H.264 18x Optical Zoom
   1. Gooseneck wall mount bracket
   1. Avigilon 5.0 MP dome camera with IP66 rated base
   1. Kowa 3.5-10mm IR corrected lens
   1. SONY SNCDH240
   3. Avigilon 2.0 MP outdoor dome camera
   6. Camera mounting kits (fitting, sealant, connectors)
   3. Digital acoustics IP7-FD-Cis4 IP intercom kit (controller and full duplex call station w/ mic)
   1. HP 24 port POE switch
   1. Fortigate 608 Bundle Network Firewall
   1. Patch Panel and Patch Cables
   1. Liebert PSA UPS
   6. Camera Installations/removal
   3. Intercom Installations
   3. System Configurations

2. The following leased equipment pursuant to Westport Funding, LLC Master Lease Agreement Schedule 091201-44:
   1. Silent Knight 5208 Fire Panel, 10 zone
   1. System upgrade and installation
Current Management Team:  
John Schmid, Chief Executive Officer  
Richard DiPietro, President  
Tim Willey, Chief Financial Officer  
Patrick Boeshans, Chief Administrative Officer  
David Schmid, Chief Investment Officer  

THIS PARKING MANAGEMENT AGREEMENT ("Agreement") entered into as of this ________ day of April, 2015 (the “Effective Date”) by and between OP EXPRESSO OWNER LLC, a Delaware limited liability company (herein referred to as "OWNER") and PRO PARK, INC., a Connecticut corporation and having its place of business at One Union Place, Hartford, Connecticut 06103 (herein referred to as "MANAGER"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in that certain Amended and Restated Limited Liability Company Agreement of OP Holdings JV LLC, a Delaware limited liability company (the “JV”), dated as of the Effective Date, by and between OP Holdings JV Member LLC, a Delaware limited liability company (“OP Holdings”), and Parking Acquisition Ventures, LLC, a Delaware limited liability company (“PAV”), (as may be further amended, restated, supplemented and/or otherwise modified, the “JV Agreement”). Nothing herein shall modify or amend the terms of the JV Agreement, including, without limitation, Section 10.1 thereof, and in the event of any conflict between the JV Agreement and this Agreement, the JV Agreement shall control.

WITNESSETH:

1. Agreement Purpose.

a. OWNER hereby contracts with MANAGER under the terms, conditions, and provisions set forth in this Agreement for MANAGER to operate certain parking facilities located at 880 Doolittle Drive and 498 Hester Street, San Leandro, California, commonly known as Expresso, which hereinafter will be referred to as the (“Parking Facility”). OWNER hereby authorizes MANAGER to exercise such powers with respect to the Parking Facility as may be necessary for the performance of MANAGER’s obligations under the terms of this Agreement (subject in all cases to the Property Budget), and MANAGER accepts such appointment under the terms and conditions hereinafter set forth.

b. MANAGER shall have no right or authority, expressed or implied, to commit or otherwise obligate OWNER in any manner whatsoever except to the extent specifically provided herein, or to the extent necessary to carry out or implement its obligations under the terms and provisions of this Agreement. MANAGER shall not hold itself out as having authority to act on behalf of OWNER in any manner which is beyond the scope of this Agreement.

c. MANAGER shall perform, or shall retain and cause other appropriate persons to perform, its duties hereunder in a diligent manner consistent with good industry standards and in accordance with the terms and conditions of this Agreement. MANAGER, on behalf of OWNER, shall implement, or cause to be implemented, the written decisions of OWNER and shall conduct the ordinary and usual business affairs of OWNER, to the extent and as provided in this Agreement. MANAGER shall at all times conform to the reasonable written policies, programs and instructions established by OWNER in accordance with the JV Agreement and the scope of MANAGER’s authority shall be limited to said policies, programs and instructions.

d. MANAGER shall, in keeping with the authority granted to MANAGER herein, keep OWNER reasonably informed regarding the Parking Facility, and abide by those reasonable written standards and instructions which OWNER may issue from time to time in accordance with the JV Agreement regarding the operation of the Parking Facility.
e. MANAGER (on behalf of itself and its Affiliates) acknowledges and agrees that only OP Holdings (in its capacity as “MANAGER” of the JV (the sole owner, directly or indirectly, of OWNER)), on behalf of OWNER, shall have the right to enforce OWNER’s rights and remedies under this Agreement. OWNER (on behalf of itself and its Affiliates) acknowledges and agrees that PAV (in its capacity as “ADMINISTRATOR” of the JV) also has certain day-to-day responsibilities to act on behalf of OWNER pursuant and subject to the terms of the JV Agreement.

2. Term. The term of this Agreement shall commence the date first written above and continue for a period of five (5) years thereafter (“Term”). Upon expiration of the Term, provided there are not unresolved disputes or uncured defaults and this Agreement has not been terminated, this Agreement shall be automatically extended upon the same terms and conditions, covenants and provisions as set forth herein, for additional and consecutive one (1) year extension terms unless and until written notice of non-renewal is given by either party no less than ninety (90) days prior to the expiration of the initial Term or then current extension term. During this time, either party may terminate this Agreement as provided in Paragraph 3 below.

3. Termination.

a. Either party may terminate this Agreement under the following circumstances:

i. Either party may terminate this Agreement in the event the other party files a voluntary petition or similar pleading for bankruptcy, insolvency, receivership, becomes insolvent, or makes an assignment for the benefit of creditors, with such termination to be effective upon giving notice.

ii. Upon the breach by the other party of any covenant, term or condition hereof, provided the breaching party first receives written notice of such breach and fails to remedy same within thirty (30) days of such notice.

b. OWNER shall have the right to terminate this Agreement immediately upon the occurrence of any of the following:

i. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility to a bona-fide, non-related party; provided, however, that such sale, transfer, assignment or conveyance by OWNER shall have been caused in a manner that complies with the provisions of Section 4.9 of the JV Agreement, if and to the extent such provisions apply to such sale, transfer, assignment or conveyance by OWNER.

ii. The expiration or earlier termination of the Ground Lease for any reason

iii. In the event any act or omission of MANAGER causes a breach by OWNER under the Ground Lease or any financing documents, subject in each case to all applicable cure rights (if any).

iv. In the event of the misappropriation, theft or fraud by MANAGER or any employee of MANAGER; provided, however, that upon written notice to MANAGER that one of its employees has perpetrated misappropriation, theft or fraud without MANAGER’S knowledge, then MANAGER shall have a thirty (30) day right to investigate and cure (such cure including reimbursement in full for all amounts stolen by such employee of MANAGER).
v. In the event of the gross negligence or willful misconduct of MANAGER in connection with its performance of its obligations under this Agreement, provided MANAGER first receives written notice of such breach and fails to remedy same within twenty (20) days of such notice.

vi. Upon thirty (30) days’ notice to MANAGER, in the event of any (A) damage to the Parking Facility or any portion thereof by fire or other casualty that, in OWNER’s discretion, reasonably may be expected to preclude the normal operations of the Parking Facility, (B) taking of the Parking Facility which results in the reduction or restriction of access to the Parking Facility or the failure of the Parking Facility, or any portion thereof, to remain in compliance with any applicable laws or (C) loss of any operating permit or other governmental approval that renders the Parking Facility inoperable as a parking facility; and, in any such case, either (1) the foregoing causes an acceleration of any senior bank debt relating to the Parking Facility or (2) as a result thereof, OWNER decides to cease use of the Parking Facility for parking operations because OWNER has determined that reopening is either not economically feasible or not legally possible;

vii. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility in connection with a foreclosure of any mortgage or deed of trust on the Parking Facility.

viii. In the event MANAGER shall intentionally fail to fully and faithfully deposit all the Receipts from the operation of the Parking Facility.

ix. The occurrence of an “Administrator Default” or “Material Administrator Default” under the JV Agreement.

x. Upon thirty (30) days’ notice to MANAGER, in the event that a “Property Manager Change of Control” under the JV Agreement occurs with respect to MANAGER.

In the event of any of the foregoing occurrences, OWNER shall have the right to forthwith terminate this Agreement, with such termination to be effective upon giving notice, and regain immediate possession of the Parking Facility.

c. Upon any termination of this Agreement, the Term of this Agreement shall be deemed to have expired on the date of such termination.

4. Annual Budget. MANAGER shall cooperate with PAV (acting in its capacity as “Administrator” of the JV) to prepare and present to OP Holdings (in its capacity as “MANAGER” of the JV) a proposed annual operating budget for the OWNER and the Parking Facility (as applicable) for each applicable Fiscal Year, in each case in accordance with Section 4.4 of the JV Agreement. For the avoidance of doubt, the adoption of any operating budget (and any modifications or revisions thereto) for the OWNER or the Parking Facility shall require the express written approval of OP Holdings (acting in its capacity as “MANAGER” of the JV), and to the extent required, the approval of the lender(s) under a financing, in order to be deemed the “Property Budget” for a Fiscal Year. Notwithstanding anything to the contrary contained herein, the applicable terms and provisions of the JV Agreement shall govern and control the preparation, approval, adoption, modification, revision and all other matters relating to the Property Budget. The adoption of the Property Budget in accordance with Section 4.4 of the JV Agreement (including any “deemed” Property Budget pursuant to Section 4.4(c) of the JV Agreement) shall constitute an authorization for MANAGER to incur charges to manage and operate the Parking Facility solely in accordance with this Agreement and the Property Budget. Subject to any other terms and limitations set forth in the JV Agreement MANAGER may not (i) cause or permit any line item in a then
current Property Budget to be exceeded by more than ten percent (10%) without the consent of the OWNER (provided, however, that notwithstanding the foregoing, MANAGER shall be permitted (without the approval of OWNER) to exceed any such line item by an amount that is less than Fifty Thousand Dollars ($50,000)) or (ii) cause or permit the expenses in a then current Property Budget to be exceeded by more than five percent (5%) without the consent of the OWNER, but, in any of the foregoing cases only to the extent the Administrator under the JV Agreement has equal or greater authority to exceed the Property Budget under the terms thereof (it being understood that MANAGER shall not have authority that exceeds the authority of the Administrator under the JV Agreement). Any such authorization to incur charges shall be limited to amounts specifically set forth within the Property Budget.

5. Definition of Operating Expenses.

   a. “Operating Expenses” shall mean and include any and all costs and expenses of maintaining, operating, conducting, insuring and supervising the operation of the Parking Facility, including, without limitation, any expenses of ancillary services provided to customers at the Parking Facility (such as a car wash and shuttle service) and the following, without restricting the generality of the foregoing:

      i. Wages of personnel assigned, budgeted or approved to the Parking Facility including supervisors, parking attendants, maintenance personnel, cashiers, clerical and audit staff. The term wages (“Wages”) as used herein includes monetary fringe benefits (excluding severance to the extent not required by any statute) such as health insurance, pension costs, and statutorily required payments for workers’ compensation insurance, unemployment insurance and social security;
      ii. Business-related telephone and data expenses and utility expenses of the Parking Facility;
      iii. Business taxes and airport access fees and assessments (if any), other than franchise or income taxes on income or profits;
      iv. License and permit costs and expenses, business license fees, development assessments and fees, impact fees, surcharges, and payments in lieu of taxes;
      v. sales taxes, excise taxes, gross receipts taxes, parking taxes, airport-related taxes, transaction privilege taxes, use taxes, occupancy taxes, gross receipts taxes (excluding income and similar taxes), parking taxes and similar impositions and airport access charges that collected directly from customers or included as part of the sales price of any goods or services, including, without limitation, affording a parking space or shuttle service, whether remitted to the appropriate taxing authorities or otherwise imposed by the state, county, and/or municipality where the Parking Facility is located;
      vi. Services charges, interest and collection expenses imposed for sales on credit and debit cards and other charges or fees paid from revenues of the Parking Facility to credit card companies, banks and clearinghouses, and similar organizations resulting from use of credit or debit cards or other payment methods used by customers;
      vii. Advertising, marketing and promotion costs including any expenses related to any website for the Parking Facility approved by OWNER and all other costs and expenses of any advertising, business promotion or personnel training program of the Parking Facility that directly benefits the Parking Facility;
      viii. The costs of insurance required of the MANAGER in this Agreement;
      ix. The costs of all operating supplies and sundry items such as, but not limited to uniforms, tickets, parking office and operating supplies, and janitorial supplies, and the maintenance or replacement of same;
x. Payroll processing fees, bank charges, credit card processing fees, secret shopper fees, tenant amenity program fees and administrative and bookkeeping fees including monthly parker and accounts payable processing;

xi. Utility expenses, fuel costs, toll costs and other expenses for operating the Equipment, shuttles and other property used in connection with Parking Facility operations and normal maintenance and repairs of the Parking Facility, GPS system (if any) and any shuttle vehicle(s) including but not limited to, power sweeping, power washing, maintenance equipment repair, lighting repairs & bulb replacement, Fire Control System maintenance, snow removal, HVAC and elevator maintenance, repainting of stall markings, replacement or repair of signs and parking access and revenue control equipment;

xii. Legal or audit charges and other routine professional fees directly attributable to the operation of the Parking Facility other than those services performed by the staff of OWNER or MANAGER, if approved in advance by OWNER, and any costs to store the books and records related to the Parking Facility pursuant to Paragraph 9;

xiii. The cost of special audits to be performed from time to time by MANAGER’s staff auditor for the mutual benefit of OWNER and MANAGER; provided, however, that the time and manner of the taking of the audit is approved in writing by OWNER in advance. Costs qualifying as audit expenses shall be limited to a mutually agreed upon per diem rate and the actual out-of-pocket expenses of the auditor during the period of an approved special audit;

xiv. Debt service of loans and rent and other charges under lease financing for the acquisition and use of approved parking access and revenue control equipment, operating equipment, and/or shuttle vehicles (if applicable), including, without limitation, under any equipment leases for vehicle and personal property which would constitute “operating leases” under GAAP, consistently applied;

xv. Command Center Fees;

xvi. The cost of insurance;

xvii. Technology costs;

xviii. All rent and other charges payable under any ground or underlying leases with third parties affecting the Parking Facility;

xix. Amounts payable under any covenants or assessments or other charges for use of shared or offsite facilities or upkeep of the same related to the Parking Facility;

xx. Out-of-pocket expenses incurred for the account of or in connection with the operation of the Parking Facility and all costs and expenses incurred in connection with the maintenance and repair of the Parking Facility;

xxi. Costs of compliance with law with respect to any physical or operational conditions;

xxii. Real estate taxes and other similar assessments and impositions;

xxiii. Payment of claims for damage, personal injury, or loss of personal property (including, without limitation, auto damage) except to the extent such claim is an Excluded Expense as defined below;

xxiv. Payment of any deductible amount of insurance claims settlement and payment of claims in excess of policy limits except to the extent such claim is an Excluded Expense as defined below; and

xxv. Management Fees payable pursuant to Paragraph 8 below.

For clarity, Operating Expenses shall include only direct property level costs and expenses with respect to the applicable Property and shall not in any event include any mark-up or other similar charge of the MANAGER or any of its Affiliates. To the extent OWNER approves Operating Expenses that MANAGER incurs on a shared basis with other parking operations that it owns or managers, such Operating Expenses shall be equitably apportioned between the Parking Facility and such other operations (and shall provide OWNER, upon request, with reasonable back-up and details concerning the costs and how such apportionment was made) and in no event shall
MANAGER recover reimbursements from OWNER and others with respect to the apportioned charges that exceed the actual amount of the apportioned charges.

Notwithstanding the foregoing, Operating Expenses shall not include multiple audit charges in a Fiscal Year unless there is a material finding in such audit and then only to the extent that such audit charges are reasonable.

As used herein, “Command Center Fees” shall mean $24,000 per Fiscal Year, charged in equal monthly installments of $2,000 (as prorated for any fractional period).

b. OWNER shall have the right, from time to time, as OWNER shall determine, to pay any Operating Expenses directly, in lieu of having MANAGER handle incurring and paying same, but such Operating Expenses shall be Operating Expenses for purposes of Paragraph 8 below, even though OWNER, as opposed to MANAGER, is paying such expenses.

c. “Excluded Expenses” are those designated expenses arising from the operation of the Parking Facility which shall not be deemed Operating Expenses and which shall therefore be borne by the respective parties. The Excluded Expenses of the MANAGER are those set forth in Schedule “A” to this Agreement and incorporated by reference herein. The Excluded Expenses of OWNER are set forth in Schedule “B” attached to this Agreement and incorporated by reference herein. In the event of any conflict between Paragraph 5 and Schedules “A” and “B,” Schedules “A” and “B” shall control.

6. Additional Services. In addition to the daily operation of the Parking Facility, MANAGER’s services shall include consulting and advisory services to OWNER concerning the Parking Facility. These services shall be provided without additional charge or fee except for reimbursement of pre-approved out of pocket expenses such as postage, printing and supply charges, mileage and phone charges in connection with the performance of services requested or required by OWNER, and any other similar out of pocket expenses. MANAGER shall document and support such expenses by cash receipts or other documentary proof of payment.

7. Collection of Receipts. MANAGER covenants that it will collect or cause to be collected all fees, charges and other monies derived from the Parking Facility. At OWNER’s request, MANAGER shall open and maintain a bank account (the “Operating Account”) in accordance with this Paragraph 7. OWNER shall have the sole right to designate persons as authorized signatories on the Operating Account and such authorized signatories shall have sole authority to make disbursements therefrom; provided however that OWNER will arrange for an authorized signatory of MANAGER to have signature authority to draw funds on the Operating Account without additional signatures from other parties unless and until any breach of this Agreement allegedly committed by MANAGER occurs, a termination of this Agreement occurs or any misappropriation, theft or fraud allegedly committed by such signatory occurs, it being understood and agreed that MANAGER shall not be required to advance any of its own funds for the Operating Expenses of the Parking Facility and it shall not be a default by MANAGER that it fails to pay an Operating Expense hereunder to the extent such failure is caused by OWNER’s failure to furnish MANAGER with funds necessary for the discharge thereof. The Operating Account (a) shall be a trust account for the benefit of OWNER, (b) shall explicitly state in the name of such Operating Account that such Operating Account is held in trust for OWNER and (c) shall not be commingled with other funds held by MANAGER (even if such other funds relate to projects owned by OWNER or any Affiliate of OWNER). At all times the funds deposited in the Operating Account shall be the sole and exclusive property of OWNER. OWNER shall have the sole and exclusive right to make any decision or election with respect to the establishment, maintenance and closing of the Operating Account (and any other account established with respect to OWNER and/or the Parking Facility). All fees, charges and other
monies collected by MANAGER (the “Receipts”) shall be promptly deposited into the Operating Account. MANAGER shall thereafter, on or before the twentieth (20th) day of the month, disperse the Receipts for each prior month’s operation as follows:

a. MANAGER shall pay all Operating Expenses as defined in Paragraph 5.a, subject to and in compliance with the Property Budget (consistent with the expenses contemplated in the applicable provisions of the JV Agreement concerning the Property Budget) and subject to OWNER exercising its rights under Paragraph 5.b.

b. MANAGER shall pay on behalf of OWNER, from Receipts it receives, all city and county and airport parking taxes and fees prior to the date such payment(s) become delinquent which may be due and owing in connection with the operation of the Parking Facility as a public parking facility.

c. MANAGER shall pay the Management Fee due MANAGER from the Receipts it receives in the amounts set forth in Paragraph 8 herein (subject in all cases to the Property Budget).

d. After payment of the amounts as directed in (a), (b) and (c) above, the balance of the Receipts from the Parking Facility shall be immediately paid to OWNER.

e. In the event any government-mandated employment cost (such as a required wage) is imposed, increased, adjusted or introduced with respect to work performed by MANAGER for OWNER, MANAGER will notify OWNER and add such cost, without markup, as an Operating Expense to the Property Budget, unless and until OWNER and MANAGER agree otherwise.

f. In the event of an emergency situation, MANAGER may add, without markup, as an Operating Expense to the Property Budget, costs and expenditures reasonably incurred by MANAGER where such cost or expenditure will prevent or mitigate (or is reasonably believed to prevent or mitigate) the injury or death to person or damage to property that OWNER or MANAGER may be liable for and, prior to incurring any such cost or expenditures, MANAGER is unable to contact OWNER to obtain OWNER’S approval. MANAGER shall contact and advise OWNER as soon as possible after the emergency situation and follow OWNER’S reasonable directions with respect thereto.

g. OWNER shall have reviewed and approved any revenue information submitted to any lessor under any ground or underlying lease or any governmental or airport authority, prior to submission.

h. Payment of claims for damage, personal injury, or loss of personal property shall be authorized by OWNER in writing, in advance, unless such payment is $500.00 or less in which case no authorization is required.

Except for the disbursements from the Operating Account made in accordance with this Agreement, the JV Agreement and the Property Budget, funds will be disbursed or transferred from the Operating Account solely as OWNER may from time to time direct in writing.

8. Payments to MANAGER.

a. For each Fiscal Year during the Term, MANAGER shall be entitled to receive an amount equal to twelve percent (12%) of the Operating Surplus for such Fiscal Year (“Management Fee”); the
Management Fee will be prorated for partial Fiscal Years. MANAGER shall receive $22,792 at the end of each calendar month during the Term as an advance on such Management Fee. This amount will be prorated for partial months. The monthly payments to MANAGER hereunder during any such Fiscal Year shall be subject to the determination of the actual Management Fee for such Fiscal Year pursuant to the annual reconciliation (the “Reconciliation”) in accordance with Paragraph 8.d below. The monthly advance amount paid during any such Fiscal Year is meant to serve as a reasonable estimate of the Management Fee for that Fiscal Year, and the amount of that monthly advance also may be adjusted by mutual agreement of the parties, each acting reasonably, from time to time to reasonably minimize adjustments during the Reconciliation.

b. For purposes of this Agreement, the following terms shall be given the following meanings:

i. “Gross Revenues” shall mean, for the applicable period in question during the Term, all parking revenues earned and received from the Parking Facility and all revenues earned and received from ancillary services provided to customers at the Parking Facility; provided, however, that notwithstanding the foregoing: (A) Gross Revenues shall not include the following: (1) gratuities to employees paid directly by a customer or other third party; (2) accounts receivable written off as uncollectible, except to the extent amounts are recovered by the sale thereof or otherwise; (3) proceeds of insurance (other than business interruption insurance after deducting therefrom all reasonable expenses incurred in the adjustment or collection thereof) or proceeds of awards received in condemnation (but excluding compensation received for loss of business to the extent attributable to the period in question); (4) proceeds of the sale or disposition of the Parking Facility or any capital assets or of the refinancing of, or loans with respect to, the Parking Facility; (5) any amounts reimbursed by OWNER to MANAGER or otherwise advanced and deposited into the Operating Account or other bank accounts used for the operation of the Parking Facility; (6) interest earned on any amounts deposited into any such bank accounts; any security deposits or similar deposits (except as applied or forfeited); (7) any rebates or credits received by MANAGER pursuant to any service contract or purchase order or other contracts relating to the Parking Facility; (8) any discounts, coupons or complimentary validations to customers from the stated or advertised rates or from any other rates charged to other customers; and (9) discounts, rebates, coupons and reimbursements and add-ons, including as required under any marketing partnerships and alliance; and (B) in computing Gross Revenues, payments for parking made in advance (advance validations) shall not be included unless and until the parking service is rendered and cancellation refunds shall reduce Gross Revenues in the period in which same is made. Gross Revenues shall include cash only and shall not include exchanges for services or barter. Any Gross Revenue from the Parking Facility collected directly by OWNER shall be accurately reported in writing to MANAGER. Gross Revenue shall include any cash refunds received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility including any tax refunds.

Gross Revenue shall not include any reserves and escrows that are existing or funded on or about the date hereof in connection with OWNER’s acquisition of the Parking Facility; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such reserves or escrows in the future and paid for the account of OWNER, those funds shall be Gross Revenue when so paid, but only to the extent that such funds are offset by the Operating Expenses paid for (or reimbursed) with such funds (which offset shall be deemed to have occurred in the same Fiscal Year for purpose of calculating the Management Fee). During the Term, for purposes of calculating the Management Fee, amounts paid from Gross Revenues to fund any other future reserves or escrows required by any financing
documents with respect to the Parking Facility or otherwise required by OWNER or any Parking Facility Agreements shall not be Operating Expenses when reserved or escrowed; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such future reserves or escrows, those funds shall not be Gross Revenue when paid or applied and, accordingly, Operating Expenses will not be offset if paid for (or reimbursed) with such funds or escrows, regardless of whether those funds were reserved or escrowed from Gross Revenue or OWNER’s capital, it being understood that if Gross Revenue is not sufficient to fund such reserves and escrows, the capital that OWNER provides to meet that funding or escrow obligation shall not be Gross Revenue. By way of example, if Gross Revenue in Year 1 is $1,000, Operating Expenses are $200 and 10% of Gross Revenue is put into a reserve, then the Operating Surplus will be $800. In Year 2, if Gross Revenue is again $1,000, Operating Expenses are $250 and no money is put into reserves, but the reserves from the prior year are used to pay $100 of Operating Expenses, the Operating Surplus will be $750.

ii. “Operating Surplus” shall mean for the Parking Facility, for the applicable period in question during the Term, an amount calculated on an cash basis, equal to the excess of Gross Revenues for such period over the Operating Expenses for such period; provided, however, Debt Service Expenses and the Management Fee for such period shall not be treated as Operating Expenses for purposes of calculating the Operating Surplus.

iii. “Debt Service Expenses” means all principal, interest and other similar charges paid to any lenders under any loan documents secured by a mortgage or deed of trust on OWNER’s interest in the land and improvements comprising the Parking Facility.

c. Within fifteen (15) days after the end of each calendar month of the Term (prorated for any fractional calendar month), MANAGER shall provide to OWNER a statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such calendar month and each of the components thereof, together with reasonable supporting evidence and any other information reasonably requested by OWNER. The Management Fee calculation shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

d. Within sixty (60) days after the end of each Fiscal Year occurring during the Term (prorated for any fractional Fiscal Year), MANAGER shall provide to OWNER a reconciliation statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such Fiscal Year and each of the components thereof (calculated based on the Operating Surplus for that Fiscal Year), together with reasonable supporting evidence and any other information reasonably requested by OWNER, and showing the aggregate amount of Management Fees received by MANAGER and calculating any overpayment or underpayment of the Management Fee. MANAGER shall refund OWNER any overpayment by applying the amount thereof as a credit against the Management Fee next due or becoming due, provided if the Term expires or is terminated before the determination of the overpayment, then MANAGER shall refund any overpayment to OWNER with a payment accompanying the applicable reconciliation statement or if such overpayment has not been fully credited within ninety (90) days of the applicable reconciliation, MANAGER shall refund the outstanding amount of the overpayment to OWNER within ten (10) days following the end of such 90-day period. MANAGER shall collect any underpayment of Management Fee as a credit against the Operating Surplus for the succeeding month(s) until fully paid, provided if the Term expires or is terminated before the determination of the underpayment, OWNER shall pay MANAGER, within thirty (30) days after its receipt of
the reconciliation statement or if such underpayment has not been fully credited within ninety (90) days of the applicable reconciliation, OWNER shall pay the outstanding amount of the underpayment to MANAGER within ten (10) days following the end of such 90-day period. The Management Fee, as reconciled hereunder, shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

9. MANAGER’s Report. MANAGER agrees that it will keep complete records of all receipts and disbursements (including Receipts) pertaining to the operation of the Parking Facility and such books of account and all other records relating to or reflecting the operation of the Parking Facility shall at all times be the property of OWNER, and such books and records shall be kept in a location or locations acceptable to OWNER and shall not be destroyed or discarded without the prior written approval of OWNER. On or before the twentieth (20th) day of each month (beginning with the second month of the Term of this Agreement) MANAGER shall render to the OWNER a complete accounting ("MANAGER’s Report") of all receipts and disbursements (including Receipts) for the preceding month and render payment to OWNER under Paragraph 7.d of this Agreement if any such payment is due. In addition, from time to time, upon OWNER’s reasonable request, MANAGER shall provide such other financial and operations reports concerning the Parking Facility, including, without limitation operating statements and revenue reports, as may be required by the terms of the Parking Facility Agreements, including, without limitation, any financing documents, operating permits and ground leases, and reasonably cooperate with operational reviews by lenders, auditors and prospective purchasers and investors, from time to time, as reasonably requested by OWNER. OWNER and/or its representative shall have the right to audit MANAGER’s books and records relating to the Parking Facility upon reasonable notice. OWNER also reserves the right to perform any audit tests relating to MANAGER’s activities, provided such audit tests are related to those activities performed by MANAGER for OWNER. Should OWNER discover either weaknesses in internal control or errors in record keeping, MANAGER shall promptly correct such audit discrepancies. On the twentieth (20th) day of the month following the termination or expiration of this Agreement MANAGER shall render to OWNER a preliminary MANAGER’s Report with the final MANAGER’s Report due within sixty (60) days following the termination or expiration date.

10. Insufficiency of Receipts. If the Receipts for any month are insufficient to make the payments required by Paragraph 7, subparagraphs (a), (b) and (c) above, OWNER agrees to pay into the Operating Account the amount of such deficit (solely in accordance with the Property Budget) within ten (10) days after receipt of MANAGER’s Report of Receipts.


a. MANAGER agrees to manage, market, operate and maintain the Parking Facility in an efficient and professional manner 24 hours per day, 7 days per week or during the hours otherwise directed by OWNER in writing, and in all cases in accordance with the Operating Standard. MANAGER further agrees that rates for parking in the Parking Facility shall be approved in advance by OWNER in writing; such rates shall not be varied without written approval of the OWNER. MANAGER, on behalf of OWNER, shall conduct the ordinary and usual business affairs of OWNER as provided in this Agreement and in accordance with the Property Budget. MANAGER agrees to perform its duties hereunder to manage, market, operate and maintain the Parking Facility in accordance with the standards set forth herein, and to comply with such written instructions and policies as may be reasonably requested by OWNER subject to the Property Budget. MANAGER will not incur any expenses or make any expenditure except as expressly permitted in or by this Agreement and the Property Budget. Notwithstanding anything to the contrary contained in this Agreement, MANAGER shall not be permitted to take any action
or make any expenditure that would constitute a Major Action under the JV Agreement without in each case obtaining the prior written approval of OWNER therefor.

b. As used herein, “Operating Standard” shall mean: (i) (A) in a commercially reasonable, prudent, diligent and workmanlike manner, (ii) in accordance with the terms and conditions of this Agreement and in conformity with the then current Property Budget, (iii) in accordance with the terms and provisions of the Parking Facility Agreements (as hereinafter defined), to the extent that MANAGER shall have received or have in its possession or control a full and complete copy thereof, (iv) in accordance with the requirements of any carrier having insurance on the Parking Facility or any part thereof and (v) in accordance with such written standards for operations as OWNER and MANAGER may develop and approve, working cooperatively and in good faith, with respect to the Parking Facility. As used herein, “Parking Facility Agreements” shall mean those agreements listed and/or described on Schedule “C” attached hereto and incorporated herein by reference, as revised from time to time with the approval of Owner or at the direction of Owner. MANAGER shall act in a fiduciary capacity with respect to the handling and accounting of funds of OWNER.

c. MANAGER shall have no authority on behalf of OWNER to do, and shall not do, any of the following without OWNER’s written approval in each instance: (a) remove any fixed assets, supplies, furniture, fixtures, equipment, inventories or operating supplies from the Parking Facility, except in the ordinary course of business or in connection with the disposition of obsolete, worn-out damaged items; (b) borrow money, guaranty the debts of any third person, or mortgage, pledge, grant a security interest in or otherwise encumber all or any part of the Parking Facility; (c) make, execute or deliver on behalf of OWNER any assignment for the benefit of creditors, or any guaranty, indemnity bond, or surety bond; (d) confess any judgment on behalf of OWNER or the Parking Facility; (e) file a voluntary or consent to an involuntary bankruptcy with respect to the Parking Facility; (f) enter into, modify, or terminate any lease, agreement to lease, option to lease, sublease, license, parking agreement, operating agreement, management agreement or similar arrangement relating to any occupancy of space in the Parking Facility, except for parking agreements with customers in accordance with Paragraph 11.d below (for sake of clarification, use of the Parking Facility by a car rental company if the car rental company is conducting its car rental business on-site shall not be deemed a parking agreement for purposes of Paragraph 11.d); (g) select or retain a construction manager, general contractor, architect, managing agent, legal counsel, rental agent, accountant or insurance carrier for the Parking Facility, or the election as to whether and when to have an audit conducted of the fiscal affairs of the Parking Facility, provided however if OWNER requires MANAGER to retain professionals and the cost of such retention is not in the Property Budget, the Property Budget shall be increased to include such costs, with OWNER’s approval (and MANAGER shall not be required to retain such professionals if OWNER does not approve the cost thereof to do so); (h) institute or defend litigation on behalf of the Parking Facility; (i) enter into, amend or terminate any Parking Facility Agreement including any service contract, contract for goods or services of any kind or similar agreement, except in accordance with Paragraph 11.d below or in accordance with the Property Budget; (j) communicate with the media in any written or oral form which names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member, or otherwise communicate with media about any matter concerning the Parking Facility other than related to operations, incidents at or marketing of the Parking Facility; (k) write-off, forgive or otherwise defer any receivable or rent in excess of such amounts as may be instructed by OWNER (excluding any complimentary validations in accordance with guidelines approved by OWNER); (l) take any other action or decision outside the scope of the ordinary, day-to-day business affairs of the Parking Facility; or (m) operate or permit the operation of any business at the Parking Facility or the sale of any customer

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information or provision of services to customers of the Parking Facility (e.g., car washes, vending machines etc.), the revenues of which are not included in Receipts.

d. MANAGER shall negotiate and, subject to the limitations set forth in this Agreement and the Parking Facility Agreements, enter into on behalf of OWNER parking agreements with customers for parking vehicles at the Parking Facility, service contracts and leases for equipment reasonably necessary or desirable in connection with the operation of the Parking Facility in the usual course of business, including, without limitation, vehicle maintenance, utility services, maintenance, heating and air conditioning maintenance, internet, phone service, landscaping care and uniform laundry services. Unless approved in writing by OWNER, all such contracts that involve work or services being performed at the Parking Facility shall contain an obligation on the part of the vendor to indemnify OWNER to a customary and reasonable degree and require the vendor to obtain insurance coverages as required by any Parking Facility Agreements and as otherwise necessary to protect OWNER to the extent customary for similar contracts. In the case of any service contract for labor or materials, the nonpayment of which could give rise to lien rights on the part of the contracting party against the Parking Facility, then prior to and as a condition of any payment, MANAGER shall use reasonable efforts to obtain appropriate lien waivers at the time of execution and shall obtain appropriate lien waivers from the contracting party conditioned upon receipt of the specified payment and thereafter upon completion of the contract work, a full, unconditional lien waiver from the contracting party. MANAGER shall supervise and, utilizing the funds available or made available for this purpose pursuant to terms hereof, purchase, or arrange for the purchase of, all furniture, fixtures and equipment and personalty which in the normal course of business are necessary and proper to maintain the Parking Facility in accordance with the standards required hereunder and the Property Budget. Any refunds, rebates or credits received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility shall be Receipts and shall be deposited into the Operating Account or otherwise applied for the benefit of the Parking Facility, and the benefits of any discounts received by MANAGER pursuant thereto shall be applied for the benefit of the Parking Facility such that only the net amounts (after such discounts) payable thereunder shall be charged to the Parking Facility. Notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any service contracts, purchase orders or other contracts that may otherwise be permitted hereunder, unless (a) the expenditure thereunder is provided for in the Property Budget, and (b) such service contract, purchase order or contract is cancelable without penalty on not more than thirty (30) days’ notice, unless otherwise agreed by OWNER in writing. In addition, notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any parking agreements or contracts to permit the use of the parking spaces at the Parking Facility or to provide reduced or fixed rates for use of parking at the Parking Facility that might otherwise be permitted hereunder, unless (a) the parking rates thereunder are in accordance with the then current schedule for parking rates and permitted discounted rates for the Parking Facility that has been approved in writing by OWNER, from time to time (OWNER hereby approves (i) the parking rates and permitted discount rates and (ii) the hours of operation for the Parking Facilities set forth in Schedule “D” attached to this Agreement and incorporated by reference herein) and (b) such agreement or contract is cancelable without penalty on not more than thirty (30) days’ notice, without penalty, unless otherwise agreed by OWNER in writing. Insurance certificates and copies of service contracts shall be forwarded to OWNER promptly upon execution of the same or otherwise upon request and any entry into a service contract by MANAGER hereunder shall be signed by MANAGER as the disclosed agent of OWNER.

12. Permits and Licenses. MANAGER shall use commercially reasonable efforts to obtain under OWNER’s name (or its own, as applicable, if required under applicable law) and maintain, in full force and effect, throughout the Term hereof any and all permits and licenses required by any public or quasi-
public authority for the use, maintenance and operation of the Parking Facility as a public parking facility in accordance with the Operating Standard.

13. Relationship of Parties. Nothing in this Agreement shall be construed as creating a partnership, employer/employee relationship or joint venture between OWNER and MANAGER. Except as set forth in the Agreement, neither party hereto shall have the right or authority to bind or obligate the other party in any manner whatsoever or expressly or impliedly incur any liability or obligation on behalf of the other party, nor shall OWNER be liable for any debts incurred by MANAGER.


a. MANAGER agrees to use commercially reasonable diligence in the care and protection of the Parking Facility during the Term of this Agreement. OWNER acknowledges that MANAGER is not a security company and does not employ personnel for that purpose. MANAGER assumes no liability or responsibility with respect to injuries, damage or costs sustained to any person or property as a result of its alleged failure to warn, guard or protect persons or property in or about the Parking Facility from and against intentional threats, harm or injury except for the negligent or intentionally committed acts of or by MANAGER or its employees; provided, however, the foregoing shall not relieve MANAGER of its obligation to obtain insurance in accordance with the other provisions of this Agreement.

b. MANAGER further agrees to comply (and cause the Parking Facility to comply, subject to the Property Budget) with all government laws, ordinances and regulations pertaining to the Parking Facility.

c. With respect to the following events, conditions or occurrences, MANAGER shall notify OWNER promptly upon MANAGER’S knowledge thereof (together with copies of supporting documentation) of: (a) any violation of any laws, ordinances, rules, regulations or other governmental requirements (and make recommendations regarding compliance therewith); (b) any defect or unsafe condition in or at the Parking Facility; (c) any condemnation proceedings, rezoning or other governmental order, lawsuit or threat thereof involving the Parking Facility; (d) any notice of default under any Parking Facility Agreement or other material agreement relating to OWNER or the Parking Facility; (e) any notice of violation of any insurance requirement; (f) any claim, incident that may be covered by insurance or could lead to legal liability, demand, suit or other legal proceeding made or instituted against, or otherwise relating to, OWNER and/or the Parking Facility; or (g) any damage or destruction to the Parking Facility (including fire, theft or vandalism) or personal injury at the Parking Facility. MANAGER shall keep OWNER reasonably informed of the status of the particular matter through the final resolution thereof. MANAGER shall retain in the records it maintains for the Parking Facility copies of all supporting documentation with reference to any of the foregoing notices.

d. MANAGER shall cause all revenues, receipts and all other payments, cash or income of any kind, type or nature, derived from the Parking Facility to be deposited into the Operating Account and such accounts at such banks or other financial institutions as are determined by OWNER, as and when determined by OWNER. In its capacity, MANAGER shall deal at arm’s length with all third parties, and subject to that limitation, MANAGER may not enter into agreements with affiliates of MANAGER, without the prior, written approval of OWNER; it being agreed that any such agreement entered into with any such affiliate shall be on reasonably competitive terms and such other terms as are not less favorable to OWNER than those reasonably obtainable from an unrelated third party.
15. Insurance Carried by MANAGER. MANAGER agrees to carry the insurance listed below, with limits not less than the amounts as shown below and pay all premiums thereon when due.

a. Commercial General Liability insurance (Garage Liability), including coverage for bodily injury (including coverage for death, mental anguish), Premises-Operations, Independent Contractors’ Protective, Products-Completed Operations, Blanket Contractual Liability, Personal Injury and Broad form Property Damage (including coverage for Explosion, Collapse and Underground hazards), and including Cross Liability and Severability of Interests, with coverage for libel, false arrest, assault & battery, discrimination, sexual molestation, detention or imprisonment, wrongful eviction from, wrongful entry into, invasion of the right of privacy, and slander and/or defamation of character. This coverage must be maintained for the full Term of this Agreement with the following minimum limits:
   i. $1,000,000 Each Occurrence;
   ii. $2,000,000 General Aggregate;
   iii. $1,000,000 Personal and Advertising Injury; and
   iv. $2,000,000 Products-Completed Operations Aggregate.

b. Garagekeeper’s Legal Liability insurance for any and all automobiles that are parked at the Parking Facility by MANAGER’s attendants or for which a bailment is otherwise created, whether implied or in fact, with limits of liability not less than $1,000,000 per occurrence. The limit of liability for the Garage Keeper’s Legal Liability coverage must be sufficient to insure the payment of any loss without prorating of that loss based on the maximum facility capacity. Any deductible the MANAGER may carry shall be of industry standard, approved by management and the MANAGER’s sole responsibility.

c. Worker’s Compensation insurance in compliance with statutory requirements of the state(s) in which the employee resides, is hired and in which the services are being performed and shall apply to all persons employed by MANAGER.

d. Employer’s Liability insurance in the amount of $500,000 each accident for bodily injury by accident, $500,000 each employee for bodily injury by disease, and $500,000 policy limit for bodily injury by disease, or such other amount as may be required by umbrella policy to effect umbrella coverage.

e. Comprehensive Automobile Liability insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage if automobiles are used in the performance of MANAGER’s obligations hereunder;

f. Umbrella/Excess Liability insurance on a follow form basis with a per occurrence and annual aggregate limit of $10,000,000 per location / project. Coverage shall be excess of Garage Liability (including products and completed operations coverage), Auto Liability, Garagekeeper’s Legal Liability and Employer’s Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

g. Inside and Outside the Premises insurance including to protect against loss due to robbery, theft or burglary with not less than $100,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.
h. Employee Dishonesty insurance including to protect against loss due to employee dishonesty and depositor forgery with not less than $1,000,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.

i. Employment Practices Liability insurance, including third party coverage, in an amount of $1,000,000. 

MANAGER, at the direction of OWNER from time to time, shall secure and maintain, at Owner’s cost and expense (as set forth in the Property Budget), such additional insurance (including, without limitation, reasonable increases to coverage described above) sufficient to furnish Owner and MANAGER reasonable and adequate protection in the management and operation of the Parking Facility, as determined by OWNER. All insurance shall conform to the reasonable requirements of OWNER and to the requirements of the Parking Facility Agreement, as applicable. OWNER shall have the right to approve the amount, scope and terms of all insurance coverages (including, without limitation, the amount of any deductibles) obtained hereunder. All such insurance shall be in the name of OWNER or MANAGER (with OWNER as a named insured), as OWNER shall reasonably require, and with such other parties as additional insureds as OWNER may require, including, without limitation, any holders of any mortgages, deeds of trust or security agreements with respect to the Parking Facility or any related assets thereof), shall contain, as applicable, a standard mortgagee clause and shall contain riders and endorsements adequately protecting the interests of MANAGER as it may appear, including, without limitation, provisions for at least thirty (30) days’ notice to OWNER and MANAGER of cancellation or of any material change therein. All policies of property insurance shall provide that the insurance company will have no right of subrogation against either party hereto or their respective agents or employees.

MANAGER’s insurance shall be primary and non-contributory with regard to any other insurance that may be available to OWNER and additional insureds.

MANAGER shall cause each contractor and any subcontractors to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Garage Liability and Worker’s Compensation limits required above. MANAGER shall cause each subcontractor to include the same additional insured requirements and certificates of insurance as noted above for MANAGER.

Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on MANAGER under this Agreement.

16. Indemnification.

a. OWNER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of MANAGER’s operations, actions or inactions hereunder, including but not limited to damage to vehicles. MANAGER shall indemnify, defend, and hold OWNER and its respective officers, employees, partners, members or agents (the “Indemnitees”), harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the acts, omissions, breach of contract or violation of law by MANAGER or its agents, officers, representatives or employees.

b. MANAGER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of OWNER’s operations hereunder. OWNER shall indemnify, defend, and hold MANAGER and its respective Indemnitees, harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit,
incurred by any such Indemnitees, and resulting from the gross negligence or willful misconduct of OWNER.

c. The provisions of this Paragraph 16 shall survive termination or expiration of this Agreement.

17. Parking Facility. It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from the Parking Facility’s design, structural faults or defects are not the responsibility of MANAGER (other than if OWNER is entitled to indemnification from MANAGER as set forth above and except that the foregoing shall not modify or limit in any way the rights of OWNER or any of its Affiliates or the obligations of MANAGER or any of its Affiliates under any other agreement to which any of them is a party that concerns the Parking Facility).

18. Compliance with Laws. MANAGER agrees to manage, operate, and promote the use of the Parking facility in accordance with all local state and federal laws and government regulations.

19. Employees.

a. MANAGER shall investigate, select, employ, promote, terminate where appropriate, supervise, direct, train and assign duties of all employees in connection with the operation and maintenance of the Parking Facility. MANAGER shall have in its employ at all times sufficient number of capable employees to properly, safely, and economically manage, operate and maintain the Parking Facility, subject to the Property Budget. All matters pertaining to the employment, supervision, compensation, promotion, and discharge of such employees are the responsibility of MANAGER. MANAGER represents, warrants and covenants that it is, and shall continue to be, an equal opportunity employer and is, and shall continue to be, in compliance with all applicable employment laws. In addition, MANAGER shall from time to time develop and implement policies, procedures and programs for the Parking Facility designed to effect compliance with all applicable employment laws. The employment policies shall be consistent with industry standards from time to time for reputable parking management companies. MANAGER shall cause to be prepared and filed all necessary forms and returns for unemployment, insurance, withholding and social security taxes and all other tax and other forms relating to employment of its employees required by federal, state or municipal authorities. OWNER and MANAGER agree that, during the Term of this Agreement, all personnel employed to operate the Parking Facility shall be solely the employees of MANAGER and shall have no contractual relationship with OWNER.

b. In the event that the employees at the Parking Facility become represented by a labor organization, MANAGER shall assume all responsibilities to meet and confer with such labor organization, and if MANAGER deems appropriate, MANAGER shall execute on its own behalf (and not on behalf of OWNER) a collective bargaining agreement (including, without limitation, any amendments thereto or modifications thereof) with respect to the employees; provided, however, that (i) OWNER shall have approved in advance of such execution and in writing any and all costs to be incurred under such collective bargaining agreement (which approval shall not be unreasonably withheld or delayed) and (ii) OWNER acknowledges that such costs shall be a cost of and charged to the operation of the Parking Facility. MANAGER shall keep OWNER reasonably well-apprised of the status of such matters and shall give OWNER at least ten (10) business days’ prior written notice before MANAGER enters into any such collective bargaining agreement. At all times, MANAGER shall use its reasonable efforts to maintain labor harmony at the Parking Facility.
20. Transfers of Assets Termination. Upon termination of this Agreement for any reason in accordance with the terms hereof, MANAGER hereby agrees that it will take all reasonable and necessary measures to ensure that any and all contracts and assets held in MANAGER’s name and directly relating to the on-going operation of the Parking Facility are promptly transferred to OWNER (the “Manager-Held Assets”), including, without limitation, executing and delivering all such documents and instruments as shall be reasonably required to effectuate such transfers, except as otherwise may be instructed or directed by OWNER, subject to the terms of Paragraph 21 below and subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts. MANAGER represents and warrants that, as of the Effective Date, (1) all existing agreements, leases, licenses and contracts of any kind or nature (including, without limitation, all amendments, modifications and other agreements with respect thereto) comprising Manager-Held Assets are identified and listed in Schedule “C” as Manager Parking Facility Agreements (including, without limitation, all leases and financing agreements pursuant to which MANAGER has the right to use the Equipment), (2) all furniture, fixtures, equipment and other personal property (including, without limitation, vehicles) comprising Manager-Held Assets are identified and listed on Schedule “E” attached hereto and incorporated herein by this reference and (3) no other Manager-Held Assets exist as of the Effective Date. MANAGER covenants that it shall not enter into any new Manager Parking Facility Agreements or modify or amend any Manager Parking Facility Agreements, or purchase, lease or dispose of any Manager-Held Assets (including, without limitation, the Equipment) in the future, without obtaining the prior written consent of OWNER, in each instance, or unless set forth in the Property Budget. From time to time, upon request, MANAGER shall identify, in writing, all existing Manager-Held Assets, within ten (10) business days of Owner’s written request therefor. In addition, upon termination of this Agreement for any reason in accordance with the terms hereof, (i) deliver to OWNER, or such other person or persons designated by OWNER, copies of all books and records of the Parking Facility and all funds in the possession of MANAGER belonging to OWNER or received by MANAGER pursuant to the terms of this Agreement, and all keys or combinations to locks then in MANAGER’s possession, (ii) peacefully vacate and surrender the Parking Facility to OWNER on the effective date of such termination, (iii) assign, transfer or convey to such person or persons as may be designated by OWNER all service contracts relating to or used in the operation and maintenance of the Parking Facility, subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts; (iv) execute and deliver any termination or other necessary agreements requested for the purpose of evidencing the termination of this Agreement, and otherwise cooperate fully with OWNER in the smooth and orderly transition of the Parking Facility to a replacement manager, any transferee of OWNER or to any managing operator designated by OWNER or any transferee of OWNER; (v) immediately release and transfer to OWNER any of OWNER’s funds which are held or controlled by MANAGER with respect to the Parking Facility and transfer the Operating Account and any other bank accounts relating to the Parking Facility as directed by OWNER, in each case subject to all outstanding expenses accrued in accordance with Paragraph 5, which expenses OWNER agrees to pay; (vi) to the extent applicable, comply with OWNER’s direction to remove MANAGER and/or its agents, servants or employees as authorized signatories from the Operating Account and any other bank accounts maintained hereunder; (vii) make available to OWNER such books and records respecting the Parking Facility (including, without limitation, those from prior years during the term of this Agreement) as will be needed by OWNER to prepare the accounting statements, in accordance with the terms hereof, for the Parking Facility for the year in which the expiration or termination occurs and for any subsequent year; (viii) to the extent permitted by law, assign to OWNER or to the new property manager (as directed by OWNER) all operating licenses and permits for the Parking Facility which have been issued in MANAGER’s name; and (ix) reasonably cooperate with OWNER to assist OWNER to obtain new licenses or to continue all operations without interruption following termination while OWNER is attempting to obtain new licenses. Within sixty (60) days following expiration or earlier termination of this Agreement, MANAGER shall deliver to OWNER a final accounting, in writing, with respect to the operations of the
Parking Facility. The obligations set forth in this Paragraph shall survive expiration or earlier termination of this Agreement.

21. Equipment. It is the understanding between the MANAGER and OWNER that MANAGER is purchasing (on an installment sale basis) or leasing the equipment listed in Schedule “E” attached hereto and incorporated herein by this reference (“Equipment”) for the sole use (and, in the future, at the sole request of OWNER) (solely in accordance with the Property Budget). MANAGER agrees that when any such Equipment shall have been fully purchased and paid for, MANAGER shall immediately transfer such Equipment to OWNER. However, if the Term of this Agreement is terminated, for any reason, by either party prior to the then current date for expiration of the Term (as determined in accordance with Paragraph 2 hereof), the OWNER shall assume all liabilities and obligations of MANAGER under the then existing leases or installment sale contracts made in accordance with the terms of this Agreement for the Equipment, subject to the prior approval of the lessor(s) thereunder, in which cases MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in all such Equipment to OWNER. In the event any such lessor will not approve any such assignment, then OWNER, at its option, shall either (i) purchase the applicable Equipment, whereupon OWNER shall pay to the vendor or lessor of the applicable Equipment an amount equal to the full unamortized cost of all Equipment that is required to purchase the Equipment (MANAGER represents and warrants that that MANAGER has the right under the agreements with such vendors and lessors with respect to all Equipment to purchase the Equipment in such event on terms that upon written request, MANAGER will fully and accurately disclose to OWNER, and MANAGER agrees that it has fully and accurately disclosed to OWNER prior to the date hereof all such rights under all existing agreements), including but not limited to applicable sales and property taxes, termination fees, registration fees, interest, transfer fees, acquisition fees and any applicable residual or end value fees and, in such event, MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in such Equipment to OWNER or (ii) have MANAGER turn in the applicable Equipment provided that OWNER shall pay any fees, costs or other charges incurred as a result of returning the applicable Equipment under the agreements. Such transfer to OWNER shall occur, if it all, no later than the last day that MANAGER provides parking management services to the OWNER as to the Parking Facility hereunder.

22. General.

a. Assignment. MANAGER may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of OWNER. MANAGER hereby represents and warrants that the direct and indirect ownership and Control of MANAGER as of the date hereof is shown on Schedule “F” annexed hereto and made a part hereof and is true and complete in all respects. MANAGER shall notify OWNER in writing of the occurrence of any Property Manager Change of Control with respect to MANAGER, within ten (10) days following such occurrence. In addition, from time to time, MANAGER shall execute a certification making the same representation and warranty as to its direct and indirect ownership and Control, updated as of the date of such certification, promptly upon OWNER’s written request therefor. OWNER may assign its rights and obligations under this Agreement at any time, without the consent of MANAGER; provided however, that OWNER shall use reasonable efforts to notify MANAGER in writing of any such assignment at least thirty (30) days in advance thereof and any transfer or assignment of this Agreement by OWNER shall include an express assumption by the transferee or assignee of OWNER’s obligations hereunder. For purposes of this Agreement, any change in or any sale, conveyance, transfer or other disposition of, whether voluntarily, involuntarily or otherwise, the direct or indirect ownership interests in OWNER shall not be deemed to be an assignment hereunder.
b. **Binding Effect.** It is understood that this Agreement shall be binding upon and inure to the benefits of the heirs, personal representatives, successors and permitted assigns of the parties.

c. **No Property Interest.** Notwithstanding all provisions of this Agreement, it is mutually understood and agreed between the parties hereto, that this Agreement shall not in any way be construed to be a lease, but is merely a recitation of contract provisions. This Agreement shall not be recorded in the public records of any jurisdiction. This Agreement shall not create an interest in real property in favor of MANAGER and nothing herein shall create an agency coupled with an interest; MANAGER expressly waives any such interests.

d. **Notices.** Notice to both OWNER and MANAGER shall be sent to the following addresses (including via electronic mail or facsimile number):

If to OWNER  
c/o Och-Ziff Real Estate  
9 West 57th Street, 40th Floor  
New York, New York 10019  
Attention: Steven E. Orbuch  
Facsimile: (212) 790-0005  
E-mail: sorbuch@ozcap.com

with a copy to:

Bryan Cave LLP  
1290 Avenue of the Americas  
New York, New York 10104  
Attention: Ronald Emanuel, Esq.  
Facsimile: (212) 541-1434  
E-mail: rbemanuel@bryancave.com

If to Manager  
Chief Administrative Officer  
Pro Park, Inc.  
1 Union Place  
Hartford, CT 06103  
Facsimile: N/A  
E-mail: dave.schmid@propark.com

With a copy to:

Hinckley Allen & Snyder, LLP  
20 Church Street  
18th floor  
Hartford, Connecticut 06103  
Attention: William S. Fish, Jr.  
E-mail: wfish@hinckleyallen.com

Each such notice shall be effective (a) if given by facsimile or electronic mail, upon transmission, (b) if given by mail, on the fourth (4th) day after deposit in the mails (certified or registered return receipt requested) addressed as aforesaid and (c) if given by overnight courier service or by hand delivery, when received and (d) if given by any other means, when delivered to and receipted for at the address of such OWNER or MANAGER specified as aforesaid.

e. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State in which the Parking Facility is located.
f. **Modifications.** No modification, amendment, supplement to or waiver of this Agreement or any Schedule hereunder, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties.

g. **Waiver.** A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.

h. **Complete Agreement.** This Agreement and each Schedule attached hereto set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by both parties.

i. **Severability.** In the event any one or more of the provisions of this Agreement or of any Schedule is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.

j. **Limited Agent.** Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between OWNER, its successors or assigns, and MANAGER, its successors or assigns. MANAGER shall act as an independent contractor with the limited powers of agency expressly authorized by OWNER in this Agreement (which agency shall not be coupled with an interest) and, in exercising such powers of agency, MANAGER shall be an agent of OWNER solely for the purpose of performing the applicable management functions for OWNER within the scope of this Agreement. This Agreement does not create in MANAGER any interest in the Parking Facility, including, without limitation, any of the fixtures or equipment therein.

k. **Non-Recourse.** MANAGER shall look only to OWNER’s interest in the Parking Facility for the satisfaction of MANAGER’s remedies or for the collection of a judgment (or other judicial process) requiring the payment of money by OWNER in the event of any default by OWNER (or any other claim) hereunder, and no other property or assets of OWNER or its direct or indirect members, partners, officers, directors, shareholders or principals, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of MANAGER’s remedies under or with respect to this Agreement.

l. **Rules of Construction.** Whenever pursuant to this Agreement, OWNER exercises any right given to it to approve or disapprove or to provide or withhold consent, or any arrangement or term is to be satisfactory or acceptable to OWNER, all such decisions, directions and determinations made by OWNER shall be in the sole and absolute discretion of OWNER, except as otherwise expressly provided for in this Agreement, and shall be final and conclusive.

m. **Force Majeure.** Neither party shall be liable for any delay or default in rendering service hereunder where occasioned by any cause beyond its reasonable control; including, but not limited to: armed conflict or economic dislocation resulting therefrom; strikes; civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fires, floods, earthquakes and any other natural disasters; provided, however, that the party whose performance is being interrupted shall provide reasonably prompt notice to the other party.

n. **Attorney’s Fees.** If litigation is commenced by either party hereto against the other to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover all of its costs and other expenses of such litigation, including reasonable attorney’s fees. The
amount so allowed, as attorney’s fees and costs shall be charged to the losing party as costs of suit. The provision of this Paragraph shall survive the expiration or earlier termination of this Agreement.

o. **TRIAL BY JURY WAIVER.** EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY OF ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

p. **PUNITIVE DAMAGES WAIVER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, IN ANY ARBITRATION, LAW SUIT, LEGAL ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING FROM OR RELATING TO THIS AGREEMENT OR THE PARKING FACILITY, THE PARTIES UNCONDITIONALLY AND IRREVOCABLY WAIVE AND DISCLAIM, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ALL RIGHTS TO ANY PUNITIVE, EXEMPLARY, OR TREBLE DAMAGES, AND ACKNOWLEDGE AND AGREE THAT THE RIGHTS AND REMEDIES IN THIS AGREEMENT, AND ALL OTHER RIGHTS AND REMEDIES AT LAW AND IN EQUITY, WILL BE ADEQUATE IN ALL CIRCUMSTANCES FOR ANY CLAIMS THE PARTIES MIGHT HAVE WITH RESPECT THERETO. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

q. **Further Assurance: Financing Documents:** The parties hereto shall do and procure to be done all such acts, matters and things and shall execute and deliver all such documents and instruments as shall be reasonably required to enable the parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement. MANAGER shall promptly execute any customary assignment, subordination, estoppel certificate or other agreement required by any lender providing financing as to the Parking Facility. MANAGER agrees to and does hereby subordinate all of its right, title and interest in, to and under this Agreement, including without limitation, any present and future right to receive payments under this Agreement, to all liens and rights of any lender under any financing and any and all documents executed and delivered in connection therewith.

r. **Representations.** MANAGER hereby represents, warrants and covenants that:

(1) MANAGER has been duly organized and is validly existing and in good standing with the requisite power and authority to transact the business in which it is now engaged. MANAGER is duly qualified to do business and is in good standing in the jurisdiction of its incorporation and in the jurisdiction where the Parking Facility is located. MANAGER possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to transact the businesses in which it is now engaged.

(2) MANAGER has all requisite power and authority to enter into this Agreement, and to perform their respective obligations hereunder. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of MANAGER. This Agreement has been duly executed and delivered by MANAGER and this Agreement constitutes the legal, valid and binding obligation of MANAGER, enforceable against MANAGER in accordance with its terms, except as such enforceability may be limited by
bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(3) MANAGER has secured prior to the Effective Date and thereafter maintain at all times during the Term of this Agreement all necessary licenses, permits and authorizations to enable MANAGER and its agents and employees to perform all of their duties and obligations under this Agreement and shall notify OWNER should any such license, permit or authorization no longer be in effect or in good standing promptly (but, in any event, within 48 hours of MANAGER learning of the same).

(4)(A) MANAGER is not: (A) currently listed on the Specially Designated Nationals List ("SDN List") or any similar list maintained by the Office of Foreign Assets Control ("OFAC") at the United States Department of the Treasury; (B) owned or controlled, directly or indirectly, by a person or entity who is listed on the SDN List or any similar list maintained by OFAC; (C) a person or entity with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order; or (D) incorporated in any country subject to U.S. country-based economic sanctions whereby conducting transactions with that person or entity would be in violation of any applicable law, rule, or regulation. MANAGER has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

(B) MANAGER shall comply with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including, without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010).

(C) MANAGER shall immediately notify OWNER in writing if it becomes aware that any of the foregoing representations, warranties, or covenants are no longer true or have been breached or if MANAGER has a reasonable basis to believe that they may no longer be true or have been breached.

The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

s. Confidentiality. To the maximum extent permitted by applicable law, MANAGER shall keep confidential the books of account and all other records and documents relating to or reflecting the operation of the Parking Facility and the information therein (including, without limitation, marketing plans, customer lists, pricing information, projections, budgets and reports) for the sole and exclusive benefit of OWNER and, without the prior written consent of OWNER, MANAGER shall not disclose any information contained therein or relating to the operation of the Parking Facility in any respect to any person or entity, other than OWNER and OWNER’s employees, representatives, accountants, lawyers and other professionals as directed by OWNER. MANAGER may, however, disclose such documents and information to those of its directors, officers, employees, agents and advisors who need to know such information in connection with MANAGER’s fulfillment of its duties and obligations under this Agreement; provided that (a) prior to such disclosure, MANAGER agrees to inform such persons of the confidential nature of such documents and information and (b) MANAGER shall use reasonable efforts to cause such persons to keep such documents and information confidential and shall be fully responsible and liable for the consequences of their failure to do so. In addition, notwithstanding anything to the contrary
contained in this Agreement, in no event will MANAGER make any announcement or disclosure referencing the names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

t. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same original. Such executed counterparts may be delivered by facsimile, electronic mail or portable document format which, in each case, upon transmission to the other party, shall have the same force and effect as delivery of the original signed counterpart.

[Signature Page to Immediately Follow.]
IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, have executed this Agreement as of the date first written above.

MANAGER:

PRO PARK, INC., a Connecticut corporation

By: __________________________
   Name: ______________________
   Title: _______________________
   Date: ________________________

OWNER:

OP EXPRESSO OWNER LLC, a Delaware limited liability company

By: __________________________
   Name: ______________________
   Title: _______________________
   Date: ________________________
SCHEDULE “A”
EXCLUDED EXPENSES OF MANAGER

1. Salaries, travel and accommodation expenses of all executive personnel of MANAGER unless specifically requested by Owner (but such expenses for other employees shall be subject to the applicable Property Budget).
2. General and administrative expenses of MANAGER not allocable directly to operations at the Parking Facility (including, without limitation, expenses for office equipment or office supplies) excluding any and all legal fees associated with MANAGER’s hiring and firing the employees and/or MANAGER’s development and administration of the employment policies.
3. Personal property taxes of MANAGER’s property not used exclusively for the Parking Facility.
4. Settlements, payments or awards on claims arising from the misconduct of MANAGER’s employees, servants or agents.
5. Any income taxes related to fees or other amounts paid to MANAGER.
6. Costs for which MANAGER is liable under Paragraph 16.a of the Agreement.
7. Political or charitable contributions by MANAGER.
8. Costs of comprehensive crime insurance or fidelity bonds purchased by MANAGER for its own account and the cost of the insurance described in Paragraph 15.g, Paragraph 15.h and Paragraph 15.i of the Agreement.
10. Advertising expenses of MANAGER, except to the extent the advertising is of and for the Parking Facility and set forth in the Property Budget.
11. Any other costs and expenses not set forth in the Property Budget or otherwise approved by OWNER (in writing and in accordance with the JV Agreement) or which MANAGER is expressly authorized to incur under the terms of this Agreement.
SCHEDULE “B”
EXCLUDED EXPENSES OF OWNER

1. Real and personal property taxes of OWNER’s property (if OWNER elects to pay the same directly).
2. Debt service with respect to land, building and equipment (if OWNER elects to pay the same directly).
4. Costs of legal and auditing fees of OWNER.
5. Salaries and wages of all employees of OWNER.
6. Costs incurred by OWNER in the supervision of obligations of MANAGER.
7. Costs for which OWNER is liable under Paragraph 16.b of the Agreement.
8. Costs of premiums for fire and extended coverage insurance (if OWNER elects to pay the same directly).
SCHEDULE “C”
PARKING FACILITY AGREEMENTS

Any and all ground or underlying leases, space leases, license agreements, parking agreements, licenses (including, without limitation, any license or trademark agreements governing the use of the intellectual property of others at the Parking Facility), equipment leases, service contracts, maintenance agreements, construction contracts, utility contracts, any covenants, restrictions, easements and similar instruments, and notes and other instruments of indebtedness with regard to the Parking Facility or OWNER, together with any mortgages, deeds of trust, loan agreements, credit agreements, security instruments, environmental indemnities or other loan documents executed in connection therewith, to the extent affecting the Parking Facility or any part thereof, including, without limitations, the following:

AGREEMENTS TO WHICH OWNER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Owner Parking Facility Agreements”):

1. Master Services Agreement, dated as of October 1, 2013, by and between The Source Group, Inc. and OWNER (as successor in interest to 880 Doolittle Dr., LLC)
2. Operation and Maintenance Agreement, dated August 19, 2014, by and between California Department of Toxic Substances Control and OWNER (as successor in interest to 880 Doolittle Dr., LLC)
3. Operations and Maintenance Trust Agreement, dated April ___, 2015, by and between Pacific Western Bank and OWNER
4. Escrow Agreement, dated September 26, 2014, by and between Redemco, LLC, OWNER (as successor in interest to 880 Doolittle Dr., LLC), and McGovern Escrow Services, Inc.

AGREEMENTS TO WHICH MANAGER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Manager Parking Facility Agreements”):

1. Comcast Enterprise Services Agreement dated as of December 13, 2011, by and between Comcast and Propark America
2. Class Z – Specialized Carrier Permit, dated July 16, 2014, by and between Propark Inc. and the Public Utilities Commission of the State of California
3. Facility Services Rental Service Agreement, dated as of September 26, 2012, by and between Expresso Airport Parking and Cintas
4. EZ Lease, dated as of June 22, 2011, by and between Pitney Bowes and Expresso Airport Parking
5. Services Contract, dated as of August 25, 2014, by and between Alameda County Industries and Expresso Airport Parking
7. Equipment Lease dated as of February 20, 2013, by and between Mill Creek Systems LLC and Pro Park, Inc.

MANAGER hereby acknowledges that it has complete copies of all Owner Parking Facility Agreements, as of the date hereof.
SCHEDULE “D”
PARKING RATES AND PERMITTED DISCOUNT RATES

Current Posted Rates

- Self-Park Outdoor $9.95
- Self-Park Indoor $13.95
- Valet Indoor $15.95

Monthly Rates

The following is a list of monthly parking clients at the parking facility, including current applicable parking rates. These customers have a prepaid, non-transferable right to park at the parking facility on a monthly basis.

<table>
<thead>
<tr>
<th>PARKER NAME</th>
<th>AREA</th>
<th>MONTHLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phil Baker</td>
<td>Indoor</td>
<td>$145</td>
</tr>
<tr>
<td>Peter Sigal</td>
<td>Outdoor</td>
<td>$125</td>
</tr>
<tr>
<td>Lifelong Medical Care</td>
<td>Outdoor</td>
<td>$300</td>
</tr>
<tr>
<td>Don Burkard</td>
<td>Indoor</td>
<td>$150</td>
</tr>
<tr>
<td>Ronnie Andrews</td>
<td>Indoor</td>
<td>$175</td>
</tr>
</tbody>
</table>

Discount Rates/Validations

The following is a list of current discount rates in place at the parking facility:

- EV Charging Valet park & charge at $10/day
- AAA 15% of all rack rates
- Hot or Not $5 off 1st day
- Web discount 1st day free
- APR $7/$9/$11 rate (they keep 1st day and $5 service fee)
- Yelp One free day
- Website coupon $8/$10/$12 rate
- Facebook Contest Various Give-a-ways
- Park Now $10/day pre-pay for valet
On-site Vouchers  Given for customer service issues
VIP list  Free stays or washes for preferred customers
Golden Ticket  Valet parking at $10/day rate

All run through the register and server on site at time of exit.

There is a frequent parker program at the parking facility is called The Big Shot Rewards Program (the “Frequent Parker Program”). Parkers must sign up on the facility’s website to join the program. The cards are set to either rack rate, or AAA discount and corporate rate with proper documentation. Parkers accumulate 1 point for each day they stay at the parking facility. Points are accumulated and updated directly through the gate equipment when they are earned.

Currently when points are redeemed they are done so at the cashier booth and tracked by the cashiers, on a log that is cross referenced to their receipts for the shift, and then deleted in our server. Point redemption is:

7 points= Free Day
21 points= Exterior Car Wash
70 points= Full Detail

**Corporate Discount Program**

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-Park Outdoor</td>
<td>$7</td>
</tr>
<tr>
<td>Self-Park Indoor</td>
<td>$9</td>
</tr>
<tr>
<td>Valet Indoor</td>
<td>$11</td>
</tr>
</tbody>
</table>

- American Pride Hobbies
- Align Technology, Inc.
- AMERITAC, Inc.
- BePixed Productions
- Basilisks Capital, LLC
- Bay Area Rescue Mission
- Celebrate! Events Design
- CSC
- Chevron
- Cal Maritime
- Calpine Corporation
- Caliguria Investments
- Chint Power Systems America
- CPE Link
- CSU Stanislaus
- Cazneux Nordstrum
- Family Marriage Therapist
- CSU Eastbay
- Community Marketing
- Cintas
- Cost Plus World Market
- Cal Signal Corp
- Del Monte Meat Company
- Dfm Car Stereo Inc.
- Dornbusch Associates
- Echo Marketing
- Eight Santas
- Ecelfore Corporation
- Endre Selmezy DMD
- Fully Engaged Libraries
- Fire Protection Management, Inc.
- FSR
- Financial Partners Wealth Strategy
- Farmers Insurance
- Gold Coast Health Plan
- GGBHTD
- Geller Realty & Property Management Services Inc.
- Hardcastle RV Centers
- Hurley’s Restaurant
- Hill Physicians
- HetNet Wireless
- Hamilton Marketing, Inc.
- HMS Technology Sales
- IBM
- IPC
• Ideation Collaborative
• Ito’s White Tiger
• JD Designs
• Janus Network
• Jan-Pro
• Janice Narvaez, MA
• Joylyn
• Kaiser Permanente
• KMD Products
• Law offices of Diane Hernandez
• LOC
• Lockheed Martin
• Lerman Law Partners LLP
• LPC Services Inc.
• LTD Global
• LogoBoss
• Lauren Armstrong
• Lim/Bryant Services
• LPLM Tax Attorneys
• MRC
• MedAmerica Inc.
• MiGH Financial Planner
• Miasol
• Med
• MegaPath
• Myers Restaurant Supply
• Nelson
• National Interscholastic Cycling Association
• Northern California Facial and Oral Surgery
• Oracle
• Opinion Dynamics
• Pete’s ACE Hardware
• Pinnacles Group Investment
• PREVENT Life Safety Services Inc.
• Posit Science
• Proclaim Promotions
• PDI, Inc.
• Pacific Energy Alternatives
• Redwood Oil Company
• Reinhart Global Brands
• Real Chic Boutique
• RockIt International Corp
• Sonoma Raceway
• Solta Medical
• Sonoma County
• Sonoma County Sheriff’s Department
• Safeway Inc.
• Shae’s Accessories
• Sandra Sylvers Insurance Services
• Solano Mustangs Inc.
• Sunnyvale Psychiatry
• Stripesters Inc.
• SchedMD
• Synoptics Engineering
• Sparkart
• The Cooper Companies Inc.
• The Clorox Company
• The Mattson Group
• Timm Eubanks Photography
• TGI
• Union City Police Department
• Virgin America
• Vallejo Sanitation & Flood Control District
• Valley Oil Company
• Walsh Construction
• Woodbury University
• Willie Woo DDS
• Wayzata Investment Partners
• Wattzradio
• Wiley X, Inc.
• WP Inspection
• Wells Fargo
• Walburg Realty & Investments Corp
Parking Facility Hours:

24 hours per day, 7 days per week
SCHEDULE “E”
MANAGER-HELD FURNITURE, FIXTURES AND EQUIPMENT

**Vehicles**

<table>
<thead>
<tr>
<th>Year</th>
<th>Make/Model</th>
<th>VIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>Ford Champion /GAS</td>
<td>1FDXE45S81HB28406</td>
</tr>
<tr>
<td>2004</td>
<td>Ford Starcraft / Propane</td>
<td>4FDXE45S54HB27041</td>
</tr>
<tr>
<td>2006</td>
<td>Ford Champion/GAS</td>
<td>1FDXE45SX6DA10050</td>
</tr>
<tr>
<td>2006</td>
<td>Ford Champion /GAS</td>
<td>1FDXE45SX6DA05737</td>
</tr>
<tr>
<td>2008</td>
<td>Starcraft Allstar /GAS</td>
<td>1FD4E45S88DA05628</td>
</tr>
<tr>
<td>2008</td>
<td>Starcraft Allstar / GAS</td>
<td>1FD4E45S58DA05635</td>
</tr>
<tr>
<td>2010</td>
<td>Ford E450 Starcraft/CNG</td>
<td>1FDFE4FS4ADA38199</td>
</tr>
<tr>
<td>2010</td>
<td>Ford E450 Starcraft/CNG</td>
<td>1FDFE4FS7ADA38200</td>
</tr>
<tr>
<td>2011</td>
<td>Ford Starcraft / CNG</td>
<td>1FDFE4FS3BDA73544</td>
</tr>
<tr>
<td>2015</td>
<td>Ford E450 Starcraft/CNG</td>
<td>1FDFE4FS3FDA07565</td>
</tr>
<tr>
<td>2015</td>
<td>Ford E450 Starcraft/CNG</td>
<td>1FDFE4FS6FDA07561</td>
</tr>
</tbody>
</table>

**Equipment**

- Ticket Dispenser PGL30/S w/ Loop Detector, Barcode Scanner, Credit Card In/Out, VOIP Intercom, Voice Module, Standard Color (Indoor Entry Lane 1)
- Barrier Gate AS30 w/ 4 Springs & Aluminum Gate Arms (10') (Indoor Entry Lane 1)
- Ticket Dispenser PGL30/S w/ Loop Detector, Barcode Scanner, Credit Card In/Out, VOIP Intercom, Voice Module, Standard Color (Outdoor Entry Lane 2)
- Barrier Gate AS30 w/ 4 Springs & Aluminum Gate Arms (Outdoor Entry Lane 2)
- Ticket Dispenser PGL30/S w/ Loop Detector, Barcode Scanner, Credit Card In/Out, VOIP Intercom, Voice Module, Standard Color (Valet Entry Lane 3)
- AVI Reader TagMaster with Pedestal (Valet Entry Lane 3)
- Barrier Gate AS30 w/ 4 Springs & Aluminum Gate Arms (10') (Valet Entry Lane 3)
- Verifier PL30/S w/ Loop Detector, Barcode Scanner, Credit Card In/Out, VOIP Intercom, Voice Module, Standard Color (Exit Lane 4)
- AVI Reader TagMaster with Pedestal (Exit Lane 4)
- Barrier Gate AS30 w/ 4 Springs & Aluminum Gate Arms (10') (Exit Lane 4)
- Verifier PL30/S w/ Loop Detector, Barcode Scanner, Credit Card In/Out, VOIP Intercom, Voice Module, Standard Color (Exit Lane 5)
- Barrier Gate AS30 w/ 4 Springs & Aluminum Gate Arms (10') (Exit Lane 5)
- 4 Credit Card Only Pay Stations Pay30/S w/ VOIP Intercom, Barcode reader, Voice Module, Standard Color
- 2 Cashier Terminal POS30/S w/Dell PC, USB Box, Fee Display, Touchscreen Monitor, SL20 Ticket Transport
- Facility Computer w/S&B entervo software
- entervo Analytics Reporting Software
- Browser Based Workstation
- Laser Printer
- External Backup
- Credit Card Server w/ verifone
- VOIP Server w/ Master Station
- Frequent Parker Interface/Integration/Development
- Gate Arms
- Offline Validators PVT35/S
Current Management Team: John Schmid, Chief Executive Officer
Richard DiPietro, President
Tim Willey, Chief Financial Officer
Patrick Boeshans, Chief Administrative Officer
David Schmid, Chief Investment Officer

PARKING MANAGEMENT AGREEMENT
(RICCIO)

THIS PARKING MANAGEMENT AGREEMENT ("Agreement") entered into as of this ______ day of April 2015 (the “Effective Date”) by and between OP RICCIO OWNER LLC, a Delaware limited liability company (herein referred to as "OWNER") and PRO PARK, INC., a Connecticut corporation and having its place of business at One Union Place, Hartford, Connecticut 06103 (herein referred to as "MANAGER"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in that certain Amended and Restated Limited Liability Company Agreement of OP Holdings JV LLC, a Delaware limited liability company (the “JV”), dated as of the Effective Date, by and between OP Holdings JV Member LLC, a Delaware limited liability company (“OP Holdings”), and Parking Acquisition Ventures, LLC, a Delaware limited liability company (“PAV”), (as may be further amended, restated, supplemented and/or otherwise modified, the “JV Agreement”). Nothing herein shall modify or amend the terms of the JV Agreement, including, without limitation, Section 10.1 thereof, and in the event of any conflict between the JV Agreement and this Agreement, the JV Agreement shall control.

WITNESSETH:

1. Agreement Purpose.

   a. OWNER hereby contracts with MANAGER under the terms, conditions, and provisions set forth in this Agreement for MANAGER to operate certain parking facilities located at 8 and 28 Legion Avenue, New Haven, Connecticut, commonly known as Riccio, which hereinafter will be referred to as the (“Parking Facility”). OWNER hereby authorizes MANAGER to exercise such powers with respect to the Parking Facility as may be necessary for the performance of MANAGER’s obligations under the terms of this Agreement (subject in all cases to the Property Budget), and MANAGER accepts such appointment under the terms and conditions hereinafter set forth.

   b. MANAGER shall have no right or authority, expressed or implied, to commit or otherwise obligate OWNER in any manner whatsoever except to the extent specifically provided herein, or to the extent necessary to carry out or implement its obligations under the terms and provisions of this Agreement. MANAGER shall not hold itself out as having authority to act on behalf of OWNER in any manner which is beyond the scope of this Agreement.

   c. MANAGER shall perform, or shall retain and cause other appropriate persons to perform, its duties hereunder in a diligent manner consistent with good industry standards and in accordance with the terms and conditions of this Agreement. MANAGER, on behalf of OWNER, shall implement, or cause to be implemented, the written decisions of OWNER and shall conduct the ordinary and usual business affairs of OWNER, to the extent and as provided in this Agreement. MANAGER shall at all times conform to the reasonable written policies, programs and instructions established by OWNER in accordance with the JV Agreement and the scope of MANAGER’s authority shall be limited to said policies, programs and instructions.

   d. MANAGER shall, in keeping with the authority granted to MANAGER herein, keep OWNER reasonably informed regarding the Parking Facility, and abide by those reasonable written standards and instructions which OWNER may issue from time to time in accordance with the JV Agreement regarding the operation of the Parking Facility.
e. MANAGER (on behalf of itself and its Affiliates) acknowledges and agrees that only OP Holdings (in its capacity as “MANAGER” of the JV (the sole owner, directly or indirectly, of OWNER)), on behalf of OWNER, shall have the right to enforce OWNER’s rights and remedies under this Agreement. OWNER (on behalf of itself and its Affiliates) acknowledges and agrees that PAV (in its capacity as “ADMINISTRATOR” of the JV) also has certain day-to-day responsibilities to act on behalf of OWNER pursuant and subject to the terms of the JV Agreement.

2. Term. The term of this Agreement shall commence the date first written above and continue for a period of five (5) years thereafter (“Term”). Upon expiration of the Term, provided there are not unresolved disputes or uncured defaults and this Agreement has not been terminated, this Agreement shall be automatically extended upon the same terms and conditions, covenants and provisions as set forth herein, for additional and consecutive one (1) year extension terms unless and until written notice of non-renewal is given by either party no less than ninety (90) days prior to the expiration of the initial Term or then current extension term. During this time, either party may terminate this Agreement as provided in Paragraph 3 below.

3. Termination.

a. Either party may terminate this Agreement under the following circumstances:

   i. Either party may terminate this Agreement in the event the other party files a voluntary petition or similar pleading for bankruptcy, insolvency, receivership, becomes insolvent, or makes an assignment for the benefit of creditors, with such termination to be effective upon giving notice.

   ii. Upon the breach by the other party of any covenant, term or condition hereof, provided the breaching party first receives written notice of such breach and fails to remedy same within thirty (30) days of such notice.

b. OWNER shall have the right to terminate this Agreement immediately upon the occurrence of any of the following:

   i. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility to a bona-fide, non-related party; provided, however, that such sale, transfer, assignment or conveyance by OWNER shall have been caused in a manner that complies with the provisions of Section 4.9 of the JV Agreement, if and to the extent such provisions apply to such sale, transfer, assignment or conveyance by OWNER.

   ii. The expiration or earlier termination of the Ground Lease for any reason

   iii. In the event any act or omission of MANAGER causes a breach by OWNER under the Ground Lease or any financing documents, subject in each case to all applicable cure rights (if any).

   iv. In the event of the misappropriation, theft or fraud by MANAGER or any employee of MANAGER; provided, however, that upon written notice to MANAGER that one of its employees has perpetrated misappropriation, theft or fraud without MANAGER’S knowledge, then MANAGER shall have a thirty (30) day right to investigate and cure (such cure including reimbursement in full for all amounts stolen by such employee of MANAGER).
v. In the event of the gross negligence or willful misconduct of MANAGER in connection with its performance of its obligations under this Agreement, provided MANAGER first receives written notice of such breach and fails to remedy same within twenty (20) days of such notice.

vi. Upon thirty (30) days’ notice to MANAGER, in the event of any (A) damage to the Parking Facility or any portion thereof by fire or other casualty that, in OWNER’s discretion, reasonably may be expected to preclude the normal operations of the Parking Facility, (B) taking of the Parking Facility which results in the reduction or restriction of access to the Parking Facility or the failure of the Parking Facility, or any portion thereof, to remain in compliance with any applicable laws or (C) loss of any operating permit or other governmental approval that renders the Parking Facility inoperable as a parking facility; and, in any such case, either (1) the foregoing causes an acceleration of any senior bank debt relating to the Parking Facility or (2) as a result thereof, OWNER decides to cease use of the Parking Facility for parking operations because OWNER has determined that reopening is either not economically feasible or not legally possible;

vii. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility in connection with a foreclosure of any mortgage or deed of trust on the Parking Facility.

viii. In the event MANAGER shall intentionally fail to fully and faithfully deposit all the Receipts from the operation of the Parking Facility.

ix. The occurrence of an “Administrator Default” or “Material Administrator Default” under the JV Agreement.

x. Upon thirty (30) days’ notice to MANAGER, in the event that a “Property Manager Change of Control” under the JV Agreement occurs with respect to MANAGER.

In the event of any of the foregoing occurrences, OWNER shall have the right to forthwith terminate this Agreement, with such termination to be effective upon giving notice, and regain immediate possession of the Parking Facility.

c. Upon any termination of this Agreement, the Term of this Agreement shall be deemed to have expired on the date of such termination.

4. Annual Budget. MANAGER shall cooperate with PAV (acting in its capacity as “Administrator” of the JV) to prepare and present to OP Holdings (in its capacity as “MANAGER” of the JV) a proposed annual operating budget for the OWNER and the Parking Facility (as applicable) for each applicable Fiscal Year, in each case in accordance with Section 4.4 of the JV Agreement. For the avoidance of doubt, the adoption of any operating budget (and any modifications or revisions thereto) for the OWNER or the Parking Facility shall require the express written approval of OP Holdings (acting in its capacity as “MANAGER” of the JV), and to the extent required, the approval of the lender(s) under a financing, in order to be deemed the “Property Budget” for a Fiscal Year. Notwithstanding anything to the contrary contained herein, the applicable terms and provisions of the JV Agreement shall govern and control the preparation, approval, adoption, modification, revision and all other matters relating to the Property Budget. The adoption of the Property Budget in accordance with Section 4.4 of the JV Agreement (including any “deemed” Property Budget pursuant to Section 4.4(c) of the JV Agreement) shall constitute an authorization for MANAGER to incur charges to manage and operate the Parking Facility solely in accordance with this Agreement and the Property Budget. Subject to any other terms and limitations set forth in the JV Agreement MANAGER may not (i) cause or permit any line item in a then
current Property Budget to be exceeded by more than ten percent (10%) without the consent of the OWNER (provided, however, that notwithstanding the foregoing, MANAGER shall be permitted (without the approval of OWNER) to exceed any such line item by an amount that is less than Fifty Thousand Dollars ($50,000)) or (ii) cause or permit the expenses in a then current Property Budget to be exceeded by more than five percent (5%) without the consent of the OWNER, but, in any of the foregoing cases only to the extent the Administrator under the JV Agreement has equal or greater authority to exceed the Property Budget under the terms thereof (it being understood that MANAGER shall not have authority that exceeds the authority of the Administrator under the JV Agreement). Any such authorization to incur charges shall be limited to amounts specifically set forth within the Property Budget.

5. Definition of Operating Expenses.

a. “Operating Expenses” shall mean and include any and all costs and expenses of maintaining, operating, conducting, insuring and supervising the operation of the Parking Facility, including, without limitation, any expenses of ancillary services provided to customers at the Parking Facility (such as a car wash and shuttle service) and the following, without restricting the generality of the foregoing:

i. Wages of personnel assigned, budgeted or approved to the Parking Facility including supervisors, parking attendants, maintenance personnel, cashiers, clerical and audit staff. The term wages ("Wages") as used herein includes monetary fringe benefits (excluding severance to the extent not required by any statute) such as health insurance, pension costs, and statutorily required payments for workers’ compensation insurance, unemployment insurance and social security;

ii. Business-related telephone and data expenses and utility expenses of the Parking Facility;

iii. Business taxes and airport access fees and assessments (if any), other than franchise or income taxes on income or profits;

iv. License and permit costs and expenses, business license fees, development assessments and fees, impact fees, surcharges, and payments in lieu of taxes;

v. sales taxes, excise taxes, gross receipts taxes, parking taxes, airport-related taxes, transaction privilege taxes, use taxes, occupancy taxes, gross receipts taxes (excluding income and similar taxes), parking taxes and similar impositions and airport access charges that collected directly from customers or included as part of the sales price of any goods or services, including, without limitation, affording a parking space or shuttle service, whether remitted to the appropriate taxing authorities or otherwise imposed by the state, county, and/or municipality where the Parking Facility is located;

vi. Services charges, interest and collection expenses imposed for sales on credit and debit cards and other charges or fees paid from revenues of the Parking Facility to credit card companies, banks and clearinghouses, and similar organizations resulting from use of credit or debit cards or other payment methods used by customers;

vii. Advertising, marketing and promotion costs including any expenses related to any website for the Parking Facility approved by OWNER and all other costs and expenses of any advertising, business promotion or personnel training program of the Parking Facility that directly benefits the Parking Facility;

viii. The costs of insurance required of the MANAGER in this Agreement;

ix. The costs of all operating supplies and sundry items such as, but not limited to uniforms, tickets, parking office and operating supplies, and janitorial supplies, and the maintenance or replacement of same;
x. Payroll processing fees, bank charges, credit card processing fees, secret shopper fees, tenant amenity program fees and administrative and bookkeeping fees including monthly parker and accounts payable processing;

xi. Utility expenses, fuel costs, toll costs and other expenses for operating the Equipment, shuttles and other property used in connection with Parking Facility operations and normal maintenance and repairs of the Parking Facility, GPS system (if any) and any shuttle vehicle(s) including but not limited to, power sweeping, power washing, maintenance equipment repair, lighting repairs & bulb replacement, Fire Control System maintenance, snow removal, HVAC and elevator maintenance, repainting of stall markings, replacement or repair of signs and parking access and revenue control equipment;

xii. Legal or audit charges and other routine professional fees directly attributable to the operation of the Parking Facility other than those services performed by the staff of OWNER or MANAGER, if approved in advance by OWNER, and any costs to store the books and records related to the Parking Facility pursuant to Paragraph 9;

xiii. The cost of special audits to be performed from time to time by MANAGER’s staff auditor for the mutual benefit of OWNER and MANAGER; provided, however, that the time and manner of the taking of the audit is approved in writing by OWNER in advance. Costs qualifying as audit expenses shall be limited to a mutually agreed upon per diem rate and the actual out-of-pocket expenses of the auditor during the period of an approved special audit;

xiv. Debt service of loans and rent and other charges under lease financing for the acquisition and use of approved parking access and revenue control equipment, operating equipment, and/or shuttle vehicles (if applicable), including, without limitation, under any equipment leases for vehicle and personal property which would constitute “operating leases” under GAAP, consistently applied;

xv. Intentionally deleted;

xvi. The cost of insurance;

xvii. Technology costs;

xviii. All rent and other charges payable under any ground or underlying leases with third parties affecting the Parking Facility;

xix. Amounts payable under any covenants or assessments or other charges for use of shared or offsite facilities or upkeep of the same related to the Parking Facility;

xx. Out-of-pocket expenses incurred for the account of or in connection with the operation of the Parking Facility and all costs and expenses incurred in connection with the maintenance and repair of the Parking Facility;

xxi. Costs of compliance with law with respect to any physical or operational conditions;

xxii. Real estate taxes and other similar assessments and impositions;

xxiii. Payment of claims for damage, personal injury, or loss of personal property (including, without limitation, auto damage) except to the extent such claim is an Excluded Expense as defined below;

xxiv. Payment of any deductible amount of insurance claims settlement and payment of claims in excess of policy limits except to the extent such claim is an Excluded Expense as defined below; and

xxv. Management Fees payable pursuant to Paragraph 8 below.

For clarity, Operating Expenses shall include only direct property level costs and expenses with respect to the applicable Property and shall not in any event include any mark-up or other similar charge of the MANAGER or any of its Affiliates. To the extent OWNER approves Operating Expenses that MANAGER incurs on a shared basis with other parking operations that it owns or managers, such Operating Expenses shall be equitably apportioned between the Parking Facility and such other operations (and shall provide OWNER, upon request, with reasonable back-up and details concerning the costs and how such apportionment was made) and in no event shall
MANAGER recover reimbursements from OWNER and others with respect to the apportioned charges that exceed the actual amount of the apportioned charges.

Notwithstanding the foregoing, Operating Expenses shall not include multiple audit charges in a Fiscal Year unless there is a material finding in such audit and then only to the extent that such audit charges are reasonable.

b. OWNER shall have the right, from time to time, as OWNER shall determine, to pay any Operating Expenses directly, in lieu of having MANAGER handle incurring and paying same, but such Operating Expenses shall be Operating Expenses for purposes of Paragraph 8 below, even though OWNER, as opposed to MANAGER, is paying such expenses.

c. “Excluded Expenses” are those designated expenses arising from the operation of the Parking Facility which shall not be deemed Operating Expenses and which shall therefore be borne by the respective parties. The Excluded Expenses of the MANAGER are those set forth in Schedule “A” to this Agreement and incorporated by reference herein. The Excluded Expenses of OWNER are set forth in Schedule “B” attached to this Agreement and incorporated by reference herein. In the event of any conflict between Paragraph 5 and Schedules “A” and “B,” Schedules “A” and “B” shall control.

6. Additional Services. In addition to the daily operation of the Parking Facility, MANAGER’s services shall include consulting and advisory services to OWNER concerning the Parking Facility. These services shall be provided without additional charge or fee except for reimbursement of pre-approved out of pocket expenses such as postage, printing and supply charges, mileage and phone charges in connection with the performance of services requested or required by OWNER, and any other similar out of pocket expenses. MANAGER shall document and support such expenses by cash receipts or other documentary proof of payment.

7. Collection of Receipts. MANAGER covenants that it will collect or cause to be collected all fees, charges and other monies derived from the Parking Facility. At OWNER’s request, MANAGER shall open and maintain a bank account (the “Operating Account”) in accordance with this Paragraph 7. OWNER shall have the sole right to designate persons as authorized signatories on the Operating Account and such authorized signatories shall have sole authority to make disbursements therefrom; provided however that OWNER will arrange for an authorized signatory of MANAGER to have signature authority to draw funds on the Operating Account without additional signatures from other parties unless and until any breach of this Agreement allegedly committed by MANAGER occurs, a termination of this Agreement occurs or any misappropriation, theft or fraud allegedly committed by such signatory occurs, it being understood and agreed that MANAGER shall not be required to advance any of its own funds for the Operating Expenses of the Parking Facility and it shall not be a default by MANAGER that it fails to pay an Operating Expense hereunder to the extent such failure is caused by OWNER’s failure to furnish MANAGER with funds necessary for the discharge thereof. The Operating Account (a) shall be a trust account for the benefit of OWNER, (b) shall explicitly state in the name of such Operating Account that such Operating Account is held in trust for OWNER and (c) shall not be commingled with other funds held by MANAGER (even if such other funds relate to projects owned by OWNER or any Affiliate of OWNER). At all times the funds deposited in the Operating Account shall be the sole and exclusive property of OWNER. OWNER shall have the sole and exclusive right to make any decision or election with respect to the establishment, maintenance and closing of the Operating Account (and any other account established with respect to OWNER and/or the Parking Facility). All fees, charges and other monies collected by MANAGER (the “Receipts”) shall be promptly deposited into the Operating Account. MANAGER shall thereafter, on or before the twentieth (20th) day of the month, disperse the Receipts for each prior month’s operation as follows:
a. MANAGER shall pay all Operating Expenses as defined in Paragraph 5.a, subject to and in compliance with the Property Budget (consistent with the expenses contemplated in the applicable provisions of the JV Agreement concerning the Property Budget) and subject to OWNER exercising its rights under Paragraph 5.b.

b. MANAGER shall pay on behalf of OWNER, from Receipts it receives, all city and county and airport parking taxes and fees prior to the date such payment(s) become delinquent which may be due and owing in connection with the operation of the Parking Facility as a public parking facility.

c. MANAGER shall pay the Management Fee due MANAGER from the Receipts it receives in the amounts set forth in Paragraph 8 herein (subject in all cases to the Property Budget).

d. After payment of the amounts as directed in (a), (b) and (c) above, the balance of the Receipts from the Parking Facility shall be immediately paid to OWNER.

e. In the event any government-mandated employment cost (such as a required wage) is imposed, increased, adjusted or introduced with respect to work performed by MANAGER for OWNER, MANAGER will notify OWNER and add such cost, without markup, as an Operating Expense to the Property Budget, unless and until OWNER and MANAGER agree otherwise.

f. In the event of an emergency situation, MANAGER may add, without markup, as an Operating Expense to the Property Budget, costs and expenditures reasonably incurred by MANAGER where such cost or expenditure will prevent or mitigate (or is reasonably believed to prevent or mitigate) the injury or death to person or damage to property that OWNER or MANAGER may be liable for and, prior to incurring any such cost or expenditures, MANAGER is unable to contact OWNER to obtain OWNER’S approval. MANAGER shall contact and advise OWNER as soon as possible after the emergency situation and follow OWNER’S reasonable directions with respect thereto.

g. OWNER shall have reviewed and approved any revenue information submitted to any lessor under any ground or underlying lease or any governmental or airport authority, prior to submission.

h. Payment of claims for damage, personal injury, or loss of personal property shall be authorized by OWNER in writing, in advance, unless such payment is $500.00 or less in which case no authorization is required.

Except for the disbursements from the Operating Account made in accordance with this Agreement, the JV Agreement and the Property Budget, funds will be disbursed or transferred from the Operating Account solely as OWNER may from time to time direct in writing.

8. Payments to MANAGER.

a. For each Fiscal Year during the Term, MANAGER shall be entitled to receive an amount equal to twelve percent (12%) of the Operating Surplus for such Fiscal Year (“Management Fee”); the Management Fee will be prorated for partial Fiscal Years. MANAGER shall receive $2,830 at the end of each calendar month during the Term as an advance on such Management Fee. This amount will be prorated for partial months. The monthly payments to MANAGER hereunder
during any such Fiscal Year shall be subject to the determination of the actual Management Fee for such Fiscal Year pursuant to the annual reconciliation (the "Reconciliation") in accordance with Paragraph 8.d below. The monthly advance amount paid during any such Fiscal Year is meant to serve as a reasonable estimate of the Management Fee for that Fiscal Year, and the amount of that monthly advance also may be adjusted by mutual agreement of the parties, each acting reasonably, from time to time to reasonably minimize adjustments during the Reconciliation.

b. For purposes of this Agreement, the following terms shall be given the following meanings:

i. "Gross Revenues" shall mean, for the applicable period in question during the Term, all parking revenues earned and received from the Parking Facility and all revenues earned and received from ancillary services provided to customers at the Parking Facility; provided, however, that notwithstanding the foregoing: (A) Gross Revenues shall not include the following: (1) gratuities to employees paid directly by a customer or other third party; (2) accounts receivable written off as uncollectible, except to the extent amounts are recovered by the sale thereof or otherwise; (3) proceeds of insurance (other than business interruption insurance after deducting therefrom all reasonable expenses incurred in the adjustment or collection thereof) or proceeds of awards received in condemnation (but excluding compensation received for loss of business to the extent attributable to the period in question); (4) proceeds of the sale or disposition of the Parking Facility or any capital assets or of the refinancing of, or loans with respect to, the Parking Facility; (5) any amounts reimbursed by OWNER to MANAGER or otherwise advanced and deposited into the Operating Account or other bank accounts used for the operation of the Parking Facility; (6) interest earned on any amounts deposited into any such bank accounts; any security deposits or similar deposits (except as applied or forfeited); (7) any rebates or credits received by MANAGER pursuant to any service contract or purchase order or other contracts relating to the Parking Facility; (8) any discounts, coupons or complimentary validations to customers from the stated or advertised rates or from any other rates charged to other customers; and (9) discounts, rebates, coupons and reimbursements and add-ons, including as required under any marketing partnerships and alliance; and (B) in computing Gross Revenues, payments for parking made in advance (advance validations) shall not be included unless and until the parking service is rendered and cancellation refunds shall reduce Gross Revenues in the period in which same is made. Gross Revenues shall include cash only and shall not include exchanges for services or barter. Any Gross Revenue from the Parking Facility collected directly by OWNER shall be accurately reported in writing to MANAGER. Gross Revenue shall include any cash refunds received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility including any tax refunds.

Gross Revenue shall not include any reserves and escrows that are existing or funded on or about the date hereof in connection with OWNER’s acquisition of the Parking Facility; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such reserves or escrows in the future and paid for the account of OWNER, those funds shall be Gross Revenue when so paid, but only to the extent that such funds are offset by the Operating Expenses paid for (or reimbursed) with such funds (which offset shall be deemed to have occurred in the same Fiscal Year for purpose of calculating the Management Fee). During the Term, for purposes of calculating the Management Fee, amounts paid from Gross Revenues to fund any other future reserves or escrows required by any financing documents with respect to the Parking Facility or otherwise required by OWNER or any Parking Facility Agreements shall not be Operating Expenses when reserved or escrowed; provided, however, for purposes of calculating the Management Fee, when funds are drawn
from any such future reserves or escrows, those funds shall not be Gross Revenue when paid or applied and, accordingly, Operating Expenses will not be offset if paid for (or reimbursed) with such funds or escrows, regardless of whether those funds were reserved or escrowed from Gross Revenue or OWNER’s capital, it being understood that if Gross Revenue is not sufficient to fund such reserves and escrows, the capital that OWNER provides to meet that funding or escrow obligation shall not be Gross Revenue. By way of example, if Gross Revenue in Year 1 is $1,000, Operating Expenses are $200 and 10% of Gross Revenue is put into a reserve, then the Operating Surplus will be $800. In Year 2, if Gross Revenue is again $1,000, Operating Expenses are $250 and no money is put into reserves, but the reserves from the prior year are used to pay $100 of Operating Expenses, the Operating Surplus will be $750.

ii. “Operating Surplus” shall mean for the Parking Facility, for the applicable period in question during the Term, an amount calculated on an cash basis, equal to the excess of Gross Revenues for such period over the Operating Expenses for such period; provided, however, Debt Service Expenses and the Management Fee for such period shall not be treated as Operating Expenses for purposes of calculating the Operating Surplus.

iii. “Debt Service Expenses” means all principal, interest and other similar charges paid to any lenders under any loan documents secured by a mortgage or deed of trust on OWNER’s interest in the land and improvements comprising the Parking Facility.

c. Within fifteen (15) days after the end of each calendar month of the Term (prorated for any fractional calendar month), MANAGER shall provide to OWNER a statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such calendar month and each of the components thereof, together with reasonable supporting evidence and any other information reasonably requested by OWNER. The Management Fee calculation shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

d. Within sixty (60) days after the end of each Fiscal Year occurring during the Term (prorated for any fractional Fiscal Year), MANAGER shall provide to OWNER a reconciliation statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such Fiscal Year and each of the components thereof (calculated based on the Operating Surplus for that Fiscal Year), together with reasonable supporting evidence and any other information reasonably requested by OWNER, and showing the aggregate amount of Management Fees received by MANAGER and calculating any overpayment or underpayment of the Management Fee. MANAGER shall refund OWNER any overpayment by applying the amount thereof as a credit against the Management Fee next due or becoming due, provided if the Term expires or is terminated before the determination of the underpayment, then MANAGER shall refund any underpayment to OWNER with a payment accompanying the applicable reconciliation statement or if such overpayment has not been fully credited within ninety (90) days of the applicable reconciliation, MANAGER shall refund the outstanding amount of the overpayment to OWNER within ten (10) days following the end of such 90-day period. The
Management Fee, as reconciled hereunder, shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

9. MANAGER’s Report. MANAGER agrees that it will keep complete records of all receipts and disbursements (including Receipts) pertaining to the operation of the Parking Facility and such books of account and all other records relating to or reflecting the operation of the Parking Facility shall at all times be the property of OWNER, and such books and records shall be kept in a location or locations acceptable to OWNER and shall not be destroyed or discarded without the prior written approval of OWNER. On or before the twentieth (20th) day of each month (beginning with the second month of the Term of this Agreement) MANAGER shall render to the OWNER a complete accounting ("MANAGER’s Report") of all receipts and disbursements (including Receipts) for the preceding month and render payment to OWNER under Paragraph 7.d of this Agreement if any such payment is due. In addition, from time to time, upon OWNER’s reasonable request, MANAGER shall provide such other financial and operations reports concerning the Parking Facility, including, without limitation operating statements and revenue reports, as may be required by the terms of the Parking Facility Agreements, including, without limitation, any financing documents, operating permits and ground leases, and reasonably cooperate with operational reviews by lenders, auditors and prospective purchasers and investors, from time to time, as reasonably requested by OWNER. OWNER and/or its representative shall have the right to audit MANAGER’s books and records relating to the Parking Facility upon reasonable notice. OWNER also reserves the right to perform any audit tests relating to MANAGER’s activities, provided such audit tests are related to those activities performed by MANAGER for OWNER. Should OWNER discover either weaknesses in internal control or errors in record keeping, MANAGER shall promptly correct such audit discrepancies. On the twentieth (20th) day of the month following the termination or expiration of this Agreement MANAGER shall render to OWNER a preliminary MANAGER’s Report with the final MANAGER’s Report due within sixty (60) days following the termination or expiration date.

10. Insufficiency of Receipts. If the Receipts for any month are insufficient to make the payments required by Paragraph 7, subparagraphs (a), (b) and (c) above, OWNER agrees to pay into the Operating Account the amount of such deficit (solely in accordance with the Property Budget) within ten (10) days after receipt of MANAGER’s Report of Receipts.


a. MANAGER agrees to manage, market, operate and maintain the Parking Facility in an efficient and professional manner 24 hours per day, 7 days per week or during the hours otherwise directed by OWNER in writing, and in all cases in accordance with the Operating Standard. MANAGER further agrees that rates for parking in the Parking Facility shall be approved in advance by OWNER in writing; such rates shall not be varied without written approval of the OWNER. MANAGER, on behalf of OWNER, shall conduct the ordinary and usual business affairs of OWNER as provided in this Agreement and in accordance with the Property Budget. MANAGER agrees to perform its duties hereunder to manage, market, operate and maintain the Parking Facility in accordance with the standards set forth herein, and to comply with such written instructions and policies as may be reasonably requested by OWNER subject to the Property Budget. MANAGER will not incur any expenses or make any expenditure except as expressly permitted in or by this Agreement and the Property Budget. Notwithstanding anything to the contrary contained in this Agreement, MANAGER shall not be permitted to take any action or make any expenditure that would constitute a Major Action under the JV Agreement without in each case obtaining the prior written approval of OWNER therefor.
b. As used herein, “Operating Standard” shall mean: (i) (A) in a commercially reasonable, prudent, diligent and workmanlike manner, (ii) in accordance with the terms and conditions of this Agreement and in conformity with the then current Property Budget, (iii) in accordance with the terms and provisions of the Parking Facility Agreements (as hereinafter defined), to the extent that MANAGER shall have received or have in its possession or control a full and complete copy thereof, (iv) in accordance with the requirements of any carrier having insurance on the Parking Facility or any part thereof and (v) in accordance with such written standards for operations as OWNER and MANAGER may develop and approve, working cooperatively and in good faith, with respect to the Parking Facility. As used herein, “Parking Facility Agreements” shall mean those agreements listed and/or described on Schedule “C” attached hereto and incorporated herein by reference, as revised from time to time with the approval of Owner or at the direction of Owner. MANAGER shall act in a fiduciary capacity with respect to the handling and accounting of funds of OWNER.

c. MANAGER shall have no authority on behalf of OWNER to do, and shall not do, any of the following without OWNER’s written approval in each instance: (a) remove any fixed assets, supplies, furniture, fixtures, equipment, inventories or operating supplies from the Parking Facility, except in the ordinary course of business or in connection with the disposition of obsolete, worn-out damaged items; (b) borrow money, guaranty the debts of any third person, or mortgage, pledge, grant a security interest in or otherwise encumber all or any part of the Parking Facility; (c) make, execute or deliver on behalf of OWNER any assignment for the benefit of creditors, or any guaranty, indemnity bond, or surety bond; (d) confess any judgment on behalf of OWNER or the Parking Facility; (e) file a voluntary or consent to an involuntary bankruptcy with respect to the Parking Facility; (f) enter into, modify, or terminate any lease, agreement to lease, option to lease, sublease, license, parking agreement, operating agreement, management agreement or similar arrangement relating to any occupancy of space in the Parking Facility, except for parking agreements with customers in accordance with Paragraph 11.d below (for sake of clarification, use of the Parking Facility by a car rental company if the car rental company is conducting its car rental business on-site shall not be deemed a parking agreement for purposes of Paragraph 11.d); (g) select or retain a construction manager, general contractor, architect, managing agent, legal counsel, rental agent, accountant or insurance carrier for the Parking Facility, or the election as to whether and when to have an audit conducted of the fiscal affairs of the Parking Facility, provided however if OWNER requires MANAGER to retain professionals and the cost of such retention is not in the Property Budget, the Property Budget shall be increased to include such costs, with OWNER’s approval (and MANAGER shall not be required to retain such professionals if OWNER does not approve the cost thereof to do so); (h) institute or defend litigation on behalf of the Parking Facility; (i) enter into, amend or terminate any Parking Facility Agreement including any service contract, contract for goods or services of any kind or similar agreement, except in accordance with Paragraph 11.d below or in accordance with the Property Budget; (j) communicate with the media in any written or oral form which names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member, or otherwise communicate with media about any matter concerning the Parking Facility other than related to operations, incidents at or marketing of the Parking Facility; (k) write-off, forgive or otherwise defer any receivable or rent in excess of such amounts as may be instructed by OWNER (excluding any complimentary validations in accordance with guidelines approved by OWNER); (l) take any other action or decision outside the scope of the ordinary, day-to-day business affairs of the Parking Facility; or (m) operate or permit the operation of any business at the Parking Facility or the sale of any customer information or provision of services to customers of the Parking Facility (e.g., car washes, vending machines etc.), the revenues of which are not included in Receipts.
d. MANAGER shall negotiate and, subject to the limitations set forth in this Agreement and the Parking Facility Agreements, enter into on behalf of OWNER parking agreements with customers for parking vehicles at the Parking Facility, service contracts and leases for equipment reasonably necessary or desirable in connection with the operation of the Parking Facility in the usual course of business, including, without limitation, vehicle maintenance, utility services, maintenance, heating and air conditioning maintenance, internet, phone service, landscaping care and uniform laundry services. Unless approved in writing by OWNER, all such contracts that involve work or services being performed at the Parking Facility shall contain an obligation on the part of the vendor to indemnify OWNER to a customary and reasonable degree and require the vendor to obtain insurance coverages as required by any Parking Facility Agreements and as otherwise necessary to protect OWNER to the extent customary for similar contracts. In the case of any service contract for labor or materials, the nonpayment of which could give rise to lien rights on the part of the contracting party against the Parking Facility, then prior to and as a condition of any payment, MANAGER shall use reasonable efforts to obtain appropriate lien waivers at the time of execution and shall obtain appropriate lien waivers from the contracting party conditioned upon receipt of the specified payment and thereafter upon completion of the contract work, a full, unconditional lien waiver from the contracting party. MANAGER shall supervise and, utilizing the funds available or made available for this purpose pursuant to terms hereof, purchase, or arrange for the purchase of, all furniture, fixtures and equipment and personalty which in the normal course of business are necessary and proper to maintain the Parking Facility in accordance with the standards required hereunder and the Property Budget. Any refunds, rebates or credits received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility shall be Receipts and shall be deposited into the Operating Account or otherwise applied for the benefit of the Parking Facility, and the benefits of any discounts received by MANAGER pursuant thereto shall be applied for the benefit of the Parking Facility such that only the net amounts (after such discounts) payable thereunder shall be charged to the Parking Facility. Notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any service contracts, purchase orders or other contracts that may otherwise be permitted hereunder, unless (a) the expenditure thereunder is provided for in the Property Budget, and (b) such service contract, purchase order or contract is cancelable without penalty on not more than thirty (30) days’ notice, unless otherwise agreed by OWNER in writing.

In addition, notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any service contracts, purchase orders or other contracts that may otherwise be permitted hereunder, unless (a) the expenditure thereunder is provided for in the Property Budget, and (b) such service contract, purchase order or contract is cancelable without penalty on not more than thirty (30) days’ notice, unless otherwise agreed by OWNER in writing.

12. Permits and Licenses. MANAGER shall use commercially reasonable efforts to obtain under OWNER’s name (or its own, as applicable, if required under applicable law) and maintain, in full force and effect, throughout the Term hereof any and all permits and licenses required by any public or quasi-public authority for the use, maintenance and operation of the Parking Facility as a public parking facility in accordance with the Operating Standard.
13. Relationship of Parties. Nothing in this Agreement shall be construed as creating a partnership, employer/employee relationship or joint venture between OWNER and MANAGER. Except as set forth in the Agreement, neither party hereto shall have the right or authority to bind or obligate the other party in any manner whatsoever or expressly or impliedly incur any liability or obligation on behalf of the other party, nor shall OWNER be liable for any debts incurred by MANAGER.


a. MANAGER agrees to use commercially reasonable diligence in the care and protection of the Parking Facility during the Term of this Agreement. OWNER acknowledges that MANAGER is not a security company and does not employ personnel for that purpose. MANAGER assumes no liability or responsibility with respect to injuries, damage or costs sustained to any person or property as a result of its alleged failure to warn, guard or protect persons or property in or about the Parking Facility from and against intentional threats, harm or injury except for the negligent or intentionally committed acts of or by MANAGER or its employees; provided, however, the foregoing shall not relieve MANAGER of its obligation to obtain insurance in accordance with the other provisions of this Agreement.

b. MANAGER further agrees to comply (and cause the Parking Facility to comply, subject to the Property Budget) with all government laws, ordinances and regulations pertaining to the Parking Facility.

c. With respect to the following events, conditions or occurrences, MANAGER shall notify OWNER promptly upon MANAGER’S knowledge thereof (together with copies of supporting documentation) of: (a) any violation of any laws, ordinances, rules, regulations or other governmental requirements (and make recommendations regarding compliance therewith); (b) any defect or unsafe condition in or at the Parking Facility; (c) any condemnation proceedings, rezoning or other governmental order, lawsuit or threat thereof involving the Parking Facility; (d) any notice of default under any Parking Facility Agreement or other material agreement relating to OWNER or the Parking Facility; (e) any notice of violation of any insurance requirement; (f) any claim, incident that may be covered by insurance or could lead to legal liability, demand, suit or other legal proceeding made or instituted against, or otherwise relating to, OWNER and/or the Parking Facility; or (g) any damage or destruction to the Parking Facility (including fire, theft or vandalism) or personal injury at the Parking Facility. MANAGER shall keep OWNER reasonably informed of the status of the particular matter through the final resolution thereof. MANAGER shall retain in the records it maintains for the Parking Facility copies of all supporting documentation with reference to any of the foregoing notices.

d. MANAGER shall cause all revenues, receipts and all other payments, cash or income of any kind, type or nature, derived from the Parking Facility to be deposited into the Operating Account and such accounts at such banks or other financial institutions as are determined by OWNER, as and when determined by OWNER. In its capacity, MANAGER shall deal at arm’s length with all third parties, and subject to that limitation, MANAGER may not enter into agreements with affiliates of MANAGER, without the prior, written approval of OWNER; it being agreed that any such agreement entered into with any such affiliate shall be on reasonably competitive terms and such other terms as are not less favorable to OWNER than those reasonably obtainable from an unrelated third party.

15. Insurance Carried by MANAGER. MANAGER agrees to carry the insurance listed below, with limits not less than the amounts as shown below and pay all premiums thereon when due.
a. Commercial General Liability insurance (Garage Liability), including coverage for bodily injury (including coverage for death, mental anguish), Premises-Operations, Independent Contractors’ Protective, Products-Completed Operations, Blanket Contractual Liability, Personal Injury and Broad form Property Damage (including coverage for Explosion, Collapse and Underground hazards), and including Cross Liability and Severability of Interests, with coverage for libel, false arrest, assault & battery, discrimination, sexual molestation, detention or imprisonment, wrongful eviction from, wrongful entry into, invasion of the right of privacy, and slander and/or defamation of character. This coverage must be maintained for the full Term of this Agreement with the following minimum limits:

   i. $1,000,000 Each Occurrence;
   ii. $2,000,000 General Aggregate;
   iii. $1,000,000 Personal and Advertising Injury; and
   iv. $2,000,000 Products-Completed Operations Aggregate.

b. Garagekeeper’s Legal Liability insurance for any and all automobiles that are parked at the Parking Facility by MANAGER’s attendants or for which a bailment is otherwise created, whether implied or in fact, with limits of liability not less than $1,000,000 per occurrence. The limit of liability for the Garage Keeper’s Legal Liability coverage must be sufficient to insure the payment of any loss without prorating of that loss based on the maximum facility capacity. Any deductible the MANAGER may carry shall be of industry standard, approved by management and the MANAGER’s sole responsibility.

c. Worker’s Compensation insurance in compliance with statutory requirements of the state(s) in which the employee resides, is hired and in which the services are being performed and shall apply to all persons employed by MANAGER.

d. Employer’s Liability insurance in the amount of $500,000 each accident for bodily injury by accident, $500,000 each employee for bodily injury by disease, and $500,000 policy limit for bodily injury by disease, or such other amount as may be required by umbrella policy to effect umbrella coverage.

e. Comprehensive Automobile Liability insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage if automobiles are used in the performance of MANAGER’s obligations hereunder;

f. Umbrella/Excess Liability insurance on a follow form basis with a per occurrence and annual aggregate limit of $10,000,000 per location / project. Coverage shall be excess of Garage Liability (including products and completed operations coverage), Auto Liability, Garagekeeper’s Legal Liability and Employer’s Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

f. Inside and Outside the Premises insurance including to protect against loss due to robbery, theft or burglary with not less than $100,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.

h. Employee Dishonesty insurance including to protect against loss due to employee dishonesty and depositor forgery with not less than $1,000,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.
MANAGER, at the direction of OWNER from time to time, shall secure and maintain, at Owner’s cost and expense (as set forth in the Property Budget), such additional insurance (including, without limitation, reasonable increases to coverage described above) sufficient to furnish Owner and MANAGER reasonable and adequate protection in the management and operation of the Parking Facility, as determined by OWNER. All insurance shall conform to the reasonable requirements of OWNER and to the requirements of the Parking Facility Agreement, as applicable. OWNER shall have the right to approve the amount, scope and terms of all insurance coverages (including, without limitation, the amount of any deductibles) obtained hereunder. All such insurance shall be in the name of OWNER or MANAGER (with OWNER as a named insured), as OWNER shall reasonably require, and if not in the name of a party, such party shall be an additional insured, and with such other parties as additional insureds as OWNER may require, including, without limitation, any holders of any mortgages, deeds of trust or security agreements with respect to the Parking Facility or any related assets thereof, shall contain, as applicable, a standard mortgagee clause and shall contain riders and endorsements adequately protecting the interests of MANAGER as it may appear, including, without limitation, provisions for at least thirty (30) days’ notice to OWNER and MANAGER of cancellation or of any material change therein. All policies of property insurance shall provide that the insurance company will have no right of subrogation against either party hereto or their respective agents or employees.

MANAGER’s insurance shall be primary and non-contributory with regard to any other insurance that may be available to OWNER and additional insureds.

MANAGER shall cause each contractor and any subcontractors to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Garage Liability and Worker’s Compensation limits required above. MANAGER shall cause each subcontractor to include the same additional insured requirements and certificates of insurance as noted above for MANAGER.

Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on MANAGER under this Agreement.

16. Indemnification.

a. OWNER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of MANAGER’s operations, actions or inactions hereunder, including but not limited to damage to vehicles. MANAGER shall indemnify, defend, and hold OWNER and its respective officers, employees, partners, members or agents (the “Indemnitees”), harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the acts, omissions, breach of contract or violation of law by MANAGER or its agents, officers, representatives or employees.

b. MANAGER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of OWNER’s operations hereunder. OWNER shall indemnify, defend, and hold MANAGER and its respective Indemnitees, harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the gross negligence or willful misconduct of OWNER.
c. The provisions of this Paragraph 16 shall survive termination or expiration of this Agreement.

17. **Parking Facility.** It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from the Parking Facility’s design, structural faults or defects are not the responsibility of MANAGER (other than if OWNER is entitled to indemnification from MANAGER as set forth above and except that the foregoing shall not modify or limit in any way the rights of OWNER or any of its Affiliates or the obligations of MANAGER or any of its Affiliates under any other agreement to which any of them is a party that concerns the Parking Facility).

18. **Compliance with Laws.** MANAGER agrees to manage, operate, and promote the use of the Parking facility in accordance with all local state and federal laws and government regulations.

19. **Employees.**

   a. MANAGER shall investigate, select, employ, promote, terminate where appropriate, supervise, direct, train and assign duties of all employees in connection with the operation and maintenance of the Parking Facility. MANAGER shall have in its employ at all times sufficient number of capable employees to properly, safely, and economically manage, operate and maintain the Parking Facility, subject to the Property Budget. All matters pertaining to the employment, supervision, compensation, promotion, and discharge of such employees are the responsibility of MANAGER. MANAGER represents, warrants and covenants that it is, and shall continue to be, an equal opportunity employer and is, and shall continue to be, in compliance with all applicable employment laws. In addition, MANAGER shall from time to time develop and implement policies, procedures and programs for the Parking Facility designed to effect compliance with all applicable employment laws. The employment policies shall be consistent with industry standards from time to time for reputable parking management companies. MANAGER shall cause to be prepared and filed all necessary forms and returns for unemployment, insurance, withholding and social security taxes and all other tax and other forms relating to employment of its employees required by federal, state or municipal authorities. OWNER and MANAGER agree that, during the Term of this Agreement, all personnel employed to operate the Parking Facility shall be solely the employees of MANAGER and shall have no contractual relationship with OWNER.

   b. In the event that the employees at the Parking Facility become represented by a labor organization, MANAGER shall assume all responsibilities to meet and confer with such labor organization, and if MANAGER deems appropriate, MANAGER shall execute on its own behalf (and not on behalf of OWNER) a collective bargaining agreement (including, without limitation, any amendments thereto or modifications thereof) with respect to the employees; provided, however, that (i) OWNER shall have approved in advance of such execution and in writing any and all costs to be incurred under such collective bargaining agreement (which approval shall not be unreasonably withheld or delayed) and (ii) OWNER acknowledges that such costs shall be a cost of and charged to the operation of the Parking Facility. MANAGER shall keep OWNER reasonably well-apprised of the status of such matters and shall give OWNER at least ten (10) business days’ prior written notice before MANAGER enters into any such collective bargaining agreement. At all times, MANAGER shall use its reasonable efforts to maintain labor harmony at the Parking Facility.

20. **Transfers of Assets Termination.** Upon termination of this Agreement for any reason in accordance with the terms hereof, MANAGER hereby agrees that it will take all reasonable and necessary measures to ensure that any and all contracts and assets held in MANAGER’s name and directly relating to the on-going operation of the Parking Facility are promptly transferred to OWNER (the “Manager-
Held Assets”), including, without limitation, executing and delivering all such documents and instruments as shall be reasonably required to effectuate such transfers, except as otherwise may be instructed or directed by OWNER, subject to the terms of Paragraph 21 below and subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts. MANAGER represents and warrants that, as of the Effective Date, (1) all existing agreements, leases, licenses and contracts of any kind or nature (including, without limitation, all amendments, modifications and other agreements with respect thereto) comprising Manager-Held Assets are identified and listed in Schedule “C” as Manager Parking Facility Agreements (including, without limitation, all leases and financing agreements pursuant to which MANAGER has the right to use the Equipment), (2) all furniture, fixtures, equipment and other personal property (including, without limitation, vehicles) comprising Manager-Held Assets are identified and listed on Schedule “E” attached hereto and incorporated herein by this reference and (3) no other Manager-Held Assets exist as of the Effective Date. MANAGER covenants that it shall not enter into any new Manager Parking Facility Agreements or modify or amend any Manager Parking Facility Agreements, or purchase, lease or dispose of any Manager-Held Assets (including, without limitation, the Equipment) in the future, without obtaining the prior written consent of OWNER, in each instance, or unless set forth in the Property Budget. From time to time, upon request, MANAGER shall identify, in writing, all existing Manager-Held Assets, within ten (10) business days of Owner’s written request therefor. In addition, upon termination of this Agreement for any reason in accordance with the terms hereof, (i) deliver to OWNER, or such other person or persons designated by OWNER, copies of all books and records of the Parking Facility and all funds in the possession of MANAGER belonging to OWNER or received by MANAGER pursuant to the terms of this Agreement, and all keys or combinations to locks then in MANAGER’s possession, (ii) peacefully vacate and surrender the Parking Facility to OWNER on the effective date of such termination, (iii) assign, transfer or convey to such person or persons as may be designated by OWNER all service contracts relating to or used in the operation and maintenance of the Parking Facility, subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts; (iv) execute and deliver any termination or other necessary agreements requested for the purpose of evidencing the termination of this Agreement, and otherwise cooperate fully with OWNER in the smooth and orderly transition of the Parking Facility to a replacement manager, any transferee of OWNER or to any managing operator designated by OWNER or any transferee of OWNER; (v) immediately release and transfer to OWNER any of OWNER’s funds which are held or controlled by MANAGER with respect to the Parking Facility and transfer the Operating Account and any other bank accounts relating to the Parking Facility as directed by OWNER, in each case subject to all outstanding expenses accrued in accordance with Paragraph 5, which expenses OWNER agrees to pay; (vi) to the extent applicable, comply with OWNER’s direction to remove MANAGER and/or its agents, servants or employees as authorized signatories from the Operating Account and any other bank accounts maintained hereunder; (vii) make available to OWNER such books and records respecting the Parking Facility (including, without limitation, those from prior years during the term of this Agreement) as will be needed by OWNER to prepare the accounting statements, in accordance with the terms hereof, for the Parking Facility for the year in which the expiration or termination occurs and for any subsequent year; (viii) to the extent permitted by law, assign to OWNER or to the new property manager (as directed by OWNER) all operating licenses and permits for the Parking Facility which have been issued in MANAGER’s name; and (ix) reasonably cooperate with OWNER to assist OWNER to obtain new licenses or to continue all operations without interruption following termination while OWNER is attempting to obtain new licenses. Within sixty (60) days following expiration or earlier termination of this Agreement, MANAGER shall deliver to OWNER a final accounting, in writing, with respect to the operations of the Parking Facility. The obligations set forth in this Paragraph shall survive expiration or earlier termination of this Agreement.

21. Equipment. It is the understanding between the MANAGER and OWNER that MANAGER is purchasing (on an installment sale basis) or leasing the equipment listed in Schedule “E” attached hereto
and incorporated herein by this reference ("Equipment") for the sole use (and, in the future, at the sole request of OWNER) (solely in accordance with the Property Budget). MANAGER agrees that when any such Equipment shall have been fully purchased and paid for, MANAGER shall immediately transfer such Equipment to OWNER. However, if the Term of this Agreement is terminated, for any reason, by either party prior to the then current date for expiration of the Term (as determined in accordance with Paragraph 2 hereof), the OWNER shall assume all liabilities and obligations of MANAGER under the then existing leases or installment sale contracts made in accordance with the terms of this Agreement for the Equipment, subject to the prior approval of the lessor(s) thereunder, in which cases MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in all such Equipment to OWNER. In the event any such lessor will not approve any such assignment, then OWNER, at its option, shall either (i) purchase the applicable Equipment, whereupon OWNER shall pay to the vendor or lessor of the applicable Equipment an amount equal to the full unamortized cost of all Equipment that is required to purchase the Equipment (MANAGER represents and warrants that that MANAGER has the right under the agreements with such vendors and lessors with respect to all Equipment to purchase the Equipment in such event on terms that upon written request, MANAGER will fully and accurately disclose to OWNER, and MANAGER agrees that it has fully and accurately disclosed to OWNER prior to the date hereof all such rights under all existing agreements), including but not limited to applicable sales and property taxes, termination fees, registration fees, interest, transfer fees, acquisition fees and any applicable residual or end value fees and, in such event, MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in such Equipment to OWNER or (ii) have MANAGER turn in the applicable Equipment provided that OWNER shall pay any fees, costs or other charges incurred as a result of returning the applicable Equipment under the agreements. Such transfer to OWNER shall occur, if it all, no later than the last day that MANAGER provides parking management services to the OWNER as to the Parking Facility hereunder.

22. General.

a. Assignment. MANAGER may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of OWNER. MANAGER hereby represents and warrants that the direct and indirect ownership and Control of MANAGER as of the date hereof is shown on Schedule “F” annexed hereto and made a part hereof and is true and complete in all respects. MANAGER shall notify OWNER in writing of the occurrence of any Property Manager Change of Control with respect to MANAGER, within ten (10) days following such occurrence. In addition, from time to time, MANAGER shall execute a certification making the same representation and warranty as to its direct and indirect ownership and Control, updated as of the date of such certification, promptly upon OWNER’s written request therefor. OWNER may assign its rights and obligations under this Agreement at any time, without the consent of MANAGER; provided however, that OWNER shall use reasonable efforts to notify MANAGER in writing of any such assignment at least thirty (30) days in advance thereof and any transfer or assignment of this Agreement by OWNER shall include an express assumption by the transferee or assignee of OWNER’s obligations hereunder. For purposes of this Agreement, any change in or any sale, conveyance, transfer or other disposition of, whether voluntarily, involuntarily or otherwise, the direct or indirect ownership interests in OWNER shall not be deemed to be an assignment hereunder.

b. Binding Effect. It is understood that this Agreement shall be binding upon and inure to the benefits of the heirs, personal representatives, successors and permitted assigns of the parties.
c. No Property Interest. Notwithstanding all provisions of this Agreement, it is mutually understood and agreed between the parties hereto, that this Agreement shall not in any way be construed to be a lease, but is merely a recitation of contract provisions. This Agreement shall not be recorded in the public records of any jurisdiction. This Agreement shall not create an interest in real property in favor of MANAGER and nothing herein shall create an agency coupled with an interest; MANAGER expressly waives any such interests.

d. Notices. Notice to both OWNER and MANAGER shall be sent to the following addresses (including via electronic mail or facsimile number):

If to OWNER

c/o Och-Ziff Real Estate
9 West 57th Street, 40th Floor
New York, New York 10019
Attention: Steven E. Orbuch
Facsimile: (212) 790-0005
E-mail: sorbuch@ozcap.com

with a copy to:

Bryan Cave LLP
1290 Avenue of the Americas
New York, New York 10104
Attention: Ronald Emanuel, Esq.
Facsimile: (212) 541-1434
E-mail: rbemanuel@bryancave.com

If to Manager:

Chief Administrative Officer
Pro Park, Inc.
1 Union Place
Hartford, CT 06103
Facsimile: N/A
E-mail: dave.schmid@propark.com

With a copy to:

Hinckley Allen & Snyder, LLP
20 Church Street
18th floor
Hartford, Connecticut 06103
Attention: William S. Fish, Jr.
E-mail: wfish@hinckleyallen.com

Each such notice shall be effective (a) if given by facsimile or electronic mail, upon transmission, (b) if given by mail, on the fourth (4th) day after deposit in the mails (certified or registered return receipt requested) addressed as aforesaid and (c) if given by overnight courier service or by hand delivery, when received and (d) if given by any other means, when delivered to and receipted for at the address of such OWNER or MANAGER specified as aforesaid.

e. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Parking Facility is located.

f. Modifications. No modification, amendment, supplement to or waiver of this Agreement or any Schedule hereunder, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties.
g. **Waiver.** A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.

h. **Complete Agreement.** This Agreement and each Schedule attached hereto set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by both parties.

i. **Severability.** In the event any one or more of the provisions of this Agreement or of any Schedule is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.

j. **Limited Agent.** Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between OWNER, its successors or assigns, and MANAGER, its successors or assigns. MANAGER shall act as an independent contractor with the limited powers of agency expressly authorized by OWNER in this Agreement (which agency shall not be coupled with an interest) and, in exercising such powers of agency, MANAGER shall be an agent of OWNER solely for the purpose of performing the applicable management functions for OWNER within the scope of this Agreement. This Agreement does not create in MANAGER any interest in the Parking Facility, including, without limitation, any of the fixtures or equipment therein.

k. **Non-Recourse.** MANAGER shall look only to OWNER’s interest in the Parking Facility for the satisfaction of MANAGER’s remedies or for the collection of a judgment (or other judicial process) requiring the payment of money by OWNER in the event of any default by OWNER (or any other claim) hereunder, and no other property or assets of OWNER or its direct or indirect members, partners, officers, directors, shareholders or principals, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of MANAGER’s remedies under or with respect to this Agreement.

l. **Rules of Construction.** Whenever pursuant to this Agreement, OWNER exercises any right given to it to approve or disapprove or to provide or withhold consent, or any arrangement or term is to be satisfactory or acceptable to OWNER, all such decisions, directions and determinations made by OWNER shall be in the sole and absolute discretion of OWNER, except as otherwise expressly provided for in this Agreement, and shall be final and conclusive.

m. **Force Majeure.** Neither party shall be liable for any delay or default in rendering service hereunder where occasioned by any cause beyond its reasonable control; including, but not limited to: armed conflict or economic dislocation resulting therefrom; strikes; civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fires, floods, earthquakes and any other natural disasters; provided, however, that the party whose performance is being interrupted shall provide reasonably prompt notice to the other party.

n. **Attorney’s Fees.** If litigation is commenced by either party hereto against the other to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover all of its costs and other expenses of such litigation, including reasonable attorney’s fees. The amount so allowed, as attorney’s fees and costs shall be charged to the losing party as costs of suit. The provision of this Paragraph shall survive the expiration or earlier termination of this Agreement.
o. **TRIAL BY JURY WAIVER.** EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY OF ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

p. **PUNITIVE DAMAGES WAIVER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, IN ANY ARBITRATION, LAW SUIT, LEGAL ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING FORM OR RELATING OT THIS AGREEMENT OR THE PARKING FACILITY, THE PARTIES UNCONDITIONALLY AND IRREVOCABLY WAIVE AND DISCLAIM, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ALL RIGHTS TO ANY PUNITIVE, EXEMPLARY, OR TREBLE DAMAGES, AND ACKNOWLEDGE AND AGREE THAT THE RIGHTS AND REMEDIES IN THIS AGREEMENT, AND ALL OTHER RIGHTS AND REMEDIES AT LAW AND IN EQUITY, WILL BE ADEQUATE IN ALL CIRCUMSTANCES FOR ANY CLAIMS THE PARTIES MIGHT HAVE WITH RESPECT THERETO. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

q. **Further Assurance: Financing Documents:** The parties hereto shall do and procure to be done all such acts, matters and things and shall execute and deliver all such documents and instruments as shall be reasonably required to enable the parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement. MANAGER shall promptly execute any customary assignment, subordination, estoppel certificate or other agreement required by any lender providing financing as to the Parking Facility. MANAGER agrees to and does hereby subordinate all of its right, title and interest in, to and under this Agreement, including without limitation, any present and future right to receive payments under this Agreement, to all liens and rights of any lender under any financing and any and all documents executed and delivered in connection therewith.

r. **Representations.** MANAGER hereby represents, warrants and covenants that:

(1) MANAGER has been duly organized and is validly existing and in good standing with the requisite power and authority to transact the business in which it is now engaged. MANAGER is duly qualified to do business and is in good standing in the jurisdiction of its incorporation and in the jurisdiction where the Parking Facility is located. MANAGER possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to transact the businesses in which it is now engaged.

(2) MANAGER has all requisite power and authority to enter into this Agreement, and to perform their respective obligations hereunder. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of MANAGER. This Agreement has been duly executed and delivered by MANAGER and this Agreement constitutes the legal, valid and binding obligation of MANAGER, enforceable against MANAGER in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(3) MANAGER has secured prior to the Effective Date and thereafter maintain at all times during the Term of this Agreement all necessary licenses, permits and authorizations to
enable MANAGER and its agents and employees to perform all of their duties and obligations under this Agreement and shall notify OWNER should any such license, permit or authorization no longer be in effect or in good standing promptly (but, in any event, within 48 hours of MANAGER learning of the same).

(4)(A) MANAGER is not: (A) currently listed on the Specially Designated Nationals List ("SDN List") or any similar list maintained by the Office of Foreign Assets Control ("OFAC") at the United States Department of the Treasury; (B) owned or controlled, directly or indirectly, by a person or entity who is listed on the SDN List or any similar list maintained by OFAC; (C) a person or entity with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order; or (D) incorporated in any country subject to U.S. country-based economic sanctions whereby conducting transactions with that person or entity would be in violation of any applicable law, rule, or regulation. MANAGER has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

(B) MANAGER shall comply with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including, without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010).

(C) MANAGER shall immediately notify OWNER in writing if it becomes aware that any of the foregoing representations, warranties, or covenants are no longer true or have been breached or if MANAGER has a reasonable basis to believe that they may no longer be true or have been breached.

The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

s. Confidentiality. To the maximum extent permitted by applicable law, MANAGER shall keep confidential the books of account and all other records and documents relating to or reflecting the operation of the Parking Facility and the information therein (including, without limitation, marketing plans, customer lists, pricing information, projections, budgets and reports) for the sole and exclusive benefit of OWNER and, without the prior written consent of OWNER, MANAGER shall not disclose any information contained therein or relating to the operation of the Parking Facility in any respect to any person or entity, other than OWNER and OWNER’s employees, representatives, accountants, lawyers and other professionals as directed by OWNER. MANAGER may, however, disclose such documents and information to those of its directors, officers, employees, agents and advisors who need to know such information in connection with MANAGER’s fulfillment of its duties and obligations under this Agreement; provided that (a) prior to such disclosure, MANAGER agrees to inform such persons of the confidential nature of such documents and information and (b) MANAGER shall use reasonable efforts to cause such persons to keep such documents and information confidential and shall be fully responsible and liable for the consequences of their failure to do so. In addition, notwithstanding anything to the contrary contained in this Agreement, in no event will MANAGER make any announcement or disclosure referencing the names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.
t. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same original. Such executed counterparts may be delivered by facsimile, electronic mail or portable document format which, in each case, upon transmission to the other party, shall have the same force and effect as delivery of the original signed counterpart.

23. **Connecticut Mental Health Agreement.** MANAGER agrees to assign its interest in that certain License Agreement by and between Propark, Inc. and the Connecticut Mental Health Center dated as of October 1, 2014, as soon as reasonably practicable following the date hereof, after MANAGER obtains the consent of the other parties to such assignment (which MANAGER will request promptly following the date hereof). Such assignment and consent documentation shall be reasonably acceptable in form and substance to all parties thereto.

[Signature Page to Immediately Follow.]
IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, have executed this Agreement as of the date first written above.

MANAGER:

PRO PARK, INC., a Connecticut corporation

By:________________________

   Name:_____________________
   Title:_____________________
   Date:_____________________

OWNER:

OP RICCIO OWNER LLC, a Delaware limited liability company

By:________________________

   Name:_____________________
   Title:_____________________
   Date:_____________________
SCHEDULE “A”
EXCLUDED EXPENSES OF MANAGER

1. Salaries, travel and accommodation expenses of all executive personnel of MANAGER unless specifically requested by Owner (but such expenses for other employees shall be subject to the applicable Property Budget).

2. General and administrative expenses of MANAGER not allocable directly to operations at the Parking Facility (including, without limitation, expenses for office equipment or office supplies) excluding any and all legal fees associated with MANAGER’s hiring and firing the employees and/or MANAGER’s development and administration of the employment policies.

3. Personal property taxes of MANAGER’s property not used exclusively for the Parking Facility.

4. Settlements, payments or awards on claims arising from the misconduct of MANAGER’s employees, servants or agents.

5. Any income taxes related to fees or other amounts paid to MANAGER.

6. Costs for which MANAGER is liable under Paragraph 16.a of the Agreement.

7. Political or charitable contributions by MANAGER.

8. Costs of comprehensive crime insurance or fidelity bonds purchased by MANAGER for its own account and the cost of the insurance described in Paragraph 15.g, Paragraph 15.h and Paragraph 15.h of the Agreement.

10. Advertising expenses of MANAGER, except to the extent the advertising is of and for the Parking Facility and set forth in the Property Budget.

11. Any other costs and expenses not set forth in the Property Budget or otherwise approved by OWNER (in writing and in accordance with the JV Agreement) or which MANAGER is expressly authorized to incur under the terms of this Agreement.
SCHEDULE “B”
EXCLUDED EXPENSES OF OWNER

1. Real and personal property taxes of OWNER’s property (if OWNER elects to pay the same directly).
2. Debt service with respect to land, building and equipment (if OWNER elects to pay the same directly).
3. Costs of legal and auditing fees of OWNER.
4. Salaries and wages of all employees of OWNER.
5. Costs incurred by OWNER in the supervision of obligations of MANAGER.
6. Costs for which OWNER is liable under Paragraph 16.b of the Agreement.
7. Costs of premiums for fire and extended coverage insurance (if OWNER elects to pay the same directly).
SCHEDULE “C”
PARKING FACILITY AGREEMENTS

Any and all ground or underlying leases, space leases, license agreements, parking agreements, licenses (including, without limitation, any license or trademark agreements governing the use of the intellectual property of others at the Parking Facility), equipment leases, service contracts, maintenance agreements, construction contracts, utility contracts, any covenants, restrictions, easements and similar instruments, and notes and other instruments of indebtedness with regard to the Parking Facility or OWNER, together with any mortgages, deeds of trust, loan agreements, credit agreements, security instruments, environmental indemnities or other loan documents executed in connection therewith, to the extent affecting the Parking Facility or any part thereof, including, without limitations, the following:

AGREEMENTS TO WHICH OWNER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Owner Parking Facility Agreements”):

None.

AGREEMENTS TO WHICH MANAGER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Manager Parking Facility Agreements”):

License Agreement, dated as of October 1, 2014, by and between ProPark, Inc. and Connecticut Mental Health Center.

MANAGER hereby acknowledges that it has complete copies of all Owner Parking Facility Agreements, as of the date hereof.
SCHEDULE “D”
PARKING RATES AND PERMITTED DISCOUNT RATES

Parking Facility Hours:
- Open twenty-four hours per day, seven days per week, but not staffed twenty-four hours per day, seven days per week
- Current staffing is Monday – Saturday from 6AM – 10PM and Sunday 7AM – 7PM
- Currently in lot valet provided Monday – Friday from 12 noon – 4 PM
- Once parking facility is automated it will have staff on site performing in lot valet from 10AM – 4PM, Monday – Friday

Current Posted Rates
- Daily Rate $12 Max
  - $3 for 1st hour
  - $8 for the 2nd hour
  - $10 for the 3rd hour

Monthly Rates
- Individual Rate $140 / Month
- Traveling Nurses $101.75 / Month
- CMHC Contract $10,500 / Month (Billed from Propark Corp)

Validations
N/A

Monthly Parkers in March 2015

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<td>Traveling Nurse 3 months: $101.75</td>
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<td>Molaey, Elise</td>
<td>Molaey, Elise</td>
<td>Traveling Nurse 3 months: $101.75</td>
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None.
Current Management Team:  
John Schmid, Chief Executive Officer  
Richard DiPietro, President  
Tim Willey, Chief Financial Officer  
Patrick Boeshans, Chief Administrative Officer  
David Schmid, Chief Investment Officer

PARKING MANAGEMENT AGREEMENT
(TERRA)

THIS PARKING MANAGEMENT AGREEMENT ("Agreement") entered into as of this ______ day of April, 2015 (the “Effective Date”) by and between OP TERRA OWNER LLC, a Delaware limited liability company (herein referred to as "OWNER") and PRO PARK, INC., a Connecticut corporation and having its place of business at One Union Place, Hartford, Connecticut 06103 (herein referred to as "MANAGER"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in that certain Amended and Restated Limited Liability Company Agreement of OP Holdings JV LLC, a Delaware limited liability company (the “JV”), dated as of the Effective Date, by and between OP Holdings JV Member LLC, a Delaware limited liability company (“OP Holdings”), and Parking Acquisition Ventures, LLC, a Delaware limited liability company (“PAV”), (as may be further amended, restated, supplemented and/or otherwise modified, the “JV Agreement”). Nothing herein shall modify or amend the terms of the JV Agreement, including, without limitation, Section 10.1 thereof, and in the event of any conflict between the JV Agreement and this Agreement, the JV Agreement shall control.

WITNESSETH:

1. Agreement Purpose.

a. OWNER hereby contracts with MANAGER under the terms, conditions, and provisions set forth in this Agreement for MANAGER to operate a certain parking facility located at 317 Water Street, Jacksonville, Florida, commonly known as Terra, which hereinafter will be referred to as the (“Parking Facility”). OWNER hereby authorizes MANAGER to exercise such powers with respect to the Parking Facility as may be necessary for the performance of MANAGER’s obligations under the terms of this Agreement (subject in all cases to the Property Budget), and MANAGER accepts such appointment under the terms and conditions hereinafter set forth.

b. MANAGER shall have no right or authority, expressed or implied, to commit or otherwise obligate OWNER in any manner whatsoever except to the extent specifically provided herein, or to the extent necessary to carry out or implement its obligations under the terms and provisions of this Agreement. MANAGER shall not hold itself out as having authority to act on behalf of OWNER in any manner which is beyond the scope of this Agreement.

c. MANAGER shall perform, or shall retain and cause other appropriate persons to perform, its duties hereunder in a diligent manner consistent with good industry standards and in accordance with the terms and conditions of this Agreement. MANAGER, on behalf of OWNER, shall implement, or cause to be implemented, the written decisions of OWNER and shall conduct the ordinary and usual business affairs of OWNER, to the extent and as provided in this Agreement. MANAGER shall at all times conform to the reasonable written policies, programs and instructions established by OWNER in accordance with the JV Agreement and the scope of MANAGER’s authority shall be limited to said policies, programs and instructions.

d. MANAGER shall, in keeping with the authority granted to MANAGER herein, keep OWNER reasonably informed regarding the Parking Facility, and abide by those reasonable written standards and instructions which OWNER may issue from time to time in accordance with the JV Agreement regarding the operation of the Parking Facility.

e. MANAGER (on behalf of itself and its Affiliates) acknowledges and agrees that only OP Holdings (in its capacity as “MANAGER” of the JV (the sole owner, directly or indirectly, of
OWNER), on behalf of OWNER, shall have the right to enforce OWNER’s rights and remedies under this Agreement. OWNER (on behalf of itself and its Affiliates) acknowledges and agrees that PAV (in its capacity as “ADMINISTRATOR” of the JV) also has certain day-to-day responsibilities to act on behalf of OWNER pursuant and subject to the terms of the JV Agreement.

2. Term. The term of this Agreement shall commence the date first written above and continue for a period of five (5) years thereafter ("Term"). Upon expiration of the Term, provided there are not unresolved disputes or uncured defaults and this Agreement has not been terminated, this Agreement shall be automatically extended upon the same terms and conditions, covenants and provisions as set forth herein, for additional and consecutive one (1) year extension terms unless and until written notice of non-renewal is given by either party no less than ninety (90) days prior to the expiration of the initial Term or then current extension term. During this time, either party may terminate this Agreement as provided in Paragraph 3 below.

3. Termination.

a. Either party may terminate this Agreement under the following circumstances:

i. Either party may terminate this Agreement in the event the other party files a voluntary petition or similar pleading for bankruptcy, insolvency, receivership, becomes insolvent, or makes an assignment for the benefit of creditors, with such termination to be effective upon giving notice.

ii. Upon the breach by the other party of any covenant, term or condition hereof, provided the breaching party first receives written notice of such breach and fails to remedy same within thirty (30) days of such notice.

b. OWNER shall have the right to terminate this Agreement immediately upon the occurrence of any of the following:

i. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility to a bona-fide, non-related party; provided, however, that such sale, transfer, assignment or conveyance by OWNER shall have been caused in a manner that complies with the provisions of Section 4.9 of the JV Agreement, if and to the extent such provisions apply to such sale, transfer, assignment or conveyance by OWNER.

ii. The expiration or earlier termination of the Ground Lease for any reason

iii. In the event any act or omission of MANAGER causes a breach by OWNER under the Ground Lease or any financing documents, subject in each case to all applicable cure rights (if any).

iv. In the event of the misappropriation, theft or fraud by MANAGER or any employee of MANAGER; provided, however, that upon written notice to MANAGER that one of its employees has perpetrated misappropriation, theft or fraud without MANAGER’S knowledge, then MANAGER shall have a thirty (30) day right to investigate and cure (such cure including reimbursement in full for all amounts stolen by such employee of MANAGER).

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v. In the event of the gross negligence or willful misconduct of MANAGER in connection with its performance of its obligations under this Agreement, provided MANAGER first receives written notice of such breach and fails to remedy same within twenty (20) days of such notice.

vi. Upon thirty (30) days’ notice to MANAGER, in the event of any (A) damage to the Parking Facility or any portion thereof by fire or other casualty that, in OWNER’s discretion, reasonably may be expected to preclude the normal operations of the Parking Facility, (B) taking of the Parking Facility which results in the reduction or restriction of access to the Parking Facility or the failure of the Parking Facility, or any portion thereof, to remain in compliance with any applicable laws or (C) loss of any operating permit or other governmental approval that renders the Parking Facility inoperable as a parking facility; and, in any such case, either (1) the foregoing causes an acceleration of any senior bank debt relating to the Parking Facility or (2) as a result thereof, OWNER decides to cease use of the Parking Facility for parking operations because OWNER has determined that reopening is either not economically feasible or not legally possible;

vii. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility in connection with a foreclosure of any mortgage or deed of trust on the Parking Facility.

viii. In the event MANAGER shall intentionally fail to fully and faithfully deposit all the Receipts from the operation of the Parking Facility.

ix. The occurrence of an “Administrator Default” or “Material Administrator Default” under the JV Agreement.

x. Upon thirty (30) days’ notice to MANAGER, in the event that a “Property Manager Change of Control” under the JV Agreement occurs with respect to MANAGER.

In the event of any of the foregoing occurrences, OWNER shall have the right to forthwith terminate this Agreement, with such termination to be effective upon giving notice, and regain immediate possession of the Parking Facility.

c. Upon any termination of this Agreement, the Term of this Agreement shall be deemed to have expired on the date of such termination.

4. Annual Budget. MANAGER shall cooperate with PAV (acting in its capacity as “Administrator” of the JV) to prepare and present to OP Holdings (in its capacity as “MANAGER” of the JV) a proposed annual operating budget for the OWNER and the Parking Facility (as applicable) for each applicable Fiscal Year, in each case in accordance with Section 4.4 of the JV Agreement. For the avoidance of doubt, the adoption of any operating budget (and any modifications or revisions thereto) for the OWNER or the Parking Facility shall require the express written approval of OP Holdings (acting in its capacity as “MANAGER” of the JV), and to the extent required, the approval of the lender(s) under a financing, in order to be deemed the “Property Budget” for a Fiscal Year. Notwithstanding anything to the contrary contained herein, the applicable terms and provisions of the JV Agreement shall govern and control the preparation, approval, adoption, modification, revision and all other matters relating to the Property Budget. The adoption of the Property Budget in accordance with Section 4.4 of the JV Agreement (including any “deemed” Property Budget pursuant to Section 4.4(c) of the JV Agreement) shall constitute an authorization for MANAGER to incur charges to manage and operate the Parking Facility solely in accordance with this Agreement and the Property Budget. Subject to any other terms and limitations set forth in the JV Agreement MANAGER may not (i) cause or permit any line item in a then current Property Budget to be exceeded by more than ten percent (10%) without the consent of the
OWNER (provided, however, that notwithstanding the foregoing, MANAGER shall be permitted (without the approval of OWNER) to exceed any such line item by an amount that is less than Fifty Thousand Dollars ($50,000)) or (ii) cause or permit the expenses in a then current Property Budget to be exceeded by more than five percent (5%) without the consent of the OWNER, but, in any of the foregoing cases only to the extent the Administrator under the JV Agreement has equal or greater authority to exceed the Property Budget under the terms thereof (it being understood that MANAGER shall not have authority that exceeds the authority of the Administrator under the JV Agreement). Any such authorization to incur charges shall be limited to amounts specifically set forth within the Property Budget.

5. Definition of Operating Expenses.

a. “Operating Expenses” shall mean and include any and all costs and expenses of maintaining, operating, conducting, insuring and supervising the operation of the Parking Facility, including, without limitation, any expenses of ancillary services provided to customers at the Parking Facility (such as a car wash and shuttle service) and the following, without restricting the generality of the foregoing:

i. Wages of personnel assigned, budgeted or approved to the Parking Facility including supervisors, parking attendants, maintenance personnel, cashiers, clerical and audit staff. The term wages (“Wages”) as used herein includes monetary fringe benefits (excluding severance to the extent not required by any statute) such as health insurance, pension costs, and statutorily required payments for workers’ compensation insurance, unemployment insurance and social security;

ii. Business-related telephone and data expenses and utility expenses of the Parking Facility;

iii. Business taxes and airport access fees and assessments (if any), other than franchise or income taxes on income or profits;

iv. License and permit costs and expenses, business license fees, development assessments and fees, impact fees, surcharges, and payments in lieu of taxes;

v. Sales taxes, excise taxes, gross receipts taxes, parking taxes, airport-related taxes, transaction privilege taxes, use taxes, occupancy taxes, gross receipts taxes (excluding income and similar taxes), parking taxes and similar impositions and airport access charges that collected directly from customers or included as part of the sales price of any goods or services, including, without limitation, affording a parking space or shuttle service, whether remitted to the appropriate taxing authorities or otherwise imposed by the state, county, and/or municipality where the Parking Facility is located;

vi. Services charges, interest and collection expenses imposed for sales on credit and debit cards and other charges or fees paid from revenues of the Parking Facility to credit card companies, banks and clearinghouses, and similar organizations resulting from use of credit or debit cards or other payment methods used by customers;

vii. Advertising, marketing and promotion costs including any expenses related to any website for the Parking Facility approved by OWNER and all other costs and expenses of any advertising, business promotion or personnel training program of the Parking Facility that directly benefits the Parking Facility;

viii. The costs of insurance required of the MANAGER in this Agreement;

ix. The costs of all operating supplies and sundry items such as, but not limited to uniforms, tickets, parking office and operating supplies, and janitorial supplies, and the maintenance or replacement of same;

x. Payroll processing fees, bank charges, credit card processing fees, secret shopper fees, tenant amenity program fees and administrative and bookkeeping fees including monthly parker and accounts payable processing;
xi. Utility expenses, fuel costs, toll costs and other expenses for operating the Equipment, shuttles and other property used in connection with Parking Facility operations and normal maintenance and repairs of the Parking Facility, GPS system (if any) and any shuttle vehicle(s) including but not limited to, power sweeping, power washing, maintenance equipment repair, lighting repairs & bulb replacement, Fire Control System maintenance, snow removal, HVAC and elevator maintenance, repainting of stall markings, replacement or repair of signs and parking access and revenue control equipment;

xii. Legal or audit charges and other routine professional fees directly attributable to the operation of the Parking Facility other than those services performed by the staff of OWNER or MANAGER, if approved in advance by OWNER, and any costs to store the books and records related to the Parking Facility pursuant to Paragraph 9;

xiii. The cost of special audits to be performed from time to time by MANAGER’s staff auditor for the mutual benefit of OWNER and MANAGER; provided, however, that the time and manner of the taking of the audit is approved in writing by OWNER in advance. Costs qualifying as audit expenses shall be limited to a mutually agreed upon per diem rate and the actual out-of-pocket expenses of the auditor during the period of an approved special audit;

xiv. Debt service of loans and rent and other charges under lease financing for the acquisition and use of approved parking access and revenue control equipment, operating equipment, and/or shuttle vehicles (if applicable), including, without limitation, under any equipment leases for vehicle and personal property which would constitute “operating leases” under GAAP, consistently applied;

xv. Intentionally deleted;

xvi. The cost of insurance;

xvii. Technology costs;

xviii. All rent and other charges payable under any ground or underlying leases with third parties affecting the Parking Facility;

xix. Amounts payable under any covenants or assessments or other charges for use of shared or offsite facilities or upkeep of the same related to the Parking Facility;

xx. Out-of-pocket expenses incurred for the account of or in connection with the operation of the Parking Facility and all costs and expenses incurred in connection with the maintenance and repair of the Parking Facility;

xxi. Costs of compliance with law with respect to any physical or operational conditions;

xxii. Real estate taxes and other similar assessments and impositions;

xxiii. Payment of claims for damage, personal injury, or loss of personal property (including, without limitation, auto damage) except to the extent such claim is an Excluded Expense as defined below;

xxiv. Payment of any deductible amount of insurance claims settlement and payment of claims in excess of policy limits except to the extent such claim is an Excluded Expense as defined below; and

xxv. Management Fees payable pursuant to Paragraph 8 below.

For clarity, Operating Expenses shall include only direct property level costs and expenses with respect to the applicable Property and shall not in any event include any mark-up or other similar charge of the MANAGER or any of its Affiliates. To the extent OWNER approves Operating Expenses that MANAGER incurs on a shared basis with other parking operations that it owns or managers, such Operating Expenses shall be equitably apportioned between the Parking Facility and such other operations (and shall provide OWNER, upon request, with reasonable back-up and details concerning the costs and how such apportionment was made) and in no event shall MANAGER recover reimbursements from OWNER and others with respect to the apportioned charges that exceed the actual amount of the apportioned charges.
Notwithstanding the foregoing, Operating Expenses shall not include multiple audit charges in a Fiscal Year unless there is a material finding in such audit and then only to the extent that such audit charges are reasonable.

b. OWNER shall have the right, from time to time, as OWNER shall determine, to pay any Operating Expenses directly, in lieu of having MANAGER handle incurring and paying same, but such Operating Expenses shall be Operating Expenses for purposes of Paragraph 8 below, even though OWNER, as opposed to MANAGER, is paying such expenses.

c. “Excluded Expenses” are those designated expenses arising from the operation of the Parking Facility which shall not be deemed Operating Expenses and which shall therefore be borne by the respective parties. The Excluded Expenses of the MANAGER are those set forth in Schedule “A” to this Agreement and incorporated by reference herein. The Excluded Expenses of OWNER are set forth in Schedule “B” attached to this Agreement and incorporated by reference herein. In the event of any conflict between Paragraph 5 and Schedules “A” and “B,” Schedules “A” and “B” shall control.

6. Additional Services. In addition to the daily operation of the Parking Facility, MANAGER’s services shall include consulting and advisory services to OWNER concerning the Parking Facility. These services shall be provided without additional charge or fee except for reimbursement of pre-approved out of pocket expenses such as postage, printing and supply charges, mileage and phone charges in connection with the performance of services requested or required by OWNER, and any other similar out of pocket expenses. MANAGER shall document and support such expenses by cash receipts or other documentary proof of payment.

7. Collection of Receipts. MANAGER covenants that it will collect or cause to be collected all fees, charges and other monies derived from the Parking Facility. At OWNER’s request, MANAGER shall open and maintain a bank account (the “Operating Account”) in accordance with this Paragraph 7. OWNER shall have the sole right to designate persons as authorized signatories on the Operating Account and such authorized signatories shall have sole authority to make disbursements therefrom; provided however that OWNER will arrange for an authorized signatory of MANAGER to have signature authority to draw funds on the Operating Account without additional signatures from other parties unless and until any breach of this Agreement allegedly committed by MANAGER occurs, a termination of this Agreement occurs or any misappropriation, theft or fraud allegedly committed by such signatory occurs, it being understood and agreed that MANAGER shall not be required to advance any of its own funds for the Operating Expenses of the Parking Facility and it shall not be a default by MANAGER that it fails to pay an Operating Expense hereunder to the extent such failure is caused by OWNER’s failure to furnish MANAGER with funds necessary for the discharge thereof. The Operating Account (a) shall be a trust account for the benefit of OWNER, (b) shall explicitly state in the name of such Operating Account that such Operating Account is held in trust for OWNER and (c) shall not be commingled with other funds held by MANAGER (even if such other funds relate to projects owned by OWNER or any Affiliate of OWNER). At all times the funds deposited in the Operating Account shall be the sole and exclusive property of OWNER. OWNER shall have the sole and exclusive right to make any decision or election with respect to the establishment, maintenance and closing of the Operating Account (and any other account established with respect to OWNER and/or the Parking Facility). All fees, charges and other monies collected by MANAGER (the “Receipts”) shall be promptly deposited into the Operating Account. MANAGER shall thereafter, on or before the twentieth (20th) day of the month, disperse the Receipts for each prior month’s operation as follows:

a. MANAGER shall pay all Operating Expenses as defined in Paragraph 5.a, subject to and in compliance with the Property Budget (consistent with the expenses contemplated in the
applicable provisions of the JV Agreement concerning the Property Budget) and subject to OWNER exercising its rights under Paragraph 5.b.

b. MANAGER shall pay on behalf of OWNER, from Receipts it receives, all city and county and airport parking taxes and fees prior to the date such payment(s) become delinquent which may be due and owing in connection with the operation of the Parking Facility as a public parking facility.

c. MANAGER shall pay the Management Fee due MANAGER from the Receipts it receives in the amounts set forth in Paragraph 8 herein (subject in all cases to the Property Budget).

d. After payment of the amounts as directed in (a), (b) and (c) above, the balance of the Receipts from the Parking Facility shall be immediately paid to OWNER.

e. In the event any government-mandated employment cost (such as a required wage) is imposed, increased, adjusted or introduced with respect to work performed by MANAGER for OWNER, MANAGER will notify OWNER and add such cost, without markup, as an Operating Expense to the Property Budget, unless and until OWNER and MANAGER agree otherwise.

f. In the event of an emergency situation, MANAGER may add, without markup, as an Operating Expense to the Property Budget, costs and expenditures reasonably incurred by MANAGER where such cost or expenditure will prevent or mitigate (or is reasonably believed to prevent or mitigate) the injury or death to person or damage to property that OWNER or MANAGER may be liable for and, prior to incurring any such cost or expenditures, MANAGER is unable to contact OWNER to obtain OWNER’S approval. MANAGER shall contact and advise OWNER as soon as possible after the emergency situation and follow OWNER’S reasonable directions with respect thereto.

g. OWNER shall have reviewed and approved any revenue information submitted to any lessor under any ground or underlying lease or any governmental or airport authority, prior to submission.

h. Payment of claims for damage, personal injury, or loss of personal property shall be authorized by OWNER in writing, in advance, unless such payment is $500.00 or less in which case no authorization is required.

Except for the disbursements from the Operating Account made in accordance with this Agreement, the JV Agreement and the Property Budget, funds will be disbursed or transferred from the Operating Account solely as OWNER may from time to time direct in writing.

8. Payments to MANAGER.

a. For each Fiscal Year during the Term, MANAGER shall be entitled to receive an amount equal to twelve percent (12%) of the Operating Surplus for such Fiscal Year ("Management Fee"); the Management Fee will be prorated for partial Fiscal Years. MANAGER shall receive $5,091 at the end of each calendar month during the Term as an advance on such Management Fee. This amount will be prorated for partial months. The monthly payments to MANAGER hereunder during any such Fiscal Year shall be subject to the determination of the actual Management Fee for such Fiscal Year pursuant to the annual reconciliation (the “Reconciliation”) in accordance with Paragraph 8.d below. The monthly advance amount paid during any such Fiscal Year is
meant to serve as a reasonable estimate of the Management Fee for that Fiscal Year, and the amount of that monthly advance also may be adjusted by mutual agreement of the parties, each acting reasonably, from time to time to reasonably minimize adjustments during the Reconciliation.

b. For purposes of this Agreement, the following terms shall be given the following meanings:

i. “Gross Revenues” shall mean, for the applicable period in question during the Term, all parking revenues earned and received from the Parking Facility and all revenues earned and received from ancillary services provided to customers at the Parking Facility; provided, however, that notwithstanding the foregoing: (A) Gross Revenues shall not include the following: (1) gratuities to employees paid directly by a customer or other third party; (2) accounts receivable written off as uncollectible, except to the extent amounts are recovered by the sale thereof or otherwise; (3) proceeds of insurance (other than business interruption insurance after deducting therefrom all reasonable expenses incurred in the adjustment or collection thereof) or proceeds of awards received in condemnation (but excluding compensation received for loss of business to the extent attributable to the period in question); (4) proceeds of the sale or disposition of the Parking Facility or any capital assets or of the refinancing of, or loans with respect to, the Parking Facility; (5) any amounts reimbursed by OWNER to MANAGER or otherwise advanced and deposited into the Operating Account or other bank accounts used for the operation of the Parking Facility; (6) interest earned on any amounts deposited into any such bank accounts; any security deposits or similar deposits (except as applied or forfeited); (7) any rebates or credits received by MANAGER pursuant to any service contract or purchase order or other contracts relating to the Parking Facility; (8) any discounts, coupons or complimentary validations to customers from the stated or advertised rates or from any other rates charged to other customers; and (9) discounts, rebates, coupons and reimbursements and add-ons, including as required under any marketing partnerships and alliance; and (B) in computing Gross Revenues, payments for parking made in advance (advance validations) shall not be included unless and until the parking service is rendered and cancellation refunds shall reduce Gross Revenues in the period in which same is made. Gross Revenues shall include cash only and shall not include exchanges for services or barter. Any Gross Revenue from the Parking Facility collected directly by OWNER shall be accurately reported in writing to MANAGER. Gross Revenue shall include any cash refunds received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility including any tax refunds.

Gross Revenue shall not include any reserves and escrows that are existing or funded on or about the date hereof in connection with OWNER’s acquisition of the Parking Facility; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such reserves or escrows in the future and paid for the account of OWNER, those funds shall be Gross Revenue when so paid, but only to the extent that such funds are offset by the Operating Expenses paid for (or reimbursed) with such funds (which offset shall be deemed to have occurred in the same Fiscal Year for purpose of calculating the Management Fee). During the Term, for purposes of calculating the Management Fee, amounts paid from Gross Revenues to fund any other future reserves or escrows required by any financing documents with respect to the Parking Facility or otherwise required by OWNER or any Parking Facility Agreements shall not be Operating Expenses when reserved or escrowed; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such future reserves or escrows, those funds shall not be Gross Revenue when paid or applied and, accordingly, Operating Expenses will not be offset if paid for (or reimbursed) with such funds or escrows, regardless of whether those funds were reserved or escrowed.
from Gross Revenue or OWNER’s capital, it being understood that if Gross Revenue is not sufficient to fund such reserves and escrows, the capital that OWNER provides to meet that funding or escrow obligation shall not be Gross Revenue. By way of example, if Gross Revenue in Year 1 is $1,000, Operating Expenses are $200 and 10% of Gross Revenue is put into a reserve, then the Operating Surplus will be $800. In Year 2, if Gross Revenue is again $1,000, Operating Expenses are $250 and no money is put into reserves, but the reserves from the prior year are used to pay $100 of Operating Expenses, the Operating Surplus will be $750.

ii. “Operating Surplus” shall mean for the Parking Facility, for the applicable period in question during the Term, an amount calculated on an cash basis, equal to the excess of Gross Revenues for such period over the Operating Expenses for such period; provided, however, Debt Service Expenses and the Management Fee for such period shall not be treated as Operating Expenses for purposes of calculating the Operating Surplus.

iii. “Debt Service Expenses” means all principal, interest and other similar charges paid to any lenders under any loan documents secured by a mortgage or deed of trust on OWNER’s interest in the land and improvements comprising the Parking Facility.

c. Within fifteen (15) days after the end of each calendar month of the Term (prorated for any fractional calendar month), MANAGER shall provide to OWNER a statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such calendar month and each of the components thereof, together with reasonable supporting evidence and any other information reasonably requested by OWNER. The Management Fee calculation shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

d. Within sixty (60) days after the end of each Fiscal Year occurring during the Term (prorated for any fractional Fiscal Year), MANAGER shall provide to OWNER a reconciliation statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such Fiscal Year and each of the components thereof (calculated based on the Operating Surplus for that Fiscal Year), together with reasonable supporting evidence and any other information reasonably requested by OWNER, and showing the aggregate amount of Management Fees received by MANAGER and calculating any overpayment or underpayment of the Management Fee. MANAGER shall refund OWNER any overpayment by applying the amount thereof as a credit against the Management Fee next due or becoming due, provided if the Term expires or is terminated before the determination of the overpayment, then MANAGER shall refund any overpayment to OWNER with a payment accompanying the applicable reconciliation statement or if such overpayment has not been fully credited within ninety (90) days of the applicable reconciliation, MANAGER shall refund the outstanding amount of the overpayment to OWNER within ten (10) days following the end of such 90-day period. MANAGER shall collect any underpayment of Management Fee as a credit against the Operating Surplus for the succeeding month(s) until fully paid, provided if the Term expires or is terminated before the determination of the underpayment, OWNER shall pay MANAGER, within thirty (30) days after its receipt of the reconciliation statement or if such under payment has not been fully credited within ninety (90) days of the applicable reconciliation, OWNER shall pay the outstanding amount of the underpayment to MANAGER within ten (10) days following the end of such 90-day period. The Management Fee, as reconciled hereunder, shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.
9. **MANAGER’s Report.** MANAGER agrees that it will keep complete records of all receipts and disbursements (including Receipts) pertaining to the operation of the Parking Facility and such books of account and all other records relating to or reflecting the operation of the Parking Facility shall at all times be the property of OWNER, and such books and records shall be kept in a location or locations acceptable to OWNER and shall not be destroyed or discarded without the prior written approval of OWNER. On or before the twentieth (20th) day of each month (beginning with the second month of the Term of this Agreement) MANAGER shall render to the OWNER a complete accounting ("MANAGER’s Report") of all receipts and disbursements (including Receipts) for the preceding month and render payment to OWNER under Paragraph 7.d of this Agreement if any such payment is due. In addition, from time to time, upon OWNER’s reasonable request, MANAGER shall provide such other financial and operations reports concerning the Parking Facility, including, without limitation operating statements and revenue reports, as may be required by the terms of the Parking Facility Agreements, including, without limitation, any financing documents, operating permits and ground leases, and reasonably cooperate with operational reviews by lenders, auditors and prospective purchasers and investors, from time to time, as reasonably requested by OWNER. OWNER and/or its representative shall have the right to audit MANAGER’s books and records relating to the Parking Facility upon reasonable notice. OWNER also reserves the right to perform any audit tests relating to MANAGER’s activities, provided such audit tests are related to those activities performed by MANAGER for OWNER. Should OWNER discover either weaknesses in internal control or errors in record keeping, MANAGER shall promptly correct such audit discrepancies. On the twentieth (20th) day of the month following the termination or expiration of this Agreement MANAGER shall render to OWNER a preliminary MANAGER’s Report with the final MANAGER’s Report due within sixty (60) days following the termination or expiration date.

10. **Insufficiency of Receipts.** If the Receipts for any month are insufficient to make the payments required by Paragraph 7, subparagraphs (a), (b) and (c) above, OWNER agrees to pay into the Operating Account the amount of such deficit (solely in accordance with the Property Budget) within ten (10) days after receipt of MANAGER’s Report of Receipts.

11. **Standard of Operation.**

   a. MANAGER agrees to manage, market, operate and maintain the Parking Facility in an efficient and professional manner 24 hours per day, 7 days per week or during the hours otherwise directed by OWNER in writing, and in all cases in accordance with the Operating Standard. MANAGER further agrees that rates for parking in the Parking Facility shall be approved in advance by OWNER in writing; such rates shall not be varied without written approval of the OWNER. MANAGER, on behalf of OWNER, shall conduct the ordinary and usual business affairs of OWNER as provided in this Agreement and in accordance with the Property Budget. MANAGER agrees to perform its duties hereunder to manage, market, operate and maintain the Parking Facility in accordance with the standards set forth herein, and to comply with such written instructions and policies as may be reasonably requested by OWNER subject to the Property Budget. MANAGER will not incur any expenses or make any expenditure except as expressly permitted in or by this Agreement and the Property Budget. Notwithstanding anything to the contrary contained in this Agreement, MANAGER shall not be permitted to take any action or make any expenditure that would constitute a Major Action under the JV Agreement without in each case obtaining the prior written approval of OWNER therefor.

   b. As used herein, “Operating Standard” shall mean: (i) (A) in a commercially reasonable, prudent, diligent and workmanlike manner, (ii) in accordance with the terms and conditions of this Agreement and in conformity with the then current Property Budget, (iii) in accordance with the terms and provisions of the Parking Facility Agreements (as hereinafter defined), to the extent
that MANAGER shall have received or have in its possession or control a full and complete copy thereof, (iv) in accordance with the requirements of any carrier having insurance on the Parking Facility or any part thereof and (v) in accordance with such written standards for operations as OWNER and MANAGER may develop and approve, working cooperatively and in good faith, with respect to the Parking Facility. As used herein, “Parking Facility Agreements” shall mean those agreements listed and/or described on Schedule “C” attached hereto and incorporated herein by reference, as revised from time to time with the approval of Owner or at the direction of Owner. MANAGER shall act in a fiduciary capacity with respect to the handling and accounting of funds of OWNER.

c. MANAGER shall have no authority on behalf of OWNER to do, and shall not do, any of the following without OWNER’s written approval in each instance: (a) remove any fixed assets, supplies, furniture, fixtures, equipment, inventories or operating supplies from the Parking Facility, except in the ordinary course of business or in connection with the disposition of obsolete, worn-out damaged items; (b) borrow money, guaranty the debts of any third person, or mortgage, pledge, grant a security interest in or otherwise encumber all or any part of the Parking Facility; (c) make, execute or deliver on behalf of OWNER any assignment for the benefit of creditors, or any guaranty, indemnity bond, or surety bond; (d) confess any judgment on behalf of OWNER or the Parking Facility; (e) file a voluntary or consent to an involuntary bankruptcy with respect to the Parking Facility; (f) enter into, modify, or terminate any lease, agreement to lease, option to lease, sublease, license, parking agreement, operating agreement, management agreement or similar arrangement relating to any occupancy of space in the Parking Facility, except for parking agreements with customers in accordance with Paragraph 11.d below (for sake of clarification, use of the Parking Facility by a car rental company if the car rental company is conducting its car rental business on-site shall not be deemed a parking agreement for purposes of Paragraph 11.d); (g) select or retain a construction manager, general contractor, architect, managing agent, legal counsel, rental agent, accountant or insurance carrier for the Parking Facility, or the election as to whether and when to have an audit conducted of the fiscal affairs of the Parking Facility, provided however if OWNER requires MANAGER to retain professionals and the cost of such retention is not in the Property Budget, the Property Budget shall be increased to include such costs, with OWNER’s approval (and MANAGER shall not be required to retain such professionals if OWNER does not approve the cost thereof to do so); (h) institute or defend litigation on behalf of the Parking Facility; (i) enter into, amend or terminate any Parking Facility Agreement including any service contract, contract for goods or services of any kind or similar agreement, except in accordance with Paragraph 11.d below or in accordance with the Property Budget; (j) communicate with the media in any written or oral form which names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member, or otherwise communicate with media about any matter concerning the Parking Facility other than related to operations, incidents at or marketing of the Parking Facility; (k) write-off, forgive or otherwise defer any receivable or rent in excess of such amounts as may be instructed by OWNER (excluding any complimentary validations in accordance with guidelines approved by OWNER); (l) take any other action or decision outside the scope of the ordinary, day-to-day business affairs of the Parking Facility; or (m) operate or permit the operation of any business at the Parking Facility or the sale of any customer information or provision of services to customers of the Parking Facility (e.g., car washes, vending machines etc.), the revenues of which are not included in Receipts.

d. MANAGER shall negotiate and, subject to the limitations set forth in this Agreement and the Parking Facility Agreements, enter into on behalf of OWNER parking agreements with customers for parking vehicles at the Parking Facility, service contracts and leases for equipment reasonably necessary or desirable in connection with the operation of the Parking Facility in the usual course
business, including, without limitation, vehicle maintenance, utility services, maintenance, heating and air conditioning maintenance, internet, phone service, landscaping care and uniform laundry services. Unless approved in writing by OWNER, all such contracts that involve work or services being performed at the Parking Facility shall contain an obligation on the part of the vendor to indemnify OWNER to a customary and reasonable degree and require the vendor to obtain insurance coverages as required by any Parking Facility Agreements and as otherwise necessary to protect OWNER to the extent customary for similar contracts. In the case of any service contract for labor or materials, the nonpayment of which could give rise to lien rights on the part of the contracting party against the Parking Facility, then prior to and as a condition of any payment, MANAGER shall use reasonable efforts to obtain appropriate lien waivers at the time of execution and shall obtain appropriate lien waivers from the contracting party conditioned upon receipt of the specified payment and therefor upon completion of the contract work, a full, unconditional lien waiver from the contracting party. MANAGER shall supervise and, utilizing the funds available or made available for this purpose pursuant to terms hereof, purchase, or arrange for the purchase of, all furniture, fixtures and equipment and personality which in the normal course of business are necessary and proper to maintain the Parking Facility in accordance with the standards required hereunder and the Property Budget. Any refunds, rebates or credits received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility shall be Receipts and shall be deposited into the Operating Account or otherwise applied for the benefit of the Parking Facility, and the benefits of any discounts received by MANAGER pursuant thereto shall be applied for the benefit of the Parking Facility such that only the net amounts (after such discounts) payable thereunder shall be charged to the Parking Facility. Notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any service contracts, purchase orders or other contracts that may otherwise be permitted hereunder, unless (a) the expenditure thereunder is provided for in the Property Budget, and (b) such service contract, purchase order or contract is cancelable without penalty on not more than thirty (30) days’ notice, unless otherwise agreed by OWNER in writing. In addition, notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any parking agreements or contracts to permit the use of the parking spaces at the Parking Facility or to provide reduced or fixed rates for use of parking at the Parking Facility that might otherwise be permitted hereunder, unless (a) the parking rates thereunder are in accordance with the then current schedule for parking rates and permitted discounted rates for the Parking Facility that has been approved in writing by OWNER, from time to time (OWNER hereby approves (i) the parking rates and permitted discount rates and (ii) the hours of operation for the Parking Facilities set forth in Schedule “D” attached to this Agreement and incorporated by reference herein) and (b) such agreement or contract is cancelable without penalty on not more than thirty (30) days’ notice, without penalty, unless otherwise agreed by OWNER in writing. Insurance certificates and copies of service contracts shall be forwarded to OWNER promptly upon execution of the same or otherwise upon request and any entry into a service contract by MANAGER hereunder shall be signed by MANAGER as the disclosed agent of OWNER.

12. Permits and Licenses. MANAGER shall use commercially reasonable efforts to obtain under OWNER’s name (or its own, as applicable, if required under applicable law) and maintain, in full force and effect, throughout the Term hereof any and all permits and licenses required by any public or quasi-public authority for the use, maintenance and operation of the Parking Facility as a public parking facility in accordance with the Operating Standard.

13. Relationship of Parties. Nothing in this Agreement shall be construed as creating a partnership, employer/employee relationship or joint venture between OWNER and MANAGER. Except as set forth in the Agreement, neither party hereto shall have the right or authority to bind or obligate the other party
in any manner whatsoever or expressly or impliedly incur any liability or obligation on behalf of the other party, nor shall OWNER be liable for any debts incurred by MANAGER.


a. MANAGER agrees to use commercially reasonable diligence in the care and protection of the Parking Facility during the Term of this Agreement. OWNER acknowledges that MANAGER is not a security company and does not employ personnel for that purpose. MANAGER assumes no liability or responsibility with respect to injuries, damage or costs sustained to any person or property as a result of its alleged failure to warn, guard or protect persons or property in or about the Parking Facility from and against intentional threats, harm or injury except for the negligent or intentionally committed acts of or by MANAGER or its employees; provided, however, the foregoing shall not relieve MANAGER of its obligation to obtain insurance in accordance with the other provisions of this Agreement.

b. MANAGER further agrees to comply (and cause the Parking Facility to comply, subject to the Property Budget) with all government laws, ordinances and regulations pertaining to the Parking Facility.

c. With respect to the following events, conditions or occurrences, MANAGER shall notify OWNER promptly upon MANAGER’S knowledge thereof (together with copies of supporting documentation) of: (a) any violation of any laws, ordinances, rules, regulations or other governmental requirements (and make recommendations regarding compliance therewith); (b) any defect or unsafe condition in or at the Parking Facility; (c) any condemnation proceedings, rezoning or other governmental order, lawsuit or threat thereof involving the Parking Facility; (d) any notice of default under any Parking Facility Agreement or other material agreement relating to OWNER or the Parking Facility; (e) any notice of violation of any insurance requirement; (f) any claim, incident that may be covered by insurance or could lead to legal liability, demand, suit or other legal proceeding made or instituted against, or otherwise relating to, OWNER and/or the Parking Facility; or (g) any damage or destruction to the Parking Facility (including fire, theft or vandalism) or personal injury at the Parking Facility. MANAGER shall keep OWNER reasonably informed of the status of the particular matter through the final resolution thereof. MANAGER shall retain in the records it maintains for the Parking Facility copies of all supporting documentation with reference to any of the foregoing notices.

d. MANAGER shall cause all revenues, receipts and all other payments, cash or income of any kind, type or nature, derived from the Parking Facility to be deposited into the Operating Account and such accounts at such banks or other financial institutions as are determined by OWNER, as and when determined by OWNER. In its capacity, MANAGER shall deal at arm’s length with all third parties, and subject to that limitation, MANAGER may not enter into agreements with affiliates of MANAGER, without the prior, written approval of OWNER; it being agreed that any such agreement entered into with any such affiliate shall be on reasonably competitive terms and such other terms as are not less favorable to OWNER than those reasonably obtainable from an unrelated third party.

15. Insurance Carried by MANAGER. MANAGER agrees to carry the insurance listed below, with limits not less than the amounts as shown below and pay all premiums thereon when due.

a. Commercial General Liability insurance (Garage Liability), including coverage for bodily injury (including coverage for death, mental anguish), Premises-Operations, Independent
Contractors’ Protective, Products-Completed Operations, Blanket Contractual Liability, Personal Injury and Broad form Property Damage (including coverage for Explosion, Collapse and Underground hazards), and including Cross Liability and Severability of Interests, with coverage for libel, false arrest, assault & battery, discrimination, sexual molestation, detention or imprisonment, wrongful eviction from, wrongful entry into, invasion of the right of privacy, and slander and/or defamation of character. This coverage must be maintained for the full Term of this Agreement with the following minimum limits:

i. $1,000,000 Each Occurrence;
ii. $2,000,000 General Aggregate;
iii. $1,000,000 Personal and Advertising Injury; and
iv. $2,000,000 Products-Completed Operations Aggregate.

b. Garagekeeper’s Legal Liability insurance for any and all automobiles that are parked at the Parking Facility by MANAGER’s attendants or for which a bailment is otherwise created, whether implied or in fact, with limits of liability not less than $1,000,000 per occurrence. The limit of liability for the Garage Keeper’s Legal Liability coverage must be sufficient to insure the payment of any loss without prorating of that loss based on the maximum facility capacity. Any deductible the MANAGER may carry shall be of industry standard, approved by management and the MANAGER’s sole responsibility.

c. Worker’s Compensation insurance in compliance with statutory requirements of the state(s) in which the employee resides, is hired and in which the services are being performed and shall apply to all persons employed by MANAGER.

d. Employer’s Liability insurance in the amount of $500,000 each accident for bodily injury by accident, $500,000 each employee for bodily injury by disease, and $500,000 policy limit for bodily injury by disease, or such other amount as may be required by umbrella policy to effect umbrella coverage.

e. Comprehensive Automobile Liability insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage if automobiles are used in the performance of MANAGER’s obligations hereunder;

f. Umbrella/Excess Liability insurance on a follow form basis with a per occurrence and annual aggregate limit of $10,000,000 per location / project. Coverage shall be excess of Garage Liability (including products and completed operations coverage), Auto Liability, Garagekeeper’s Legal Liability and Employer’s Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

g. Inside and Outside the Premises insurance including to protect against loss due to robbery, theft or burglary with not less than $100,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.

h. Employee Dishonesty insurance including to protect against loss due to employee dishonesty and depositor forgery with not less than $1,000,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.

i. Employment Practices Liability insurance, including third party coverage, in an amount of $1,000,000.
MANAGER, at the direction of OWNER from time to time, shall secure and maintain, at Owner’s cost and expense (as set forth in the Property Budget), such additional insurance (including, without limitation, reasonable increases to coverage described above) sufficient to furnish Owner and MANAGER reasonable and adequate protection in the management and operation of the Parking Facility, as determined by OWNER. All insurance shall conform to the reasonable requirements of OWNER and to the requirements of the Parking Facility Agreement, as applicable. OWNER shall have the right to approve the amount, scope and terms of all insurance coverages (including, without limitation, the amount of any deductibles) obtained hereunder. All such insurance shall be in the name of OWNER or MANAGER (with OWNER as a named insured), as OWNER shall reasonably require, and if not in the name of a party, such party shall be an additional insured, and with such other parties as additional insureds as OWNER may require, including, without limitation, any holders of any mortgages, deeds of trust or security agreements with respect to the Parking Facility or any related assets thereof, shall contain, as applicable, a standard mortgagee clause and shall contain riders and endorsements adequately protecting the interests of MANAGER as it may appear, including, without limitation, provisions for at least thirty (30) days’ notice to OWNER and MANAGER of cancellation or of any material change therein. All policies of property insurance shall provide that the insurance company will have no right of subrogation against either party hereto or their respective agents or employees.

MANAGER’s insurance shall be primary and non-contributory with regard to any other insurance that may be available to OWNER and additional insureds.

MANAGER shall cause each contractor and any subcontractors to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Garage Liability and Worker’s Compensation limits required above. MANAGER shall cause each subcontractor to include the same additional insured requirements and certificates of insurance as noted above for MANAGER.

Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on MANAGER under this Agreement.

16. Indemnification.

a. OWNER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of MANAGER’s operations, actions or inactions hereunder, including but not limited to damage to vehicles. MANAGER shall indemnify, defend, and hold OWNER and its respective officers, employees, partners, members or agents (the “Indemnitees”), harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the acts, omissions, breach of contract or violation of law by MANAGER or its agents, officers, representatives or employees.

b. MANAGER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of OWNER’s operations hereunder. OWNER shall indemnify, defend, and hold MANAGER and its respective Indemnitees, harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the gross negligence or willful misconduct of OWNER.

c. The provisions of this Paragraph 16 shall survive termination or expiration of this Agreement.
17. **Parking Facility.** It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from the Parking Facility’s design, structural faults or defects are not the responsibility of MANAGER (other than if OWNER is entitled to indemnification from MANAGER as set forth above and except that the foregoing shall not modify or limit in any way the rights of OWNER or any of its Affiliates or the obligations of MANAGER or any of its Affiliates under any other agreement to which any of them is a party that concerns the Parking Facility).

18. **Compliance with Laws.** MANAGER agrees to manage, operate, and promote the use of the Parking facility in accordance with all local state and federal laws and government regulations.

19. **Employees.**

   a. MANAGER shall investigate, select, employ, promote, terminate where appropriate, supervise, direct, train and assign duties of all employees in connection with the operation and maintenance of the Parking Facility. MANAGER shall have in its employ at all times sufficient number of capable employees to properly, safely, and economically manage, operate and maintain the Parking Facility, subject to the Property Budget. All matters pertaining to the employment, supervision, compensation, promotion, and discharge of such employees are the responsibility of MANAGER. MANAGER represents, warrants and covenants that it is, and shall continue to be, an equal opportunity employer and is, and shall continue to be, in compliance with all applicable employment laws. In addition, MANAGER shall from time to time develop and implement policies, procedures and programs for the Parking Facility designed to effect compliance with all applicable employment laws. The employment policies shall be consistent with industry standards from time to time for reputable parking management companies. MANAGER shall cause to be prepared and filed all necessary forms and returns for unemployment, insurance, withholding and social security taxes and all other tax and other forms relating to employment of its employees required by federal, state or municipal authorities. OWNER and MANAGER agree that, during the Term of this Agreement, all personnel employed to operate the Parking Facility shall be solely the employees of MANAGER and shall have no contractual relationship with OWNER.

   b. In the event that the employees at the Parking Facility become represented by a labor organization, MANAGER shall assume all responsibilities to meet and confer with such labor organization, and if MANAGER deems appropriate, MANAGER shall execute on its own behalf (and not on behalf of OWNER) a collective bargaining agreement (including, without limitation, any amendments thereto or modifications thereof) with respect to the employees; provided, however, that (i) OWNER shall have approved in advance of such execution and in writing any and all costs to be incurred under such collective bargaining agreement (which approval shall not be unreasonably withheld or delayed) and (ii) OWNER acknowledges that such costs shall be a cost of and charged to the operation of the Parking Facility. MANAGER shall keep OWNER reasonably well-apprised of the status of such matters and shall give OWNER at least ten (10) business days’ prior written notice before MANAGER enters into any such collective bargaining agreement. At all times, MANAGER shall use its reasonable efforts to maintain labor harmony at the Parking Facility.

20. **Transfers of Assets Termination.** Upon termination of this Agreement for any reason in accordance with the terms hereof, MANAGER hereby agrees that it will take all reasonable and necessary measures to ensure that any and all contracts and assets held in MANAGER’s name and directly relating to the on-going operation of the Parking Facility are promptly transferred to OWNER (the “Manager-Held Assets”), including, without limitation, executing and delivering all such documents and instruments as shall be reasonably required to effectuate such transfers, except as otherwise may be instructed or
directed by OWNER, subject to the terms of Paragraph 21 below and subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts. MANAGER represents and warrants that, as of the Effective Date, (1) all existing agreements, leases, licenses and contracts of any kind or nature (including, without limitation, all amendments, modifications and other agreements with respect thereto) comprising Manager-Held Assets are identified and listed in Schedule “C” as Manager Parking Facility Agreements (including, without limitation, all leases and financing agreements pursuant to which MANAGER has the right to use the Equipment), (2) all furniture, fixtures, equipment and other personal property (including, without limitation, vehicles) comprising Manager-Held Assets are identified and listed on Schedule “E” attached hereto and incorporated herein by this reference and (3) no other Manager-Held Assets exist as of the Effective Date.

MANAGER covenants that it shall not enter into any new Manager Parking Facility Agreements or modify or amend any Manager Parking Facility Agreements, or purchase, lease or dispose of any Manager-Held Assets (including, without limitation, the Equipment) in the future, without obtaining the prior written consent of OWNER, in each instance, or unless set forth in the Property Budget. From time to time, upon request, MANAGER shall identify, in writing, all existing Manager-Held Assets, within ten (10) business days of Owner’s written request therefor. In addition, upon termination of this Agreement for any reason in accordance with the terms hereof, (i) deliver to OWNER, or such other person or persons designated by OWNER, copies of all books and records of the Parking Facility and all funds in the possession of MANAGER belonging to OWNER or received by MANAGER pursuant to the terms of this Agreement, and all keys or combinations to locks then in MANAGER’s possession, (ii) peacefully vacate and surrender the Parking Facility to OWNER on the effective date of such termination, (iii) assign, transfer or convey to such person or persons as may be designated by OWNER all service contracts relating to or used in the operation and maintenance of the Parking Facility, subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts; (iv) execute and deliver any termination or other necessary agreements requested for the purpose of evidencing the termination of this Agreement, and otherwise cooperate fully with OWNER in the smooth and orderly transition of the Parking Facility to a replacement manager, any transferee of OWNER or to any managing operator designated by OWNER or any transferee of OWNER; (v) immediately release and transfer to OWNER any of OWNER’s funds which are held or controlled by MANAGER with respect to the Parking Facility and transfer the Operating Account and any other bank accounts relating to the Parking Facility as directed by OWNER, in each case subject to all outstanding expenses accrued in accordance with Paragraph 5, which expenses OWNER agrees to pay; (vi) to the extent applicable, comply with OWNER’s direction to remove MANAGER and/or its agents, servants or employees as authorized signatories from the Operating Account and any other bank accounts maintained hereunder; (vii) make available to OWNER such books and records respecting the Parking Facility (including, without limitation, those from prior years during the term of this Agreement) as will be needed by OWNER to prepare the accounting statements, in accordance with the terms hereof, for the Parking Facility for the year in which the expiration or termination occurs and for any subsequent year; (viii) to the extent permitted by law, assign to OWNER or to the new property manager (as directed by OWNER) all operating licenses and permits for the Parking Facility which have been issued in MANAGER’s name; and (ix) reasonably cooperate with OWNER to assist OWNER to obtain new licenses or to continue all operations without interruption following termination while OWNER is attempting to obtain new licenses. Within sixty (60) days following expiration or earlier termination of this Agreement, MANAGER shall deliver to OWNER a final accounting, in writing, with respect to the operations of the Parking Facility. The obligations set forth in this Paragraph shall survive expiration or earlier termination of this Agreement.

21. Equipment. It is the understanding between the MANAGER and OWNER that MANAGER is purchasing (on an installment sale basis) or leasing the equipment listed in Schedule “E” attached hereto and incorporated herein by this reference (“Equipment”) for the sole use (and, in the future, at the sole request of OWNER) (solely in accordance with the Property Budget). MANAGER agrees that when any
such Equipment shall have been fully purchased and paid for, MANAGER shall immediately transfer such Equipment to OWNER. However, if the Term of this Agreement is terminated, for any reason, by either party prior to the then current date for expiration of the Term (as determined in accordance with Paragraph 2 hereof), the OWNER shall assume all liabilities and obligations of MANAGER under the then existing leases or installment sale contracts made in accordance with the terms of this Agreement for the Equipment, subject to the prior approval of the lessor(s) thereunder, in which cases MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in all such Equipment to OWNER. In the event any such lessor will not approve any such assignment, then OWNER, at its option, shall either (i) purchase the applicable Equipment, whereupon OWNER shall pay to the vendor or lessor of the applicable Equipment an amount equal to the full unamortized cost of all Equipment that is required to purchase the Equipment (MANAGER represents and warrants that MANAGER has the right under the agreements with such vendors and lessors with respect to all Equipment to purchase the Equipment in such event on terms that upon written request, MANAGER will fully and accurately disclose to OWNER, and MANAGER agrees that it has fully and accurately disclosed to OWNER prior to the date hereof all such rights under all existing agreements), including but not limited to applicable sales and property taxes, termination fees, registration fees, interest, transfer fees, acquisition fees and any applicable residual or end value fees and, in such event, MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in such Equipment to OWNER or (ii) have MANAGER turn in the applicable Equipment provided that OWNER shall pay any fees, costs or other charges incurred as a result of returning the applicable Equipment under the agreements. Such transfer to OWNER shall occur, if it all, no later than the last day that MANAGER provides parking management services to the OWNER as to the Parking Facility hereunder.

22. General.

a. Assignment. MANAGER may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of OWNER. MANAGER hereby represents and warrants that the direct and indirect ownership and Control of MANAGER as of the date hereof is shown on Schedule “F” annexed hereto and made a part hereof and is true and complete in all respects. MANAGER shall notify OWNER in writing of the occurrence of any Property Manager Change of Control with respect to MANAGER, within ten (10) days following such occurrence. In addition, from time to time, MANAGER shall execute a certification making the same representation and warranty as to its direct and indirect ownership and Control, updated as of the date of such certification, promptly upon OWNER’s written request therefor. OWNER may assign its rights and obligations under this Agreement at any time, without the consent of MANAGER; provided however, that OWNER shall use reasonable efforts to notify MANAGER in writing of any such assignment at least thirty (30) days in advance thereof and any transfer or assignment of this Agreement by OWNER shall include an express assumption by the transferee or assignee of OWNER’s obligations hereunder. For purposes of this Agreement, any change in or any sale, conveyance, transfer or other disposition of, whether voluntarily, involuntarily or otherwise, the direct or indirect ownership interests in OWNER shall not be deemed to be an assignment hereunder.

b. Binding Effect. It is understood that this Agreement shall be binding upon and inure to the benefits of the heirs, personal representatives, successors and permitted assigns of the parties.

c. No Property Interest. Notwithstanding all provisions of this Agreement, it is mutually understood and agreed between the parties hereto, that this Agreement shall not in any way be construed to be a lease, but is merely a recitation of contract provisions. This Agreement
shall not be recorded in the public records of any jurisdiction. This Agreement shall not create an interest in real property in favor of MANAGER and nothing herein shall create an agency coupled with an interest; MANAGER expressly waives any such interests.

d. **Notices.** Notice to both OWNER and MANAGER shall be sent to the following addresses (including via electronic mail or facsimile number):

| If to OWNER | c/o Och-Ziff Real Estate  
|             | 9 West 57th Street, 40th Floor  
|             | New York, New York 10019  
|             | Attention: Steven E. Orbuch  
|             | Facsimile: (212) 790-0005  
|             | E-mail: sorbuch@ozcap.com  
| with a copy to: | Bryan Cave LLP  
|             | 1290 Avenue of the Americas  
|             | New York, New York 10104  
|             | Attention: Ronald Emanuel, Esq.  
|             | Facsimile: (212) 541-1434  
|             | E-mail: rbemanuel@bryancave.com  
| If to Manager | Chief Administrative Officer  
|             | Pro Park, Inc.  
|             | 1 Union Place  
|             | Hartford, CT 06103  
|             | Facsimile: N/A  
|             | E-mail: dave.schmid@propark.com  
| With a copy to: | Hinckley Allen & Snyder, LLP  
|             | 20 Church Street  
|             | 18th floor  
|             | Hartford, Connecticut 06103  
|             | Attention: William S. Fish, Jr.  
|             | E-mail: wfish@hinckleyallen.com  

Each such notice shall be effective (a) if given by facsimile or electronic mail, upon transmission, (b) if given by mail, on the fourth (4th) day after deposit in the mails (certified or registered return receipt requested) addressed as aforesaid and (c) if given by overnight courier service or by hand delivery, when received and (d) if given by any other means, when delivered to and receipted for at the address of such OWNER or MANAGER specified as aforesaid.

e. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State in which the Parking Facility is located.

f. **Modifications.** No modification, amendment, supplement to or waiver of this Agreement or any Schedule hereunder, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties.

g. **Waiver.** A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.
h. **Complete Agreement.** This Agreement and each Schedule attached hereto set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by both parties.

i. **Severability.** In the event any one or more of the provisions of this Agreement or of any Schedule is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.

j. **Limited Agent.** Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between OWNER, its successors or assigns, and MANAGER, its successors or assigns. MANAGER shall act as an independent contractor with the limited powers of agency expressly authorized by OWNER in this Agreement (which agency shall not be coupled with an interest) and, in exercising such powers of agency, MANAGER shall be an agent of OWNER solely for the purpose of performing the applicable management functions for OWNER within the scope of this Agreement. This Agreement does not create in MANAGER any interest in the Parking Facility, including, without limitation, any of the fixtures or equipment therein.

k. **Non-Recourse.** MANAGER shall look only to OWNER’s interest in the Parking Facility for the satisfaction of MANAGER’s remedies or for the collection of a judgment (or other judicial process) requiring the payment of money by OWNER in the event of any default by OWNER (or any other claim) hereunder, and no other property or assets of OWNER or its direct or indirect members, partners, officers, directors, shareholders or principals, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of MANAGER’s remedies under or with respect to this Agreement.

l. **Rules of Construction.** Whenever pursuant to this Agreement, OWNER exercises any right given to it to approve or disapprove or to provide or withhold consent, or any arrangement or term is to be satisfactory or acceptable to OWNER, all such decisions, directions and determinations made by OWNER shall be in the sole and absolute discretion of OWNER, except as otherwise expressly provided for in this Agreement, and shall be final and conclusive.

m. **Force Majeure.** Neither party shall be liable for any delay or default in rendering service hereunder where occasioned by any cause beyond its reasonable control; including, but not limited to: armed conflict or economic dislocation resulting therefrom; strikes; civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fires, floods, earthquakes and any other natural disasters; provided, however, that the party whose performance is being interrupted shall provide reasonably prompt notice to the other party.

n. **Attorney’s Fees.** If litigation is commenced by either party hereto against the other to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover all of its costs and other expenses of such litigation, including reasonable attorney’s fees. The amount so allowed, as attorney’s fees and costs shall be charged to the losing party as costs of suit. The provision of this Paragraph shall survive the expiration or earlier termination of this Agreement.

o. **TRIAL BY JURY WAIVER.** EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY OF ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PROVISIONS OF THIS
PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

p. **PUNITIVE DAMAGES WAIVER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, IN ANY ARBITRATION, LAW SUIT, LEGAL ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING FORM OR RELATING OT THIS AGREEMENT OR THE PARKING FACILITY, THE PARTIES UNCONDITIONALLY AND IRREVOCABLY WAIVE AND DISCLAIM, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ALL RIGHTS TO ANY PUNITIVE, EXEMPLARY, OR TREBLE DAMAGES, AND ACKNOWLEDGE AND AGREE THAT THE RIGHTS AND REMEDIES IN THIS AGREEMENT, AND ALL OTHER RIGHTS AND REMEDIES AT LAW AND IN EQUITY, WILL BE ADEQUATE IN ALL CIRCUMSTANCES FOR ANY CLAIMS THE PARTIES MIGHT HAVE WITH RESPECT THERETO. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

q. **Further Assurance: Financing Documents:** The parties hereto shall do and procure to be done all such acts, matters and things and shall execute and deliver all such documents and instruments as shall be reasonably required to enable the parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement. MANAGER shall promptly execute any customary assignment, subordination, estoppel certificate or other agreement required by any lender providing financing as to the Parking Facility. MANAGER agrees to and does hereby subordinate all of its right, title and interest in, to and under this Agreement, including without limitation, any present and future right to receive payments under this Agreement, to all liens and rights of any lender under any financing and any and all documents executed and delivered in connection therewith.

r. **Representations.** MANAGER hereby represents, warrants and covenants that:

(1) MANAGER has been duly organized and is validly existing and in good standing with the requisite power and authority to transact the business in which it is now engaged. MANAGER is duly qualified to do business and is in good standing in the jurisdiction of its incorporation and in the jurisdiction where the Parking Facility is located. MANAGER possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to transact the businesses in which it is now engaged.

(2) MANAGER has all requisite power and authority to enter into this Agreement, and to perform their respective obligations hereunder. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of MANAGER. This Agreement has been duly executed and delivered by MANAGER and this Agreement constitutes the legal, valid and binding obligation of MANAGER, enforceable against MANAGER in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(3) MANAGER has secured prior to the Effective Date and thereafter maintain at all times during the Term of this Agreement all necessary licenses, permits and authorizations to enable MANAGER and its agents and employees to perform all of their duties and obligations under this Agreement and shall notify OWNER should any such license, permit
or authorization no longer be in effect or in good standing promptly (but, in any event, within 48 hours of MANAGER learning of the same).

(4)(A) MANAGER is not: (A) currently listed on the Specially Designated Nationals List ("SDN List") or any similar list maintained by the Office of Foreign Assets Control ("OFAC") at the United States Department of the Treasury; (B) owned or controlled, directly or indirectly, by a person or entity who is listed on the SDN List or any similar list maintained by OFAC; (C) a person or entity with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order; or (D) incorporated in any country subject to U.S. country-based economic sanctions whereby conducting transactions with that person or entity would be in violation of any applicable law, rule, or regulation. MANAGER has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

(B) MANAGER shall comply with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including, without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010).

(C) MANAGER shall immediately notify OWNER in writing if it becomes aware that any of the foregoing representations, warranties, or covenants are no longer true or have been breached or if MANAGER has a reasonable basis to believe that they may no longer be true or have been breached.

The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

s. Confidentiality. To the maximum extent permitted by applicable law, MANAGER shall keep confidential the books of account and all other records and documents relating to or reflecting the operation of the Parking Facility and the information therein (including, without limitation, marketing plans, customer lists, pricing information, projections, budgets and reports) for the sole and exclusive benefit of OWNER and, without the prior written consent of OWNER, MANAGER shall not disclose any information contained therein or relating to the operation of the Parking Facility in any respect to any person or entity, other than OWNER and OWNER's employees, representatives, accountants, lawyers and other professionals as directed by OWNER. MANAGER may, however, disclose such documents and information to those of its directors, officers, employees, agents and advisors who need to know such information in connection with MANAGER’s fulfillment of its duties and obligations under this Agreement; provided that (a) prior to such disclosure, MANAGER agrees to inform such persons of the confidential nature of such documents and information and (b) MANAGER shall use reasonable efforts to cause such persons to keep such documents and information confidential and shall be fully responsible and liable for the consequences of their failure to do so. In addition, notwithstanding anything to the contrary contained in this Agreement, in no event will MANAGER make any announcement or disclosure referencing the names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.
t. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same original. Such executed counterparts may be delivered by facsimile, electronic mail or portable document format which, in each case, upon transmission to the other party, shall have the same force and effect as delivery of the original signed counterpart.

[Signature Page to Immediately Follow.]
IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, have executed this Agreement as of the date first written above.

MANAGER:

PRO PARK, INC., a Connecticut corporation

By: __________________________
   Name: ________________________
   Title: _________________________
   Date: _________________________

OWNER:

OP TERRA OWNER LLC, a Delaware limited liability company

By: __________________________
   Name: ________________________
   Title: _________________________
   Date: _________________________
SCHEDULE “A”  
EXCLUDED EXPENSES OF MANAGER

1. Salaries, travel and accommodation expenses of all executive personnel of MANAGER unless specifically requested by Owner (but such expenses for other employees shall be subject to the applicable Property Budget).

2. General and administrative expenses of MANAGER not allocable directly to operations at the Parking Facility (including, without limitation, expenses for office equipment or office supplies) excluding any and all legal fees associated with MANAGER’s hiring and firing the employees and/or MANAGER’s development and administration of the employment policies.

3. Personal property taxes of MANAGER’s property not used exclusively for the Parking Facility.

4. Settlements, payments or awards on claims arising from the misconduct of MANAGER’s employees, servants or agents.

5. Any income taxes related to fees or other amounts paid to MANAGER.

6. Costs for which MANAGER is liable under Paragraph 16.a of the Agreement.

7. Political or charitable contributions by MANAGER.

8. Costs of comprehensive crime insurance or fidelity bonds purchased by MANAGER for its own account and the cost of the insurance described in Paragraph 15.g, Paragraph 15.h and Paragraph 15.h of the Agreement.

10. Advertising expenses of MANAGER, except to the extent the advertising is of and for the Parking Facility and set forth in the Property Budget.

11. Any other costs and expenses not set forth in the Property Budget or otherwise approved by OWNER (in writing and in accordance with the JV Agreement) or which MANAGER is expressly authorized to incur under the terms of this Agreement.
SCHEDULE “B”
EXCLUDED EXPENSES OF OWNER

1. Real and personal property taxes of OWNER’s property (if OWNER elects to pay the same directly).
2. Debt service with respect to land, building and equipment (if OWNER elects to pay the same directly).
4. Costs of legal and auditing fees of OWNER.
5. Salaries and wages of all employees of OWNER.
6. Costs incurred by OWNER in the supervision of obligations of MANAGER.
7. Costs for which OWNER is liable under Paragraph 16.b of the Agreement.
8. Costs of premiums for fire and extended coverage insurance (if OWNER elects to pay the same directly).
SCHEDULE “C”
PARKING FACILITY AGREEMENTS

Any and all ground or underlying leases, space leases, license agreements, parking agreements, licenses (including, without limitation, any license or trademark agreements governing the use of the intellectual property of others at the Parking Facility), equipment leases, service contracts, maintenance agreements, construction contracts, utility contracts, any covenants, restrictions, easements and similar instruments, and notes and other instruments of indebtedness with regard to the Parking Facility or OWNER, together with any mortgages, deeds of trust, loan agreements, credit agreements, security instruments, environmental indemnities or other loan documents executed in connection therewith, to the extent affecting the Parking Facility or any part thereof, including, without limitations, the following:

AGREEMENTS TO WHICH OWNER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Owner Parking Facility Agreements”):

1. Agreement, dated January 10, 2008, by and among Omni Jacksonville Corporation and OWNER (as successor in interest to Ventnor Avenue, LLC, Bechard, LLC, Pensco Trust RE Investments, LLC, DJPM Investments, LLC and Propark, Inc.)

AGREEMENTS TO WHICH MANAGER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Manager Parking Facility Agreements”):

1. Services Agreement, dated December 30, 2013, by and between Propark, Inc. and Omni Hotel and Jacksonville Jaguars
2. Services Agreement, dated March 23, 2013, by and between Propark, Inc. and Jacksonville Jaguars

MANAGER hereby acknowledges that it has complete copies of all Owner Parking Facility Agreements, as of the date hereof.
SCHEDULE “D”
PARKING RATES AND PERMITTED DISCOUNT RATES

Current Posted Rates

- Daily Rates $1 per 30 minutes
  $2 per additional 30 minutes
  $10 max

- Early Bird Rate $5 flat rate (In by 8AM, out by 6PM (Monday – Friday))

- Early Bird Rate $6 flat rate (In by 9AM, out by 6PM (Monday – Friday))

Monthly Rates

- Individual Rate $80 / Month

- Group Rate $80 / Month

- Omni Employees $70 / Month

Monthly Parkers

The following is a list of monthly parking clients, including current applicable parking rates:

- All parkers are billed on the 20th of each month for the upcoming month
- Payments are due the 1st of the month, and considered late with a fee after the 5th

Individuals

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**Omni Individuals**

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**Group Monthly Parking Rates**

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Parking Facility Hours:

The parking facility is currently open 24 hours per day, 7 days per week. However, the facility is not staffed 24x7 (average 40-45 hours per week). The parking facility is staffed for events, primarily on Friday and Saturdays.

---

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<tr>
<td>chelby, borden</td>
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</tr>
<tr>
<td>kim, hopkin</td>
<td>310</td>
<td>$80.00</td>
</tr>
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</table>

**Omni Employee Discount**

Omni Employee Discount given on an individual basis at $5 per day using a clamshell validator that validates right onto the magnetic strip ticket is dispensed to the parker from the entry ticket dispenser.
SCHEDULE “E”
MANAGER-HELD FURNITURE, FIXTURES AND EQUIPMENT

None.
Current Management Team:  
John Schmid, Chief Executive Officer  
Richard DiPietro, President  
Tim Willey, Chief Financial Officer  
Patrick Boeshans, Chief Administrative Officer  
David Schmid, Chief Investment Officer  

PARKING MANAGEMENT AGREEMENT
(Z PARK)

THIS PARKING MANAGEMENT AGREEMENT ("Agreement") entered into as of this ________ day of April, 2015 (the “Effective Date”) by and between OP Z PARKING OWNER LLC, a Delaware limited liability company (herein referred to as "OWNER") and PRO PARK, INC., a Connecticut corporation and having its place of business at One Union Place, Hartford, Connecticut 06103 (herein referred to as "MANAGER"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in that certain Amended and Restated Limited Liability Company Agreement of OP Holdings JV LLC, a Delaware limited liability company (the “JV”), dated as of the Effective Date, by and between OP Holdings JV Member LLC, a Delaware limited liability company (“OP Holdings”), and Parking Acquisition Ventures, LLC, a Delaware limited liability company (“PAV”), (as may be further amended, restated, supplemented and/or otherwise modified, the “JV Agreement”). Nothing herein shall modify or amend the terms of the JV Agreement, including, without limitation, Section 10.1 thereof, and in the event of any conflict between the JV Agreement and this Agreement, the JV Agreement shall control.

WITNESSETH:

1. Agreement Purpose.

a. OWNER hereby contracts with MANAGER under the terms, conditions, and provisions set forth in this Agreement for MANAGER to operate a certain parking facility located at 3 International Drive, East Granby, Connecticut, commonly known as Z Park, which hereinafter will be referred to as the (“Parking Facility”). OWNER hereby authorizes MANAGER to exercise such powers with respect to the Parking Facility as may be necessary for the performance of MANAGER’s obligations under the terms of this Agreement (subject in all cases to the Property Budget), and MANAGER accepts such appointment under the terms and conditions hereinafter set forth.

b. MANAGER shall have no right or authority, expressed or implied, to commit or otherwise obligate OWNER in any manner whatsoever except to the extent specifically provided herein, or to the extent necessary to carry out or implement its obligations under the terms and provisions of this Agreement. MANAGER shall not hold itself out as having authority to act on behalf of OWNER in any manner which is beyond the scope of this Agreement.

c. MANAGER shall perform, or shall retain and cause other appropriate persons to perform, its duties hereunder in a diligent manner consistent with good industry standards and in accordance with the terms and conditions of this Agreement. MANAGER, on behalf of OWNER, shall implement, or cause to be implemented, the written decisions of OWNER and shall conduct the ordinary and usual business affairs of OWNER, to the extent and as provided in this Agreement. MANAGER shall at all times conform to the reasonable written policies, programs and instructions established by OWNER in accordance with the JV Agreement and the scope of MANAGER’s authority shall be limited to said policies, programs and instructions.

d. MANAGER shall, in keeping with the authority granted to MANAGER herein, keep OWNER reasonably informed regarding the Parking Facility, and abide by those reasonable written standards and instructions which OWNER may issue from time to time in accordance with the JV Agreement regarding the operation of the Parking Facility.

e. MANAGER (on behalf of itself and its Affiliates) acknowledges and agrees that only OP Holdings (in its capacity as “MANAGER” of the JV (the sole owner, directly or indirectly, of
OWNER), on behalf of OWNER, shall have the right to enforce OWNER’s rights and remedies under this Agreement. OWNER (on behalf of itself and its Affiliates) acknowledges and agrees that PAV (in its capacity as “ADMINISTRATOR” of the JV) also has certain day-to-day responsibilities to act on behalf of OWNER pursuant and subject to the terms of the JV Agreement.

2. Term. The term of this Agreement shall commence the date first written above and continue for a period of five (5) years thereafter (“Term”). Upon expiration of the Term, provided there are not unresolved disputes or uncured defaults and this Agreement has not been terminated, this Agreement shall be automatically extended upon the same terms and conditions, covenants and provisions as set forth herein, for additional and consecutive one (1) year extension terms unless and until written notice of non-renewal is given by either party no less than ninety (90) days prior to the expiration of the initial Term or then current extension term. During this time, either party may terminate this Agreement as provided in Paragraph 3 below.

3. Termination.

a. Either party may terminate this Agreement under the following circumstances:

i. Either party may terminate this Agreement in the event the other party files a voluntary petition or similar pleading for bankruptcy, insolvency, receivership, becomes insolvent, or makes an assignment for the benefit of creditors, with such termination to be effective upon giving notice.

ii. Upon the breach by the other party of any covenant, term or condition hereof, provided the breaching party first receives written notice of such breach and fails to remedy same within thirty (30) days of such notice.

b. OWNER shall have the right to terminate this Agreement immediately upon the occurrence of any of the following:

i. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility to a bona-fide, non-related party; provided, however, that such sale, transfer, assignment or conveyance by OWNER shall have been caused in a manner that complies with the provisions of Section 4.9 of the JV Agreement, if and to the extent such provisions apply to such sale, transfer, assignment or conveyance by OWNER.

ii. The expiration or earlier termination of the Ground Lease for any reason

iii. In the event any act or omission of MANAGER causes a breach by OWNER under the Ground Lease or any financing documents, subject in each case to all applicable cure rights (if any).

iv. In the event of the misappropriation, theft or fraud by MANAGER or any employee of MANAGER; provided, however, that upon written notice to MANAGER that one of its employees has perpetrated misappropriation, theft or fraud without MANAGER’S knowledge, then MANAGER shall have a thirty (30) day right to investigate and cure (such cure including reimbursement in full for all amounts stolen by such employee of MANAGER).
v. In the event of the gross negligence or willful misconduct of MANAGER in connection with its performance of its obligations under this Agreement, provided MANAGER first receives written notice of such breach and fails to remedy same within twenty (20) days of such notice.

vi. Upon thirty (30) days’ notice to MANAGER, in the event of any (A) damage to the Parking Facility or any portion thereof by fire or other casualty that, in OWNER’s discretion, reasonably may be expected to preclude the normal operations of the Parking Facility, (B) taking of the Parking Facility which results in the reduction or restriction of access to the Parking Facility or the failure of the Parking Facility, or any portion thereof, to remain in compliance with any applicable laws or (C) loss of any operating permit or other governmental approval that renders the Parking Facility inoperable as a parking facility; and, in any such case, either (1) the foregoing causes an acceleration of any senior bank debt relating to the Parking Facility or (2) as a result thereof, OWNER decides to cease use of the Parking Facility for parking operations because OWNER has determined that reopening is either not economically feasible or not legally possible;

vii. The sale, transfer, assignment or conveyance by OWNER of the Parking Facility in connection with a foreclosure of any mortgage or deed of trust on the Parking Facility.

viii. In the event MANAGER shall intentionally fail to fully and faithfully deposit all the Receipts from the operation of the Parking Facility.

ix. The occurrence of an “Administrator Default” or “Material Administrator Default” under the JV Agreement.

x. Upon thirty (30) days’ notice to MANAGER, in the event that a “Property Manager Change of Control” under the JV Agreement occurs with respect to MANAGER.

In the event of any of the foregoing occurrences, OWNER shall have the right to forthwith terminate this Agreement, with such termination to be effective upon giving notice, and regain immediate possession of the Parking Facility.

c. Upon any termination of this Agreement, the Term of this Agreement shall be deemed to have expired on the date of such termination.

4. Annual Budget. MANAGER shall cooperate with PAV (acting in its capacity as “Administrator” of the JV) to prepare and present to OP Holdings (in its capacity as “MANAGER” of the JV) a proposed annual operating budget for the OWNER and the Parking Facility (as applicable) for each applicable Fiscal Year, in each case in accordance with Section 4.4 of the JV Agreement. For the avoidance of doubt, the adoption of any operating budget (and any modifications or revisions thereto) for the OWNER or the Parking Facility shall require the express written approval of OP Holdings (acting in its capacity as “MANAGER” of the JV), and to the extent required, the approval of the lender(s) under a financing, in order to be deemed the “Property Budget” for a Fiscal Year. Notwithstanding anything to the contrary contained herein, the applicable terms and provisions of the JV Agreement shall govern and control the preparation, approval, adoption, modification, revision and all other matters relating to the Property Budget. The adoption of the Property Budget in accordance with Section 4.4 of the JV Agreement (including any “deemed” Property Budget pursuant to Section 4.4(c) of the JV Agreement) shall constitute an authorization for MANAGER to incur charges to manage and operate the Parking Facility solely in accordance with this Agreement and the Property Budget. Subject to any other terms and limitations set forth in the JV Agreement MANAGER may not (i) cause or permit any line item in a then current Property Budget to be exceeded by more than ten percent (10%) without the consent of the
OWNERS (provided, however, that notwithstanding the foregoing, MANAGER shall be permitted (without the approval of OWNER) to exceed any such line item by an amount that is less than Fifty Thousand Dollars ($50,000)) or (ii) cause or permit the expenses in a then current Property Budget to be exceeded by more than five percent (5%) without the consent of the OWNER, but, in any of the foregoing cases only to the extent the Administrator under the JV Agreement has equal or greater authority to exceed the Property Budget under the terms thereof (it being understood that MANAGER shall not have authority that exceeds the authority of the Administrator under the JV Agreement). Any such authorization to incur charges shall be limited to amounts specifically set forth within the Property Budget.

5. Definition of Operating Expenses.

a. “Operating Expenses” shall mean and include any and all costs and expenses of maintaining, operating, conducting, insuring and supervising the operation of the Parking Facility, including, without limitation, any expenses of ancillary services provided to customers at the Parking Facility (such as a car wash and shuttle service) and the following, without restricting the generality of the foregoing:

i. Wages of personnel assigned, budgeted or approved to the Parking Facility including supervisors, parking attendants, maintenance personnel, cashiers, clerical and audit staff. The term wages (“Wages”) as used herein includes monetary fringe benefits (excluding severance to the extent not required by any statute) such as health insurance, pension costs, and statutorily required payments for workers’ compensation insurance, unemployment insurance and social security;

ii. Business-related telephone and data expenses and utility expenses of the Parking Facility;

iii. Business taxes and airport access fees and assessments (if any), other than franchise or income taxes on income or profits;

iv. License and permit costs and expenses, business license fees, development assessments and fees, impact fees, surcharges, and payments in lieu of taxes;

v. Sales taxes, excise taxes, gross receipts taxes, parking taxes, airport-related taxes, transaction privilege taxes, use taxes, occupancy taxes, gross receipts taxes (excluding income and similar taxes), parking taxes and similar impositions and airport access charges that collected directly from customers or included as part of the sales price of any goods or services, including, without limitation, affording a parking space or shuttle service, whether remitted to the appropriate taxing authorities or otherwise imposed by the state, county, and/or municipality where the Parking Facility is located;

vi. Services charges, interest and collection expenses imposed for sales on credit and debit cards and other charges or fees paid from revenues of the Parking Facility to credit card companies, banks and clearinghouses, and similar organizations resulting from use of credit or debit cards or other payment methods used by customers;

vii. Advertising, marketing and promotion costs including any expenses related to any website for the Parking Facility approved by OWNER and all other costs and expenses of any advertising, business promotion or personnel training program of the Parking Facility that directly benefits the Parking Facility;

viii. The costs of insurance required of the MANAGER in this Agreement;

ix. The costs of all operating supplies and sundry items such as, but not limited to uniforms, tickets, parking office and operating supplies, and janitorial supplies, and the maintenance or replacement of same;

x. Payroll processing fees, bank charges, credit card processing fees, secret shopper fees, tenant amenity program fees and administrative and bookkeeping fees including monthly parker and accounts payable processing;
xi. Utility expenses, fuel costs, toll costs and other expenses for operating the Equipment, shuttles and other property used in connection with Parking Facility operations and normal maintenance and repairs of the Parking Facility, GPS system (if any) and any shuttle vehicle(s) including but not limited to, power sweeping, power washing, maintenance equipment repair, lighting repairs & bulb replacement, Fire Control System maintenance, snow removal, HVAC and elevator maintenance, repainting of stall markings, replacement or repair of signs and parking access and revenue control equipment;

xii. Legal or audit charges and other routine professional fees directly attributable to the operation of the Parking Facility other than those services performed by the staff of OWNER or MANAGER, if approved in advance by OWNER, and any costs to store the books and records related to the Parking Facility pursuant to Paragraph 9;

xiii. The cost of special audits to be performed from time to time by MANAGER’s staff auditor for the mutual benefit of OWNER and MANAGER; provided, however, that the time and manner of the taking of the audit is approved in writing by OWNER in advance. Costs qualifying as audit expenses shall be limited to a mutually agreed upon per diem rate and the actual out-of-pocket expenses of the auditor during the period of an approved special audit;

xiv. Debt service of loans and rent and other charges under lease financing for the acquisition and use of approved parking access and revenue control equipment, operating equipment, and/or shuttle vehicles (if applicable), including, without limitation, under any equipment leases for vehicle and personal property which would constitute “operating leases” under GAAP, consistently applied;

xv. Command Center Fees;

xvi. The cost of insurance;

xvii. Technology costs;

xviii. All rent and other charges payable under any ground or underlying leases with third parties affecting the Parking Facility;

xix. Amounts payable under any covenants or assessments or other charges for use of shared or offsite facilities or upkeep of the same related to the Parking Facility;

xx. Out-of-pocket expenses incurred for the account of or in connection with the operation of the Parking Facility and all costs and expenses incurred in connection with the maintenance and repair of the Parking Facility;

xxi. Costs of compliance with law with respect to any physical or operational conditions;

xxii. Real estate taxes and other similar assessments and impositions;

xxiii. Payment of claims for damage, personal injury, or loss of personal property (including, without limitation, auto damage) except to the extent such claim is an Excluded Expense as defined below;

xxiv. Payment of any deductible amount of insurance claims settlement and payment of claims in excess of policy limits except to the extent such claim is an Excluded Expense as defined below; and

xxv. Management Fees payable pursuant to Paragraph 8 below.

For clarity, Operating Expenses shall include only direct property level costs and expenses with respect to the applicable Property and shall not in any event include any mark-up or other similar charge of the MANAGER or any of its Affiliates. To the extent OWNER approves Operating Expenses that MANAGER incurs on a shared basis with other parking operations that it owns or manages, such Operating Expenses shall be equitably apportioned between the Parking Facility and such other operations (and shall provide OWNER, upon request, with reasonable back-up and details concerning the costs and how such apportionment was made) and in no event shall MANAGER recover reimbursements from OWNER and others with respect to the apportioned charges that exceed the actual amount of the apportioned charges.
Notwithstanding the foregoing, Operating Expenses shall not include multiple audit charges in a Fiscal Year unless there is a material finding in such audit and then only to the extent that such audit charges are reasonable.

As used herein, “Command Center Fees” shall mean a fixed amount of $18,000 per Fiscal Year, charged in equal monthly installments of $1,500 (as prorated for any fractional period).

b. OWNER shall have the right, from time to time, as OWNER shall determine, to pay any Operating Expenses directly, in lieu of having MANAGER handle incurring and paying same, but such Operating Expenses shall be Operating Expenses for purposes of Paragraph 8 below, even though OWNER, as opposed to MANAGER, is paying such expenses.

c. “Excluded Expenses” are those designated expenses arising from the operation of the Parking Facility which shall not be deemed Operating Expenses and which shall therefore be borne by the respective parties. The Excluded Expenses of the MANAGER are those set forth in Schedule “A” to this Agreement and incorporated by reference herein. The Excluded Expenses of OWNER are set forth in Schedule “B” attached to this Agreement and incorporated by reference herein. In the event of any conflict between Paragraph 5 and Schedules “A” and “B,” Schedules “A” and “B” shall control.

6. Additional Services. In addition to the daily operation of the Parking Facility, MANAGER’s services shall include consulting and advisory services to OWNER concerning the Parking Facility. These services shall be provided without additional charge or fee except for reimbursement of pre-approved out of pocket expenses such as postage, printing and supply charges, mileage and phone charges in connection with the performance of services requested or required by OWNER, and any other similar out of pocket expenses. MANAGER shall document and support such expenses by cash receipts or other documentary proof of payment.

7. Collection of Receipts. MANAGER covenants that it will collect or cause to be collected all fees, charges and other monies derived from the Parking Facility. At OWNER’s request, MANAGER shall open and maintain a bank account (the “Operating Account”) in accordance with this Paragraph 7. OWNER shall have the sole right to designate persons as authorized signatories on the Operating Account and such authorized signatories shall have sole authority to make disbursements therefrom; provided however that OWNER will arrange for an authorized signatory of MANAGER to have signature authority to draw funds on the Operating Account without additional signatures from other parties unless and until any breach of this Agreement allegedly committed by MANAGER occurs, a termination of this Agreement occurs or any misappropriation, theft or fraud allegedly committed by such signatory occurs, it being understood and agreed that MANAGER shall not be required to advance any of its own funds for the Operating Expenses of the Parking Facility and it shall not be a default by MANAGER that it fails to pay an Operating Expense hereunder to the extent such failure is caused by OWNER’s failure to furnish MANAGER with funds necessary for the discharge thereof. The Operating Account (a) shall be a trust account for the benefit of OWNER, (b) shall explicitly state in the name of such Operating Account that such Operating Account is held in trust for OWNER and (c) shall not be commingled with other funds held by MANAGER (even if such other funds relate to projects owned by OWNER or any Affiliate of OWNER). At all times the funds deposited in the Operating Account shall be the sole and exclusive property of OWNER. OWNER shall have the sole and exclusive right to make any decision or election with respect to the establishment, maintenance and closing of the Operating Account (and any other account established with respect to OWNER and/or the Parking Facility). All fees, charges and other monies collected by MANAGER (the “Receipts”) shall be promptly deposited into the Operating Account. MANAGER shall thereafter, on or before the twentieth (20th) day of the month, disperse the Receipts for each prior month’s operation as follows:
a. MANAGER shall pay all Operating Expenses as defined in Paragraph 5.a, subject to and in compliance with the Property Budget (consistent with the expenses contemplated in the applicable provisions of the JV Agreement concerning the Property Budget) and subject to OWNER exercising its rights under Paragraph 5.b.

b. MANAGER shall pay on behalf of OWNER, from Receipts it receives, all city and county and airport parking taxes and fees prior to the date such payment(s) become delinquent which may be due and owing in connection with the operation of the Parking Facility as a public parking facility.

c. MANAGER shall pay the Management Fee due MANAGER from the Receipts it receives in the amounts set forth in Paragraph 8 herein (subject in all cases to the Property Budget).

d. After payment of the amounts as directed in (a), (b) and (c) above, the balance of the Receipts from the Parking Facility shall be immediately paid to OWNER.

e. In the event any government-mandated employment cost (such as a required wage) is imposed, increased, adjusted or introduced with respect to work performed by MANAGER for OWNER, MANAGER will notify OWNER and add such cost, without markup, as an Operating Expense to the Property Budget, unless and until OWNER and MANAGER agree otherwise.

f. In the event of an emergency situation, MANAGER may add, without markup, as an Operating Expense to the Property Budget, costs and expenditures reasonably incurred by MANAGER where such cost or expenditure will prevent or mitigate (or is reasonably believed to prevent or mitigate) the injury or death to person or damage to property that OWNER or MANAGER may be liable for and, prior to incurring any such cost or expenditures, MANAGER is unable to contact OWNER to obtain OWNER’S approval. MANAGER shall contact and advise OWNER as soon as possible after the emergency situation and follow OWNER’S reasonable directions with respect thereto.

g. OWNER shall have reviewed and approved any revenue information submitted to any lessor under any ground or underlying lease or any governmental or airport authority, prior to submission.

h. Payment of claims for damage, personal injury, or loss of personal property shall be authorized by OWNER in writing, in advance, unless such payment is $500.00 or less in which case no authorization is required.

Except for the disbursements from the Operating Account made in accordance with this Agreement, the JV Agreement and the Property Budget, funds will be disbursed or transferred from the Operating Account solely as OWNER may from time to time direct in writing.

8. Payments to MANAGER.

a. For each Fiscal Year during the Term, MANAGER shall be entitled to receive an amount equal to twelve percent (12%) of the Operating Surplus for such Fiscal Year (“Management Fee”); the Management Fee will be prorated for partial Fiscal Years. MANAGER shall receive $2,883 at the end of each calendar month during the Term as an advance on such Management Fee. This amount will be prorated for partial months. The monthly payments to MANAGER hereunder
during any such Fiscal Year shall be subject to the determination of the actual Management Fee for such Fiscal Year pursuant to the annual reconciliation (the “Reconciliation”) in accordance with Paragraph 8.d below. The monthly advance amount paid during any such Fiscal Year is meant to serve as a reasonable estimate of the Management Fee for that Fiscal Year, and the amount of that monthly advance also may be adjusted by mutual agreement of the parties, each acting reasonably, from time to time to reasonably minimize adjustments during the Reconciliation.

b. For purposes of this Agreement, the following terms shall be given the following meanings:

i. “Gross Revenues” shall mean, for the applicable period in question during the Term, all parking revenues earned and received from the Parking Facility and all revenues earned and received from ancillary services provided to customers at the Parking Facility; provided, however, that notwithstanding the foregoing: (A) Gross Revenues shall not include the following: (1) gratuities to employees paid directly by a customer or other third party; (2) accounts receivable written off as uncollectible, except to the extent amounts are recovered by the sale thereof or otherwise; (3) proceeds of insurance (other than business interruption insurance after deducting therefrom all reasonable expenses incurred in the adjustment or collection thereof) or proceeds of awards received in condemnation (but excluding compensation received for loss of business to the extent attributable to the period in question); (4) proceeds of the sale or disposition of the Parking Facility or any capital assets or of the refinancing of, or loans with respect to, the Parking Facility; (5) any amounts reimbursed by OWNER to MANAGER or otherwise advanced and deposited into the Operating Account or other bank accounts used for the operation of the Parking Facility; (6) interest earned on any amounts deposited into any such bank accounts; any security deposits or similar deposits (except as applied or forfeited); (7) any rebates or credits received by MANAGER pursuant to any service contract or purchase order or other contracts relating to the Parking Facility; (8) any discounts, coupons or complimentary validations to customers from the stated or advertised rates or from any other rates charged to other customers; and (9) discounts, rebates, coupons and reimbursements and add-ons, including as required under any marketing partnerships and alliance; and (B) in computing Gross Revenues, payments for parking made in advance (advance validations) shall not be included unless and until the parking service is rendered and cancellation refunds shall reduce Gross Revenues in the period in which same is made. Gross Revenues shall include cash only and shall not include exchanges for services or barter. Any Gross Revenue from the Parking Facility collected directly by OWNER shall be accurately reported in writing to MANAGER. Gross Revenue shall include any cash refunds received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility including any tax refunds.

Gross Revenue shall not include any reserves and escrows that are existing or funded on or about the date hereof in connection with OWNER’s acquisition of the Parking Facility; provided, however, for purposes of calculating the Management Fee, when funds are drawn from any such reserves or escrows in the future and paid for the account of OWNER, those funds shall be Gross Revenue when so paid, but only to the extent that such funds are offset by the Operating Expenses paid for (or reimbursed) with such funds (which offset shall be deemed to have occurred in the same Fiscal Year for purpose of calculating the Management Fee). During the Term, for purposes of calculating the Management Fee, amounts paid from Gross Revenues to fund any other future reserves or escrows required by any financing documents with respect to the Parking Facility or otherwise required by OWNER or any Parking Facility Agreements shall not be Operating Expenses when reserved or escrowed; provided, however, for purposes of calculating the Management Fee, when funds are drawn
from any such future reserves or escrows, those funds shall not be Gross Revenue when paid or applied and, accordingly, Operating Expenses will not be offset if paid for (or reimbursed) with such funds or escrows, regardless of whether those funds were reserved or escrowed from Gross Revenue or OWNER’s capital, it being understood that if Gross Revenue is not sufficient to fund such reserves and escrows, the capital that OWNER provides to meet that funding or escrow obligation shall not be Gross Revenue. By way of example, if Gross Revenue in Year 1 is $1,000, Operating Expenses are $200 and 10% of Gross Revenue is put into a reserve, then the Operating Surplus will be $800. In Year 2, if Gross Revenue is again $1,000, Operating Expenses are $250 and no money is put into reserves, but the reserves from the prior year are used to pay $100 of Operating Expenses, the Operating Surplus will be $750.

ii. “Operating Surplus” shall mean for the Parking Facility, for the applicable period in question during the Term, an amount calculated on an cash basis, equal to the excess of Gross Revenues for such period over the Operating Expenses for such period; provided, however, Debt Service Expenses and the Management Fee for such period shall not be treated as Operating Expenses for purposes of calculating the Operating Surplus.

iii. “Debt Service Expenses” means all principal, interest and other similar charges paid to any lenders under any loan documents secured by a mortgage or deed of trust on OWNER’s interest in the land and improvements comprising the Parking Facility.

c. Within fifteen (15) days after the end of each calendar month of the Term (prorated for any fractional calendar month), MANAGER shall provide to OWNER a statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such calendar month and each of the components thereof, together with reasonable supporting evidence and any other information reasonably requested by OWNER. The Management Fee calculation shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

d. Within sixty (60) days after the end of each Fiscal Year occurring during the Term (prorated for any fractional Fiscal Year), MANAGER shall provide to OWNER a reconciliation statement, certified by MANAGER, showing the detailed calculation of the Management Fee for such Fiscal Year and each of the components thereof (calculated based on the Operating Surplus for that Fiscal Year), together with reasonable supporting evidence and any other information reasonably requested by OWNER, and showing the aggregate amount of Management Fees received by MANAGER and calculating any overpayment or underpayment of the Management Fee. MANAGER shall refund OWNER any overpayment by applying the amount thereof as a credit against the Management Fee next due or becoming due, provided if the Term expires or is terminated before the determination of the overpayment, then MANAGER shall refund any overpayment to OWNER with a payment accompanying the applicable reconciliation statement or if such overpayment has not been fully credited within ninety (90) days of the applicable reconciliation, MANAGER shall refund the outstanding amount of the overpayment to OWNER within ten (10) days following the end of such 90-day period. MANAGER shall collect any underpayment of Management Fee as a credit against the Operating Surplus for the succeeding month(s) until fully paid, provided if the Term expires or is terminated before the determination of the underpayment, OWNER shall pay MANAGER, within thirty (30) days after its receipt of the reconciliation statement or if such under payment has not been fully credited within ninety (90) days of the applicable reconciliation, OWNER shall pay the outstanding amount of the underpayment to MANAGER within ten (10) days following the end of such 90-day period. The
Management Fee, as reconciled hereunder, shall be subject to a prompt adjustment as between the parties based upon the results of any financial audits for the applicable. The provisions of this subparagraph shall survive the expiration of earlier termination of the Term.

9. **MANAGER’s Report.** MANAGER agrees that it will keep complete records of all receipts and disbursements (including Receipts) pertaining to the operation of the Parking Facility and such books of account and all other records relating to or reflecting the operation of the Parking Facility shall at all times be the property of OWNER, and such books and records shall be kept in a location or locations acceptable to OWNER and shall not be destroyed or discarded without the prior written approval of OWNER. On or before the twentieth (20th) day of each month (beginning with the second month of the Term of this Agreement) MANAGER shall render to the OWNER a complete accounting ("MANAGER’s Report") of all receipts and disbursements (including Receipts) for the preceding month and render payment to OWNER under Paragraph 7.d of this Agreement if any such payment is due. In addition, from time to time, upon OWNER’s reasonable request, MANAGER shall provide such other financial and operations reports concerning the Parking Facility, including, without limitation operating statements and revenue reports, as may be required by the terms of the Parking Facility Agreements, including, without limitation, any financing documents, operating permits and ground leases, and reasonably cooperate with operational reviews by lenders, auditors and prospective purchasers and investors, from time to time, as reasonably requested by OWNER. OWNER and/or its representative shall have the right to audit MANAGER’s books and records relating to the Parking Facility upon reasonable notice. OWNER also reserves the right to perform any audit tests relating to MANAGER’s activities, provided such audit tests are related to those activities performed by MANAGER for OWNER. Should OWNER discover either weaknesses in internal control or errors in record keeping, MANAGER shall promptly correct such audit discrepancies. On the twentieth (20th) day of the month following the termination or expiration of this Agreement MANAGER shall render to OWNER a preliminary MANAGER’s Report with the final MANAGER’s Report due within sixty (60) days following the termination or expiration date.

10. **Insufficiency of Receipts.** If the Receipts for any month are insufficient to make the payments required by Paragraph 7, subparagraphs (a), (b) and (c) above, OWNER agrees to pay into the Operating Account the amount of such deficit (solely in accordance with the Property Budget) within ten (10) days after receipt of MANAGER’s Report of Receipts.

11. **Standard of Operation.**

   a. MANAGER agrees to manage, market, operate and maintain the Parking Facility in an efficient and professional manner 24 hours per day, 7 days per week or during the hours otherwise directed by OWNER in writing, and in all cases in accordance with the Operating Standard. MANAGER further agrees that rates for parking in the Parking Facility shall be approved in advance by OWNER in writing; such rates shall not be varied without written approval of the OWNER. MANAGER, on behalf of OWNER, shall conduct the ordinary and usual business affairs of OWNER as provided in this Agreement and in accordance with the Property Budget. MANAGER agrees to perform its duties hereunder to manage, market, operate and maintain the Parking Facility in accordance with the standards set forth herein, and to comply with such written instructions and policies as may be reasonably requested by OWNER subject to the Property Budget. MANAGER will not incur any expenses or make any expenditure except as expressly permitted in or by this Agreement and the Property Budget. Notwithstanding anything to the contrary contained in this Agreement, MANAGER shall not be permitted to take any action or make any expenditure that would constitute a Major Action under the JV Agreement without in each case obtaining the prior written approval of OWNER therefor.
b. As used herein, “Operating Standard” shall mean: (i) (A) in a commercially reasonable, prudent, diligent and workmanlike manner, (ii) in accordance with the terms and conditions of this Agreement and in conformity with the then current Property Budget, (iii) in accordance with the terms and provisions of the Parking Facility Agreements (as hereinafter defined), to the extent that MANAGER shall have received or have in its possession or control a full and complete copy thereof, (iv) in accordance with the requirements of any carrier having insurance on the Parking Facility or any part thereof and (v) in accordance with such written standards for operations as OWNER and MANAGER may develop and approve, working cooperatively and in good faith, with respect to the Parking Facility. As used herein, “Parking Facility Agreements” shall mean those agreements listed and/or described on Schedule “C” attached hereto and incorporated herein by reference, as revised from time to time with the approval of Owner or at the direction of Owner. MANAGER shall act in a fiduciary capacity with respect to the handling and accounting of funds of OWNER.

c. MANAGER shall have no authority on behalf of OWNER to do, and shall not do, any of the following without OWNER’s written approval in each instance: (a) remove any fixed assets, supplies, furniture, fixtures, equipment, inventories or operating supplies from the Parking Facility, except in the ordinary course of business or in connection with the disposition of obsolete, worn-out damaged items; (b) borrow money, guaranty the debts of any third person, or mortgage, pledge, grant a security interest in or otherwise encumber all or any part of the Parking Facility; (c) make, execute or deliver on behalf of OWNER any assignment for the benefit of creditors, or any guaranty, indemnity bond, or surety bond; (d) confess any judgment on behalf of OWNER or the Parking Facility; (e) file a voluntary or consent to an involuntary bankruptcy with respect to the Parking Facility; (f) enter into, modify, or terminate any lease, agreement to lease, option to lease, sublease, license, parking agreement, operating agreement, management agreement or similar arrangement relating to any occupancy of space in the Parking Facility, except for parking agreements with customers in accordance with Paragraph 11.d below (for sake of clarification, use of the Parking Facility by a car rental company if the car rental company is conducting its car rental business on-site shall not be deemed a parking agreement for purposes of Paragraph 11.d); (g) select or retain a construction manager, general contractor, architect, managing agent, legal counsel, rental agent, accountant or insurance carrier for the Parking Facility, or the election as to whether and when to have an audit conducted of the fiscal affairs of the Parking Facility, provided however if OWNER requires MANAGER to retain professionals and the cost of such retention is not in the Property Budget, the Property Budget shall be increased to include such costs, with OWNER’s approval (and MANAGER shall not be required to retain such professionals if OWNER does not approve the cost thereof to do so); (h) institute or defend litigation on behalf of the Parking Facility; (i) enter into, amend or terminate any Parking Facility Agreement including any service contract, contract for goods or services of any kind or similar agreement, except in accordance with Paragraph 11.d below or in accordance with the Property Budget; (j) communicate with the media in any written or oral form which names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member, or otherwise communicate with media about any matter concerning the Parking Facility other than related to operations, incidents at or marketing of the Parking Facility; (k) write-off, forgive or otherwise defer any receivable or rent in excess of such amounts as may be instructed by OWNER (excluding any complimentary validations in accordance with guidelines approved by OWNER); (l) take any other action or decision outside the scope of the ordinary, day-to-day business affairs of the Parking Facility; or (m) operate or permit the operation of any business at the Parking Facility or the sale of any customer information or provision of services to customers of the Parking Facility (e.g., car washes, vending machines etc.), the revenues of which are not included in Receipts.
d. MANAGER shall negotiate and, subject to the limitations set forth in this Agreement and the Parking Facility Agreements, enter into on behalf of OWNER parking agreements with customers for parking vehicles at the Parking Facility, service contracts and leases for equipment reasonably necessary or desirable in connection with the operation of the Parking Facility in the usual course of business, including, without limitation, vehicle maintenance, utility services, maintenance, heating and air conditioning maintenance, internet, phone service, landscaping care and uniform laundry services. Unless approved in writing by OWNER, all such contracts that involve work or services being performed at the Parking Facility shall contain an obligation on the part of the vendor to indemnify OWNER to a customary and reasonable degree and require the vendor to obtain insurance coverages as required by any Parking Facility Agreements and as otherwise necessary to protect OWNER to the extent customary for similar contracts. In the case of any service contract for labor or materials, the nonpayment of which could give rise to lien rights on the part of the contracting party against the Parking Facility, then prior to and as a condition of any payment, MANAGER shall use reasonable efforts to obtain appropriate lien waivers at the time of execution and shall obtain appropriate lien waivers from the contracting party conditioned upon receipt of the specified payment and thereafter upon completion of the contract work, a full, unconditional lien waiver from the contracting party. MANAGER shall supervise and, utilizing the funds available or made available for this purpose pursuant to terms hereof, purchase, or arrange for the purchase of, all furniture, fixtures and equipment and personalty which in the normal course of business are necessary and proper to maintain the Parking Facility in accordance with the standards required hereunder and the Property Budget. Any refunds, rebates or credits received by MANAGER pursuant to any service contract or purchase order or other matters relating to the Parking Facility shall be Receipts and shall be deposited into the Operating Account or otherwise applied for the benefit of the Parking Facility, and the benefits of any discounts received by MANAGER pursuant thereto shall be applied for the benefit of the Parking Facility such that only the net amounts (after such discounts) payable thereunder shall be charged to the Parking Facility. Notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any service contracts, purchase orders or other contracts that may otherwise be permitted hereunder, unless (a) the expenditure thereunder is provided for in the Property Budget, and (b) such service contract, purchase order or contract is cancelable without penalty on not more than thirty (30) days’ notice, unless otherwise agreed by OWNER in writing. In addition, notwithstanding anything to the contrary contained in this Paragraph, MANAGER shall not enter into any parking agreements or contracts to permit the use of the parking spaces at the Parking Facility or to provide reduced or fixed rates for use of parking at the Parking Facility that might otherwise be permitted hereunder, unless (a) the parking rates thereunder are in accordance with the then current schedule for parking rates and permitted discounted rates for the Parking Facility that has been approved in writing by OWNER, from time to time (OWNER hereby approves (i) the parking rates and permitted discount rates and (ii) the hours of operation for the Parking Facilities set forth in Schedule “D” attached to this Agreement and incorporated by reference herein) and (b) such agreement or contract is cancelable without penalty on not more than thirty (30) days’ notice, without penalty, unless otherwise agreed by OWNER in writing. Insurance certificates and copies of service contracts shall be forwarded to OWNER promptly upon execution of the same or otherwise upon request and any entry into a service contract by MANAGER hereunder shall be signed by MANAGER as the disclosed agent of OWNER.

12. Permits and Licenses. MANAGER shall use commercially reasonable efforts to obtain under OWNER’s name (or its own, as applicable, if required under applicable law) and maintain, in full force and effect, throughout the Term hereof any and all permits and licenses required by any public or quasi-public authority for the use, maintenance and operation of the Parking Facility as a public parking facility in accordance with the Operating Standard.
13. **Relationship of Parties.** Nothing in this Agreement shall be construed as creating a partnership, employer/employee relationship or joint venture between OWNER and MANAGER. Except as set forth in the Agreement, neither party hereto shall have the right or authority to bind or obligate the other party in any manner whatsoever or expressly or impliedly incur any liability or obligation on behalf of the other party, nor shall OWNER be liable for any debts incurred by MANAGER.

14. **Additional Responsibilities of the Parties.**

   a. MANAGER agrees to use commercially reasonable diligence in the care and protection of the Parking Facility during the Term of this Agreement. OWNER acknowledges that MANAGER is not a security company and does not employ personnel for that purpose. MANAGER assumes no liability or responsibility with respect to injuries, damage or costs sustained to any person or property as a result of its alleged failure to warn, guard or protect persons or property in or about the Parking Facility from and against intentional threats, harm or injury except for the negligent or intentionally committed acts of or by MANAGER or its employees; provided, however, the foregoing shall not relieve MANAGER of its obligation to obtain insurance in accordance with the other provisions of this Agreement.

   b. MANAGER further agrees to comply (and cause the Parking Facility to comply, subject to the Property Budget) with all government laws, ordinances and regulations pertaining to the Parking Facility.

   c. With respect to the following events, conditions or occurrences, MANAGER shall notify OWNER promptly upon MANAGER’S knowledge thereof (together with copies of supporting documentation) of: (a) any violation of any laws, ordinances, rules, regulations or other governmental requirements (and make recommendations regarding compliance therewith); (b) any defect or unsafe condition in or at the Parking Facility; (c) any condemnation proceedings, rezoning or other governmental order, lawsuit or threat thereof involving the Parking Facility; (d) any notice of default under any Parking Facility Agreement or other material agreement relating to OWNER or the Parking Facility; (e) any notice of violation of any insurance requirement; (f) any claim, incident that may be covered by insurance or could lead to legal liability, demand, suit or other legal proceeding made or instituted against, or otherwise relating to, OWNER and/or the Parking Facility; or (g) any damage or destruction to the Parking Facility (including fire, theft or vandalism) or personal injury at the Parking Facility. MANAGER shall keep OWNER reasonably informed of the status of the particular matter through the final resolution thereof. MANAGER shall retain in the records it maintains for the Parking Facility copies of all supporting documentation with reference to any of the foregoing notices.

   d. MANAGER shall cause all revenues, receipts and all other payments, cash or income of any kind, type or nature, derived from the Parking Facility to be deposited into the Operating Account and such accounts at such banks or other financial institutions as are determined by OWNER, as and when determined by OWNER. In its capacity, MANAGER shall deal at arm’s length with all third parties, and subject to that limitation, MANAGER may not enter into agreements with affiliates of MANAGER, without the prior, written approval of OWNER; it being agreed that any such agreement entered into with any such affiliate shall be on reasonably competitive terms and such other terms as are not less favorable to OWNER than those reasonably obtainable from an unrelated third party.

15. **Insurance Carried by MANAGER.** MANAGER agrees to carry the insurance listed below, with limits not less than the amounts as shown below and pay all premiums thereon when due.
a. Commercial General Liability insurance (Garage Liability), including coverage for bodily injury (including coverage for death, mental anguish), Premises-Operations, Independent Contractors’ Protective, Products-Completed Operations, Blanket Contractual Liability, Personal Injury and Broad form Property Damage (including coverage for Explosion, Collapse and Underground hazards), and including Cross Liability and Severability of Interests, with coverage for libel, false arrest, assault & battery, discrimination, sexual molestation, detention or imprisonment, wrongful eviction from, wrongful entry into, invasion of the right of privacy, and slander and/or defamation of character. This coverage must be maintained for the full Term of this Agreement with the following minimum limits:

   i. $1,000,000 Each Occurrence;
   ii. $2,000,000 General Aggregate;
   iii. $1,000,000 Personal and Advertising Injury; and
   iv. $2,000,000 Products-Completed Operations Aggregate.

b. Garagekeeper’s Legal Liability insurance for any and all automobiles that are parked at the Parking Facility by MANAGER’s attendants or for which a bailment is otherwise created, whether implied or in fact, with limits of liability not less than $1,000,000 per occurrence. The limit of liability for the Garage Keeper’s Legal Liability coverage must be sufficient to insure the payment of any loss without prorating of that loss based on the maximum facility capacity. Any deductible the MANAGER may carry shall be of industry standard, approved by management and the MANAGER’s sole responsibility.

c. Worker’s Compensation insurance in compliance with statutory requirements of the state(s) in which the employee resides, is hired and in which the services are being performed and shall apply to all persons employed by MANAGER.

d. Employer’s Liability insurance in the amount of $500,000 each accident for bodily injury by accident, $500,000 each employee for bodily injury by disease, and $500,000 policy limit for bodily injury by disease, or such other amount as may be required by umbrella policy to effect umbrella coverage.

e. Comprehensive Automobile Liability insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage if automobiles are used in the performance of MANAGER’s obligations hereunder;

f. Umbrella/Excess Liability insurance on a follow form basis with a per occurrence and annual aggregate limit of $10,000,000 per location / project. Coverage shall be excess of Garage Liability (including products and completed operations coverage), Auto Liability, Garagekeeper’s Legal Liability and Employer’s Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

g. Inside and Outside the Premises insurance including to protect against loss due to robbery, theft or burglary with not less than $100,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.

h. Employee Dishonesty insurance including to protect against loss due to employee dishonesty and depositor forgery with not less than $1,000,000 limit per occurrence, with OWNER and any other entity as applicable named as loss payee under this policy.
i. Employment Practices Liability insurance, including third party coverage, in an amount of $1,000,000.

MANAGER, at the direction of OWNER from time to time, shall secure and maintain, at Owner’s cost and expense (as set forth in the Property Budget), such additional insurance (including, without limitation, reasonable increases to coverage described above) sufficient to furnish Owner and MANAGER reasonable and adequate protection in the management and operation of the Parking Facility, as determined by OWNER. All insurance shall conform to the reasonable requirements of OWNER and to the requirements of the Parking Facility Agreement, as applicable. OWNER shall have the right to approve the amount, scope and terms of all insurance coverages (including, without limitation, the amount of any deductibles) obtained hereunder. All such insurance shall be in the name of OWNER or MANAGER (with OWNER as a named insured), as OWNER shall reasonably require, and if not in the name of a party, such party shall be an additional insured, and with such other parties as additional insureds as OWNER may require, including, without limitation, any holders of any mortgages, deeds of trust or security agreements with respect to the Parking Facility or any related assets thereof, shall contain, as applicable, a standard mortgagee clause and shall contain riders and endorsements adequately protecting the interests of MANAGER as it may appear, including, without limitation, provisions for at least thirty (30) days’ notice to OWNER and MANAGER of cancellation or of any material change therein. All policies of property insurance shall provide that the insurance company will have no right of subrogation against either party hereto or their respective agents or employees.

MANAGER’s insurance shall be primary and non-contributory with regard to any other insurance that may be available to OWNER and additional insureds.

MANAGER shall cause each contractor and any subcontractors to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Garage Liability and Worker’s Compensation limits required above. MANAGER shall cause each subcontractor to include the same additional insured requirements and certificates of insurance as noted above for MANAGER.

Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on MANAGER under this Agreement.

16. Indemnification.

a. OWNER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of MANAGER’s operations, actions or inactions hereunder, including but not limited to damage to vehicles. MANAGER shall indemnify, defend, and hold OWNER and its respective officers, employees, partners, members or agents (the “Indemnitees”), harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the acts, omissions, breach of contract or violation of law by MANAGER or its agents, officers, representatives or employees.

b. MANAGER assumes no liability or responsibility with respect to injuries, damages or costs sustained to any person or property as a result of OWNER’s operations hereunder. OWNER shall indemnify, defend, and hold MANAGER and its respective Indemnitees, harmless from all claims, demands, costs, expenses, and causes of action, including attorney’s fees and costs of suit, incurred by any such Indemnitees, and resulting from the gross negligence or willful misconduct of OWNER.
c. The provisions of this Paragraph 16 shall survive termination or expiration of this Agreement.

17. Parking Facility. It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from the Parking Facility’s design, structural faults or defects are not the responsibility of MANAGER (other than if OWNER is entitled to indemnification from MANAGER as set forth above and except that the foregoing shall not modify or limit in any way the rights of OWNER or any of its Affiliates or the obligations of MANAGER or any of its Affiliates under any other agreement to which any of them is a party that concerns the Parking Facility).

18. Compliance with Laws. MANAGER agrees to manage, operate, and promote the use of the Parking facility in accordance with all local state and federal laws and government regulations.

19. Employees.

a. MANAGER shall investigate, select, employ, promote, terminate where appropriate, supervise, direct, train and assign duties of all employees in connection with the operation and maintenance of the Parking Facility. MANAGER shall have in its employ at all times sufficient number of capable employees to properly, safely, and economically manage, operate and maintain the Parking Facility, subject to the Property Budget. All matters pertaining to the employment, supervision, compensation, promotion, and discharge of such employees are the responsibility of MANAGER. MANAGER represents, warrants and covenants that it is, and shall continue to be, an equal opportunity employer and is, and shall continue to be, in compliance with all applicable employment laws. In addition, MANAGER shall from time to time develop and implement policies, procedures and programs for the Parking Facility designed to effect compliance with all applicable employment laws. The employment policies shall be consistent with industry standards from time to time for reputable parking management companies. MANAGER shall cause to be prepared and filed all necessary forms and returns for unemployment, insurance, withholding and social security taxes and all other tax and other forms relating to employment of its employees required by federal, state or municipal authorities. OWNER and MANAGER agree that, during the Term of this Agreement, all personnel employed to operate the Parking Facility shall be solely the employees of MANAGER and shall have no contractual relationship with OWNER.

b. In the event that the employees at the Parking Facility become represented by a labor organization, MANAGER shall assume all responsibilities to meet and confer with such labor organization, and if MANAGER deems appropriate, MANAGER shall execute on its own behalf (and not on behalf of OWNER) a collective bargaining agreement (including, without limitation, any amendments thereto or modifications thereof) with respect to the employees; provided, however, that (i) OWNER shall have approved in advance of such execution and in writing any and all costs to be incurred under such collective bargaining agreement (which approval shall not be unreasonably withheld or delayed) and (ii) OWNER acknowledges that such costs shall be a cost of and charged to the operation of the Parking Facility. MANAGER shall keep OWNER reasonably well-apprised of the status of such matters and shall give OWNER at least ten (10) business days’ prior written notice before MANAGER enters into any such collective bargaining agreement. At all times, MANAGER shall use its reasonable efforts to maintain labor harmony at the Parking Facility.

20. Transfers of Assets Termination. Upon termination of this Agreement for any reason in accordance with the terms hereof, MANAGER hereby agrees that it will take all reasonable and necessary measures to ensure that any and all contracts and assets held in MANAGER’s name and directly relating to the on-going operation of the Parking Facility are promptly transferred to OWNER (the “Manager-
Held Assets”), including, without limitation, executing and delivering all such documents and instruments as shall be reasonably required to effectuate such transfers, except as otherwise may be instructed or directed by OWNER, subject to the terms of Paragraph 21 below and subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts. MANAGER represents and warrants that, as of the Effective Date, (1) all existing agreements, leases, licenses and contracts of any kind or nature (including, without limitation, all amendments, modifications and other agreements with respect thereto) comprising Manager-Held Assets are identified and listed in Schedule “C” as Manager Parking Facility Agreements (including, without limitation, all leases and financing agreements pursuant to which MANAGER has the right to use the Equipment), (2) all furniture, fixtures, equipment and other personal property (including, without limitation, vehicles) comprising Manager-Held Assets are identified and listed on Schedule “E” attached hereto and incorporated herein by this reference and (3) no other Manager-Held Assets exist as of the Effective Date. MANAGER covenants that it shall not enter into any new Manager Parking Facility Agreements or modify or amend any Manager Parking Facility Agreements, or purchase, lease or dispose of any Manager-Held Assets (including, without limitation, the Equipment) in the future, without obtaining the prior written consent of OWNER, in each instance, or unless set forth in the Property Budget. From time to time, upon request, MANAGER shall identify, in writing, all existing Manager-Held Assets, within ten (10) business days of Owner’s written request therefor. In addition, upon termination of this Agreement for any reason in accordance with the terms hereof, (i) deliver to OWNER, or such other person or persons designated by OWNER, copies of all books and records of the Parking Facility and all funds in the possession of MANAGER belonging to OWNER or received by MANAGER pursuant to the terms of this Agreement, and all keys or combinations to locks then in MANAGER’s possession, (ii) peacefully vacate and surrender the Parking Facility to OWNER on the effective date of such termination, (iii) assign, transfer or convey to such person or persons as may be designated by OWNER all service contracts relating to or used in the operation and maintenance of the Parking Facility, subject to any legal limitations set forth in such contracts or rights of third parties to such contracts and assets as may be set forth in such contracts; (iv) execute and deliver any termination or other necessary agreements requested for the purpose of evidencing the termination of this Agreement, and otherwise cooperate fully with OWNER in the smooth and orderly transition of the Parking Facility to a replacement manager, any transferee of OWNER or to any managing operator designated by OWNER or any transferee of OWNER; (v) immediately release and transfer to OWNER any of OWNER’s funds which are held or controlled by MANAGER with respect to the Parking Facility and transfer the Operating Account and any other bank accounts relating to the Parking Facility as directed by OWNER, in each case subject to all outstanding expenses accrued in accordance with Paragraph 5, which expenses OWNER agrees to pay; (vi) to the extent applicable, comply with OWNER’s direction to remove MANAGER and/or its agents, servants or employees as authorized signatories from the Operating Account and any other bank accounts maintained hereunder; (vii) make available to OWNER such books and records respecting the Parking Facility (including, without limitation, those from prior years during the term of this Agreement) as will be needed by OWNER to prepare the accounting statements, in accordance with the terms hereof, for the Parking Facility for the year in which the expiration or termination occurs and for any subsequent year; (viii) to the extent permitted by law, assign to OWNER or to the new property manager (as directed by OWNER) all operating licenses and permits for the Parking Facility which have been issued in MANAGER’s name; and (ix) reasonably cooperate with OWNER to assist OWNER to obtain new licenses or to continue all operations without interruption following termination while OWNER is attempting to obtain new licenses. Within sixty (60) days following expiration or earlier termination of this Agreement, MANAGER shall deliver to OWNER a final accounting, in writing, with respect to the operations of the Parking Facility. The obligations set forth in this Paragraph shall survive expiration or earlier termination of this Agreement.

21. **Equipment.** It is the understanding between the MANAGER and OWNER that MANAGER is purchasing (on an installment sale basis) or leasing the equipment listed in Schedule “E” attached hereto
and incorporated herein by this reference ("Equipment") for the sole use (and, in the future, at the sole request of OWNER) (solely in accordance with the Property Budget). MANAGER agrees that when any such Equipment shall have been fully purchased and paid for, MANAGER shall immediately transfer such Equipment to OWNER. However, if the Term of this Agreement is terminated, for any reason, by either party prior to the then current date for expiration of the Term (as determined in accordance with Paragraph 2 hereof), the OWNER shall assume all liabilities and obligations of MANAGER under the then existing leases or installment sale contracts made in accordance with the terms of this Agreement for the Equipment, subject to the prior approval of the lessor(s) thereunder, in which cases MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in all such Equipment to OWNER. In the event any such lessor will not approve any such assignment, then OWNER, at its option, shall either (i) purchase the applicable Equipment, whereupon OWNER shall pay to the vendor or lessor of the applicable Equipment an amount equal to the full unamortized cost of all Equipment that is required to purchase the Equipment (MANAGER represents and warrants that that MANAGER has the right under the agreements with such vendors and lessors with respect to all Equipment to purchase the Equipment in such event on terms that upon written request, MANAGER will fully and accurately disclose to OWNER, and MANAGER agrees that it has fully and accurately disclosed to OWNER prior to the date hereof all such rights under all existing agreements), including but not limited to applicable sales and property taxes, termination fees, registration fees, interest, transfer fees, acquisition fees and any applicable residual or end value fees and, in such event, MANAGER shall immediately transfer possession of all such equipment and assign all of its rights, titles and interest in such Equipment to OWNER or (ii) have MANAGER turn in the applicable Equipment provided that OWNER shall pay any fees, costs or other charges incurred as a result of returning the applicable Equipment under the agreements. Such transfer to OWNER shall occur, if at all, no later than the last day that MANAGER provides parking management services to the OWNER as to the Parking Facility hereunder.

22. General.

a. Assignment. MANAGER may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of OWNER. MANAGER hereby represents and warrants that the direct and indirect ownership and Control of MANAGER as of the date hereof is shown on Schedule “F” annexed hereto and made a part hereof and is true and complete in all respects. MANAGER shall notify OWNER in writing of the occurrence of any Property Manager Change of Control with respect to MANAGER, within ten (10) days following such occurrence. In addition, from time to time, MANAGER shall execute a certification making the same representation and warranty as to its direct and indirect ownership and Control, updated as of the date of such certification, promptly upon OWNER’s written request therefor. OWNER may assign its rights and obligations under this Agreement at any time, without the consent of MANAGER; provided however, that OWNER shall use reasonable efforts to notify MANAGER in writing of any such assignment at least thirty (30) days in advance thereof and any transfer or assignment of this Agreement by OWNER shall include an express assumption by the transferee or assignee of OWNER’s obligations hereunder. For purposes of this Agreement, any change in or any sale, conveyance, transfer or other disposition of, whether voluntarily, involuntarily or otherwise, the direct or indirect ownership interests in OWNER shall not be deemed to be an assignment hereunder.

b. Binding Effect. It is understood that this Agreement shall be binding upon and inure to the benefits of the heirs, personal representatives, successors and permitted assigns of the parties.
c. **No Property Interest.** Notwithstanding all provisions of this Agreement, it is mutually understood and agreed between the parties hereto, that this Agreement shall not in any way be construed to be a lease, but is merely a recitation of contract provisions. This Agreement shall not be recorded in the public records of any jurisdiction. This Agreement shall not create an interest in real property in favor of MANAGER and nothing herein shall create an agency coupled with an interest; MANAGER expressly waives any such interests.

d. **Notices.** Notice to both OWNER and MANAGER shall be sent to the following addresses (including via electronic mail or facsimile number):

   If to OWNER
   
   c/o Och-Ziff Real Estate  
   9 West 57th Street, 40th Floor  
   New York, New York 10019  
   Attention: Steven E. Orbuch  
   Facsimile: (212) 790-0005  
   E-mail: sorbuch@ozcap.com

   with a copy to:

   Bryan Cave LLP  
   1290 Avenue of the Americas  
   New York, New York 10104  
   Attention: Ronald Emanuel, Esq.  
   Facsimile: (212) 541-1434  
   E-mail: rbemanuel@bryancave.com

   If to Manager:

   Chief Administrative Officer  
   Pro Park, Inc.  
   1 Union Place  
   Hartford, CT 06103  
   Facsimile: N/A  
   E-mail: dave.schmid@propark.com

   With a copy to:

   Hinckley Allen & Snyder, LLP  
   20 Church Street  
   18th floor  
   Hartford, Connecticut 06103  
   Attention: William S. Fish, Jr.  
   E-mail: wfish@hinckleyallen.com

   Each such notice shall be effective (a) if given by facsimile or electronic mail, upon transmission, (b) if given by mail, on the fourth (4th) day after deposit in the mails (certified or registered return receipt requested) addressed as aforesaid and (c) if given by overnight courier service or by hand delivery, when received and (d) if given by any other means, when delivered to and receipted for at the address of such OWNER or MANAGER specified as aforesaid.

e. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State in which the Parking Facility is located.

f. **Modifications.** No modification, amendment, supplement to or waiver of this Agreement or any Schedule hereunder, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties.
g. **Waiver.** A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder.

h. **Complete Agreement.** This Agreement and each Schedule attached hereto set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by both parties.

i. **Severability.** In the event any one or more of the provisions of this Agreement or of any Schedule is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.

j. **Limited Agent.** Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between OWNER, its successors or assigns, and MANAGER, its successors or assigns. MANAGER shall act as an independent contractor with the limited powers of agency expressly authorized by OWNER in this Agreement (which agency shall not be coupled with an interest) and, in exercising such powers of agency, MANAGER shall be an agent of OWNER solely for the purpose of performing the applicable management functions for OWNER within the scope of this Agreement. This Agreement does not create in MANAGER any interest in the Parking Facility, including, without limitation, any of the fixtures or equipment therein.

k. **Non-Recourse.** MANAGER shall look only to OWNER’s interest in the Parking Facility for the satisfaction of MANAGER’s remedies or for the collection of a judgment (or other judicial process) requiring the payment of money by OWNER in the event of any default by OWNER (or any other claim) hereunder, and no other property or assets of OWNER or its direct or indirect members, partners, officers, directors, shareholders or principals, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of MANAGER’s remedies under or with respect to this Agreement.

l. **Rules of Construction.** Whenever pursuant to this Agreement, OWNER exercises any right given to it to approve or disapprove or to provide or withhold consent, or any arrangement or term is to be satisfactory or acceptable to OWNER, all such decisions, directions and determinations made by OWNER shall be in the sole and absolute discretion of OWNER, except as otherwise expressly provided for in this Agreement, and shall be final and conclusive.

m. **Force Majeure.** Neither party shall be liable for any delay or default in rendering service hereunder where occasioned by any cause beyond its reasonable control; including, but not limited to: armed conflict or economic dislocation resulting therefrom; strikes; civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fires, floods, earthquakes and any other natural disasters; provided, however, that the party whose performance is being interrupted shall provide reasonably prompt notice to the other party.

n. **Attorney’s Fees.** If litigation is commenced by either party hereto against the other to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover all of its costs and other expenses of such litigation, including reasonable attorney’s fees. The amount so allowed, as attorney’s fees and costs shall be charged to the losing party as costs of suit. The provision of this Paragraph shall survive the expiration or earlier termination of this Agreement.
o. **TRIAL BY JURY WAIVER.** EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY OF ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

p. **PUNITIVE DAMAGES WAIVER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, IN ANY ARBITRATION, LEGAL ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PARKING FACILITY, THE PARTIES UNCONDITIONALLY AND IRREVOCABLY WAIVE AND DISCLAIM, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ALL RIGHTS TO ANY PUNITIVE, EXEMPLARY, OR TREBLE DAMAGES, AND ACKNOWLEDGE AND AGREE THAT THE RIGHTS AND REMEDIES IN THIS AGREEMENT, AND ALL OTHER RIGHTS AND REMEDIES AT LAW AND IN EQUITY, WILL BE ADEQUATE IN ALL CIRCUMSTANCES FOR ANY CLAIMS THE PARTIES MIGHT HAVE WITH RESPECT THERETO. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

q. **Further Assurance: Financing Documents:** The parties hereto shall do and procure to be done all such acts, matters and things and shall execute and deliver all such documents and instruments as shall be reasonably required to enable the parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement. MANAGER shall promptly execute any customary assignment, subordination, estoppel certificate or other agreement required by any lender providing financing as to the Parking Facility. MANAGER agrees to and does hereby subordinate all of its right, title and interest in, to and under this Agreement, including without limitation, any present and future right to receive payments under this Agreement, to all liens and rights of any lender under any financing and any and all documents executed and delivered in connection therewith.

r. **Representations.** MANAGER hereby represents, warrants and covenants that:

1. MANAGER has been duly organized and is validly existing and in good standing with the requisite power and authority to transact the business in which it is now engaged. MANAGER is duly qualified to do business and is in good standing in the jurisdiction of its incorporation and in the jurisdiction where the Parking Facility is located. MANAGER possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to transact the businesses in which it is now engaged.

2. MANAGER has all requisite power and authority to enter into this Agreement, and to perform their respective obligations hereunder. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of MANAGER. This Agreement has been duly executed and delivered by MANAGER and this Agreement constitutes the legal, valid and binding obligation of MANAGER, enforceable against MANAGER in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and by general principles of equity (whether applied in a proceeding at law or in equity).

3. MANAGER has secured prior to the Effective Date and thereafter maintain at all times during the Term of this Agreement all necessary licenses, permits and authorizations to
enable MANAGER and its agents and employees to perform all of their duties and obligations under this Agreement and shall notify OWNER should any such license, permit or authorization no longer be in effect or in good standing promptly (but, in any event, within 48 hours of MANAGER learning of the same).

(4)(A) MANAGER is not: (A) currently listed on the Specially Designated Nationals List ("SDN List") or any similar list maintained by the Office of Foreign Assets Control ("OFAC") at the United States Department of the Treasury; (B) owned or controlled, directly or indirectly, by a person or entity who is listed on the SDN List or any similar list maintained by OFAC; (C) a person or entity with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order; or (D) incorporated in any country subject to U.S. country-based economic sanctions whereby conducting transactions with that person or entity would be in violation of any applicable law, rule, or regulation. MANAGER has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

(B) MANAGER shall comply with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including, without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010).

(C) MANAGER shall immediately notify OWNER in writing if it becomes aware that any of the foregoing representations, warranties, or covenants are no longer true or have been breached or if MANAGER has a reasonable basis to believe that they may no longer be true or have been breached.

The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

s. Confidentiality. To the maximum extent permitted by applicable law, MANAGER shall keep confidential the books of account and all other records and documents relating to or reflecting the operation of the Parking Facility and the information therein (including, without limitation, marketing plans, customer lists, pricing information, projections, budgets and reports) for the sole and exclusive benefit of OWNER and, without the prior written consent of OWNER, MANAGER shall not disclose any information contained therein or relating to the operation of the Parking Facility in any respect to any person or entity, other than OWNER and OWNER’s employees, representatives, accountants, lawyers and other professionals as directed by OWNER. MANAGER may, however, disclose such documents and information to those of its directors, officers, employees, agents and advisors who need to know such information in connection with MANAGER’s fulfillment of its duties and obligations under this Agreement; provided that (a) prior to such disclosure, MANAGER agrees to inform such persons of the confidential nature of such documents and information and (b) MANAGER shall use reasonable efforts to cause such persons to keep such documents and information confidential and shall be fully responsible and liable for the consequences of their failure to do so. In addition, notwithstanding anything to the contrary contained in this Agreement, in no event will MANAGER make any announcement or disclosure referencing the names “Och-Ziff,” “OZ,” “OZRE,” “Och-Ziff Real Estate” or any derivation thereof, without the prior written consent of OP Holdings Member. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.
t. **Counterparts.** This Agreement may be executed in any number of counterparts, each of
which when so executed and delivered shall be deemed an original, but all of which taken
together shall constitute but one and the same original. Such executed counterparts may be
delivered by facsimile, electronic mail or portable document format which, in each case, upon
transmission to the other party, shall have the same force and effect as delivery of the original
signed counterpart.

[Signature Page to Immediately Follow.]
IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, have executed this Agreement as of the date first written above.

MANAGER:

PRO PARK, INC., a Connecticut corporation

By: __________________________
   Name: _______________________
   Title: ________________________
   Date: ________________________

OWNER:

OP Z PARKING OWNER LLC, a Delaware limited liability company

By: __________________________
   Name: _______________________
   Title: ________________________
   Date: ________________________
SCHEDULE “A”
EXCLUDED EXPENSES OF MANAGER

1. Salaries, travel and accommodation expenses of all executive personnel of MANAGER unless specifically requested by Owner (but such expenses for other employees shall be subject to the applicable Property Budget).

2. General and administrative expenses of MANAGER not allocable directly to operations at the Parking Facility (including, without limitation, expenses for office equipment or office supplies) excluding any and all legal fees associated with MANAGER’s hiring and firing the employees and/or MANAGER’s development and administration of the employment policies.

3. Personal property taxes of MANAGER’s property not used exclusively for the Parking Facility.

4. Settlements, payments or awards on claims arising from the misconduct of MANAGER’s employees, servants or agents.

5. Any income taxes related to fees or other amounts paid to MANAGER.

6. Costs for which MANAGER is liable under Paragraph 16.a of the Agreement.

7. Political or charitable contributions by MANAGER.

8. Costs of comprehensive crime insurance or fidelity bonds purchased by MANAGER for its own account and the cost of the insurance described in Paragraph 15.g, Paragraph 15.h and Paragraph 15.h of the Agreement.

10. Advertising expenses of MANAGER, except to the extent the advertising is of and for the Parking Facility and set forth in the Property Budget.

11. Any other costs and expenses not set forth in the Property Budget or otherwise approved by OWNER (in writing and in accordance with the JV Agreement) or which MANAGER is expressly authorized to incur under the terms of this Agreement.
SCHEDULE “B”
EXCLUDED EXPENSES OF OWNER

1. Real and personal property taxes of OWNER’s property (if OWNER elects to pay the same directly).
2. Debt service with respect to land, building and equipment (if OWNER elects to pay the same directly).
3. Costs of legal and auditing fees of OWNER.
4. Salaries and wages of all employees of OWNER.
5. Costs incurred by OWNER in the supervision of obligations of MANAGER.
6. Costs for which OWNER is liable under Paragraph 16.b of the Agreement.
7. Costs of premiums for fire and extended coverage insurance (if OWNER elects to pay the same directly).
SCHEDULE “C”
PARKING FACILITY AGREEMENTS

Any and all ground or underlying leases, space leases, license agreements, parking agreements, licenses (including, without limitation, any license or trademark agreements governing the use of the intellectual property of others at the Parking Facility), equipment leases, service contracts, maintenance agreements, construction contracts, utility contracts, any covenants, restrictions, easements and similar instruments, and notes and other instruments of indebtedness with regard to the Parking Facility or OWNER, together with any mortgages, deeds of trust, loan agreements, credit agreements, security instruments, environmental indemnities or other loan documents executed in connection therewith, to the extent affecting the Parking Facility or any part thereof, including, without limitations, the following:

AGREEMENTS TO WHICH OWNER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Owner Parking Facility Agreements”):


AGREEMENTS TO WHICH MANAGER IS A PARTY (DIRECTLY OR AS A SUCCESSOR IN INTEREST TO THE ORIGINAL CONTRACT PARTY) (the “Manager Parking Facility Agreements”):

1. Lease, dated October 24, 2012, by and between Pro Park, Inc. and TCF Equipment Finance, Inc.
2. Airport Advertising Agreement, dated July 11, 2014, by and between Z Airport Parking and Clear Channel Airports
3. Agreement, dated June 24, 2014, by and between Webimax and Z Airport Parking
5. Rental Agreement, dated September 11, 2013, by and between Pure Water Technology of Central Connecticut and Z Airport Parking
6. Addendum to Master Agreement, dated May 15, 2014, by and between Six Payment Services and Z Airport Parking Valet

MANAGER hereby acknowledges that it has complete copies of all Owner Parking Facility Agreements, as of the date hereof.
SCHEDULE “D”
PARKING RATES AND PERMITTED DISCOUNT RATES

Parking Facility Hours: The parking facility is currently open 24 hours per day, 7 days per week.

Current Posted Rates
- Daily – $11.49
- Long Term (minimum of 21 days) – $5.95/ day

Monthly Rates
N/A

Monthly Parkers in March
N/A

Validations
- About Airport Parking (AAP) - $5.40/day
- Cheap Airport Parking - $5.40/day
- Park N Fly - $6.95/day
- “Every Seventh Day Free” – Parking 7 days equals to 6 paid days, 1 free
- Social Media – 1st day free, discounted daily rate of $.795 (minimum 3 day stay)
- Curry Honda Dealership – 2 free days
- Springfield Falcons – 1st day free, discounted rate of $7.95 (minimum 4 day stay)
- Travel Agents - $7.95 daily rate plus 1 day free parking

Corporate Discount Roster:
- 2 G’s Adjusting
- 4 Paws on Wheels Vet Services
- 567 Boyd LLC
- 83 West
- ABUA
- Accretive Health
- Ace Real Estate LLC
- Aciregenetics
- A Cut Above Stylist
- Advanced Behavioral Health, Inc.
- Advanced Medical Imaging
- Advancedmotel LLC
- Advance Manufacturing
- Aerodyne Alloys
- Aero Fastener Co Inc.
- Aetna Employee Club
- AFSV Insurance
- AFT CT
- A H Harris & Sons Inc.
- Ahlstrom
- Airline Employee
- Alarmco
- Alberti Productions
- Alberti Productions
- Alcoa Howmet
- Allstate Insurance
- All the best PEOPLE, Inc.
- Almost Paradise Tanning LLC
- Alpha Magnetics & Coils Inc.
- Altanatural Corp.
- Mallory Design
- AM Auto
- American Mirror Door Inc.
- American Nuclear Insurance
• American Nuclear Insurers
• American Standard Steel Rope
• Ametek - Specialty Metal Products
• Amgraph Packaging, Inc.
• Amicus Group LLC
• Amphenol Corporation
• Amy Woollf Color Consulting
• Anderson Law Firm
• Andrews & Andrews Field Services
• Andrus Power Solutions
• Anne Makepeace Productions
• Anocoil Corp
• Anocoil Corporation
• A Place For Mom
• AppChek
• Aqua Cal
• Arcadia Asset Management
• Architectural Building Systems, Inc.
• Aries Marine Corporation
• Arnold Oroweat
• artshelvinghearts
• ASA Farm
• Atkins Farms Country Market
• Atlantic Metals
• Atlas Air
• Atomic Bonds
• Attorney Terence D. Mariani
• Automatic Vend Parts and Components Inc.
• Avon Board of Education
• Avon Family Dentistry
• Avonridge, Inc.
• Avon Volunteer Fire Department
• AWSNA
• Axinn, Veltrop and Harkrider
• Axiom Venture Associates
• AZ Corporation
• Azimuth Bartending
• Ballentine Capital Management
• Baroco Corporation
• Barron, Yanaros & Caruso
• BarryCone's Heating & A/C Inc.
• Baystate Elevator
• Becton Dickinson
• Beekly Medical
• Beggs and Beggs Quality Consultants
• Belfonti Associates
• Bentley Systems Incorporated
• Berkshire Bank
• Berkshire Gas
• Bert-Bern Reality Company
• Bertolini & Hermansen, CPA's
• Better Yet Inc.
• Bicron Electronics
• Binding Source, LLC.
• Bio Quest Environmental Products
• Bishop Travel Service of Avon
• BIW Consulting
• BJR Productions
• BJW International, LLC
• Blue Sky Foods
• BNG
• Borgeson Universal
• Boyd Design, Inc.
• Branig Capital Markets
• Bridgeport Fire Department
• Bridgestone/Firestone
• Bridget A. Garry, LLC.
• Brooklyn Rebar, LLC
• Browne Dental Laboratory LLC
• Budlong and Barrett, LLC.
• Burlington Crankshaft
• Bushnell
• Business & Legal Reports
• Business Lenders
• Business Risk Partners
• Business Technology Solutions
• Butynski Farm
• Bynesfalls Productions
• Byron J. Round DMD, PC
• Calcagni Commercial Real Estate
• Callidus Software Inc.
• Calvary Assembly of God
• Canaan Vision Center
• Canaan Vision Center
• Capital Dog Training
• Carey BRT
• Catasys Inc.
• Caterpillar Inc.
• Catholic Health East
• Cats Limited Vet Hospital
• Center Enterprises, Inc.
• Center for Healing Therapies
• Center School
• Center Springfield Dental Offices
• Center Subaru
• Central Connecticut Communications
• Century21
• Chemtura
• Chernoff System Solutions, LLC.
• H. Nickerson & Co., Inc.
• Cigna
• Citizens Bank
• City Construction Group, Inc.
• Clarkdietrich
• Classic Tile
• Cleary Millwork
• CMahon, LLC
• COCC
• Collins Medical
• Collinsville Canoe & Kayak
• Collinsville Savings Society
• Columbia Manufacturing
• Commercial Sewing
• Complete Appraisal, LLC
• Component Concepts, Inc.
• Computer Sciences Corporation
• Connecticut Computer Assistants
• Connecticut Education Association
• Home Energy Solutions
• Homeguard, Inc.
• Homestead Insurance Company
• Hooker Holcombe
• Horton International
• Hospital of Central CT
• Hotchkiss School
• Housatonic Art & Frame
• Huntington Counseling Center
• Idea Exchange Inc.
• Incarnation Center
• Independent Longaberger Consultant
• Indian Mountain School
• Infrontweb.com, LLC
• Insurance Center of Torrington, Inc.
• Insurance Overload Staffing
• Interactive Geography
• INTERNATIONAL COMMERCIAL SUPPLY
• International Travel Agency of New Britain, Inc.
• iPAD ART
• Ivy Services
• Jack's Dive Center
• Jackson Lewis
• Jacobs Vehicle Systems
• Jane Tedder Consulting
• Janet Iflland Artist Studio
• J. B. Stanton Communications
• J. Dirats and Co., Inc.
• Jen-Coat Inc.
• Jessica Fine Artist
• Jim’s Garage
• JMC
• Joanna Klosek
• John Murray Consulting
• Jones. Lang, LaSalle
• Joseph Distel & Co., Inc.
• Joseph Fazzalaro Accounting and Consulting
• J.P. Matava Business Park
• JSK Financial Services
• Juniper Reinsurance Services, Inc.
• jwsalon
• JZ Transportation
• K and K Healthcare Discounts
• Kanner Financial Services
• KaroTech, Inc.
• KB Toys
• Keller USA, Inc.
• Kelly Law Registry
• Kelser Corporation
• Ken Marino LTD
• Kerr Agency
• Konover Construction Corporation
• Konover Development Corporation
• Lakeshore Benefit Group Insurance Brokerage, LLC
• Lakeville Journal
• LaMountain Bros., Inc.
• Lance Grandahl & Friends
• Langan Engineering and Environmental Services
• Large and Page Communications, Inc.
• LATICRETE International, Inc.
• Laurel Marketing Associates
• Laurel Ridge Medical Consulting
• Law Offices of Maureen E. Donahue
• Law Offices of Michael D. Facchini, Facchini & Facchini, P.A.
• Law Offices of Robert Fortgang Associates
• Law Offices of Stephanie M. Weaver, LLC
• Lenox Village Integrative Pharmacy, Inc.
• Iglesia fuente de salvacion misionera
• Lightstat
• Lincoln Financial Group
• Lippincott Van Lines
• Litchfield Bancorp
• Litchfield Hills Home Care, Inc.
• Litchfield Performing Arts, Inc.
• Logo Clothing Company, Inc.
• Loureiro Engineering
• Lyons Consulting Services, Inc.
• Mackinstry Financial
• Macy’s Logistics
• Magellan Health Services
• Magid Glove and Safety
• Magnatech LLC
• Magnolia Hill Properties
• Malofsky
• Manworren 4.95
• Manworren Consulting
• Marchand Electric LLC
• Marco Awards Group
• Marine Special Products Group, LLC
• Werenski Marion
• Marion & Werenski Insurance Agency, Inc.
• Mark J. Capecelatro, LLC
• Mars Communications
• Martin J. Connor AICP Planning Consultant
• Martyys Ductwork LLC
• Matthew Katz DMD
• Mayhew Steel Products, Inc.
• McCarter & English
• Meadowestvaco
• Medada LLC
• Medici Group
• MEM, LLC
• Merit Insurance
• Mestock
• Middletown Fred Astaire Dance Studio
• Midstate Medical Center
• Milford Accounting, LLC
• Milford Hospital
• Military
• Mission Control Business Services LLC
• Mitchell Auto Group
• Modern Mold and Tool
• Moe’s Southwest Grill
• Monaco Ristorante
• Monarch Environmental
• Monide Inc.
• Moon TranStarts, LLC
• Ward Kilduff Mortgage, LLC
• Washington Supply Company
• Watco Companies, Inc.
• Webber & Meyers, LLC
• Webster Five
• Wells Fargo Advisors
• West Electric
• Western Connecticut Auto Elec. Inc.
• Western New England Renal & Transplant
• Westfield Bank
• Westinghouse
• Westminster School
• West State Mechanical, Inc.
• Whiting-Turner
• Whyco Finishing Technologies
• Wiggin and Dana LLP
• Wilbraham & Monson Academy
• William Ravesis
• Williams Distributing Corp
• Wiltonwood Productions
• Windy Hollow Vet Clinic
• WirelessCareers
• Witherspoon Law Offices
• Wm. M. Hotchkiss Company
• Wood Group Pratt & Whitney
• Worx Branding and Advertising
• Yale-New Haven Hospital
• Yalesville Sanitation Service Inc.
• Yankee Service Co. LLC
• Yarnover LLC
• YMAX WIRELESS SOLUTIONS
• Z Airport Parking
SCHEDULE “E”  
MANAGER-HELD FURNITURE, FIXTURES AND EQUIPMENT

Vehicles:

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<td>Austin London Taxi</td>
<td>FX4-DR-32336X</td>
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<td>2013</td>
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</tr>
</tbody>
</table>
Current Management Team:  
John Schmid, Chief Executive Officer  
Richard DiPietro, President  
Tim Willey, Chief Financial Officer  
Patrick Boeshans, Chief Administrative Officer  
David Schmid, Chief Investment Officer