

**THIRD AMENDMENT TO NON-EXCLUSIVE SPACE USE LICENSEE AGREEMENT
BETWEEN CITY OF LOS ANGELES DEPARTMENT OF AIRPORTS AND
ALCLEAR, LLC FOR EXPEDITED TRAVELER SERVICES AT
THE LOS ANGELES INTERNATIONAL AIRPORT**

This Third Amendment to Non-Exclusive Space Use Licensee Agreement No. LAA-9095 (this “Third Amendment”) is made and entered into as of _____, 2022 (“Effective Date”) by and between THE CITY OF LOS ANGELES, DEPARTMENT OF AIRPORTS, a municipal corporation (“City”), acting by order of and through its Board of Airport Commissioners (“Board”), and ALCLEAR, LLC (“Licensee”), with reference to the following:

RECITALS

WHEREAS, City and Licensee heretofore entered into Non-Exclusive Space Use Licensee Agreement No. LAA-9095 (“Agreement”) on April 30, 2020, to provide Expedite Traveler Services for five years; and

WHEREAS, the Board approved the First Amendment to the Agreement in the form of a letter agreement on December 18, 2020, to provide the Licensee a temporary rental relief; and

WHEREAS, the Board approved the Second Amendment to the Agreement on December 15, 2021, between the City and Licensee to temporarily adjust the Minimum Monthly Guaranteed Rent and Minimum Annual Guarantee; and

WHEREAS, the parties desire to amend the Agreement by this Third Amendment to allow the Licensee to provide the additional services of enrolling the passengers to TSA’s Pre-Check Program on behalf of Transportation Security Administration (“TSA”), in addition to providing Expedited Traveler Services for passengers who are pre-registered for the service with the Licensee; and

WHEREAS, the Licensee can use the enrollment pods currently installed in Terminals 1, 2, 4, 5, 6, and 7 to enroll passengers into TSA’s Pre-Check Program. Unless otherwise defined in this Third Amendment or the context otherwise requires, the capitalized terms used in this Third Amendment shall have the same respective meanings as ascribed to such terms in the Agreement.

AGREEMENT

NOW, THEREFORE, the parties hereto, for and in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto, do mutually agree that the Agreement, **BE AMENDED AS FOLLOWS:**

Section 2.1 – Rights Granted to Licensee. This Section 2.1 between City and Licensee is hereby deleted in its entirety and replaced with the following:

“Section 2.1 – Rights Granted to Licensee. City hereby grants to Licensee, subject to all of the terms, covenants and conditions of this Agreement, the non-exclusive right to install, operate and maintain dedicated biometric verification lanes for

expedited passenger screening and enrollment services and customer service stations for travelers to sign-up for or inquire about the Registered Traveler Services (“Expedited Traveler License”) and TSA’s Pre-Check Program on behalf of TSA.”

Section 4.2 - Gross Revenues and Gross Receipts Defined. This Section 4.2 between City and Licensee is hereby deleted in its entirety and replaced with the following:

“Section 4.2 - Gross Revenues Defined. “**Gross Revenues**” means all monies paid to Licensee, whether for cash, credit or otherwise, from members who enroll in Licensee’s biometrics-based Registered Traveler Services and TSA’s Pre-Check Program, for which the enrollee provides an address within the catchment area, regardless of when, where or how, the membership is sold, less any applicable customer/membership refunds. A "sale" shall be deemed to have been consummated for purposes hereof, and the entire amount of the sales price shall be included in Gross Receipts and deemed received at the time sales charges are assessed on a membership account by Licensee.”

Gross Receipts Defined. “**Gross Receipts**” means enrollment revenue from persons enrolling into Expedite Traveler Services including the TSA’s Pre-Check Program.

“Gross Receipts shall not include (i) any sums collected for any federal, state, county and municipal sales taxes, so-called luxury taxes, use taxes, consumer excise taxes, gross receipts taxes and other similar taxes and/or government-mandated user fees now or hereafter imposed by law upon the sale of merchandise and products or services to the extent paid by Licensee to any duly constituted governmental/taxing authority; (ii) the portion of the sales price for all merchandise and products returned by customers and accepted for credit to the extent of the credit actually given to the customer as well as rebates, exchanges or allowances made to customers; (iii) shipping and delivery charges if there is no profit to Licensee and such charges are merely an accommodation to customers; (iv) discounts given by Licensee on sales of memberships; (v) cash or credit refunds, but only to the extent that the amounts refunded or credited were originally included in Gross Receipts; (vi) the sale or transfer in bulk of the inventory of Licensee to a purchaser of all or substantially all of Licensee's assets in a transaction not in the ordinary course of Licensee's business; (vii) credit card company fees or charges, and (viii) except with respect to proceeds received for business interruptions paid on a gross earnings business interruption insurance policy as provided in the definition of Gross Receipts, receipts from all other insurance proceeds received by Licensee as a result of a loss or casualty at the Airport.”

Section 31 - Miscellaneous. This Third Amendment may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one amendment, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Third Amendment and

electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Third Amendment had been delivered that had been signed using a handwritten signature. All parties to this Third Amendment (i) agree that an electronic signature, whether digital or encrypted, of a party to this Third Amendment is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this Third Amendment based on the foregoing forms of signature. If this Third Amendment has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 (“E-SIGN”) and the California Uniform Electronic Transactions Act (“UETA”) (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

Section 32 - Full Force and Effect. It is understood and agreed by and between the parties hereto that, except as specifically provided herein, this Third Amendment shall not, in any manner, alter, change, modify or affect any of the rights, privileges, duties or obligations of either of the parties hereto under or by reason of said Agreement.

[signatures appear on following page]

IN WITNESS WHEREOF, City has caused this Third Amendment to be executed on its behalf by the Chief Executive Officer, or his or her authorized signatory, and Licensee has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written.

APPROVED AS TO FORM:

CITY OF LOS ANGELES

APPROVED AS TO FORM

HYDEE FELDSTEIN SOTO

City Attorney

By: *Indoo Desai*
Indoo Desai (Apr 14, 2023 11:38 PDT)
Deputy/Assistant City Attorney

Date: Apr 14, 2023

By: _____
Chief Executive Officer
City of Los Angeles,
Department of Airports

By: _____
Chief Financial Officer
City of Los Angeles,
Department of Airports

ATTEST:

ALCLEAR, LLC

By: _____
Signature

Print Name

Print Title

By: *Kenneth Cornick*
Signature
Kenneth Cornick

Print Name
CFO & President

Print Title