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VIA ELECTRONIC MAIL

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Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, Connecticut 06856-5116

International Accounting Standards Board First Floor 30 Cannon Street London EC4M 6XH United Kingdom

Re: Exposure Draft – Leases

Dear Board Members:

Enterprise Holdings, Inc. ("Enterprise" or "we") appreciates the opportunity to respond to the Financial Accounting Standards Board and International Accounting Standards Board (collectively the "Board") regarding the Exposure Draft – Leases (the "Exposure Draft"). Enterprise, together with its domestic and international subsidiaries, is the world's largest car rental company, operating under the Enterprise Rent-A-Car, National Car Rental and Alamo Rent-A-Car brand names. Additionally, we own and operate a lease fleet of more than 190,000 vehicles, which are leased to national and local business with small to midsize fleet requirements between 15 to 125 vehicles. Enterprise is a privately held company with over 8,000 locations in the United States, Canada, the United Kingdom, Ireland, Germany, Asia Pacific, Latin America, and the Caribbean. For a majority of our locations, we lease the building, property and related equipment under operating lease arrangements as defined in the current lease accounting standards, many of which contain multiple renewal terms and/or contingent rents. Given the volume and type of lease arrangements we enter into as a lessee as well as a lessor, the Exposure Draft will have a significant impact on our operations.

The Board stated its reason for issuing the Exposure Draft is, "The existing accounting models for leases require lessees to classify their leases as either capital leases or operating leases. However, those models have been criticized for failing to meet the needs of users of financial statements because they do not provide a faithful representation of leasing transactions. In particular, they omit relevant information about rights and obligations that meet the definitions of assets and liabilities in the board's conceptual framework. The models also lead to a lack of comparability and undue complexity because of sharp "bright-line" distinction between capital and operating leases. As a result, many users of financial statements adjust the amounts presented in the statement of financial position to reflect the assets and liabilities arising from operating leases."

We support the need for accurate financial statement reporting, and value the Board's attempt to improve the lease accounting standards; however, we do not believe the Exposure Draft resolves the Board's concern. We feel the Exposure Draft will result in confusing and less accurate financial reporting, rather than faithfully presenting the effects of lease transactions in the financial statements. In the Board's effort to standardize the treatment of all leases, it appears the Board created a standard that will result in more complex assessments of factors to determine the appropriate accounting for leases, which will in turn lead to more confusion for financial statement users.

We conceptually struggle with the divergent accounting treatment the Exposure Draft prescribes between the value acquired and obligation incurred by a recipient in an operating lease transaction, as defined under the current literature, versus a service arrangement. Both transactions represent a resource controlled by the recipient, whether it be a physical asset or a service, as a result of entering into an agreement (a past event) from which future economic benefits are expected to flow to the recipient (i.e., output from the physical asset or benefits from the service) for a discrete time period. Also, an obligation to make payments under either arrangement is a recipient's present obligation arising from entering into the arrangement, the settlement of which is expected to result in an outflow from the recipient's resources embodying economic benefits, i.e. cash. We are by no means suggesting the Exposure Draft be expanded to include service arrangements, but highlight this matter to demonstrate an operating lease and a service arrangement have comparable accounting treatment under existing accounting literature due to similarities in the transactions' economics. These transactions do not contain any financing or sales components; they strictly represent the use of a resource over a period of time with no transfer of residual value at the end of the agreement's term. The recipient does not receive all or most of the benefits of ownership of the asset nor will they bear all or most of the risks of ownership. The current lease accounting standards attempt to identify the substance of the transaction at inception and properly classify the transaction as leasing or financing.

The Board's cited deficiency in the current lease accounting standards centers on the initial classification of a lease and the ability to structure a lease transaction to achieve preferable accounting treatment. We contend revisions and expansions to the "bright line" test that fully contemplate whether the transaction transfers the risks and benefits of the underlying asset from the lessor to lessee would be more useful to preparers and financial statement users and significantly reduce the lack of comparability and undue complexities the Board feels the current leasing accounting standard contain. In our opinion, the process of assessing a lease at inception is much more straightforward and simple to understand compared to the complexities of the initial assessment and on-going re-assessments that are included in the Exposure Draft. Preparers will be required to make complex judgments and assessments at inception of the lease and on a monthly basis that will inherently lead to greater variability and unreliable data for financial statement users to rely upon.

The Board also comments that due to the perceived deficiencies of current lease accounting literature, users are forced to adjust the amounts presented in the financial statements to reflect assets and liabilities of operating leases. We are aware of situations where our financial statement users review our footnotes to the financial statements to quantify our future cash flows associated with various arrangements we have entered into, including operating leases. Given the requirements of information to be disclosed, our users have the ability to fairly accurately determine a Company's future cash flows associated with operating leases and have established models to perform this calculation consistently between companies. However, under the requirements of the Exposure Draft, which contemplates establishing obligations for renewal options and contingent rents, a company will be required to capitalize cash outflows on their financial statements which may not occur. This will create a result that we believe will hinder rather than enhance a financial statement users' ability to analyze financial statements.

In general, we support simplicity and clarity in accounting and believe the current lease accounting standards result in accurate financial reporting that could be improved with revisions to the lease classification test. However, under the pretext that the approach as disclosed in the Exposure Draft is followed, we have significant concerns with certain conceptual and implementation issues encompassed by the Exposure Draft. The following summarizes these concerns, which are more fully discussed in our responses to specific questions raised in the Exposure Draft in the attached appendix.

- Under the Exposure Draft, a company is required to assess the probability of exercising renewal options when determining the lease term. We believe the assignment of renewal probabilities will be a highly subjective process and over an extended time frame cannot be performed with any reasonable precision or accuracy. As a result, the lease term will continually be re-assessed; resulting in volatility in the financial statements. Additionally, due to a likely diversity in the application of the Exposure Draft guidance, a lack of comparability may exist between companies. We feel the current lease accounting standards appropriately address lease term and provide for the inclusion of renewal options under specific circumstances which indicate that the renewal options are reasonably assured of occurring.
- We do not support the Board's inclusion of contingent rents in the measurement of assets and liabilities arising from a lease using an expected outcome technique. By including contingent rents, assets and liabilities will be established for future events that may not occur. Additionally, the capitalization of contingent rents at inception of the lease will prevent the proper matching of expenses to changes in economic activity in the period incurred. Furthermore, utilizing the probability weighted approach a company will compute a rent payment which does not represent a possible payment. Predicting contingent rents would be performed with even less accuracy than renewal options, further complicating the re-assessment process and resulting in volatility in the financial statements and a lack of comparability between companies. We believe minimum lease payments should continue to use the current definitions in existing lease accounting standards that are based on objective and reliable measurements.
- We do not believe the Exposure Draft's requirement to only re-measure a lease when there is a change in facts or circumstances that would indicate there has been a significant change in the lease asset or liability will reduce a company's administrative burden. While this approach may sound operational in theory, we do not think it would be effective in practice. Given the volume of assumptions and complexity of the calculation to determine the lease liability and asset coupled with the frequent changes in assumptions due to changing consumer trends, business environment, and economic shifts, a company will likely need to perform the calculation for each lease at each reporting period end to determine if a material change has occurred. This will eliminate any cost reductions the Board hoped to achieve by providing this exception in the Exposure Draft. However, remeasurement would be greatly simplified if the Board retained the current definitions of lease term and minimum lease payment in existing lease accounting standards.

- Given lessor accounting was excluded from the Discussion Paper of Leases: Preliminary Views, issued in March 2009 (the "Discussion Paper") and subsequently added to the Exposure Draft, we are concerned the models for lessor accounting are not as fully developed as the models for lessee accounting. It appears the revision to the lease accounting standards has been primarily focused on concerns surrounding lessee accounting; however, given the relationship existing between a lessor and lessee in a lease contract, it is critical the accounting model between the two parties are aligned and reflect this relationship. We feel the Board should consider undertaking additional efforts, including more fieldwork and surveys, to validate the Exposure Draft reflects a significant enhancement or improvement over current lease accounting standards for lessors. Additionally, it would behoove the Board to ensure it has sufficiently exhausted and vetted any questions and concerns surrounding the lessor accounting model as potential changes to the lessor accounting model may necessitate a revision to the lessee accounting model.
- Although an implementation date was not identified in the Exposure Draft, we request the Board consider an extended time frame from finalization of this standard to required adoption by companies given the magnitude of changes detailed coupled with the potential impact to almost all companies. Companies are going to incur significant time and resources to adopt the provision of this standard and if the effective date does not allow companies adequate time to inventory their existing leases and implement systems, procedures, and controls to address the Exposure Draft's requirements, we feel companies will be more exposed to potential errors and misapplication.
- As currently drafted, we feel the costs to implement the Exposure Draft will outweigh any benefits to be achieved. Companies will expend significant time and resources to comply will all aspects of the Exposure Draft. Companies will need to inventory all their leases, regardless of lease duration or potential cash outlay, develop or purchase systems to accommodate the Exposure Draft's accounting and reporting requirements, and devise internal controls to address and mitigate any risks associated with application of the Exposure Draft.
- As previously mentioned, our leasing operations primarily serve customers with small to midsize fleet requirements. Our customers have expressed concern regarding their ability to assess and apply the impacts of the Exposure Draft to their business and accounting models. Small to mid-size companies typically have capital restraints that prevent them for purchasing advanced accounting systems as well as expanding personnel. Additionally, small to mid-size companies generally have stretched resources that would not make it feasible for their existing personnel to absorb and implement the Exposure Draft. This may result in the improper implementation of the Exposure Draft or potentially impact our customer base's decision to purchase or lease vehicles, which clearly would have a detrimental impact to our leasing operations.

In conclusion, we feel the Exposure Draft is overly complex and fails to contemplate the differences between leasing transaction types. We are of the opinion that the current lease accounting standards are not fundamentally flawed and contemplate the differences in the legalities and substance of leasing transactions and a more appropriate course for the Board would be a refinement of the standard versus a complete overhaul. However, based on the requirements detailed in the Exposure Draft, we would like the Board to consider our comments, specifically the determination of lease term and minimum lease payments, and perform revisions, as appropriate.

We appreciate the opportunity to respond and thank you for your consideration.

Respectfully,

Steven J. Brackney

Senior Vice President and Corporate

Controller

Appendix – Responses to specific questions in the Exposure Draft

Question 3:Short-term leases

This exposure draft proposes that a lessee or a lessor may apply the following simplified requirements to short-term leases, defined in Appendix A as leases for which the maximum possible lease term, including options to renew or extend, is 12 months or less:

- (a) At the date of inception of a lease, a lessee that has a short-term lease may elect on a lease-by-lease basis to measure, both at initial measurement and subsequently, (i) the liability to make lease payments at the undiscounted amount of the lease payments and (ii) the right-of-use asset at the undiscounted amount of lease payments plus initial direct costs. Such lessees would recognize lease payments in the income statement over the lease term (paragraph 64).
- (b) At the date of inception of a lease, a lessor that has a short-term lease may elect on a lease-by-lease basis not to recognize assets and liabilities arising from a short-term lease in the statement of financial position, nor derecognize any portion of the underlying asset. Such lessors would continue to recognize the underlying asset in accordance with other Topics and would recognize lease payments in the income statement over the lease term (paragraph 65). (See also paragraphs BC41–BC46.)

Do you agree that a lessee or a lessor should account for short-term leases in this way? Why or why not? If not, what alternative approach would you propose and why?

Response

We fully support the proposed modification to short term leases for lessors; however, we do not believe the Board's modification for lessees achieves the necessary objective. Given the inclusion of a revised lessor accounting model in the Exposure Draft, which was absent in the Discussion Paper, it appears the Board acknowledged a link exists between the lessee and lessor of a lease and the accounting should contemplate that link. Therefore, it is difficult to understand why the Board would propose a different short term accounting model for lessees and lessors. In the spirit of consistent application of accounting standards, similar off-balance sheet treatment for lessees and lessors represents a logical and understandable result. This suggested treatment would still achieve similar income statement and cash flow treatment as is detailed in the Exposure Draft; however, companies would not be required to undergo the exhaustive exercise to inventory and track all their leases with terms less than 12 months. Although a limited number of companies may have a number of short term leases that are significant, the vast majority of short term leases will represent immaterial, noncore assets, i.e. copiers, printers, etc. Given the de minimus value of these individual leases, the agreements and terms may not necessarily reside with a company's personnel responsible for applying this standard and could prove difficult to obtain. To implement procedures and controls to identify, capture, and monitor these short term leases will be very costly for companies. In our opinion, the cost of applying the Exposure Draft's criteria for short term leases for lessees will significantly outweigh the minimal perceived benefits to be achieved.

Based on the Exposure Draft's lessee accounting for short term leases, it appears the Board is concerned if a company is allowed off-balance sheet treatment for short term leases, a company will structure all leases to be less than 12 months in order to keep them off their balance sheet. In practice, it would not be advantageous for lessors to provide only 12 month leases as this would create significant uncertainty in their business and future cash flows. Additionally, if a lessee enters into only 12 month leases, the rates charged in the lease would likely be in excess of the rates received in a longer term lease. Therefore, if a lessee intends to remain at a location for a period longer than 12 months, it is difficult to believe a lessee would be willing to suffer unnecessary cash outflows in order to achieve a preferable accounting treatment. Furthermore, if a company has the intent and ability to execute lease agreements that would achieve preferable accounting treatment, what exists to prevent these companies from circumventing the requirements of the Exposure Draft by structuring lease agreements to expire on their fiscal period end to avoid reporting amounts on their balance sheet? The potential for manipulating the lease accounting standard is and always will be present and the cost of implementing the Exposure Draft's lessee accounting for short term leases not only negatively impacts all companies, but does not sufficiently mitigate the risk the Board is trying to address.

Question 8: Lease Term

Do you agree that a lessee or a lessor should determine the lease term as the longest possible term that is more likely than not to occur taking into account the effect of any options to extend or terminate the lease? Why or why not? If not, how do you propose that a lessee or a lessor should determine the lease term and why?

Response

We believe the current lease accounting standards appropriately address lease terms for lessees and lessors and provide for the inclusion of renewal options under specific circumstances which indicate that the renewal options are reasonably assured of occurring. Under the Exposure Draft, the assignment of renewal probabilities will be a highly speculative endeavor. Predicting renewals cannot be performed within any reasonable accuracy. There are too many factors outside a company's control to perform these exercises with any level of reasonable accuracy. The guidance would require a company to contemplate shifting demographics, consumer patterns, business environment changes, etc. Additionally, history is not an indication of future performance, so a company would not be able to rely on its historical results to determine the likelihood of exercising renewal options. It is unreasonable to expect a company to complete this analysis and have any comfort with recording the result. We feel the only certainty under the Board's approach is that the lease term will constantly be re-assessed, resulting in volatility in the financial statements and a lack of comparability will exist between companies. Clearly, this was not the Board's intent or objective when establishing this guidance. Furthermore, companies will have to absorb significant costs to acquire new resources and systems to implement and monitor their leases to comply with the Exposure Draft. We feel the lease term should continue to use the current definitions in existing lease accounting standards that are based on objective and reliable measurements that would be consistently applied, resulting in comparability between companies.

Ouestion 9: Lease Payments

Do you agree that contingent rentals and expected payments under term option penalties and residual value guarantees that are specified in the lease should be included in the measurement of assets and liabilities arising from a lease using an expected outcome technique? Why or why not? If not, how do you propose that a lessee or a lessor should account for contingent rentals and expected payments under term option penalties and residual value guarantees and why?

Do you agree that lessors should only include contingent rentals and expected payments under term option penalties and residual value guarantees in the measurement of the right to receive lease payments if they can be reliably measured? Why or why not?

<u>Response</u>

We do not support the Board's inclusion of contingent rents in the measurement of assets and liabilities arising from a lease using an expected outcome technique. By including contingent rents, assets and liabilities will be established for future events that may not occur. Additionally, the capitalization of contingent rents at inception of the lease will prevent the proper matching of expenses to changes in economic activity in the period incurred. In practice, predicting contingent rents would be performed with even less accuracy than renewal options. Contingencies based on outputs or indices cannot be reliably measured and incorporating contingent rents into the lease calculation would increase the future volatility of the lease asset and liability. This can be evidenced by the fact that under the probability weighted approach, a company will compute a rent payment which does not represent a possible payment. We have difficulty understanding how the Exposure Draft is improving lease accounting by presenting results which are based on complex estimates, subject to constant re-assessment. Also, for similar reasons discussed in our response to *Question 8*, contingent rents would lead to:

- Volatility in the financial statements due to continual re-measurement.
- Lack of comparability between companies.
- Absorption of significant costs to acquire resources and systems.

Minimum lease payments should continue to use the current definitions in existing lease accounting standards that are based on objective and reliable measurements that would be consistently applied, resulting in comparability between companies. The Board has stated its concern for excluding contingent rents is that a lessee could structure a lease transaction to include a nominal minimum lease payment and significant contingent rents, thereby avoiding capitalization on the balance sheet. We feel there are better methods or approaches to address this concern than the Exposure Draft prescribes, for example by capitalizing minimum lease payments that are disguised as contingent rents. Furthermore, from a lessor standpoint, it is not advantageous to enter into lease arrangements entirely comprised of contingent rent as this would create significant uncertainty in their business and future cash flows. Thus, even if a lessee attempted to structure lease agreements to achieve preferable accounting treatment under the current lease accounting standards, it would appear they would have difficulty getting a lessor to agree to those terms, mitigating the Board's concerned.

Question 10: Reassessment

Do you agree that lessees and lessors should remeasure assets and liabilities arising under a lease when changes in facts or circumstances indicate that there is a significant change in the liability to make lease payments or in the right to receive lease payments arising from changes in the lease term or contingent payments (including expected payments under term option penalties and residual value guarantees) since the previous reporting period? Why or why not? If not, what other basis would you propose for reassessment and why?

Response

In response to respondents' concern raised in the Discussion Paper regarding the cost of reassessing lease terms and payments, the Board indicated that leases would only need to be re-measured when there is a change in facts or circumstances that would indicate there has been a significant change in the lease asset or liability. While this approach may sound operational in theory, we do not think it would be effective in practice. To elaborate on our position, we have entered into thousands of leases, a majority of which contain multiple renewal options and/or contingent rents. In order to comply with the Exposure Draft's requirements, we will need to run multiple scenarios for each lease to compute our lease asset and liability. During each reporting period end, we will need to review every lease to decide if a change in the assumptions and estimates has occurred. There will likely be multiple changes to consider for a vast majority of our leases. Given the inherent complexities of the calculation, it is not feasible to qualitatively determine if our revisions would have a material impact on the balance. Therefore, we would be required to re-perform the calculations at every period end to assess the impact of the adjustment. At this point, we would have computed an updated number and would be inclined to record this number given it represents a more accurate estimate than what is currently recorded in the financial statements. Consequently, we feel the Board's response to the respondents' concerns would not prevent or minimize the costs required to re-measure the lease asset and liability on a quarterly basis. However, re-measurement would be greatly simplified if the Board retained the current definitions of lease term and minimum lease payment in existing lease accounting standards.

Question 16: Transition

- (a) This exposure draft proposes that lessees and lessors should recognize and measure all outstanding leases as of the date of initial application using a simplified retrospective approach (paragraphs 88–96 and BC186–BC199). Are these proposals appropriate? Why or why not? If not, what transitional requirements do you propose and why?
- (b) Do you think full retrospective application of lease accounting requirements should be permitted? Why or why not?
- (c) Are there any additional transitional issues the boards need to consider? If yes, which ones and why?

Response

Under the current requirements, the transition to the new lease accounting standard in its final form is going to be a massive undertaking for most companies. Companies will likely turn to third party software vendors to assist in the implementation of the new standard. The process from bidding the software program to implementing the program will take an extended period of time. A majority of this process cannot occur until the Exposure Draft is final so third party vendors can develop their programs based on the final requirements and companies can assess their needs. We hope the Board appreciates the time and effort involved to implement the Exposure Draft and will contemplate this as they define the implementation date. We feel an implementation date two plus years subsequent to this standard's finalization would represent the minimum amount of time a company would need to apply this standard without straining its existing resources or significantly sacrificing the accuracy or precision of its recorded results.

Question 17: Benefits and Costs

Paragraphs BC200–BC205 set out the boards' assessment of the costs and benefits of the proposed requirements. Do you agree with the boards' assessment that the benefits of the proposals would outweigh the costs? Why or why not?

Response

As currently drafted, we feel the costs to implement the Exposure Draft will outweigh the benefits primarily due to the reasons stated above. In addition, companies will incur incremental costs to obtain waivers and amend debt covenants due to changes in their financial statements from applying the Exposure Draft. Lending institutions may also see this as an opportunity to increase fees and interest rates as part of the amendment process. It is difficult to justify that a company should incur additional costs when no changes have occurred in a company's core operations. Companies will have no leverage during negotiations and this may give lenders the opportunity to modify debt agreements to the detriment of the borrower.

The Board stated it believes the costs users of the financial statements will incur will be significantly reduced due to the requirements of the Exposure Draft. However, most users have previously developed models to assess a company's future cash outflow requirements and were effectively applying those models based on a company's financial statements and information provided in the associated footnotes. From their perspective, it appears minimal cost savings exist. In fact, due to complexities of the Exposure Draft, users will have a more difficult time understanding a company's financial statements and information disclosed in the associated footnote. Therefore, in order to assess a company's future cash outflow requirements, users will need to invest time and resources, which will require the absorption of incremental costs.

Question 18: Other Comments

Do you have any other comments on the proposals?

<u>Response</u>

As it pertains to other comments on the Exposure Draft, we feel the Board should reconsider the amortization method for the right of use asset. The asset and liability established for a lease transaction are inextricably linked and cannot be settled independent of each other. Due to this link, the accounting for both components should reflect this relationship. We believe a preferable amortization method for the right of use asset would be to utilize the same rate as the lease liability. This would result in the income statement reflecting a constant expense over the term of the lease, which more closely approximates the economics of the transaction as it is in line with the leased asset's use. Additionally, absent impairment and initial direct costs, under this method, the recorded right of use asset balance at any point in time would be more representative of its fair value than the straight line method currently proposed.

We also believe the Board should provide guidance as it pertains to the treatment of landlord incentives prior to finalizing the content in the Exposure Draft.