Memorandum

MIAMI-DADE COUNTY

DATE: January 25, 2007

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

Agenda Item No. 8(A)(1)(E)

FROM: George M. Burgess
County Manager

SUBJECT: Development Lease Agreement T-3231 with Falcontrust Air, LLC at Kendall-Tamiami Executive Airport

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RECOMMENDATION

It is recommended that the Board authorize a 35-year development lease agreement including one five-year option to extend with Falcontrust Air LLC for the construction of seven aircraft hangars and an office building at Kendall-Tamiami Executive Airport (TMB). Each hangar will be 130' x 130' for a total of 118,300 square feet of aircraft hangar storage, and the office building will be approximately 15,000 square feet. The development of the facilities will occur on Lots 37, 43, 44, 45, and G consisting of approximately 18.04 acres.

BACKGROUND

The attached Development Lease No. T-3231 involves Falcontrust's construction of seven hangars and an office building on Lots 37, 43, 44, 45, and G on the southeast portion of the TMB. The development will assist MDAD in meeting the current demand for aircraft storage at the County's general aviation airports. Falcontrust will invest no less than $6,314,000 on the proposed project. Such an investment qualifies Falcontrust for a 35-year lease on the lots under the MDAD's general aviation airport development criteria of $10,000 per acre per lease year ($10,000 x 18.04 acres x 35 years = $6,314,000). Because both the County and Falcontrust must consent to the five-year extension, the five-year-option period is not included in the criteria formula.

Throughout the 35-year lease period, Falcontrust will pay applicable fair market rentals on the land as established by the Board. Currently, the fair market rental cost is $86,129 annually for the ground rent. Falcontrust is paying the construction of the new facilities on the 18.04-acre site. MDAD has determined that the reasonable amortization period for these facilities is 35 years, and therefore Falcontrust will not be required to pay the County any rent on the new facility during the initial term of the 35-year agreement. However, Falcontrust will pay improvement rent in addition to the ground rent starting in the 36th year of the lease term, assuming the parties have agreed to the five-year extension. Falcontrust's development will benefit both Falcontrust and the County by providing much needed hangar space at TMB without the need for the County to construct such facilities at its expense.

This is the second lease agreement between Falcontrust and the County at TMB. On October 30, 2001, the Board approved Development Lease Agreement T-168 for Falcontrust's construction of a facility with aircraft storage hangars, a fuel farm and automobile parking spaces. Concurrently via a separate agenda item, MDAD is recommending that the Board approve the First Amendment to Development Lease T-168, extending the initial lease term.

Susanne M. Torriente, Chief of Staff/Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: January 25, 2007

FROM: Murray A. Greenberg County Attorney

SUBJECT: Agenda Item No. 8(A)(1)(E)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

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Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 8(A)(1)(E)

01-25-07

RESOLUTION NO. _____

RESOLUTION RELATING TO KENDALL-TAMIAMI EXECUTIVE AIRPORT; APPROVING SECOND DEVELOPMENT AGREEMENT T-3231 BETWEEN MIAMI-DADE COUNTY AND FALCONTRUST AIR, LLC, FOR CONSTRUCTION OF AIRCRAFT HANGARS AND AN OFFICE BUILDING AT KENDALL-TAMIAMI EXECUTIVE AIRPORT; AUTHORIZING COUNTY MANAGER TO EXECUTE SUCH DEVELOPMENT AGREEMENT AND TO EXERCISE TERMINATION PROVISIONS IN THE DEVELOPMENT AGREEMENT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the attached Development Agreement No. T-3231 between Miami-Dade County and Falcontrust Air, LLC, such Agreement being the second development lease agreement with Falcontrust for construction of facilities at Kendall-Tamiami Executive Airport and such Agreement requiring the construction of seven aircraft hangars and an office building on Lots 37, 43, 44, 45, and G at a total construction cost of not less than $6,314,000, with an initial lease term of thirty-five (35) years and a five (5) year extension at the mutual agreement of both parties; authorizes the County Manager to execute such Development Agreement No. T-3231 and to exercise the termination provisions contained therein.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz
Carlos A. Gimenez
Joe A. Martinez
Dorrin D. Rolle
Katy Sorenson
Sen. Javier D. Souto
Audrey M. Edmonson
Sally A. Heyman
Dennis C. Moss
Natacha Seijas
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 25th day of January, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. TPA

Thomas P. Abbott

Agreement No.:T-3231
Cust. No.: FALN 30
Doc. Name: FALN3231

DEVELOPMENT LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY, FLORIDA, AS LESSOR, AND FALCONTRUST AIR, LLC. AS LESSEE, AT KENDALL-TAMIAMI EXECUTIVE AIRPORT

THIS DEVELOPMENT LEASE AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 2006, (the "Commencement Date"), by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida ("Lessor" or sometimes "County"), and FALCONTRUST AIR, LLC., a Limited Liability Company authorized to do business in the State of Florida ("Lessee")

WITNESSETH

WHEREAS, the County is the owner of Kendall-Tamiami Executive Airport (known as Airport "TMB") and operates it through the County's Aviation Department (the "Department" or sometimes "MDAD"), and Lessee desires to develop a specific portion of such airport for aviation and aeronautical purposes; and

WHEREAS, Lessee desires to lease a parcel of undeveloped land at TMB consisting of lots 37, 43, 44, 45, and G, a total of 18.04 acres upon which Lessee intends to construct certain aeronautical facilities, and Lessor is willing to lease such parcel to Lessee conditioned upon Lessee's construction of such facilities at a minimum level of cost and within a stated period of time; and

WHEREAS, Lessee acknowledges that all such development activity must occur in strict compliance with requirements of the Federal Aviation Administration ("FAA") and with all regulatory requirements of the State of Florida and the County; and that this Agreement is expressly subject to such regulatory approvals in accordance with the provisions of this Agreement;

NOW THEREFORE, for and in consideration of the foregoing premises, and of the mutual covenants and agreements contained herein, the parties agree as follows:

ARTICLE 1
Term and Premises

1.01 Term: (a) The Lessor hereby leases to the Lessee, and the Lessee leases from the Lessor, the Premises as set forth in Article 1.03 ("Premises"), consisting of approximately 18.04 acres, for the purposes and uses set forth in Article 2 (Use of Premises) and Article 4 (Modifications/Improvements to the Premises), with the right of Lessee to construct or cause to be constructed and thereafter occupy and make use of those improvements, structures, and facilities described in Article 4 (hereinafter the "Improvements"), all for a lease

term of thirty five (35) years and one (1) five (5) year extension from the date first written above (Commencement Date) provided that the Lessor and Lessee mutually agree to such five (5) year extension.

(b) Lessee acknowledges that the term of this Agreement as it applies to the entire 18.04 acres Premises shall be reduced in accordance with Article 1.06 if Lessee fails to complete construction in a timely manner or fails to make the construction minimum investment required herein.

1.02 Investment: The Lessee shall make a Minimum Development Investment of SIX MILLION THREE HUNDRED FOURTEEN THOUSAND DOLLARS ($6,314,000) in design and construction on the Premises of hangar facilities with support office space as such facilities are described below, within five (5) years of the Commencement Date. Such facilities may be constructed by Lessee in the Phases described below, but Lessee shall have the option of constructing the facilities in whatever order it chooses, provided that at the end of the five year period the facilities described below are completed and have a Certificate of Occupancy or a Temporary Certificate of Occupancy issued for such facilities, with an Approved Improvement Costs for all such facilities amounting to not less than $6,314,000 as determined under Article 4.09. If Lessee fails to make the minimum investments in the total amount of $6,314,000 within the five year period, or fails to construct the facilities within such five year period, Lessor shall have the remedies set forth in Article 1.06 below.

1.03 Premises: The Premises leased herein consist of the 18.04 acres site located at Kendall-Tamiami Executive Airport and are more particularly described below and as shown on Exhibit A of this Agreement:

Exhibit A dated November 01, 2006:

Description of Premises	Square Footage
Road Pavement & Land	37,367
Aircraft Pavement	173,100
Aviation Land	575,370
Total Aviation Land	785,837

The foregoing Premises of 785,837 square feet, more or less, under the Development Phase.

1.04 Suitability of Premises: The Lessee acknowledges that (a) the Lessor has made no representations as to the Premises or the suitability of the Premises for the purposes of the Lessee, (b) the Premises are suitable for the Lessee's proposed use, (c) the Lessor has no obligation to perform or cause to be performed any maintenance, repairs, renovations, cleanups, painting, or the like of the existing facilities on the leased Premises which are leased in an as is condition, except to the extent of Lessor's responsibilities for environmental conditions under Article 9, (d) Lessee has made whatever site inspections it deems necessary so as to be apprised of the conditions of the premises, both above ground and below ground, and has made its own determination that the Premises are suitable for its intended use (e) Lessee has reviewed all documents applicable to the Premises and the adjacent areas, and (f) Lessee has otherwise satisfied itself that the

conditions of the Premises, and utilities in their current state are satisfactory to the Lessee. The Lessee's obligation under this Agreement, such as in Article 7.01(B) (Permits and Licenses), to obtain all land use, construction, and operating permits and approvals required of the Lessee at the Lessee's sole cost and expense, shall not require the Lessor to take any action or perform any tasks within the Premises to enable the Lessee to obtain such permits and approvals, including, but not limited to, certificates of occupancy, which shall remain the Lessee's exclusive obligation to take or perform in order to obtain such permits and approvals. The Lessee further acknowledges that, by executing this Lease, the Lessee at its own cost, risk, and expense must make the necessary investments and all Improvements to the Premises, including all infrastructure improvements and utilities services necessary for Lessee's construction and use of the Premises, to make the Premises suitable for the Lessee's use and to satisfy the County's building, life, safety, fire and occupancy requirements, and that the Lessor shall have no obligation to Lessee to compensate or reimburse Lessee for such cost, risk, expense, investment, and improvements.

1.05 Title to Improvements; Standards of Construction; Demolition of Improvements at Termination: Unless Lessee's financing documents require otherwise, Lessee shall have the option of (i) placing in the name of the County all Improvements installed or constructed by Lessee upon the Development Phase of the Premises, free and clear of all liens and encumbrances, except for any financial interests or liens specifically approved by County under the loan documents as provided under Article 11.03(B) (Lessor Approval of Financing Documents), or (ii) retaining title to such Improvements in Lessee's name. For any Improvement whose title is to be placed in County's name, Lessee shall comply with the more stringent design and construction standards set forth by the Aviation Department from time to time to assure that the Improvement will remain in satisfactory condition during the term of this Lease and will have a reasonable useful life following termination of this Agreement. For any improvement whose title is to remain in Lessee's name, Lessee shall be entitled to use modified standards for its design and construction, as approved by the Department, but must nonetheless comply with all applicable building, fire, and life/safety codes, comply with the Department's requirements under Article 4.14 (Standards of Construction) as to the useful life of the Improvement, and must remove any such Improvement upon termination of this Lease for any cause, unless the Aviation Department directs otherwise as to such Improvement.

1.06 Failure to Develop. Lessor has granted this Agreement for an initial term of thirty-five (35) years on the basis of Lessee's assurance that Lessee will make not less than SIX MILLION THREE HUNDRED FOURTEEN THOUSAND DOLLARS ($6,314,000) of improvements and facilities on the Premises no later than five (5) years from the Commencement Date. In addition, if Lessee fails to obtain a permit to begin construction within 24 months from the Commencement Date or complete the construction within five years from the Commencement Date, the Lessor may terminate this Lease. If Lessee fails to make the minimum investment of SIX MILLION THREE HUNDRED FOURTEEN THOUSAND DOLLARS ($6,314,000) in the construction of the indicated improvements and obtain a CO or TCO for improvements and facilities within five (5) years of the Commencement Date, Lessor shall be entitled to take any or all of the following actions at its discretion in consultation with Lessee:

(a) reduce the length of the Term of this Agreement to maintain the investment ratios per acre per year consistent with the County's criteria for corporate general aviation development ($10, 000 per acre per year); and/or

(b) begin charging fair market value rent for the improvements on the Development

Phase premises (building and associated ramp) as of the date the Term of the Agreement would expire under Article 1.06(a) above.

1.07 Review by FAA: This Agreement is subject to the review of the Federal Aviation Administration (FAA), and shall not be effective until completion of such FAA review and the parties' acceptance of any changes hereto required or necessary as a result of the FAA review. If the FAA indicates that any portion of this Agreement is not consistent with the requirements of federal law or grant assurances, or else raises an objection to any portion of this Agreement, the Department shall have the right in its sole discretion to either declare this Agreement to be null and void or else to change the terms of this Agreement so as to overcome the reasons for the FAA's statements or objections and submit to the Lessee this Agreement as so changed. In the latter event, Lessee shall respond to such proposed changes promptly, and in any case not later than sixty (60) days from the date of submission by the Department. If the Lessee accepts such changes, the parties will execute a new Agreement as changed, subject again to FAA review. At any time following the FAA's initial review of this Agreement in which the FAA made statements or else raised concerns about the terms of the Agreement, the Department may determine that it is in the best interests of the County to lease the Premises to another party on terms that would be acceptable to the FAA, and upon such determination, whatever rights Lessee may have hereunder shall cease upon Lessee's receipt of such statement of determination. No compensation of any sort shall be payable to Lessee in the event that (a) the Department declares this Agreement to be null and void, (b) the Department makes a determination to lease the Premises to another party, or (c) the parties are unable to agree to the terms of a revised Agreement that will overcome the concerns raised by the FAA.

1.08 Early Termination for Airport Purposes:

(a) At any time during the term of this Agreement, if the Premises leased and developed hereunder are required for Airport Development Purposes or any other purpose determined by the Board of County Commissioners, the County shall have the right to terminate this Agreement as to all or any portion of the Premises upon notice to the Lessee as provided herein.

(b) In the event such notice is given prior to completion of construction of any improvement to be terminated under the notice, the notice shall specify the effective date of termination, which may be immediately upon Lessee's receipt of the notice or at such other time specified in the notice. Lessor shall have the option of requiring Lessee to complete construction of the improvement and to obtain a Certificate of Occupancy therefore or else requiring the Lessee to cease all construction activity as of the date set forth in the notice. Lessee shall submit to Lessor all construction costs incurred by Lessee as of the effective date of termination. The determination of costs eligible for reimbursement to Lessee shall be based on the calculation of Approved Improvement Costs as of the effective date of the notice as determined under Article 4.09. Within sixty (60) days' of Lessor's acceptance of the Approved Improvement Costs, Lessor shall pay Lessee the amount of the Approved improvement Costs.

(c) In the event such notice is given after completion of any improvement, the notice shall provide Lessee with a reasonable period of time to vacate the improvement, which shall be not less than sixty (60) days after Lessee's receipt of the notice. Lessor shall be responsible for paying to Lessee the fair market value

of the improvement, determined by a qualified appraiser selected and paid for by the Lessor. If Lessee does not accept the appraised value of Lessor's appraiser, Lessee shall have the right to select and pay for its own appraiser. If Lessor does not accept the Lessee's appraised value determined by the Lessee's appraiser, the two appraisers shall select a third appraiser, whose costs shall be paid equally by Lessor and Lessee. Any appraiser selected hereunder must be a member of the Master Appraisal Institute or equivalent. All three appraised values shall be added together and divided by three to obtain the appraised value Lessor is required to pay the Lessee. Lessor shall cause Lessee to be paid the appraised value within sixty (60) days of determining the appraised value in accordance with this sub article, but Lessor shall have no obligation to pay Lessee any compensation for the land taken back by Lessor.

ARTICLE 2
Use of Premises

2.01 General Privileges, Uses and Rights: The Lessor hereby grants to the Lessee the following general privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants hereinafter set forth or otherwise applicable to Lessee's use of any portion of the Airport, and all of which shall be non-exclusive on the Airport.

(A) The general use, in common with others, of all public Airport facilities and improvements, which are now or may hereafter be connected with or appurtenant to said Airport, to be used by the Lessee in connection with its operations hereunder. For the purpose of this Agreement, "public Airport facilities" shall include all public non-airfield areas, including, but not limited to, automobile parking areas, roadways, sidewalks, or other public facilities appurtenant to said Airport, not specifically leased hereunder or under the contractual control of others. Nothing contained herein shall in any way limit the right of the County in its sole discretion to abandon, discontinue or demolish any of the public Airport facilities described herein.

(B) The right of ingress to and egress from the leased Premises over and across public roadways serving the Airport for the Lessee, its agents and employees, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such laws, rules, regulations and orders and fees and charges as now or may hereafter have application at the Airport.

Nothing herein contained shall be construed to grant to the Lessee the right to use any other space or area improved or unimproved which is leased to a third party, or which the County has not specifically leased to the Lessee.

2.02 Use of Premises: The Lessee shall use the Premises leased herein, for the purpose of providing aircraft parking and storage in accordance with MDAD's Minimum Standards for aircraft parking and storage as may be established and amended from time to time.

2.03 Non-Flyable Aircraft: In no instance shall any non-flyable aircraft be parked or stored on the Premises for a period in excess of 60 consecutive days, without the prior written approval of the Department. After such 60-day period, the Lessee shall remove any non-flyable aircraft from the Premises within 15 days,

when notified in writing by the Department to do so, unless such aircraft is then and there undergoing maintenance as authorized herein. Failure of the Lessee to remove non-flyable aircraft shall result in the Department declaring said aircraft derelict and subject to removal pursuant to Chapter 25-10.24 of the Miami-Dade County Code, as well as the Department's termination of this Agreement.

2.04 Collection of Certain Fees and Charges: The Lessor reserves the right to establish fees for the landing and parking of all or special classes of aircraft at the Airport. The Lessee, as a further consideration for this Agreement, shall be required, when directed in writing by the Lessor, to collect and promptly remit to the Lessor aviation fees and other aviation charges, approved by the County and payable to the Lessor. The method of collection and remittance of such fees and charges shall be as determined and directed by the Lessor in writing. A failure to collect and pay same shall constitute a default under Article 12.03 (Other Defaults) hereof. The Lessee shall be permitted to retain five percent of such fees and charges collected on behalf of the Lessor, which amount shall be considered as full and final payment to the Lessee for the cost of collecting and remitting the fees and charges, and shall not be considered as part of gross revenues earned by Lessee.

ARTICLE 3
Rentals and Payments

3.01 Rentals:

A) Rent. (1) Lessee shall pay on a monthly basis, beginning on the Commencement Date of this Agreement, ground rent (separately stated as to land and pavement) at fair market value (FMV) rental rates established through appraisal and approved by the Board of County Commissioners. The County reserves the right to modify such rates throughout the term of this Agreement in accordance with its then-current rental rate adjustment policies, and Lessee shall pay the FMV rental rates as so adjusted.

Exhibit	Description	Sq. Ft.	Rate*	Annual *	Monthly*
A	Aircraft Pavement	173,100	$0.05	$8,655.00	$721.25
A	Airside Land	502,673	$0.14	$70,374.22	$5864.52
A	Road Pavement & Land	37,367	$0.19	$7,099.73	$591.65
			TOTAL:	**$86,128.95**	**$7177.42**
		Security Deposit:		***$14,354.84***	

* As of the Commencement Date, subject to adjustments as provided herein.

B) Date of Beneficial Occupancy: The Date of Beneficial Occupancy ("DBO") is defined to be the earliest of (i) the date on which Substantial Completion of the Work associated with any Improvement on the Premises has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy or a Temporary Certificate of Occupancy that enables the Lessee to occupy or utilize the Improvement in any manner for its intended use, (ii) the date on which the Lessee commences the use of any Improvement for its

intended use (with or without a TCO or CO), or (iii) the date on which Substantial Completion of the Improvement would have occurred and on which the appropriate code enforcement agency would have issued a Certificate of Occupancy or Temporary Certificate of Occupancy but for the occurrence of Lessee's delays, all as determined in the sole reasonable discretion of the County.

C) Sales Taxes and Other County Charges. Lessee shall pay to the Lessor, in addition to the foregoing rents, all applicable State sales taxes as well as all federal, state or local taxes arising out of Lessee's use of the Premises, and all other charges imposed by the County on the Lessee's use of the Premises provided that such tenant charges are applicable to all similarly-situated tenants at OPF.

D) Improvement Fee. Lessee shall commence paying Lessor a monthly Improvements Fee, equal to the appraised annual lease value of the Improvements as determined by Lessor's appraisers starting on the thirty-fifth (35th) anniversary of the Date of Beneficial Occupancy of any such Improvement, divided by twelve. Lessee may challenge such lease value determination with an appraisal of its own and submit such appraisal to the Lessor for its consideration. The Lessor's determination of the Improvement Fee to be charged, after reasonable consideration of such appraisal by the Lessee, shall be final.

3.02 Security Deposit: Prior to occupancy or use of any Improvement on the Premises, the Lessee shall pay to the Lessor an amount equal to two times the required total monthly ground rent and Improvements Fee for the Improvement as determined pursuant to Article 3.01 above, plus applicable State sales tax on such security deposit amount, as security for the payment of the Lessee's obligations hereunder. Said deposit shall be in addition to any rental payments required hereunder, and the Lessor shall be entitled to apply such payment to any debt of the Lessee to the Lessor that may then exist, as permitted by law, including but not limited to the rentals, fees, and charges imposed by the County hereunder or otherwise. In lieu of the security deposit being made in cash, the Lessor, in its sole discretion, may authorize the Lessee to provide an irrevocable Letter of Credit, in a form approved by the Lessor, in like amount. The amount of the security deposit is subject to adjustment by the Lessor at any time there is a change in the annual or monthly rentals pursuant to the terms of this Agreement; provided further, that the Lessor shall have the right to demand an increase in the security deposit requirement of up to an additional four months rental to provide the Lessor with adequate assurance of the Lessee's payment of its obligations, which assurance is required because of the Lessee's defaults in the timely payment of rents, fees and charges due hereunder, or because the Lessor has reason to believe, based on published reports, that the Lessee's future ability to pay such rentals, fees and charges, on a timely basis, is in jeopardy.

3.03 Rental Rate Review: Annually as of April 1 of each year during the term of this Agreement, or such other date as may be established by the Board of County Commissioners, the ground rental rates, existing building rentals, and Improvement Fee applicable to the Premises as stated in Article 3 (Annual Rentals) above shall be subject to review and adjustment in accordance with the adjustment of rental rates for the entire Airport. The FMV rental rates for land may adjusted by the Department effective on April 1 of each year of this Agreement based on the changes in the Consumer Price Index (the CPI), for Miami-Dade County, provided, however, the Department shall as of April 1, 2009, and each fifth year anniversary thereafter, adjust the rental rate to the FMV rental rates established by appraisal. Building rentals shall be determined on an annual appraised basis. The County shall instruct the appraiser to take into account in any appraisal that the Lessee is obligated for all maintenance of the facilities, except for the maintenance obligations of the County under Article 6.

When such rental rate adjustments are established by the Board of County Commissioners or as directed by the Aviation Director pursuant to Resolution R-186-01, new or revised rental rates applicable in whole or in part to the Premises are established, this Agreement shall be deemed to have been administratively amended to incorporate the revised rental rates effective as of such effective date. Such revised rental rates shall be reflected herein by means of a letter between the Department and the Lessee to be attached hereto. Payments for any retroactive rental adjustments shall be due upon billing to the Lessee by the Department and payable by the Lessee within thirty calendar days of same. Notwithstanding anything to the contrary provided herein, the adjustment of rental rates for the Premises shall be based on a non-discriminatory application of the rental rates for the entire Airport as adjusted by the Board of County Commissioners.

3.04 Double Rental: In the event that the Lessee remains in possession of the Premises beyond the expiration or termination of this Agreement, the Lessee shall be bound by all of the terms and conditions of this Agreement to the same extent as if this Agreement were in full force and effect during the time beyond the expiration date of this Agreement. However, during any such possession of the Premises, as a holdover tenant after the Lessor has demanded the return of the Premises, the Lessee shall be liable for double rentals for so long as the Lessee remains in possession after such demand, such rentals to be based upon the rental rates then applicable in whole or in part to the Premises.

3.05 Address for Payments: The Lessee shall pay, by mail, all rentals, fees and charges required by this Agreement to the following:

Miami-Dade Aviation Department
Finance Division
P. O. Box 592616
Miami, Florida 33159

Payments may be made by hand-delivery to the Finance Division offices at 4200 NW 36 Street, 3rd Floor, during normal working hours.

3.06 Late Payment Charge: In the event the Lessee fails to make any payments, as required to be paid under the provisions of this Agreement, within ten days after same shall become due, interest at the rates established from time to time by the Board of County Commissioners of Miami-Dade County, Florida (currently set at 1.5% per month), shall accrue against the delinquent payment(s) from the original due date until the Lessor actually receives payment. The right of the Lessor to require payment of such interest and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the rights of the Lessor to enforce other provisions herein, including termination of this Agreement, and to pursue other remedies provided by law.

3.07 Dishonored Check or Draft: In the event that the Lessee delivers a dishonored check or draft to the Lessor in payment of any obligation arising under this Agreement, the Lessee shall incur and pay a service fee assessed in accordance with the Department's practice for dishonored checks plus penalties as may be imposed by law, such as Sections 832.08 and 125.0105, Florida Statutes, as such statutes may be amended or renumbered. Further, in such event, the Lessor may require that future payments required pursuant to this Agreement be made by cashier's check or other means acceptable to the Lessor.

3.08 Utilities: The Lessee shall pay for all utilities it uses us or is imposed on Lessee as a matter of law. The Lessor shall have no obligation to provide utilities to the Premises or, as provided below in Article 6 of this Agreement, to maintain or repair any utilities that may exist on the Premises as of the date of this Agreement.

3.09 Other Fees and Charges: The Lessee acknowledges that the Board of County Commissioners has or may establish or direct the establishment, from time to time, of various fees and charges for the use of various facilities, equipment and services provided by the County and not leased to, leased to, or specifically provided to the Lessee hereunder, and procedures relating to the payment of same. The Lessee shall pay, upon billing, for its use of such facilities, equipment and services those fees and charges, which are billed monthly. For other fees and charges which are based on usage, the Lessee shall, in writing, report its uses of applicable facilities, equipment and services and simultaneously pay the applicable fees and charges at such frequency and in such manner as may be prescribed by the Department. Notwithstanding the absence of any identification in this Agreement of particular charges to be paid by Lessee for its use of the Premises and the Airport, Lessee agrees to pay whatever charges are imposed by the County on all tenants and users of the Airport.

ARTICLE 4
Improvements to Premises

4.01 Improvements to Premises:

(A) As authorized pursuant to Chapter 125.012(24), Florida Statutes, subject to the provisions of this Article, the Lessee, for its convenience, shall, design, construct and pay for such Improvements to the Premises as shall be approved by the Lessor (as hereinafter provided), as shall be necessary to make the Premises suitable for Lessee's use and occupancy for the purposes and uses described in Article 2 ("Use of Premises") hereof and as shown on Exhibit "A" herein, in accordance with all applicable FAA and Departmental requirements and all building, fire and environmental codes and the Americans with Disabilities Act.

(B) The Lessee hereby agrees to invest not less than SIX MILLION THREE HUNDRED FOURTEEN THOUSAND DOLLARS ($6,314,000) in accordance with Article 1.02 (Investment) to design and construct Improvements and infrastructure on the Premises suitable for the storage of corporate jet aircraft. Expenditures that satisfy such minimum investment requirement shall be limited to actual expenditures made by Lessee prior to July 1, 2011 that relate directly to the design and construction of the Improvements and infrastructure as reasonably determined by the Lessor under Article 4.09, but specifically excluding (i) costs associated with the design, purchase and installation of personal property, and (ii) accounting and legal fees.

(C) The Lessee shall bear and be solely responsible for all costs arising out of the Improvements, including, but not limited to, the following:

(1) land use approvals development fees, concurrency fees, and permit fees for the design, construction, and subsequent use of the Improvements and infrastructure;

(2) design and construction of the Improvements and infrastructure, including but not

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limited to utilities, roads, parking lots, landscaping, taxiways, and ramps;

(3) financing, construction bonding and insurance, building permits, impact and concurrency fees, utility installations and/or hook-ups or other infrastructure, as may be required to make the Premises suitable for the use of the Improvements;

(4) construction audits (as may be required elsewhere herein);

(5) consultants, accountants, financing charges, legal fees, furnishings, equipment, and other personal property of the Lessee; and

(6) All other direct or indirect costs associated with the approvals, design, construction, and financing of the Improvements, and their subsequent use.

Lessee acknowledges that the Lessor shall have no maintenance responsibility for any of the Improvements, utilities and infrastructure to be constructed by Lessee.

4.02 Design of Improvements:

(A) Prior to the commencement of any construction of an Improvement on the Premises, Lessor and Lessee shall hold a pre-design meeting to be coordinated through the Lessor's Facilities Project Manager with the participation from all parties deemed by Lessor to be necessary for such meeting, for discussions regarding utilities, grading drainage, airside, security, existing as-built drawings, compliance with the Master Plan, and the terms of the Agreement and any other related item(s). Lessee acknowledges its obligation to assure that FAA approval is obtained, even though MDAD must be involved in such process, and that such FAA approval is communicated to Lessee in writing prior to the commencement of construction of each Improvement. The Lessee and its architect/engineer have the responsibility to insure that the project design shall be in accordance with all applicable laws, codes, regulations, and other requirements of County, State and/or Federal authorities having jurisdiction over the construction of the Improvements by law or by contract with the County, including all then current requirements of the County as they relate to Tenant Airport Construction, non-reimbursable projects (TAC-N projects). The Lessee shall be responsible for obtaining and confirming as-built drawings and information pertaining to the design of the facilities.

(B) Lessee acknowledges that before the County's Building Department may issue any permit for an Improvement on County-owned property, the Aviation Department must issue a "Letter of Concurrence" that constitutes the owner's authority for the Lessee to apply for and obtain the building permit. The Department shall not be required to issue the Letter of Concurrence until such time as Lessee has complied with all obligations in this Agreement as to the design and construction of the Improvement, including compliance with the Aviation Department's TAC-N procedures, submission of approved Contract Documents as that term is defined in (c)(i) below, and compliance with the regulatory provisions of the County's other departments having jurisdiction over the construction, such as, but not limited to, the Fire Department and the Department of Environmental Resources Management.

(C) As described in subsection (i) below, the Lessee shall submit to the Facilities Division of the

Department the Contract Documents for each Improvement for the Department's review, modifications, and approval. In no event shall the Department's review hereunder be unreasonably withheld, conditioned or delayed. The Department's failure to submit modifications within fourteen (14) business days from the date the complete Contract Documents are submitted by the Lessee to the Department shall cause the Development time schedule required herein to be extended for a period equal to the time taken by Lessor after the 14th day to submit modifications. provided, however, that if the Department has requested changes on such Contract Documents, Lessee shall not go forward with the project until it has incorporated such changes in its Contract Documents and resubmitted them to the Department for confirmation that the changes in the Contract Documents have been made.

(i) Unless Lessor requires submission of Plans and Specifications at other percentages of their completion, the Lessee shall submit to the Department ten (10) sets of the Contract Documents consisting of: i.) 100% complete Plans and Specifications; ii.) a project schedule based upon calendar days without dates for the design, bid and construction to be attached as "Exhibit ___" hereto, hereinafter referred to as "Lessee's Project Schedule"; and iii) cost estimates for the Improvements, prepared by an architect/engineer registered in the State of Florida (the "Contract Documents"). The Department may from time to time request that other documents be submitted by Lessee as part of the Contract Documents for a particular Improvement, and Lessee shall comply with such request. Lessee acknowledges that failure to comply with Lessee's obligations to submit complete Contract Documents may delay the Department's review of the Contract Documents, which may cause the Lessee to miss other design or construction deadlines contained herein or desired by Lessee. The Lessee shall continue to be held responsible for meeting the deadlines contained herein and shall be subject to the Department's remedies specified herein for not meeting said deadlines. The Department shall in no way be held responsible for delays resulting from the failure of the Lessee to meet all submittal requirements contained herein.

(ii) Upon submission of the 100% complete Contract Documents to the Department for design review; the Department shall also review the plans for compliance with the following:

(a) Conformance with the Airport Master Plan, Comprehensive Master Development Plan (CDMP), and Airport Layout Plan (ALP), and has the approval of the FAA.

(b) Compliance with environmental requirements, utilities master plan, and storm water master plan and permitting requirements.

(iii) The Department shall comment in writing on the Contract Documents within fourteen (14) calendar days of such submission. All comments by the Department shall be incorporated into the Contract Documents unless Lessee may request reconsideration of any of the Department's comments. Such request shall include documentation supporting the Lessee's position. The Department shall review the

request for reconsideration and shall either approve or disapprove the request or alter its initial comments in light of the reconsideration. The determination of the Department at this time shall be final and binding upon the Lessee and accordingly shall be incorporated in the revised plan for final resubmittal. After the Department reviews the Plans and Specifications as submitted by the Lessee the Lessee may not make a material change in the Plans and Specification or their scope without the Department's further review, which shall not be unreasonably withheld or delayed. The Department's review for Lessee's design and compliance with all applicable codes and regulations does not constitute certification or warranty by the Department (a) as to the quality of the Contract Documents prepared by the Lessee's architect/engineer(s), (b) that the Contract Documents are free of design errors or omissions, or (c) that they are in compliance with applicable laws, codes, rules or regulations of the authorities having jurisdiction over the construction of the Improvements. Such review shall not be unreasonably withheld or delayed by the Department.

(D) If the Lessee fails to provide the complete Contract Documents for review to the Department or delays the start of the construction by more than 60 calendar days from the agreed upon Project Schedule, any reviews theretofore provided by the Department will become null and void and will require Lessee's re-submission of the documents for Lessor's review.

4.03 Submission of Certain Documents and Fees Prior to Commencement of Construction: At least ten (10) days prior to the commencing construction, Lessee shall comply with the following requirements:

(A) Lessee shall submit the following to the Department's Facilities Project Manager, who will be assigned to this Agreement:

(1) A copy of the building permit(s);

(2) All construction bonds including performance, payment, contract completion bonds or their substitute and Insurance Certificates required under Article 4.07 (Construction Bonds and Insurance Required), and Article 12. (Insurance).

(3) The Environmental Insurance Policy required under Article 9.16; and

(4) Consents from Lessee's general contractor and architect to the assignment of Lessee's rights under its contracts with such parties to the County.

(B) Unless the Lessor directs otherwise, Lessee shall submit the following documents to the Department's Finance Manager:

(1) A check made payable to the Department in the amount that represents one percent (1%) of the budgeted construction hard costs for reimbursement of Building Department fees pursuant to Article 4.15 together with a copy of the construction contract awarded to the lowest bidder or as negotiated. If the final construction hard costs are

higher or lower than the budgeted amount, the difference shall be multiplied by 1% and shall either be paid by Lessee to the Department if the resulting number is a positive amount in accordance with the time frame established under Article 4.10 herein or refunded to the Lessee by the Department if the resulting number is negative. Such fee shall be non-refundable. In addition, if Lessee obtains a building permit and allows the permit to expire prior to completion of the Improvements then Lessee shall be required to pay an additional one-half of one percent (½ of 1%) of the budgeted construction hard costs as administrative fees for plans processing reviews required by Building Department staff to issue a building permit. Such fee shall be non-refundable and shall be payable in addition to the 1% fee required pursuant to this Article 4.03(B)(1); and

(2) Copy of Lessee Audit pursuant to Article 9.06.

(C) Lessee shall submit the following to the Department's Assistant Director Business Management:

(1) Copy of Lessee Financing Documents pursuant to Article 11.03 (B); and

Lessee shall not be authorized to begin construction until the above-listed items have been submitted to the Department. If Lessee begins construction prior to submission of the Documents and Fees in the required form and amounts, satisfactory to the Department, as required pursuant to this Article 4.03, the Department shall be authorized to halt Lessee's construction activities without any liability to the County until such time as Lessee satisfies this requirement. In such event, no extensions of time shall be granted by the Department to Lessee. During construction, the Department's Project Manager or a designee will be permitted by Lessee to observe all aspects of the progress of the work.

4.04 Construction of Improvements: Promptly following Lessor's approval of the Contract Documents in accordance with Article 4.02 (Design of Improvements), but not more than two (2) years thereafter, the Lessee shall finalize and enter into a contract(s) for the construction of the Improvements, in accordance with the terms and conditions of the approved Improvements Documents. The Lessee shall cause the construction of the Improvements to be completed within the time period specified in the Contract Documents, excluding any delays not within Lessee's reasonable control, unless an extension of such period is approved, in writing, by the Department, but notwithstanding any periods of time set forth in the Contract Documents and except for any extension of time granted by the Department, no later than twenty-four (24) months following the Commencement Date for the Improvements. In no event shall any approval hereunder be unreasonably withheld, conditioned or delayed.

4.05 Failure to Complete on a Timely Basis: The Lessee shall complete construction of each Improvement, as evidenced by a Certificate of Occupancy, not later than the time periods set forth in the Contract Documents and in any event not later than the time periods set forth in Article 1.02 (Investment) and Article 4.04 (Construction of Improvements), unless an extension is granted, subject, however, to any delays caused by casualty, Act of God or other cause beyond the control of the Lessee.

In the event the Lessee fails to comply with the time requirements for the design and construction of the Improvements, as specified in Articles 1.02 (Investment), 4.02 (Design of Improvements), 4.04 (Construction of Improvements) and this 4.05 (Failure to Complete on a Timely Basis), unless Lessee submits evidence that any delay is outside of Lessee's reasonable control or such time requirements are extended by the Department, in writing, based on a showing of good faith effort by the Lessee, the County shall have the right to terminate this Agreement on thirty (30) days' notice or else take whatever appropriate legal steps may be available to protect the County's interests.

4.06 Certain Construction Contract Terms: All contracts entered into by the Lessee for the construction of the Improvements shall require completion of the Improvements within a specified time period following the execution of said contract(s) and shall contain, unless otherwise authorized by the Department, reasonable provisions for the payment of actual or liquidated damages in the event Lessee's contractor fails to complete the construction on time. The Lessee agrees that it will use it best efforts to take all necessary action available under such construction contract to enforce the timely completion of the work covered thereby. Further, as a standard construction practice, all such contracts shall contain provisions requiring the retention of 10% of contractor billings or such lesser percentage amount as may be approved by the Department. All contracts shall provide that the County is a third party beneficiary thereof.

4.07 Construction Bonds and Insurance Required: All contracts for the construction of any Improvements shall require that Lessee shall maintain, or cause to be maintained, the following construction bonding and insurance during the construction of the Improvements:

(A) Separate performance and payment bonds, satisfactory to the County, in the full amount of the Improvements, to assure completion of contract work and payment of the costs thereof, free and clear of all claims, liens and encumbrances of subcontractors, labourers, mechanics, suppliers and material men. The required bonds shall be written by or through, and shall be countersigned by, a licensed Florida agent of the surety insurer in accordance with Florida Statutes.

(B) A contract completion bond from the Lessee to the County as security for the completion of and payment for the construction of the Improvements free and clear of all claims of any nature whatsoever in the full amount of the cost of the contracts for construction of the Approved Improvements. In lieu of a contract completion bond, the County may accept substitute documents that provide the Aviation Department with assurance that the Lessee will complete the Improvements. If Lessee obtains a performance and payment bond that names the Lessee and its general contractor as joint obligees, County will accept such bond in satisfaction of the requirement for a contract completion bond, provided such bond is in a form reasonably acceptable to the County.

(C) Completed Value Builders Risk and/or Installation Floater, issued in the name of the Lessee's contractor, the Lessee, and the County as their interest may appear, in amount(s) not less than 100% of the insurable value of the structural Improvements, covering perils on an "All Risks" basis including windstorm. Policy(s) must clearly indicate that underground structures (if applicable) and materials being installed are covered.

(D) Commercial General Liability Insurance as specified in Article 11 (Indemnification) and Article 12 (Insurance) herein.

(E) Workers Compensation as required by Florida Statutes.

(F) Automobile Liability Insurance as specified in Article 12 (Insurance) herein.

(G) All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "B" as to management and no less than Class "V" as to strength, in accordance with the A.M. Best Company Insurance Guide, or its equivalent as approved by the County Risk Management Division.

(H) The Lessee shall furnish certificates to the Department all required insurance certificates to the County for approval as may be required by the County Risk Management Division. These certificates shall clearly indicate that the Lessee or its contractors have obtained insurance of the types, amounts and classifications required by these provisions. No material change or cancellation of the insurance shall be effective without a 30-day prior written notice to and approval by the County Risk Management Division.

4.08 Construction Completion Documents: Within one hundred eighty (180) days following the completion of construction of any Improvement for which a Certificate or Temporary Certificate of Occupancy is issued, the Lessee shall furnish the following documents to the Department:

(a) Documents showing that the Improvement has met the requirements of the final inspection and that all permits have been closed out;

(b) Documents that Lessee has obtained lien waivers from the general contractor and all parties designated by the Department, along with any final affidavit of the general contractor required by Chapter 713, Florida Statutes;

(c) Certificate of Occupancy for the Improvement;

(d) Certification from the Lessee's architect that the Improvement has been completed in conformance with the approved Plans and Specification as well as all permits and applicable governmental requirements;

(e) At least one copy of an as-built survey of the area covered by the Improvement;

(f) Two (2) complete sets of as-built construction drawings and two (2) AutoCAD files of the as-built construction drawings in a compact disk format or other format designated by the Department, including all pertinent shop and working drawings and such other as-built drawings as the Department may reasonably require; and

(g) Copies of all releases of contractor claims and liens.

4.09 Final Improvement Costs: For purposes of verifying Lessee's expenditure of not less than FOUR MILLION FOUR HUNDRED SIXETY SIX Thousand Dollars ($4,466,000) in design and construction costs of the Improvements, within ninety days of completion of construction of the Improvements, the Lessee shall submit to the Finance Division of the Department, a certified audit of the monies actually expended in the design and construction of the Modifications in accordance with the Contract Documents described above in Article 4.02 (A), prepared by an independent certified public accounting firm ("Auditor"), that is approved in advance by the Department, which approval shall not be unreasonably withheld, conditioned or delayed. Eligible costs for such Improvements are those costs for project management, any design costs paid by the Lessee which are not attributable to items considered to be no reimbursable obligations of the Lessee, and construction in accordance with the Contract Documents and any changes thereto requested by the Lessee and approved by the Department, including the costs of required bonds and construction insurance ("Approved Improvements Costs"). The Lessee shall be responsible for documenting for the Auditor that the monies were expended and that they are true and correct. The Department's failure to disapprove the audit submitted by Lessee as required in this Article 4.09 within one hundred eighty (180) days from the date of submission shall constitute an unconditional approval. In the event of any disputes between the Department and the Lessee as to whether certain costs are to be included in Approved Improvements Costs, said dispute(s) shall be submitted to the Consulting Engineers under the County's Trust Agreement, as defined in Article 19.01 (Incorporation of Trust Agreement by Reference) hereof. The decision of said Consulting Engineers shall be final and binding upon the parties hereto.

4.10 Temporary Structures: Trailers or temporary structures used for construction purposes but not for business purposes shall be allowed on the leased Premises during the period of construction of the Improvements subject to all required permitting. All trailers or temporary structures must comply with the Florida Building Code and must be removed prior to or upon the ending of construction. Copies of the building permits shall be submitted to the Department's Facilities Project Manager within ten (10) calendar days of issuance to Lessee.

4.11 Review of Construction: During the construction of the Improvements, the Department or its designee shall have the right, but not the obligation, to periodically review the construction and to enter the Premises at reasonable times to inspect the construction for the purpose of ensuring conformity with the Contract Documents and any changes thereto requested by the Lessee and approved by the Department. Failure of the Department to make such review or inspection shall not impose any liability on the Department or the County, nor constitute Lessor's acceptance of the Improvement as being in accordance with the Contract Documents and Lessee's obligations hereunder.

4.12 Tenant Airport Construction Contracts: From time to time, the Lessee and the County through its County Manager shall be entitled to enter into separate Tenant Airport Construction, reimbursable ("TAC-R") or non-reimbursable contracts (TAC-N) for the purpose of enabling Lessee to construct facilities or improvements on the Premises or on the Airport deemed necessary or appropriate for Lessee's construction and use of its Improvements on the Premises. Such contracts shall comply with the Department's TAC-R or TAC-N contract requirements, as such requirements may be amended by the Department from time to time.

4.13 Assignment of Contract Documents to Lessor and Assumption of Construction of Improvements by County: In the event that Lessee fails to perform its material obligations under Article 4 of this

Agreement, the Lessor may provide Lessee written notice of such default specifying those matters constituting such default. Material obligations shall include, but not be limited to, compliance with the Contract Documents and compliance with any regulatory requirement. If such default continues for a period of thirty (30) days following Lessee's receipt of the notice or Lessee fails to diligently commence to cure such default within such thirty (30) day period if such default is of a nature that it cannot be cured within thirty (30) days, the Lessor may either terminate this Agreement or else terminate Lessee's rights with respect to the construction of the Improvements or portions thereof and thereafter assume the obligations of Lessee under this Article 4 of the Agreement under an assignment by Lessee to Lessor of relevant contracts and permits, and complete the construction of the Improvements or portions thereof with the benefit of all bonds and other forms of security provided by Lessee hereunder. Lessor's use of any such bonds or security shall not diminish Lessee's liability to Lessor hereunder for failure to complete the Improvements in accordance with Lessee's obligations hereunder.

4.14 Standards of Construction; Removal of Improvements at Termination. The Lessee may construct all Improvements to the standards established by the Lessor from time to time or shall be entitled to use modified standards for its design and construction of improvements that are to remain in Lessee's name. For improvements that remain in the Lessee's name, under article 1.05, the County may require Lessee to provide a Letter of Credit or alternative form of financing security acceptable to Lessor to assure that the Improvements will be demolished or removed at the termination of this Agreement for any reason. Such Letter of Credit or financing document shall be periodically adjusted, not less than annually, so as to reflect the estimated cost, as of December 31 of the year immediately preceding the year in which the adjustment is made, of demolition or removal of all Improvements on the Premises, whether such Improvements are completed or not.

4.15 Compliance with Responsible Wages and Benefits for County Construction Contracts (AO#3-24 dated July 25, 2000): Lessee is aware of the policy of Miami-Dade County that in all leases of County-owned land which provide for privately funded construction improvements thereon whose construction costs are greater than or equal to $1 million dollars, any portion of which are financed by any federal, state or local governmental entity or by bonds issued by such entities, including the Industrial Development Authority (IDA), the tenant shall include the requirements of the Living Wage Ordinance codified as Section 2-11.16 of the Miami-Dade County Code, as well as Administrative Order #3-24 in all applicable construction contracts. Lessee agrees to comply with all applicable provisions of such ordinance and administrative order.

4.16 Other Programs: To the extent required by the then current terms of the County's Community Business Enterprise (CBE) Program applicable to architects and engineers under Section 2-10.4.01 of Miami-Dade County's Code, the Community Small Business Enterprise (CSBE) Program for construction activities under Section 10-33.02, the Living Wage Ordinance under Section 2-8.9, the Art in Public Places (AIPP) Program under Section 2-11.15, the ordinance referred to as the "Little Davis-Bacon Ordinance" under Section 2-11.16, and any other program of the County made applicable to the Sub-Lessee's activities hereunder, as such programs, ordinances, or code provisions may be amended from time to time, Lessee agrees to comply with such applicable provisions as well as any Administrative Orders and other directives issued by the County relating to such Programs.

ARTICLE 5
Maintenance and Repair by Lessee

5.01 Cleaning: The Lessee shall, at its sole cost and expense, perform or cause to be performed, services which will at all times keep the Premises clean, neat, orderly, sanitary and presentable.

5.02 Removal of Trash: The Lessee shall, at its sole cost and expense, remove or cause to be removed from the Premises, all trash and refuse which might accumulate and arise from its use of the Premises and the business operations of the Lessee under this Agreement. Such trash and refuse shall be stored temporarily and disposed of in a manner approved by the Lessor.

5.03 Maintenance and Repairs: The Lessee shall be exclusively responsible for maintenance and repair of the Premises (including unpaved and landscaped areas and whether or not improvements certificates of occupancy or temporary certificates of occupancy have been issued), and each Improvement thereon except for those off-premises items for which the Lessor is responsible under Article 6 (Maintenance by Lessor). Maintenance and repairs by Lessee shall be in quality and class equal to or better than the original work to preserve the Premises in good order and condition. The Lessee shall repair all damage caused by the Lessee and its employees, agents, independent contractors, patrons, servants or invitees. Lessee's maintenance of the Premises shall begin as of the Commencement Date.

In no event shall Lessor be responsible or liable for any maintenance or repair of any Improvement, fixture, equipment, structure, facility, alteration, or addition thereto on the Premises.

Any injury or damage caused by the installation or removal of personal property of the Lessee shall be repaired so as to restore Improvements to their original state, except as such Improvements may have been altered by the Lessee with the approval of the Lessor pursuant to Article 8.01 (Alterations), and to quit and surrender up the Premises in the same good order and condition as it was at the commencement of this Agreement and upon completion of construction of any Improvement, except for reasonable wear and tear and damage caused by an Act of God; provided however, that such return of the Premises and Improvements in the condition required under this Article 5.03 shall not relieve the Lessee of its obligations for damages to the Premises that may be specifically provided elsewhere in this Agreement.

5.04 Excavation of Land: No excavation of any of the land shall be made, no soil or earth shall be removed from the Premises, and no well of any nature shall be dug, constructed or drilled on the Premises, except as may be required for environmental monitoring purposes, without the prior written approval by the Lessor. The Lessee shall obtain permission for excavation required for construction pursuant to Article 4 (Improvements).

5.05 Water and Sewerage System: The Lessee shall operate and maintain, at its sole cost and expense, all the components of the existing water, sanitary sewerage and storm drainage facilities within the boundaries of the Premises. The Lessee shall not make any alterations or modifications to these facilities without the advance written approval of the Lessor.

5.06 Industrial Waste Facilities: The Lessee shall be fully responsible for all industrial wastes exiting or resulting from Lessee's operations on the Premises and in response thereto shall provide, operate and

maintain adequate facilities on the Premises for separating, neutralizing and treating industrial wastes and foreign materials and the proper disposal thereof, in accordance with applicable laws, rules and regulations.

5.07 Grassed Areas and Shrubbery: The Lessee shall mow the grassed areas and trim the shrubbery on the leasehold regularly so as to maintain the Premises in a neat, orderly and attractive condition. Any land areas not grassed or paved shall be stabilized by the Lessee and the Premises shall be so utilized that use of the same will not cause dust, debris or waste to be blown about or raised so as to be ingested by aircraft or otherwise interfere with or disturb the use or enjoyment of others of their Premises. All landscaping maintenance required hereunder shall be performed in accordance with landscape maintenance standards, as published from time to time by the Lessor.

5.08 Inspections: The Lessor and/or its designated representatives shall have the right, during normal working hours, to inspect the Premises to identify those items of maintenance, repair, replacement, modification and refurbishment required of the Lessee to keep the Premises in good order and condition. The Lessee shall perform all corrective work required of it, identified in such inspection(s) within 30 days of receipt of written notice from the Department; provided, however that if such corrective work cannot be reasonably accomplished within a 30 day period then the Lessee shall commence the corrective work within that 30 days notice and diligently prosecute the same completion. Trash and debris problems shall be corrected within 24 hours following receipt of either oral or written notice from the Lessor. Failure of the Lessor to inspect as aforementioned shall not impose any liability on the Lessor.

5.09 Failure to Maintain: If it is determined by the Lessor that the Lessee has failed to properly clean, remove trash and debris, maintain, repair, replace and refurbish the Premises as required by this Article 5 (Maintenance and Repair by Lessee), the Department shall provide to the Lessee a list of deficiencies, reflecting the amount of time to be reasonably allowed for the Lessee to correct same. If the Lessee fails to correct such deficiencies within the time allowed, the Lessor may enter upon the Premises and perform all work, which, in the judgment of the Lessor, may be necessary and the Lessor shall add the cost of such work, plus 25% for administrative costs, to the rent due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the rent. Subsequent to receipt of the further notice of intent to perform repairs or cleanup from the Lessor, the Lessee shall not undertake performance of such repairs or cleanup without specific prior written authorization from the Lessor.

5.10 Recertification: [Not Applicable to this Development Lease Agreement.]

ARTICLE 6
Maintenance by Lessor

6.01 Lessor Maintenance: The County shall maintain the existing water, sanitary sewerage and storm water drainage that lies outside the boundaries of the Premises. The Lessor shall have no maintenance or repair responsibilities for the Premises or Improvements on the Premises.

6.02 Maintenance of Airport Facilities: Throughout the term of this Agreement, the County shall maintain the Airport so that Lessee may make use of the Airport for the purposes stated in Article 2, subject to Article 6.03.

6.03 County Maintenance Subject to Certain Conditions: Such maintenance by the County may be subject to interruption caused by repairs, strikes, lockouts, labor controversies, inability to obtain, fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, acts of God, and other conditions beyond the control of the County. Upon any such happening, the Lessee shall have no claim for damages for the County's failure to furnish or to furnish in a timely manner any such maintenance; provided, however, that the Department, in its sole discretion, may provide a rent abatement for that portion of the Premises rendered unusable for the period of time that the County is unable to make the repairs required by Article 6.01(Maintenance by County). The County shall exercise reasonable diligence to remedy and/or cure any such interruptions; to the extent such interruptions are within the County's control.

ARTICLE 7
Regulations, Licenses and Permits

7.01 Rules and Regulations - General:

(A) Rules and Regulations. The Lessee shall comply with all Ordinances of the County, including the Rules and Regulations of the Department, Administrative Orders, Chapter 25, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives issued hereunder, all additional laws, statutes, ordinances, regulations and rules of the Federal, State and County Governments, and any and all plans and programs developed in compliance therewith, which may be applicable to its operations or activities under this Agreement, specifically including, without limiting the generality hereof, Federal air and safety laws and regulations and Federal, State and County environmental laws over any law.

(B) Permits and Licenses.

(1) The Lessee, at its sole cost and expense, shall be liable and responsible for obtaining, paying for, maintaining on a current basis, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required, at any time throughout the entire term of this Agreement, by any Federal, State, or County governmental entity or any judicial body having jurisdiction over the Lessee or the Lessee's operations and activities, for any activity of the Lessee conducted on the Premises and for any and all operations conducted by the Lessee, including insuring that all legal requirements, permits and licenses necessary for or resulting, directly or indirectly, from the Lessee's operations and activities on the Premises have been obtained and are being fully complied with.

(2) Such permits and licenses shall include, but not be limited to, a Certificate of Use and Occupancy and any required Industrial Waste or Operating Permits from the Miami-Dade County Department of Environmental Resources Management ("DERM"). Prior to occupancy of the Premises and commencement of operations under this Agreement, the Lessee shall provide to the Department evidence that it has obtained the Certificate of Use and Occupancy and, as applicable, the appropriate operating Waste Permit(s). Upon written request of the Department, the Lessee shall provide to the Department

copies of any permits and licenses, and applications therefore, which the Department may request.

(3) The Department shall give its full cooperation to Lessee necessary to obtain and/or hasten the obtaining of any required permit or license.

(C) Penalties, Assessments and Fines. The Lessee agrees to pay on behalf of the Lessor any penalty, assessment or fine issued against the Lessor, or to defend in the name of the Lessor any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the Federal, State or County governments, based in whole or substantial part upon a claim or allegation that the Lessee, its agents, employees, invitees, or trespassers have violated any law, ordinance, regulation, rule or directive described in Article 7.01 (Rules and Regulations) above or any plan or program developed in compliance therewith. The Lessee further agrees that the substance of this Article 7.01shall be included in every sublease, contract and other agreement, which the Lessee may enter into related to its operations and activities under this Agreement and that any such sublease, contract and other agreement shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

ARTICLE 8
Alteration of Premises and Erection of Signs

8.01 Alterations: The Lessee shall not alter the Premises or Improvements in any manner whatsoever without the prior written approval of the Department. In the event the Lessee is given approval to make any alterations to the Premises, the Lessee shall comply with the terms and conditions of the approval document from the Department and in accordance to Articles 4.12 (Tenant Airport Construction Contracts) and 7 (Regulations, Licenses and Permits). The Lessee's failure to do so shall constitute a default pursuant to Article 13.03 (Other Defaults) hereof.

8.02 Removal of Alterations: Any alterations pursuant to Article 9.1 (Alteration) above constructed or installed by the Lessee at its sole expense, including signage and telecommunications equipment, that can be removed from the Premises and Improvements without materially damaging, altering, or altering the use of the Premises and Improvements shall be considered the personal property of the Lessee and may be removed and or replaced by the Lessee in accordance with the TAC process at any time during the Term. All other such improvements shall become a part of the Premises and Improvements and shall become the property of the County upon expiration of the term, or as earlier designated by Lessee as provided in Article 1.01, or the earlier termination of this Agreement; provided, however, that in the case of any Improvements which were constructed, installed, added or altered with proceeds of tax-exempt financing, such Improvements shall immediately vest in the County or the entity providing such financing, if the financing documents so provide, and shall be deemed to be the property of the County or such entity upon their construction, installation or other implementation, subject, however, to all of Lessee's rights under this Agreement. Lessee hereby reserves the right to remove any item of a non-leased nature, including but not limited to personal property, at any time during the term and upon termination of the Agreement.

8.03 Signage: The Lessee shall not erect, maintain or display any identifying signs or any advertising matter, of any type or kind which is visible to the public, without prior written approval of the Department. In the event the Department changes the graphics system for the identification of lessees at the Airport, the Lessee agrees, if required by the Department, to change, at its sole cost, any of its identification signs necessary to comply with such graphics system.

ARTICLE 9
Environmental Compliance

9.01 Definitions: For purposes of this Agreement, the following additional definitions apply:

(A) "Environmental Claim" means any investigative, enforcement, cleanup, removal, containment, remedial or other private, governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Requirement, against Lessee or against or with respect to the Premises or any condition, use or activity on the Premises (including any such action against County), and any claim at any time threatened or made by any person against Lessee or against or with respect to the Premises or any condition, use or activity on the Premises (including any such claim against County), relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Material or any Environmental Requirement.

(B) "Environmental Law" means any federal, state or local law, statute, ordinance, code, rule, regulation, license, authorization, decision, order, injunction, decree, or rule of common law, and any judicial or agency interpretation of any of the foregoing, which pertains to health, safety, any Hazardous Material, or the environment (including but not limited to ground or air or water or noise pollution or contamination, and underground or aboveground tanks) and shall include without limitation, the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Hazardous Materials Transportation Act 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act 42 U.S.C. § 7401 et seq.; the Toxic Materials Control Act 15 U.S.C. § 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; Chapters 403, 376 and 373, Florida Statutes; Chapters 24 and 25 of the Miami-Dade County Code, and any other local, state or federal environmental statutes, codes, or ordinances, and all rules, regulations, orders and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

(C) "Environmental Requirement" means any Environmental Law, agreement or restriction (including but not limited to any condition or requirement imposed by any insurance or surety company), as the same now exists or may be changed or amended or come into effect in the future, which pertains to health, safety, any Hazardous Material, or the environment, including

but not limited to ground or air or water or noise pollution or contamination, and underground or aboveground tanks.

(D) "Hazardous Material" means any substance, whether solid, liquid or gaseous, which is listed, defined or regulated as a "hazardous substance, a hazardous waste" or "solid waste," or pesticide, or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Requirement; or which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, or motor fuel or other petroleum hydrocarbons; or which causes or poses a threat to cause contamination or a nuisance on the Premises or any adjacent Premises or a hazard to the environment or to the health or safety of persons on the Premises.

(E) "Initial Construction Period" means for any lease which contemplates construction on the Premises a period of time not to exceed six (6) months commencing with the date on which Lessee breaks ground on the Premises for construction of foundations.

(F) "On" or "in" when used with respect to the Premises or any Premises adjacent to the Premises, means "on, in, under, above or about."

(G) "Recognized Environmental Condition" shall have the meaning set forth in ASTM E 1527-9700, Section 3.3.28, or most recent version.

9.02 Lessee's Industrial Classification: Lessee represents and warrants to County that Lessee's Standard Industrial Classification ("SIC") code number, as published in the most recent SIC Manual from the United States Office of Management and Budget, and as used on Lessee's Federal Tax Return is _____.

9.03 Lessee's Acceptance of the Risks and Condition of Premises As-Is: Lessee agrees that the Premises shall be leased and delivered to the Lessee in its current "as-is/with all faults" condition. Lessee hereby requests, warrants, covenants, agrees, and acknowledges that:

(A) Hazardous Materials may be present on the Premises. The County is currently engaged in a significant environmental remediation program at the Airport and does not desire to accept any additional risk attributable to environmental conditions at the Premises.

(B) Under Article 9.06 (Lessee Audit) of this Agreement, Lessee is provided the opportunity to conduct an independent investigation of the Premises and the physical condition thereof, including the potential presence of any Hazardous Materials on or about the Premises. Whether Lessee has conducted such an investigation or not, Lessee is fully aware of the condition of the Premises and the properties surrounding Premises, and is willing to proceed with this Agreement in light of the environmental condition of the Premises. Lessee's report on the investigation, if any such report has been prepared, has been provided to the County and is listed in Schedule 8 attached to this Agreement.

(C) Because of the possible presence of environmental contaminants on the Premises, County

has made no express, implied, or other representations of any kind in connection with the physical condition of the Premises, or any improvements appurtenant thereto, including, without limitation, the physical condition of any building materials, building systems, soils or groundwater conditions, or the presence of Hazardous Materials in, on, under, or about the Premises, and Lessee has relied solely on Lessee's own inspection and examination of such matters.

(D) Except as to County's obligations set forth in this Article or elsewhere in this Agreement, Lessee expressly assumes the risk that Hazardous Materials that are or may be present on the Premises at the commencement of this Agreement may affect the suitability or usability of the Premises for Lessee's proposed or intended use. Lessee agrees that, except to the extent of County's remediation obligations provided in Article 9.04, County shall have no responsibility or liability with respect to any Hazardous Materials on the Premises. In no event shall County be liable to Lessee for damages relating to physical or personal injury, business interruptions, relocation costs, or any other cost resulting from the presence of Hazardous Materials on the Premises at any time during this Agreement.

9.04 <u>County's Disclosure of Soil and Groundwater Contamination</u>:

(A) The County shall conduct response actions mandated by existing Environmental Requirements for Hazardous Materials disclosed in the Baseline Audit as defined in Article 9.05 and the Lessee Audit as defined in Article 9.06 (Lessee Audit). If this Agreement contemplates construction by the Lessee, and this is not a renewal lease, any Hazardous Material discovered during any Initial Construction Period as defined in Article 9.01(E) shall be presumed to be a County obligation under this Agreement except to the extent the Lessor Department demonstrates to the satisfaction of DERM that the Hazardous Materials were introduced by Lessee, Lessee's agents, employees, contractors, invitees or trespassers, in which case the responsibility therefore is the Lessee's. After any Initial Construction Period, or if this Agreement is a renewal lease, any Hazardous Material discovered on the Premises and not previously identified in the Baseline Audit or Lessee Audit shall be the responsibility of the Lessee, except to the extent that Lessee demonstrates to the satisfaction of DERM that such Hazardous Materials originated from (1) a discharge, disposal or release outside of the Premises, unless such discharge, disposal or release was caused by Lessee, Lessee's agents, employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the Premises prior to Lessee's first occupancy of the Premises and not caused by Lessee, Lessee's agents, employees, contractors, invitees, or trespassers.

(B) County's responsibility for remediation under this Article 9.04 shall be limited to the Recognized Environmental Conditions required to be remediated under then-existing Environmental Requirements. If County is permitted to leave any Hazardous Material in place under existing Environmental Requirements, County shall have the option of so doing unless a governmental authority requires the removal of Hazardous Materials for Lessee to be able to continue with construction or occupancy of the Premises.

(C) (1) To the extent they exist, the County has made available to Lessee copies of Contamination Assessment Reports ("CARs") and Remedial Action Plans ("RAPs") regarding any soil and groundwater contamination at the Premises. Such CARs and RAPs are listed in Schedule 8 to this Agreement. The County may have already installed or may have plans to install remediation systems to clean up the contamination described in such CARs and RAPs to the extent they exist. Lessee agrees that during the term of the Agreement, County's authorized representatives shall have the right to enter the Premises in order to operate, inspect, maintain, relocate and replace such systems. Without limiting the generality of the foregoing, the County shall have the right to: (a) install, use, monitor, remove (or, in connection with monitoring wells, abandon in place in accordance with applicable governmental regulations) soil borings, treatment systems, pumps, monitoring wells, and associated equipment: (b) construct, maintain, and ultimately remove various mechanical devices designed to aid in the monitoring and remediating effort; and (c) undertake such related activities as the County or other governmental authorities may require or recommend, utilizing such methods as County or the applicable governmental authorities may elect in order to remediate the contamination described in any CARs and RAPs (collectively, the "Remedial Action").

(2) County shall utilize reasonable efforts to minimize any disturbance of the Lessee's use of the Premises caused by the Remedial Action and Lessee agrees that it shall not interfere with or obstruct the Remedial Action. County and Lessee each agree to take such action as may be reasonable to coordinate their operations so as to minimize any interference with the other party. If vehicles, equipment, or materials belonging to the Lessee have to be temporarily relocated to permit the Remedial Action to be performed, the Lessee will effect such relocation at no expense to the County. Attached to Schedule 8 is a site sketch of the Premises describing any existing or currently planned Remedial Action equipment and depicting the current and proposed future location of such equipment.

(3) If Remedial Action equipment or materials need to be temporarily stored in a secure location on the Premises, the Lessee will provide reasonable storage inside the building on the Premises for such equipment and materials at no expense to the County. The Lessee will provide the County with water and electrical service in connection with the Remedial Action, without charge. The Lessee acknowledges the Remedial Action may be conducted at the locations depicted on the site sketch attached to schedule 8 at any time during the term of the Agreement and may continue until such time as a no further action letter is obtained from the appropriate regulatory authorities.

9.05 Baseline Audit: Unless Lessee has agreed to extend the delivery date until thirty (30) days after the commencement of this Agreement, the County has provided Lessee with a copy of an environmental audit of the Premises, which audit may include analyses of soil and groundwater samples (the initial "Baseline Audit"). The County shall be responsible for any Recognized Environmental Conditions within the meaning of ASTM E 1527-9700, Section 3.3.28, or most recent version, disclosed by the Baseline Audit, which the County may respond to, to the extent provided in Article 9.04(B), during the term of the Agreement. Unless this is a renewal lease, Lessee may terminate this Agreement within thirty (30) days of receipt of the Baseline Audit if Lessee, in its sole discretion, determines that the Recognized Environmental Conditions disclosed in such Baseline Audit are unacceptable.

9.06 Lessee Audit: Lessee, at its sole cost and expense, shall have the right to conduct, within sixty (60) days of receipt of the Baseline Audit, an environmental inspection of the Premises (the "Lessee Audit"), through an independent environmental consultant approved in writing by County, such approval not to be unreasonably withheld or delayed. If Lessee elects to conduct a Lessee Audit, it shall furnish County a copy of the Lessee Audit within thirty (30) days of receipt of the Baseline Audit. The purpose of the Lessee Audit is to determine whether there are present on the Premises any Recognized Environmental Conditions and to delineate the vertical and horizontal extent of any soil or groundwater contamination not identified in the Baseline Audit or any CARs or RAPs. Within thirty (30) days of receipt of such Lessee Audit, the County shall notify Lessee if it disputes the Recognized Environmental Conditions or the delineation of subsurface conditions described in the Lessee Audit. Any such dispute shall be resolved by DERM, which resolution shall be binding on the parties as to the existence of Recognized Environmental Conditions on the Premises as of the commencement of this Agreement. If the Lessee Audit reveals any Recognized Environmental Conditions or delineates any subsurface contamination not disclosed in any CARs, RAPs, or Baseline Audit, then, unless this is a renewal lease, the County, at its option, shall: (i) allow Lessee to terminate the Agreement within fifteen (15) days of receipt of such notice to the County; or (ii) notify Lessee that it has agreed to be responsible for such Recognized Environmental Conditions and delineated subsurface contamination to the same extent as the County is responsible for the Recognized Environmental Conditions and subsurface contamination disclosed in any CARs, RAPs, and the Baseline Audit. If the County allows Lessee to terminate the Agreement and Lessee elects not to terminate, Lessee's failure to terminate shall constitute a waiver of Lessee's rights to terminate its obligations under this Agreement and a waiver of any claim it may have against the County with respect to Recognized Environmental Conditions and subsurface contamination disclosed in such Lessee Audit. If this is a renewal lease, Lessee shall be responsible for all Recognized Environmental Conditions disclosed in the Lessee Audit unless Lessee demonstrates to the County's satisfaction that the Recognized Environmental Conditions originated from (1) a discharge, disposal or release outside of the Premises, unless such discharge, disposal or release was caused by Lessee, Lessee's agents, employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the Premises prior to Lessee's first occupancy of the Premises and not caused by Lessee, Lessee's agents, employees, contractors, invitees, or trespassers.

9.07 Environmental Maintenance of Premises: Except for the obligations of the County under this Article 8, Lessee shall, at its sole cost and expense, keep, maintain, use, and operate the Premises at all times in compliance with all Environmental Laws, and shall maintain the Premises in good and sanitary order, condition, and repair.

9.08 Lessee's Use of Hazardous Materials: Lessee shall not use, store, generate, treat, transport, or dispose of any Hazardous Material on the Premises without first obtaining County's written approval. Lessee shall notify County and seek such approval in writing at least thirty (30) days prior to bringing any Hazardous Material onto the Premises. Attached to Schedule 8 is a complete list of all Hazardous Materials, which Lessee intends to use on the Premises during the term of the Agreement. County may withdraw approval of any such Hazardous Material at any time, for reasonable cause related to the threat of site contamination, or damage or injury to persons, Premises or resources on or near the Premises. Upon withdrawal of such approval, Lessee shall immediately remove the Hazardous Material from the site. County's written approval of or failure to approve the use of a Hazardous Material under this paragraph shall not limit or

affect Lessee's obligations under this Agreement, including Lessee's duty to remedy or remove releases or threatened releases; to comply with Environmental Laws relating to the use, storage, generation, treatment, transportation, and/or disposal of any such Hazardous Materials; or to indemnify County against any harm or damage caused thereby. Lessee shall promptly and completely answer periodic questionnaires from the County concerning Lessee's practices regarding the generation, use, storage, and disposal of Hazardous Materials.

9.09 Entry by County: Notwithstanding any other right of entry granted to County under this Agreement, County shall have the right to enter the Premises or to have consultants enter the Premises throughout the Term of this Agreement for the purposes of: (1) determining whether the Premises are in conformity with Environmental Law; (2) conducting an environmental audit or investigation of the Premises; (3) determining whether Lessee has complied with the environmental requirements of this Agreement; (4) determining the corrective measures, if any, required of Lessee to ensure the safe use, storage, and disposal of Hazardous Materials; or (5) removing Hazardous Materials (except to the extent used, stored, or disposed of by Lessee in compliance with Environmental Requirements and the terms of this Agreement). Lessee agrees to provide access and reasonable assistance for such inspections. Inspections shall be conducted in a manner so as to reasonably minimize interruptions of business operations on the Premises.

Such inspections may include, but are not limited to, entering the Premises or adjacent property with drill rigs or other machinery for the purpose of obtaining laboratory samples of soil or groundwater conditions. County shall not be limited in the number of such inspections during the Term of this Agreement. To the extent such inspections disclose the presence of Hazardous Materials used, stored, or disposed of by Lessee or its agents, employees, contractors, or invitees in violation of the terms of this Agreement, Lessee shall reimburse County for the cost of such inspections within ten (10) days of receipt of a written statement thereof. If such consultants determine that Hazardous Materials have been released, discharged, stored, or used on the Premises in violation of the terms of this Agreement, Lessee shall, in a timely manner, at its expense, remove such Hazardous Materials and otherwise comply with the recommendations of such consultants to the satisfaction of County and any other regulatory authorities. The right granted to County herein to inspect the Premises shall not create a duty on County's part to inspect the Premises, nor liability of County for Lessee's use, storage, or disposal of Hazardous Materials, it being understood that Lessee shall be solely responsible for all liability in connection therewith.

9.10 Permits and Licenses: The Lessee warrants that it will secure at the times required by issuing authorities all permits or approvals that are required by any governmental authority to enable Lessee to conduct its obligations under this Agreement. Upon request, Lessee shall provide to County copies of all permits, licenses, certificates of occupancy, approvals, consent orders, or other authorizations issued to Lessee under applicable Environmental Requirements.

9.11 Notice of Discharge to County:

(A) In the event of: (a) the happening of any material event involving the spill, release, leak, seepage, discharge, or clean up of any Hazardous Material on the Premises in connection with Lessee's operation thereon; or (b) any Environmental Claim affecting Lessee from any person or entity resulting from Lessee's use of the Premises, then Lessee shall immediately notify County orally within twenty-four (24) hours and in writing within three (3) business days

of said notice. If County is reasonably satisfied that Lessee is not promptly commencing the response to either of such events, County shall have the right but not the obligation to enter onto the Premises or to take such other actions as it shall deem necessary or advisable to clean up, remove, resolve or minimize the impact of or otherwise deal with any such Hazardous Material or Environmental Claim following receipt of any notice from any person or any entity having jurisdiction asserting the existence of any Hazardous Material or an Environmental Claim pertaining to the Premises or any part thereof, which if true, could result in an order, suit or other action against the County. If Lessee is unable to resolve such action in a manner which results in no liability on the part of County, all reasonable costs and expenses incurred by County shall be deemed additional rent due County under this Agreement and shall be payable by Lessee upon demand.

(B) With regard to any reporting obligation arising out of Lessee's operations or during the Agreement, Lessee shall timely notify the State of Florida Department of Environmental Protection, Miami-Dade County Department of Environmental Resources Management, and the United States Environmental Protection Agency, as appropriate, with regard to any and all reporting obligations while simultaneously providing written notice to County.

(C) Within sixty (60) days of execution of this Agreement, Lessee shall submit to County an emergency action plan/contingency plan setting forth in detail Lessee's procedures for responding to spills, releases, or discharges of Hazardous Materials. The emergency action plan/contingency plan shall identify Lessee's emergency response coordinator and Lessee's emergency response contractor.

9.12 Reports to County: For any year in which any Hazardous Materials have been used, generated, treated, stored, transported or otherwise been present on or in the Premises pursuant to the provisions of this Agreement, Lessee shall provide County with a written report listing the Hazardous Materials which were present on the Premises; all releases of Hazardous Materials that occurred or were discovered on the Premises; all compliance activities related to such Hazardous Materials, including all contacts with government agencies or private parties of any kind concerning Hazardous Materials; and all manifests, business plans, consent agreements or other documents relating to Hazardous Materials executed or requested during that time period. The report shall include copies of all documents and correspondence related to such activities and written reports of all oral contacts relating thereto.

9.13 Periodic Environmental Audits: Lessee shall establish and maintain, at its sole expense, a system to assure and monitor continued compliance on the Premises with all Environmental Laws, which system shall include, no less than once each year, a detailed review of such compliance (the "Environmental Audit") by such consultant or consultants as County may approve. Lessee shall provide County with a copy of its annual Environmental Audit, which shall be consistent with ASTM's "Practice for Environmental Regulatory Compliance Audits", or other recognized format approved by County. If the Environmental Audit indicates any violation of any Environmental Law, Lessee shall, at the request of County, provide a detailed review of the status of any such violation by such consultant or consultants (the "Supplemental Audit") within thirty (30) days of the County's request.

9.14 Remediation of Hazardous Material Release: If any Hazardous Materials are released,

discharged, or otherwise come to be located on or about the Premises or the Building in violation of this Article 8.14, Lessee shall promptly take all actions, at its sole expense and without abatement of rent, as are necessary to return the affected portion of the Premises or the Building and any other affected soil or groundwater to their condition existing prior to the Hazardous Material Release. County shall have the right to approve all such remedial work, including, without limitation: (i) the selection of any contractor or consultant Lessee proposes to retain to investigate the nature or extent of such Hazardous Material Release or to perform any such remedial work; (ii) any reports or disclosure statements to be submitted to any governmental authorities prior to the submission of such materials; and (iii) any proposed remediation plan or any material revision thereto prior to submission to any governmental authorities. Notwithstanding the foregoing, County's prior consent shall not be necessary if a Hazardous Material Release poses an immediate threat to the health, safety, or welfare of any persons and, despite Lessee's best efforts, it is not possible to obtain County's consent before taking remedial action to abate such immediate threat, provided that: (a) Lessee shall notify County as soon as possible and shall thereafter obtain County's consent as otherwise provided in this paragraph; and (b) Lessee shall take only such action as may be necessary or appropriate to abate such immediate threat and shall otherwise comply with the provisions of this paragraph. In addition to any rights reserved by County in this Agreement, County shall have the right, but not the obligation, to participate with Lessee and Lessee's consultants and contractors in any meetings with representatives of the governmental authorities, and Lessee shall provide County reasonable notice of any such meetings. All remedial work shall be performed in compliance with all Environmental Laws. The County's consent to any remedial activities undertaken by Lessee shall not be withheld so long as County determines, in it sole, good faith judgment, that such activities will not cause any material adverse long-term or short-term effect on the Premises, or other adjoining property owned by County.

9.15 Indemnity: Lessee shall indemnify, defend (with counsel satisfactory to County), and hold County, its directors, officers, employees, agents, assigns, and any successors to County's interest in the Premises, harmless from and against any and all loss, cost, damage, expense (including reasonable attorneys' fees), claim, cause of action, judgment, penalty, fine, or liability, directly or indirectly, relating to or arising from the use, storage, release, discharge, handling, or presence of Hazardous Materials on, under, or about the Premises in violation of Lessees obligations under this Agreement ("Hazardous Materials Release"). This indemnification shall include without limitation: (a) personal injury claims; (b) the payment of liens; (c) diminution in the value of the Premises; (d) damages for the loss or restriction on use of the Premises; (e) sums paid in settlement of claims; (f) actual attorneys' fees, consulting fees, and expert fees, (g) the cost of any investigation of site conditions, and (h) the cost of any repair, cleanup, remedial, removal, or restoration work or detoxification if required by any governmental authorities or deemed necessary in County's reasonable judgment. County shall have the right but not the obligation to join and participate in, and control, if it so elects for any proceedings or actions in which the County is a named party, any legal proceedings or actions initiated in connection with the Hazardous Materials release. County may also negotiate, defend, approve, and appeal any action in which County is named as a party taken or issued by any applicable governmental authorities with regard to a Hazardous Materials release. Any costs or expenses incurred by County for which Lessee is responsible under this paragraph or for which Lessee has indemnified County: (i) shall be paid to County on demand, during the term of this Agreement as additional rent; and (ii) from and after the expiration or earlier termination of the Agreement shall be reimbursed by Lessee on demand. Lessee's obligations pursuant to the foregoing indemnity shall survive the expiration or termination of this Agreement and shall bind Lessee's successors and assignees and inure to the benefit of County's successors and assignees.

(A) This indemnity specifically includes the direct obligation of Lessee to perform, at its sole cost and expense, any remedial or other activities required, ordered, recommended or requested by any agency, governmental official or third party, or otherwise necessary to avoid or minimize injury or liability to any person, or to prevent the spread of pollution, however it came to be located thereon. Lessee shall perform all such work in its own name in accordance with Applicable Laws. Lessee acknowledges that the County's regulatory power in this regard is independent of the County's contractual undertakings herein, and nothing herein shall affect the County's right in its regulatory capacity to impose its environmental rules, regulations, and authorities upon the Lessee in accordance with the law.

(B) Without waiving its rights hereunder, County may, at its option, perform such remedial work as described in Paragraph A above, and thereafter seek reimbursement for the costs thereof. Lessee shall permit County or its designated representative access to the Premises to perform such remedial activities.

(C) Whenever County has incurred costs described in this section, Lessee shall, within thirty (30) days of receipt of notice thereof, reimburse County for all such expenses together with interest from the date of expenditure at the rate of 1.5% per month.

(D) Without limiting its obligations under any other paragraph of this Agreement, Lessee shall be solely and completely responsible for responding to and complying with any administrative notice, order, request or demand, or any third party claim or demand relating to potential or actual Hazardous Materials contamination on the Premises. Lessee's responsibility under this paragraph includes but is not limited to responding to such orders on behalf of County and defending against any assertion of County's financial responsibility or individual duty to perform under such orders. Lessee shall assume, pursuant to the Indemnity provision set forth in this Article 8 (County's Disclosure of Soil and Groundwater Contamination), any liabilities or responsibilities, which are assessed against County in any action described under this paragraph.

9.16 Environmental Insurance: Unless otherwise agreed to in writing by the County, or due to the existence of such coverage in other policies or for other reasons, Lessee shall obtain pollution and remediation legal liability insurance to cover the risks associated with the handling, storage, use, disposal, and possible release of Hazardous Materials at the Premises in the face amount of $2,000,000. In any such policy, the County shall be named as an additional insured and Lessee, upon execution of this Agreement, shall deliver to County a copy of the insurance policy and certificate consistent with this paragraph.

9.17 Waiver and Release: Lessee, on behalf of itself and its heirs, successors and assigns, hereby waives, releases, acquits and forever discharges County, its principals, officers, directors, employees, agents, representatives and any other person acting on behalf of the County, and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Lessee or any its heirs, successors, or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present or future physical characteristic or condition of the Premises, including, without limitation, any Hazardous Material, in, at, on, under or related to the Premises, or

any violation or potential violation of any Environmental Law applicable thereto; provided, however, this Article 9.17 shall not apply to a waiver or release of any obligation of County under Article 9.04(A) (County's Disclosure of Soil and Groundwater Contamination). Lessee acknowledges that County would not enter into this Agreement without Lessee's agreement to the waiver and release provided herein.

9.18 Surrender of Premises: Lessee shall surrender the Premises to County upon the expiration or earlier termination of this Agreement free of debris, waste, and Hazardous Materials used, stored, or disposed of by Lessee or its agents, employees, contractors or invitees or otherwise discharged on the Premises during the term of this Agreement; provided, however, Lessee shall not be responsible to the extent of County's obligations under Article 9.04(A) (County's Disclosure of Soil and Groundwater Contamination). The Premises shall be surrendered in a condition that complies with all Environmental Requirements, recommendations of environmental consultants hired by County, and such other reasonable environmental requirements as may be imposed by County.

9.19 Breach: Any breach by Lessee of any provision of this Article 9 shall, after notice and a reasonable opportunity for Lessee to cure, constitute a default of the Agreement and shall entitle County to exercise any and all remedies provided in the Agreement, or as otherwise permitted by law.

9.20 Survivability of Terms: The terms and conditions of this Article 9, including the indemnity, waiver, and release, shall survive the termination of this Agreement.

ARTICLE 10
Indemnification

The Lessee shall indemnify and hold harmless the Lessor and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Lessor or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of and under this Agreement by the Lessee or its employees, agents, servants, partners, principals, subcontractors, or trespassers. Lessee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Lessor, where applicable, including appellate proceedings, and shall pay costs, judgments and attorney's fees which may issue thereon. Lessee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Lessee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Lessor or its officers, employees, agents and instrumentalities as herein provided. The Lessor shall give to the Lessee reasonable notice of any such claims or actions. The provisions of this section shall survive the expiration or early termination of this Agreement.

ARTICLE 11
Assignment and Subletting and Conditions of Financing

11.01 Assignment and Transfer: Except as provided in Article 11.03, the Lessee shall not, in any manner, assign, transfer, mortgage, pledge, hypothecate, encumber or otherwise convey an interest in this

Agreement, or authorize others to exercise the rights granted to the Lessee herein, without the written approval of the Aviation Department. The Lessee may make a collateral assignment to a Lender or sell the stock of the business without prior approval of the County. Lessee may also sell substantially all of its assets without prior approval of the County, provided that (a) substantially all of the assets are sold, (b) the purchaser is a single entity that will continue substantially all of the operations permitted or required of Lessee hereunder, and (c) the purchaser meets the County's requirements set forth in Article 11.03(D)(5) herein. In the event the Lender seeks provisions in the assignment affecting the interests or requiring certain actions by the County, such provisions must be approved by the County; however, such provisions shall not be unreasonably withheld or delayed by MDAD for so long as the Use of Premises as provided for in Article 2 (Use of Premises) remain the same and are assigned or transferred to an entity deemed by MDAD to be reputable and credit worthy meeting the County requirements stated under Article 11.03 (D) (5) (Transfer To A "Transferee" or "Successor Lessee").

If the Tenant assigns this lease or any portion thereof within the term of this lease, Tenant shall pay to MDAD an assignment fee of 10% of the value of the assignment, which value shall be determined by MDAD solely in its own discretion based on all information made available to MDAD by the Tenant and the assignee and from any other information then available to MDAD.

11.02 Subletting: The Lessee shall submit any subleases to the Department for approval, which shall not be unreasonably withheld. Any objection by the Department must be forwarded to the Lessee within 30 days of receipt of the sublease by the Department's Assistant Director for Business Management. Agreements between the Lessee and the owners or operators of aircraft who have tie down or hangar agreements that include office or shop space within the lessee's facility where the tie down or hangar operation is located shall not be considered subleases for the purposes of this Article. Subleases shall be subject to the provisions of any applicable County Commission Resolution, as amended from time to time, which limit the rental to be charged to the sublease by the Lessee. The County shall have the right to audit the Lessee's compliance with such subleasing policy.

Further, any such subleases shall be subject to the same conditions, obligations and terms as set forth herein, including as a minimum, but not limited to, requirements for compliance with Airport Rules and Regulations and applicable laws in payment of concession fees and indemnification of the County. Notwithstanding anything herein contained to the contrary, in the event of an approved sublease, the Lessee shall remain fully liable to the County for fulfilling all obligations, conditions and terms of this Agreement, throughout its entire term.

11.03 Conditions of Financing for Approved Improvements Costs.

(A) Financing of Improvements. Lessee may secure private financing to provide funds required for the construction of the Improvements. No mortgage or other encumbrance the Lessee executes in connection with that financing (a "Leasehold Mortgage") will extend to or be a lien or encumbrance upon Lessor's interest in any part of the Premises or in any right appurtenant to that interest. Moreover, the Lessor has no obligation to subordinate the Lessor's interest in the Premises to the lien or security interest of any mortgage or other encumbrance that Lessee may execute on the authority of this Article 11.03 (A).

(B) Lessor Approval of Financing Documents. The Lessor reserves the right to approve the documents memorialising any financing that Lessee secures on the authority of Article 11.03 (A), which

approval shall not be unreasonably withheld. Lessee must submit for the Lessor's review and approval drafts of the financing documents in advance of Lessee's execution of those documents or documentation verifying Lessee's ability to self-finance the Improvements (Exhibit "C").

(C) Recording of Leasehold Mortgage. Following the Lessee's execution of a Leasehold Mortgage, if applicable, Lessee shall furnish the Lessor (i) a duplicate original of the Leasehold Mortgage or a photocopy of the Leasehold Mortgage that the Clerk of the Circuit Court for Miami-Dade County, Florida has certified as being a true copy of the Leasehold Mortgage recorded among its real property records, and (ii) a written notice setting forth the name and address or the mortgagees or secured party (the "Leasehold Mortgage") in whose favour Lessee executed the Leasehold Mortgage.

(D) Conditions of Leasehold Mortgage. Following the delivery of the documents in 11.03 (C) (Recording of Leasehold Mortgage) and continuing until the Leasehold Mortgagee releases the Leasehold Mortgage of record, the following provisions will apply:

(1) LESSOR TO GIVE NOTICE OF DEFAULT. At the time that the Lessor gives Lessee written notice of the occurrence of any default in respect of the performance of Lessee's obligations under this Agreement, the Lessor shall simultaneously give the Leasehold Mortgagee a copy of that notice in a manner established for the delivery of notices in Article–24.03 (Notices) at the address for the Leasehold Mortgagee provided to the Lessor. No notice of default to Lessee will be effective until the Lessor delivers the notice required by this Article 11.03(D)(1).

(2) MORTGAGEE'S RIGHT TO CURE DEFAULT. The Leasehold Mortgagee may rectify a default on Lessee's part, but has no obligation to do so. The Lessor will accept the Leasehold Mortgagee's performance of any of Lessee's obligations to the same extent as though the Lessee has performed. The Lessor may exercise a remedy available to it by reason of a default on Lessee's part only if Lessee and the Leasehold Mortgagee fail to rectify the default within (a) any time period specifically set forth in Article 13 (Termination by County or Lessee) of the Lease for a cure of a particular default, or (b) if no such time period is set forth, then within 30 days after the date of the delivery of the notice required by virtue of Article 11.03(D)(1) above, or if a cure is not reasonably possible within such 30 day period, then within a period of time reasonably required to cure the default through the exercise of prompt, diligent and continuous effort.

(3) TERMINATION DELAYED DURING EXERCISE OF LEASEHOLD MORTGAGEE'S REMEDIES. Even though a default has occurred and neither the Lessee nor the Mortgagee has provided for a cure within the times permitted by Article 11.03(D)(2) above, the Lessor will not terminate the Lease for a reasonable period of time, not to exceed one (1) year, from the date of termination provided in the Lessor's notice of default, if the Mortgagee is then making: (a) prompt, diligent and continuous efforts to gain possession of the Premises and to succeed to Lessee's interest in the Premises by means of a foreclosure or the exercise of any other remedy available to the Leasehold Mortgagee by virtue of Lessee's default in respect of any of its obligations

under the terms of the Leasehold Mortgage, together with (b) the payment to the Lessor of all rent and charges due hereunder with respect to which Lessee becomes delinquent and (c) good faith efforts to rectify other defaults contemporaneously with the efforts to gain possession of the Premises.

(4) LEASEHOLD MORTGAGEE'S OPTION FOR ISSUANCE OF NEW LEASE. Prior to the expiration of the one (1) year period provided above in Article 11.03(D)(3), the Leasehold Mortgagee must request the Lessor to execute and deliver a new lease for the Premises in favour of a successor Lessee meeting the criteria of Article 11.03(D)(5) (a "Successor Lessee"). That new lease will have a term that coincides with what would have been the remainder of the Term had termination of this Agreement not occurred and will otherwise be on the same terms and conditions as those set forth in this Agreement. The new lease will also have the same priority as this Agreement with respect to any lien or other encumbrance affecting the Premises, including any fee mortgage. In order for the Lessor to be obligated to execute and deliver the new lease, the Leasehold Mortgagee must request the execution and delivery of the new lease by the delivery of written notice to the Lessor within one year after the termination of this Agreement occurs, and acknowledge and return the new lease to the County for execution on the Lessor's part within 20 days after the date on which the Lessor tenders the new lease to it for signature. Simultaneously with the delivery of the new lease, the Successor Lessee must also execute and deliver to the Lessor a written plan to rectify within a reasonable period of time any default that exists at that time in respect of any of Lessee's obligations under the terms of this Agreement, including, without limitation, any default that may exist in respect of Lessee's obligations arising under the terms of Article 8 (Environmental Compliance); that plan must set forth in reasonable detail the manner in which the Successor Lessee plans to rectify each default.

(5) TRANSFER TO A "TRANSFEREE" OR "SUCCESSOR LESSEE". A transfer of Lessee's interest in the Premises to the Leasehold Mortgagee, or a corporate nominee affiliated with the Leasehold Mortgagee (herein a "nominee"), or a purchaser at a foreclosure sale that occurs by virtue of the Leasehold Mortgagee's acceptance of a deed in lieu of foreclosure or the exercise of any remedy available to it under the terms of the Leasehold Mortgage (herein a "Transferee") will not constitute an assignment requiring the Lessor's consent under the terms of Article 11.01 (Assignment and Transfer) above. The provisions of Article 2 (Use of Premises) will govern any use of the Premises that occurs prior to and after a transfer to the Transferee. The Transferee may make a subsequent transfer of Lessee's interest in the Premises only with the Lessor's prior written consent as provided in Article11.01. The Lessor will, however, consent to the subsequent transfer to a Successor Lessee or Lessees if the proposed successor or successors to the Lessee's interest would have been acceptable to the Lessor for the Premises in the reasonable exercise of the Lessor's judgment considering the successors experience, financial strength, history of meeting contractual obligations and intent to implement a business plan consistent with the Lessor's plan for operating the Airport.

The parties agree that the Transferee will be subject to the termination provisions of Article 13 (Termination by Lessor or Lessee). After succeeding to Lessee's interest in the Premises, a Transferee that is not a Successor Lessee must use reasonable best efforts to find a Successor Lessee satisfying the criteria set forth above in this Article 11.03(D)(5), but in any event no later than one (1) year following the date of termination provided in Lessor's default notice. If no Successor Lessee or Lessees are found in such one (1) year period to occupy at least 50% of the Premises and Improvements, then all of the Lessee's, Leasehold Mortgagee's and Transferee's interests in the Premises, the Improvements, and this Lease shall terminate in their entirety, without any right of recovery or compensation from the Lessor.

(6) NO OBLIGATIONS OF TRANSFEREE; LESSOR'S RIGHT TO TERMINATE IF OBLIGATIONS NOT SATISFIED. If a Transferee succeeds to Lessee's interest in the Premises by virtue of the Leasehold Mortgagee's acceptance of a deed in lieu of foreclosure or the exercise of any remedy available to the Leasehold Mortgagee under the terms of the Leasehold Mortgage, the Transferee and its successors and assigns will only have personal liability for the performance of those obligations incumbent upon Lessee under the terms of this Agreement that arise or accrue during the period between the time at which the Transferee succeeds to Lessee's interest in the Premises and the time at which it divests itself of that interest. The foregoing limitation will not preclude the Lessor from terminating this Agreement if the Transferee fails to rectify without cost to Lessor any default existing in respect of Lessee's obligations at the time the Transferee succeeds to Lessee's interest in the Premises, including, without limitation, any obligation arising under the terms of Article 8 (Environmental Compliance).

(7) NO AMENDMENT OF LEASE WITHOUT LEASEHOLD MORTGAGEE'S CONSENT. Without the Leasehold Mortgagee's prior written consent, Lessee may not amend this Agreement, exercise any right available to it under the terms of this Agreement or at law to cancel this Agreement, or to voluntarily surrender possession of the Premises to the Lessor. Without the Leasehold Mortgagee's prior written consent, the Lessor may not amend this Agreement provided, however, the foregoing restrictions will not apply to amendments for which express provision is made elsewhere in this Agreement, including, without limitation, those for which provision is made in Articles 1(Term and Premises), 3 (Rentals and Payments), 19 (Trust Agreement), and 22.07 (Severability). Without the Leasehold Mortgagee's prior written consent, the Lessor may not cancel this Agreement and accept a surrender of possession of the Premises except in the instances where the cancellation and acceptance of a surrender of possession of the Premises occurs in accordance with Article 13.05 (Actions at Termination) or in connection with the Lessor's exercise of its remedies following an occurrence of a default in the performance of any of Lessee's obligations. The Leasehold Mortgagee will not be bound by any amendment, cancellation or surrender that occurs in contravention of the foregoing provisions of this Article 11.03(D)(7).

(8) RIGHTS OF LEASEHOLD MORTGAGEE IN INSURED LOSSES. The Leasehold Mortgagee will have the right to participate in the adjustment of any insured losses that becomes necessary by reason of damage or destruction occurring to the Improvements, as may be applicable, and the right to supervise and control the receipt and disbursement of insurance proceeds to the extent provided in agreements among Lessee, Leasehold Mortgagees and any Lessee's holding an interest with respect to the Premises; provided, however, that any distribution of insurance proceeds must comply with the requirements of Article 12 (Insurance) of this Agreement.

(9) RIGHTS OF LEASEHOLD MORTGAGEE IN CONDEMNATION. If taking of any part of the Premises occurs, the Leasehold Mortgagee will have the right to participate in any condemnation proceedings or settlement discussions pertaining to the Lessee's interests hereunder and the right to supervise and control the receipt and disbursement of all condemnation awards arising from such interests to the extent provided in agreements among Lessee, Leasehold Mortgagee and any other party holding an interest with respect to the Premises. The Leasehold Mortgagee is entitled to receive and apply to the reduction of the indebtedness, the payment of which is secured by the lien of the Leasehold Mortgagee, any portion of a condemnation award arising from a taking of Lessee's interests not applied to the restoration of that portion of the Premises that remains following the taking to a complete architectural unit. After payment to the Lessor by the condemning authority of whatever compensation and damages are determined to be owing to the Lessor for Lessor's property interests in the Premises, and after the indebtedness the payment of which is secured by the lien of the Leasehold Mortgagee is discharged in full by an application of a condemnation award in accordance with the terms of the preceding sentence and after payment to the Lessee by the condemning authority of whatever compensation and damages are determined to be owing Lessee for Lessee's property interests in the Premises, the Lessor is entitled to receive any remaining portion of the condemnation award. If a partial taking of the Premises occurs, this Agreement will continue in effect with respect to that portion of the Premises not taken and, effective as of the earlier of the dates on which the condemning authority takes title to or possession of the part taken, the rent payable under the terms of this Agreement will be reduced in proportion to the reduction in the area of the Premises. If, however, the remaining portion of the Premises not taken cannot be adequately restored, repaired or reconstructed so as to constitute a complete architectural unit of substantially the same usefulness, design, construction and commercial feasibility as immediately before the taking, then Lessee may terminate this Agreement by delivering written notice to the Lessor by the date that is one hundred twenty (120) days after the day of the taking. Lessee's notice must specify the date the termination will become effective, which date will not be earlier than the date of such taking. If a termination occurs in accordance with the foregoing, Lessee shall pay and shall satisfy all rents and charges due and accrued hereunder up to such date of such termination and shall perform all of the obligations of Lessee hereunder to such date, and thereupon this Agreement and the Term shall cease and

terminate. If a taking for a temporary period occurs, this Agreement will continue in full force and effect and the entire award payable in respect of that taking will be payable to Lessee, except for any portion sought by and attributable solely to Lessor's interest in the Premises, subject to provisions of any agreements among Lessee, the Leasehold Mortgagee and any Lessee holding an interest with respect to the Premises.

(10) LESSOR WAIVER OF RIGHT TO CERTAIN RENTALS. During the entire term hereof, Lessor will have no right, and expressly waives any right arising under applicable law, in and to the rentals that will become due to Lessee under the terms of any approved sublease of any part of the Improvements. Lessee may assign those rentals to the Leasehold Mortgagee without any consent or approval of the County. Nothing in this Article 11.03 shall (a) alter County's ownership of the Improvements in accordance with Article 1.08 (Improvements Free and Clear) of this Agreement, (b) alter Lessee's obligations to commence paying Lessor fair market rentals or other rentals on the Improvements as provided in Article 3 (Rentals and Payments) or (c) provide Lessee with any ownership claim to the Improvements or the rentals therefrom after the conclusion of the term of this lease.

(11) NON MERGER OF FEE AND LEASEHOLD INTEREST. Under no circumstances will the fee estate of the Lessor and the leasehold estate created by this Agreement or any sublease created hereunder merge, even though owned by the same party, without the Leasehold Mortgagee's written consent.

(E) Estoppel Certificate. Upon written request from time to time by Lessee, a Leasehold Mortgagee, a prospective Leasehold Mortgagee, or a prospective assignee of Lessee's interest in the Premises, the Lessor shall execute and deliver to the requesting party an estoppel certificate in the form reasonably requested by the requesting party. In each such certificate, the Lessor shall certify, to the extent that it then has knowledge: (i) the amount of the monthly rent that Lessee is then obligated to pay under the terms of this Agreement and the date through which Lessee has paid that rent, (ii) that this Agreement is in full force and effect, (iii) the specific nature of any default that the Lessor knows to exist in respect of either party's performance of its respective obligations under the terms of this Agreement, and (iv) the specific nature of any defence or offset that the Lessor may assert in connection with any effort on Lessee's part to enforce any of the obligations the Lessor undertakes under the terms of this Agreement.

(F). Leasehold Mortgagee's Right To New Lease. The provision of this Article 11.03 will survive the termination, rejection or disaffirmance of this Agreement and will continue in full force and effect thereafter to the same extent as if this Article 11.03 were a separate and independent contract made by the Lessor, Lessee, and the Leasehold Mortgagee. The Lessor's agreement set forth in this Article 11.03 to enter into a new lease with the Leasehold Mortgagee constitutes a separate agreement with the Lessor and the Leasehold Mortgagee. The Lessor agrees that the Leasehold Mortgagee shall be a third party beneficiary to the terms of this Agreement, and that such third party beneficiary status shall be unaffected by the rejection or disaffirmance of this Agreement in any bankruptcy proceeding by any

party.

ARTICLE 12
Insurance

12.01 Insurance Required: In addition to such insurance as may be required by law, the Lessee shall maintain, without lapse or material change, for so long as it occupies the Premises, the following insurance:

(A) Public Liability Insurance on a comprehensive basis, including Contractual Liability, to cover the Lessee's Premises and operations, in an amount not less than $5,000,000 combined single limit per occurrence for bodily injury and property damage. The Lessor must be shown as an additional insured with respect to this coverage.

Coverages shall be for each occurrence, with either no aggregate or an annual policy aggregate of no less than twice the amount of coverage required for each occurrence. In the event that the Lessee's available coverage falls below the per occurrence amount shown above, the Lessee shall secure a new certificate of insurance evidencing the required coverage. The Lessor reserves the right not to accept policies with aggregate limits or substantial deductibles.

(B) Automobile Liability Insurance covering all owned, non-owned and hired vehicles (including ground or mobile equipment) used by the Lessee in connection with its operations under this Agreement in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

(C) To the extent required under Section 9.16, Pollution and Remediation Legal Liability insurance in an amount not less than $2,000,000 covering third party claims, remediation expenses, and legal defense expenses arising from on-site and off-site loss, or expense or claim related to the release or threatened release of Hazardous Materials at the Lessee's Premises.

The insurance coverages required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Lessee under this Agreement. All insurance policies required pursuant to the terms of this Agreement shall be issued in companies approved to do business under the laws of the State of Florida. Such companies must be rated no less than "B" as to management, and no less than "V" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc., or its equivalent, subject to approval of the County Risk Management Division.

12.02 Insurance Certificates Required: Prior to the commencement of operations hereunder and annually thereafter, the Lessee shall furnish or cause to be furnished certificates of insurance to the Lessor which certificates shall clearly indicate that:

(A) The Lessee has obtained insurance in the types, amounts and classifications as required for strict compliance with this Article;

(B) The policy cancellation notification provisions specify at least 30 days advance written notice of cancellation to the Lessor; and

(C) The Lessor is named as an additional insured with respect to the Lessee's public liability policies.

On said insurance certificates, unless specifically shown to be excluded thereon, comprehensive public liability coverage shall include contractual liability, and notification of cancellation shall include notification of material changes in the policies.

The Lessor reserves the right to require the Lessee to provide such reasonably amended insurance coverage as it deems necessary or desirable, upon issuance of notice in writing to the Lessee, which notice shall automatically amend this Agreement effective 30 days after such notice.

12.03 Compliance: Compliance with the requirements of Article 12 (Insurance) shall not relieve the Lessee of its liability under any other portion of this Agreement or any other agreement between the Lessor and the Lessee.

12.04 Right to Examine: The Lessor reserves the right, upon reasonable notice, to examine the original or true copies of policies of insurance (including but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. The Lessee agrees to permit such inspection at the offices of the Lessor

12.05 Personal Property: Any personal property of the Lessee or of others placed in the Premises and Airport shall be at the sole risk of the Lessee or the owners thereof, and the Lessor shall not be liable for any loss or damage.

ARTICLE 13
Termination

13.01 Payment Defaults: Failure of the Lessee to make all payments of rentals, fees and charges required to be paid herein when due shall constitute a default, and the Lessor may, at its option, terminate this Agreement after five calendar days notice in writing to the Lessee, unless the default is cured within the notice period.

13.02 Insurance Defaults: The Lessor shall have the right, upon 15 calendar days written notice to the Lessee, to terminate this Agreement if the Lessee fails to provide evidence of insurance coverage in strict compliance with Article 12 (Insurance) hereof prior to commencement of operations, or fails to provide a renewal of said evidence upon its expiration; provided, however, that such termination shall not be effective if the Lessee provides the required evidence of insurance coverage within the notice or grace period.

13.03 Other Defaults: The Lessor shall have the right, upon thirty (30) calendar days written notice to the Lessee, to terminate this Agreement upon the occurrence of any one or more of the following, unless the

same shall have been corrected within such period, or, if correction cannot reasonably be completed within such 30-day period, the Lessee has commenced corrective steps within such 30-day period and diligently pursues same to completion:

(A) Failure of the Lessee to comply with any covenants of this Agreement, other than the covenants to pay rentals, fees and charges when due, and the covenants to provide required evidence of insurance coverage.

(B) The conduct of any business, the performance of any service, or the merchandising of any product or service not specifically authorized herein by the Lessee.

13.04 Immediate Termination: The happening of the following events shall constitute a default by the Lessee and this Agreement shall permit Lessor to terminate this lease immediately, effective as of the date of Lessee's receipt of notice thereof: abandonment of the Premises or discontinuance of operations; failure of the Lessee for fifteen (15) days or more to occupy the Premises for one or more of the purposes permitted under this Agreement; or if a lien is filed against the leasehold interest of the Lessee and not removed within a reasonable time.

13.05 Actions at Termination:

(A) The Lessee shall vacate, quit, surrender up and deliver the Premises to the Lessor on or before the termination date of this Agreement, whether by lapse of time or otherwise. If title of the Improvements on the Development Phase are in the name of the Lessee at the time of Termination, and if directed by the Lessor, the Lessee shall demolish all Improvements on the Premises and remove all debris at its costs. Lessee shall conduct any required demolition in accordance with the code and regulatory requirements in effect at the time. If not directed to demolish the Improvements, the Lessee shall surrender the Premises in the condition required under Article 5 (Maintenance and Repairs) herein with all repairs for which the Lessee is responsible shall be completed prior to surrender and shall execute appropriate documents confirming that title to such Improvements in Lessee's name has been transferred to Lessor. In no event shall Lessor be required to pay any compensation or reimbursement to Lessee for such transfer of title. On or before the termination date of this Agreement, the Lessee shall remove all of its personal property from the Premises; provided, however, that if immediate termination occurs under Article 13.04, Lessee shall be allowed up to five calendar days from the receipt of notice of termination to remove such personal property.

(B) If the Lessor advises the Lessee that it has reason to believe that any hazardous substance or environmental contaminant has been released within the Premises or into the ground under the Premises, then the Lessee at its expense shall retain an approved environmental consultant to perform whatever environmental assessment may be required to determine the extent of such release. The Lessee shall comply with the recommendations and conclusions of such consultant regarding environmental clean-up efforts that may be required, and shall comply with any other clean-up requirements imposed on the Lessee by Federal, State or County laws, regulations or codes.

(C) In the event of termination for default, the Lessor shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the Agreement, the following amounts as damages: (1) the reasonable costs of re-entry and re-leasing including without limitation

the cost of any clean up, alteration, repair, maintenance, refurbishment, removal of personal property and fixtures of the Lessee, or any other expense occasioned by failure of the Lessee to quit the Premises upon termination and to leave them in the required condition, any remodeling costs, attorneys fees, court costs, and expenses of litigation through all levels of legal proceedings; and (2) the loss of reasonable rental value from the date of default until a new tenant has been secured.

13.06 Lien Upon Personal Property: In the event of termination for default, the Lessor shall have a lien upon all personal property of the Lessee located at Premises to secure the payment of any unpaid rentals, fees and charges accruing under the terms of this Agreement.

13.07 Right to Show Premises: At any time within six months of the scheduled expiration date of this Agreement or anytime after the Lessee has been given notice of termination or default, pursuant to Article 13 (Termination) or Article 1.06 (III) Reduction of Term hereof, the Lessor shall have the right to enter on the Premises for the purposes of showing the Premises to prospective tenants or users during regular business hours.

13.08 Other Terminations: This Agreement shall be subject to termination by the Lessor or the Lessee in the event of any one or more of the following:

(A) The permanent abandonment of the Airport.

(B) The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part of parts thereof, in such a manner as to substantially restrict the Lessee from operating therefrom for a period in excess of ninety (90) consecutive days, provided that nothing contained herein shall be deemed to constitute a waiver by the Lessee of any right it may have against the United States for just compensation in the event of any such assumption.

(C) The issuance by any court of competent jurisdiction of any injunction in any way substantially preventing or restraining the use of the Airport, and the remaining in force of such injunction for a period in excess of ninety (90) days. In the event of termination for such reason, Lessee's exclusive remedy shall be termination or reinstatement of this lease by the County, at its sole discretion, for a period of time equal to the number of days that the injunction was in effect in excess of said ninety (90) days.

ARTICLE 14
Special Conditions

14.01 Quality of Services: The Lessee shall furnish the services required and authorized, pursuant to Article 2 (Use of Premises) hereof, on a good, prompt and efficient basis and on a fair, equal and not unjustly discriminatory basis to all users thereof.

14.02 Nondiscriminatory Prices: For sales of products or services on the Premises or the subletting of any facilities as permitted by MDAD, Lessee shall charge fair, reasonable, customary and not unjustly discriminatory prices for each unit of sale or service or sublease; provided, however, that the Lessee may make

reasonable, customary and nondiscriminatory discounts, rebates or similar types of price reductions to volume purchasers of the Lessee's services.

14.03 County's Obligations: The Lessee, in recognition of the County's obligation, pursuant to Section 22 of Part V of the Federal Aviation Administration's standard grant assurances, to enforce the provisions of Articles 14.01 (Quality of Services) and 14.02 (Nondiscriminatory Prices) above, agrees that the Lessor may, from time to time, promulgate standards, methods and procedures for and monitor and test the provision of services hereunder and may require the Lessee to provide copies of schedules of service charges and the bases for discounts, rebates and similar types of price reductions. Should the Lessor determine that the Lessee is not in compliance with the provisions of Articles 14.01 (Quality of Services) or 14.02 (Nondiscriminatory Prices) above, the first such occurrence shall be considered a curable default, pursuant to Article 13.03 (Other Defaults) hereof, and subsequent occurrence(s) shall be considered a material breach of this Agreement, entitling the Lessor to the remedies provided in this Agreement or by law.

14.04 Air Shows and Special Events: Upon at least 60 days written notice from the Department, the County may require the Lessee to surrender portions of the Premises for certain periods of time during the term of this Agreement for the purpose of allowing the use of designated portions of the Premises by others in connection with air shows and other special events. Said use will not exceed ten days or more than three events per year. For any day or part of a day that the Premises are so used, rental payments under Article 3.01 (Rentals) will be abated. The Department shall actively keep the Lessee advised of all of the planning for such events, air shows, or County sponsored special events, if portions of the Premises are to be so used.

ARTICLE 15
Nondiscrimination

15.01 Equal Employment Opportunity: The Lessee shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place or birth or national origin, ancestry, nor with accordance with the American with Disabilities Act, discriminate against any otherwise qualified employee or applicant for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodations. The Lessee shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place or birth or national origin, ancestry or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by the County setting forth provisions of this Equal Employment Opportunity clause. The Lessee shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11375, revised Order No. 4 of December 1, 1971, as amended, the Americans with Disabilities Act, the Age Discrimination Act effective June 12, 1968, the rules, regulations and relevant orders of the Secretary of Labor, Sections 112.042 and 112.043, Florida Statutes 2002 and Article 3 and 4 of Section 11A-23 of the Miami-Dade County Code, as such provisions may be amended from time to time.

15.02 Nondiscriminatory Access to Premises and Services: The Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby

covenant and agree as a covenant running with the land that: (1) no person on the ground of race, color, sex, national origin or ancestry or disability shall be excluded from participating in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds or race, color, sex, national origin or ancestry shall be excluded from participation, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Lessee shall operated hereunder in compliance with the Americans with Disabilities Act , 42 U.S.C. 12101 and all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

15.03 Breach of Nondiscrimination Covenants: In the event it has been determined that the Lessee has breached the nondiscrimination covenants contained in Article 15.01 (Equal Employment Opportunity) and 15.02 (Nondiscriminatory Access to Premises and Services) above, pursuant to the complaint procedures contained in the applicable Federal Regulations, and the Lessee fails to comply with the sanctions and/or remedies, which have been prescribed, the Lessor shall have the right to terminate this Agreement pursuant to Article 13.03 (Other Defaults) hereof.

15.04 Affirmative Action and Community Small Business Enterprise Disadvantaged Business Enterprise Programs: The Lessee acknowledges that the provisions of local Ordinance 97-52 for Community Small Business Enterprise ("CSBE") as codified as Section 10-33.02 of the Miami-Dade County Code, the provisions 49 CFR Part 23, Disadvantaged Business Enterprise ("DBE"), and 14 CFR Part 152, Affirmative Action Employment Programs, may be applicable to the activities of the Lessee under the terms of this Agreement, unless exempted by said regulations, and hereby agrees to comply with all applicable requirements of the Department, the Federal Aviation Administration and the U.S. Department of Transportation. These requirements may include, but are not limited to, compliance with CSBE, CBE, DBE and/or Employment Affirmative Action participation goals, keeping of certain records, maintaining good faith compliance efforts, the submission of various reports, including, if directed by the Lessee or the County under applicable federal, state or local laws, and the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises. In the event it has been determined, in accordance with applicable regulations, that the Lessee has failed to comply with the requirements of this section, and the Lessee thereafter fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Lessee to terminate this Agreement pursuant to Article 13.03 (Other Defaults) hereof.

15.05 Nondiscrimination: During the Performance of this Agreement, the Lessee agrees that it shall, in all solicitations or advertisement for employees placed by or on behalf of the Lessee, state that all qualified applicants will receive consideration for employment without regards to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability.

The Lessee shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Lessee's books, records, accounts by the county and Compliance Review Agencies for purposes of investigation to ascertain compliance with such rules, regulations and orders. In the event of the Lessee's noncompliance with the nondiscrimination clauses of this Agreement

or with any of the said rules, regulations, and orders, this Agreement may be cancelled, terminated, or suspended in whole or in part in accordance with Article 13.03 (Other Defaults) hereof and the Lessee may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

The Lessee will include Sections 15.01 and 15.02 of this Article in contracts in excess of $10,000.00 unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375, so that such provisions will be binding upon each sub-vendor. The Lessee shall take such action with respect to any subcontract as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Lessee becomes involved in, or is threatened with, litigation with a sub-vendor as a result of such direction by the County or by the United States, the Lessee may request the United States to enter into such litigation to protect the interest of the United States.

15.06 Disability Non-Discrimination Affidavit: By entering into this Agreement with the Lessor and signing the Disability Nondiscrimination Affidavit, the Lessee attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related acts) of Miami-Dade County Resolution No. R-3855-95. If the Lessee or any owner, subsidiary or other firm affiliated with or related to the Lessee is found by the Court or by a responsible enforcement officer of the County to be in violation of the Act or the Resolution, such violation shall render this Contract terminable in accordance with Article 13.03 (Other Defaults) hereof. This lease may be rendered void by the Lessor if the Lessee submits a false affidavit or the Lessee violates the Act or the Resolution during the term of this Agreement, even if the Lessee was not in violation at the time it submitted its affidavit.

ARTICLE 16
Security and Special Provisions

16.01 Security: The Lessee acknowledges and accepts full responsibility for the security and protection of the Premises, any improvements thereon, its equipment and property on the Airport. The Lessee fully understands and acknowledges that any security measures deemed necessary by the Lessee for the protection of said Premises, equipment and property shall be the sole responsibility of the Lessee and shall involve no cost to the Lessor. The Lessee further understands and acknowledges that it may be required to alter security measures as may be dictated from time to time by Federal, State, local or departmental mandate and that the cost of execution of such mandate may be at the sole expense of the Lessee.

16.02 Right of Flight: There is hereby reserved to the County, its successors and assigns, for the use and benefit of the County and the public, a right of flight for the passage of aircraft in the air space above the surface of the Premises herein leased, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said air space or landing at, taking off from or operating on the Airport.

16.03 Height Restrictions: The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the leased Premises to

such a height so as to comply with Federal Aviation Regulations, Part 77 and with the Code of Miami-Dade County, whichever is more restrictive.

16.04 Alcohol and Drug Testing: The Lessee acknowledges that the County, as a public agency sponsor under the provisions of the Airport and Airway Improvement Act of 1982, as amended, has the obligation to establish a drug free workplace and to establish policies and programs to ensure airport safety and security. The Lessee acknowledges that the Department, on behalf of the County, has the right to require users of the Airport (including all Lessees, Permittees, and licensees) to establish reasonable programs to further the achievement of the obligations described herein. Accordingly, the Lessee shall establish programs for pre-employment alcohol and drug screening for all candidates for employment at the Airport and for the same or similar screening based on a reasonable suspicion that an employee, while on duty at the Airport, may be under the influence of alcohol or drugs. The Lessee shall make reasonable good faith efforts to negotiate amendments to any existing contract(s), which may serve as a bar to the Lessee's implementation of its obligations hereunder.

16.05 Drug-Free Workplace Default: The Lessee acknowledges it has provided to the Lessor a Drug-Free Workplace Affidavit certifying that it is providing a drug-free workplace for its employees, as required by County Ordinance No. 92-15, adopted on March 17, 1992, as such may be amended from time to time ("Ordinance"). Based on the provisions of said Ordinance, the Lessor shall have the right, upon thirty (30) days written notice to the Lessee, to terminate this Agreement in the event the Lessee fails to provide, as of each anniversary of the effective date of this Agreement, the annual re-certification affidavit as required by the Ordinance; provided, however, that such termination shall not be effective if the Lessee submits the required Affidavit within the notice period.

Further, this Agreement shall be terminated upon not less than fifteen calendar day's written notice to the Lessee and without liability to the Lessor, if the Lessor determines any of the following:

(A) That the Lessee has made a false certification in its execution of the Affidavit submitted or in its annual re-certification as required by the Ordinance;

(B) That the Lessee has violated its original or renewal certification by failing to carry out any of the specific requirements of the Ordinance, other than the annual re-certification; or

(C) That such a number of employees of the Lessee have been convicted of violations occurring in its workplace(s) as to indicate that the Lessee has failed to make a good faith effort to provide a drug-free workplace as required by the Ordinance.

ARTICLE 17

Employees

17.01 Control of Employees: The Lessee shall properly control the actions of its employees at all times that said employees are working on the Airport, ensuring that they present a neat appearance and discharge their duties in a courteous and efficient manner and that they maintain a high standard of service to the public.

17.02 Employee Covenants Violations: In the event the Lessee is in default of the covenants in Article 17.01 (Control of Employees) for failure to properly control its employees, the Lessee understands that the Lessor shall have the right to require the Lessee to take immediate action to correct the discrepancy.

ARTICLE 18
Civil Actions

18.01 Governing Law; Venue: This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this Agreement shall be laid in Miami-Dade County, Florida, and any action to determine the rights or obligations of the parties hereto shall be brought in the appropriate courts of the State of Florida.

18.02 Notice of Commencement of Civil Action: In the event that the Lessor or the Lessee commences a civil action where such action is based in whole or in part on an alleged breach of this Agreement, the Lessor and the Lessee agree that service of process shall be made pursuant to the rules of civil procedure in the court in which the action has been filed.

18.03 Registered Office/Agent; Jurisdiction: Notwithstanding the provisions of Article 18.02 (Notice of Commencement of Civil Action), and in addition thereto, the Lessee, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, such designations to be filed with the Florida Department of State in accordance with Section 607.0501, Florida Statutes. If the Lessee is a natural person, he and his personal representative hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on an alleged breach of this Agreement.

ARTICLE 19
Trust Agreement

19.01 Incorporation of Trust Agreement by Reference: Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Amended and Restated Trust Agreement dated as of the 15th day of December, 2002, by and between the County and the JPMorgan Chase Bank as Trustee and Wachovia National Bank as Co-Trustee, (the "Trust Agreement") which Trust Agreement is incorporated herein by reference thereto, shall prevail and govern in the event of any conflict or inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. A copy of the Trust Agreement is available for inspection in the offices of the Department during normal working hours.

19.02 Adjustment of Terms and Conditions: If, at any time during the term of this Agreement, a court or Federal Agency of competent jurisdiction shall determine that any of the terms and conditions of this

Agreement, including the rentals, fees and charges required to be paid hereunder to the County by the Lessee or by other Lessees under other Agreements of the County for the Lease or use of facilities used for similar purposes, are unjustly discriminatory, the County shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals, fees and charges required to be paid under this Agreement in such a manner as the County shall determine is necessary and reasonable so that the rentals, fees and charges payable by the Lessee and others shall not thereafter be unjustly discriminatory to any user of like facilities and shall not result in any violation of the Trust Agreement or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement. In the event the County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the County pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions including the adjustment or rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

19.03 Lessee Right to Terminate: In the event the terms and conditions of this Agreement, including the rentals, fees and charges payable hereunder, have been substantially modified pursuant to Article 19.02 (Adjustment of Terms and Conditions) above, the Lessee at any time within one year following the effective date of such modification, may terminate this Agreement by giving 90 days written notice to the County, without liability by either party to the other.

ARTICLE 20
Rights Reserved to the Lessor

20.01 Rights Reserved: Rights not specifically granted the Lessee by this Agreement are reserved to the Lessor.

20.02 Rights of Lessor at Airport: The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any and all liability to the Lessee for business damages occasioned during the making of such repairs, alterations and additions, except those occasioned by the sole active negligence of the County, its employees, or agents.

20.03 Rights to be Exercised by Department: Wherever in this Agreement rights are reserved to the Lessor or County, such rights may be exercised by the Department.

20.04 Right to Regulate: Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County, as a political subdivision of the State of Florida, to regulate the Lessee or its operations. Notwithstanding any provision of this Agreement, nothing herein shall bind or obligate the County, the Zoning Appeals Board, the Building and Zoning Department (as it may be renamed from time to time), the Planning Department, or any department, board or agency of the County, to agree to any specific request of Lessee that relates in any way to the regulatory or quasi-judicial power of the County; and the County shall be released and held harmless by Lessee from any liability, responsibility, claims, consequential damages or other damages, or losses resulting from the denial or withholding of such requests; provided, however, that this provision shall not preclude any appeal from County action wherein the sole remedy sought is reversal of the County's action or injunctive relief; nor shall it preclude any action based on the County's bad faith, capricious behavior or arbitrary action.

ARTICLE 21
Agreement Subject to Rights of U.S. Government

21.01 Quit-Claim Deed: It is specifically understood and agreed between the parties hereto that Miami-Dade County holds title to the property of which the Premises are a part by virtue of a Quit-Claim Deed, dated the 16th day of November 1961, from the United States of America ("Government"), acting by and through the Administrator of General Services, which Quit-Claim Deed was filed on the 30th day of November 1961 in the Official Records of Miami-Dade County, Book No. 2909, page 351 ("Quit Claim Deed").

21.02 Easements or Encumbrances: This Agreement is made by the Lessor and accepted by the Lessee subject to all of the existing easements and encumbrances and to subsequent easements or encumbrances and to all of the terms, conditions, reservations, exceptions, limitations and restrictions set forth in the Quit-Claim Deed, and subject to all of the rights of the Government therein enumerated.

21.03 Government Use of Airport: In the event the Government, acting under the provisions of subparagraph (3) of said Quit-Claim Deed, shall take over the use of the leased Premises or the Airport, and such use shall so restrict the Lessee in its operations as to make continued use of the Premises by the Lessee impractical, then:

(A) This Agreement and rights and obligations hereunder shall, at the option of the Lessee, exercised in writing, either: (1) automatically terminate, except as herein under provided; or (2) be suspended during the time the Premises or the Airport are being so used by the Government and the term of this Agreement shall be automatically extended for the same period.

(B) Any monies paid by the Government for the upkeep of, repairs to and the maintenance and replacement of facilities at the Airport shall be used by the County for such purposes.

(C) Any monies paid by the Government to the County as rental for the use of the Premises shall be retained by the County; provided, however, that if the Lessee shall elect to suspend this Agreement for the period of the Government's use of the Premises, pursuant to subparagraph (A) (2) above, and rentals are paid by the Government for the use of any personal property or unamortized capital improvements installed thereon by Lessee, the rentals received by the County for use of the Lessee's said property or improvements shall be for the benefit of the Lessee and paid thereto.

In the event the Government shall take over the use of the Airport, and such use by the Government shall not materially restrict or hamper the Lessee in its operations, the Lessee shall remain in possession of said Premises and shall continue to pay the rentals, fees, and charges specified herein to be paid.

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21.04 Federal Subordination: This Agreement shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. All provisions of this Agreement shall be subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to, or assumption of control by, the United States of America shall be suspended.

ARTICLE 22
Other Provisions

22.01 No Representation as to Condition of the Premises: The Lessor makes no representation, warranty, guarantee, or averment of any nature whatsoever concerning the physical condition of the Premises, and it is agreed that Lessor will not be responsible for any loss, damage or costs which may be incurred by the Lessee by reason of any such physical condition.

22.02 Headings: Any headings preceding the text of any articles, paragraphs or sections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

22.03 Notices: All notices required or permitted to be given under the terms and provisions of this Agreement by either party to the other shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested, to the parties as follows:

As to the Lessee:

Falcontrust Air L.L.C.
14150 SW 129th Street
Miami, FL 33186
Attention: Albert Sotero

As to the County or Aviation Department:

Director
Miami-Dade Aviation Department
P.O. Box 022504
Miami, Florida 33102-5504

With a copy to:

County Attorney's Office
PO Box 025504, AMF
Miami, Florida 33102-5504

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or to such other address as may hereafter be provided by the parties in writing. Notices by registered or certified mail shall be deemed received on the delivery date indicated by the U.S. Postal Service on the return receipt. Hand delivered notices shall be deemed received by the Lessee when presented to the local management representative of the Lessee.

22.04 Interference: The Lessee further expressly agrees to prevent any use of the Premises, which would interfere with or adversely affect the operation or maintenance of the Airport or otherwise constitute an Airport hazard.

22.05 Authorized Uses Only: The Lessee shall not use or permit the use of the Premises or the Airport for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the County on, or invalidate, any insurance policies of the County or any policies of insurance written on behalf of the Sub-Lessor or Lessee under this Agreement.

22.06 Binding Effect: The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.

22.07 Severability: If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end, the provisions of this Agreement are severable.

22.08 Inspections: The authorized employees and representatives of the County and of any applicable Federal or State agency having jurisdiction hereof shall have the right of access to the Premises at all reasonable times for the purposes of inspection to determine compliance with the provisions of this Agreement. This right of inspection shall impose no duty on the County to inspect and shall impart no liability upon the County should it not make any such inspections.

22.09 Payment of Taxes: The Lessee shall pay all taxes and other costs lawfully assessed against its leasehold interests in the Premises, its improvements and its operations under this Agreement; provided, however, the Lessee shall not be deemed to be in default of its obligations hereunder for failure to pay such taxes pending the outcome of any legal proceedings instituted to determine the validity of such taxes. Failure to pay the taxes upon the adverse ultimate conclusion of such legal proceedings against the Lessee shall constitute a default.

22.10 Quiet Enjoyment of Others: The Lessee shall control the actions of its employees, agents, invitees and those doing business with it, so as to not unreasonably annoy, disturb or be offensive to others and to provide the service hereunder so as to not unreasonably create a nuisance or thing which may disturb the quiet enjoyment of any other users of the Airport.

22.11 No Waiver: There shall be no waiver of the right of either party to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by either party, unless such waiver is explicitly made in writing by the other

party. Any previous waiver or course of dealing shall not affect the right of either party to demand strict performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence of any subsequent breach, default or non-performance hereof by the other party.

22.12 Radon Disclosure: In accordance with Chapter 404.056, Florida Statutes, the following disclosure is hereby made:

> Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

22.13 Destruction of Premises: Destruction of Premises: In the event the Premises shall be destroyed or so damaged or injured by fire, windstorm, flood or other casualty (and in each such event the Lessee was not at fault in whole or in part) during the life of this Agreement that the Premises or any portion thereof are rendered untenable, the County shall have the right, but not the obligation, to render said Premises or damaged portion thereof tenantable by repairs completed within a reasonable period of time.

(A) Total Destruction: In the event the County elects not to render the Premises tenantable, if destroyed or damaged in their entirety, the Lessee shall be so notified in writing by the Department, and this Agreement shall be deemed terminated as of the date of the casualty, with the Lessee being liable only for payment of rentals on a prorated basis as to whatever portion(s) of the Premises which were tenantable and used by the Lessee following the casualty. In such event, the Department shall endeavor to find adequate replacement premises for the Lessee in existing facilities on the Airport.

(B) If the damaged portion of the Premises is not rendered tenantable by the County within a reasonable period of time, and the Lessee shall determine that: 1) the loss of the damaged portion of the Premises shall have a materially adverse impact on the ability of the Lessee to utilize the Premises for the purposes described in Article 2; or 2) would require the Lessee to obtain other space off the Premises in order to substantially conduct the operations of the Lessee originally conducted within the Premises, then, in either such event, upon written notice to the County, the Lessee may cancel this Agreement as of a date which shall be not later than three months from the giving of such notice, if the repairs are not completed within 90 days following such written notice of intent to cancel, or if the repairs cannot be reasonably completed within such 90-day period the County has not commenced repairs within such time. In the event of cancellation, the rent for the untenable portion of the Premises shall be paid only to the date of such fire, windstorm, flood, or other casualty. If the Agreement is not canceled following any such casualty, the rent shall be abated as to the portion of the Premises rendered untenable.

If the casualty was caused in whole or in part by the Lessee, its officers, employees, agents, contractors or trespassers, then the Lessee shall not have the right to terminate this Agreement and shall be

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responsible under other provisions of this Agreement for payment to the County of all damage to the Premises, plus the loss of rentals attributable to the damaged or destroyed premises.

22.14 Quiet Enjoyment: Subject to the terms of this Agreement, specifically including but not limited to the environmental remediation steps to be taken under Article 9.02 (Environmental Compliance) Lessor's right and obligation to make certain repairs, alterations, and additions under Articles 5 (Maintenance by Lessor and 20.02 (Rights of Lessor at Airport), which, for purposes of this clause includes any and all demolition, in whole or in part, of buildings and runways, and roadway systems on or off the Airport, and the reservation of easement rights to the airspace under Article 16.02 (Right of Flight), all of which provisions and others in the Agreement the Lessee acknowledges may cause disruption and disturbance to the Lessee, and upon the observance by the Lessee of all the terms, provisions, covenants and conditions imposed upon the Lessee hereunder, the Lessee shall peaceably and quietly hold and enjoy the Premises for the term of this Agreement; provided, however, that the Lessor shall not be liable for any violation of this clause or for any disturbance or disruption in or to the Lessee's business, for acts or omissions of tenants, users of the Airport, third parties, or when any department or agency of the Lessor is acting in its governmental capacity, or by Acts of God.

22.15 Definition of Day: For the purposes of this Agreement, except where otherwise expressly set forth in this Agreement and the Schedules, "days" shall mean all days except Saturday, Sunday, and official County holidays.

22.16 Interpretation of Agreement: This Agreement is the result of negotiation between the parties hereto and has been typed/printed by one party for the convenience of both parties, and the parties covenant that this Agreement shall not be construed in favor of or against any of the parties hereto.

22.17 Entirety of Agreement: The parties hereto agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA

By: _____
County Manager

ATTEST: Harvey Ruvin, Clerk

By: _____
Deputy Clerk

(SEAL)

FALCONTRUST AIR, LLC.

BY: _____
President

Adalberto L. Soto managing, member.
Print Name

ATTEST: _____
Corporate Secretary

EMMA MAESTRE
Print Name

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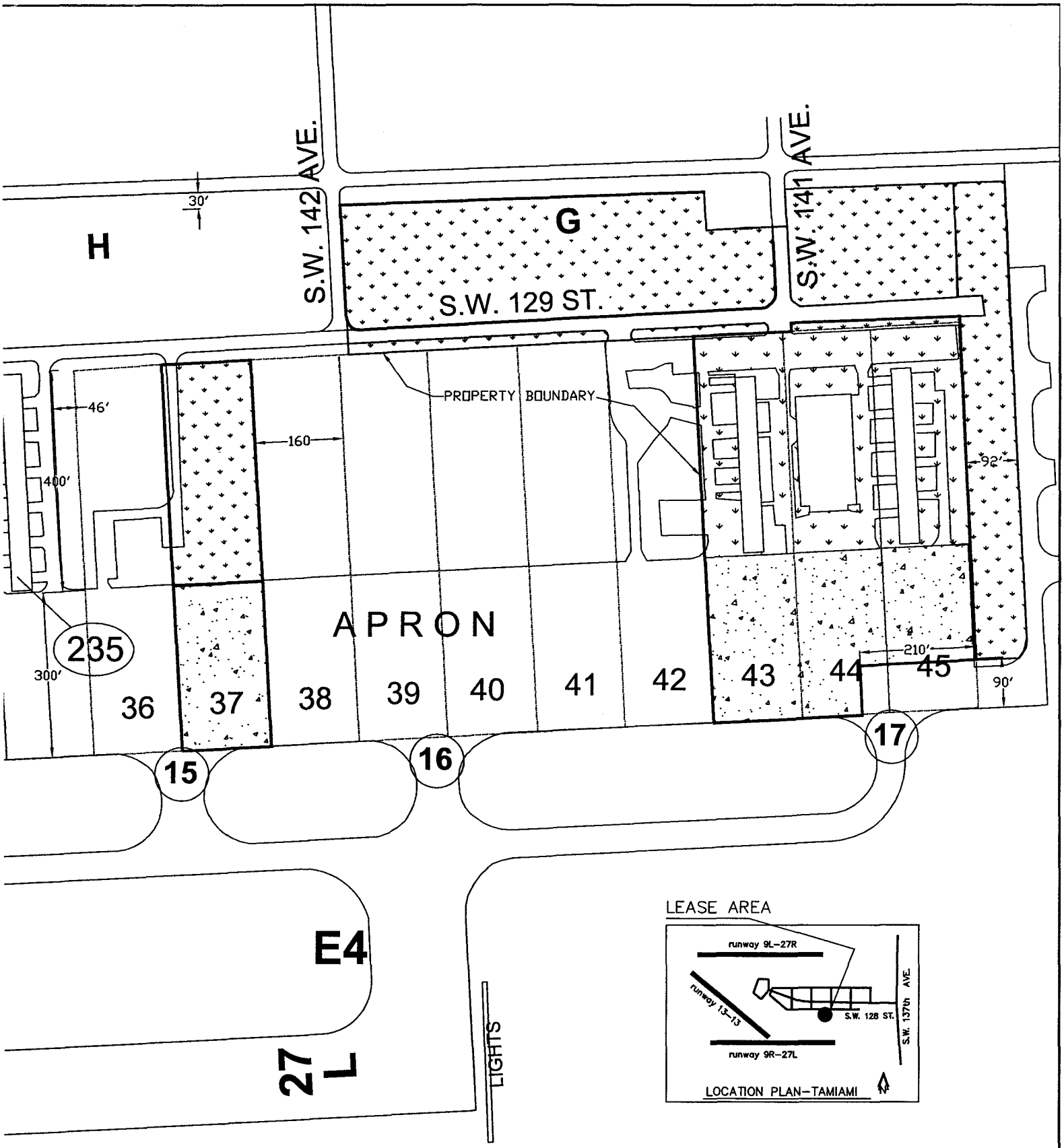

CODE:	SPACE CLASS	SQ. FT.
	PAVEMENT 3.98 Acres	173,100
	LAND 13.20 Acres	506,487
	LAND (ROAD) .863 Acres	37,599
	TOTAL LAND 18.04 Acres	785,837

SCALE: 1"= 200'	EFS# T0057	DATE: 11-01-06

MIAMI-DADE
AVIATION DEPARTMENT
KENDALL TAMIAMI AIRPORT

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EXHIBIT A
FALCON TRUST