Memorandum

MIAMI-DADE COUNTY

Date: March 6, 2007

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

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

From: George M. Burgess, County Manager

Subject: Assignment of Development Lease Agreement and Amended and Restated Development Lease with AA Acquisitions

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RECOMMENDATION

It is recommended that the Board approve the assignment of the Opa-locka Aviation Group (OAG) Development Lease Agreement to AA Acquisitions, LLC (AA), and approve the attached amended and restated development lease between Miami-Dade County and AA for the development of 220 +/- acres located at the Opa-locka Executive Airport (OPF). The Federal Aviation Administration (FAA) reviewed this amended and restated development lease, and confirmed its compliance with all federal grant assurances. This development lease provides for:

- AA's investment of $162.9 million of aviation and aviation related facilities on the premises,
- A specific timetable for construction of all AA improvements, not to exceed twenty years from the date of the lease, as compared to OAG's indefinite construction obligation keyed to the "economic viability" of each phase,
- A reduction in the potential duration of the lease from an indefinite period under the OAG lease with four 10-year renewal periods following the end of the initial 50-year term, to not more than 75 years under the AA lease,
- The County's assignment to AA for its handling of all MDAD leases on the AA site,
- AA's prompt payment of an initial rent within 18 months of the execution date and minimum rent of 1/3, 2/3, and 3/3 of the total ground rent payable as of the 5th, 10th and 15th years from the execution date, regardless of the extent of development on the premises, and
- An improvement rent of 2.55 percent of gross revenues starting as early as the 36.5-year point for all improvements constructed in the first ten years of the lease.

BACKGROUND

On July 27, 1999, OAG (formerly known as Stagecoach Aviation OPF, LLC) and the County entered into a development lease, via Board resolution R-864-99, for 240+ acres at OPF. The lease required OAG to complete its development of the leasehold in Phases IA and IB, but all other development was to commence upon the then-existing economic viability of each project within a phase. OAG and MDAD attempted to gain FAA approval at all levels. Both the district and regional levels of FAA declined to approve the lease. However, in correspondence dated March 1, 2005, FAA's Washington office stated that "the OAG lease [must] be limited to the initial phase with subsequent phases awarded separately as determined by aeronautical demand...." OAG failed to initiate any development on its leasehold after the FAA issued this letter.

The OAG lease provided that, if OAG did not engage in development activities, then the County could, "upon ninety (90) days written notice to the lessee, terminate this agreement with respect to any portion of the premises upon which development activity has not commenced." This language provided MDAD

the ability to take back parcels of the OAG premises for development if they failed to develop the premises.

In 2005, MDAD exercised its take back rights by providing OAG a written notice of the County's intent to take back 20 acres from the OAG leasehold to provide an opportunity for Miami Executive Aviation (MEA) to develop and expand its facilities. On May 17, 2005, via resolution R-597-05, the Board approved a development lease with MEA. OAG secured legal counsel to contest the take back. As required by the OAG lease, MDAD and OAG entered into mediation to settle the County's rights to take back a portion of the OAG lease.

The mediation resulted in the County Manager's recommendation that the County buy back all of OAG's rights under the 1999 lease for $20 million. The Board rejected this recommendation. Subsequently, private sector interest in OPF increased. AA Acquisitions, LLC, entered into negotiations with OAG for the purchase of its development lease. AA and OAG agreed that AA would become the assignee of all of OAG's right, title, and interest in, under, and to the OAG development lease agreement.

The original lease with OAG involved 240 +/- acres. With the County's take back of approximately 20 acres for MEA, the AA lease will involve 220 +/- acres. Of those 220 +/- acres, AA can only develop approximately 181 acres, due to roadways, taxiways and other non-developable areas.

Exhibit C provides for a specific development schedule over a fifteen-year period. The lease then provides for only a maximum of five additional years to account for delays caused by events beyond AA's control, for a maximum of 20 years from the execution date within which AA must start and complete its $162 million in improvements or else face termination. Article 2.11(B) permits the County to recapture undeveloped portions of the premises as early as the 11th year of the lease. There are significant financial incentives for AA to commence and complete construction of improvements at the earliest possible time so as to earn revenues to offset the rents it must pay the County and recoup the money it paid to OAG for the assignment.

A number of mostly month-to-month leases exist on AA's premises. The AA lease provides for the County to assign to AA the obligation to serve as the landlord of these leases. The County will remain liable for the maintenance costs and AA will collect the rents and remit them to the County less 15 percent to offset its costs of serving as landlord. As the direct landlord, AA will work directly with existing tenants to assure that their tenancies are handled in a manner consistent with AA's development schedules and FAA requirements.

The lease requires AA to develop aviation and aviation support facilities. Within the first 18 months, AA will develop $22.6 million of improvements. After five years, AA will have developed an additional $34.9 million. After 10 years, AA will have invested an additional $46.7 million of improvements. After 15 years, AA will have invested an additional $58.7 million. Total development will equal 2.2 million square feet with an estimated investment of $162.9 million. The investment of $162.9 million is an amount greater than that required by MDAD's investment development requirement of $10,000 per acre per lease year (181 acres of usable land on the premises x $10,000 x 75 years (the maximum potential term of the lease) = $135,750,000).

In the event of an assignment or transfer of this lease, the lease requires AA to pay to the County an assignment fee in the amount of the greater of $10 million or 10 percent of its net profit if such transfer

occurs within the first 10 years after the effective date. If a transfer occurs 15 years after the effective date, AA must pay the County $10 million or 15 percent of net profits.

The original development lease with OAG was based on OAG's expectation that it could develop OPF as a commercial airport. The AA lease, to the contrary, is based solely on AA's use of the airport as a general aviation airport. The lease provides in Articles 3.02(ix) and 21.03, however, that if the Board decides to permit commercial air service at OPF, AA may participate on a non-exclusive basis in such service.

The lease provides that AA, as assignee of OAG's rights under the original Stagecoach lease, shall release the County from all claims that OAG has or may have had under the lease, including the claims OAG raised in the mediation process. AA has provided such a release to the County, contingent upon the County's approval of the AA lease.

All the exhibits and schedules referenced in the attached amended and restated development lease agreement are currently being finalized and the critical exhibits important to this Board's consideration will be attached to the agreement prior to final Board action.

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

MEMORANDUM

(Revised)

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

DATE: March 6, 2007

FROM: Murray A. Greenberg County Attorney

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

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**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(A)
03-06-07

RESOLUTION NO. _____

RESOLUTION RELATING TO OPA-LOCKA EXECUTIVE AIRPORT; APPROVING ASSIGNMENT OF DEVELOPMENT LEASE AGREEMENT BY OPA-LOCKA AVIATION GROUP, LLC, FORMERLY KNOWN AS STAGECOACH AVIATION OPF, LLC, TO AA ACQUISITIONS, LLC; APPROVING THE AMENDED AND RESTATED DEVELOPMENT LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE ASSIGNEE, AA ACQUISITIONS, LLC; FINDING AND DETERMINING THAT THE PREMISES FOR SUCH LEASE CONSTITUTES AIRPORT FACILITIES WHOSE LEASE MAY BE NEGOTIATED; AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE ADDITIONAL DOCUMENTS UPON APPROVAL OF THE COUNTY ATTORNEY TO EFFECT THE PURPOSES OF THE AGREEMENT; AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE THE AMENDED AND RESTATED DEVELOPMENT LEASE AGREEMENT WITH AA ACQUISITIONS LLC., AND TO EXERCISE THE TERMINATION PROVISIONS THEREOF

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 (1) approves the assignment by Opa-locka Aviation Group, LLC ("OAG")(formerly Stagecoach Aviation OPF, LLC) to AA Acquisitions, LLC ("AA") of the Development Lease Agreement approved by this Board in Resolution No. R-864-99; (2) approves the Amended and Restated Development Lease Agreement between the County and AA for the Premises covered by the OAG Development Lease Agreement in the form attached hereto, for a lease term of fifty-five years

from the defined Completion of Construction date with no renewal terms; (3) finding and determining that the Premises covered by the OAG and AA agreements constitute Airport facilities and therefore the Amended and Restated Development Lease Agreement applicable to such Premises may be negotiated under Section 125.35, Florida Statutes; (4) authorizing the County Mayor or his designee to execute additional documents from time to time in the future, upon review by the County Attorney, to effect the purposes of the AA agreement; and (6) authorizing County Mayor or his designee to execute the attached Amended and Restated Development Lease Agreement and to exercise the termination provisions thereof.

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

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of March, 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

U.S. Department
of Transportation
**Federal Aviation
Administration**

Orlando Airports District Office
5950 Hazeltine National Dr., Suite 400
Orlando, FL 32822-5024

Phone: 407-812-6331

February 1, 2007

Mr. Miguel Southwell
Assistant Aviation Director for Business Development
Miami-Dade Aviation Department
P.O. Box 025504
Miami, Fl 33102-5504

Dear Mr. Southwell:

RE: Opa Locka Executive Airport, Opa Locka, Florida
Terms of AA Acquisitions, LLC lease as presented 01/30/2007

We are in receipt of your January 30, 2007 e-mail correspondence with proposed changes to the AA Acquisitions, LLC lease. FAA concurs with these final changes to the lease. Once these changes have been incorporated into the document, we accept the AA Acquisitions, LLC lease as part of Miami-Dade Aviation Department's corrective action plan responding to the 2005 Opa Locka Land Use Audit Report.

Our regional and Washington Headquarters staffs are both in complete agreement with this position.

Sincerely,

Rebecca R. Henry

Rebecca R. Henry
Program Manager
Planning and Compliance

Cc: Roger Hall, Federal Aviation Administration, Atlanta, GA
Charles Erhardt, Federal Aviation Administration, Washington, D.C.

AMENDED AND RESTATED
DEVELOPMENT LEASE AGREEMENT

MIAMI-DADE COUNTY, FLORIDA,

LESSOR

AND

AA ACQUISITIONS, LLC,

LESSEE

149589-30

9

Lease No. _____
Cust. No. _____
Doc. Name: _____

AMENDED AND RESTATED DEVELOPMENT LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY, FLORIDA, AS LESSOR, AND AA ACQUISITIONS, LLC, AS LESSEE, OPA-LOCKA AIRPORT

THIS AMENDED AND RESTATED DEVELOPMENT LEASE AGREEMENT ("**Agreement**" or "**Lease**") made and entered into as of the ___ day of December, 2006 ("**Effective Date**"), by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida (interchangeably, the "**County**" or "**Lessor**"), and AA ACQUISITIONS, LLC, a Florida limited liability company ("**Lessee**"), as assignee and successor to the Opa-locka Aviation Group, LLC, the original Lessee hereunder.

W I T N E S S E T H

WHEREAS, the County is the owner and operator of the Opa-locka Executive Airport ("**OPF**" or "**Airport**"); and

WHEREAS, the County has recognized the need and potential for development and/or improvement or expansion of existing facilities at the Airport; and

WHEREAS, in furtherance of the foregoing, in 1999 the County entered into a certain Development Lease Agreement dated August 9, 1999 (the, "**Original Lease**") with Opa-locka Aviation Group, LLC, formerly known as Stagecoach Aviation OPF LLC (the "**Original Lessee**") for the development of certain portions of the Airport; and

WHEREAS, the Original Lessee has agreed to assign its rights under the Original Lease to Lessee; and

WHEREAS, Lessee's principals are experienced at, and have substantial expertise in and an established record of success with respect to, developments of the type contemplated in the Original Lease and herein, and Lessee desires to develop and/or operate facilities at a portion of the Airport (such portion being the "**Airpark**" or "**Premises**") in order to improve and serve the Airport and the aviation community by constructing new Improvements at the Airport and providing and/or facilitating the providing of aviation services at the Airport, and to serve non-aviation purposes which further support the aviation community, all such development to be carried out within the Airport property described herein as the Premises and described in the site plan(s) (as same may be

amended from time to time, the "**Site Plan**"), attached hereto as Exhibit "A"; and

WHEREAS, Lessee has discussed with MDAD and other County agencies the County's strategic, development, and operational plans for the Airport, and Lessee and the Original Lessee have agreed on and, as of the Effective Date will have consummated, an assignment of the Original Lease and Original Lessee's rights thereunder to and in favor of Lessee, which assigned rights include any and all claims (the "**Claims**") that could be asserted against Lessor by Original Lessee under, or emanating out of, the Original Lease (the "**Assignment**"), and which Claims include but are not limited to any claim related to or arising out of the Lessor's take-back from the Original Lessee of a parcel under the Original Lease which was then leased by the County to, and is now occupied by, MEA (the "**MEA Leasehold Area**"), and Lessee agrees to release such claims promptly following the consummation of the Assignment; and

WHEREAS, the County believes that the development of the Premises will enhance and benefit OPF as a public airport facility, and will create jobs and promote the economic growth of the County as a whole; and

WHEREAS, the County believes that the Assignment and Lessee's commitment to the development of the Premises afford the most promising and immediate means by which the Premises may be developed and the Airport improved; and

WHEREAS, the laws and regulations of the United States of America ("**Federal Law**") require that all public airports must be operated in a fair, reasonable and not unjustly discriminatory manner; and

WHEREAS, the County believes that it is in the public interest to utilize the private sector market place to prudently, efficiently and in a timely manner develop the Premises in a manner consistent with the CDMP, as hereinafter defined, detailed in the Airport Layout Plan for the Airport, as hereinafter defined, as amended from time to time, and approved by the County and the Federal Aviation Administration, respectively; and

WHEREAS, in order to maximize and expedite the development of the Premises for Airport uses and purposes, and to encourage economic growth in Miami-Dade County and create jobs in aviation support enterprises suitable for competition in the global marketplace, the parties desire to enter into this Amended and Restated Lease, to provide for Lessee's use and development of the Premises; and

WHEREAS, all of the Premises will be exclusively leased to the Lessee for development in accordance with this Lease; and

WHEREAS, the parties desire that, pursuant to this Lease, the Lessee will (a) develop and use the Premises in accordance with the CDMP, the ALP, and this Lease, as each is amended from time to time and (b) undertake the construction, renovation, upgrading, or installation of any infrastructure, buildings, structures, betterments, improvements, other additions, modifications,

replacements, alterations, or repairs made to the Premises, and

WHEREAS, the parties recognize and are aware that the FAA has rules and regulations, as amended from time to time, for the development, use, maintenance, operation, security and safety of public airports and for portions thereof subject to FAA jurisdiction ("**FAA Regulations**") some of which are codified in Title 49 and 14 of the Code of Federal Regulations (hereinafter the Code of Federal Regulations shall be referred to as the "**CFR**"), and that Lessee's development and operation of the Premises will at all times be subject to the FAA Regulations and policies, and applicable rules, regulations, laws, statutes and ordinances of the United States of America (interchangeably, the "**USA**" or "**Federal Government**"), the State of Florida ("**State**") and the County, as may be applicable, notwithstanding any conflicting provisions of this Lease; and

WHEREAS, Lessee acknowledges that the County is entering into this Lease in its propriety capacity, but that the County, at all times reserves the rights accorded to it in its regulatory and governmental capacities to regulate the OPF and Lessee in a nondiscriminatory manner as established by law; and

WHEREAS Lessee has offered to institute an Outreach Program for small businesses and contractors owned or controlled by Miami-Dade residents in order to assist such businesses and contractors in meeting bonding requirements as may be required for construction or operation of Premises at the Airport; and

WHEREAS Lessee has further agreed that it will use good faith efforts to comply (except that to the extent required to comply by Federal Law, it agrees to so comply) with the provisions of 49 CFR Parts 23 (Participation of Disadvantaged Business Enterprises (DBE) in Airport Concessions) and 26 (Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs) and all applicable provisions of Federal Law and Grant Assurances as such are applicable to the activities of the Lessee under the terms of this Agreement; and Lessee shall include in its sub-leases provisions requiring its Sub-lessees, as hereafter defined, to comply with all such programs or laws applicable to them in the operation of such Sub-lessees' subleased premises and/or its business activities at the Airport.

N**OW THEREFORE**, for and in express consideration of the foregoing premises, and of the mutual covenants and agreements hereinafter contained to be performed and observed by the parties agree as follows:

ARTICLE 1
Definitions

In addition to capitalized terms defined elsewhere in this Agreement, the following terms will have the following meanings:

1.01 **Agreement:** This Amended and Restated Development Lease Agreement between the Lessor and the Lessee, including all exhibits and schedules.

1.02 **Airport:** The Opa-locka Executive Airport located in Miami-Dade County, Florida including the real property now or hereafter owned by the Lessor adjoining or adjacent thereto as reflected in the then-current Airport Layout Plan.

1.03 **Airpark:** The development of the Premises contemplated by this Agreement.

1.04 **ALP:** The Airport Layout Plan for the Airport, as amended from time to time, which plan will show certain existing buildings and all improvements then existing or contemplated to be developed at the Airport by Lessee and others, will be subject to approval by the FAA, and which has been approved by the Department (and the Lessee as to the Lessee's intended improvements to the Premises), is reflected by the Airport Master Plan, and will be submitted with the Department's recommendation for incorporation into the CDMP and with the Department's recommendation for the approval of the CDMP by the Miami-Dade Board of County Commissioners (the, "**Board**"), which approval shall be solely at the discretion of the Board. A copy of the currently proposed ALP for the Airport as approved by the Department is attached hereto as Exhibit "F".

1.05 **Annual Rent:** The cumulative amount due under this Lease for any Lease Year in respect of Land Rent and Improvement Rent due for all portions of the Premises for which rental payments are then due, including both Aviation Parcels and Non-Aviation Parcels.

1.06 **Anticipated Development and Construction Costs:** Shall have the meaning ascribed to such term in Article 2.06(C).

1.07 **Assignment Fee:** That fee that is payable to the County by the Lessee upon the Lessee's sale of its interest hereunder.

1.08 **Aviation Annual Land Rent:** The rental payable for portions of the Premises leased for Aviation related uses.

1.09 **Aviation Parcel:** Any portion of the Premises on which an Improvement is to be constructed and leased or utilized by Lessee or any Sub-lessee(s) for Aviation related uses and to which Aviation Rent is applicable.

1.10 **Baseline Audit:** Shall have the meaning ascribed to such term in Article 7.03(C).

1.11 **Bond Resolution:** Resolution No. R-1654-84 adopted by the Lessor on December 4, 1984 securing Dade County Aviation Facilities Revenue Bonds, as such Resolution may be amended from time to time.

1.12 **CDC:** The Opa-locka Community Development Corporation.

1.13 **CDC Lease:** The Revised and Amended Agreement with CDC for Development of a portion of the Opa-locka Airport having an Effective Date of May 6, 1997.

1.14 **CDMP:** Miami-Dade County's Comprehensive Development Master Plan, as amended from time to time.

1.15 **Commence Construction or Commencement of Construction:** The undertaking of any construction related activity in connection with the development of a Section or Parcel, including, but not limited to, the filing of an application for a building permit or performance of any site work for the Improvements associated with any Section or Parcel, provided Lessee commences work under such permit within a reasonable time following receipt thereof as provided in this Lease.

1.16 **Commercial Air Services:** Such services by aircraft operators as shall be permitted by the Miami-Dade County Aviation System Plan upon Commercial Air Service Approval and approvals of OPF as an FAR Part 139 airport.

1.17 **Commercial Air Service Approval(s):** All approvals required from all applicable local, state and federal governmental authorities for the development and use of the Premises for commercial air services by the Lessee.

1.18 **Completion of Construction:** The date upon which a temporary or final certificate of occupancy, or temporary or final certificate of completion, or local governmental equivalent is issued by the appropriate governing authority with respect to any Improvements and which certificate upon issuance allows for the occupancy of the applicable Improvement, or the portion thereof as to which such certificate is applicable.

1.19 **Consultant:** An independent environmental consultant selected by the Lessee pursuant to Article 7.06.

1.20 **Date of Beneficial Occupancy or DBO**: The earliest of: (i) the date on which Completion of Construction with respect to an Improvements in any particular Parcel has occurred, (ii) the date on which Completion of Construction with respect to the Improvements on any particular Parcel would have occurred, but for the occurrence of Lessee Delays, or (iii) the date on which Lessee or a Sub-lessee actually commences to occupy the subject Improvements in any particular Parcel for its intended use.

1.21 **Demolition Credit:** The total cost of the demolition relating to any structure at the Airport that Lessor requests be performed by Lessee and which Lessee, in its discretion, agrees to perform for Lessor, and in such event, such cost shall include, but not be limited to, application fees, engineering fees, permit fees, administrative overheads of Lessee, hard costs of demolition, environmental remediation if any and cleanup and removal costs, including the interest at the Rate , as hereafter defined, on any portion of the costs not reimbursed to Lessee by County within sixty (60) days of the date incurred.

1.22 **Department:** The Miami-Dade-County Aviation Department, known as "MDAD".

1.23 **Development Schedule and Phasing Plan:** The initial general Development Schedule and Phasing Plan of Lessee as set forth on Exhibit "C" as may be amended from time to time by mutual agreement of the parties.

1.24 **DERM:** The Miami-Dade County Department of Environmental Resources Management.

1.25 **DRI:** Development of Regional Impact.

1.26 **Effective Date:** The date on which the County's approval of this lease is effective as provided in Article 2.01, below, which is the date first above stated.

1.27 **Existing Parking Pavement:** Aircraft parking pavement existing within the Premises as of the Effective Date and which prior to the commencement of Land Rent for the Parcel in question, or at some subsequent date, has not been demolished, modified or refurbished by the Lessee.

1.28 **FAA:** The Federal Aviation Administration.

1.29 **Gross Revenues:** All moneys or considerations of determinable value received by Lessee from a Sub-lessee and arising as a result of the use of, or the right to use, the Premises or any portion thereof, regardless of when or where the authorization for such use is provided by Lessee, and whether such determinable value is made on a cash or credit basis or in consideration of any other thing of value. Gross revenues shall encompass the totality of all such determinable value received by Lessee for any such use, including but not limited to what are referred to as "pass through" charges by the Lessee to the Sub-lessee, less only the following specific exclusions from gross revenues: (a) any taxes imposed by law which are separately levied against and paid by any such Sub-lessee of the Premises or portion thereof and/or directly payable by the Lessee to a taxing authority; (b) any sales refunds; (c) any security deposits which Lessee may be required to refund to Sub-lessee at the end of the occupancy or use agreement; (d) any monies paid by a Sub-lessee as a reimbursement to Lessee of Lessee's construction costs of the Improvements or for improvements to the space to be occupied by such Sub-lessee, provided that the Sub-lessee subsequently pays not less than fair market value to Lessee for the rental of the land and Improvements used or occupied by the Sub-lessee; and (e) the Annual Rental payable to the Lessor hereunder.

1.30 **Historical Preservation Cost:** In respect of any building or structure at the Airport that is designated as "historic", or is afforded "historic preservation" status by or under any federal, state or local law, if such building or structure is not permitted to be demolished, the total cost of the restoration and preservation costs relating to the restoration of such building or structure, which costs shall include, but not be limited to, application fees, engineering fees, permit fees, administrative overhead of Lessee, hard costs of repairs, environmental remediation, if any, and cleanup and removal costs, and shall include the costs of financing or interest payments at the Rate on the portion of the costs due from Lessor and not reimbursed to Lessee within sixty (60) days from Lessee's invoice therefor.

1.31 **Improvement Rent:** The Rent in addition to the Land Rent that shall be due commencing as of the Improvement Rent Commencement Date, and which shall be payable in the amounts determined in accordance with Article 4.02(B).

1.32 **Improvement Rent Commencement Date:** Shall have the meaning set forth in Article 4.02(A).

1.33 **Improvements:** Any and all improvements, facilities and/or structures whether below or above ground, made by or at the direction of Lessee to any portion of the Premises.

1.34 **Intentionally Deleted**

1.35 **Institutional Lender:** A state, federal or national bank, savings and loan association, insurance company, or union pension fund, an agency of the United States government, a mortgage investment trust, a real estate investment trust, a credit union, and investment house, or a lender generally recognized in the community as an institutional type lender.

1.36 **Land Rent:** The annual base rent due from Lessee for Aviation Parcels and Non-Aviation Parcels as described in Article 4.01(A) for Aviation Parcels and in Article 4.01(B) for Non-Aviation Parcels.

1.37 **Lease Year:** The twelve month period beginning on the Effective Date and each anniversary thereof.

1.38 **Lender:** Any person or entity that finances any portion of Lessee's business operations at OPF, including development/construction of the Premises and Improvements thereon.

1.39 **Lessee:** AA Acquisitions, LLC, a Florida limited liability company, its successors and/or its permitted assigns.

1.40 **Lessor:** Miami-Dade County, Florida, a political subdivision of the State of Florida.

1.41 **Lessor Obligations:** The obligations of the Lessor as described in this Agreement.

1.42 **MIA:** Miami International Airport.

1.43 **Minimum Rent:** Shall have the meaning ascribed to said term in Article 2.06(C).

1.44 **Mortgage:** Any hypothecation, encumbrance, collateral assignment or mortgage of Lessee's leasehold interest in the Agreement.

1.45 **Non-Aviation Annual Land Rent:** The rental payable for portions of the Premises leased for Non-Aviation related uses.

1.46 **Non-Aviation Parcel:** Any portion of the Premises on which an Improvement is to be constructed and leased, or utilized by Lessee or any Sub-lessee(s), for Non-Aviation related uses as permitted by applicable zoning laws and regulations, and to which Non-Aviation Rent is applicable.

1.47 **Parcel:** An area of the Premises on which an Improvement is to be constructed and such term shall includes both Aviation Parcels and Non-Aviation Parcels, as applicable.

1.48 **Passenger Services:** Sales made, transactions had, or services rendered to airline passengers or commercial air carriers engaged in the transport of passengers to or from the Premises pursuant to Article 3 of this Agreement.

1.49 **Permitted Transferee:** Any of (i) a person to whom a transfer occurs by devise or descent or by operation of law upon the death of a partner, member or shareholder of Lessee; (ii) any transfer of an interest of a member to an immediate family member of a partner, member or shareholder of Lessee (parents, spouse, siblings, children, including stepchildren and adopted children, including those of the spouse) or to a trust of family limited partnership for the benefit of such person or in connection with estate planning of the transferor; (iii) to any member of Lessee and/or other immediate family members of such member; or (iv) any entity controlled by a member and/or immediate family members of such member; provided that in (iii) and (iv) above no monetary consideration is paid, other than as may be part of bona-fide estate planning for the transferor.

1.50 **Phase:** Each of Phase I, consisting of years 1-5 of the Term, Phase II, consisting of years 6-10 of the Term, and Phase III, consisting of years 10-15 of the Term, and during each of which Lessee is required to expend one-third (1/3) of the total Anticipated Development and Construction Costs for the construction of Improvements as set forth on the Development Schedule and Phasing Plan.

1.51 **Phasing Plan:** The general phasing plan for the development and use of the Premises, the current version of which is attached hereto as Exhibit "C".

1.52 **Premises:** Shall have the meaning set forth in the Preamble to this Agreement and as described in Article 2.04 below.

1.53 **Project:** The overall development and construction of the Improvements on the Premises as contemplated by the Development Schedule and Phasing Plan and this Lease

1.54 **Public Airport Facilities:** All public non-airfield areas of the Airport including, but not limited to, automobile parking areas, roadways, sidewalks, and other public facilities at the Airport not specifically leased pursuant to the Agreement or under the contractual control of others.

1.55 **Rate:** Rate shall be the interest rate quoted by Citibank, or its successor or assign, as its annual prime rate, as adjusted from time to time, plus one (1%) percent. Should Citibank cease to quote a prime rate, or cease to exist without a successor or assign being readily identifiable, then the parties shall utilize the prime rate quoted by the Wall Street Journal, or agree on use of the prime rate quoted by another financial institution, in either case plus one (1%) percent per annum, as the Rate.

1.56 **Intentionally Deleted**

1.57 **Rent Commencement Date:** Shall have the meaning set forth in Article 4.01(C) as

to Land Rent and Article 4.02 as to Improvement Rent.

1.58 **Repair Credit Respecting Existing Improvements:** In the event Lessee is required to make any repairs, replacements or improvements to any Existing Improvements, as approved by Lessor, the total cost of such repairs or improvements, which costs shall include, but not be limited to, application fees, engineering fees, permit fees, administrative overhead of Lessee, hard costs of repairs, environmental remediation if any and cleanup and removal costs, and if such costs ultimately are the responsibility of Lessor to pay, such costs shall include the costs of financing and interest payments at the Rate on any portion of the costs not reimbursed by Lessor to Lessee within sixty (60) days of Lessee's invoice to Lessor therefor.

1.59 **Section:** Each of the areas of the Premises described on the Development Schedule and Phasing Plan and within which various Parcels will be developed and Improvements constructed by Lessee generally in accordance with the Development Schedule and Phasing Plan.

1.60 **Sub-lessee(s):** Shall have the meanings ascribed to such terms in Article 3.03.

1.61 **Survey:** That certain boundary survey prepared by Aylward Engineering & Surveying, Inc., under Project No. 03-169, dated March 19, 2004, as same may be updated from time to time, or replaced by a new survey of the Premises, and which term shall include the New Survey (as defined in Article 2.04), once prepared.

1.62 **Term:** The Term hereof shall commence on the Effective Date and shall terminate at 11:59 p.m. (eastern time) on the date that is fifty-five (55) years from the date that the Completion of Construction for the last Improvement constructed by Lessee under this Lease in conformance with the Development Schedule and Phasing Plan attached hereto as Exhibit "C" and the DBO in respect of such Improvement have each occurred, unless otherwise extended as set forth in this Lease.

1.63 **Termination Date:** The date on which the Term of this Lease expires.

1.64 **Termination Fee:** The amount payable to the Lessee by the Lessor upon a termination of the Agreement pursuant to Article 12.12.

1.65 **Trust Agreement:** That certain Amended and Restated Trust Agreement dated as of the fifteenth day of December, 2002, by and between the Lessor and JP Morgan Chase Bank, as Trustee and Wachovia Bank, National Association, as Co-Trustee, Amending And Restating the Trust Agreement dated as of October 1, 1954, and securing Miami-Dade County, Florida Aviation Revenue Bonds, as such Trust Agreement and the Trustee and Co-Trustee may be amended from time to time.

ARTICLE 2
Demise, Term, Premises and Development

2.01 **Effective Date:** The Assignment of the Original Lease to Lessee shall be consummated and the Effective Date of this Lease shall be on the date that the last of the following occur: (a) the Lease is acceptable to the FAA and (b) ten (10) days after the last of (i) the effective date of the resolution adopted by the Board approving this Lease, or (ii) the date of the adoption of a resolution approving the Lease by the Board and the expiration of all applicable appeal periods, or (iii) if such a resolution is vetoed by the Mayor, the date of an override of such veto by the Board, and the expiration of all applicable appeal periods, if any, or (iv) the expiration of any applicable period of reconsideration of the Board applicable to any resolution approving this Lease. The date first above written shall reflect the Effective Date. In addition, the Effective Date will be confirmed in writing by the Lessee and the Department promptly following the determination of the Effective Date.

2.02 **Land Lease and Development Rights:**

(A) **Land and Facility Lease:** In accordance with (a) Chapter 125, Florida Statutes; (b) the powers granted to Lessor pursuant to authority properly delegated by the Florida legislature pursuant to the Florida Constitution; (c) the authority to lease real property belonging to Miami-Dade County; and (d) the authorizing resolution respecting the approval of this Lease adopted by the Board, and for and in consideration of the rents, covenants and agreements specified in this Lease, Lessor does hereby lease and demise the Premises unto Lessee, its successors and assigns through this unsubordinated ground and development lease, to have and to hold the same unto Lessee, its successors and assigns, for the Term, as same may be extended in accordance with Article 2.03(B) and 2.03(C), and Lessee does hereby take and hire the Premises, all upon and subject to the terms and conditions hereof and for the purposes expressed herein or that may reasonably be inferred hereunder, reserving to Lessor, however, the rights described herein. The Premises are further depicted on the Site Plan and the legal description of same is set forth on Exhibit "B" hereto. The parties acknowledge that the property leased to the Miami Executive Aviation, Inc ("**MEA**") is not included in the Premises hereunder.

(B) **Development Rights:** In connection with and as an appurtenance to the lease and demise hereunder, during the Term of this Lease, Lessee shall have and hold the exclusive development rights and lease rights in and to the Premises, including the right to construct, or cause to be constructed, in the manner and under the conditions set forth in Article 5 and as acceptable to the FAA, as required, and to occupy and operate, and/or sub-lease, license, franchise and otherwise grant use rights in and to the existing or future Improvements in any Section or all Sections, as described and provided in this Lease, and may construct, occupy, operate and/or sub-lease, franchise, license and/or grant use rights to portions of the Premises for Aviation and/or Non-Aviation uses, including the right to construct, occupy and operate and/or sub-lease, license, franchise and otherwise grant use rights in and to the space within the Premises for Commercial Air Service uses in

the event the Airport is approved for such use. Lessee may also construct a hotel at the Premises, regardless of whether Commercial Air Services are approved, the construction of such hotel to be subject to the approval of the FAA and MDAD's design, sitting, and construction criteria as contemplated in Article 5, below. Lessee's construction of facilities on the Premises shall generally be in accordance with Exhibit "C" as amended from time to time in accordance with this Lease. Lessee shall be subject to Minimum Rent in accordance with Article 2.06(C). Sub-leases of space within the Premises by Lessee are not subject to Lessor consent, provided that Lessor has approved a standard sub-lease form to be used by Lessee and the sub-leases are substantially in accordance with such standard form.

2.03 **Term of Lease:** The Term hereof shall commence on the Effective Date and shall terminate on the Termination Date. The parties agree to execute, in recordable form, within five (5) days of a request by either party, a Memorandum of the Effective Date and/or a Memorandum of the Termination Date, to document the actual Effective Date and/or Termination Date of this Lease, as applicable, and either party may elect to cause same to be recorded among the Public Records of Miami-Dade County, Florida at its expense. The Term shall commence and terminate as set forth above, notwithstanding that the Rent Commencement Dates for Land Rent and Improvement Rent shall not occur until following the Effective Date.

Notwithstanding the Termination Date set forth above, the parties agree that at anytime prior to the date that is fifty-three (53) years and six (6) months after the Effective Date, the Lessee may, at its sole option, and in respect to any particular Parcel or Parcels, give one or more written notices to Lessor (each a **"Parcel Exclusion Notice")** of its election to terminate this Lease, but only as to such Parcel or Parcels specifically identified therein, effective as of the fifty-fifth (55th) anniversary date of the Effective Date (the **"Excluded Parcel Termination Date"**); provided that any such Parcel as to which a Parcel Exclusion Notice is given must reasonably be economically beneficial and usable to Lessor. If such Parcel is then unimproved, it must constitute a buildable and reasonably usable site. If such Parcel then contains an Improvement that will be, as of the Excluded Parcel Termination Date, within five (5) years of becoming subject to the County's forty (40) year re-certification requirement, as it may be required by any building code then-applicable in Miami-Dade County, including Section 8-11(f) of the Miami-Dade County Code, as such provisions may be amended from time to time, then Lessee will, at its option, cause such Improvement to be brought to the condition needed to satisfy the forty (40) year certification requirements or demolish such Improvement, at its cost, before or promptly following the Excluded Parcel Termination Date. If the Lessee provides any timely Parcel Exclusion Notice(s) to Lessor, then, subject to the foregoing conditions and solely with respect to any Parcel or Parcel(s) described in such Parcel Exclusion Notice(s) and not in respect of any other portion of the Premises, this Lease shall terminate as of the Excluded Parcel Termination Date.

2.04 **Premises:**

(A) **Premises; Excluded Areas; Wetlands:** The Premises leased herein are located at the Airport, and consist of approximately one hundred eighty-one (181) net acres of improved and unimproved land subject to Land Rent (the exact size of which to be determined by the New Survey, as hereinafter defined) and the Excluded Areas, as hereinafter defined (the exact size of which to be determined by the New Survey) that will not be subject to Land Rent, all as graphically depicted and legally described in Exhibits "A" and "B", respectively. The Lessee shall have the New Survey, as hereinafter defined, prepared at its cost to determine the actual size of the portion of the Premises subject to Land Rent, the portion thereof consisting of Excluded Areas, and the legal description of the Premises. The New Survey shall determine the size of the Premises and the current portion of same constituting Excluded Areas for all Lease purposes and the legal description to be attached hereto. Lessor shall provide reasonable guidelines as to the dimensions to be used in the New Survey as the New Survey applies to Excluded Areas. The parties further agree that areas of the Premises now or hereafter consisting of the U.S. Customs' site, the New Air Control Tower site, the MEA Site (provided, however, that it is agreed that this Lease and not the MEA Site includes that certain existing parking lot (the "**Parking Lot**") located south of the existing MEA building, east of the proposed new MEA building, west of LeJeune Road, and north of 147th Terrace, which Parking Lot is generally depicted on Site Plan, and neither the release of Claims referred to in the sixth (6th) Whereas Clause (the "**Recital**") to this Lease nor the release of Claims itself, shall include a release of any Claim arising as a result of an assertion by MEA that it is the holder of a leasehold right to such Parking Lot, nor shall such Parking Lot be an Excluded Area), the Natoli leasehold area (subject to Article 2.06(L)), existing taxiways A, B and C, proposed new taxiway A, any other taxiways or taxilanes now or hereafter located on the Premises, Wright Road and the expansion of Wright Road (the "**New Wright Road**"), LeJeune Road and any other roadways that Lessee may construct at the Airport that are used in common by other tenants of the Airport, the public or reasonably deemed to be for common use, and the area occupied by Lessor or the Department within the portion of the Premises commonly referred to as the fuel farm (the, "**Fuel Farm**") are hereinafter referred to collectively as the "**Excluded Areas**". The Excluded Areas shall not be subject to any Land Rent or Improvement Rent. A sketch of the existing Excluded Areas is attached hereto as Exhibit "K". The Premises in their current condition as of the Effective Date includes (a) an area of Existing Parking Pavement, (b) certain existing improvements ("**Existing Improvements**"), (c) unimproved land, (d) the Fuel Farm, and (e) Excluded Areas. Certain portions of the Existing Improvements are subject to leases ("**Existing Leases**") in favor of third-parties, or are occupied by tenants of Lessor or sub-tenants of Lessor's tenants whose leases or sub-leases have expired (collectively, **"Existing Tenants"**). The Existing Leases are described on Exhibit "D". The portion of the Premises to be subject to Land Rent shall be determined initially by the New Survey. If any portion of the Premises which is not currently an Excluded Area becomes an Excluded Area in the future, the same shall reduce the size of the area of the Premises subject to Land Rent. If any area of the Premises which is currently an existing Excluded Area subsequently becomes incorporated into a Parcel and is no longer utilized as an Excluded Area, such Excluded Area so incorporated into a Parcel shall increase the size of the area of the Premises subject to Land Rent.

(B) **Lessor's License to Use Excluded Areas:** Lessor hereby reserves, and Lessee hereby grants to Lessor, a license for Lessor to use the Excluded Areas to the extent permitted by rules and regulations of the Aviation Department and the FAA. The general public shall be entitled to use the portions of the Excluded Areas consisting of commonly used roadways, to the extent permitted by rules and regulations of the Aviation Department and the FAA.

(C) **Wetlands:** The Lessee has determined that certain portions of the Premises currently consist of "wetlands" and may not be able to be developed in an economically viable manner. In addition, such portion of the Premises may be subject to a Joint Venture agreement between the Original Lessee and the CDC, which, if correct, Lessee will be responsible for complying therewith or else negotiating a new agreement with the CDC. In the event Lessee proceeds with the CDC venture, Lessor will reasonably cooperate with Lessee in connection with its effectuation of such venture. Lessee agrees to initially include same in this Lease but, notwithstanding anything in this Lease to the contrary, including, but not limited to, Article 2.05(C), Lessee has not accepted and approved of the condition of the portion of the Premises containing such wetland areas. Lessee shall, on or before twenty-four (24) months from the Effective Date, seek to determine, in its reasonable judgment after good faith investigation, whether it is likely to be permitted by applicable Federal, State and/or local governing authorities to fill in the wetlands area of the Premises such that same may be developed for the construction of Improvements thereon without the necessary costs and mitigation requirements rendering such development to be non-economically viable. In the event Lessee determines that either permission to fill the wetlands is not likely to be obtained, or if obtainable, the costs incident to the requirements of satisfying the expected conditions of such consent as necessary to render the wetlands developable (including the costs of filling the wetlands and providing mitigation in connection therewith) would render any such development to be not economically viable, then, the Lessor agrees to use best efforts to provide Lessee with a substitute parcel at the Airport to replace the wetlands area of the Premises, which substitute parcel shall be as close to the same size as the wetlands area (including the remainder of the Parcel of which it is a part if after the exclusion of the wetlands area from such Parcel the remainder of same is not reasonably developable) as reasonably possible, and if same is not available at the Airport, the Lessor may offer Lessee a substitute parcel at one of the other airports under its ownership and control (a "**Substitute Parcel**"). The Substitute Parcel, if reasonably acceptable to Lessee and suitable for Lessee's purposes, shall be added to the Lease as a Parcel constituting a part of the Premises and the wetland area (or Parcel containing the wetlands area, as contemplated above), shall be removed for all purposes from the Premises and the Lease shall be modified as appropriate. If Lessee is unable to utilize the wetlands area and Lessor is unable to offer Lessee an acceptable Substitute Parcel, the wetlands area (or Parcel containing the wetlands area, as contemplated above), shall be eliminated from this Lease and the Lease shall be modified as appropriate.

2.05 **Title Matters; Survey(s); Property Reports; Memorandum of Lease:**

(A) **Title to Airport and Lessee's Improvements:** The County represents and

warrants that it owns the Airport by reason of a quitclaim deed from the United States and has full right and authority to lease the Premises to Lessee as provided in this Agreement. Lessee may obtain a title commitment for the Premises from a title insurance company licensed to do business in the State of Florida and if same reflects any conditions to title that are not acceptable to Lessee, then Lessee shall provide notice thereof to Lessor on or before January 15, 2007. Lessor shall have the option of curing such title objections, and should Lessor fail to cure said title objections to the satisfaction of Lessee on or before February 15, 2007, then Lessee may cause the portion of the Premises affected by the title objection to be removed from the Premises, or at Lessee's option, Lessee may terminate this Lease or waive its title objection. Notwithstanding the terms applicable to any specific Section of the Premises, the real property title to all Improvements placed upon the Premises by or at the direction of Lessee during the Term shall be deemed to immediately vest in the Lessee for the Term, subject to Lessor's rights under this Agreement, unless Lessee shall elect in writing addressed to Lessor to have such title, as to any specific Improvement, vest in Lessor, subject to Lessor's agreement to accept such title and subject to Lessee's rights under this Agreement. At the end of the Term, title to all Improvements (except for personality and fixtures removed by Lessee pursuant to this Agreement) shall vest in the Lessor and Lessee shall execute any documents required to convey such title, free and clear of any mechanics, liens or similar encumbrances.

(B) **Survey(s), Environmental Reports, Soil Tests, Existing Leases and Contracts and Other Documentation:** Lessor has provided to Lessee a legal description of the Premises and the Survey. The parties recognize that the Survey includes property which is not to be part of the Premises. The Lessee shall have a new boundary survey of the Premises prepared at its cost by a licensed surveyor reasonably acceptable to Lessor (the **"New Survey"),** which New Survey shall determine, among other things reflected thereon, the square footage of the Premises, the square footage of the portion of the Premises which constitutes existing pavement, and the square footage of the Premises currently existing of Excluded Areas, all of which the Lessor shall have the right to review and approve, which approval shall not be unreasonably withheld. If additional Excluded Areas are subsequently developed, an updated survey of such newly developed Excluded Areas shall be prepared at the cost of Lessee by a licensed surveyor reasonably acceptable to Lessor, to determine the square footage of such newly created Excluded Areas and the adjusted size of the Premises subject to (or to become upon the applicable Rent Commencement Date subject to) Land Rent shall be appropriately determined. The legal description of the Premises set forth on the New Survey shall be appended hereto as Exhibit "B". The Lessor shall also provide to Lessee whatever soil tests and environmental reports County may have regarding the Premises and shall provide at the County's expense a current Phase I and Phase II environmental report as to the Premises. County shall also provide copies of all existing leases and contract documents applicable to facilities on the Premises, and copies of all documents relating to any existing structure or improvements at the Airport, including, but not limited to, any improvements which are designated as "historic", or are afforded "historic preservation" status by or under any Federal, State or local law.

(C) **Suitability of Premises:** Lessee acknowledges that, except as set forth in this Lease, whatever land and existing facilities are included in the Premises are leased to Lessee

hereunder on an "as is" basis, and, except as set forth in this Lease, the County makes no representations or warranties as to the conditions or suitability of any portion of the Premises or the facilities located thereon, and makes no representations or commitments that the CDMP, current zoning provisions, concurrency laws, or applicable land use provisions will permit the Lessee to develop or use the Premises in the manner desired by Lessee hereunder, but notwithstanding the foregoing, the Department agrees that its has approved an ALP with Lessee's anticipated Improvements included therein, a copy of which the Department acknowledges has been prepared for consideration of approval by the County, and the Department confirms its agreement to recommend to the County that such ALP be approved and be included within the CDMP. Neither the Lessor nor the Department shall be responsible for any cost, loss, or damage which may be necessary or incurred by the Lessee to make the Premises suitable for the Lessee's use, except as specifically provided in this Lease. The Lessee acknowledges that the Lessee has examined the Property and has determined independently that the Premises will be suitable for the Lessee's proposed use and that, except as otherwise set forth in this Lease, neither the Lessor nor the Department has any obligation to perform or cause the performance of any maintenance, repairs, site work, or any other tasks in order to enable the Lessee to obtain any permits, authorizations, or licenses to make use of the Premises, including, but not limited to, Certificates of Occupancy ("COs"), which tasks shall remain the Lessee's exclusive obligation to perform in order to obtain such permits; provided however, that the Department shall undertake to have the Baseline Audit prepared and delivered to Lessee (and at Lessee's request, assistance, and cost, will have Lessee added as a named party to the Phase I and Phase II environmental assessments forming a part thereof and each of same shall be certified to the benefit of Lessee), and thereafter effect prompt action to remediate any condition that precludes the prompt construction of the Lessee's Improvements, subject, however, to the provisions of Article 7. If the Department undertakes action to remedy an environmental condition and the Lessee is permitted to undertake construction despite the Department's remedial action, the Department and Lessee shall coordinate their activities to minimize interference with each other.

(D) **Memorandum of Agreement:** The parties shall join in the execution of a memorandum or so-called "short-form" of this Agreement for the purpose of recordation and Lessee shall pay any recording costs associated therewith, in the form attached hereto as Exhibit "G". Such Memorandum of Agreement shall reflect the Term, the legal description of the Premises, the existence of the Assignment Fee, the right of Lessee to develop the Premises, the existence of the Termination Fee, and reference such other provisions, including, but not limited to, the Effective Date and Termination Date hereof, as the parties may mutually agree upon.

2.06 **Development of Premises:**

(A) **Development Rights of Lessee:** Lessee shall have the right to develop the Premises and to contract for, or delegate, portions of the development of the Premises to third parties, including but not limited to Sub-lessees, and to construct, or contract with others to cause construction of, the Improvements contemplated in connection with the development of the Premises, subject to the terms and conditions of this Lease. Lessee shall have the right to relocate easements and utility lines within the Premises at Lessee's expense, if required for the development of same, such relocation to be done with the consent and cooperation of Lessor and the applicable utility company or other party in whose favor such easement runs, which consent shall not be unreasonably withheld, conditioned or delayed.

(B) **Development Schedule and Phasing Plan:**

(1) Lessor hereby confirms its approval of the Site Plan and the Development Schedule and Phasing Plan attached as Exhibit "C", and Lessor authorizes Lessee to develop the Premises in general conformance therewith, provided Lessee complies with the terms and provisions of this Lease. Provided that the FAA consents to this Lease and the Improvements to be constructed hereunder, as required, the Department agrees that it will incorporate such Improvements into the ALP applicable to the Airport and recommend to the Board that the Board incorporate such ALP into the County's CDMP. Lessee acknowledges that the Board retains the discretion to agree or not to such incorporation of the ALP into the CDMP. The Lessee shall determine which Parcels to develop in which order and need not develop the Sections in the order listed on Exhibit C, but notwithstanding any changes in the order of development of Sections from that listed in Exhibit C, the expenditures required to be incurred during each Phase shall remain applicable unless Lessor and Lessee agree to modify such Phase. In furtherance of the foregoing, the parties agree that Lessee shall have the right from time to time to increase or decrease the number of Sections of development upon Lessor's approval, not to be unreasonably withheld, conditioned or delayed, and the FAA's acceptance. Such revisions of the Development Schedule and Phasing Plan and shall be deemed agreed to by the Lessor if agreed to by the Department and Lessee.

(2) The Development Schedule and Phasing Plan sets forth the level of development required to be completed by Lessee within a fifteen (15) year period of time from the Effective Date. Notwithstanding any other provision of this Agreement by which the 15-year Development Schedule and Phasing Plan period may be adjusted or extended, including, but specifically not limited to, reasons or causes such as DRI applicability in Article 2.06(D), Moratoriums or other Delays in Article 2.06(E), or an event of Force Majeure in Article 24.16, in no event shall the Development Schedule and Phasing Plan completion date for all Improvements be extended more than sixty (60) months beyond the initial 15-year period.

(C) **Development and Construction Expenditures:** The Development Schedule and Phasing Plan sets forth the total estimated cost Lessee, in good faith expects will be incurred by

Lessee and its Sub-lessees, in the aggregate, for the development and construction of all Improvements during each of Phase I, Phase II and Phase III. The total amount contemplated to be expended for the development and construction of Improvements during the initial fifteen (15 years of the Term of the Lease is approximately one hundred and sixty-two million nine hundred thousand and no/00 dollars ($162,900,000.00; the **"Anticipated Development and Construction Costs"**) based on the presumption that the Premises, less Excluded Areas, consists of one hundred and eighty-one (181) acres of Land. Should the New Survey reflect that the Premises, less Excluded Areas, contains more or less than one hundred and eighty-one (181) acres of Land, the Anticipated Development and Construction Costs shall be increased or reduced to equal the product of (i) the actual acreage included in the Premises, less the Excluded Areas, as determined by the New Survey, times (ii) the number of years in the Term, times (iii) ten thousand (10,000). The parties agree that the amount of the Anticipated Development and Construction Costs set forth in this Article would be the amount of the Anticipated Development and Construction Costs in the event the Premises, less Excluded Areas contains exactly one hundred and eighty-one (181) acres. Should the Anticipated Development and Construction Costs change as aforesaid, Exhibit C will be modified accordingly. The parties agree that in respect thereof and in respect of changes to any Exhibit hereto, the Department and the Lessee may, from time to time as mutually agreeable, modify any such Exhibit to make necessary changes to same and all such changes as reflected by an Amendment to this Lease incorporating such revised Exhibit and executed by the Department and Lessee and providing that such change was made pursuant to this clause shall be effective under this Agreement for all purposes. Lessee further agrees to use good faith efforts in the phasing of such development and construction and the Anticipated Development and Construction Costs, so that not less than the amounts of the Anticipated Development and Construction Costs shown on the Development Schedule and Phasing Plan as being expended in each of Phase I, Phase II and Phase III will be expended during each such Phase. In furtherance thereof Lessee has agreed that not less than 33% of the total Land Rent for the Aviation Parcels shall be payable commencing following the fifth (5th) year after the Effective Date, not less than 66 2/3% of the total Land Rent for the Aviation Parcels shall be payable commencing following the 10th year after the Effective Date and 100% of the total Land Rent for the Aviation Parcels shall be payable commencing following the 15th year after the Effective Date (collectively, the **"Minimum Rent"**).

(D) **DRI Applicability:** Lessee is exclusively responsible for determining whether a DRI is required for any portion of its development activities on the Premises. If a DRI is determined to be required in order to develop and/or operate the Project (whether at the inception of the Project or at anytime during this Lease), or any portion thereof, then: (i) Lessee shall be responsible for, and agrees to use best efforts to, apply for same and diligently pursue DRI approval thereof at its costs and expense; (ii) Lessor will fully cooperate with Lessee in connection with such filing and pursuit of approval of such application as is necessary and/or reasonably requested by Lessee, and will execute any such applications, consents thereto or other instruments required to be signed by Lessor as owner of the Premises or reasonably requested by Lessee in connection with its seeking of a DRI approval; (iii) all time periods under this Lease (but only applicable to the portion of the Premises affected by the DRI requirement if less than all of the Premises are so affected),

including, but not limited to, the time periods for minimum expenditures of Anticipated Development and Construction Costs, the time for Completion of Construction of any of the Improvements, the date on which the Lessor's rights to take back undeveloped portions of the Premises are applicable, and the dates of the imposition of Minimum Rent, shall, among other time periods, be extended for the entirety of the time from determination of the applicability of the DRI until approval of the DRI and expiration of any appeal period applicable thereto; provided, however, no extension shall apply if Lessee is able to build Improvements on other Parcels for which sub-leases have been entered (which sub-leasing condition shall not apply if no sub-lease has been entered for the DRI affected Parcel) and that do not require DRI approval and thereby is reasonably able to meet the Anticipated Development and Construction Costs expenditure requirements in Article 2.06(C); and (iv) the Rent Commencement Date (or if Rent has then commenced, the date of the next periodic rental payment due) shall be extended to the date that is the earlier of: (a) thirty-six (36) months from the Effective Date or (b) the DBO for the first Improvement constructed by Lessee on a Parcel of the Project that was affected by the DRI. Notwithstanding the foregoing, the Lessee agrees that the Initial Annual Rent, as hereinafter defined, will continue to commence as of the date that is eighteen (18) months following the Effective Date, as stated in Article 4.01(D), and will remain payable as of such date.

(E) **Moratoriums or Other Delays:** If a moratorium (or any other delay or freeze of the Project occurs, including those due to force majeure or denials by governmental authorities of requests by Lessee made to Miami-Dade County, DOT, DERM, FAA or other governmental agencies, except as to conditions of force majeure or denials over which Lessee has reasonable control) is ever applicable to the Project and such moratorium or other occurrence causing a delay or freeze either delays or stops the construction of the Project or any portion thereof, or prevents Sub-lessees from occupying and utilizing all or any portion of the Project, then, during the existence of any such moratorium or other occurrence resulting in a delay or freeze, no rent of any type shall be due from those portions of the Premises affected by such moratorium, delay, or freeze except rent applicable to portions of the Premises for which a DBO has occurred and with respect to which Lessee is then collecting rent from one or more Sub-lessees or is recovering any proceeds from business interruption insurance. In the event a moratorium or other occurrence resulting in a delay or freeze arises during any period when no rent is due from Lessee pending the passage of time, such

time then remaining to pass prior to the inception of such rent shall automatically be deemed extended by the time period during which such moratorium or other occurrence causing a delay or freeze remain in effect or applicable. Should a moratorium or other occurrence causing a delay or freeze not caused by Lessee be imposed or arise following the time that all contemplated Improvements hereunder have been fully completed and to the extent the moratorium or other occurrence does not affect the ability of Lessee to lease Sections of the Project nor prevent any Sub-lessees from occupying its sub-leased portion of the Premises and from operating same for the purposes intended, then such moratorium shall have no effect on the rentals due Lessor hereunder. Lessee agrees to use good faith efforts to remove the causes of the moratorium, delay, or freeze to the extent it has reasonable control over any conditions leading thereto.

(F) **Impact, Concurrency or Other Development Fees:** Lessee shall be exclusively responsible for payment of all applicable impact fees, concurrency fees or similar development fees in connection with the development and construction of the Project, and to the extent same are due in connection therewith, Lessee shall be fully responsible for same.

(G) **Sales Tax and Ad Valorem Real Property Taxes:** Lessee shall be exclusively responsible for payment of (1) all applicable state or federal sales tax on rents due and owing to Lessor hereunder, (2) all taxes arising out of Lessee's or any Sub-lessee's use of the Premises, and (3) any ad valorem real property taxes on any portion of the Premises leased to Lessee or by it to any Sub-lessee, or in respect of the Improvements or the Existing Improvements at any time existing on the Premises (collectively the **"Taxes")**, excluding the Excluded Areas.

(H) **Demolition of Existing Improvements and/or Buildings Designated as Historic:** Lessor acknowledges that Lessee, at its sole discretion shall have the right to determine whether the Existing Improvements will be demolished or restored, subject to the rights of Existing Tenants under Existing Leases and in compliance with law. Lessee is expressly granted the right to do so in accordance with the Development Schedule and Phasing Plan and at Lessee's sole cost and expense. Lessor agrees to fully cooperate with Lessee's efforts to obtain necessary demolition permits and/or permits for restoration of Existing Improvements as requested by Lessee, including the execution of any such applications for demolition or building/restoration permits desired to be filed by Lessee, should Lessor's execution thereof be required as the owner of the Premises. The foregoing is likewise applicable to any and all Existing Improvements designated as an "historic" building or afforded "historic preservation" status by or under any federal, state or local law (collectively, **"Historic Improvements")**. Lessor acknowledges that certain of the Existing Improvements, including those designated as Historic Improvements, are in poor structural condition, including the condition of those Existing Improvements known as Buildings 101,102 and 105 which are the subject of that certain Memorandum dated January 28, 2004 designating such buildings as the Naval Air Station Miami - Opa-locka Airport Historic District – Buildings 101, 102 and 105. Lessor agrees that as a result of the structural condition of such buildings, it will co-operate with Lessee and use good faith efforts to obtain permission for Lessee to demolish Buildings 101, 102 and 105 notwithstanding such buildings' Historic designation, and will seek to have the Historic designations applicable to such buildings rescinded and/or revoked. If notwithstanding such good faith efforts of Lessor to obtain permission to demolish such buildings, Lessor is unable to do so, then Lessee shall have the further option, exercisable in its sole discretion, to either repair and restore such buildings (and/or any other Existing Improvements designated as Historic Improvements) at its cost and retain same under this Lease, or to elect to have the Parcel(s) containing any such buildings (and/or any other Existing Improvements designated as Historic Improvements) which Lessee does not desire to restore and repair, to be excluded from this Lease for all purposes, including, but not limited to, the payment of Rent in connection with same, and the obligations for Minimum Rent and the Initial Annual Rent which shall commence to be due as described in Article 4 following the date that is eighteen (18) months from the Effective Date, shall

likewise be reduced appropriately.

(I) **Repair or Improvement of Existing Improvements:** Except as may be required by the FAA, Lessee may, upon approval by the Department which shall not be unreasonably withheld, elect to repair or improve any Existing Improvements, including those designated as Historic Improvements. Any such repairs or improvements undertaken by Lessee shall, if such Existing Improvement is occupied by any Existing Tenant or subject to an Existing Lease, be at the sole cost of Lessor. Lessee shall have the discretion to determine whether to demolish or repair any vacant Existing Improvements. Should Lessee repair or improve any Existing Improvements based on an obligation under an Existing Lease which is the obligation of the landlord thereunder, or should Lessee otherwise correct a condition in an Existing Improvement occupied by an Existing Tenant or subject to an Existing Lease, which condition existed as of the Effective Date, or was the responsibility of the Existing Tenant but said Existing Tenant failed to promptly reimburse Lessee as required, ~~,~~then Lessee shall be entitled to be fully reimbursed by the Lessor for the full costs of such repairs and/or improvements, and if Lessor fails to do so within sixty (60) days from receipt of demand therefor from Lessee, then Lessee shall be entitled to take a credit for such amount, together with interest thereon at the Rate, against the next payments of Annual Rent due hereunder.

(J) **Infrastructure Related to Lessee's Improvements:** Lessee shall have the right and obligation to provide all infrastructure required for Lessee's construction, use and operation of its intended Improvements on the Premises, subject to FAA review and approval, including but not limited to, the right to connect to all necessary utility lines, including electric, sewer, water and natural gas, to provide sanitary sewage, including the right to construct lift stations as needed, to construct facilities for the discharge and collection of storm water drainage, and to run utility lines and drainage lines through and across the Airport to the boundaries of the Premises. Lessee shall be further entitled to utilize and/or construct taxi-lanes and turnoff pavement required for aircraft to reach Aviation Parcels and Improvements constructed by Lessee for Aviation purposes, and to use, improve, as needed, and/or develop and construct access roads and loop roads serving the Premises and the Improvements. Lessor shall have the right to review and approve the design and construction of such infrastructure, and shall have the right to reject any such infrastructure that Lessor reasonably determines will present life, safety, or health concerns to the Airport or surrounding communities. Lessor shall grant Lessee any and all licenses, easements, or other property rights mutually satisfactory to the parties to accomplish construct and utilize such infrastructure, at no additional cost to Lessee, and as needed by Lessee to provide the infrastructure contemplated herein. The Lessor shall be responsible for all environmental remediation and site cleanup of hazardous conditions existing on the Premises as contemplated in Article 7 hereof, including any additional costs incurred in the demolition of any Existing Improvements made necessary by the existence of hazardous substances, including, but not limited to, asbestos, in, on or under any such Existing Improvements. Lessee shall grant Lessor any and all licenses, easements, or other property rights mutually satisfactory to the parties in order for Lessor to construct and thereafter to make use of for the operation of the Airport any infrastructure required for the safe and efficient operation of the Airport and not reasonably capable of being installed on any other portion of the Airport; provided that any

costs incurred in connection with, or in order to permit, Lessor's use thereof, shall be paid by Lessor, and Lessor's use thereof shall not interfere with Lessee's use or development of the Premises.

(K) **Existing Leases:**

(1) Lessor shall assign to Lessee all Existing Leases for Existing Improvements on the Premises and Lessee hereby agrees to assume all such Existing Leases in accordance with the provisions of this Lease, other than with respect to the Lease commonly known as the MEA Lease (which MEA Lease shall not be deemed an Existing Lease for purposes of this Lease, except as respects the Existing Lease of its affiliate relating to a tank in the Fuel Farm, as hereinafter defined). Notwithstanding such assumption, the parties agree that the rent actually collected by Lessee under the Existing Leases shall be paid over to Lessor by Lessee on a monthly basis, less a charge to Lessor of fifteen (15%) percent of such rents so collected as consideration for Lessee's assumption of the Existing Leases, and no portion of the funds or other revenues collected by Lessee from the Existing Tenants, including the portion thereof retained by Lessee, shall be included in Gross Revenues of Lessee. Notwithstanding the assumption of the Existing Leases by Lessee, Lessor shall remain fully liable for all expenses, costs, obligations, damages and liabilities of every nature whatsoever arising against the landlord under the Existing Leases as of and prior to the Effective Date, and Lessee shall be fully liable for all expenses, costs, obligations, damages and liabilities of every nature whatsoever arising out of such assigned leases following the Effective Date including but not limited to any costs arising out of or associated with the eviction of an Existing Tenant from an Existing Improvement; provided, however, that Lessee may impose upon Lessor the costs of repairing the Existing Improvements as set forth in Article 2.06(I). Lessor agrees that upon demand it will promptly reimburse Lessee for any and all sums due Lessee for costs associated with Existing Improvements in the manner and to the extent set forth in this Lease Agreement, and if not paid within sixty (60) days of demand for same, Lessee may offset same against the portion of the payment of the rents due Lessor in respect of the Existing Leases or against the Annual Rent due.

(2) With respect to all Existing Leases, Lessor specifically authorizes Lessee as assignee and sub-landlord to negotiate with the Existing Tenants under any Existing Lease to amend and/or terminate any or all Existing Leases in whatever manner Lessee and the Existing Tenant under an Existing Lease may agree, subject only to the reasonable acceptance of Lessor and

the FAA, if applicable, to any change in the use of the portion of the Premises affected by said amended or terminated Existing Lease. In respect of any Existing Leases not terminated, from and after the Effective Date hereof, Lessee shall be entitled to collect for the benefit of Lessor, all rents and revenues due under any Existing Lease subject to the fee due Lessee as noted above. Lessor shall provide Lessee with copies of all leases and the lease files applicable thereto. In respect of any Existing Leases that are negotiated between Lessee and an Existing Tenant such that a new, or substantially new lease (in either event a "**New E-T Lease**") results from such negotiations with an Existing Tenant continuing to occupy an Existing Improvement, then (i) the Existing Lease between the Lessor and the Existing Tenant shall no longer be in effect and Lessor shall continue to be liable

thereunder and for the costs of repairing the Existing Improvement occupied by such Existing Tenant as set forth in Article 2.06(I), only for the period up to the date the New E-T Lease becomes effective, and (ii) in lieu of the 85% rent payment due Lessor under Article 2.06(K)(1) for the Improvements and land covered by the New E-T Lease, Lessee shall retain all rents paid by the Existing Tenant for the Improvement and the land occupied by such Existing Tenant pursuant to the New E-T Lease, but shall pay Lessor: (x) notwithstanding whether the Rent Commencement Date for Land Rent has then occurred, 100% of the FMV Land Rent in respect of the land and pavement occupied by such Existing Tenant and leased to it under the New E-T Lease, as adjusted annually thereafter pursuant to Article 4.01(A) or (B), as applicable, and (y) as and for the Improvement Rent, 100% of the rent that was due and payable under the terms of the terminated Existing Lease at the rate in effect at the time that the New E-T Lease becomes effective. Such FMV Improvement rent shall be re-appraised periodically, the first such re-appraisal to occur, provided the Existing Improvement is still then existing, ten years from the effective date of the New E-T Lease and each ten (10) years thereafter during its continued existence, so that Lessor receives at all times a FMV rental for the Improvement that is based on the quality of the Improvement before Lessee and the Existing Lessee entered into the New E-T Lease. Any obligation of Lessee to pay Improvement Rent in consideration of an Existing Tenant's occupancy of a new Improvement constructed by Lessee, shall be based on the provisions of Article 4.02 of this Lease, and upon demolition of any Existing Improvement, any obligation of Lessee to pay Land Rent as to the land and pavement which the demolished Existing Improvement previously occupied, shall be based on the provisions of Article 4.01 of this Lease. Nothing set forth in this Article 2.06(K) shall affect the Lessee's obligations to pay the Initial Annual Rent as contemplated in Article 4.01(D) or the Minimum Rent if same becomes due.

(3) Lessor specifically agrees and directs Lessee to exercise all rights of landlord under the provisions of the Existing Leases, including the extension, termination, or modification thereof, but Lessee shall be liable for all costs and damages resulting from an action of Lessee held to have been improperly exercised or taken by Lessee. Lessee acknowledges that Lessee is obligated to comply with all the requirements of the FAA that formerly were applicable to the Lessor in its role of "Sponsor" as owner and operator of the Airport, and that such requirements may limit Lessee's abilities to extend, terminate, or modify the terms of any Existing Lease. Lessor shall provide Lessee with all information respecting such FAA requirements applicable to Lessor as "Sponsor" of the Existing Leases not less than thirty (30) days prior to the Effective Date, and Lessee shall not be required to comply with any such requirements as to which it was not given notice. Lessee shall be entitled to change the rents due under any such Existing Leases with the agreement of the Existing Tenant, provided they are fair, reasonable, and not unjustly discriminatory in accordance with federal law and FAA policy. Lessee shall be responsible for collection of all state sales taxes and any other federal, state, or local taxes applicable to the occupancy and use by the Existing Tenants of facilities on the Premises.

(L) **Natoli Lease:** The parties shall mutually agree on the location of a Parcel of

approximately one (1) acre for the purpose of permitting Joe Natoli ("**Natoli**") to construct an aviation facility consisting of a hanger thereon. The lease for such parcel shall initially be between Lessor as landlord and Natoli as tenant to the Lessor (the "**Natoli Lease**"). Lessor agrees that the Natoli Lease shall be for a term of no greater than twenty-five (25) years, shall contain no options or other rights to renew or extend such term, shall require Natoli to expend not less than $220,000.00 in the construction of an airplane hanger on the leased parcel, which expenditure shall be credited against the required expenditures of Lessee under Article 2.06(C), shall not permit Natoli to be a re-seller of fuel at the Airport, and shall otherwise be in the form of the lease attached hereto as Exhibit "L" (the "**Natoli Lease**"). The Natoli Lease describes the nature of the Improvements Natoli shall be allowed to construct on the Parcel, with the design and construction of the Improvements to be reviewed and approved by the Department. Rent under the lease shall be paid by Natoli to the Lessor during the twenty-five (25) year term of the Natoli Lease. At the conclusion of the twenty-five (25) year term of the Natoli Lease, the Natoli Parcel shall revert to the Lessee and become a part of the Premises hereunder without any compensation, payment or obligation to Natoli or Lessor by Lessee following the expiration of the Natoli Lease, other than the applicable Land and Improvement Rent due hereunder in respect of the property that was under the Natoli Lease, with Aviation Land Rent commencing as and when the Natoli Lease terminates and the property leased thereunder is no longer an Excluded Area, and with the Improvement Rent commencing as provided in Article 4.02(A), with the Improvement being treated as an Improvement for which the DBO occurred in the first ten (10) years of this Lease. Lessee shall have the exclusive right to possess and use such property and the Improvement thereon and/or to lease such property and improvements to any party following the expiration of the Natoli Lease, including, but not limited to Natoli, should Lessee and Natoli mutually agree to the terms of a new lease. Lessor shall not extend or modify the Natoli Lease or otherwise grant Natoli a new lease on any portion of the Premises. Natoli's use of the leased property under the Natoli Lease shall be as described in the Natoli Lease and no modification of same shall be agreed upon by Lessor without consent from Lessee. At the conclusion of the Natoli Lease, (i) Lessor shall continue to be responsible for any obligations that arose during the twenty-five (25) year term of the Natoli Lease, and (ii) Lessee shall be obligated to pay Lessor FMV Aviation Land Rent for the land associated with the Natoli Lease and shall thereafter pay Improvement Rent to Lessor in respect of any Gross Revenues realized from the Improvements upon the property that was leased under the Natoli Lease, commencing as provided above.

2.07 **No Representation by Lessor:** Except as expressly set forth elsewhere in this Lease, Lessee acknowledges that Lessor has made no representation as to the suitability of the Premises for the purposes desired by Lessee, nor that any Section of the Premises can either be developed as proposed by Lessee or operated in an efficient, economic or legal manner independent of the other Sections. Lessee acknowledges that no representation has been made that FAA or County approval will be given to any proposed development or operating activity hereunder, and that Lessee assumes the entire risk of its development and operations hereunder, either as to all Sections, any individual Section, or any combination of Sections. In addition, Lessee acknowledges that the County retains its regulatory rights as provided in Article 19.03 and its proprietary rights as provided in this Agreement and that Lessee's development activities hereunder may be affected by the County's

exercise of such rights; provided that Lessee may cause Parcels to be eliminated from this Lease as provided elsewhere herein. Notwithstanding the foregoing Lessee shall not be obligated to pay rent in respect of any Parcel on which it cannot develop and construct Improvements, as a result of Lessee's inability to develop because of (i) wetlands as described in Article 2.04(C); (ii) DRI matters as set forth in Article 2.06(D), (iii) Moratoriums or other Delays set forth in Article 2.06(E), (iv) Lessee's partial termination of this Agreement as to a particular parcel as set forth in Article 2.09, (v) a parcel taken back by Lessor under Article 2.11, (vi) a Lessor Condition under Article 7, (vi) a Lessor default under Article 12.11, or (vii) an act of Force Majeure under Article 24.16.

2.08 **Legal Descriptions:** The Lessee shall provide the Lessor with a legal description for the entire Premises as soon as practicable following the Effective Date based on the New Survey commissioned by Lessee under Article 2.05(B). Should any such legal descriptions differ from the descriptions initially attached to this Lease as of the Effective Date the legal description from the New Survey as to the Premises shall be substituted, as and if appropriate, for the legal description currently attached as part of Exhibit "B".

2.09 **Lessee Option to Eliminate Parcel(s) From Lease:** If due to governmental issues, Historic Improvement designations, environmental issues, adverse soil conditions, inability to obtain necessary governmental approvals, imposition of DRI conditions, or the like, provided that the conditions relied upon by Lessee were not within the reasonable control of Lessee, Lessee is not, or does not reasonably believe it will be, reasonably able to comply with its requirements hereunder, or will not be reasonably able to develop and construct the Improvements as originally contemplated by Lessee, then Lessee shall have the option, upon thirty (30) days prior written notice to the Lessor, to terminate this Lease with respect to any affected portion of the Premises which has not then been developed and to which an adverse developmental condition applies, and in such event, the Lease will be amended to exclude such portion of the Premises from this Lease for all purposes, including, but not limited to, the amount of the Anticipated Development and Construction Costs, the amount of Rent, and the obligations for Minimum Rent shall likewise be reduced appropriately. This option of Lessee may be exercised by Lessee on a Parcel by Parcel basis, or a Section by Section basis or as to the entire Premises, as applicable; provided however, that such option may not be exercised after fifteen (15) years from the Effective Date, and if the option is not exercised prior to such time, Lessee shall be obligated to comply in full with all provisions of this Lease including Exhibit C. Additionally, should Lessor require Lessee to reimburse Lessor for any portion of any unamortized FAA grants used to construct existing aviation ramps or like improvements, Lessor shall identify the

applicable area of the Premises and the improvements for which the payments are due, as well as costs then due, or expected to come due in the future from Lessee, and Lessee shall have the option to elect to exclude such areas from the Premises. In such event (a) the Lease will be amended to remove said area from the Lease for all purposes, and (b) Lessee shall not be obligated to make any payments to reimburse Lessor for any portion of any unamortized FAA grants used to construct existing aviation ramps or like improvements in the area excluded from the Lease. This Article is in addition to, and does not limit or alter, the rights of Lessee to exclude portions of, or all of, the

Premises from this Lease as set forth in Section 18.03, below.

2.10 **Intentionally Deleted**

2.11 **Lessor Right to Take Back Undeveloped Premises:**

(A) **Right of County:** The parties acknowledge that the Lessee has proposed to construct significant improvements on the Premises on a time-phased basis, and that the total development over a 15-year period will consist of aviation and aviation-support facilities for use by both the Lessee and/or its Sub-lessees. Accordingly, the parties acknowledge that any removal by the County from the Premises of Parcels for use by the County will seriously and adversely impact the Lessee's proposed development. Notwithstanding the foregoing, the Lessee acknowledges the County's obligation to make the Airport and the Premises available for public use and the potential need for the County to take back undeveloped parcels or portions of the Premises following the fifteen (15) year development period.

(B) **Recapture Right and Procedure Commencing as of Eleventh Lease Year:** Additionally, if as of the commencement of the 11th year of the Term of this Lease, the Lessee has not then constructed the Improvements that were contemplated to be constructed on the Premises as of the end of the 5th year of the Term (to wit the construction of Improvements on Parcels constituting 1/3 of the Premises less Excluded Areas), then the Lessor shall have the right to take back from the then undeveloped portion of the Premises, a portion thereof not to exceed the amount equal to the difference between the portion of the Premises that was to have been improved with the construction of Improvements by the end of the 5th year of the Term and the portion of the Premises which has then actually been improved with the construction of Improvements as of the date of the Recapture Notice (as defined below). If Lessor wishes to exercise its right to recapture a portion of the Premises under this Article 2.11(B), it shall give written notice to Lessee that it wishes to do so at anytime following the expiration of the tenth (10th) full year of the Term, which notice shall set forth the square footage of the Premises which Lessor desires to recapture (a **"Recapture Notice"**; provided that, notwithstanding the foregoing, any development of any portion of the Premises then commenced by Lessee at anytime following the expiration of the tenth (10th) year of the Term and prior to receipt of a Recapture Notice, shall be deemed to reduce the portion of the Premises that may be recaptured by Lessor under this Article. Lessee shall be deemed to have commenced construction upon filing of an application for a permit to construct an Improvement on the Parcel. In the event an appropriate Recapture Notice is given by Lessor, Lessee shall have the right to reasonably designate the Parcel to be recaptured by Lessor, which Parcel must consist of contiguous property, and Lessee shall identify the portion of the Premises to be recaptured in writing within ninety (90) days of its receipt of the Recapture Notice (the "**Recapture Parcel Identification Notice**"). The Recapture Parcel Identification Notice shall not describe a Parcel that is greater in size than the square footage identified in Lessor's Recapture Notice, unless the parties agree otherwise. Unless Lessor informs Lessee in writing (a "**Recapture Notice Withdrawal Notice**"), within thirty (30) days of receipt of such Recapture Parcel Identification Notice that it wishes to

withdraw the Recapture Notice (the "**Recapture Notice Withdrawal Period**"), the portion of the Premises identified in Lessee's Recapture Parcel Identification Notice shall be deemed to be excluded from the Lease for all purposes, including, but not limited to, Land Rent and Minimum Rent, each of which shall be appropriately reduced, as of the day following the expiration of the Recapture Notice Withdrawal Period.

(C) **Recapture Right and Procedure Commencing as of Sixteenth Lease Year:** In the event that, following the date that is fifteen (15) years after the Effective Date, the County is requested by a potential user of the Premises to lease a portion of the leased Premises for aviation purposes and a portion of the Premises is then undeveloped, the County will advise Lessee of the name of the potential user and the nature of the aviation facility desired by the user. The Lessee shall have sixty (60) days from receipt of such notice from the County to discuss the nature of the proposed use with the potential user. Lessee shall use reasonable best efforts to make such an accommodation provided that (i) the parcel desired by the user for aviation use is not then developed or in the process of being developed for Lessee or another party, (ii) the accommodation does not require Lessee to construct a facility whose features are reasonably inconsistent with the facilities constructed or proposed by Lessee to be constructed on the Premises, (iii) Lessee is then financially able to accommodate the construction costs or if not, the user will provide the funds for such construction, or (iv) Lessee is able reach a mutually acceptable agreement with the potential user as to the financial and other terms of the arrangement pursuant to which such user will ~~may~~ occupy a portion of the Premises. At the conclusion of the of the sixty day period or at the end of whatever mutually acceptable discussion period the County, the Lessee, and the user have agreed upon, the following shall apply:

i. If Lessee and the user advise the County that the Lessee can reasonably accommodate the user, then the County shall have no take-back rights as provided herein; or

ii. If the proposed user can be accommodated only on a parcel that is already scheduled for construction of a facility and Lessee provides Lessor in writing with adequate assurance that Lessee will develop such Parcel and ~~to~~ commence construction within the next eighteen (18) months, the County shall have no take-back rights as provided herein so long as Lessee commences construction within said period. For purposes of this Section 2.11, Lessee shall be deemed to have commenced construction upon filing of an application for a permit to construct an Improvement on the Parcel and proceeding within four months after issuance of such permit to commence construction; or

iii. If the conditions in (a) and (b) above do not apply, and Lessee indicates by written notice that Lessee is unable to accommodate the user or fails to send any notice to the County at the end of the sixty day or extended period

regarding its discussions with the user, and the County is unable to accommodate the user on another portion of the Airport, then the County may send a take-back notice to the Lessee of County's intent to take back a portion of the undeveloped Premises to make it available to the user for aviation purposes; provided, that the taking back of such portion of the Premises does not adversely affect Lessee's ability to develop the remaining undeveloped portion of the Premises, nor interfere with Lessee's or any of its Sub-lessees development or occupancy of any portion of the Premises but only to the extent not inconsistent with Federal Grant Assurances. Any such portion so taken back shall be reasonable in size in relation to the proposed aviation use of the Parcel, and upon the effective date of the take back the Parcel shall be removed from the Premises and Lessee shall no longer have any responsibility or obligation as to such Parcel, including but not limited to the obligation to pay Land Rent, Improvement Rent or Minimum Rent in connection therewith. If the take back of the Parcel requires adjustment of any of the Minimum Rent obligations or development requirements, such adjustment will be made.

(D) **License in Respect of Take-Back Parcel:** In the event Lessor takes back any portion of the Premises to which access is not reasonably afforded over Excluded Areas, Lessee hereby grants Lessor a license to make reasonable use of those portions, if any, of the remaining Premises, all in a manner that does not unreasonably interfere with the use of such remaining Premises by Lessee or its Sub-lessees, that are necessary to permit Lessor access to the portion of the Premises taken back,

2.12 **Lessee's Obligation to Rent Improvements:** Lessee shall have the obligation throughout the Term of this Agreement to keep the Improvements in the condition required herein and to use commercially reasonable efforts to market the Premises and enter into agreements with Sub-lessees for their use of the Improvements and the Premises.

ARTICLE 3
Use of Premises and Improvements

3.01 **General Privileges, Uses and Rights:** The Lessor hereby grants to the Lessee and all of its Sub-lessees the right of quiet enjoyment along with the following general privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants hereinafter set forth in this Lease and in any sub-leases, and all of which as to the Airport shall be non-exclusive, except that the Lessee shall have the exclusive right to lease and to develop Improvements within the Premises during the Term.

(A) **Use of Public Airport Facilities:** Subject to Article 20, 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. Nothing contained herein shall in any way limit the right of the Lessor in its sole discretion to abandon, discontinue or demolish any of the Public Airport Facilities described herein; provided, however, the Lessor shall not abandon, discontinue, demolish or otherwise modify any Public Airport Facility which provides access to or serves any portion of the Premises, whether such Public Airport Facility exists as of the Effective Date or is constructed during the term, except that Lessor may do so if it provides appropriate alternative facilities to provide access or serve the Premises.

(B) **Rights of Ingress and Egress:** The right of ingress to and egress from the Premises over and across public roadways serving the Airport for the Lessee, its Sub-lessees, agents and employees, patrons and invitees, suppliers of service and furnishers of materials. Said right shall be subject to such laws, rules, regulations and orders as now or may hereafter have application at the Airport.

(C) **Other Airport Property:** Nothing herein contained shall be construed to grant to the Lessee the right to use any other space or area, or other Public Airport Facilities, improved or unimproved, which is leased to a third party, or which Lessor has not specifically leased to the Lessee.

3.02 **Services:** Where not in conflict with the Development Schedule and Phasing Plan attached hereto as Exhibit "C" and in the case of (ix) below only upon County's regulatory decision to apply for and thereafter obtaining the authority and approval for such services, the Lessee, directly or through any Sub-lessee, licensee, franchisee, concessionaire or permittee shall have the right to provide all or some of the following aviation services from the Premises or other premises on the Airport controlled by Lessee, its associates, affiliates, Sub-lessees or by way of joint venture controlled by Lessee or any of its Managers or in which Lessee's ownership is not less than 50%:

(i) Hangar accommodation for all approved types of aircraft.

(ii) Sale and dispensing, when available, of a reasonable selection of aircraft fuels, propellants and lubricants of sufficient ratings, grades, quality and quantity to meet the reasonable demand for same.

(iii) Maintenance service to aircraft, including overhauling, building, rebuilding, repairing, modifying, upgrading, testing and inspection.

(iv) Aircraft painting.

(v) Traditional over and under wing services including without limitation aircraft arrival, departure, guidance, parking, loading, unloading, cleaning, catering, security, integrator and

logistics services.

(vi) Provision of aviation related training and training facilities.

(vii) Provision of facilities for user, patron, guest and invitee vehicle parking and waiting areas including restrooms.

(viii) Operation of general aviation, freight, military and government passenger facilities; and

(ix) In the event the Airport is approved to provide Commercial Air Service, the non-exclusive right to engage in the operation of Commercial Air Service and passenger facilities together with all components or services customarily or necessarily provided therein or in connection therewith at the discretion of Lessee, including, but not limited to the provision and operation of restaurant and bar facilities, retail and amusement facilities, meeting rooms, ground transportation facilities, transient business service facilities, visitor and tourist facilities, hotel facilities, overnight and other accommodation, business and professional offices, ticketing counters, security and other passenger handling facilities, all ground handling services including without limitation all necessary over and under wing services, air traffic control facilities, baggage handling holding and forwarding facilities, cargo handling and storage facilities, car rental facilities, parking facilities, and rapid transit facilities and services, provided that, with regard to the provision of any service in this Section 3.02, such service shall be provided in a manner that causes Lessor, Lessee, and any Sub-Lessee to be in compliance with Federal Grant Assurances, Federal Law, and FAA requirements.

3.03 **Other Aviation Activities:** The Lessee or any approved Sub-lessee, licensee, franchisee, concessionaire, permittee or other third party duly authorized by Lessee to lease or use the Premises or any portion thereof (all such persons and entities being referred to generally throughout this Lease as a "**Sub-lessee**", or as "**Sub-lessees**") may perform such other services as are related to or in support of the provision of aviation services and not otherwise prohibited by any other part of this Agreement, or by any Federal, State or County laws, ordinances, rules or regulations, and are in compliance with Federal Grant Assurances. Such services shall at all times be in full compliance with FAA and County requirements and policies as provided from time to time. Lessee acknowledges that to the extent required by Federal law, County law or directive, or the Trust Agreement, Lessee will be required to participate in the costs, on the same pro rata basis as that imposed on other tenants at the Airport, in the event Commercial Air Services are to be provided at the Airport, provided that Lessee shall not be required to absorb a share of Airport capital development and operating costs for infrastructure necessary to permit Lessee to operate Commercial Air Services, except on a pro rata basis to the extent imposed on other tenants at the Airport. Nothing in this Agreement shall preclude Lessor's right to assure at all times Lessee's and any Sub-lessee's compliance with Federal Grant Assurances.

3.04 **Non-Aviation Uses:** In addition to the uses set forth in Article 3.02, above, Lessee

shall be able to provide develop, construct, occupy, operate and/or sub-lease portions of the Premises for Non-Aviation related uses, as defined herein. Notwithstanding the foregoing, the Lessee agrees that Non-Aviation uses of the Premises shall not exceed fifty (50%) thereof.

3.05 **Non-Flyable or Derelict Aircraft:** In no instance shall any non-flyable aircraft be parked or stored within any area that might be designated for Commercial Air Services (should such services be approved) in the ALP for a period in excess of 21 consecutive days, without the prior written approval of the Department, which approval shall not be unreasonably withheld, conditioned or delayed. After such 21 day period, the Lessee shall remove any non-flyable aircraft from the Premises when so requested in writing by the Department unless such aircraft is undergoing maintenance as authorized herein. Notwithstanding the foregoing, Lessee shall comply with the County's requirements as to non-flyable aircraft as provided in Chapter 25 of the County's Code, as such may be amended from time to time.

In no instance shall any derelict aircraft be parked or stored within the Premises for a period in excess of 21 consecutive days, without the written approval of the Department. After such 21 day period, the Lessee shall remove or cause to be removed any derelict aircraft from the Premises when so requested in writing by the Department. Notwithstanding the foregoing, Lessee shall comply with the County's requirements as to non-flyable aircraft as provided in Chapter 25 of the County's Code, as such may be amended from time to time.

3.06 **Rights and Services Are Non-Exclusive:** The Lessor reserves the right to operate in its own name or grant non-exclusive leases, franchises, concessions, agreements or permits to others for the operation of restaurants, hotels, vending machine services of all kinds, bars and gift counters at the Airport (but not on the Premises), specifically including, but not limited to, fixed base operations, and further to establish fees for the landing of all classes of aircraft at the Airport, provided said leases, franchises, concessions, agreements or permits do not unreasonably conflict with the operational use of the Premises permitted herein by Lessee or its Sub-lessees, licensees, franchisees, concessionaires or other third parties duly authorized by Lessee. Any additional services to be provided by the Lessee or any Sub-lessee, licensee, franchisee, concessionaire or other third party duly authorized by Lessee in or from the Premises, other than those initially contemplated by this Agreement, shall be subject to prior approval of the Department which approval shall not be unreasonably withheld, conditioned or delayed. No rights granted by Lessor to any other party at the Airport shall conflict with the exclusive rights granted to Lessee with respect to the Premises except as to any portion thereof previously taken back by Lessor, or given back to Lessor by Lessee, in accordance with the terms hereof.

3.07 **Collection of Certain Fees and Charges:** The Lessee, as a further consideration for this Agreement, shall be required, when so directed in writing by the Department, to collect and promptly remit to the Department aviation fees and charges including but not limited to standard aircraft parking charges (but not for aircraft parked within the Premises), landing fees and port of entry charges, if any, approved by the Lessor, accruing to the Department, and collected from airlines

or aircraft operators or other users utilizing the facilities of the Lessee. The method of collection and remittance of such fees and charges shall be as determined and directed by the Department in writing. A failure to exercise good faith efforts to collect or having collected to pay same shall constitute a default under Article 12 hereof. The Lessee shall be permitted to retain five (5%) percent of such fees and charges collected on behalf of the Department from any of its Sub-lessees and ten (10%) percent of such fees and charges collected on behalf of the Department from any of the Existing Tenants, 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 none of such fees or the percentage retained by Lessee shall be included in the calculation of Gross Revenues. The collection of and payment to the Lessor of any such fees and charges shall not be subject to State sales taxes, except to the extent required by State law.

ARTICLE 4
Rentals and Payments

4.01 **Land Rental:**

(A) **Aviation Parcels:** As annual Land Rent for the lease of the Aviation Parcels in any Section, the Lessee shall pay the Lessor, commencing separately as of the Rent Commencement Date, as defined below, as to each such Aviation Parcel, Aviation Annual Land Rent calculated on the square footage of the Aviation Parcels and the pavement areas of same, excluding from each of same any portion which constitutes Excluded Areas, based on the fair market value ("**FMV**") rental rate for aviation uses on a Parcel by Parcel basis, which rental rate shall be determined, and subject to adjustment, annually based on an MAI Appraisal performed by Lessor's appraiser at Lessor's cost, utilizing comparables for Aviation uses at similar general aviation airports throughout the State of Florida and other then-applicable MAI appraisal principles. Lessor's appraiser shall be entitled to continue Lessor's current practice of appraising the entire aviation land of the Airport and applying the appraised FMV rent on a Parcel by Parcel basis. Such rent consists of land and pavement rent and is collectively referred to herein as the "**Aviation Annual Land Rent.**" Such Aviation Annual Land Rent is currently in the amount of $0.15 for each square foot of land and $0.05 for each square foot of existing pavement (excluding land and pavement on areas constituting Excluded Areas), as determined on a Parcel by Parcel basis and not for the entire Section of which any such Parcel is a part. The parties agree that any portion of the Premises which is not then occupied by a Sub-lessee of Lessee (and in the case of a multi-tenant Improvement, the portion thereof that is vacant), shall be deemed an Aviation Parcel for the purpose of Land Rent and will not be deemed a Non-Aviation Parcel, unless and until the DBO has occurred for such portion of the Premises and such Parcel shall only be charged Non-Aviation Rent during the time that the DBO has occurred on an Improvement on such Parcel and the Parcel is being so used as a Non-Aviation Parcel. Based on such appraisal process the Aviation Rent can be increased or reduced as contemplated in Article 4.04, and the parties acknowledge that the amount set forth above as the current Aviation Annual Land Rent may change between the Effective Date and the date the Rent Commencement Date based on the appraisals conducted between the Effective Date and the Rent

Commencement Date. In the event of a disagreement between Lessee and Lessor as to the amount of the Aviation Annual Land Rent, Lessee shall be entitled to appeal to the Board and thereafter, following mediation under Article 12.06, below, (unless mediation was already utilized prior to appeal to the Board, or court action is required before mediation due to the statute of limitations, in which latter event the party required to file an action may do so and then participate in mediation without being in violation hereof) to seek court action. Aviation Annual Land Rent shall be payable in equal monthly installments in U.S. funds, and shall include applicable state sales taxes. Rental payments for the first and last month of the Term shall be prorated if such rent does not commence on the first day of the month. The Lessee shall not pay rent with respect to any portion of the Premises which is an Excluded Area, the size of which shall be determined by the New Survey.

(B) **Non-Aviation Parcels:** As annual Land Rent for the lease of the Non-Aviation Parcels in any Section (the, **"Non-Aviation Annual Land Rent"**), the Lessee shall pay the Lessor, commencing separately as of the Rent Commencement Date, as defined below, as to each such Non-Aviation Parcel, excluding any portion which constitutes Excluded Areas, Non-Aviation Annual Land Rent calculated on the square footage of each of the Non-Aviation Parcels at the FMV rental rate for non-aviation uses, as determined on a Parcel by Parcel basis and not based on the FMV for the entire Section of which any such Parcel is a part. Such FMV rental rate shall initially be determined based on an MAI appraisal(s) prepared at Lessor's costs, utilizing comparables rental rates for non-aviation parcels in those areas in the vicinity of the Airport or elsewhere and considering the location of the Non-Aviation Parcels at the Airport as determined by the appraiser under then-applicable and current MAI appraisal principles to result in an FMV determination for the Non-Aviation Annual Land Rent for the Non-Aviation Parcels on the Premises. If the Lessee disagrees with the FMV rental rate determined by the Lessor's appraiser for Non-Aviation uses, the Lessee may, at its expense, engage an MAI appraiser of its choosing to determine the FMV rental rate for non-aviation uses at the Airport utilizing the same appraisal standards as set forth above. If the Lessee's appraiser determines that the FMV rental rate for non-aviation uses is lower than that determined by the Lessor's appraiser, and the parties cannot agree on a mutually acceptable rental rate for same, then, the two (2) appraisers engaged by the Lessor and Lessee shall designate a third MAI appraiser, whose cost will be shared equally by Lessor and Lessee, which third appraiser shall determine the FMV rental rate for non-aviation uses at the Airport utilizing the same appraisal standards as set forth above, and the FMV rental rate determined by such third appraiser shall be binding on the parties, unless the parties mutually agree to the contrary. The Non-Aviation Annual Land Rent for each Non- Aviation Parcel, on a Parcel by Parcel basis shall be subject to an annual three (3%) increase, adjusted at the end of each five (5) year period following the Non-Aviation Rent Commencement Date based on the FMV for Non-Aviation uses as determined by the same appraisal process for Non-Aviation Rent as is set forth above in this Article 4.01(B). Based on such appraisal process the Non-Aviation Rent shall be increased or reduced as contemplated in Article 4.04. The Non-Aviation Annual Land Rent shall be payable in equal monthly installments in U.S. funds, and shall include applicable state sales taxes. Rental payments for the first and last months shall be prorated if such rent does not commence on the first day of the month. The Lessee shall not pay rent with respect to any portion of the Premises which is an Excluded Area. Notwithstanding the appraisal principles set forth in this Article 4.01(A) and (B), if the FAA determines that other then-

applicable MAI principles should be utilized as a means of determining FMV rates for Aviation and Non-Aviation Parcels, Lessor's appraiser shall be entitled to utilize such principles to make such determinations, subject to Lessee's right to contest such appraisals.

(C) **Rent Commencement Date:** The term "**Rent Commencement Date**" for Aviation Annual Land Rent shall separately commence as to each Aviation Parcel on the date that is the first day of the first month following the date on which the DBO occurs for the Improvement constructed by Lessee on such Aviation Parcel. The term "**Rent Commencement Date**" for purposes of Non-Aviation Annual Land Rent shall separately commence as to each Non-Aviation Parcel on the date that is the first day of the first month following the date on which the DBO occurs for the Improvement constructed by Lessee on such Non-Aviation Parcel. The Rent Commencement Date for each of Non-Aviation and Aviation Annual Land Rent is subject to extensions as provided elsewhere in this Lease.

(D) **Initial Annual Rent:** Notwithstanding the foregoing, the Lessee agrees that as of the date that is the first day of the first full month following the date that is eighteen (18) full months after the Effective Date (the "**Initial Annual Rent Commencement Date**"), it will begin to pay Aviation Annual Land Rent and Non-Aviation Annual Land Rent hereunder in the aggregate annual amount of One Hundred Fifty-Seven Thousand Eight Hundred and 60/100 ($157,800.60) Dollars (the "**Initial Annual Rent**"), which Initial Annual Rent shall be payable in monthly installments. Following the time that a DBO occurs for any Aviation Parcel or Non-Aviation Parcel, the Initial Annual Rent shall be reduced by the amount of the Aviation Annual Land Rent and/or Non-Aviation Annual Land Rent then payable, until such Initial Annual Rent is fully eliminated by the obligation of Lessee to pay Aviation Annual Land Rent and/or Non-Aviation Annual Land Rent for the Parcels on which a DBO has occurred in an aggregate annual amount which is equal to or in excess of the Initial Annual Rent. Such Initial Annual Rent is due and payable regardless of any moratorium, DRI, or other conditions leading to a delay or freeze of the time periods under this Lease, whether caused in whole or in part by Lessor or Lessee or a combination of the two or by any other party.

(E) **Minimum Rent:** Following the fifth (5th) full year of the Term, the Aviation Annual Land Rent and the Non-Aviation Annual Land Rent shall each be subject to the Minimum Rent as described in Article 2.06(C).

4.02 **Improvement Rent:**

(A) **Commencement Date of Improvement Rent as to Each Improvement:** In recognition that the Lessee is designing and constructing the Improvements on the various Parcels and Sections at its sole cost and expense, no Improvement Rent payment shall be due and payable (as set forth in Article 4.02 (B) below) from Lessee for the use or occupancy of any Improvement except as follows: (i) as to each Improvement for which a DBO occurs between the Effective Date and the date that is the last day of the tenth (10th) year of the Term, Improvement Rent for all such Improvements shall commence as of the first day of the first full month that follows the date which is

thirty-five (35) full years after the Initial Annual Rent Commencement Date, and (ii) as to each Improvement for which a DBO occurs following the date that is the last day of the tenth (10th) year of the Term, Improvement Rent for such Improvements shall commence as to each separate Improvement as of the first day of the first full month that follows the date which is twenty-five (25) full years following the date of the DBO for each such Improvement, it being the intent of the parties that in connection with this subsection (ii), the commencement date for Improvement Rent in respect of each such Improvement shall be independently determined (as applicable, the **"Improvement Rent Commencement Date")**.

(B) **Improvement Rent:** Commencing on the Improvement Rent Commencement Date applicable to a particular Improvement constructed by Lessee or a Sub-lessee, and during each Lease Year thereafter through and including the expiration of the fiftieth (50th) Lease Year of the Term, Lessee shall pay Lessor an Improvement Rent with respect to each such Improvement, calculated at two and fifty-five hundredths percent (2.55%) of the Gross Revenues realized by Lessee from the operation of such Improvement during any such applicable Lease Year, and commencing as of the fifty-first (51st) Lease Year of the Term and during each Lease Year thereafter through and including the Termination Date, Lessee shall pay Lessor an Improvement Rent with respect to each such Improvement, calculated at two and ninety-seven hundredths percent (2.97%) of the Gross Revenues realized by Lessee from the operation of such Improvement during any such applicable Lease Year. The Lessee shall pay such Improvement Rent to the Lessor monthly on the 25th day of each month in respect of the Gross Revenues received by Lessee during the preceding month.

4.03 **Security Deposit:** Within ninety (90) days of the Effective Date, the Lessee shall pay to the County an amount equal to two times the monthly rental based upon the Initial Annual Rent as set forth in Article 4.01(D) above, as security for the payment of the Lessee's obligations hereunder (the "**Security Deposit**"). Within thirty (30) days following the end of the first Lease Year in which the Annual Rent exceeds the Initial Annual Rent, and within thirty (30) days following the end of each Lease Year thereafter, the amount of the Security Deposit shall be adjusted to be equal to two (2) times the average monthly rent paid by Lessee during the most recently expired Lease Year, but same may not exceed Three Hundred Fifty Thousand and no/00 Dollars ($350,000.00), until after the end of the fifteenth Lease Year. Following the end of the fifteenth (15th) Lease Year, the amount of the Security Deposit shall be adjusted to be equal to two (2) times the average monthly rent paid by Lessee during the fifteenth (15th) Lease Year, but same may not exceed Four Hundred Thousand and no/00 Dollars ($400,000.00). Such adjusted Security Deposit so determined to be due following the end of the fifteenth Lease year shall remain unmodified until the beginning of the thirty-sixth (36th) Lease Year, at which time the amount of the Security Deposit shall be adjusted to be equal to two (2) times the average monthly rent paid by Lessee during the thirty-fifth (35th) Lease Year, utilizing for the purpose of determining the Improvement Rent component of the Security Deposit, the amount of Improvement Rent that was payable based on the Gross Revenues received by Lessee for the period from the previous October 1st through the most recent September 30th that precedes the commencement of the thirty-sixth (36th) Lease Year. The amount of the Security Deposit so determined shall remain unmodified for a ten (10) year period and will be subject to adjustment at

such time and at the end of any subsequent ten (10) year period during the Term based on the foregoing methodology utilizing the period of October 1st through September 30th of the fiscal year immediately preceding the Security Deposit adjustment date then applicable. Said Security Deposit shall be in addition to any rental payments required hereunder, and the Department shall be entitled to apply such payment to any debt of the Lessee to the Department that may then exist, as permitted by law, including but not limited to the rentals required hereunder. In lieu of the Security Deposit being made in cash, the Lessee may provide an irrevocable Letter of Credit, in a form reasonably approved by the Department, in like amount.

4.04 **Rental Rate Review:** At the end of the fifth (5th) year following the Rent Commencement Date for Non-Aviation Annual Land Rent, and after every fifth (5th) year of the Term thereafter, the then applicable Non-Aviation Annual Land Rent for each non-Aviation Parcel shall be subject to adjustment based on the FMV rent of the land without any reference to the value of the Improvements or their use (which adjusted rent may be greater or lesser than the then current Non-Aviation Annual Land Rent) as described in 4.01(B) above. At the end of every year during the Term following the Rent Commencement Date for the Aviation Annual Land Rent, the then applicable Aviation Annual Land Rent for each Aviation Parcel shall be subject to adjustment based on the FMV rent of the land without, any reference to the value of the Improvements or their use (which adjusted rent may be greater or lesser than the then current Aviation Annual Land Rent) as described in 4.01(A) above. The cost of any appraisals required to be prepared in connection with the determination of any Rent that might be due under this Lease and any adjustments to same as provided in this Lease, shall be borne by Lessor except as provided in Article 4.01(B).

4.05 **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 Lessee after the Lessor has demanded in writing 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.

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

Miami-Dade County Aviation Department
Accounting Division
P.0. Box 025504
Miami, Florida 33102-5504

Payments may also be made by hand-delivery to the Accounting Division offices at: 4200 N.W. 36th Street, Miami, Florida 33122) during normal working hours.

4.07 **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 twenty (20) days after same shall become due, interest at the rates established from time to time by the Board (currently set at 1-1/2% per month), shall accrue against the delinquent payment(s) from the original due date until the Department 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.

4.08 **Records and Reports:** The Lessee shall keep and/or require its Sub-lessees to keep in Miami-Dade County, during the term of this Agreement, all records and reports customarily used and as necessary, to report its Gross Revenues and to calculate the Improvement Rent payable hereunder and as may, from time to time, be required by the Department to document its activities pursuant to this Agreement. The form of all such records and reports shall be subject to the reasonable approval of the Department and/or the auditors of the Lessor (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by the Department, the Internal Auditing Department of the Lessor or auditors of the State of Florida), prior to commencement of operations hereunder, which approval shall not be unreasonably withheld, conditioned or delayed. Subsequent reasonable recommendations for reasonable changes, additions or deletions of such records and reports by the auditors of the Lessor shall be complied with by the Lessee or be required by the Lessee of its Sub-lessee when requested by the Department. The Department and the auditors of the Lessor shall have the right, without limitation, and shall be permitted, during normal business hours and upon reasonable notice, to audit and examine all records and reports relating to the Lessee's and Sub-lessees' use of the Premises. The Lessee shall not be required to retain such records and reports in Miami-Dade County, Florida for more than five years after the end of each annual period of this Agreement nor for more than three years following termination of this Agreement.

4.09 **Reports of Gross Revenues:** On or before the twenty-fifth day following the end of each calendar quarter throughout the Term of this Agreement, on a Parcel-by-Parcel basis for any Improvement thereon for which the Improvement Rent Commencement Date has begun, the Lessee shall furnish to the Department a statement of quarterly Gross Revenues for the operation for the preceding quarter of each such facility with a certification as to the accuracy of such Gross Revenues in the form reasonably prescribed by the Department.

4.10 **Annual Audit Required:** Within one hundred twenty (120) days of each anniversary of the Improvement Rent Commencement Date of any facility, the Lessee shall, at its sole cost and expense, provide to the Department on an annual (or portion thereof) basis an audit report of Gross Revenues from the operation of such facility, certified by the Lessee's CFO to be true and complete in all material respects. The audit report shall be subject to approval in writing by the Department, which approval shall not be unreasonably withheld, conditioned or delayed. The report shall include a schedule of Gross Revenues and percentage fees paid to the Lessor under this Agreement, prepared in accordance with the comprehensive basis of accounting defined under terms of this Agreement

and reported in accordance with generally accepted auditing standards. The parties may agree from time to time to adjust the annual audit requirement date for individual facilities subject to the audit so that all or a portion of all such facilities have the same annual audit reporting date requirement.

4.11 **Dishonored Check or Draft:** In the event that the Lessee delivers a dishonored check or draft to the County in payment of any obligation arising under the terms of this Agreement, the Lessee shall incur and pay a service fee of TWENTY-FIVE DOLLARS, if the face value of the dishonored check or draft is $50.00 or less, THIRTY DOLLARS, if the face value of the dishonored check or draft is more than $50.00 and less than $300.00, or FORTY DOLLARS, if the face value of the dishonored check or draft is $300.00 or more, or Five Percent of the face value of such dishonored check or draft, whichever is greater. Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's check or other means acceptable to the Department. Such service fees shall be adjusted from time to time during the term of this Agreement so as to reflect the then-current service fees being charged by the County to tenants at the Airport.

4.12 **Utilities:** This Agreement is a net lease in all respects and therefore the rentals paid by the Lessee for the lease of the Premises and Improvements hereunder do not in any manner cover the cost for any electrical, water and sewer, storm drainage and other utilities consumed on or about the Premises and Improvements. The Lessee shall be solely responsible for the payment, to the appropriate billing entities whether it be the Department or others, for all utilities usage and shall not permit any liens to be filed against the Premises and Improvements for failure to pay such utility charges.

4.13 **Other Fees and Charges:** The Lessee acknowledges that the Board has or will 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 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, unless otherwise directed by the Department in writing, report its uses of applicable facilities, equipment and services and pay the applicable fees and charges at such frequency and in such manner as may be prescribed by the Department. Notwithstanding the foregoing, any such fees or charges for Lessee's use of such facilities, equipment and services provided by the County and not leased to or specifically provided to the Lessee hereunder, shall be at the usual and customary rates charged to other users of same at the Airport and on a pro rata basis if applicable. Lessee acknowledges that the County alone shall have the right to continue to charge and collect the County's fuel flowage fees from fuel providers selling fuel to persons at the Airport, as such fuel flowage fees are established from time to time by the County. The County confirms that no fuel flowage fees are currently payable in connection with the resale of fuel by such persons to end users at the Airport.

ARTICLE 5

Improvements to Premises

5.01 **Improvements to Premises:** As authorized pursuant to Chapter 125.012(24), Florida Statutes, and subject to the provisions of this Article, the Lessee or any Sub-lessee shall, under or through one or more contracts, design, construct and pay for the Improvements which Lessee constructs as contemplated by the Development Schedule and Phasing Plan and Article 2.06, above, for the purposes and uses described in Article 3 hereof, and in accordance with all building, fire, life, safety, health, and environmental codes, FAA requirements, and the Americans with Disabilities Act, as applicable. All structures shall be designed and constructed in accordance with the minimum requirements of the building code then applicable to construction in Miami-Dade County and the applicable design and construction standards of the Department.

5.02 **Design of Improvements:** The Lessee or any Sub-lessee, or the party contracting with either to develop and/or build the Improvements that are the subject of the applicable plans and specifications, shall submit to the Department, in the manner and at the times then applicable to Departmental review of plans and specifications submitted by developers, the detailed plans and specifications for the applicable Improvement (the, **"Plans"**) prepared by an architect or engineer registered in the State of Florida, for review by the Department. The Department agrees to assure the prompt availability of staff and other officials to provide preliminary and final review and approval of Lessee's specifications and drawings throughout the design process, and will not unreasonably withhold, condition or delay such approval. The Lessor shall in each instance review the submittal and respond with its approval or disapproval, setting forth in detail its reasons for any disapproval, within fourteen (14) calendar days of receipt. In the event the Department fails to respond within such fourteen day period said failure shall constitute approval of the request. In the event of disapproval, Lessee or the Sub-lessee as applicable shall, as expeditiously as is reasonable under the circumstances, address the grounds for disapproval stated by the Department by revising the Plans or request reconsideration of such comments. Any resubmission shall be subject to review and approval by Department in accordance with the procedure hereinabove provided for an original submission, until the same shall receive final approval by the Department. The Department and Lessee shall in good faith attempt to resolve any disputes concerning the Plans in an expeditious manner. Lessee acknowledges that the separate approval of the FAA as to each Improvement on the Premises is required.

Upon the approval of the Plans, the approved design and plans, as documented and supplemented as needed for approval of final Plans and issuance of building permits, shall be the Construction Plan for that Improvement.

5.03 **Co-Operation and Assistance:** In connection with the contemplated Improvements, the Department and the Lessor, if required as a result of its being the titleholder of the Premises, agrees to join in any plat or other applications, easements, restrictive covenants, easement vacations or modifications, and other documents, including but not limited to estoppels and non-disturbance and attornment agreements as provided in this Agreement, as may be necessary for Lessee (or any Sub-lessee) to develop and construct Improvements and to use the Premises and Improvements in

accordance with the Plans and this Lease; provided that such joinders by the Department and/or Lessor shall be at no cost to the Lessee, and also provided that the location and terms of any such easements or other restrictive covenants, and related documents, shall be reasonably acceptable to Lessor, which acceptance shall not be unreasonably withheld, conditioned or delayed. In addition, Lessor agrees reasonably to cooperate with Lessee with respect to and in support of applications and procedures dealing with governmental or other financing sources, and possible grants, benefits or incentives to which Lessee may be entitled in connection with the Improvements. Wherever the approval of the County itself as Lessor is required, Lessee acknowledges that the provisions of Article 19.04 are applicable.

5.04 **Permits and Diligent Construction:** Lessee shall submit to the appropriate governmental authorities, application(s) for building permit(s) for the Improvements as and when appropriate in accordance with the Development Schedule and Phasing Plan, as modified from time to time. Upon submitting any such building permit application, Lessee agrees to diligently pursue obtaining the issuance of such building permit, and after the issuance of the final building permit shall diligently commence construction of the Improvements contemplated by such permit. Thereafter Lessee shall diligently pursue such construction until completion of such Improvements. Lessee shall provide that any sub-leases entered into by Lessee shall contain a similar obligation upon the Sub-lessee in the event the Sub-lessee is responsible for construction of its Improvements. Lessee shall establish such reasonable rules and regulations governing the use and operation by Sub-lessees of portions of the Premises as Lessee shall deem necessary or desirable in order to seek to achieve and maintain the quality and character of the operations of the Premises and in order for Lessee and Sub-lessees to comply with the requirements of this Agreement, and Lessee will use reasonable efforts to enforce such rules and regulations; provided, however, that at a minimum Lessee shall incorporate the terms of this Lease Agreement relating to the Lessor's rules and regulations and other appropriate provisions in all subleases.

5.05 **Construction of Improvements:** Promptly following receipt of the building permit but in any event not more than 120 days thereafter, the Lessee or any Sub-lessee shall finalize and enter into a contract(s) for the construction of the Improvements. The Lessee shall cause the construction of the Improvements to be completed without undue delay but excluding any delays not within Lessee's or a Sub-lessee's reasonable control. Lessor shall not be responsible for any costs or expenses of the Improvements other than as expressly provided herein or separately agreed upon by the parties in writing.

5.06 **Certain Construction Contract Terms:** The Lessee agrees that it will use its best efforts to take all necessary action available under such construction contract(s) to enforce the timely completion of the work covered thereby.

5.07 **Improvements Free and Clear:** The Lessee agrees that any contract for construction, alteration or repairing of the Improvements or Premises, or for the purchase of material to be used, or for work and labor to be performed, shall be in writing and shall contain provisions to protect the Lessor from the claims of any laborers, subcontractors or materialmen against the Premises or

Improvements.

5.08 **Insurance and Bonds Required:** In addition to the insurance required under Article 11, all contracts for the construction of Improvements shall require that Lessee or any Sub-lessee obtain from construction contractors certain evidence of Insurance, as follows:

(i) A policy of completed value builder's risk insurance on an "All Risks" basis, in an amount not less than 100% of the insurable value of the Improvements being constructed. The policy shall be issued in the name of the Contractor, the Lessee, the Lender and the Lessor, as their interests may appear; and

(ii) A policy of owner's protective liability insurance issued in the name of the Lessor, as an additional named insured, in an amount not less than $1 million, combined single limit per occurrence for Bodily Injury and Property Damage. This policy must be endorsed to indicate that any premium, whether deposit or final, shall be the sole obligation of the contractor(s) or the Lessee.

(iii) Separate or combined performance and payment bonds 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, laborers, mechanics, suppliers and materialmen, with the Lessor and the Lessee named as dual obligees thereunder.

5.09 **Outreach Program:** Lessee will use good faith efforts to establish a program to assist small businesses and contractors owned or controlled by Miami-Dade residents in meeting bonding requirements as may be required for construction or operation of premises at the Airport.

5.10 **Completion Bond Requirements; As-Built Construction Drawings:** Prior to the commencement of construction of the Improvements on any Parcel, the Lessee or any Sub-lessee shall provide to the Department a contract completion bond, provided same is reasonably available to Lessee and its contractors, or an alternative security reasonably acceptable to the Department, 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. Within 30 days following the completion of construction of the Improvements, the Lessee or any Sub-lessee shall furnish to the Department one complete set each of legible prints (black line), photo mylars, 35 mm aperture card microfilm, and AutoCad files of construction drawings, revised to "as built", including all pertinent shop and working drawings, copies of all warranties, guarantees and manuals, and copies of all releases of contractor liens; provided, however, and as an alternative to the foregoing, the Lessee and its Sub-lessees shall provide whatever as-built and other documentation are then required of developers at general aviation airports .

5.11 **Determination of Anticipated Development and Construction Costs:** Within ninety (90) days of Completion of Construction of any Improvements to the Premises the Lessee shall submit to the Lessor a construction audit of the monies actually expended in the design,

construction and equipping of such Improvements. Said audit, which may be in the form of a compilation of separate audits for each Improvement during each Phase, shall be prepared and certified as being true and correct by appropriate financial officer(s) of the Lessee, Sub-lessee (if work was performed by or at the direction of a Sub-lessee), or the general contractor(s) performing the work. The Department shall have the right to request an audit by a certified public accountant, at its expense, if it has reasonable grounds to believe that the audit as submitted by the Lessee or Sub-lessee needs confirmation. Upon the submittal to and approval of the audit by the Lessor, the audit shall serve as the basis for determining whether the Anticipated Development and Construction Costs to be expended in each Phase have been so expended.

5.12 **Mutual Covenants of Non-Interference:** Lessee's development and construction of the Project and its use and operation of the Premises shall not materially and adversely interfere with Lessor's customary and reasonable operation of the Airport, unless prior arrangements have been made in writing between Lessor and Lessee. Similarly, except for airport operations traditionally carried out by Lessor or required to be carried out by Lessor by FAA requirement or for reasons of life, health, or safety, or as otherwise provided for herein, including, but not limited to the County's environmental remediation activities under Article 7, and Lessor's rights under Articles 15.03, 19.01, and 24.13, Lessor's use of the Airport shall not materially and adversely interfere with Lessee's development and construction of the Project and its use and operation of the Premises and the Improvements to be constructed thereon, unless prior arrangements have been made in writing between Lessor and Lessee. If during the process of construction, Lessor reasonably determines that the safety of the Airport is or may reasonably likely be in jeopardy, Lessor will inform Lessee of such determination and of the basis for it; whereupon Lessor and Lessee will cooperate in good faith with a view toward abating or effectively managing the source of jeopardy. If despite good faith efforts and cooperation the safety of the Airport is adversely affected in a manner that is neither abated nor effectively managed, Lessor may, upon reasonable notice to Lessee, slow down or temporarily stop construction by Lessee (or its Sub-lessees) so as to address the source of the safety concern. Any such slowdown or stoppage shall be deemed to be an **"Unavoidable Delay"** provided it was not a result of the actions or inactions of Lessee or its Sub-lessees, contractors, or agents, and shall entitle Lessee to an extension of all time periods hereunder (including, without limitation, time frames pertaining to the Rent Commencement Date, and imposition of Minimum Rent), unless such safety concern which caused the slowdown or stoppage was the result of Lessee's or a Sub-lessee's negligence or willful act.

5.13 **Connection Rights:** Lessor hereby grants to Lessee, commencing with the final approval of this Lease by Lessor and acceptance by the FAA, and continuing during the Term, the non-exclusive right to construct utility infrastructure and connections and to tie-into existing and/or new infrastructure and utility connections serving the Premises, to run new utility lines across the Premises and the Airport and all necessary easements, licenses, or other conveyances reasonably required by Lessee to permit such connections and lines to be run and maintained during the Term, all as specified in the to-be-approved Construction Plans and as approved by Lessor, which approval will not be unreasonably withheld, conditioned or delayed. As reasonably requested by Lessee, Lessor shall provide Lessee and its Sub-lessees with licenses or recordable easements or other

property documents reasonably acceptable to Lessee and Lessor to reflect Lessee's rights to connect, run and maintain such connections and lines necessary to construct, operate and sublease the Improvements contemplated to be developed pursuant to this Lease.

5.14 **Signage and Landscaping of Entrances:** Lessee shall develop a comprehensive landscaping and signage plan subject to the reasonable approval of Lessor, for the Airport in order to achieve an aesthetic blend of landscaping and signage, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, Lessee acknowledges that Lessor has an existing signage program applicable to its airports and that Lessor may withhold approval of Lessee's signage program if Lessee's proposed program materially deviates from or interferes with the County's signage program. All costs of developing such plans shall be paid by Lessee.

5.15 **Modification of Airport Layout Plan:** The Department agrees that it will modify the Airport Layout Plan based on the final approval by the Lessor of all Improvements to be constructed by Lessee on the Premises.

5.16 **Compliance with Responsible Wages and Benefits for County Construction Contracts (AO #3 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, stat 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 that if is subject to such Ordinance and Administrative Order it will comply with same to the extent applicable to it.

5.17 **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 2-10.40.1 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 provisions as well as any applicable Administrative Orders and other directives issued by the County and relating to such Programs, but only to the extent same are applicable to Lessee.

ARTICLE 6
Maintenance And Repair

6.01 **Cleaning:** The Lessee shall, at its sole cost and expense, perform or cause to be performed, services which will at all times keep each Section clean, neat, orderly, sanitary and

presentable as of the Effective Date and thereafter throughout the Term, provided that Lessor shall be responsible for any expenses required under this Article 6.01 as same relates to the conditions arising in respect of the Existing Improvements as contemplated in Articles 2.06(I) and 2.06(K), and Lessor acknowledges that Lessee's construction of the Improvements will be permitted.

6.02 **Removal of Trash:** The Lessee shall, at its sole cost and expense, remove or cause to be removed from the Premises and Improvements, 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 Department.

6.03 **Maintenance and Repairs:** The Lessee shall repair and maintain in good condition the Premises and all Improvements or alterations thereto, except for those which the Lessor is responsible pursuant to Article 6.11, and, Lessee's maintenance and repair of Existing Improvements shall be at Lessor's expense as provided in Article 2.06(I). Such repair and maintenance by Lessee shall include but not be limited to, the roof, structural support system, exterior walls, painting, overhead and personnel doors, windows, pavement, equipment, protection bumpers, furnishings, skylights, fixtures, appurtenances, replacement of items for light bulbs, ballasts and tubes and the replacement of all broken glass, and shall at all times be based on a standard of care reflecting prudent property management; provided that Lessee's maintenance of pavement shall be limited to interior taxiways and roadways constructed by Lessee and utilized solely to serve Lessee and its Sub-lessees and their customers and shall not include any obligation on Lessee to maintain LeJuene Road, Curtis-Langley Road, Wright Road or New Wright Road, all of which shall be maintained by Lessor. Maintenance and repairs shall be in quality and class equal to or better than the original work to preserve the Premises and Improvements 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, subject to the obligations of Lessor in respect of the repair of Existing Improvements as noted above. Prior to or at termination of this Agreement, injury done by the installation or removal of furniture and personal property of the Lessee shall be repaired so as to restore the Premises and Improvements to their original state, except as the Premises may have been altered or demolished as contemplated in this Lease, and to quit and surrender up the Premises in the same good order and condition as it was at the commencement of this Agreement, reasonable wear and tear and damage caused by an Act of God excepted; provided however, that such return of the Premises under this Article 6.03 shall not relieve the Lessee of its obligations for damages to the Premises that may be specifically provided elsewhere in this Lease, nor shall anything set forth herein release Lessor of its obligations for damages related to the conditions of the Existing Improvements as specifically provided elsewhere in this Lease.

6.04 **Excavation of Land:** Except in connection with construction of approved Improvements, 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 in connection with the Improvements as described in the approved plans and specifications pursuant to Article 5.02 (Design of Improvements) and for environmental

monitoring purposes pursuant to Article 7 (Environmental Compliance).

6.05 **Water and Sewerage System:** The Lessee shall operate and maintain, at its sole cost and expense, all the components of the water, sanitary sewerage and storm drainage facilities constructed within the boundaries of the Premises. Once constructed, the Lessee shall not make any material alterations or modifications to these facilities without the advance written approval of the Department, which approval shall not be unreasonably withheld, conditioned or delayed.

6.06 **Industrial Waste Facilities:** The Lessee or its Sub-lessees, as applicable in respect to any Parcel or portion thereof occupied under a sub-lease, shall be fully responsible for all industrial wastes exiting 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. Lessee shall have no obligation under this Article 6.06 respecting any portion of the Premises occupied by an Existing Tenant.

6.07 **Grassed Areas and Shrubbery:** As of the Effective Date and throughout the term of this Agreement, the Lessee shall cause grassed areas and shrubbery on the Premises to be mowed and trimmed 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.

6.08 **Inspections:** The Department 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 reasonably required of the Lessee or the Lessor, pursuant to this Article 6, to keep the Premises in good order and condition. The Lessee shall normally perform all reasonable corrective work required of it, identified in such inspection(s) within 30 days of receipt of written notice from the Department. Trash and debris problems shall be corrected within 24 hours following receipt of either oral or written notice from the Department. In addition to other inspections agreed to herein the Lessee agrees that the Consulting Engineers of the Department under the Trust Agreement may be directed to perform an annual survey of the condition of the Improvements. The Lessee agrees to perform any maintenance of the Improvements reasonably identified as necessary to keep the Improvements in good order and conditions.

6.09 **Failure of Lessee to Maintain:** If it is determined by the Department that the Lessee has failed to properly clean, remove trash and debris, maintain, repair, replace and refurbish the Premises and Improvements as required by this Article 6, the Department shall provide to the Lessee a written 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 and has not registered an objection as to its obligation to do so, the Department, following fifteen (15) days further written notice to the Lessee, may enter upon the Premises and Improvements and perform all work, which, in the reasonable judgment of the Department, is necessary and the Lessor shall add the cost of such work, plus twenty-five percent (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 written notice of intent to perform repairs or cleanup from the Department, the Lessee shall not undertake performance of such repairs or cleanup without specific prior written authorization from the Department.

6.10 **Lessee Maintenance Subject to Certain Conditions:** Such maintenance, repair, refurbishment and replacement by the Lessee may be subject to interruption caused by 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 Lessee. Upon any such happening, the Lessor shall have no claim for damages for the Lessee's failure to furnish or to furnish in a timely manner any such maintenance repair, refurbishment and replacement, provided however that the Lessee shall exercise reasonable diligence to remedy and/or cure any such interruptions, to the extent such interruptions are within the Lessee's control.

6.11 **Lessor Maintenance:** The Lessor shall maintain all water, sanitary sewerage, and storm water drainage facilities at the Airport that lie outside the Premises. In addition, the Lessor shall be responsible for the maintenance of all portions of the Airport that lie outside the Premises. Lessor shall be responsible for maintaining and repairing all roadways that serve the Airport generally, including LeJeune Road, Curtis-Langley Road, Wright Road, New Wright Road and any other common use roadways now or hereafter existing at the Airport (including any on the Premises). Lessor shall not be responsible for maintaining the roadways in the immediate vicinity of those

Sections of the Premises on which construction is then actively ongoing or for which the Lessee is otherwise responsible under this Lease. Lessor shall be responsible for maintaining and repairing all runways, taxiways and taxilanes now or hereafter existing at the Airport (including those on the Premises).

6.12 **Lessor Maintenance Subject to Certain Conditions:** Such maintenance by the Lessor may be subject to interruption caused by 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 Lessor. Upon any such happening, the Lessee shall have no claim for damages for the Lessor's failure to furnish or to furnish in a timely manner any such maintenance; provided, however, that the Department, if such maintenance shall be unavailable for a period exceeding 7 days shall provide a rent abatement for that portion of the Premises rendered unusable for the period of time in excess of 7 days that the Lessor is unable to make the repairs required by Article 6.11; and provided further that no such abatement shall be provided to the extent Lessee continues to receive rents from its Sub-lessees or other users or receives business interruption insurance proceeds. The Lessor shall exercise reasonable diligence to remedy and/or cure any such interruptions, to the extent such interruptions are within the Lessor's control.

ARTICLE 7
ENVIRONMENTAL COMPLIANCE

7.01 **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 Condition"** means any event, circumstance or condition constituting (i) recognized environmental conditions within the meaning of ASTM 1527-05; (ii) the current or past release or threatened release of any Hazardous Material into the environment on the Premises, whether originating from the Premises or from off-site contamination or pollution that has migrated thereto; or (iii) any violation of Environmental Laws at or on any part of the Premises.

(C) **"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 above ground 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. Section 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. Section 1801 C 5-QQ; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Clean Air Act 42 U.S.C. Section 7401 et seq.; the Toxic Materials Control Act 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 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.

(D) **"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.

(E) **"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.

(F) **"Initial Construction Period"** means a period of time for each Improvement to be constructed hereunder not to exceed one year commencing with the date on which Lessee breaks ground on the vertical construction of such Improvement so as to provide cost effective and timely remediation on a rolling basis.

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

7.02 **Intentionally deleted.**

7.03 **Responsibility for Environmental Conditions:**

(A) **Responsibility of Parties:** County and Lessee acknowledge that Environmental Conditions may be present on the Premises as of the Effective Date, and that such conditions may be known or unknown. County agrees that (i) any and all Environmental Conditions affecting the Premises and existing as of the Effective Date (the "**Pre-Existing Conditions**"), whether or not disclosed on the County's Baseline Disclosures, as hereafter defined, and whether or not discovered as of the Effective Date and (ii) all Environmental Conditions affecting the Premises and resulting from the conduct of the County or any subtenants of the County or resulting from the migration of pollutants from property other than the Premises and not in Lessee's control (collectively, a **"Lessor Condition"**), whether or not disclosed on the County's Baseline Disclosures, and whether or not discovered or existing as of the Effective Date, are the responsibility of the County, except to the extent the Lessee may accept such responsibility under Article 7.04(vii)(b)(3) below. Lessee agrees that any and all Environmental Conditions affecting the Premises and resulting from the conduct of Lessee or any contractor, agent, employee, or invitee of Lessee or its Sub-lessees, including trespassers on the Premises after the Effective Date (collectively, a **"Lessee Condition"**) shall be Lessee's responsibility. Nothing herein shall be construed to (i) shift to the Lessee any portion of the responsibility for any Environmental Condition which is a Pre-Existing Condition or results from a Lessor Condition, or (ii) shift to the County responsibility for any Environmental Condition which results from a Lessee Condition.

(B) **Dispute Resolution Procedure; Presumptions of Responsibility:** Any dispute over the which party hereto bears responsibility for an Environmental Condition under this Article 7.03 shall be resolved by the dispute resolution procedure set forth in Article 7.21, below, with full consideration given to the presumptions of responsibility set forth in this Article 7.03(B). The County agrees that it shall be fully responsible for any Environmental Conditions affecting the Premises which are disclosed by the Baseline Disclosures, all of which shall be deemed to be Pre-Existing Conditions and not subject to rebuttal. Additionally, the County shall be presumed to be responsible for any and all Environmental Conditions determined to be existing at the Premises at any time prior to the date that is thirty (30) years after the Effective Date, notwithstanding the fact that same were not disclosed in the Baseline Disclosures and regardless whether such Environmental Conditions were disclosed in any Lessee Audit, as hereinafter defined; provided that such presumption may be rebutted by the County pursuant to the dispute resolution procedure set forth in Article 7.21 hereof. Lessee shall be presumed responsible for any Environmental Conditions at the Premises first occurring at the Premises more than thirty (30) years after the Effective Date; provided that such presumption may be rebutted by Lessee pursuant to Article 7.21 hereof.

(C) **Baseline Disclosures:** Because of the possibility of the presence of Environmental Conditions on the Premises, County has provided, or will provide, to Lessee a Baseline Audit, including soils and groundwater sampling, and consisting of a Phase I and a Phase II Environmental Report. Such reports (i) shall conform to the requirements of 40 CFR Part 312 and ASTM 1527-05 existing as of the Effective Date of this Agreement, (ii) assess the entirety of the Premises; and (iii) include any analyses of soil and groundwater samples required for compliance with the requirements of 40 CFR Part 312 and ASTM 1527-05 (collectively the "**Baseline Audit**"),

the identification of same being set forth on Exhibit "H"; provided that, because of the voluminous size of the Baseline Audit, the Baseline Audit is not made an exhibit to this Lease but the parties acknowledge their receipt of a copy thereof (except for the Phase II Environmental Report which has not yet been finalized and will be delivered to Lessee promptly following receipt thereof by the Department). The parties recognize the possibility that not all Pre-Existing Conditions may be set forth in the Baseline Audit, and notwithstanding said failure, any such Environmental Conditions shown at any time during the Term hereof to be Pre-Existing Conditions shall be the sole responsibility of the County. Lessee acknowledges that Lessor has provided Lessee with copies of all Contamination Assessment Reports respecting the Airport (the "**CARs**"), all Remedial Action Plans affecting the Airport (the "**RAPs**"), and any other reports or notices regarding soil or ground water contamination or any other Environmental Condition, or the violation of any Environmental Law, at the Airport in its possession as of the Effective Date, which CARs, RAPs and other reports shall also be listed on Exhibit "H" and copies thereof have been, or shall be, provided to Lessee (the Baseline Audit and the CARs, RAPs and other reports listed or summarized on Exhibit "H" are collectively referred to herein as the "**Baseline Disclosures**"). The Aviation Department alone represents that it knows of no Environmental Conditions affecting the Airport other than as disclosed in the Baseline Disclosures. The County shall be responsible for any Environmental Conditions disclosed by the Baseline Disclosures, which the County shall respond to, as provided in Article 7.04(B). Lessee may terminate this lease within thirty (30) days of receipt of the last of the Baseline Disclosures if Lessee, in its reasonable discretion, determines that the Environmental Conditions disclosed in such Baseline Disclosures are unacceptable.

(D) **Lessee Right to Inspect and Test the Premises:** The Lessee may (but shall not be obligated to), conduct an independent investigation of the Premises and the physical condition thereof, including testing for the potential presence of any Hazardous Materials on or about all or any portion of the Premises.

(E) **Third Party Liability:** Nothing herein shall be construed to limit the responsibility of third parties who are potentially responsible parties (**"PRPs"**) for liability which may be imposed against such PRPs for any Environmental Condition, but the existing of any such PRPs shall not release either the County or Lessee from its responsibility to the other for an Environmental Condition that is their responsibility, as between Lessor and Lessee hereunder, but the responsible party as between Lessee and Lessor shall have the right to pursue recovery against such PRPs.

7.04 **County's Response for Environmental Conditions for which it is Responsible; Disclosure of Soil and Ground Water Contamination:** The County agrees to conduct response actions for the Environmental Conditions for which it bears responsibility pursuant to Article 7.03 as follows:

(i) Response actions for Environmental Conditions for which the County bears responsibility and the obligation to remediate as provided in Article 7.04(ii) shall (to the extent such Environmental Conditions are then known) commence during or prior to the Initial Construction

Period, and if not then known, within the period set forth in Article 7.04(ii) and continue thereafter until completed, subject, however, to a deferment of such remediation under the conditions set forth in Article 7.04(ii). County agrees to conduct any response action in accordance with applicable law and in a commercially reasonable manner and as necessary so as not to unreasonably disrupt Lessee's development, construction activities and/or operations;

(ii) County agrees to conduct and complete response actions in respect of any and all Environmental Conditions for which County bears responsibility pursuant to Article 7: (a) as mandated by any Environmental Requirements; or (b) as needed in order to enable Lessee and/or any of its Sub-lessees to proceed, without limitation or excessive delay due to such Environmental Condition, with: (1) the development of the Premises, (2) the construction of Improvements at the Premises, and/or (3) safely commencing and/or continuing the occupancy of any portion of the Premises and/or the Improvements on any portion of the Premises, all in a manner that permits such occupant to conduct its business thereon. County's responsibility for remediation shall be applicable in case of any of the foregoing and any such required remediation shall be performed in accordance with then existing Environmental Requirements. If County is permitted to leave any Hazardous Material in place under existing Environmental Requirements or is allowed to lawfully employ alternative response actions, all without adversely affecting the Lessee or any of its Sub-lessees or violating any of the foregoing conditions, the County shall have the option of so doing; provided, however, that in such event, County's obligations pursuant to this Article 7 shall continue with respect to such Environmental Condition so long as same continues to exist and/or affect the Premises and/or any Improvement. County shall be required to remediate an Environmental Condition beyond that which is permitted by Environmental Requirements only if such remediation or abatement of an Environmental Condition for which County is responsible is required by a governmental authority in order to enable Lessee or any of its Sub-lessees to proceed with its development and construction activities or be permitted to occupy or continue to occupy any portion of the Premises or any portion of an Improvement;

(iii) To the extent any CARs and/or RAPs have been prepared and/or are applicable at the Airport, County confirms that it has or installed and is operating, or will install and operate mediation systems to clean up the contamination described in such CARs and RAPs. Lessee agrees that during the term of the Lease County's authorized representatives shall have the right to enter the Premises in order to operate, maintain, relocate and replace such systems, including the right to conduct pre-construction environmental audits on particular sites at the discretion of Lessor. 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 remediation 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 the CARs and RAPs (collectively, the "**Remedial Action**");

(iv) For Environmental Conditions for which Lessor is responsible, Department shall obtain quotes for the cost of the remediation work not later than forty-five (45) days after notice of the Environmental Condition, and shall have ten (10) days thereafter to determine the course of action Department will take as to such Environmental Condition. Such course of action shall follow the provisions of Article 7.04(vii) Department shall reasonably take into account the status of Lessee's development activities at the time of the identification of the Environmental Condition and the time requested by Lessee to have such condition remediated, which requested time frame shall be reasonable under the circumstances. Department shall utilize reasonable efforts to minimize any disturbance with 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; provided that, Department shall conduct such Remedial Action so as not to unreasonably delay, inhibit or interfere with Lessee's or any of its Sub-lessees' development, construction activities or their occupancy of, and conduct of business at, the Premises. Department and Lessee each agree to take such action as may be reasonable to coordinate their operations so as to minimize any unreasonable interference with the other party. Within one hundred twenty (120) days of the Effective Date, Department will prepare a site sketch of the Premises reflecting the approximate location of any Remedial Action equipment currently in place and depicting any known proposed future location of such equipment. As Construction begins at new Parcels, if there is discovered a need for Remedial Action for which the County bears responsibility within any areas of such Parcels, County shall, to the extent required in this Article 7.04, promptly undertake such Remedial Action and continue same until completion in accordance with Environmental Requirements;

(v) If Remedial Action equipment or materials need to be temporarily stored in a secure location on the Premises, the parties will reasonably cooperate in identifying reasonable storage locations, at no expense to Lessee or Lessor;

(vi) To the extent County's, Department's or its agents', employees' or contractors' actions required or provided under this Article, unreasonably interfere with Lessee's or any of its Sub-lessees' development, construction, occupancy or operational activities hereunder, at Lessee's election, the Agreement and all Lessee's obligations thereunder, including, but not limited to payment of any rent and other charges, shall be abated during the period of such interference, but such abatement shall not apply to the extent Lessee is receiving rents from its Sub-lessees or from business interruption insurance as to the affected Parcel, and the Lease Term and other time periods hereunder, including but not limited to, any free rent or reduced rent period, shall be extended for the number of days that the interference continues. Lessee shall use reasonable efforts to conduct its construction activities to minimize the abatement period; and

(vii) Notwithstanding the foregoing provisions of this Article 7.04, the parties acknowledge that the likely source of environmental conditions on the Premises will be as a result of military activities conducted on the Premises by the United States and that the U.S. Corps of Engineers is the primary agency responsible for remediating any environmental condition shown to be the responsibility of the United States. Accordingly, the following shall apply to environmental conditions discovered on the Premises during the Term of this Lease:

(a) If a Lessor Condition is identified in the first thirty years of the Lease that requires immediate remediation under (iii) above, and the condition will require an expenditure of less than two hundred thousand dollars ($200,000.00) to remediate, the Aviation Department shall promptly select and compensate an environmental contractor to remediate the condition. The Aviation Department and the Lessee shall cooperate in the selection of the environmental contractor and the parties may agree to use a contractor of the Lessee reasonably acceptable to the parties to remediate the condition. Should the Lessor not promptly take such action as required under Article 7.04(iv) above, and fails to commence to do so following ninety (90) day's notice from Lessee of its intent to cause such remediation to be performed at Lessor's costs, then Lessee shall have the right, but not the obligation, to cause such condition to be remediated and to offset the reasonable costs incurred in connection with same against the next payments of Annual Rent coming due under this Lease together with interest at the Rate from the time incurred until paid.

(b) If the Lessor Condition will require an expenditure of more than $200,000 to remediate, and the County, acting reasonably, advises that it does not then have sufficient funds to remediate the condition or that Lessor desires the United States or the Corps of Engineers to remediate the condition, then the Lessee shall have the following options:

(1) The Lessee may await the period of time required for the County, acting reasonably, to fund the remediation or the period of time required by the United States or the Corps of Engineers to remediate the Lessor Condition;

(2) The Lessee may agree to abandon the Parcel requiring remediation and the Lessor shall take back the Parcel (a "**Take-Back Parcel**"), with the Lessee having no further responsibility for such Parcel. In such event, the Lessor agrees to use good faith efforts to provide Lessee with a substitute parcel at the Airport to replace the Take-Back Parcel (which substitute parcel shall be as close to the same size as the Take-Back Parcel as reasonably possible and if same is not available at the Airport, the Lessor may offer Lessee a substitute parcel at one of the other airports under its ownership and control as applicable, the "**Substitute Parcel**"), which Substitute Parcel if acceptable to Lessee and suitable for Lessee's purposes, shall be added to the Lease as a Parcel constituting a part of the Premises and the Take-Back Parcel shall be removed for all purposes from the Premises with the Lease modified as appropriate. If Lessor is unable to offer Lessee an acceptable Substitute Parcel, the Take-Back Parcel shall remain eliminated from this Lease and the Lease shall be modified as appropriate.

(3) The Lessee may agree to complete the remediation at its own cost, with Lessee being granted whatever right the Lessor may have to seek reimbursement from the United States or the Corps of Engineers, and with Lessor having no obligation to reimburse Lessee for any un-reimbursed costs;

(c) In all remediation activity for which the United States or the Corps of Engineers is required by law or policy to respond, the parties agree to cooperate so as to maximize

the amount of remediation to be performed by contractors of the United States and/or the Corps of Engineers and/or the amount of reimbursement that may be available therefor if Lessor or Lessee completes the remediation.

7.05 **Intentionally Deleted**

7.06 **Lessee Audit:** Lessee, at its sole cost and expense, shall have the right, but not the obligation, to conduct, at any time during the Term, and on any or all Parcels or Sections, one or more environmental inspections of such Parcel or Section (each a "**Lessee Audit**"), through an independent environmental consultant (a **"Consultant"**) of its choosing. Lessee shall give Lessor advance notice of the identity of such Consultant and if Lessor has a reasonable objection to such Consultant it will try to reach reasonable agreement with the Lessor as to an acceptable Consultant, but if it is unable to do so, Lessee shall be entitled to select a Consultant of its choosing. If Lessee elects to conduct any Lessee Audit, it shall furnish County a copy thereof within thirty (30) days of receipt of same and if said Lessee Audit occurs during a period in which an Environmental Condition is presumed to be the responsibility of Lessee under this Article 7, and same reveals an Environmental Condition, such notice shall state whether Lessee is then contending: (i) that notwithstanding such presumption Lessee believes that the Environmental Condition is the responsibility of the County, or (ii) that Lessee is then attempting to determine the party responsible for said Environmental Condition; or (iii) that Lessee is responsible for remediation of such Environmental Condition. Within ninety (90) days of receipt of any Lessee Audit indicating the existence of an Environmental Condition presumed to be the responsibility of the County pursuant to Article 7, or within thirty (30) days of receipt of any subsequent notice from Lessee that its investigation has concluded that the Environmental Condition is either Pre-Existing or was the result of a Lessor Condition, the County shall notify Lessee if it disputes the Environmental Conditions, or the delineation of subsurface conditions set forth in the Lessee Audit, and/or whether it disputes its responsibility for same. Any such dispute shall be resolved by the procedure set forth in Article 7.21, which resolution shall be binding on the parties.

7.07 **Maintenance of Premises:** Except for the obligations of the County under this Article 7 or as otherwise set forth specifically in this Lease, Lessee shall, at its and/or its Sub-lessees' 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.

7.08 **Use of Hazardous Materials To Be in Compliance With All Applicable Law:** Lessee shall include a provision in all sub-leases requiring its Sub-lessees to (i) comply with all applicable Environmental Requirements, including notice to the Department of all Hazardous Materials to be introduced to the sub-leased portion of the Premises from time to time; (ii) indemnify County for any liability resulting from a failure of the sub-lessee to comply with applicable Environmental Requirements, (iii) adopt best management practices for the use of Hazardous Materials on the Premises, and (iv) report to the County any release of Hazardous Materials on the premises not authorized under applicable Environmental Requirements orally

within twenty-four (24) hours and in writing within three (3) business days. Lessee shall, however, have no obligation to monitor compliance of Sub-lessees with such sub-lease requirements.

7.09 **Entry by County:** Notwithstanding any other right of entry granted to County under this Lease, Department shall have the right to enter the Premises or to have consultants enter the Premises throughout the Term of this Lease for the purposes of: (a) determining whether the Premises are in conformity with Environmental Law; (b) conducting an environmental audit or investigation of the Premises; (c) determining whether Lessee has complied with the environmental requirements of this Lease; (d) determining the corrective measures, if any, required of Lessee to ensure the safe use, storage, and disposal of Hazardous Materials; or (d) removing Hazardous Materials (except to the extent used, stored, or disposed of by Lessee in compliance with applicable Environmental Law 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 for the purpose of obtaining laboratory samples of soil or groundwater conditions. Department shall not be limited in the number of such inspections during the Term of this Agreement, but shall exercise such right more often than once per Lease Year only when it deems same reasonably necessary and shall always conduct such inspections in a reasonable manner and in a fashion that minimizes interference with Lessee and its Sub-lessees. To the extent such inspections disclose the presence of Hazardous Materials used, stored, or disposed of by Lessee or its Sub-lessees, agents, employees, contractors, or invitees in violation of Environmental Law, Lessee shall reimburse County for the cost of such inspections (otherwise same shall be at the cost of Lessor) within ten (10) days of receipt of a written statement thereof; provided that Lessee may dispute such findings in accordance with the dispute resolution procedure provided herein. If such consultants determine that Hazardous Materials have been released, discharged, stored, or used on the Premises in violation of Environmental Law, Lessor shall give Lessee written notice thereof to Lessee and within thirty (30) days of receipt of such notice Lessee shall, in a timely manner, at its expense, remove such Hazardous Materials and otherwise comply with the recommendations of such consultants to the reasonable satisfaction of County and any other regulatory authorities, or notify Lessor that it disputes its responsibility for same, in which event the Lessee may proceed with the dispute resolution procedure provided herein. 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.

7.10 **Permits and Licenses:** The Lessee agrees that it is responsible for securing at the times required by issuing authorities all permits or approvals that are required by any governmental authority to enable Lessee to conduct its operations under this Lease. Lessee shall provide to Department on each anniversary date of this Lease or upon the initial issuance of the following items, copies of all permits, licenses, certificates of occupancy, approvals, consent orders, or other authorizations issued to Lessee or its Sub-lessees and a letter from an officer of Lessee confirming that all required permits, licenses and other authorizations are current.

7.11 **Notice of Discharge to County:**

(A) **Notice to County; County Rights to Cure:** 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 arising from Lessee Condition; or (b) Lessee's receipt of any Environmental Claim affecting Lessee from any person or entity resulting from Lessee's use of the Premises, then Lessee shall notify Department orally within twenty-four (24) hours of Lessee's becoming aware of such material event or Environmental Claim, and in writing within three (3) business days of said oral notice. If Department is reasonably satisfied that Lessee is not promptly commencing the response to either of such events, Department shall provide Lessee with written notice thereof, and if actions acceptable to Department are not promptly commenced by Lessee, Department shall have the right, but not the obligation, to enter onto the Premises or to take such other actions as it shall deem reasonably 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 secured by this Lease and shall be payable by Lessee upon demand.

(B) **Lessee Reporting Requirements:** With regard to any required reporting obligation arising out of Lessee's operations or during the Lease Term, 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) **Lessee Action Plan:** Within one-hundred and eighty days (180) of Effective Date of this Lease, 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 plan/contingency plan shall identify Lessee's emergency response co-ordinator and Lessee's emergency response contractor. Lessee shall notify Lessor if the person or firm so designated is changed.

7.12 **Intentionally Deleted**

7.13 **Intentionally Deleted**

7.14 **Remediation of Hazardous Material Release:** If any Hazardous Materials are released or discharged on or about the Premises or Improvements in violation of Environmental Law (a "**Hazardous Materials Release**") at anytime during the Term, the party discovering same shall

promptly notify the other party orally within twenty-four (24) hours of discovery and in writing within three (3) business days thereafter. The Lessee, if the Hazardous Materials Release was the result of a Lessee Condition, or the Lessor, if the Hazardous Materials Release was the result of a Lessor Condition, as applicable, shall promptly take all actions, at its sole expense and if caused by a Lessee Condition, without abatement of Annual Rent, or if caused by a Lessor Condition with abatement of Annual Rent, but only to the extent Lessee is not then collecting Annual Rent from its Sub-lessees in respect of the affected Parcel and is not then receiving business interruption insurance as to the affected Parcel, as are necessary to return the affected portion of the Premises or the Improvements and any other affected soil or groundwater, to their condition existing prior to the Hazardous Materials Release. County shall have the right to reasonably approve all such remedial work (and Lessee shall likewise have such right in the event the Lessor is responsible for the Hazardous Materials Release and all of the following obligations of Lessee and rights of County in this Article should be read to be obligations of County and rights of Lessee in such event), including, without limitation: (i) the selection of any contractor or consultant proposed to be retained 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 Materials Release poses an immediate threat to the health, safety, or welfare of any persons and, despite Lessee's good faith 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 its 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.

7.15 **Indemnification:** Lessee agrees that in any circumstance in which it is responsible for remediation of an Environmental Condition, (which shall not include Environmental Condition(s) caused by any Existing Tenant unless Lessee and such Existing Tenant have entered into a direct new Sub-lease and such conditions arose after the effective date thereof and was not a Pre-Existing Condition or a Lessor Condition) it does hereby agree to indemnify, defend (with counsel reasonably satisfactory to Lessor), and hold Lessor, its directors, officers, employees, agents, assigns, and any successors to Lessor'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 a Hazardous Materials Release on, under or about the Premises. Lessor 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 Lessor is a named party, any legal proceedings or actions initiated in connection with the Hazardous Materials Release. Lessor may also negotiate, defend, approve, and appeal any action in which Lessor 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 Lessor for which Lessee is responsible under this paragraph or for which Lessee has indemnified Lessor: (i) shall be paid to Lessor 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 Lessor's successors and assignees.

7.16 **Aircraft Noise Abatement:** The Lessee hereby specifically acknowledges its awareness that the noise generated by aircraft, while on the ground and in flight, may cause annoyance to residential areas in proximity to the Airport and/or under or near flight corridors serving the Airport and that the County, as proprietor of the Airport, may, therefore, from time to time adopt certain lawful policies, procedures and/or regulations, not inconsistent with the Airport Noise and Capacity Act of 1990, unless otherwise approved by the FAA, and not inconsistent with aircraft safety, intended to abate the effects of aircraft noise. Said policies, procedures and/or regulations may deal with, but are not necessarily limited to, night time engine run-ups, preferential runway usage, aircraft arrival and departure patterns, use of displaced runway thresholds, and the like. The Lessee specifically understands and agrees that a violation of such noise abatement policies, procedures and/or regulations may result in the issuance of a citation or other enforcement action against the offending party, with the possible imposition of fines, and will include a provision similar to this Article in its sub-leases.

7.17 **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 (collectively "**Claims**"), 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 7.17 shall not apply to any Claim relating to an obligation of Lessor pursuant to this Agreement, including without limitation Articles 7.03 and 7.04 hereof, or to any Claim relating to any Environmental Condition existing on the Premises as of the Effective Date or caused by a Lessor Condition. Lessee acknowledges that Lessor would not enter into this Agreement without Lessee's agreement to the waiver and release provided herein and Lessor acknowledges that Lessee would not enter into this Lease without Lessor's agreement to be responsible for Pre-Existing Conditions and any Environmental Conditions arising as a result of a

Lessor Condition.

7.18 **Surrender of Premises:** Lessee shall surrender the Premises to County upon the expiration or earlier termination of this Lease 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 by Lessee or its Sub-lessees (other than as a result of a Lessor Condition) during the Term of this Lease; provided, however, Lessee shall not be responsible for such obligation to the extent of County's obligations under Article 7 hereof. The Premises shall be surrendered in a condition that complies with all Hazardous Material Requirements, recommendations of environmental consultants hired by County, and such other reasonable environmental requirements as may be imposed by County, provided that no such requirements shall cause the Lessee to be responsible for any Environmental Condition which is the responsibility of the County under Article 7.

7.19 **Breach:**

(A) **Lessee Breach:** Any breach by Lessee of its obligations under Article 7 shall, after notice and not less than thirty (30) days to cure (unless public health issues are implicated in which case the cure period may be shortened if reasonable) or commence to cure and thereafter continue until cured, shall constitute a default under this Agreement, and shall entitle County to seek to specifically enforce the obligations of Lessee under Article 7, or to exercise self-help to cure the Environmental Condition at the expense of Lessee, which if not re-paid by Lessee on demand would constitute a monetary default hereunder, or exercise such rights as otherwise permitted by law.

(B) **Lessor Breach:** Any breach by Lessor of its obligations under Article 7 shall, after notice and not less than thirty (30) days to cure (unless public health issues are implicated in which case the cure period may be shortened if reasonable) or commence to cure and thereafter continue until cured, shall entitle Lessee to seek to specifically enforce the obligations of Lessor under Article 7, or to exercise self-help to cure the Environmental Condition at the expense of Lessor, which if not re-paid by Lessor on demand would entitle Lessee to offset such amount, together with interest thereon at the Rate, or exercise such rights as otherwise permitted by law.

7.20 **Survivability of Terms:** The terms and conditions of this Article 7 shall survive the termination of this Agreement.

7.21 **Dispute Resolution:** The parties agree to take reasonable steps to investigate any Environmental Condition and to determine in good faith which party is responsible for remediation of any such Environmental Condition. If the parties are unable to do so in a particular circumstance, the parties shall have the choice of (a) resorting to legal action or (b) mutually selecting one or more environmental engineers or a governmental environmental agency to make, mediate and/or if necessary and mutually agreeable, arbitrate such determination. Each party shall bear its own costs, but the party determined to be less at fault for an Environmental Condition shall be entitled to

recovery of its reasonable costs, including attorneys' fees, from the other party, measured on a percentage-of-fault basis; provided, however, that recovery of costs against the other party shall not apply to determinations of responsibility not under this Article 7.21, and each party shall be responsible for bearing its own costs incurred under such non-Article 7.21 determinations.

ARTICLE 8
Alteration of Premises and Erection of Signs

8.01 **Alterations:** After construction of the Improvements pursuant to Article 5 hereof, the Lessee shall not substantially alter the exterior of the Improvements in any structural manner whatsoever without the prior written approval of the Department. In the event the Lessee is given approval to make alterations to the Premises and Improvements, the Lessee shall materially comply with the terms and conditions of such approval, as contained in the Department's approval letter. General repairs to the exterior of an Improvement such as roof repair or replacement, painting or modifying the covering of the exterior facade, replacing windows, and like exterior alterations shall not require consent.

8.02 **Signage:** The design and installation of all identifying signs or any advertising matter of any type or kind on the Premises or the Improvements thereon which is visible to the public shall be the responsibility of the Lessee, subject to the prior written approval of the Department, based upon the Lessee's comprehensive landscaping and signage plan described in Article 5.14, and which approval shall not be unreasonably withheld, conditioned or delayed, except as provided in Article 5.14.

ARTICLE 9
Assignment, Transfer, Subletting, Financing and Ownership

9.01 **Assignment and Transfer:** Except as set forth in this Article 9, the Lessee shall not, in any manner, assign, without the prior express written approval of the Department, transfer, mortgage, hypothecate, encumber or otherwise convey an interest in this Agreement, or authorize others to exercise the rights granted to the Lessee herein, without the advance written approval of the Department, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, no approval or Assignment Fee will be required for the granting of a leasehold mortgage on the Lessee's interest under this Lease, or any Sub-lessee's interest in its sub-lease to an Institutional Lender, regardless of whether in the nature of short term or long term debt and including construction financing and permanent financing as that term is generally applied, and such a mortgage and the refinancing of same shall not be deemed an assignment or subject to the approval of the Lessor; provided, however, the Institutional Lender's rights upon a default of Lessee shall be subject to the applicable provisions of this Article 9. To the extent the Lessor's approval is required to an assignment, said approval may be withheld unless the intended assignee or transferee would have been acceptable to the Lessor as an original Lessee hereunder, considering such

assignee's or transferee's experience, financial strength, history of meeting contractual obligations and a satisfactory business plan that is consistent with the best use of the Premises and Improvements and the Lessor's plans for operation of the Airport (the "**Acceptable Assignee Qualifications**"). Notwithstanding the foregoing, Lessee shall be entitled to assign all or portions of its interest in this Lease without consent of the Lessor to a Permitted Transferee, companies that are an affiliate or subsidiary of Lessee, or any of its members, or a corporate successor of Lessee or any of its members, or joint ventures with Lessee or any of its members, provided that in the case of an assignment to a member of Lessee, the member controls or is a principal of such entity or joint venture, and/or mortgage, encumber, hypothecate and/or collaterally assign the Lease to an Institutional Lender as collateral for a loan from said Institutional Lender (each and all of the foregoing being, an **"Acceptable Assignee"**; provided, however, that in all such foregoing instances, Lessee shall continue to be liable and responsible for all obligations hereunder. Nothing set forth in this Article 9.01 shall be deemed to prohibit, require approval of, or otherwise be applicable to sub-leasing of portions of the Premises provided that the Lessee remains in the role of Lessee hereunder and retains the ownership and operating control of the Lessee's assets. Nothing herein shall prohibit or prevent the sale and/or assignment of membership interests in Lessee to members and/or third parties, provided control of Lessee does not change, and neither such transfers or any transfers to an Acceptable Assignee shall be deemed an assignment subject to the Assignment Fee, nor shall they be subject to the approval of Lessor, provided that the Lessee remains in ownership and operational control of the leasehold rights hereunder and the assets of Lessee (all such transferees described in this sentence are also each an Acceptable Assignee). In the event that the Lease is assigned or transferred by Lessee to a party that is not an Acceptable Assignee (such party being a "**New Lessee**"), then the Lessee shall pay to Lessor upon approval of such assignment in accordance with this Article 9.01, a fee (the **"Assignment Fee"**) as follows: (i) if such assignment or the first of a series of transactions resulting in an assignment to a New Lessee occurs within the first fifteen (15) years following the Effective Date, Lessee shall pay to the Lessor an Assignment Fee equal to the greater of $10,000,000 or 10% of its net profits of such transfer of 100% of Lessee's right, title and interest in and to this Lease to a New Lessee, or a proportionate amount thereof if only a partial assignment occurs; and (ii) if such assignment or the first of a series of transactions resulting in an assignment to a New Lessee occurs after the date that is fifteen (15) years following the Effective Date, Lessee shall pay to the Lessor an Assignment Fee equal to the greater of $10,000,000 or fifteen percent (15%) of its net profits of such transfer of 100% of Lessee's right, title and interest in and to this Lease to a New Lessee, or a proportionate amount thereof if only a partial assignment occurs. If Lessee assigns less than 100% of the 181 acres constituting the Premises, the pro rata share of the profit shall be determined by multiplying the10% or 15% amount of profits, as applicable by a fraction, the numerator of which shall be the number of acres involved in the assignment and the denominator of which shall be 181 (or such acreage amount as may then constitute the total Premises pursuant to any measurement adjustments, changes in the size of the Excluded Areas, take backs of Parcels or other rights of adjustment as set forth herein). The level of "profits" made by Lessee under any such assignment to a New Lessee shall be "profits" as determined in accordance with generally accepted accounting procedures or the common business notion of profits if such procedures do not apply. In the event the Lessee's rights as Lessee under this Lease are assigned (as opposed to a sub-lease for which no Assignment Fee will be due or consent required) solely as to a

Parcel or Section and not as a whole, the applicable Assignment Fee shall be prorated based on the square footage of the Parcel or Section assigned as compared to the square footage of all Parcels and Sections not so assigned. In any assignment in which the Assignment Fee is paid by Lessee, Lessee shall be released from any further liability under this Lease as to the Premises, or portion thereof, to which the Lease assignment for which the Assignment Fee was paid was applicable.

9.02 **Subletting - General:**

(A) **Consent to Sub-Leases:** In the event all Commercial Air Service Approvals required to provide Commercial Air Services at the Airport are obtained, Lessee agrees that it shall not sublet any portion of the Premises for the purpose of providing Passenger Services in connection with Commercial Air Service, or other Commercial Air Services, all as contemplated in Article 3.02(ix) of this Lease, without the prior written approval of the Department as to such sub-lease, which approval shall not be unreasonably withheld, conditioned or delayed. The Department's failure to provide full written reasons for disapproval of any sub-lease within fifteen (15) days after any draft sub-lease has been submitted to the Department shall be deemed an unconditional approval. Agreements between the Lessee and the operators of aircraft for parking, storage, maintenance and related activities shall not be considered sub-leases for the purposes of this Article, provided however, that any subletting of the entire Premises to a single Sub-lessee may occur only if the Sub-lessee meets the acceptability requirements of Article 9.01.

(B) **Pricing by Lessee:** In order to provide reasonable flexibility to the Lessee in its pricing decisions, which will in any event be regulated as fair, reasonable, and not unjustly discriminatory as required by the FAA, the parties agree that approval by the Board of this Agreement shall constitute a waiver by the Lessor of Resolution No. R-1071-92 as it applies to the Premises. Notwithstanding anything herein to the contrary, Lessee covenants that its pricing to Sub-lessees and users of Lessee's facilities will not cause the County to be in violation of its obligations under the Trust Agreement, including but not limited to Section 707 thereof, and the Lessee will adjust its pricing structure whenever it may be reasonably necessary to avoid such violation.

(C) **Sub-lessee Right to Fulfill Obligation of Lessee:** With regard to any right or obligation of Lessee under this Agreement, said right or obligation may be exercised or fulfilled by any Sub-lessee in lieu of direct exercise or performance by Lessee, provided said exercise or performance is equivalent to that permitted or required of Lessee. Notwithstanding any sublease or delegation of authority or rights herein to a Sub-lessee or other party, Lessee shall be liable for the actions of the Sub-lessee or other party. Lessor agrees that it shall, if the identity and address of the Sub-lessee has been provided to the Department, send Sub-lessee a copy of any notice of any failure of Lessee affecting such Sub-lessee's Parcel and allow such Sub-lessee a reasonable time to cure such failure if not cured by Lessee in a timely fashion. In the event that a Sub-lessee is the party constructing an Improvement on a sub-leased Parcel and obtains financing in connection therewith, or permanent financing on such constructed Improvement (each a "**Sub-Leasehold Mortgage**"), the provisions of this Lease concerning Leasehold Mortgages granted by Lessee shall be applicable to any such Sub-Leasehold Mortgage of a Sub-lessee, but only as to the applicable Sub-lessee and the

Parcel affected by the applicable sub-lease to which such Sub-Leasehold Mortgage is applicable, and the rights afforded the Mortgagee, as defined below, under Article 9.04(C), shall likewise be afforded to the mortgagee under a Sub-Leasehold Mortgage (a "**Sub-Leasehold Mortgagee**"), but only as to the applicable Sub-lessee and the Parcel affected by the applicable sub-lease to which such Sub-Leasehold Mortgage is applicable.

(D) **Sub-Leases for Improvements not to be Utilized for Providing Commercial Air Services:** Sub-leases with regard to Improvements not used in connection with Commercial Aviation Services (if approved) shall be considered sub-leases for the purposes of this Article 9, and Lessee shall require that any such sub-lease shall be subject to the requirements for compliance with Airport Rules and Regulations and applicable laws.

9.03 **Subletting - Subject to Certain Conditions:** Except as expressly set forth in Article 9.01, agreements of any type or kind which permit another party to occupy and do business on or from the Premises or Improvements (concessions, franchises, licenses) shall be considered sub-leases for the purposes only of this Article 9.03 and shall be in writing, with a copy being provided to the Department. Further, any such sub-leases shall be subject to the same conditions, obligations and text, as set forth herein, including as a minimum, but not limited to, requirements for compliance with Airport Rules and Regulations, applicable laws, and indemnification of the Lessor. Notwithstanding anything herein contained to the contrary, the Lessee shall remain fully liable to the Lessor for fulfilling all obligations, conditions and terms of this Agreement, throughout its entire term.

9.04 **Leasehold Mortgages for Improvements:**

(A) **Lessee Financing:** Lessee or any Sub-lessee shall have the right to secure one or more financings (tax-exempt and/or conventional) to construct the Improvements. No mortgage or encumbrance shall extend to or be a lien or encumbrance upon County's interest in the Premises or any part thereof or any appurtenant rights thereto, but the Lessor shall enter into a reasonable non-disturbance and attornment agreement with an Institutional Lender providing Financing to Lessee or any Sub-lessee.

(B) **Department Review of Financing Documents:** The Department shall have the right to approve the financing documents which approval shall not be unreasonably withheld, conditioned or delayed. Lessee or any Sub-lessee shall submit drafts of the financing documents to the Department for review and approval. The Department's failure either to approve the financing documents or to furnish its written objections regarding the financing documents to Lessee or an applicable Sub-lessee within ten (10) business days after the date of submission of the documents for review will constitute the Department's approval of the documents; provided, however, that such ten (10) day period shall commence from the later date of personal delivery of the documents to the Manager of Aviation Properties for the Department and the County Attorney's Office. The County, through the County Manager or his designee, shall indicate such approval of the documents appropriate to the transaction.

(C) **Lender Rights Upon Default:** Such financing documents may provide, among other terms, that upon the occurrence of a default by Lessee, the County shall give a copy of such notice of default to the Lessee's mortgagee or financing institution (the "**Mortgagee**") and allow the Mortgagee a reasonable period of time to cure the default stated therein while the Lessee continues as the nominal or actual Lessee. Such documents may also provide for: (i) a conditional assignment of this Agreement to the Mortgagee or any other successor lessee in the manner provided below; and (ii) upon notice of intent to terminate this Agreement for any event of default, the Mortgagee may cause this Agreement to continue in full force and effect for a period not to exceed eighteen (18) months from the date of such notice, for the purpose of permitting Mortgagee to exercise its rights under its mortgage. Any such Mortgagee or an affiliate thereof, if applicable, after assuming the Lease and taking possession of the Premises due to a default under a leasehold mortgage, shall have the right to further assign this Lease to a successor-owner without being subject to the Assignment Fee, provided however, if a Mortgagee prevails in a foreclosure action as to any portion of the Premises, Lessor shall be entitled to receive ten percent (10%) of any surplus that Lessee receives in gross as a result of such foreclosure action. Notwithstanding the foregoing, if an assignee of such Mortgagee or its affiliate, subsequently assigns, transfers or otherwise conveys all or any part of its right, title and interest in and to this Lease to another party, such transferee shall be subject to the provisions of Article 9.01 above.

(D) **Mandatory Use of Insurance Proceeds for Reconstruction:** The financing documents shall also provide that in the event of any damage to or destruction of the Improvements, all insurance proceeds pertaining to such damage must be used for the restoration or reconstruction of the Premises or Improvements not to a reduction in the mortgage principal, except as provided in the approved financing documents to the contrary.

ARTICLE 10
Indemnification and Hold Harmless

10.1 **By Lessee:** Lessee shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, that the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature first arising following the Effective Date, and arising out of, relating to or resulting from the performance of this Agreement by the Lessee or its employees, agents, servants, partners, principals, contractors, or subcontractors, Sub-lessees, users of Lessee's facilities, invitees, or trespassers. Lessee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or action of any kind or nature in the name of the County, 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 County or its officers, employees, agents and instrumentalities as herein provided. The indemnity provided herein is in addition to and does not limit Lessee's indemnity provided in Article 7.15. The obligation of the Lessee hereunder shall

survive the termination of this Agreement.

ARTICLE 11
Insurance

11.01 **Insurance Required:** In addition to such insurance as may be required by law, by Article 5.08, and as reasonably required from time to time by County based on then-existing insurance requirements for general aviation airport tenants, similarly situated to Lessee and with activities similar to Lessee's degree of activities on the Premises, provided said insurance is available in the State of Florida the Lessee shall maintain, without lapse or material change, for so long as Lessee or any Sub-lessee occupies the Premises, and for so long as such coverage is not economically unreasonable, (except that Lessee and/or its Sub-lessees must obtain insurance at the levels required by State or County Law or under the Trust Agreement and applicable to all similarly-situated tenants on the Airport, regardless of its cost), with the types of insurance and the minimum coverage amounts to be added and adjusted from time to time to meet the then-current requirements of State or County law and under the Trust Agreement and the minimum insurance coverage amounts required by the Department and applicable to all similarly situated tenants:

(A) **Commercial General Liability Insurance:** Commercial General Liability Insurance on a comprehensive basis, including Contractual Liability, to cover the Lessee's or Sub-lessee's Premises and operations, in an amount not less than $1,000,000, 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. Coverage 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 to not accept policies with aggregate limits or substantial deductibles.

(B) **Automobile Liability Insurance:** Automobile Liability Insurance covering all owned, non-owned and hired vehicles used by the Lessee (or its Sub-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) **Environmental Insurance**: 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 of the Lessee's Premises; provided, however, that in lieu of such insurance coverage for Lessee's occupancy and use of the Premises, Lessee may self-insure this coverage requirement, provided that Lessee's self-insurance program meets all reasonable self-insurance requirements provided by law or by the Department. If Lessee posts a letter of credit or other like collateral (reasonably acceptable as to form to the Department), to secure

its self-insurance program for environmental insurance, same shall be deemed to meet the self-insurance requirements of the Department, provided they are reasonably acceptable to the Department as to form and issuer.

(D) **Form of Insurance:** Lessee may carry all or any portion of the required coverage mandated by this Lease under a blanket policy covering the Improvements and Premises under the Lease and other properties of affiliates of Lessee, so long as the coverage provided is consistent with the requirements of this Article 11.

The insurance coverage 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 "A-" as to management, and no less than "VII" 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 Lessor Risk Management Division.

11.02 **Insurance Required of Construction Contractor(s):** The limits for each type of insurance may be revised upon review and approval of the construction plans. Additional types of insurance coverage may be required if, upon review of the construction plans, the Department reasonably determines that such coverage is necessary or desirable.

The Lessee shall cause its contractor(s) and the sub-lessees' respective contractor(s) to provide certificates of insurance and copies of original policies, if requested, which shall clearly indicate that the construction contractor has obtained insurance in the type, amount and classifications as required for strict compliance with this Sub-Article. Evidence of such coverage must be submitted prior to any construction.

11.03 **Certificate Continuity during Construction:** The Lessee shall be responsible for assuring that the insurance certificates required in conjunction with this Sub-Article remain in force throughout the performance of the contract and until the work has been accepted by the Lessee and approved by the Lessee and the Department. If insurance certificates are scheduled to expire during the contract period, the contractor(s) shall be responsible for submitting new or renewed insurance certificates to the Lessee at a minimum of thirty (30) calendar days before such expiration. Required insurance certificates shall include the following:

(i) Workers' Compensation as required by Chapter 440, Florida Statutes;

(ii) Commercial General Liability Insurance on a comprehensive basis including Contractual Liability, Broad Form Property Damage and Products and Completed Operations in an amount not less than $1,000,000 per occurrence for Bodily Injury and Property Damage combined. The County and the Lessee must be shown as an additional insured with respect to this coverage.

(iii) Automobile Liability Insurance covering all owned, non-owned and hired vehicles

used in connection with this Agreement in an amount not less than $1,000,000 per occurrence for Bodily Injury and Property Damage combined.

11.04 **Property Damage Insurance; Notice of Loss:**

(A) **Builder's Risk:** Completed Value Builders Risk and/or Installation Floater, issued in the name of the Lessee and/or its Sub-lessee if applicable, the Contractor and the County as their interest may appear, in amount(s) not less than 100% of the insurable value of the improvements and/or structure(s) under construction, covering perils on an "All Risk" basis, except that with respect to windstorm coverage, such coverage as is then available on a commercially reasonable basis. Any deductibles or self-insured retentions are the sole responsibility of the Lessee, its Sub-lessees or its Contractor.

(B) **Property Insurance:** Lessor shall provide "All Risk" Property Insurance coverage for all structures and/or Improvements on the Premises throughout the term of the agreement. The Lessee and any Sub-lessee shall have an insurable interest therein for the purpose of complying with this Section. Coverage shall be in amount(s) not less than 100% of full replacement value, except that, as to windstorm coverage, coverage shall be in an amount and under such conditions as are then available on a commercially reasonable basis. Any deficiency in the amount of the proceeds from such property insurance resulting from a failure by the Lessee to insure the full replacement value of the Improvements shall be the sole responsibility of the Lessee. Any deductibles or self-insured retentions are the sole responsibility of the Lessee or its Sub- lessees.

(C) **Business Interruption Insurance:** The Lessee at its sole cost and expense throughout the term of this Agreement, shall maintain business interruption insurance at a minimum, in an amount sufficient to continue making Land Rent payments to Lessor, including taxes and insurance, during the rebuilding period as a result of damage to the Improvements or during the period of any other condition that causes an interruption in the use of a facility.

(D) **Notice of Damage or Destruction and Restoration of the Improvements:** In case of damage to or loss of all or a portion of the Improvements, the Lessee shall give prompt notice thereof to the Department; and, the Lessee or applicable Sub-lessee shall promptly commence and complete with due diligence (subject only to delays beyond its control), the restoration of the damaged or destroyed portion of the Improvements as nearly as reasonably practicable to the value and condition thereof immediately prior to such damage or destruction.

11.05 **Insurance Certificates Required:** Prior to the commencement of operations hereunder and annually thereafter, the Lessee or its Sub-lessee shall furnish or cause to be furnished certificates of insurance to the Department which certificates shall clearly indicate that:

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

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

(iii) The Lessor is named as an additional insured with respect to the Lessee's commercial general 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 is reasonably 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.

11.06 **Compliance:** Compliance with the requirements of this Article 11 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.

11.07 **Right to Examine:** The Department 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 Lessee.

11.08 **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 thereto.

11.09 **Insurance of Tenants under Existing Leases:** Lessee shall have no obligation to provide insurance coverage for any Improvements leased under any Existing Leases or occupied by any Existing Tenants, whether or not under any written lease, nor any obligation to maintain any liability insurance in respect of any Existing Tenant, nor shall the Lessee have any liability for any damages caused by any Existing Tenant at the Airport, but, Lessee shall use reasonable efforts to monitor the insurance coverage to be maintained by Existing Tenants. Lessor agrees that no liability shall arise against Lessee as a result of any activities of any Existing Tenants or their failure to maintain appropriate insurance coverage, and any and all such obligations and liability shall remain vested solely in Lessor, and any insurance required to be maintained by the landlord under any Existing Leases shall be maintained by Lessor, notwithstanding the assumption of the Existing Leases by Lessee.

11.10 **Sub-Lessees:** Any insurance required to be carried by Lessee hereunder may, as to the Parcel(s) and Improvements occupied by such Sub-lessees, be carried by its Sub-lessees in lieu of Lessor. However, Lessee shall require each Sub-lessee to maintain independently of Lessee, a commercially reasonable level of Commercial General Liability Insurance and Automobile Liability

Insurance.

ARTICLE 12
Default; Termination by Lessor or Lessee

12.01 **Payment Defaults:** Failure of the Lessee to make all payments of rentals, fees and charges required to be paid herein when due (following the expiration of any applicable grace periods) shall constitute a default, and the Lessor may exercise the remedies set forth in Article 12.09, subject to the provisions of Articles 12.07 and 12.08, if after thirty (30) calendar days notice in writing to the Lessee and Lender, if any, unless the default be cured within the notice period, in which event the default notice shall be null and void and of no force or effect.

12.02 **Insurance Defaults:** The Lessor shall have the right to declare this Lease in default, upon thirty (30) business days written notice to the Lessee and Lender, if any, and the Lessor may exercise the remedies set forth in Article 12.09, subject to the provisions of Articles 12.07 and 12.08, if the Lessee or Lender fails to provide evidence of insurance coverage in compliance with Article 11 herein, unless such failure is cured within said thirty (30) business day period, in which event the default notice shall be null and void and of no force or effect.

12.03 **Abandonment Default:** This Lessor shall have the right to declare this Lease in default, upon sixty (60) days prior written notice to Lessee and Lender, if any, and the Lessor may exercise the remedies set forth in Article 12.09, subject to the provisions of Articles 12.07 and 12.08, in the event of the abandonment by the Lessee of the Premises or the voluntary discontinuance by Lessee of operations at the Airport for any period of time exceeding thirty (30) consecutive calendar days, unless such abandonment or discontinuance has been caused by strike, labor disturbances, acts of God, civil disturbance, temporary remodeling, casualty or governmental order that prevents the Lessee's use of the Premises for the purposes authorized in this Lease, or any other cause beyond the control of the Lessee, or Lessee recommences operations within sixty (60) days of Lessor's written notice or provides adequate written documentation that lessee has not abandoned the Premises or discontinued operations at the Airport, in which event the default notice shall be null and void and of no force or effect; provided that, pending Lessee's actual commencement of operations at the Airport and the commencement of construction of the Improvements contemplated to be developed in accordance with the Development Schedule and Phasing Plan, Lessee may not be declared to have been in default as a result of abandonment of the Premises.

12.04 **Development and Construction Default:** If following the fifteenth (15th) year of the Term, the Lessee has failed to expend the Anticipated Development and Construction Costs, then the Lessor shall have the right to receive 100% of the Minimum Rent except as otherwise reduced as provided herein, and in respect of Parcels as to which the Lessee has not then commenced development, Lessor shall have the right, but only in accordance with the requirements of Article 2.11, above, to exclude from this Lease the Parcels on which Lessee has not then commenced development in accordance with this Agreement, provided that Lessor shall give written notice of its

intention to do so to Lessor and the provision of Article 2.11 shall be applicable as to Lessor's rights in respect of such notice. In no event shall a default declared by Lessor under this Article 12.04 as to a particular Parcel entitle Lessor to declare Lessee in default as to any other portions of the Premises that have been developed (or are in the process of being developed) as of the date of Lessor's notice to Lessee of its default under this Article 12.04 and to which the default does not apply, and regardless of whether Lessee exercises its rights under Article 2.11 in respect of the default declared under this Article, this Lease shall remain in full force and effect in accordance with its terms and in good standing, as to all portions of the Premises on which Lessee has commenced development and is not otherwise in default under the Lease. In the event that any portion of the Premises shall be taken back by Lessor pursuant to this Article 12.04, the applicable Parcel shall be excluded from Lease for all purposes, including, but not limited to, the payment of Rent in connection with same, and the obligations for Minimum Rent during the applicable period shall likewise be reduced appropriately, and the Lease shall be amended to reflect the exclusion of the portion of the Premises taken back by Lessor. The right of Lessor under this Section shall not give rise to any other remedies and the Lessee shall not be deemed to otherwise be "in default", although Lessor shall have the rights provided in this Article as to defaults on particular Parcels of property, and Lessee shall continue to maintain the rights provided Lessee hereunder, including, but not limited to, its rights under Article 2.11 in respect of any Parcel(s) taken back by Lessor pursuant to this Article 12.04.

12.05 **Other Defaults:** The County shall have the right, upon sixty (60) calendar days written notice to the Lessee, to declare this Agreement to be in default upon the occurrence of any one or more of the following, and the Lessor may exercise the remedies set forth in Article 12.09, subject to the provisions of Articles 12.07 and 12.08, unless the same shall have been corrected within such sixty (60) day period, or, if correction cannot reasonably be completed within such sixty (60) day period, unless the Lessee has commenced corrective steps within such sixty (60) day period and diligently pursues same to completion thereafter, in which event the default notice shall be null and void and of no force or effect:

(i) 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; or

(ii) the conduct of any business, the performance of any service, or the merchandising of any product or service by Lessee or any Sub-lessee that is not authorized by Article 3 hereof or permitted by any amendment hereto or consent obtained during the Term.

12.06 **Alternative Dispute Resolution:** Except with respect to Lessee's failure to comply with Article 12.01, 12.02, 12.03 above, each party shall be entitled to undertake a cause of action against the other party in order to resolve such a disagreement except that each party, within forty-five (45) days after notification to the other party of the disagreement, shall undertake and complete non-binding mediation in an effort to resolve the disagreement.

12.07 **Defaults Relate to Separate Parcels:** All of the foregoing defaults specified in this

Article 12 and the remedy of termination of this Lease as a result of any default that is not timely cured, or any other right of termination in this Agreement, shall relate only to the specific Parcel, or, if a sub-lease exists, then only to the portion of the Premises that is the subject of that sub-lease, to which the alleged default applies, so that a default with regard to one Parcel or a sub-leased portion, as the case may be, shall have no effect on this Lease as it relates to other portions of the Premises or other sub-leased portions thereof, nor shall any such default affect the remaining tenancy of Lessee or any other Sub-lessee. In the event of any notice of default given by Lessor to any Sub-lessee of Lessee, such Sub-lessee shall have the right to cure said default, or Lessee may cure same. Any cure by a Sub-lessee shall be deemed to be a cure by Lessee in respect of the portion of the Premises occupied by the Sub-lessee. Lessor's remedies under this Lease in the event of a default by Lessee shall be strictly limited and governed by the terms, conditions and right afforded Lessee as contemplated by this Article 12, and Lessor shall have no right to terminate this Lease in its entirety unless Lessee's default extends to the entirety of the Premises or the entirety of the Rent due in respect of the entire Premises.

12.08 **Non-Disturbance:** In addition to the foregoing Article 12.07, the Lessor specifically agrees that in the event of a Lessee default hereunder as it applies to a specific Parcel, the Lessor will not disturb the Lessee or any Sub-lessee's rights to occupy space sub-leased to it on any other Parcels to which a default does not apply so long as Lessee is remitting applicable Land Rent and Improvement Rent to Lessor in respect of such Sub-lessee's space. Additionally, Lessor shall not disturb or evict Lessee from, or declare Lessee in default of this Lease in respect of, any portion of the Premises upon which Lessee continues to timely pay applicable Land Rent and Improvement Rent and comply with other Lease provisions in respect of such portion of the Premises, notwithstanding that the Lessee may otherwise be in default of this Lease in respect of other portions of the Premises, inclusive of the failure to pay all rentals due in respect of such other portion of the Premises, and regardless of whether the Lease has been terminated as to any other portion of the Premises as a result of a default by Lessee. Lessee may provide notice to Lessor at the time of the remittance of its Rent payments due under this Lease, of the Sections or Parcels as to which such Rent is being paid (or conversely the portion of the Premises for which Rent is not then being paid if the Rent remitted is not the full Rent then due, and Lessor agrees that such notice shall be binding on Lessor in respect of this Article 12. The remedies provided in this Article 12 to Lessor in the event of a partial payment of Rent by Lessee, shall be limited to the Parcel(s) for which the Rent has not been paid should Lessee give notice as aforesaid that such partial payment is applicable to, or specifically excludes payment for, a specific Parcel or Parcels.

12.09 **Remedies upon Default:** In the event of a default by Lessee that is uncured within the applicable cure period Lessor shall have the right to declare this Lease to be terminated, but only as to the portion of the Premises as to which the default was committed, and the following shall be applicable:

(A) **Vacation of Premises:** Lessor may demand that the Lessee vacate, quit, surrender up and deliver the applicable Premises to the Lessor on or before the termination date of this Agreement, whether by lapse of time or otherwise. The Lessee shall surrender the applicable

Premises in the condition required under Article 6.03 herein. All repairs for which the Lessee is responsible shall be completed prior to surrender. The Lessee shall deliver to the Department all keys to the applicable Improvements, if any, upon surrender. On or before the termination date of this Agreement, except in the instance of termination pursuant to Article 12.03, in which event the Lessee shall be allowed up to sixty (60) calendar days, and provided that the Lessee is not in default in the payment of any rentals, fees or charges required to be paid herein, the Lessee shall remove all of its personal property from the applicable Premises. Any personal property of the Lessee not removed in accordance with this Article may be removed by the Department for storage at the cost of the Lessee. Failure on the part of the Lessee to reclaim its personal property within thirty (30) days from the date of termination shall constitute a gratuitous transfer of title thereof to the Lessor for whatever disposition is deemed to be in the best interest of the Lessor.

(B) **Removal of Hazardous Substances:** The Lessee shall, at its expense, take all actions required by Federal, State, and County laws, regulations or codes to remove from the Premises any Hazardous Materials, whether stored in drums, or found in vats, containers, distribution pipe lines, or the like, but only to the extent Lessee is responsible for such Hazardous Materials under Article 7 hereof. All such Hazardous Materials required to be removed by Lessee, shall be removed in a manner approved and authorized by applicable Federal, State, or local laws, regulations or codes.

(C) **Environmental Assessment and Consultant:** If Lessor advises the Lessee that it has reasonable grounds to believe that any Hazardous Material has been released within the Premises, or into the ground under the Premises, by Lessee or one or more of its Sub-lessees, then the Lessee at its expense shall retain an approved environmental consultant to perform whatever environmental assessment may be required to determine the existence and/or extent of such release. If applicable, 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; provided, however, Lessee shall have no liability or obligation hereunder for any violation of Environmental Laws which is attributable to the acts or omissions of any person other than the Lessee, its agents, employees, contractors, Sub-lessees, invitees, and trespassers during the term of this Agreement (nor shall such violations constitute a default or breach of this Agreement), nor shall Lessee have any liability for any environmental condition at the Premises that predated the Effective Date or was caused by other parties at the Airport for whom Lessee is not responsible. Nothing in this Article or this Agreement shall affect the Lessee's liability for environmental violations as separately provided for in any Federal, State or local law.

12.10 **Right to Show Premises:** During the last twelve months of the Term, or any time after the expiration of the applicable cure period afforded Lessee pursuant to a notice of default pursuant to this Article 12 without Lessee having cured, or if applicable, commenced to cure same, the Lessor shall have the right to enter the Premises for the purposes of showing the Premises to prospective Lessees or users during regular business hours.

12.11 **Lessor Defaults:** This Agreement shall be subject to termination by the Lessee as to portions of the Premises as to which the Lessor's default was applicable, in the event of a default by the Lessor in the performance of any covenant or agreement herein required to be performed by the Lessor and the failure of the Lessor to remedy within a reasonable period of time after receipt of written notice by the Lessee to remedy the same. This right of termination is not an exclusive remedy and Lessee may, upon the Lessor's default, exercise any other rights available to it at law or in equity.

12.12 **Other Terminations:** This Agreement shall be subject to termination by the Lessee, in its sole discretion, in the event of any one or more of the following:

(i) the permanent abandonment of the Airport by the Lessor or the permanent elimination not required by Federal or State law of a significant portion of the use of the runways, taxiways, runway lighting, or navigation aids so as to substantially reduce the ability of aviation tenants to make use of the Airport;

(ii) 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 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 to just compensation in the event of any such assumption;

(iii) the issuance of any injunction by a court of competent jurisdiction which in any way substantially prevents or restrains the use of the Airport, and such injunction remains in force for a period of 90 days or more after the expiration of all available appeals therefrom; or

(iv) Upon the occurrence of either of the events described in Articles 12.12(i), (ii) or (iii) above, Lessee may send a notice of termination to the Lessor whereupon this Agreement shall terminate sixty (60) days from the date of receipt of such notice by the Lessor unless Lessor cures the cause of the proposed termination within the sixty (60) day period or else has taken reasonable steps to cure such cause if the cause cannot reasonably be cured within the sixty (60) day period, and upon such termination the Lessee shall have no further obligations hereunder except that, the Lessor shall pay to the Lessee the Termination Fee in order to compensate the Lessee for its economic loss of the use of the Premises and the related amenities and transportation systems established and operated by Lessee as elsewhere set forth in this Agreement. The Termination Fee shall be paid to Lessee in full within one hundred and twenty (120) days of the receipt of the notice of termination of this Agreement and shall consist of the unamortized balance of the cost of constructing all of the Improvements (including hard and soft costs) calculated on a thirty-five (35) year straight line basis from the date of Completion of Construction of the particular Improvement in each case.

ARTICLE 13
Special Conditions

13.01 **Quality of Services:** The Lessee shall furnish the services authorized, pursuant to Article 3 hereof, on a good, prompt and efficient basis and on a fair, equal and not unjustly discriminatory basis to all users thereof.

13.02 **Nondiscriminatory Prices:** The Lessee shall charge fair, reasonable, customary and not unjustly discriminatory prices for each unit of sale or service; 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.

13.03 **Monitoring/Testing of Pricing:** The Lessee, in recognition of the Lessor's obligation, pursuant to Section 22 of Part V of the Federal Aviation Administration's standard grant assurances, to enforce the provisions of Articles 13.01 and 13.02 above, agrees that the Department 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 it be determined that the Lessee is not in compliance with Article 13.01 and 13.02 above, the first of such occurrences shall be considered a curable default. The second such occurrence shall result in a notice to Lessee to immediately cease and desist such conduct and, for failure to do so, the Lessor may bring an action in a court of competent jurisdiction to enjoin Lessee from continuing such conduct, Lessee hereby agreeing that such conduct, if proven and not incidental or isolated, constitutes harm to the Lessor and Lessee's compliance with Articles 13.01 and 13.02 may be subject to specific enforcement.

13.04 **FAA Grants:** The Lessor confirms that there are no unamortized FAA grants ("**Unamortized Grants**") applicable to any portion of the Premises which would prevent or inhibit the development of the Premises or the exclusive use thereof by Lessee and/or its Sub-lessees, licenses, franchises and other granted use rights therein by Lessee. Should any such Unamortized Grants subsequently be determined to exist and Lessee be required to pay off such Unamortized Grants in order to develop and/or obtain the right to the exclusive use by Lessee and/or its Sub-lessees, licenses, franchises and other granted use rights therein by Lessee of the portion of the Premises affected by the Unamortized Grant, then, Lessor authorizes Lessee to pay such Unamortized Grants and Lessee shall be entitled to offset against the Annual Rent next due hereunder, the amount so paid by Lessee together with interest thereon at the Rate from the date paid until fully recovered by Lessee.

13.05 **Development Venture with CDC:** Lessor and Lessee each acknowledge that they are aware of the fact that the development of a portion of the premises leased to CDC (such portion being the "**Venture Parcel**") under the CDC Lease has been subject to a joint venture agreement between CDC and the Original Lessee. Should Lessee proceed to develop such Venture Parcel with CDC, whether under the terms of the joint venture or as otherwise agreed upon by Lessee and CDC, then, the development of such Venture Parcel shall be subject in all respects to the terms and conditions of this Lease rather than the CDC Lease, except that the term applicable to the Venture

Parcel shall expire as of the termination date set forth in the Joint Venture Agreement between Lessee and CDC as approved by Lessor.

13.06 **Fuel Farm:** The parties acknowledge that a portion of the Premises consists of the Fuel Farm on which individual fuel tanks and associated equipment have been placed by several tenants and such tenants arrange for a fuel supplier to keep such tanks filled and subsequently arrange for the fuel to be transferred to individual aircraft. One area of the Fuel Farm area consists of a fuel tank and associated equipment provided by the Department. Lessor shall transfer all existing Fuel Farm leases between Lessor and all existing Fuel Farm tenants to Lessee, and Lessee shall be responsible for such leases and retain all rents thereunder; provided that in respect of the rent collected by Lessee pursuant to such existing Fuel Farm leases Lessee shall pay to Lessor 85% of the rents collected thereunder, and if a new Fuel Farm lease is entered into by Lessee and a current Fuel Farm tenant to replace such tenant's existing Fuel Farm lease, Lessee shall, from the effective date of such new Fuel Farm lease, pay the Lessor 100% of the amount of the rent payable under the existing Fuel Farm lease that was replaced by the new Fuel Farm lease. Lessor, however, shall be entitled to retain its portion of the Fuel Farm on which Lessor's fuel tank and equipment are located, and such area shall be deemed an Excluded Area and not part of the Premises or subject to rent. Lessor shall be required to maintain suitable liability insurance in connection with the operation of its tank in the Fuel Farm. Nothing in this Article 13.06 or this Lease precludes Lessor from imposing a fuel flowage fee on the fuel suppliers at the Airport and from establishing fees and charges from time to time on Fuel Farm operations at the Airport. Lessee and any Sub-lessee shall assure the non-discriminatory access to the Fuel Farm by users of the Airport.

ARTICLE 14
Nondiscrimination

14.01 **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 in 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 reasonable 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 of 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 and are applicable to Lessee.

14.02 **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 grounds of race, color, sex, national origin or ancestry shall be excluded from participation 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 the Premises and the furnishings of services thereon, no person on the grounds of race, color, sex, national origin or ancestry shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Lessee shall use the Premises in compliance with the American 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 and be applicable to Lessee.

14.03 **Breach of Nondiscrimination Covenants:** In the event it has been determined that the Lessee has breached the nondiscrimination covenants contained in Articles 14.01 (Employment Discrimination) and 14.02 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 deliver a notice of violation to Lessee, and if Lessee fails to commence reasonable efforts to cure said violation within one hundred and twenty (120) days of receipt of the notice and thereafter in good faith continues to do so, Lessor may bring an action in a court of competent jurisdiction to enjoin Lessee from continuing such conduct, Lessee hereby agreeing that such conduct, if proven and not incidental or isolated, constitutes harm to the Lessor and Lessee's compliance with Articles 14.01 and 14.02 may be subject to a specific enforcement action.

14.04 **Affirmative Action and Other Programs:** The Lessor has advised Lessee that the provisions of local Ordinance #97-52, currently codified as Section 10-33.01, et seq., of the Miami-Dade County Code, and/or 49 CFR Part 23, Disadvantaged Business Enterprises ("**DBE**") and Federal Law and Grant Assurances are applicable to the Lessee under this Agreement, unless exempted by such provisions, and hereby agrees to comply with all requirements of the Department, the FAA and the U. S. Department of Transportation as applicable to it. These requirements may include the compliance with Federal and County participation goals, keeping of certain records of good faith compliance efforts, and the submission of various reports, including, if directed by the Department under applicable federal, state or local laws, the contracting of specified percentages of goods and services contracts to DBEs. In the event it has been determined, in accordance with Federal and local law, that the Lessee has wilfully defaulted with the requirements set forth in this clause, and the Lessee thereafter fails to comply with the sanctions and/or remedies then prescribed, the Lessor shall have the right, should Lessee fail to take reasonable efforts to commence to cure said violation within one hundred and twenty (120) days of receipt of the notice and thereafter in good

faith continues to do so, to bring an action in a court of competent jurisdiction to enjoin Lessee from continuing such conduct, Lessee hereby agreeing that such conduct, if proven and not incidental or isolated, constitutes harm to the Lessor and Lessee's compliance with Articles 14.01 and 14.02 may be subject to a specific enforcement action.

14.05 **County Contracting Requirements:** To the extent the County adopts ordinances, regulations or policies applicable to design, construction, leasing and any other form of contract used by Lessee in conjunction with its Premises hereunder, that are applicable to Lessee, then Lessee shall comply therewith.

14.07 **Lessee Commitment to Hiring Residents from QNIP Zones:** Lessee agrees that it will use reasonable good faith efforts to (a) hire not less than twenty percent (20%) of its employees, whether for construction, retail services, or other services provided by Lessee under this Agreement, from residents within the areas currently designated as Districts 1, 2 and 3 of QNIP Zone 1 (Quality Neighborhoods Initiative Bond Program), with 7% coming from each of Districts 1, 2 and 3, and not less than seven percent (7%) from the area currently designated as District 13 in QNIP Zone 2, provided that qualified personnel are available at to Lessee for the rates Lessee is otherwise paying for similar employees, (b) work with Florida Memorial College in order to effect appropriate training of local residents to work for Lessee, and (c) as a voluntary commitment and not as a condition to the validity of this lease, and enforceable only to the extent permitted by law, effect a twenty percent (20%) Small Business Enterprise Program for all Lessee's contracts related to construction, retail services or other services provided under the Agreement, if competent persons are so available and on terms reasonably acceptable to Lessee. Lessee's inability to meet the requirements of this Article shall not be a default under this Lease.

14.08 **Disability Non-Discrimination Affidavit:** By entering into this Agreement with the Lessor and signing the Disability Nondiscrimination Affidavit, the Lessee attests that to its knowledge it is not in violation of the American with Disabilities Act of 1990 (and related acts) of Miami-Dade County Resolution No. R-3855-95. If the Lessee is found by the Court to be in violation of the Act, Lessee shall use good faith efforts to cure such violation in a prompt and reasonable manner.

14.09 **Lessee Commitment to Hiring Residents for Community Workforce Program (CWP):** Lessee agrees that it will use reasonable good faith efforts to comply with the Miami-Dade County Community Workforce Program pursuant to Ordinance No. 03-237 as amended and shall attempt to meet the goal (currently twenty-nine percent (29%)) that its workforce performing construction, retail services, or other services shall be performed by residents of the Designated Target Areas (DTA) provided that qualified personnel are available to Lessee for the rates Lessee is otherwise paying for similar employees. Lessee's inability to meet the requirements of this Article shall not be a default under this Lease.

14.10 **Lessee To use Good Faith Efforts to Comply:** Lessor and Lessee agree that with respect to the requirements imposed on Lessee under this Article 14, Lessee shall use reasonable

good faith efforts for Lessee itself and its Sub-lessees to comply with same, and failure to be able to do so due to lack of skilled personnel able to pass appropriate background checks being available will not be a violation of such regulations by Lessee, nor shall any of these Articles be a basis for declaring Lessee in default of this Agreement, except as specifically required by the ordinance or law referenced herein, or required by such ordinance or law to be included as a default in any County airport leases.

ARTICLE 15
Security and Special Provisions

15.01 **Security:**

(A) **Security:** The Lessee shall comply with all security requirements of the Department or the FAA promulgated from time to time as to all tenants and users of the Airport and acknowledges and accepts full responsibility for the security and protection of the Premises and Improvements, its equipment and property on the Airport, and control of access to the Air Operations Area ("AOA") through the Premises and Improvements by persons and vehicles. The Lessee fully understands and acknowledges that any security measures deemed necessary by the Lessee for the protection of said Premises and Improvements, equipment and property and access to the AOA through the Premises and Improvements shall be the sole responsibility of the Lessee and shall involve no cost to the County. All such security measures by the Lessee shall be in accordance with Transportation Security Administration ("TSA") requirements set forth in 49 CFR Parts 1500 *et seq.* and the Lessor's approved Airport Security Plan (ASP).

(B) **Fencing:** Lessee shall be responsible for installing and maintaining all fencing and security fencing required by the FAA or MDAD for the Premises, and for relocating existing fencing to the extent necessary to meet security requirements for Lessee's operations hereunder or as desired by Lessee with the approval of MDAD and the FAA.

15.02 **Security Identification Display Areas Access - Identification Badges:** The Lessee shall be responsible for requesting the Department to issue identification ("ID") badges to all employees who are authorized access to Security Identification Display Areas ("SIDA") on the Airport, designated in the Airport's security program and shall be further responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of the ID badges of all personnel transferred from Airport assignment or terminated from the employ of the Lessee or upon termination of this Agreement. Each employee must complete the SIDA training program conducted by the Department, before an ID badge is issued. The Lessee shall pay, or cause to be paid, to the Department such nondiscriminatory charges, as may be established from time to time, for lost or stolen ID badges and those not returned to the Department in accordance with this Article. The Department shall have the right to require the Lessee to conduct background investigations and to furnish certain data on such employees before the issuance of such ID badges, which data may include the fingerprinting of employee applicants for such badges. To the extent that pursuant to

requirements of the TSA or Homeland Security or for any other reason additional security at the Airport is required, each of the Lessor and Lessee shall reasonably discuss the requirements and allocate the costs and responsibility for same among themselves in and appropriate and reasonable manner.

15.03 **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 and Improvements 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 Opa-locka Airport.

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

15.05 **Drug-Free Workplace Default:** The Lessee acknowledges it has provided to the County 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 may be amended from time to time ("Ordinance"), such Ordinance being currently codified as Section 2-8.1.2 of the Miami-Dade County Code. Based on the provisions of said Ordinance, the County shall have the right, if Lessee shall fail to take action to comply with the Ordinance following sixty (60) days written notice to the Lessee and continues to comply thereafter and provide, as of each anniversary of the Effective Date of this Agreement, the annual re-certification affidavit as required by the ordinance, to bring an action in a court of competent jurisdiction to enjoin Lessee from continuing such conduct, Lessee hereby agreeing that such conduct, if proven and not incidental or isolated, constitutes harm to the Lessor and Lessee's compliance with this Article 15.05 may be subject to a specific enforcement action, or seek other remedies provided in the Ordinance.

15.06 **Aeronautical Services Consistent with Lessor's Aviation System Plan:** Lessee acknowledges that County shall have the right from time to time to develop its Aviation System Plan for development of all airports within the County's airport system and that the Lessee's operations hereunder shall not be inconsistent with such plan; provided, however, if any change to the County's Aviation System Plan or CDMP substantially impairs Lessee's operations as then conducted by Lessee (provided such operations were themselves then consistent with the then-existing Aviation System Plan), then Lessee shall have the right to terminate this Agreement as to all or a portion of the Premises upon six (6) months' notice, following which County shall be required to pay Lessee the Termination Fee set forth in Article 12.12(iv).

15.07 **Agreement Subject to Approvals:**

(A) **FAA Review:** This Agreement and any amendments hereto are subject to review by the FAA and shall not be effective until the FAA has reviewed the Agreement and has indicated that the Agreement, as same may then be amended, is in accordance with federal law, federal grant assurances, and FAA requirements.

(B) **Trustee Review:** This Agreement is also subject to the review and acceptance of the Trustee under the Trust Agreement..

(C) **Effect of Failure to Obtain Required Approvals:** If either the FAA or the Trustee fail to provide their acceptance of this Agreement, the parties will use best reasonable efforts to agree to an amendment hereto that overcomes the basis for the non-acceptance. If the parties are unable to agree to such an amendment, then this Agreement, or such part of it that is the basis of the non-acceptance, shall be void and of no further effect.

15.08 **No Operations to Jeopardize Lessor's Aviation Interest:** Notwithstanding any rights herein granted to the Lessee, under no circumstance shall the Lessee be entitled to conduct any operations or exercise any right that jeopardizes the Lessor's rights and power, or prevents the County from taking advantage of any right and power, to operate the County's aviation system in accordance with its then-existing Plan or any right to obtain federal funding consistent with the County's established priorities in regard thereto. If Lessor determines that Lessee's operations or rights have produced such a result, Lessor shall notify Lessee thereof and identify the course of action or waiver of rights that will cure the problem. Lessee shall thereupon have the right to (a) comply with such Lessor request, (b) decline to comply with it and terminate this lease on one (1) month's notice to Lessor, with Lessee having no right to damages from Lessor, or (c) file an appropriate action in court to determine the validity of the proposed cure as a means of solving the Lessor's then identified problem.

15.09 **No Exclusive Rights:** As provided in the FAA's Grant Assurance 23, taken in part from 49 U.S.C. Section 47107(a)(4), Lessor and Lessee will permit no exclusive right for the use of the Airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this Article, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

(i) It would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide such services, and

(ii) If allowing more than one fixed-base operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

Lessee further agrees that all use of the Premises and the Airport by Lessee or any Sub-lessee shall be subject to the federal law and FAA requirements and that it will not, either directly or indirectly, grant or permit any person, firm or corporation, the exclusive right at the

Airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, air craft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity granted by it and now existing the Airport before the grant of any assistance under Title 49, United States Code.

15.10 **Independent Private Sector Inspector General Services:** To the extent set forth in Lessor's Resolution No. R-516-96 and Administrative Order 3-20, as they may be amended from time to time, Lessor shall have the right, but not the obligation, to retain the services of an independent private sector inspector general ("**IPSIG**") who may be engaged to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance of the Lessee and Lessor in connection with this Agreement. The scope of services performed by an IPSIG may include, but are not limited to, monitoring and investigating compliance with Agreement requirements, project costs, and investigating and preventing corruption and fraud.

The IPSIG may perform its services at all levels of the activities under this Agreement, including but not limited to, project design, activities of the Lessee, its officers, agents and employees, lobbyists, County staff, and elected officials.

Upon thirty (30) days written notice to Lessee from an IPSIG, Lessee shall make all requested records and documents available to the IPSIG for inspection and copying.

The IPSIG shall have the right to examine all documents and records in the Lessee's possession, custody or control which, in the IPSIG's reasonable judgment, pertain to Lessee's performance under this Agreement.

The provisions of this Article 15.10 shall apply to the Lessee, its officers, agents, and employees. The Lessee shall incorporate the provisions of this Article 15.10 in all of its sub-leases and all other agreements executed by Lessee in connection with its performance of this Agreement.

Nothing in this Agreement shall impair any independent right of the Lessor to conduct any audit or investigative activities relating to Lessee and this Agreement. The provisions of this Article 15.10 are neither intended, nor shall they be construed to impose, any liability on the County by the Lessee or third parties.

15.11 **Art-in-Public-Places:** To the extent the Lessor's Art-in-Public-Places program under Section 2-11-15 of the Code is applicable to any portion of Lessee's activities hereunder, Lessee shall comply with such provisions except to the extent Lessee is exempted therefrom.

ARTICLE 16
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.

ARTICLE 17
Civil Actions

17.01 **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.

17.02 **Registered Office/Agent; Jurisdiction:** 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 607.034, 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 18
Trust Agreement and Bond Resolution

18.01 **Incorporation of Trust Agreement and Bond Resolution by Reference:** Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that, to the extent of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, and the level of rents, fees or charges required hereunder and their periodic modification or adjustment as may be required by the financial documents the provisions of (a) the Trust Agreement and specifically the terms of Section 5.01 thereof, and (b) Resolution No. R-1654-84 adopted by the County on December 4, 1984, Securing Dade County Aviation Facilities Revenue Bonds (the "Bond Resolution"), and specifically the terms of Section 5.01 thereof, shall prevail and govern at all times during the term of this Agreement. Copies of the Trust Agreement and Bond Resolution are available for inspection in the offices of the Department during normal working hours. Lessee agrees that in connection with its operations under this Lease and its development and construction of Improvement at the Airport, it will comply with Sections 5.01 and 7.07 of the Trust Agreement.

18.02 **Adjustment of Terms and Conditions:** If, at any time during the term of this Agreement, a court 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 and/or bond resolution or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement and/or bond resolution. 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 of rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

18.03 **Lessee Right to Terminate as to a Portion or all of the Premises:** In the event Lessor does not make appropriate changes to its CDMP or ALP and any other land use document that may be required for Lessee's operations hereunder so that the phasing plan in Exhibit "C" may go forward as set forth therein, or if the terms and conditions of this Agreement, including the rentals, fees and charges payable hereunder, have been substantially modified pursuant to Article 18.02 above, the Lessee may at any time within one year following the effective date of such incorporation or modification, or event giving rise to such right, terminate this Agreement either in its entirety or as to those Parcels affected by the said substantial modifications or giving rise to the right, by giving 90 days written notice to the Lessor, without liability to by either party to the other.

ARTICLE 19
Rights Reserved to the Lessor

19.01 **Rights of Lessor at Airport:** The Lessor shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport not located on the Premises. The Lessor 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 Lessor, its employees, or agents; provided, however, the Lessor shall use its best efforts to minimize any interference with the activities of Lessee conducted on the Premises. Lessor shall be obligated to make such repairs as needed to comply with Lessor's obligations under Article 6.

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

19.03 **Right to Regulate:** Nothing in this Agreement shall be construed to waive or limit the governmental authority of the Lessor, 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 or the

Planning Department (as they may be renamed from time to time), 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.

ARTICLE 20
Agreement Subject to Rights of U.S. Government

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 21
Lessor Obligations

21.01 **Lessor Obligations:** In consideration of the Lessee's agreement to proceed with the development of the Premises as described in Article 2.06 hereof, the Lessor agrees to:

(i) In general accordance with a program agreed with the Lessee (both parties acting reasonably) and subject to reasonable budgetary restraints, enhance the appearance of the Airport;

(ii) Perform all environmental remediation required pursuant to Article 7 hereof, but only to the extent remediation steps must be undertaken pursuant to applicable law or in order for Lessee to be able to construct its Improvements and/or allow such Improvements to be fully occupied and utilized as intended. All such remediation shall be performed by Lessor in accordance with a remediation plan reasonably developed by the Lessor, which plan shall utilize commercially reasonable means, shall be performed on a Parcel by Parcel or Section by Section basis, be subject to the reasonable approval of the Lessee, and be performed so as to allow Lessee to proceed with its construction of the Improvements in Parcels as planned and with minimal interference from such remediation activity of the Lessor; notwithstanding the foregoing, however, Lessor's obligations for remediation are further limited as may be provided in Article 7. In addition Lessor shall perform a general site clean-up of the Section in question, which without restricting the generality of the

foregoing shall include the removal of all non-flyable aircraft or parts thereof, all disused vehicles or parts thereof, all disused machinery or parts thereof, all dangerous goods or equipment, all unsightly or abandoned items visible to the public, except as to any such items that are introduced onto the Premises after the Effective Date by persons other than Lessor or its tenants at the Airport.

(iii) Satisfy at Lessor's sole cost and expense, all conditions, qualifications and requirements which are applicable to those County permits which relate to the construction of improvements required of the Lessor within or outside the Airport (other than Improvements on the Premises which shall be the obligation of the Lessee) and which Lessor has specifically agreed to undertake, provided however that nothing shall require Lessor to bear the cost of obtaining any permits and approvals for land development including facility construction thereon that pertain to Lessee's development under this Agreement;

(iv) To the extent not prevented by reasonable budgetary restraints, bring all utility lines as required for specific projects based on a the development schedule for the Premises (including, but not limited to, water, sewer, storm drainage) to the boundaries of the Premises at locations reasonably acceptable to the Lessee, and of sufficient capacity to accommodate the development of the total Premises as shown on the ALP. County shall be entitled to recover all costs of bringing such utility lines to the boundaries by imposing reasonable installation and user fees upon any use of the facilities, including Lessee, in the manner established from time to time for all users similarly situated. If budgetary restraints do not permit Lessor to comply with this Article 21.01(iv) as to a particular utility line, Lessee shall be entitled to cause the utility line to be constructed at its cost, and to impose a reasonable charge upon other tenants making use of such utility lines, and Lessor shall provide reasonable cooperation so as to effect Lessee's collection of such charges;

(v) Operate and maintain the Airport's existing and future runways and taxiways, as well as all Navigational aids and operational lighting including all runway and taxiway lights (edge and centerline), and approach lights as necessary to provide lighting sufficient for landings at the Airport;

(vi) Provide sufficient and adequate fire safety personnel and equipment at the Airport which shall be of sufficient size and capacity to provide fire protection facilities and capacities adequate for the then-existing aviation activities at the Airport, within Lessor's budget therefor; and

(vii) Notwithstanding any obligation of the Lessor provided hereinabove, Lessor shall not be required to commence or pursue any such obligation unless it is reasonably satisfied that Lessee intends to pursue construction of a particular facility in any Section that required Lessor's obligation in the first place; provided that Lessee's submission of plans for an Improvement in such Section to the Lessor shall satisfy Lessor as required in this subsection.

21.02 **Intentionally Deleted**

21.03 **Commercial Air Service Approvals:** In the event Lessor determines to pursue

Commercial Air Service Approvals the Lessee agrees to reasonably cooperate with the Lessor in pursuing the Commercial Air Service Approvals at no cost or expense to the Lessee except for Lessee bearing its own costs for Lessee's personnel consultants and attorneys necessary or desirable for pursuing such approvals. If approvals are granted, Lessee shall thereafter be obligated to pay to Lessor all rates, fees, and charges imposed on users of the commercial air services provided at the Airport, in accordance with the rates, fees, and charges schedule established by the County from time to time and applied in a manner to all users of the services as permitted under federal law.

ARTICLE 22
Intentionally Deleted

ARTICLE 23
Regulations, Licenses, and Permits

23.01 **Rules and Regulations – General:** Subject to the provisions set forth elsewhere herein which confirm that Lessee has no liability for Environmental Condition(s) existing at the Premises as of the Effective Date of this Lease, Lessee shall comply with all Ordinances of the County, including the Rules and Regulations of the Department, Chapter 25, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives issued thereunder, all additional laws, statutes, ordinances, regulations and rules of the Federal, State and County Governments, specifically including, but not limited to, rules and policies of the County such as Resolution No. 583-98 relating to compliance with County requirements for design contracts, 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.

(A) **Access for Governmental Officials:** The Lessee agrees to permit the entry, at all reasonable times of Inspectors of the Department, the County's Department of Environmental Resources Management ("DERM"), or any Federal, State or County agency having jurisdiction over any law or requirement referenced in Article 23.01(A) (Rules and Regulations – General) above, to make inspections of the Premises and Improvements to determine the Lessee's compliance therewith.

(B) **Cost and Maintenance of 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 ensuring 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, Certificates of Use and Occupancy and any required Industrial Waste or Operating Permits from 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 Certificates of Use and Occupancy and applicable industrial waste and operating permits when occupying any Improvements. Upon written request of the Department, the Lessee shall provide to the Department copies of any permits and licenses, and applications therefor, which the Department may request.

(C) **Violations of Rules and Regulations:** Subject to the provisions of this Article 23.01(C), the Lessee agrees to pay on behalf of the County any penalty, assessment of fine issued against the County, or to defend in the name of name of County 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 Sub-lessees, contractors, or invitees, have violated any law, ordinance, regulation, rule or directive described in Article 23.01. The above condition shall be included in every sub-lease, contract and other agreement, that the Lessee may enter into related to its operations and activities under this Agreement and that any such sub-lease, 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.

23.02 **Improvements Subject to Lessor Approval:** Notwithstanding anything herein to the contrary, Lessee acknowledges that all development of facilities on the Premises shall be subject to and be consistent with the Lessor's Aviation System Plan, Airport Master Plan, or ALP (which, as to the ALP and as provided in Article 2.06(B), the Department shall recommend for inclusion in the CDMP), as developed from time to time. Lessee acknowledges that Lessor shall have complete discretion to change the CDMP and to adopt an ALP that best meets the interests of the Lessor and incorporates the Improvements constructed by Lessee at the Premises. Lessee further acknowledges that under Articles 15.06 and 15.08, Lessee's operations on the Premises shall always be subject to the Lessor Aviation System Plan and that any operations once commenced may be precluded or may be required to change in order to comply with changes in the Lessor Aviation System Plan as adopted by the Lessor from time to time in its discretion. Provided, however, Lessor may not make any change in the Master Plan or CDMP that substantially precludes the use of such facility after Lessee has constructed a facility then in accordance with the ALP or CDMP; provided further, however, the foregoing restriction shall not apply to any change the Lessor is entitled to make to its Aviation System Plan, nor shall it preclude Lessor's powers of eminent domain.

ARTICLE 24
Miscellaneous Provisions

24.01 **No Representation:** Except with respect to the environmental condition of the Premises as of the Effective Date as determined pursuant to Article 7 hereof and the Lessor's obligations in connection therewith, and except as otherwise expressly set forth herein, 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.

24.02 **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.

24.03 **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 recognized overnight carrier or by registered or certified mail, return receipt requested, to the parties as follows:

As to the Lessor or the Department

Aviation Director
Miami-Dade County Aviation Department
Post Office Box 592075
Miami, FL 33159

With a copy to:

County Attorney's Office
P.O. Box 592075
Miami, FL 33159

As to the Lessee:

AA Acquisitions, LLC
1400 N.W. 107th Avenue
Miami, Florida 33172

with copies to:

Linda Adler, Esq.
1400 N.W. 107th Avenue
Miami, Florida 33172

and

Arnold D. Shevin
Berger Singerman, P.A.
200 So. Biscayne Blvd., Suite 1000
Miami, Florida 33131

or to such other addresses and/or persons as may hereafter be provided by the parties in writing. Notices by overnight carrier or registered or certified mail shall be deemed received on the delivery date indicated by the carrier or U.S. Postal Service on the delivery receipt. Hand delivered notices shall be deemed received by the Lessee when presented to the local management representative of the Lessee and by the Lessor when presented to a management representative of the Department.

24.04 **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.

24.05 **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 Lessor on, or invalidate, any insurance policies of the Lessor or any policies of insurance written on behalf of the Lessee under this Agreement.

24.06 **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.

24.07 **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.

24.08 **Inspections:** Subject to satisfying any conditions to entry established elsewhere in this Agreement, 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 and Improvements at all reasonable times for the purposes of inspection and testing to determine compliance with the provisions of this Agreement. This right of inspection and testing shall impose no duty on the County to inspect and shall impart no liability upon the County should it not make any such inspections.

24.09 **Payment of Taxes:** The Lessee shall pay all taxes and other costs lawfully assessed against its leasehold interests in the Premises and Improvements, 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 and the continuation of that failure for more than the applicable grace period established in Article 12 shall constitute a default.

24.10 **Quiet Enjoyment of Others:** The Lessee shall take reasonable commercial efforts to control the actions of its employees, agents, invitees and those doing business with it, so as to not 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.

24.11 **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.

24.12 **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."

24.13 **Quiet Enjoyment:** Subject to the terms of this Agreement, specifically including but not limited to the environmental covenants and undertakings of Lessor under Article 7, the Lessor's right and obligation to make certain repairs, alterations, and additions under Articles 6 and 19.01, and Lessor's other rights under Article 19.01, 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 15.03, all of which provisions and others in the Agreement the Lessee acknowledges may cause disruption and disturbance to the Lessee, and in respect of which Lessor will use good faith efforts to minimize, and upon the observance by the Lessee of all the terms, provisions, covenants and conditions imposed upon the Lessee hereunder, the Lessee and any and all of its Sub-lessees 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 Lessor's tenants or users of the airport or Lessee's Sub-lessees, or when any department or agency of the Lessor is acting in its governmental capacity, or by Acts of

God; provided that Lessor shall use reasonable good faith efforts to enforce lease covenants in its leases with tenants at the Airport to prevent such disruption to Lessee's business at the Airport by Lessor's tenants.

24.14 **Air Shows and Special Events:** The Department, in promoting aviation and the Department's airport system, may, from time to time, sponsor or authorize air shows and special aviation support events at the Airport. These air shows and special events may benefit from the cooperation and assistance of the Lessee and its Sub-lessees in and users of the Premises, specifically those with leased ramp facilities. In support of these activities, the Lessee will encourage such Sub-lessees and users to cooperate with the Department to ensure the success of the air shows and special events. The Department shall actively keep the Lessee advised of all of the planning for such events, air shows or Department sponsored special events, and if the aircraft apron portions of the Premises need to be used.

24.15 **Lessor's "Tenant Airport Construction-Reimbursable" Contracts:** From time to time the Lessee and the County through its County Manager or designee shall be entitled to enter into contracts under the Aviation Department's Tenant Airport Construction-Reimbursable ("TAC-R") program for the purpose of enabling Lessee to construct facilities or improvements deemed necessary or appropriate for Lessee's construction and use of its Improvements hereunder. Such contracts shall follow the Department's then current TAC-R contract requirements and shall provide for the County's reimbursement of Lessee's costs pursuant to any such contract.

24.16 **Force Majeure:** Except as provided below, any prevention, delay or stoppage attributable to strikes, lockouts, labor disputes, acts of God, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (collectively, the "Force Majeure") will excuse the performance of that party of the obligation affected by such Force Majeure for a period equal to the duration of the prevention, delay or stoppage. If, therefore, this Agreement specifies a time period for performance of an obligation of either party, a delay that a Force Majeure causes will extend the period within which the party must complete its performance. The foregoing provisions of this Section 24.16 will not apply to (i) the obligations imposed with regard to rent and other charges Lessee must pay in accordance with the terms of this Agreement and (ii) the obligations imposed upon the County to pay any amount becoming due to Lessee under the terms of this Agreement.

24.17 **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.

24.18 **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, for that reason alone, be construed in favor of or

against any of the parties hereto.

24.19 **Counterpart Execution:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document. To facilitate execution of this Agreement, any amendment hereto or any other notice or instrument being executed in connection herewith, the parties agree that they may execute counterparts of the signature pages and transmit same to the other party by facsimile and/or email and a counterpart of this Agreement reflecting signatures transmitted by facsimile shall have the same force and effect as a counterpart hereof containing original signatures.

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[The Execution Page Follows this Page]

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: _____, Clerk

By:_____

Deputy Clerk
(SEAL)

AA ACQUISITIONS, LLC, a Florida limited liability company

By: _____
Name: Michael M. Adler, Manager

SCHEDULE OF EXHIBITS

EXHIBIT A Site Plan – First referenced in 5th Whereas Clause

EXHIBIT B Survey and Legal Description of the Premises - First referenced in Section 2.02 (A)

EXHIBIT C Development Schedule and Phasing Plan - First referenced in Section 2.02 (B)

EXHIBIT D Schedule of Existing Leases - First referenced in Section 2.04 (D)

EXHIBIT E Intentionally Deleted

EXHIBIT F Airport Layout Plan - First referenced in Section 1.04

EXHIBIT G Form of Memorandum of Lease

EXHIBIT H Schedule Of Baseline Environmental Report, CARS, RAPS and Other Environmental Reports - First referenced in Section 7.03 (C)

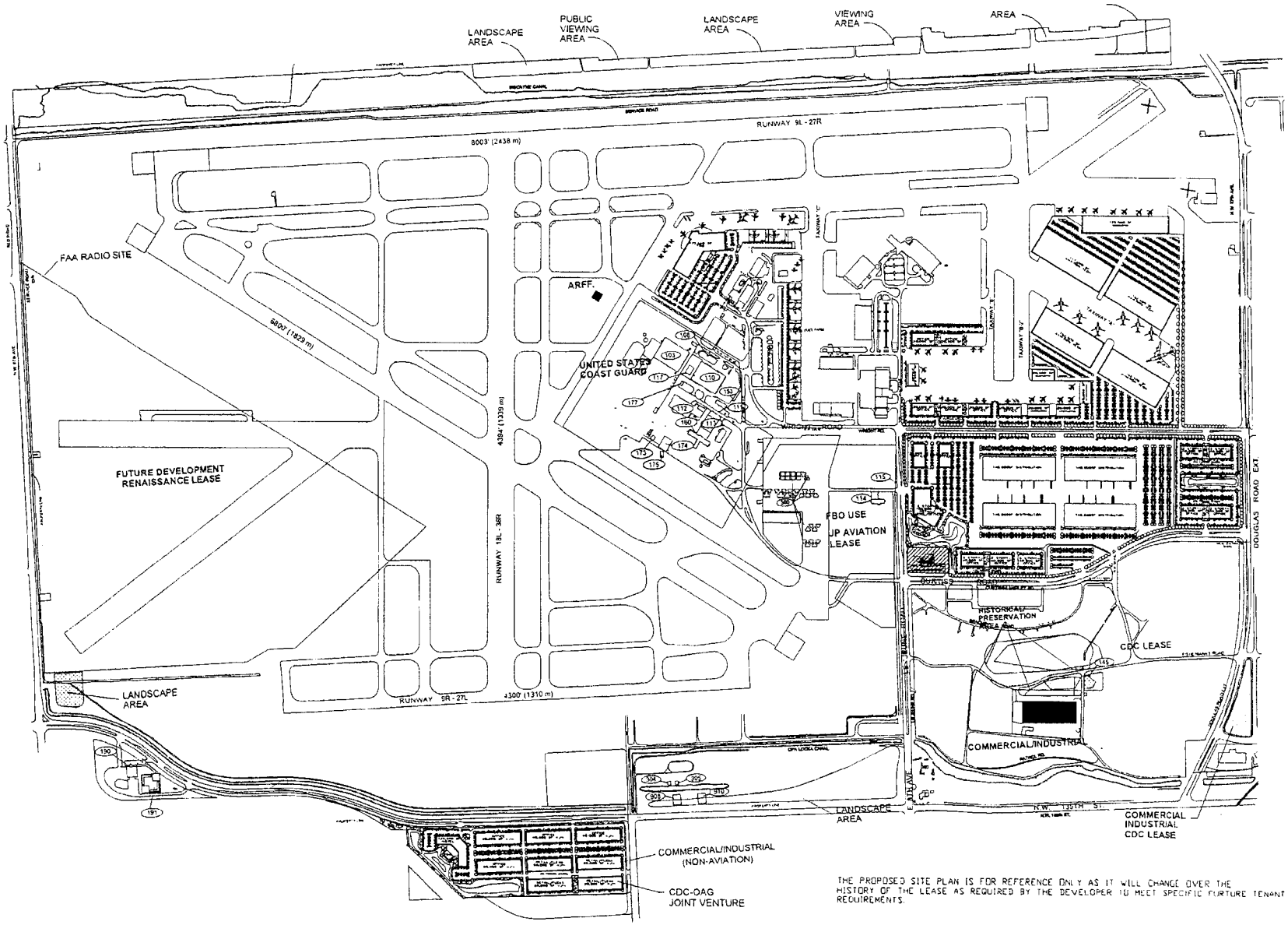
EXHIBIT I Intentionally Deleted

EXHIBIT J Intentionally Deleted

EXHIBIT K Sketch Of Existing Excluded Areas - First referenced in Section 2.04 (A)

EXHIBIT A

SITE PLAN



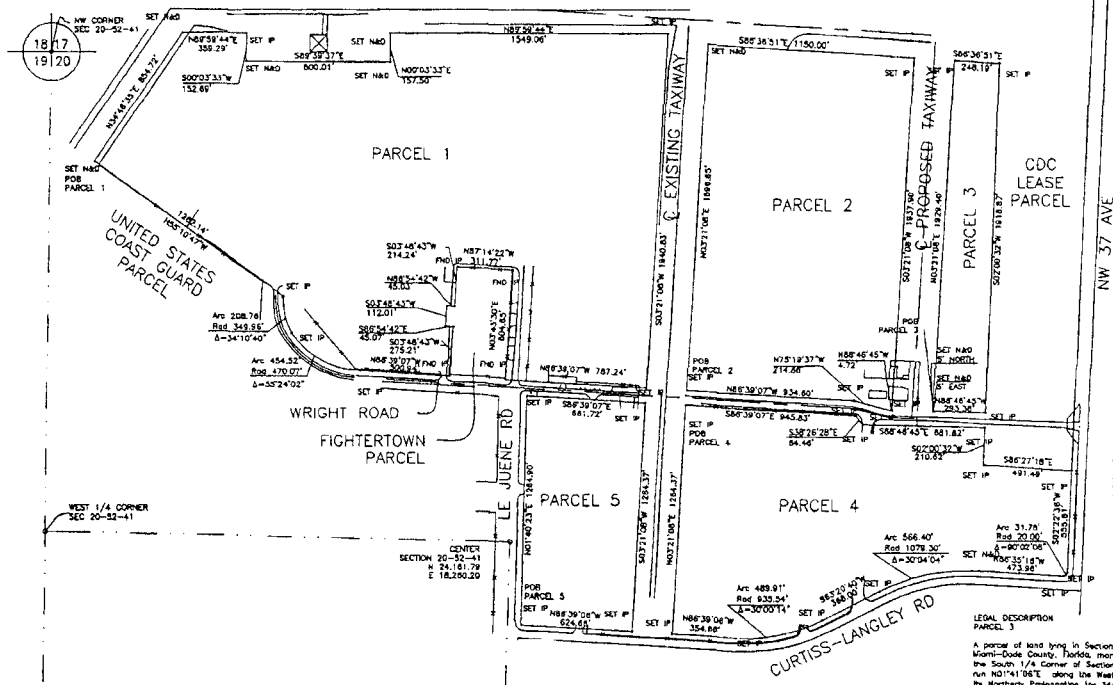
THE PROPOSED SITE PLAN IS FOR REFERENCE ONLY AS IT WILL CHANGE OVER THE HISTORY OF THE LEASE AS REQUIRED BY THE DEVELOPER TO MEET SPECIFIC FUTURE TENANT REQUIREMENTS.

OPA LOCKA AIRPORT PROPOSED DEVELOPMENT OF ADLER LEASEHOLD

EXHIBIT B

SURVEY & LEGAL DESCRIPTION OF THE PREMISES

POINT	OPA LOCKA AIRPORT GRID NORTH	OPA LOCKA AIRPORT GRID EAST	STATEPLANE COORDINATES (83/90) NORTH	STATEPLANE COORDINATES (83/90) EAST
100	26246.568	19938.908	573301.910	894400.220
101	26950.618	16426.421	574031.390	891845.845
102	26950.646	16765.718	574052.528	892204.317
103	26797.953	16785.557	573900.086	892213.130
104	26793.210	17585.553	573942.352	893012.022
105	26950.707	17585.718	574099.567	893002.932
106	26950.827	18134.723	574190.734	893548.306
107	25013.315	19021.283	572249.880	893549.840
108	25108.800	17433.228	572249.319	891949.063
109	25318.548	17039.835	572438.161	895554.000
112	25518.459	16991.478	572632.906	895493.982
113	25893.576	15306.805	574148.800	897774.318
114	26825.658	20504.798	574148.247	898824.318
115	24891.170	20386.762	572208.187	898820.136
116	24845.595	20178.906	572230.286	898708.443
117	25000.175	19245.899	572249.936	897774.840
118	28812.370	20729.405	574146.178	898148.318
119	28797.712	20977.162	574146.100	899397.304
120	24850.021	20909.897	572227.771	899443.022
121	24886.272	20618.564	572214.779	899149.848
122	24918.319	19240.897	572165.959	897774.863
123	24861.063	20185.205	572166.390	898720.625
124	24810.592	20225.283	572116.241	898763.670
125	24788.065	20906.952	572143.787	899446.015
126	24563.575	20899.569	571933.227	899450.010
127	24555.185	21390.117	571931.700	899941.497
128	24000.051	21387.078	571378.180	899951.111
130	23960.915	21345.904	571338.833	899931.088
131	24009.125	20872.782	571388.198	899457.136
132	23918.329	20324.341	571211.378	898918.269
134	23731.235	19995.452	571027.248	898597.648
136	23633.402	19521.104	570901.715	898129.666
137	23654.118	19187.054	570901.592	897775.211
138	23667.257	18942.438	570901.515	897550.211
139	23763.740	18318.845	570901.300	896925.583
140	24966.103	18355.776	572165.648	896886.138
141	24529.459	19018.371	572165.660	897549.863
142	24891.049	20391.479	572208.343	898924.851
143	25077.548	17923.310	572248.495	896448.990
144	25332.145	17941.807	572524.696	896452.123
145	25334.574	17896.800	572524.475	896407.051
146	25485.335	17904.048	572636.480	896407.919
147	25463.908	17949.018	572636.700	896452.953
148	25477.678	17963.258	572650.637	896464.513
149	25662.662	18274.670	572854.243	896786.368
150	25039.289	18233.368	572248.604	896762.801
151	21535.507	15390.672	568578.540	894329.470
152	20965.062	15572.808	567946.134	894348.575
153	20937.419	14278.632	567902.286	893052.637
154	21567.785	14291.851	568532.458	893030.998
155	21568.276	14231.870	568530.422	892971.031
156	20838.919	14218.650	567800.260	892992.871
157	20940.856	14147.002	567897.804	892923.241
158	21260.351	13569.994	568200.771	892427.929
159	21533.847	13579.871	568456.746	892322.122
160	21565.452	13580.965	568506.330	892320.300



NOTES

THIS IS A BOUNDARY SURVEY

BEARINGS ARE BASED ON THE OPA LOCKA AIRPORT COORDINATE SYSTEM

EXISTING IMPROVEMENTS ARE NOT SHOWN

POC DENOTES POINT OF COMMENCEMENT

POB DENOTES POINT OF BEGINNING

℄ DENOTES CENTER LINE

N&D DENOTES NAIL AND DISK

FND DENOTES FOUND

IP DENOTES IRON PIPE

NO INSTRUMENT OF RECORD REFLECTING EASEMENTS, RIGHT OF WAY, AND OR OWNERSHIP WAS FURNISHED TO THIS SURVEYOR. THERE MAY BE INFORMATION ON RECORD PLATS OR ON OTHER RECORDED DOCUMENTS THAT EFFECT THIS PROPERTY.

SET IP DENOTES SET IRON PIPE WITH CAP LB 5183

SET N&D DENOTES SET NAIL AND DISK LB 5183

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED SKETCH REPRESENTS A RECENT SURVEY MADE UNDER MY DIRECTION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY COMPLIES WITH MINIMUM TECHNICAL STANDARDS ESTABLISHED BY THE FLORIDA STATE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS.

AYLWARD ENGINEERING & SURVEYING, INC.
LB No. 5183

SHARON AYLWARD COX, PLS No. 5450 OR
JAMES F. AYLWARD, PLS No. 1960

THIS SURVEY NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER.

LEGAL DESCRIPTION
PARCEL E (OPA-LOCKA AIRPORT - North of Gratigny Parkway, East of NW 49th Ave.)

A portion of the East 1/2 of Tracts 2 and 7, of "SUBDIVISION OF N.E. 1/4 OF SEC. 30 TWP. 52 S. RGE 41 E.", according to the Plat thereof as recorded in Plat Book 18, Page 14 of the Public Records of Miami-Dade County, Florida, lying North of GRATIGNY PARKWAY (State Road 924), as shown on the Florida Department of Transportation Right of Way Map, Section 87008-2504, also recorded in Official Records Book 14186, pages 3523 through 3529, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northwest corner of the Northeast 1/4 of Section 30, Township 52 South, Range 41 East; thence S88°34'35"E along the North line of said Section 30 for 681.17 feet; thence S01°15'47"W for 30.00 feet to the POINT OF BEGINNING of PARCEL "E"; thence S88°34'35"E along the North line of said Tract 2, for 831.11 feet; thence S01°22'59"W along the East line of said Tracts 2 and 7 for 630.54 feet; thence N88°34'12"W along the South line of said Tract 7 for 69.67 feet (the following two (2) courses being along the Northerly Right of Way line of said GRATIGNY PARKWAY); thence N40°54'30"W for 423.01 feet to a point of curvature of a circular curve to the left, concave to the Southwest; thence Northwesterly along the arc of said curve, having a radius of 2059.88 feet and a central angle of 11°06'46", for 400.72 feet; thence N01°15'47"E along the West line of the East ½ of said Tract 2 for 48.62 feet to the POINT OF BEGINNING. Said lands lying in Miami-Dade County, Florida, and containing 5.299 Acres, more or less.

LEGAL DESCRIPTION
PARCEL G (OPA-LOCKA AIRPORT - South of NW 135th Street, East of NW 47th Ave.)

Tract 1 and 8, of "SUBDIVISION OF NE 1/4 OF SEC. 30 TWP. 52 S. RGE 41 E.", according to the Plat thereof as recorded in Plat Book 18, Page 14 of the Public Records of Miami-Dade County, Florida. Being more particularly described as follows:

COMMENCE at the Northeast corner of Section 30, Township 52 South, Range 41 East; thence N88°34'35"W along the North line of said Section 30, for 33.00 feet; thence S01°37'23"W for 30.00 feet to the POINT OF BEGINNING of PARCEL "G"; thence continue S01°37'23"W along the East line of said Tract 1 and 8, for 630.69 feet; thence N88°34'12"W along the South line of said Tract 8 for 1298.58 feet; thence N01°22'59"E along the West line of said Tracts 1 and 8 for 630.55 feet; thence S88°34'35"E along the North Line of said Tract 1 for 1299.22 feet to the POINT OF BEGINNING. Said lands lying in Miami-Dade County, Florida, and containing 18.790 Acres, more or less.

LEGAL DESCRIPTION
PARCEL 1

A parcel of land lying in Section 20, Township 52 South, Range 41 East, Miami-Dade County, Florida, more particularly described as follows: COMMENCE at the South 1/4 Corner of Section 20, Township 52 South, Range 41 East; thence run N01°41'06"E along the West line of the Southwest 1/4 of said Section 20 and its Northerly Prolongation for 4865.05 feet; thence run N88°18'54"W for 2381.85 feet to the POINT OF BEGINNING of PARCEL 1; thence run N34°46'35"E for 854.72 feet; thence run N89°58'44"E for 359.29 feet; thence run S00°03'33"W for 152.68 feet; thence run S89°39'37"E for 800.01 feet; thence run N00°03'33"E for 157.50 feet; thence run N89°59'44"E for 1549.06 feet; thence run S03°21'08"W for 1940.63 feet; thence run N88°39'07"W for 787.24 feet (the following seven (7) courses being along the boundary line of the FIGHTERTOWN LEASE PARCEL); thence run N03°43'30"E for 604.65 feet; thence run N87°14'22"W for 311.77 feet; thence run S03°46'43"W for 214.24 feet; thence run N86°54'42"W for 45.03 feet; thence run S03°46'43"W for 112.01 feet; thence run S86°54'42"E for 45.07 feet; thence run S03°46'43"W for 275.21 feet; thence run N88°39'07"W for 500.94 feet to the point of curvature of a circular curve, concave to the Northeast; thence run Northwesterly along the arc of said curve, having a radius of 470.07 feet and a central angle of 55°24'02", for a distance of 454.52 feet to a point of common curvature with a circular curve concave to the Northeast; thence run Northwesterly along the arc of said curve, having a radius of 348.98 feet and a central angle of 34°10'40", for a distance of 208.76 feet; thence run N53°10'47"W along the Northeasterly line and its extension of the COAST GUARD PARCEL for 1282.14 feet to the POINT OF BEGINNING. Said lands lying in Miami-Dade County, Florida, and containing 103.804 Acres, more or less.

PARCEL 2

A parcel of land lying in Section 20, Township 52 South, Range 41 East, Miami-Dade County, Florida, more particularly described as follows: COMMENCE at the South 1/4 Corner of Section 20, Township 52 South, Range 41 East; thence run N01°41'06"E along the West line of the Southwest 1/4 of said Section 20 and its Northerly Prolongation for 3514.44 feet; thence run S88°18'54"E for 960.62 feet to the POINT OF BEGINNING of PARCEL 2; thence run N03°21'08"E for 1898.85 feet; thence run S88°38'51"E for 1150.00 feet; thence run S03°21'08"W for 1937.90 feet; thence run N88°46'45"W for 4.72 feet; thence run N75°19'37"W for 214.88 feet; thence run N88°39'07"W for 934.60 feet to the POINT OF BEGINNING. Said lands lying in Miami-Dade County, Florida, and containing 50.169 Acres, more or less.

LEGAL DESCRIPTION
PARCEL 3

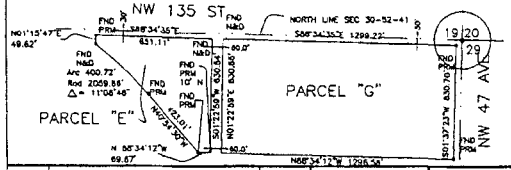
A parcel of land lying in Section 20, Township 52 South, Range 41 East, Miami-Dade County, Florida, more particularly described as follows: COMMENCE at the South 1/4 Corner of Section 20, Township 52 South, Range 41 East; thence run N01°41'06"E along the West line of the Southwest 1/4 of said Section 20 and its Northerly Prolongation for 3440.90 feet; thence run S88°18'54"E for 2334.08 feet to the POINT OF BEGINNING of PARCEL 3; thence run N03°21'08"E for 1929.40 feet; thence run S88°38'51"E for 248.19 feet; thence run S02°00'32"W along the Westerly boundary of the CDC LEASE PARCEL for 1918.87 feet; thence run N88°45'45"W for 293.38 feet to the POINT OF BEGINNING. Said lands lying in Miami-Dade County, Florida, and containing 11.958 Acres, more or less.

PARCEL 4

A parcel of land lying in Section 20, Township 52 South, Range 41 East, Miami-Dade County, Florida, more particularly described as follows: COMMENCE at the South 1/4 Corner of Section 20, Township 52 South, Range 41 East; thence run N01°41'06"E along the West line of the Southwest 1/4 of said Section 20 and its Northerly Prolongation for 3430.48 feet; thence run S88°18'54"E for 958.18 feet to the POINT OF BEGINNING of PARCEL 4; thence run S88°39'07"E for 945.83 feet; thence run S38°26'28"E for 64.46 feet; thence run S88°46'45"E for 681.82 feet; thence run S02°00'32"W along the Western boundary of the CDC LEASE PARCEL for 210.62 feet; thence run S86°27'18"E along the Southern boundary of the CDC LEASE PARCEL for 491.49 feet; thence run S02°22'38"W for 535.81 feet to the point of curvature of a circular curve concave to the Northwest; thence run Southerly and Westerly along the arc of said curve, having a radius of 20.00 feet and a central angle of 90°02'06", for a distance of 31.78 feet to a point of tangency; thence run N86°35'18"W for a distance of 473.96 feet to the point of curvature of a circular curve concave to the Southeast; thence run Southwesterly along the arc of said curve, having a radius of 1078.30 feet and a central angle of 30°04'04", for a distance of 566.40 feet to a point of tangency; thence run S63°29'40"W for 368.00 feet to the point of curvature of a circular curve concave to the Northwest; thence run Southwesterly along the arc of said curve, having a radius of 935.24 feet and a central angle of 30°00'14", for a distance of 489.91 feet to a point of tangency; thence run N88°39'06"W for 354.68 feet; thence run N03°21'08"E for 1284.37 feet to the POINT OF BEGINNING. Said lands lying in Miami-Dade County, Florida, and containing 50.169 Acres, more or less.

PARCEL 5

A parcel of land lying in Section 20, Township 52 South, Range 41 East, Miami-Dade County, Florida, more particularly described as follows: COMMENCE at the South 1/4 Corner of Section 20, Township 52 South, Range 41 East; thence run N01°41'06"E along the West line of the Southwest 1/4 of said Section 20 for 2191.31 feet; thence run S88°18'54"E for 72.09 feet to the POINT OF BEGINNING of PARCEL 5; thence run N01°40'23"E for 1284.90 feet; thence run S88°39'07"E for 661.72 feet; thence run S03°21'08"W for 1284.37 feet; thence run N88°39'06"W for 624.84 feet to the POINT OF BEGINNING. Said lands lying in Miami-Dade County, Florida, and containing 18.669 Acres, more or less.



NO.	REVISION	DATE

DRAWN CAD
CHECKED EAM
APPROVED SAC

PROJECT NAME:
OPA LOCKA AIRPORT
OAG LEASE PARCELS

SHEET TITLE
BOUNDARY SURVEY

AYLWARD ENGINEERING & SURVEYING, INC.
CIVIL & ENVIRONMENTAL ENGINEERS LAND SURVEYORS PLANNERS
3222 Ridge Trace, Davie, Florida 33328 EB/LB No. 5183
954-424-5852 or 305-827-2216 Fax 954-424-5852 or ~~305-827-2216~~

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AT SITE BEFORE PROCEEDING W/WORK

DATE: 03/19/2004
SCALE: 1"=300'
PROJ. NO.: 03-189

SHEET 1 OF 1

107

PARCEL 1

A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE RUN N01°41'06"E ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20 AND ITS NORTHERLY PROLONGATION FOR 4665.05 FEET; THENCE RUN N88°18'54"W FOR 2381.65 FEET TO THE POINT OF BEGINNING OF PARCEL 1; THENCE RUN N34°46'35"E FOR 854.72 FEET; THENCE RUN N89°59'44"E FOR 359.29 FEET; THENCE RUN S00°03'33"W FOR 152.69 FEET; THENCE RUN S89°39'37"E FOR 800.01 FEET; THENCE RUN N00°03'33"E FOR 157.50 FEET; THENCE RUN N89°59'44"E FOR 1549.06 FEET; THENCE RUN S03°21'08"W FOR 1940.83 FEET; THENCE RUN N86°39'07"W FOR 787.24 FEET (THE FOLLOWING SEVEN (7) COURSES BEING ALONG THE BOUNDARY LINE OF THE FIGHTERTOWN LEASE PARCEL); THENCE RUN N03°43'30"E FOR 604.65 FEET; THENCE RUN N87°14'22"W FOR 311.77 FEET; THENCE RUN S03°48'43"W FOR 214.24 FEET; THENCE RUN N86°54'42"W FOR 45.03 FEET; THENCE RUN S03°48'43"W FOR 112.01 FEET; THENCE RUN S86°54'42"E FOR 45.07 FEET; THENCE RUN S03°48'43"W FOR 275.21 FEET; THENCE RUN N86°39'07"W FOR 500.94 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 470.07 FEET AND A CENTRAL ANGLE OF 55°24'02", FOR A DISTANCE OF 454.52 FEET TO A POINT OF COMMON CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 349.96 FEET AND A CENTRAL ANGLE OF 34°10'40", FOR A DISTANCE OF 208.76 FEET; THENCE RUN N55°10'47"W ALONG THE NORTHEASTERLY LINE AND ITS EXTENSION OF THE COAST GUARD PARCEL FOR 1282.14 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN MIAMI-DADE COUNTY, FLORIDA.

PARCEL 2

A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE RUN N01°41'06"E ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20 AND ITS NORTHERLY PROLONGATION FOR 3514.44 FEET; THENCE RUN S88°18'54"E FOR 960.62 FEET TO THE POINT OF BEGINNING OF PARCEL 2; THENCE RUN N03°21'08"E FOR 1896.65 FEET; THENCE RUN S86°36'51"E FOR 1150.00 FEET; THENCE RUN S03°21'08"W FOR 1937.90 FEET; THENCE RUN N88°46'45"W FOR 4.72 FEET; THENCE RUN N75°19'37"W FOR 214.86 FEET; THENCE RUN N86°39'07"W FOR 934.60 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN MIAMI-DADE COUNTY, FLORIDA.

PARCEL 3

A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE RUN N01°41'06"E ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20 AND ITS NORTHERLY PROLONGATION FOR 3440.90 FEET; THENCE RUN S88°18'54"E FOR 2334.06 FEET TO THE POINT OF BEGINNING OF PARCEL 3; THENCE RUN N03°21'08"E FOR 1929.40 FEET; THENCE RUN S86°36'51"E FOR 248.19 FEET; THENCE RUN S02°00'32"W ALONG THE WESTERLY BOUNDARY OF THE CDC LEASE PARCEL FOR 1918.87 FEET; THENCE RUN N88°46'45"W FOR 293.38 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN MIAMI-DADE COUNTY, FLORIDA.

PARCEL 4

A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE RUN N01°41'06"E ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20 AND ITS NORTHERLY PROLONGATION FOR 3430.48 FEET; THENCE RUN S88°18'54"E FOR 958.18 FEET TO THE POINT OF BEGINNING OF PARCEL 4; THENCE RUN S86°39'07"E FOR 945.83 FEET; THENCE RUN S38°26'28"E FOR 64.46 FEET; THENCE RUN S88°46'45"E FOR 681.82 FEET; THENCE RUN S02°00'32"W ALONG THE WESTERN BOUNDARY OF THE CDC LEASE PARCEL FOR 210.62 FEET; THENCE RUN S86°27'18"E ALONG THE SOUTHERN BOUNDARY OF THE CDC LEASE PARCEL FOR 491.49 FEET; THENCE RUN S02°22'36"W FOR 555.61 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST; THENCE RUN SOUTHERLY AND WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 90°02'08", FOR A DISTANCE OF 31.78 FEET TO A POINT OF TANGENCY; THENCE RUN N86°35'16"W FOR A DISTANCE OF 473.96 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1079.30 FEET AND A CENTRAL ANGLE OF 30°04'04", FOR A DISTANCE OF 566.40 FEET TO A POINT OF TANGENCY; THENCE RUN S63°20'40"W FOR 368.00 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 935.54 FEET AND A CENTRAL ANGLE OF 30°00'14", FOR A DISTANCE OF 489.91 FEET TO A POINT OF TANGENCY; THENCE RUN N86°39'06"W FOR 354.66 FEET; THENCE RUN N03°21'08"E FOR 1264.37 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN MIAMI-DADE COUNTY, FLORIDA.

PARCEL 5

A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE RUN N01°41'06" E ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20 FOR 2191.31 FEET; THENCE RUN S88°18'54"E FOR 72.09 FEET TO THE POINT OF BEGINNING OF PARCEL 5; THENCE RUN N01°40'23"E FOR 1264.90 FEET; THENCE RUN S86°39'07"E FOR 661.72 FEET; THENCE RUN S03°21'08"W FOR 1264.37 FEET; THENCE RUN N86°39'06"W FOR 624.66 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN MIAMI-DADE COUNTY, FLORIDA.

PARCEL E (OPA-LOCKA AIRPORT - NORTH OF GRATIGNY PARKWAY, EAST OF NW 49TH AVE.)

A PORTION OF THE EAST 1/2 OF TRACTS 2 AND 7, OF "SUBDIVISION OF N. E. 1/4 OF SEC. 30 TWP. 52 S. RGE 41 E.", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 18, PAGE 14 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING NORTH OF GRATIGNY PARKWAY (STATE ROAD 924), AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, SECTION 87008-2504, ALSO RECORDED IN OFFICIAL RECORDS BOOK 14186, PAGES 3525 THROUGH 3529, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 52 SOUTH, RANG 41 EAST; THENCE S88°34'35"E ALONG THE NORTH LINE OF SAID SECTION 30 FOR 681.17 FEET; THENCE S01°15'47"W FOR 30.00 FEET TO THE POINT OF BEGINNING OF PARCEL "E"; THENCE S88°34'35"E ALONG THE NORTH LINE OF SAID TRACT 2, FOR 651.11 FEET; THENCE S01°22'59"W ALONG THE EAST LINE OF SAID TRACTS 2 AND 7 FOR 630.54 FEET; THENCE N88°34'12"W ALONG THE SOUTH LINE OF SAID TRACT 7 FOR 69.67 FEET (THE FOLLOWING TWO (2) COURSES BEING ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID GRATIGNY PARKWAY); THENCE N40°54'30"W FOR 423.01 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE TO THE LEFT, CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 2059.86 FEET AND A CENTRAL ANGLE OF 11°08'46", FOR 400.72 FEET; THENCE N01°15'47"E ALONG THE WEST LINE OF THE EAST OF SAID TRACT 2 FOR 49.62 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN MIAMI-DADE COUNTY, FLORIDA.

PARCEL G (OPA-LOCKA AIRPORT - SOUTH OF NW 135TH STREET, EAST OF NW 47TH AVE.)

TRACT 1 AND 8, OF "SUBDIVISION OF NE 1/4 OF SEC. 30 TWP. 52 S. RGE 41 E.", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 18, PAGE 14 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 30, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE N88°34'35"W ALONG THE NORTH LINE OF SAID SECTION 30, FOR 33.00 FEET; THENCE S01°37'23"W FOR 30.00 FEET TO THE POINT OF BEGINNING OF PARCEL "G"; THENCE CONTINUE S01°37'23"W ALONG THE EAST LINE OF SAID TRACT 1 AND 8, FOR 630.69 FEET; THENCE N88°34'12"W ALONG THE SOUTH LINE OF SAID TRACT 8 FOR 1296.58 FEET; THENCE N01°22'59"E ALONG THE WEST LINE OF SAID TRACTS 1 AND 8 FOR 630.55 FEET; THENCE S88°34'35"E ALONG THE NORTH LINE OF SAID TRACT 1 FOR 1299.22 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN MIAMI-DADE COUNTY, FLORIDA.

EXHIBIT C

DEVELOPMENT SCHEDULE AND PHASING PLAN

111

Exhibit C
Development Schedule

Building Area	2,175,000
Plane Storage area	1,425,000
Taxiway and public parking	3,230,450

Description					Months 1-18		Months 19-60		Year 6-10		Year 10-15	
Phase 1 FBO Hub												
Building Area	172,000					15,480.00		30,344.00		81,000.00		73,960.00
Plane Storage area	300,000					21,009.00		34,004.00		99,000.00		128,096.00
Taxiway and public parking	645,000					58,050.00		116,190.00		193,500.00		277,350.00
56 acres	Area SF	rental rate	$/sf	total cost	cost spend	area built	cost spend	area built	cost spend	area built	cost spend	area built
infrastructure				5,600,000.00	1,866,666.67		1,866,666.67		1,866,666.67		-	
taxiways	394,000	0.20	5.00	1,970,000.00	177,300.00	35,460.00	354,600.00	70,920.00	591,000.00	118,200.00	847,100.00	169,420.00
tarmac parking	300,000	0.20	5.00	1,500,000.00	135,000.00	27,000.00	270,000.00	54,000.00	450,000.00	90,000.00	645,000.00	129,000.00
large hangars	-	0.15	40.00	-	-						-	
corporate hangars	42,000	0.15	45.00	1,890,000.00	170,100.00	3,780.00	340,200.00	7,560.00	567,000.00	12,600.00	812,700.00	18,060.00
service facilities	130,000	0.15	90.00	11,700,000.00	1,053,000.00	11,700.00	2,106,000.00	23,400.00	3,510,000.00	39,000.00	5,031,000.00	55,900.00
public areas parking	251,000	0.15	1.75	439,250.00	39,532.50	22,590.00	79,065.00	45,180.00	131,775.00	75,300.00	188,877.50	107,930.00
					3,441,599.17	100,530.00	5,016,531.67	201,060.00	7,111,441.67	333,100.00	7,524,677.50	480,310.00
	1,117,000			22,099,250.00	rent to DCAD	16,200.50	rent to DCAD	36,405.00	rent to DCAD	60,075.00	rent to DCAD	85,367.50
Phase 2 airline commerce park					Months 1-18		Months 19-60		Year 6-10		Year 10-15	
Building Area	1,016,000					34,560.00		102,240.00		237,600.00		445,360.00
Plane Storage area	625,000					43,234.00		213,000.00		497,000.00		453,750.00
Taxiway and public parking	1,815,450					90,718.00		177,225.00		445,500.00		445,625.00
137 acres	Area SF			total cost	cost spend	area built	cost spend	area built	cost spend	area built	cost spend	area built
infrastructure				11,700,000.00	3,900,000.00		3,900,000.00		3,900,000.00		-	
taxiways	1,861,450	0.20	5.00	9,307,250.00	476,532.50	95,710.50	957,105.00	191,421.00	1,583,175.00	319,035.00	2,205,417.50	457,263.50
tarmac parking	1,126,000	0.20	5.00	5,630,000.00	504,250.00	101,250.00	1,012,500.00	202,500.00	1,687,500.00	337,500.00	2,466,750.00	483,750.00
large hangars	775,000	0.15	40.00	31,000,000.00	2,790,000.00	69,750.00	5,580,000.00	139,500.00	9,300,000.00	232,500.00	13,330,000.00	333,250.00
corporate T hangars	150,000	0.15	45.00	6,750,000.00	607,500.00	13,500.00	1,215,000.00	27,000.00	2,025,000.00	45,000.00	2,902,500.00	64,500.00
service facilities / office	120,000	0.15	70.00	8,400,000.00	756,000.00	10,800.00	1,512,000.00	21,600.00	2,520,000.00	36,000.00	3,612,000.00	51,600.00
public area parking	425,000	0.20	1.75	743,750.00	66,937.50	38,250.00	133,875.00	76,500.00	223,125.00	127,500.00	319,937.50	182,750.00
					8,105,340.00	329,760.50	14,310,480.00	658,521.00	21,238,800.00	1,097,535.00	24,866,480.00	1,573,133.50
	3,656,450			49,530,000.00	rent to DCAD	81,349.80	rent to DCAD	122,299.20	rent to DCAD	203,830.00	rent to DCAD	292,189.20
Phase 3 Lakeside Commerce					Months 1-18		Months 19-60		Year 6-10		Year 10-15	
Building Area	300,000					10,320.00		30,480.00		114,000.00		3,210,000.00
Plane Storage area						7,500.00		143,000.00		285,000.00		1,185,000.00
Taxiway and public parking	850,000					75,750.00		143,000.00		285,000.00		1,185,000.00
60 acres	Area SF			total cost	cost spend	area built	cost spend	area built	cost spend	area built	cost spend	area built
infrastructure				6,000,000.00	3,000,000.00		3,000,000.00		-		-	
distribution	100,000	0.45	40.00	4,000,000.00	360,000.00	8,000.00	720,000.00	16,000.00	1,200,000.00	30,000.00	1,720,000.00	43,000.00
flex product	100,000	0.45	45.00	4,500,000.00	405,000.00	9,000.00	810,000.00	18,000.00	1,350,000.00	30,000.00	1,935,000.00	43,000.00
retail / mixed use / hotel	100,000	0.45	75.00	7,500,000.00	675,000.00	9,000.00	1,350,000.00	18,000.00	2,250,000.00	30,000.00	3,225,000.00	43,000.00
office	280,000	0.45	70.00	19,600,000.00	1,764,000.00	25,200.00	3,528,000.00	50,400.00	5,880,000.00	84,000.00	8,428,000.00	120,400.00
public parking	850,000	0.45	1.50	1,275,000.00	114,750.00	76,500.00	229,500.00	153,000.00	382,500.00	255,000.00	548,250.00	365,500.00
					6,318,750.00	126,700.00	9,637,500.00	257,400.00	11,062,500.00	429,000.00	15,856,250.00	614,900.00
	1,430,000			42,875,000.00	rent to DCAD	47,916.00		145,530.00		169,000.00		279,700.00
Phase 4 Old Ship Commerce Center					Months 1-18		Months 19-60		Year 6-10		Year 10-15	
Building Area	62,000					5,580.00		11,100.00		18,000.00		20,880.00
Plane Storage area	120,000					10,800.00		21,600.00		28,000.00		51,600.00
Taxiway and public parking	150,000					13,500.00		27,000.00		45,000.00		64,500.00
30 acres	Area SF			total cost	cost spend	area built	cost spend	area built	cost spend	area built	cost spend	area built
infrastructure				1,500,000.00	1,500,000.00		1,500,000.00					
hotel	62,000	0.325	80.00	4,960,000.00	465,000.00	5,580.00	992,000.00	11,160.00	1,488,000.00	18,000.00	2,132,000.00	20,880.00
Retail	120,000	0.65	70.00	8,400,000.00	756,000.00	10,800.00	1,512,000.00	21,600.00	2,520,000.00	28,000.00	3,612,000.00	51,600.00
Flex	150,000	0.65	43.97	6,595,755.00	593,617.95	13,500.00	1,187,235.90	27,000.00	1,978,726.50	45,000.00	2,836,174.55	64,500.00
Public parking	456,000	0.55	1.50	684,000.00	61,560.00	41,040.00	123,120.00	82,080.00	205,200.00	136,800.00	294,120.00	196,080.00
office	50,000	0.65	75.00	3,750,000.00	337,500.00	4,500.00	675,000.00	9,000.00	1,125,000.00	15,000.00	1,612,500.00	21,500.00
					3,695,077.95	75,420.00	5,690,155.90	150,840.00	7,316,926.50	251,400.00	10,487,594.55	360,340.00
	838,000			27,389,755	rent to DCAD	26,533.50		41,007.00		60,445.00		98,404.50

	Cost years 1-5	Cost months 1-18	Cost months 19-60	Cost years 6-10	Cost years 10-15
TOTALS (COST)	152,900,005	22,560,867.11	34,854,567.87	49,746,668.17	58,738,002.15
TOTALS (buildings)	2,179,000	198,110.00	392,220.00	653,700.00	936,970.00
TOTALS (paved)	3,439,450	309,550.50	619,101.00	1,031,835.00	1,478,963.50
Period rent to DCAD		157,800.00	473,401.80	788,002.00	753,898.20
Cumulative Rent to DCAD		157,800.00	631,202.40	1,157,294.40	1,911,140.60

112

EXHIBIT D

SCHEDULE OF EXISTING LEASES

OPF TENANTS ON OAG PROPERTY

0.275482094

COMPANY	LEASE TERM	LEASED AREAS	EXPIRATION
National Aviation (1)	Month to Month	571,882' = 13.13 acres	30 Days
National Aviation (2)	5 yrs, September, 2004	12,000' = .28 acres	September, 2009
Florida Air Cargo Management	Month to Month	142,858' = 3.28 acres	30 Days
ALCA Avionics, Inc.	Month to Month	59,379' = 1.36 acres	30 Days
Miami-Dade Fire Air Rescue	Month to Month	41,543' = .9 acres	30 Days
CLERO, Building 137	3 years, January, 2005	67,543' = 1.6 acres	January, 2008
Opa-Locka Flightline	3 years, April, 2005	120,578' = 2.77 acres	April, 2008
Mustang Ranches	Month to Month	16,854' = .4 acres	30 Days
Cylinder Shop	Month to Month	21,265' = .48 acres	30 Days
Advanced Aircraft Engines	Month to Month	27,542' = .63 acres	30 Days
Aircraft Parts and Sales	Month to Month	159,625' = 3.66 acres	30 Days
Sun Flying Club	Month to Month	55,226' = 1.27 acres	30 Days
BMI	Month to Month	293,954' = 6.25 acres	30 Days
Air Repair	Month to Month	76,892' = 1.76 acres	30 Days
Certified Engines	Month to Month	34,605' = 0.8 acres	30 Days
South Wings Flying Club	Month to Month	31,500' = .72 acres	30 Days
R AND R PARTNERSHIP	Month to Month	1663' = .04 acres	30 Days
MIAMI EXECUITIVE AVIATION	Month to Month	47,748' = 1.1 acres	30 Days
MIAMI-DADE POLICE	Month to Month	19618' = .45 acres	30 Days

OPF FUEL FARM

MEA	Month to Month	4,446 sq. ft	30 Days
Opa-Locka Flightline	3 years starting April, 2005	4,446 sq. ft	April, 2008
National Aviation	5 years starting December, 2004	9,995 sq. ft	December, 2009

114

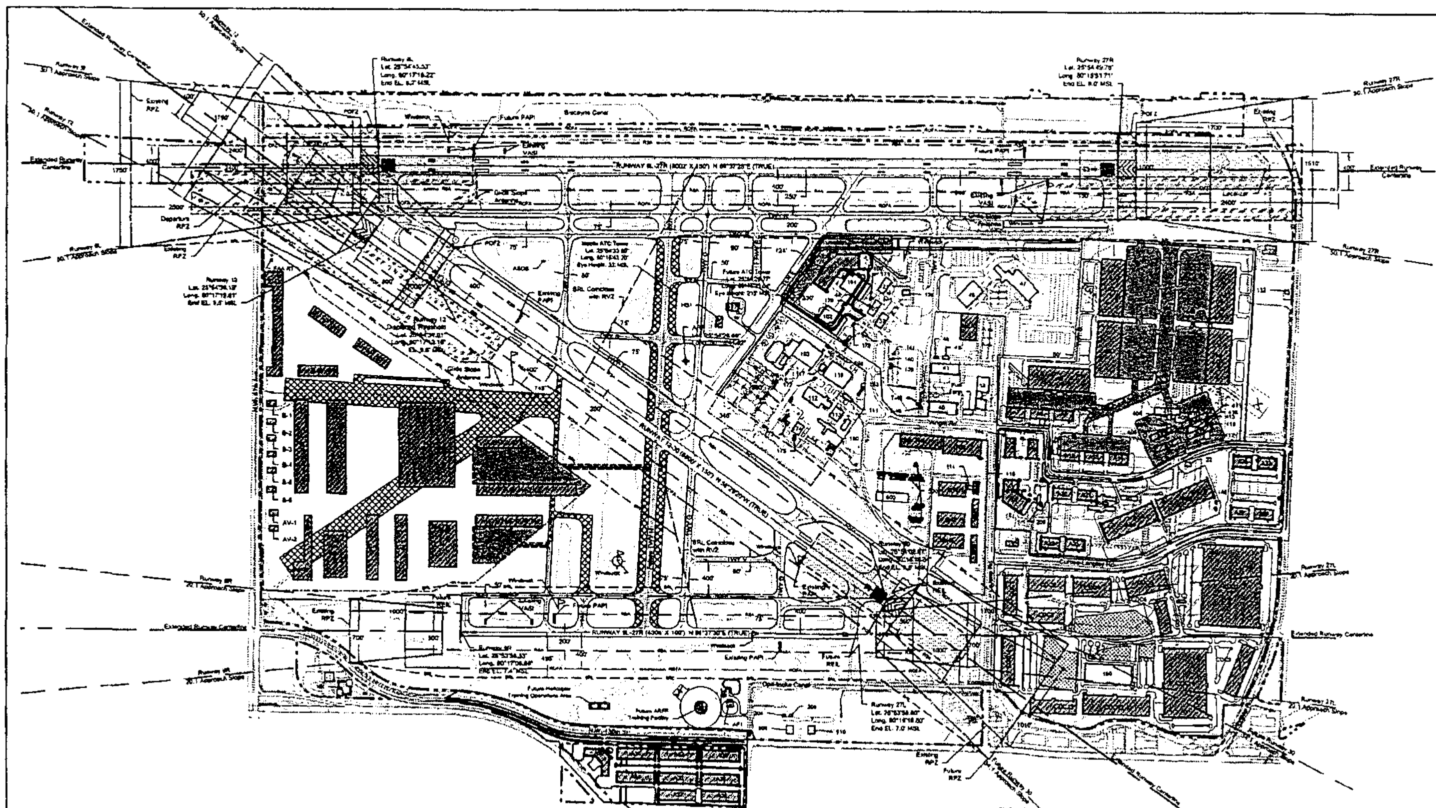
EXHIBIT E

INTENTIONALLY DELETED

115

EXHIBIT F

AIRPORT LAYOUT PLAN



EXISTING FACILITIES IDENTIFICATION KEY			
BLDG No.	TENANT	TYPE OF OCCUPANCY	ELEV
1-21	NUMBERS RESERVED	-	-
22	ADVANCED AIRCRAFT ENGINES	OFFICE	18.7'
23 (1)	VACANT	OFFICE	-
24-34	NUMBERS RESERVED	-	-
35	NATIONAL AVIATION SERVICES INC.	OFFICES,LOUNGE,ENGINE REPAIR	16.5'
36-38	NUMBERS RESERVED	-	-
39	AIR REPAIR	HANGAR/OFFICE	17.8'
40	A.L.CAMORO	CORPORATE HANGAR	37.7'
41 (2)	VACANT & AIR CARGO MANAGEMENT	CORPORATE HANGAR	37.8'
42	FIGHTERTOWN	HANGAR/ADMINISTRATION	16.6'
43	NUMBER RESERVED	-	-
44	FLORIDA POWER & LIGHT CO.	TRANSFORMER VAULT	21.0'
45	MIAMI EXECUTIVE AVIATION	HANGAR	38.1'
46	MIAMI EXECUTIVE AVIATION	TERMINAL	27.4'
47	MIAMI EXECUTIVE AVIATION	HANGAR	27.4'
48 (1)	AIR CARGO MANAGEMENT	OFFICES	-
49 (1)	CESNA FLIGHT CENTER	FLIGHT SCHOOL OFFICES	-
50-80	NUMBERS RESERVED	-	-
81	VACANT (TO BE DEMOLISHED)	LABORATORY	28.5'
82-85	NUMBERS RESERVED (TO BE DEMOLISHED)	-	-
86	VACANT & C-AERO AVIATION (TO BE DEMOD)	SHOPS,ENGINE REPAIR & STORAGE	19.5'
87-99	NUMBERS RESERVED	-	-
100	DECOMISSIONED ATCT (TO BE DEMOLISHED)	-	-
101	PIEDMONT HAWTHORNE (HISTORICAL BLDG)	HANGAR/OFFICES	43.8'
102	HISTORICAL BUILDING	HANGAR/OFFICES	43.8'
103-104	NUMBERS RESERVED	-	23.0'
105	HISTORICAL BUILDING	-	26.4'
106	NUMBERS RESERVED	-	-
107	MDFD	AIRCRAFT RESCUE & FIRE FIGHTING FAC.	-
108	MIAMI-DADE WATER & SEWER	SEWAGE PUMP STATION #325	18.7'
109-113	NUMBERS RESERVED	-	23.3'
114	MDFD FIRE STATION (TO BE DEMOLISHED)	AIR FIRE RESCUE	18.4'
115	MDAD	AIRPORT BEACON TOWER	-
116-118	NUMBERS RESERVED	-	27.1'
119	CERTIFIED ENGINES UNLIMITED	SHOP & OFFICES	30.0'
120	MIAMI-DADE WATER & SEWER	SEWAGE PUMP STATION #326	16.5'
121-A	VACANT	OFFICES	18.8'
121-C	R&R PARTNERSHIP	OFFICES & GARAGE	18.8'
121-B	VACANT	OFFICES & GARAGE	19.8'
122-125	NUMBERS RESERVED	-	34.4'
126	US CUSTOMS & IMMIGRATION	OFFICES	24.9'
127-131	NUMBERS RESERVED	-	-
132	MIAMI-DADE WATER & SEWER	SEWAGE PUMP STATION #343	23.6'
133-136	NUMBERS RESERVED	-	-
137	VACANT	OFFICES & STORAGE	20.9'
138	NUMBER RESERVED	-	[illegible]
139	MIAMI EXECUTIVE AVIATION	FUEL FARM	16.8'
140	MDAD	FUEL FARM	16.6'
141	NATIONAL AVIATION	FUEL FARM	16.2'
142-143	NUMBERS RESERVED	-	-
144	MIAMI-DADE WATER & SEWER	SEWAGE PUMP STATION #341	-
145	MIAMI-DADE WATER & SEWER	SEWAGE PUMP STATION #328	17.6'
146	MIAMI-DADE WATER & SEWER	SEWAGE PUMP STATION #327	15.8'
147	NUMBER RESERVED	-	-
148-149	NUMBERS RESERVED	OFFICES	-
150	VACANT	WAREHOUSE	28.5'
151-154	NUMBERS RESERVED	-	-
156-170	NUMBERS RESERVED	-	23.0'
171	MDAD/FED	STAND BY GENERATOR/VAULT	-
172	NUMBER RESERVED	SHOP & STORAGE	-
173-175	US CUSTOMS	-	24.8'
176	FAA	A/W LIGHTING REGULATOR BLDG	17.4'
177-179	NUMBERS RESERVED	-	-
180	MUSTANG RANCH AIRCRAFT, INC.	-	17.1'
181-189	NUMBERS RESERVED	-	-
190	VACANT	OFFICES	29.1'
191	MD CORRECTIONS	JAIL	30.7'
192-208	NUMBERS RESERVED	-	-
209	THE CYLINDER SHOP INC WAYMAN AVIAT.	OFFICE AND SHOPS	16.7'
210	VACANT	OFFICES/TRAILER	17.2'
211	MDAD ADMINISTRATIVE OFFICES	COMMUNICATIONS VAULT	21.1'
212	MDAD	ADMINISTRATION/MAINTENANCE	24.2'
213-303	NUMBERS RESERVED	-	-
304	MDAD	AMMO BUNKER	-
305	MDAD	AMMO BUNKER	-
306-315	NUMBERS RESERVED	-	-
316	VACANT	STORAGE	17.8'
317-403	NUMBERS RESERVED	-	-
404	VACANT (TO BE DEMOLISHED)	STOR/OFFICE/VOLTAGE ROOM	17.4'
405	VACANT (TO BE DEMOLISHED)	STORAGE	18.9'
406	VACANT (TO BE DEMOLISHED)	SHOP	18.8'
407	VACANT (TO BE DEMOLISHED)	SHOP	20.5'
408	VACANT (TO BE DEMOLISHED)	HANGAR & REPAIR SHOP	18.7'
409	VACANT (TO BE DEMOLISHED)	ENGINE OVERHAUL	21.0'
410	VACANT (TO BE DEMOLISHED)	OFFICES & FLIGHT SCHOOL	18.5'
411	VACANT (TO BE DEMOLISHED)	OFFICE & SHOP	36.4'
412	AIRCRAFT PARTS & SALES	HANGAR	22.7'
413	AIRCRAFT PARTS & SALES	MAINTENANCE SHOP	18.6'
414	NUMBER RESERVED	-	-
415	VACANT (TO BE DEMOLISHED)	REPAIR SHOP & OFFICES	19.9'
416	NUMBER RESERVED	-	-
417	FLORIDA POWER & LIGHT	ELECTRICAL SUBSTATION	-
418	AIRCRAFT PARTS & SALES	FLAMMABLE STORAGE	18.0'
419 (1)	AIRCRAFT PARTS & SALES	OFFICES	18.0'
420-448	NUMBERS RESERVED	-	-
449	SUN FLYING, INC.	REPAIR SHOP	17.1'
450-499	NUMBERS RESERVED	-	-
500-541	JP AVIATION INVESTMENTS	PORT-A-PORT "T" HANGARS	21.9'
542-699	NUMBERS RESERVED	-	-
800	JP AVIATION INVESTMENTS	HANGAR	-
801-807	NUMBERS RESERVED	-	-
808	MDAD	AMMO BUNKER	-
809	NUMBER RESERVED	-	-
810	MDAD	AMMO BUNKER	-
T-46	AIR CARGO MANAGEMENT	RELOCATABLE BLDG	-
T-48	ALCA AVIONICS	RELOCATABLE BLDG	-

RUNWAY END COORDINATES				
RUNWAY	LATITUDE	LONGITUDE	NORTHING	EASTING
9L	25° 54' 45.53"	80° 17' 19.22"	574576.16	889976.68
27R	25° 54' 49.76"	80° 15' 61.71"	575047.33	897966.66
9R	25° 53' 56.53"	80° 17' 06.59"	569035.22	891158.87
27L	25° 53' 58.80"	80° 16' 19.50"	569868.08	895457.79
12	25° 54' 38.18"	80° 17' 19.61"	573834.90	889947.09
30	25° 54' 02.67"	80° 16' 16.34"	570280.38	895744.16

Notes: Geographic Coordinates are listed in NAD 83, NAVD 88, US Survey Feet
State Plane Coordinates are listed in Florida East 0901, NAVD 88, US Survey Feet

LEGEND

Symbol	Meaning
RSA	Runway Safety Area
ROFA	Runway Object Free Area
RPZ	Runway Protection Zone
BRL	Building Restriction Line
OFZ	Obstacle Free Zone
RVZ	Runway Visibility Zone
	Extended Runway Centerline
	Airport Property Line
BLDG #	Existing Buildings
	Future Buildings
	Part 77 Approach Surface
	Localizer Critical Area
	Glide Slope Critical Area
	Future Taxiway/Taxilane
	Future Apron Area
	Abandoned Airfield Pavement
	Adler Development Area
	AVE Development Area
	CDC Development Area
	JP Aviation Development Area
	U.S. Coast Guard
	Archaeological / Historical Preservation Areas
	Proposed Roads

Notes:
1. All elevations are Mean Sea Level (MSL)
2. This document was prepared for planning purposes only.
3. The Building Restriction Line (BRL) depicted on the ALP provides 35 feet of clearance under the applicable FAR part 77. The BRL encompasses the Runway Protection Zones (RPZ).
4. All coordinates are based on North American Datum 1983 (NAD 83).
5. No survey was included as part of the update of this drawing. All airport features have been digitized using aerial photography dated May 1999.
6. Future FAA NAVAIDS are shown for planning purposes only. When authorized, the FAA shall work with the sponsor in siting all future FAA facilities. Final locations may or may not conform to the illustrated locations.
7. No OFZ object penetrations.
8. No Threshold Siting object penetrations.

CONSTRUCTION NOTICE REQUIREMENT

To protect aeronautical safety and future development, all proposed construction on the airport must be coordinated by the airport owner with the FAA Airports District Office prior to construction. FAA review takes approximately 60 days.

FUTURE FACILITIES IDENTIFICATION KEY			
BLDG No.	TENANT	TYPE OF OCCUPANCY	ELEV
AV-1 - AV-3	AVE DEVELOPMENT	Retail	-
B-1 - B-4	AVE DEVELOPMENT	Retail	-
C-D	AVE DEVELOPMENT	Retail	-
E	AVE DEVELOPMENT	Industrial	-
F	AVE DEVELOPMENT	Industrial	-
G	AVE DEVELOPMENT	Industrial	-
H	AVE DEVELOPMENT	Industrial	-
H-1	AVE DEVELOPMENT	T-Hangars	33'
H-2	AVE DEVELOPMENT	T-Hangars	33'
H-3	AVE DEVELOPMENT	T-Hangars	33'
I	AVE DEVELOPMENT	Industrial	-
J	AVE DEVELOPMENT	Industrial	-
M	AVE DEVELOPMENT	NAICS Aviation	-
N	AVE DEVELOPMENT	Industrial	-
O	AVE DEVELOPMENT	Industrial	-
S	AVE DEVELOPMENT	Industrial	-
T-1	AVE DEVELOPMENT	Industrial	35'
T-2	AVE DEVELOPMENT	Industrial	35'
U	AVE DEVELOPMENT	NAICS Aviation	-
CDC1 - CDC7	CDC DEVELOPMENT	Commercial/Industrial	25'
CDC8 - CDC10	CDC DEVELOPMENT	Commercial/Industrial	25'
CDC12 - CDC14	CDC DEVELOPMENT	Commercial/Industrial	25'
A1	ADLER DEVELOPMENT	FBO	-
A2 - A6	ADLER DEVELOPMENT	Aviation Tech.	-
A7 - A14	ADLER DEVELOPMENT	Office	-
A15 - A18	ADLER DEVELOPMENT	Shade T-Hangars	-
A19	ADLER DEVELOPMENT	Retail/Hotel/Office	-
A20 - A23	ADLER DEVELOPMENT	Office	-
A24 - A25	ADLER DEVELOPMENT	Flexi Warehouse	-
A28 - A29	ADLER DEVELOPMENT	Office	-
A30	ADLER DEVELOPMENT	Hotel	-
A31 - A34	ADLER DEVELOPMENT	Office	-
A35 - A36	ADLER DEVELOPMENT	Retail	-
SH1 - SH3	SHELL	Hangar/Retail	48'
SH4 - SH6	SHELL	Retail	25'
TU1 - TU9	TURNBERRY	Hangar	30'
AR1	Future ARFF Training Facility	ARFF	-
HS1	MDFD	MDFD Hangar	42'

RICONDO & ASSOCIATES

DRAFT
FOR REVIEW AND COMMENT ONLY

N
GRAPHICAL SCALE IN FEET
0 300 600 1200

REVISIONS					
NO.	DATE	BY	DESCRIPTION	APPD	NO.

APPROVED BY:
Federal Aviation Administration — Date
APPROVED BY:
Florida Department of Transportation — Date
APPROVED BY:
Miami-Dade Aviation Department
Aviation Director — Date

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT

PROJECT MGR:	P. RICONDO
PLANNER:	W. SO
DRAWN BY:	W. SO
SCALE:	AS SHOWN
DATE:	August 31, 2006
CHECKED BY:	B. CARREAU

OPA-LOCKA EXECUTIVE AIRPORT
AIRPORT LAYOUT PLAN

REVISION DATE:
PRINT DATE: August 2006
DEPT. OF AIRPORTS NO.
SHEET NO. 3B of 14

Drawing: P:\MDAD\OPF\ALP Update - 2006\Exhibits\03B-OPF_ALP.dwg, Layout: Layout1, Sep 08, 2006, 6:01pm

EXHIBIT G

FORM OF MEMORANDUM OF LEASE

Prepared by and return to:

Arnold D. Shevin, Esq.
Berger Singerman
200 South Biscayne Blvd., Suite 1000
Miami, Florida 33131

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and entered into effective as of the ____ day of _____, 200__, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida ("**Landlord**") having an address of Post office Box 592075, Miami, FL 33159, and AA ACQUISITIONS, LLC, a Florida limited liability company ("**Tenant**"), having an address of 1400 N.W. 107th Avenue, Miami, FL 33172.

1. PREMISES. Landlord has leased to Tenant and Tenant has leased from Landlord a portion of that certain land and improvements in Miami-Dade County, Florida, located at Opa-locka Executive Airport (the "Property"), and being more particularly described on **Exhibit "A"** attached hereto and made a part hereof, together with all improvements thereon and appurtenances thereto (the Property and improvements collectively being referred to herein as the "**Premises**"), all pursuant to the terms and conditions set forth in that certain Lease Agreement dated as of _____, __, 200__ (the "**Lease**").

2. TERM AND OPTIONS TO EXTEND TERM. The initial term of the Lease is for a period of fifty (50) years commencing on the date that the last of the following occur: (a) the Lease is acceptable to the FAA and (b) the last of (i) the effective date of the resolution adopted by the Miami-Dade Board of County Commissioners approving this Lease, or (ii) ten (10) days after the date of the adoption of a resolution approving the Lease by the Miami-Dade Board of County Commissioners and the expiration of all applicable appeal periods, or (iii) if such a resolution is vetoed by the Mayor, the date of an override of such veto by Miami-Dade Board of County Commissioners, and the expiration of all applicable appeal periods, if any or (iv) the expiration of any applicable period of reconsideration of the Miami-Dade Board of County Commissioners applicable to any resolution approving this Lease. Tenant has options to extend the term of the Lease for four (4) additional periods of ten (10) years each.

3. USE. Pursuant to the Lease, Tenant is granted the right to use the Premises to develop and/or operate a portion of the Premises in order to improve and serve the Airport.

4. PURPOSE OF MEMORANDUM OF LEASE. This Memorandum of Lease is executed and delivered by Tenant and Landlord solely for the purpose of recording in the Office of the Clerk of Miami-Dade County, Florida, notice of the existence of the Lease and certain provisions thereof, and, consequently, nothing contained herein shall be construed to change or alter the terms, conditions or provisions of the Lease, and reference shall be made to the Lease for the terms, conditions and provisions thereof and the intent of Landlord and Tenant regarding the Lease of the

Premises.

5. BINDING ON SUCESSORS AND ASSIGNS. The provisions of the Lease shall be binding on Landlord's and Tenant's successors and assigns. So long as the Lease remains in effect, each successive owner of the Premises or of any portion thereof, and each person having any interest therein derived through any owner thereof, shall be bound by the provisions of the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be duly executed the date first set forth above.

WITNESS:

LANDLORD:

MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida

By:_____
Its: _____

_____

_____

STATE OF FLORIDA

The foregoing instrument was acknowledged before me this ____ day of_____, 200__, by _____, as _____ of MIAMI-DADE COUNTY, FLORIDA, a political subdivision for the State of Florida, on behalf of the County. He/she is personally known to me or has produced _____ as identification.

Notary: _____
(Notary Seal)

Print Name: _____
Notary Public, State of _____
My commission expires: _____

WITNESS:

TENANT:

AA ACQUISITIONS, LLC, a Florida limited liability company

By: _____
Its: _____

_____

_____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE COUNTY

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by _____, as _____ of AA ACQUISITIONS, LLC, a Florida limited liability company, on behalf of the company. He/she is personally known to me or has produced _____ as identification.

Notary: _____
(Notary Seal)

Print Name: _____
Notary Public, State of Florida
My commission expires: _____

EXHIBIT H

SCHEDULE OF BASELINE ENVIRONMENTAL REPORT,
CARS, RAPS AND OTHER ENVIRONMENTAL REPORTS

OAG-AA-220-Acre Site
(Formerly Stagecoach Aviation)
Opa-Locka General Airport
Phase I Environmental Site Assessment

November 30, 2006

Prepared for:

P.O. Box 025504
Miami, FL 33102-5504
Phone: (305) 876-7450

Prepared by:

9499 N. E. 2nd Avenue, Suite 207
Miami Shores, FL 33138
Phone: (305) 759-4757
Fax: (305) 759-4758

In association with:

EA Engineering, Science, and Technology, Inc.

To Be supplanted with
The Phase II environmental being
Completed by the County's Consultant

OAG-AA-220-Acre Site
(Formerly Stagecoach Aviation)
Opa-Locka General Airport
Phase I Environmental Site Assessment

November 30, 2006

Prepared for:

P.O. Box 025504
Miami, FL 33102-5504
Phone: (305) 876-7450

Prepared by:

9499 N. E. 2nd Avenue, Suite 207
Miami Shores, FL 33138
(305) 759-4757
Fax: (305) 759-4758

In association with:

EA Engineering, Science and Technology, Inc.

11/30/2006
Brenda J. Westhorp, P.E.
FL # 42801

124

EXHIBIT I

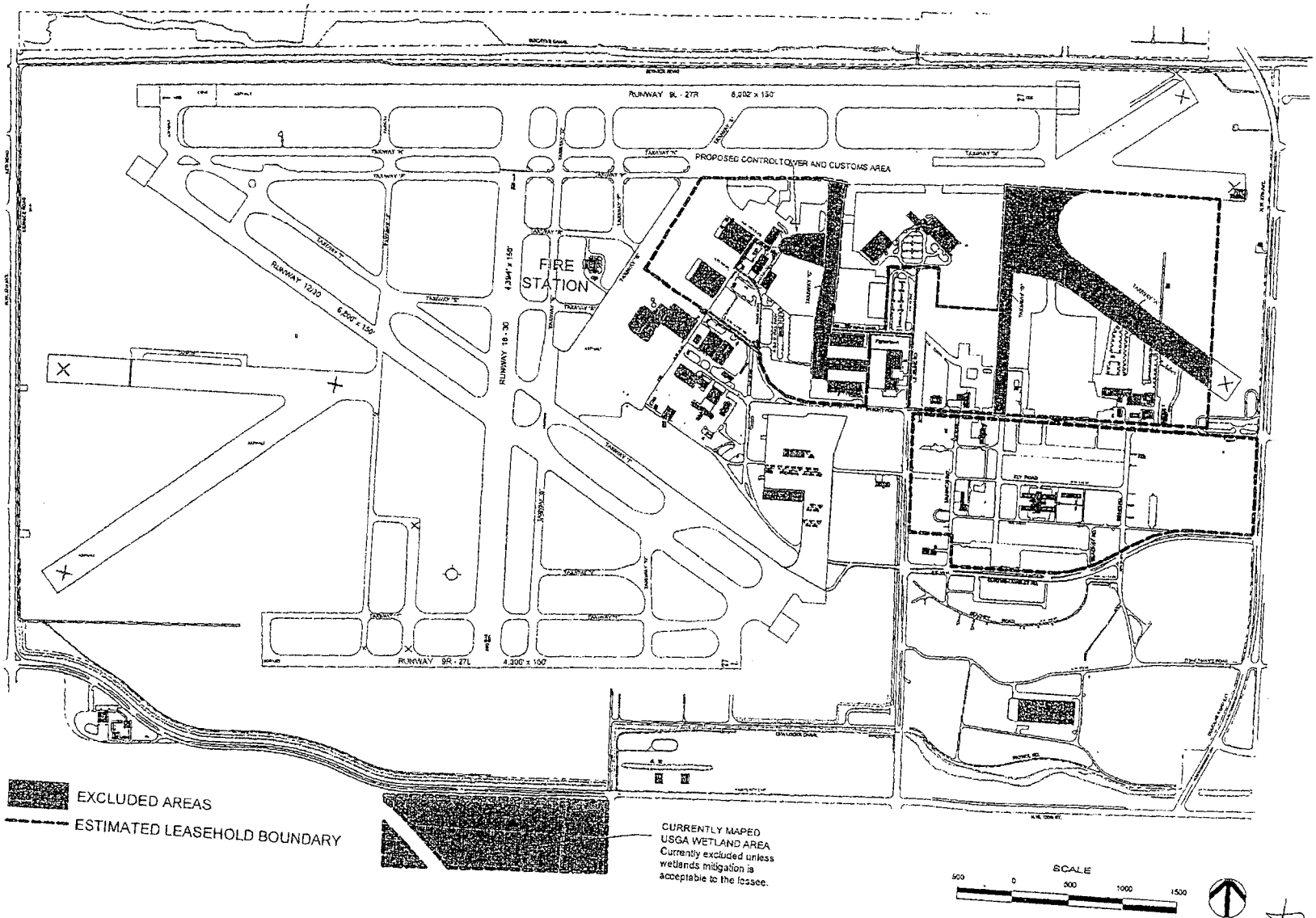
INTENTIONALLY DELETED

EXHIBIT J

INTENTIONALLY DELETED

EXHIBIT K

SKETCH OF EXISTING EXCLUDED AREAS


RUNWAY 9L - 27R 8,002' x 150'
PROPOSED CONTROL TOWER AND CUSTOMS AREA
FIRE STATION
RUNWAY 12/30 6,800' x 150'
RUNWAY 18 - 36 4,394' x 150'
RUNWAY 9R - 27L 4,300' x 100'
EXCLUDED AREAS
ESTIMATED LEASEHOLD BOUNDARY
CURRENTLY MAPED USGA WETLAND AREA Currently excluded unless wetlands mitigation is acceptable to the lessee.
SCALE
500 0 500 1000 1500

128