Memorandum

MIAMI-DADE COUNTY

Date: June 5, 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: Lease & License Agreements with Cuban Pilots Association relating a Bay of Pigs Memorial at Kendall-Tamiami Executive Airport

RECOMMENDATION

It is recommended that the Board approve the attached Lease Agreement between Miami-Dade County and the Cuban Pilots Association (CUPA), a non-profit organization, for a parcel of land at Kendall-Tamiami Executive Airport (TMB) for the construction of a memorial to pilots involved in the Bay of Pigs mission. It is further recommended that the Board approve the accompanying license agreement for CUPA to make use of a B-26B Bomber provided to the County by the U.S. Air Force Museum, and authorize the Mayor or his designee to execute the agreement and any termination provisions contained therein.

SCOPE

The lease agreement impacts Kendall-Tamiami Executive Airport, located within Commission District 11.

FISCAL IMPACT/FUNDING SOURCE

This is a revenue-generating item, with annual payments of $3,583.30 for ten (10) years, cancelable on one hundred twenty (120) days written notice. Lessee is assuming all the maintenance responsibilities within the boundaries of the 25,595-square-foot leased premises.

TRACK RECORD/MONITOR

The Miami-Dade Aviation Department (MDAD) staff member responsible for monitoring this project is Property Manager Maria Anon.

BACKGROUND

CUPA, a non-profit organization comprised of pilots who participated in the Bay of Pigs initiative, desire to honor and preserve the memory of the Cuban and American pilots who perished in the mission.

CUPA has sought a B-26B Bomber similar to the ones flown at the Bay of Pigs from the United States Air Force Museum (USAFM). The USAFM surplus military aircraft program limits distribution of surplus aircraft to government entities. Therefore, in Resolution No. R-224-99, the County authorized the County Manager to accept a surplus B-26B bomber from the USAFM. The bomber has been obtained, and is currently parked on the north side of TMB.

CUPA wishes to enter into a land lease agreement with the County for the establishment of a Bay of Pigs Pilots Monument on a 25,595-square-foot site at TMB. CUPA, at its sole cost, wishes to construct a memorial whose design and construction satisfy County and Federal Aviation Administration (FAA) requirements. CUPA will install the B-26 bomber as part of the memorial. The FAA has directed that no Airport funds should be used for the construction of the monument, and that MDAD must charge CUPA rent for the monument site. In this case, CUPA is being charged a discounted rent that applies to monuments and museums.

The Aviation Department and Cuban Pilots Association have negotiated, and the FAA has approved, the attached lease agreement. Therefore, it is requested that the Board approve the attached lease agreement and authorize the County Mayor or his designee to execute it.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: June 5, 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)
06-05-07

RESOLUTION NO. _____

RESOLUTION RELATING TO KENDALL-TAMIAMI EXECUTIVE AIRPORT (TMB); APPROVING LEASE AGREEMENT WITH THE CUBAN PILOTS ASSOCIATION (CUPA) FOR A BAY OF PIGS MEMORIAL AT TMB; APPROVING LICENSE AGREEMENT FOR CUPA TO MAKE USE OF A B-26B BOMBER PROVIDED TO THE COUNTY BY THE UNITED STATES AIR FORCE MUSEUM TO BE MADE PART OF THE MEMORIAL SITE; AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE SUCH LEASE AND LICENSE AGREEMENT AND TO EXERCISE TERMINATION PROVISIONS THEREOF

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the attached lease agreement between the County and the Cuban Pilots Association (CUPA) for CUPA's use of approximately one-half acre of undeveloped land at Kendall-Tamiami Executive Airport (TMB) upon which CUPA will be allowed to construct a memorial commemorating the aviation activities of CUPA pilots who lost their lives flying B-26B bombers in support of the Bay of Pigs initiative in Cuba in April 1961; finds and determines that such a memorial is in the public interest and constitutes a valid aviation use of TMB; approves the grant of a license to CUPA as reflected in the lease agreement for CUPA to make use of the B-26B bomber provided to the County by the United States Air Force Museum for incorporation of such B-26B bomber

to execute such lease and license agreement with CUPA 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 5th day of June, 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.

Thomas P. Abbott

Lease No.: T-3552
Cust. No.: CUBN30
Doc. Name: CUBN3552

LEASE AGREEMENT BETWEEN MIAMI-DADE AVIATION DEPARTMENT, AS LESSOR, AND THE CUBAN PILOTS ASSOCIATION, AS LESSEE, KENDALL-TAMIAMI EXECUTIVE AIRPORT

This Lease Agreement ("Agreement"), is made and entered into as of the _____ day of_____, _____, ("Commencement Date"), by and between MIAMI-DADE COUNTY (the "County" or "Lessor"), a political subdivision of the state of Florida and the CUBAN PILOTS ASSOCIATION ("CUPA" or "Lessee"), a Florida non-profit organization.

W I T N E S S E T H

WHEREAS, the County owns Kendall-Tamiami Executive Airport ("TMB" or the "Airport") and operates it through the Miami-Dade Aviation Department (the "Department" or "MDAD"); and

WHEREAS, Lessee is a non-profit organization comprised of pilots who participated in the Bay of Pigs initiative and desires to honor and preserve the memory of its pilots who perished in the mission by placing a monument and a B-26B Bomber on a 25,595 square foot site at the Airport; and

WHEREAS, Lessee understands that, based on determinations of the Federal Aviation Administration, Airport revenue may not be used for the construction or maintenance of the memorial monument; and

WHEREAS, under Resolution No. R-224-99, the County and CUPA collaborated on the County's effort to apply for and accept a surplus B-26B Bomber from the United States Air Force Museum, and that the B-26B bomber is currently parked on the north side of the Airport; and

WHEREAS, the County under this lease desires to permit CUPA to make rent-free use of the B-26B bomber on the site leased to CUPA herein, provided that CUPA maintain the bomber in a manner acceptable to the United States Air Force; and

WHEREAS, Lessee agrees to maintain the bomber at a level consistent with aircraft on display in aviation museums, and that the site shall be available for public access and for the conduct of public or private tours; and

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

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

ARTICLE 1
Term and Premises

1.01. Term; Lessee's Use of Aircraft: (A) The County hereby leases the premises to the Lessee for a term of ten (10) years, effective on the Commencement Date and, cancelable by either party at any time upon not less than one hundred and twenty (120) days advance written notice, the premises set forth in Sub-Article 1.02 (Premises), for the purposes and uses set forth in Article 2 (Use of Premises). Should the monument site be needed for airport purposes, the monument will be relocated to another site if available, subject to approval by the FAA. Airport revenues will not be used for any such relocation of the monument site.

(B) The County hereby grants Lessee a license to use the B-26B bomber in conjunction with Lessee's monument on the Premises. If County is required to return the aircraft to the United States Air Force, or otherwise required to relocate the aircraft, the County will provide Lessee with thirty (30) days' notice of such requirement, and Lessee shall cooperate with County in the removal of the bomber from the monument site and its relocation to a site designed by the Air Force or other entity. During the term of this Lease, Lessee shall not be required to pay Lessor a fee or any compensation for its incorporation of the B-26B bomber into the monument site but Lessee shall be required at its cost to maintain the bomber in a manner directed by

MDAD from time to time. Lessee agrees to maintain the bomber in a condition and in a manner that is consistent with the maintenance of aircraft on display in aviation museums, unless otherwise directed by MDAD in writing; and return the bomber to the County at the end of the lease term in same condition it was in when the County received the bomber, reasonable wear and tear excepted. Lessee acknowledges that the Airport's participation in any cost related to the bomber or the monument site shall be limited as provided herein or by the Federal Aviation Administration.

1.02. Premises: The premises leased herein are located at Kendall-Tamiami Executive Airport ("Airport"), and are more particularly described below and as shown on Exhibit A, dated January 1, 2007 attached hereto and made a part hereof ("Premises"):

Land	25,595 square feet

1.03 Relocation of Premises: The Premises are subject to relocation, modification, or deletion within the Airport, at the sole discretion of the Miami-Dade Aviation Department of the County ("Department") and this Agreement may be administratively revised to reflect such relocation, modification, or deletion, upon at least thirty (30) days advance written notice to the Lessee by the Department. Relocated space may not be similar in size, configuration, or location on the Airport to the Premises described in Article 1.02 (Premises) and leased hereunder and may be subject to different rentals. The Lessee may, at its sole cost and expense, accept the relocated, replacement premises or may vacate the Premises within the notice period, subject to Lessee's obligations for returning the site to its original condition as provided in Article 4.03.

1.04 Suitability of Premises: The Lessee acknowledges the Premises are suitable for the Lessee's proposed use and the County has no obligation to perform or cause to be performed any acts such as maintenance, repairs, cleanup, painting, or the like of the leased Premises. Said Premises are leased in an as-is condition. The Lessee's obligation under this Agreement, such as in Sub-Article 6.01(B) (Permits and Licenses), to obtain all operating permits required of the Lessee at the Lessee's sole cost and expense, shall remain the Lessee's exclusive obligation to perform in order to obtain such permits, and shall not require the County to take any action or perform any tasks within the Premises to enable the Lessee to obtain such permits, including, but not limited to, certificates of occupancy. The Lessee further acknowledges by executing this Agreement that the Lessee shall make the necessary investments and all improvements to the Premises to make the Premises suitable for the Lessee's use and to satisfy the County's environmental, life, safety, fire and occupancy requirements which the Lessee shall make at its own expense and risk. The County shall have no

obligation to Lessee to compensate or reimburse Lessee for such investments and improvements.

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

ARTICLE 2
Use of Premises

2.01 Use of Premises: The Lessee shall use the Premises for the establishment and maintenance of a Bay of Pigs Liberation Air Force Monument. The Premises shall not be approved, designated, or considered to be designated as a local or County park.

ARTICLE 3
Rentals and Payments

3.01 Rentals: The Lessee shall pay the County, on the Commencement Date, the annual sum of $3,583.30 in U.S. funds, in advance and without billing, at the offices of the Department as set forth in Sub-

Article 3.04 (Address for Payments).

DESCRIPTION	SQ. FT.	RATE	ANNUAL	MONTHLY
Land	25,595	$.14	$3,583.30	$298.61

3.02 Security Deposit: Prior to occupancy of the Premises, the Lessee shall pay to the County an amount equal to two times the required total monthly rental as determined pursuant to Article 3.01 above, plus applicable State sales tax thereon, as security for the payment of the Lessee's obligations hereunder. Said deposit shall be in addition to any rental payments required hereunder, and the 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 Department, in its sole discretion, may authorize the Lessee to provide an irrevocable Letter of Credit, in a form provided by the Department, in like amount. The amount of the security deposit is subject to adjustment by the Department at any time there is a change in the annual or monthly rentals pursuant to the terms of this Agreement; provided further, that the Department shall have the right to demand an increase in the security deposit requirement of up to an additional four months rental to provide the Department with adequate assurance of the Lessee's payment of its obligations, which assurance is required because of the Lessee's defaults in the timely payment of rents, fees and charges due hereunder, because the Department has reason to believe, based on published reports, that the Lessee's future ability to pay such rentals, fees and charges, on a timely basis, is in jeopardy, or because of the Lessee's use of the Premises for other than the use as stated in Article 2.01.

3.03 Rental Rate Review: Annually as of April 1st, of each year of the term of this Agreement, or such other date as may be established by the Board of County Commissioners (the "Board"), the rental rates applicable to the Premises as stated in Sub-Article 3.01 (Rentals) shall be subject to review and adjustment in accordance with the adjustment of rental rates for the Airport. When such rental rate adjustments are established by the Board or as directed by the MDAD Director pursuant to Resolution No. R-186-01, and new or revised rental rates applicable in whole or in part for the Premises are established, this Agreement shall be considered and deemed to have been administratively amended to incorporate the revised rental rates effective as of such established date. Such revised rental rates shall be reflected by a letter between the Department and the Lessee to be attached hereto. Payments for any retroactive rental adjustments shall be due upon billing to the Lessee by the Department and payable by the Lessee within thirty (30) calendar days of

same. Notwithstanding anything to the contrary provided herein, the adjustment of rental rates for the Premises shall be based on a non-discriminatory application of the rental rates for the Airport as adjusted by the Board.

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

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

Miami-Dade County Aviation Department
Finance Division
P. O. Box 526624
Miami, Florida 33152-6624

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

3.06 Utilities: The Lessee shall pay for all utilities used by it. In the event the Premises are metered and billed to the Lessor, the Lessee shall pay for utility consumption based on the metered charge. The Lessor shall have no obligation to provide utilities to the Premises other than those existing as of the effective date of this Agreement.

3.07 Other Fees and Charges: The Lessee acknowledges that the Board of County Commissioners 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 Lessor 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, 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 Lessor.

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ARTICLE 4
Construction and Maintenance by Lessee

4.00 Construction of Memorial: (A) Lessee shall, at its sole cost and expense, cause a memorial to be constructed on the Premises whose design and construction satisfy County and FAA requirements. Lessee shall at its sole cost and expense relocate the B-26B bomber from its present site on the Airport to the monument site, and shall bear all costs of transportation, insurance, and installation involved in such relocation.

(B) Lessee shall comply with MDAD regulations, policies, and requirements regarding the relocation of the B-26B bomber to the monument site, the installation of the B-26B at the monument site, and the construction of any monument, facility, or structure on the site, and shall specifically comply with federal, state, and County design and construction criteria and requirements as to such activities. Lessee shall obtain approval of MDAD in writing as to (i) the installation methodology of the B-26B bomber in advance of such installation, (ii) the design of any monument, facility or structure to be constructed on the facility promptly following 100% completion of the designs therefor, and (iii) the construction of the installation mechanism for the B-26B bomber and the construction of any monument, facility, or structure on the Premises, prior to the commencement of any such construction.

4.01 Tenant Airport Construction Contracts: From time to time, the Lessee and the County through its County Manager shall be entitled to enter into Tenant Airport Construction ("TAC") contracts 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 comply with MDAD's TAC contract requirements, which TAC contract requirements may be amended or updated by MDAD, from time to time.

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

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

4.03 Maintenance and Repairs: Except for those items for which the Lessor is responsible pursuant to Article 5 (Maintenance by Lessor), the Lessee shall repair and maintain in good condition the Premises and all improvements or alterations thereto. Such repair and maintenance shall include but not be limited to, the monument and any facility constructed on the site by Lessee, including applicable interior walls, painting, overhead and doors, windows, pavement, equipment, protection bumpers, furnishings, skylights, fixtures, appurtenances, air conditioning systems, replacement of light bulbs, ballasts and tubes and the replacement of all broken glass, and shall repair all damage caused by the Lessee and its employees, agents, independent contractors, patrons, servants and invitees.

Prior to or at termination of this Agreement, injury done by the installation or removal of personal property of the Lessee shall be repaired so as to restore the Premises to their original state, except as the Premises may have been altered by the Lessee with the approval of the Lessor pursuant to Article 7.01 (Alterations) hereof, and to quit and surrender up the Premises in the same good order and conditions as it was at the commencement of this Agreement, reasonable wear and tear and damage caused by any casualty not the fault of the Lessee or an Act of God excepted. At termination, Lessee shall be responsible for the relocation of the B-26B bomber from the monument site to a site on the Airport designated by MDAD and shall bear all costs involved in such relocation.

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

4.05 Excavation of Land: No excavation of any of the land shall be made, no soil or earth shall be removed from the Premises, and no well of any nature shall be dug, constructed or drilled on the Premises, except as may be required for environmental monitoring purposes, without the prior written approval by the Lessor.

4.06 Industrial Waste Facilities: The Lessee 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.

4.07 Grass Areas and Shrubbery: The Lessee shall cause grassed areas and shrubbery on the leasehold to be mowed and trimmed regularly so as to maintain the Premises in a neat, orderly and attractive condition. However, 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 of enjoyment of others of their premises. All landscaping maintenance required hereunder shall be performed in accordance with landscape maintenance standards, as published from time to time by the Lessor.

4.08 Inspections: The Lessor and/or its designated representatives shall have the right, during normal working hours, to inspect the Premises to identify those items of maintenance, repair, replacement, modification and refurbishment required of the Lessee or the County, pursuant to Article 5 (Maintenance by Lessor), to keep the Premises in good order and condition. The Lessee shall perform all corrective work required of it, identified in such inspection(s) within 30 days of receipt of written notice from the Lessor. Trash and debris problems shall be corrected within 24 hours following receipt of either oral or written notice from the Lessor. Failure of the Lessor to inspect as foresaid shall not impose any liability on the Lessor or the County.

4.09 Failure to Maintain: If it is determined by the Lessor that the Lessee has failed to properly clean, remove trash and refuse, maintain, repair, replace and refurbish the Premises as required by this Article 4, the Lessor shall provide to the Lessee a list of deficiencies, reflecting the amount of time to be reasonably allowed for the Lessee to correct same. If the Lessee fails to correct such deficiencies within the time allowed and has not registered an objection as to its obligation to do so, the Lessor, following 10 days further notice to the Lessee, may enter upon the Premises and perform all work, which, in the judgment of the Lessor, may be necessary and the Lessor shall add the cost of such work, plus 25% for administrative costs, to the rent due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the rent. Subsequent to receipt of the further notice of intent to perform repairs or cleanup from the Lessor, the Lessee shall not undertake performance of such repairs or cleanup without specific prior written authorization from the Lessor.

ARTICLE 5
Maintenance by Lessor

5.01 Lessor Maintenance: The Lessor shall maintain the existing water, sanitary sewerage and storm water drainage facilities that lie outside the boundaries of the Premises, but Lessor shall have no further

maintenance obligations as to the monument, the site, the B-26B bomber, or any facility or structure built thereon by the Lessee.

5.02 Maintenance of Public Airport Facilities: The Lessor shall also maintain all public Airport facilities and improvements which Lessee has non-exclusive use rights under Article 2.01 (General Privileges and Uses).

5.03 Lessor Maintenance Subject to Certain Conditions: Such maintenance by the Lessor may be subject to interruption caused by repairs, strikes, lockouts, labor controversies, inability to obtain, fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, acts of God, and other conditions beyond the control of the 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 Lessor, in its sole discretion, may provide a rent abatement for that portion of the Premises rendered unusable for the period of time that the Lessor is unable to make the repairs required by Article 5.01 (Lessor Maintenance). 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 6
Regulations, Licenses and Permits

6.01 Rules and Regulations - General:

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

(B) Permits and Licenses:

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

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

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

ARTICLE 7
Alteration of Premises and Erection of Signs

7.01 Alterations: The Lessee shall not alter the Premises in any manner whatsoever without the prior written approval of the Lessor. In the event the Lessee is given approval to make alterations to the Premises, the Lessee shall comply with the terms and conditions of such approval, as contained in the Lessor's approval letter.

7.02 Signage: The Lessee shall not erect, maintain or display any identifying signs or any advertising matter, of any type or kind which is visible to the public, without prior written approval of the Lessor. In the event the Lessor changes the graphics system for the identification of lessees at the Airport, the Lessee

agrees, if required by the Lessor, to change, at its sole cost, any of its identification signs necessary to comply with such graphics system.

ARTICLE 8
Environmental Compliance

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

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

(B) "Environmental Law" means any federal, state or local law, statute, ordinance, code, rule, regulation, license, authorization, decision, order, injunction, decree, or rule of common law, and any judicial or agency interpretation of any of the foregoing, which pertains to health, safety, any Hazardous Material, or the environment (including but not limited to ground or air or water or noise pollution or contamination, and underground or aboveground tanks) and shall include without limitation: (i) the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.; (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); (iii) the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; (iv) the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; (v) the Clean Air Act 42 U.S.C. § 7401 et seq.; (vi) the Toxic Materials Control Act 15 U.S.C. § 2601 et seq.; (vii) the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; (viii) Chapters 403, 376 and 373, Florida Statutes; (ix) Chapters 24 and 25 of the Code of Miami-Dade County (the "Code"); and (x) 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.

(C) "Environmental Requirement" means any Environmental Law, agreement or restriction (including but not limited to any condition or requirement imposed by any insurance or surety company), which pertains to health, safety, any Hazardous Material, or the environment, including but not limited to ground, air, water, noise pollution, contamination, and underground or aboveground tanks.

(D) "Hazardous Material" means any substance, whether solid, liquid or gaseous:(i) 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 (ii) 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 (iii) which causes or poses a threat to cause contamination or a nuisance on the Premises or any adjacent premises or a hazard to the environment or to the health or safety of persons on the Premises.

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

(F) "Recognized Environmental Condition" shall have the meaning set forth in ASTM E 1527-97, Section 3.3.28.

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

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

(B) Under Sub-Article 8.06 (Lessee Audit) of this Agreement, Lessee may conduct an independent investigation of the Premises and the physical condition thereof, including the potential presence of any Hazardous Materials on or about the Premises. Whether Lessee has conducted such an investigation or not, Lessee is fully aware of the condition of the Premises and the properties surrounding the Premises, and is willing to proceed with this Agreement in light of the environmental condition of the Premises. Lessee's report on the investigation, if any such report has been prepared, shall be provided to the County and listed in Schedule 8 attached to this Agreement.

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

(D) Except as to County's obligations set forth in this Article or elsewhere in this Agreement, Lessee expressly assumes the risk that Hazardous Materials that are or may be present on the Premises at the commencement of this Agreement may affect the suitability or usability of the Premises for Lessee's proposed or intended use. Lessee agrees that, except to the extent of County's remediation obligations provided in Article 8.04, County shall have no responsibility or liability with respect to any Hazardous Materials on the Premises. In no event shall County be liable to Lessee for damages relating to physical or personal injury, business interruptions, relocation costs, or any other cost resulting from the presence of Hazardous Materials on the Premises at any time during this Agreement.

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

(A) The County shall conduct response actions mandated by existing Environmental Requirements for Hazardous Materials disclosed in the Baseline Audit as defined in Article 8.05 and the Lessee Audit as defined in Article 8.06. If this Agreement contemplates construction by the Lessee, and this is not a renewal lease, any Hazardous Material

discovered during any Initial Construction Period as defined in Article 8.01(E) shall be presumed to be a County obligation under this Agreement except to the extent the Department demonstrates to the satisfaction of DERM that the Hazardous Materials were introduced by Lessee, Lessee's agents, employees, contractors, invitees or trespassers, in which case the responsibility therefor is the Lessee's. After any Initial Construction Period, or if this Agreement is a renewal lease, any Hazardous Material discovered on the Premises and not previously identified in the Baseline Audit or Lessee Audit shall be the responsibility of the Lessee, except to the extent that Lessee demonstrates to the satisfaction of DERM that such Hazardous Materials originated from (1) a discharge, disposal or release outside of the Premises, unless such discharge, disposal or release was caused by Lessee, Lessee's agents, employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the premises prior to Lessee's first occupancy of the Premises and not caused by Lessee, Lessee's agents, employees, contractors, invitees, or trespassers.

(B) County's responsibility for remediation under this Article 8.04 shall be limited to the Recognized Environmental Conditions required to be remediated under then-existing Environmental Requirements. If County is permitted to leave any Hazardous Material in place under existing Environmental Requirements, County shall have the option of so doing unless a Lessee to be able to continue with construction or occupancy of the Premises.

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

governmental authorities may require or recommend, utilizing such methods as County or the applicable governmental authorities may elect in order to remediate the contamination described in any CARs and RAPs (collectively, the "Remedial Action").

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

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

8.05 Baseline Audit: Unless Lessee has agreed to extend the delivery date until thirty (30) days after the commencement of this Agreement, the County has provided Lessee with a copy of an environmental audit of the Premises, which audit includes analysis of soil and groundwater samples (the initial "Baseline Audit"). Unless this is a renewal lease, the County shall be responsible for any Recognized Environmental Conditions within the meaning of ASTM E 1527-97, Section 3.3.28, disclosed by the Baseline Audit which the County may respond to, to the extent provided in Article 8.04(B) County's Disclosure of Soil and Groundwater Contamination, during the term of the Agreement. Unless this is a renewal lease, Lessee may terminate this Agreement within thirty (30) days of receipt of the Baseline Audit if Lessee, in its sole discretion, determines that the Recognized Environmental Conditions disclosed in such Baseline Audit are unacceptable. If this is a renewal lease, Lessee shall be responsible for all Recognized Environmental Conditions disclosed in the

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Baseline Audit unless Lessee demonstrates to the County's satisfaction that the Recognized Environmental Conditions originated from (1) a discharge, disposal or release outside of the Premises, unless such discharge, disposal or release was caused by Lessee, Lessee's agents, employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the premises prior to Lessee's first occupancy of the Premises and not caused by Lessee, Lessee's agents, employees, contractors, invitees, or trespassers.

8.06 Lessee Audit: Lessee, at its sole cost and expense, shall have the right to conduct, within sixty (60) days of receipt of the Baseline Audit, an environmental inspection of the Premises (the "Lessee Audit"), through an independent environmental consultant approved in writing by County, such approval not to be unreasonably withheld or delayed. If Lessee elects to conduct a Lessee Audit, it shall furnish County a copy of the Lessee Audit within thirty (30) days of receipt of the Baseline Audit.

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

8.08 Lessee's Use of Hazardous Materials: Lessee shall not use, store, generate, treat, transport, or dispose of any Hazardous Material on the Premises without first obtaining County's written approval. Lessee shall notify County and seek such approval in writing at least thirty (30) days prior to bringing any Hazardous Material onto the Premises. Attached to Schedule 8 is a complete list of all Hazardous Materials which Lessee intends to use on the Premises during the term of the Agreement. County may withdraw approval of any such Hazardous Material at any time, for reasonable cause related to: (i) the threat of site contamination; (ii) damage or injury to persons, Premises or resources on or near the Premises; (iii) or Lessee's failure to obtain prior written approval of its use, storage, generation, treatment, transportation, or disposal of any Hazardous Material not delineated on Schedule 8. Upon withdrawal of such approval, Lessee shall immediately remove the Hazardous Material from the site. County's written approval of or failure to approve the use of a Hazardous Material under this paragraph shall not limit or affect Lessee's obligations under this Agreement, including Lessee's duty: (a) to remedy or remove releases or threatened releases; (b) to comply with Environmental Laws relating to the use, storage, generation, treatment, transportation, and/or disposal of any such Hazardous Materials; or (c) to indemnify County against any harm or damage caused thereby. Lessee shall promptly and completely answer periodic questionnaires from the County concerning Lessee's practices regarding the generation, use, storage, and disposal of Hazardous Materials.

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

8.10 Permits and Licenses: The Lessee warrants that it will secure at the times required by issuing authorities all permits or approvals that are required by any governmental authority to enable Lessee to conduct its obligations under this Agreement. Upon request, Lessee shall provide to County copies of all permits, licenses, COs, approvals, consent orders, or other authorizations issued to Lessee under applicable Environmental Requirements as they pertain to the Lessee's operations on or use of the Premises.

8.11 Notice of Discharge to County:

(A) In the event of: (a) the happening of any material event involving the spill, release, leak, seepage, discharge, or clean up of any Hazardous Material on the Premises in connection with Lessee's operation thereon; or (b) any Environmental Claim affecting Lessee from any person or entity resulting from Lessee's use of the Premises, then Lessee shall immediately notify County orally within twenty-four (24) hours and in writing within three (3) business days of said notice. If County is reasonably satisfied that Lessee is not promptly commencing the response to either of such events, County shall have the right but not the obligation to enter onto the Premises, or to take such other actions as it shall deem necessary or advisable to clean up, remove, resolve or minimize the impact of or otherwise deal with any such Hazardous Material or Environmental Claim following receipt of any notice from any person or any entity having jurisdiction asserting the existence of any Hazardous Material or an Environmental Claim pertaining to the Premises or any part thereof, which if true, could result

in an order, suit or other action against the County. If Lessee is unable to resolve such action in a manner which results in no liability on the part of County, all reasonable costs and expenses incurred by County shall be deemed an additional rental due County under this Agreement and shall be immediately payable by Lessee upon demand.

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

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

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

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

violation of any Environmental Law, Lessee shall, at the request of County, provide a detailed review of the status of any such violation by such consultant or consultants (the "Supplemental Audit") within thirty (30) days of the County's request.

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

8.15 Indemnity: Lessee shall indemnify, defend (with counsel satisfactory to County), and hold County, its directors, officers, employees, agents, consultants, representatives, assigns, and any successors to County's interest in the Premises, harmless from and against any and all loss, cost, damage, expense (including reasonable attorneys' fees), claim, cause of action, judgment, penalty, fine, or liability, directly or indirectly, relating to or arising from the use, storage, release, discharge, handling, generation, treatment,

transportation, or presence of Hazardous Materials on, under, or about the Premises in violation of Lessee's obligations under this Agreement (the "Hazardous Materials Release"). This indemnification shall include without limitation: (a) personal injury claims; (b) payment of liens; (c) diminution in the value of the Premises; (d) damages for the loss or restriction on use of the Premises; (e) sums paid in settlement of claims; (f) actual attorneys' fees, consulting fees, and expert fees; (g) cost of any investigation of site conditions; and (h) cost of any repair, cleanup, remedial, removal, or restoration work or detoxification if required by any governmental authorities or deemed necessary in County's reasonable judgment. County shall have the right but not the obligation to join and participate in, and control, if it so elects for any proceedings or actions in which the County is a named party, any legal proceedings or actions initiated in connection with the Hazardous Materials Release. County may also negotiate, defend, approve, and appeal any action in which County is named as a party taken or issued by any applicable governmental authorities with regard to a Hazardous Materials Release. Any costs or expenses incurred by County for which Lessee is responsible under this paragraph or for which Lessee has indemnified County: (i) shall be paid to County on demand, during the term of this Agreement as an additional rental; and (ii) from and subsequent to the expiration or earlier termination of the Agreement shall be reimbursed by Lessee on demand. Lessee's obligations pursuant to the foregoing indemnity shall survive the expiration or termination of this Agreement and shall bind Lessee's successors and assignees and inure to the benefit of County's successors and assignees.

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

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

(C) Whenever County has incurred costs described in this Sub-Article, Lessee shall, within thirty (30) days of receipt of notice thereof, reimburse County for all such expenses together with interest from the date of expenditure at the rate of one and one-half percent (1½ %) per month.

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

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

8.17 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, consultants, representatives and any other person acting on behalf of the County, and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Lessee or any its heirs, successors, or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present or future physical characteristic or condition of the Premises, including, without limitation, any Hazardous Material, in, at, on, under or related to the Premises, or any violation or potential violation of any Environmental Law applicable thereto; provided,

however, this Article 8.17 shall not apply to a waiver or release of any obligation of County under Sub-Article 8.04(A) (County's Disclosure of Soil and Groundwater Contamination). Lessee acknowledges that County would not have entered into this Agreement without Lessee's agreement to the waiver and release provided herein.

8.18 Surrender of Premises: Lessee shall surrender the Premises to County upon the expiration or earlier termination of this Agreement, free of debris, waste, and Hazardous Materials used, stored, or disposed of by Lessee or its agents, employees, contractors, vendors, suppliers, subsidiaries, invitees, or trespassers, or otherwise discharged on the Premises during the term of this Agreement; provided, however, Lessee shall not be responsible to the extent of County's obligations under this Article 8. The Premises shall be surrendered in a condition that complies with all Environmental Requirements, recommendations of environmental consultants hired by County, and such other reasonable environmental requirements as may be imposed by County.

8.19 Breach: Any breach by Lessee of any provision of this Article 8 (County's Disclosure of Soil and Groundwater Contamination) shall, after notice and a reasonable opportunity for Lessee to cure, constitute a default of the Agreement and shall entitle County to exercise any and all remedies provided in the Agreement, or as otherwise permitted by law.

8.20 Survivability of Terms: The terms and conditions of this Article 8 (County's Disclosure of Soil and Groundwater Contamination), including the indemnity, waiver, and release, shall survive the termination of this Agreement.

ARTICLE 9
Indemnification

The Lessee shall indemnify and hold harmless the County and its officers, employees, agents, consultants, representatives, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents, consultants, representatives, or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Lessee or its employees, agents, servants, partners, principals, subcontractors, vendors, suppliers, or subsidiaries. Lessee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the 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 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, consultants, representatives, and instrumentalities as herein provided. The County shall give Lessee notice of any such claims or actions, as soon as practicable. The provisions of this Article shall survive the expiration or early termination of this Agreement.

ARTICLE 10
Assignment and Subletting

10.01 Assignment and Transfer: The Lessee shall not, in any manner, assign, transfer, or otherwise convey an interest in this Agreement, or authorize others to exercise the rights granted to the Lessee herein.

10.02 Subletting: The Lessee shall not sublet the leased Premises or any part thereof.

ARTICLE 11
Insurance

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

(A) Commercial General Liability Insurance on a comprehensive basis, including Contractual Liability, to cover the 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 County must be shown as an additional insured with respect to this coverage.

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

The insurance coverages required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Lessee under this Agreement. All insurance policies required pursuant to the terms of this Agreement shall be issued in companies approved to

do business under the laws of the State of Florida. Such companies must be rated no less than "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 MDAD Risk Management.

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

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

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

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

On said insurance certificates, unless specifically shown to be excluded thereon, comprehensive public liability coverage shall include contractual liability.

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

11.03 Compliance: Compliance with the requirements of this Article 11 (Insurance) shall not relieve the Lessee of its liability under any other portion of this Agreement or any other agreement between the County and the Lessee.

11.04 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 Department.

11.05 Personal Property: Any personal property of the Lessee or of others placed in the Premises and Airport shall be at the sole risk of the Lessee or the owners thereof, and the County shall not be liable for any loss or damage, except to the extent such loss or damage was caused by the sole active negligence of the County, as limited by Section 768.28, Florida Statutes.

ARTICLE 12
Termination

12.01 Events of Default:

A default shall mean a breach of this Agreement by the Lessee (an "Event of Default"). In addition to those defaults defined in Sub-Article 12.02 (Payment Default), Sub-Article 12.03 (Insurance Defaults), Sub-Article 12.04 (Other Defaults), and Sub-Article 12.05 (Habitual Default), an Event of Default, may also include one (1) or more of the following occurrences:

(A) the Lessee has violated the terms and conditions of this Lease Agreement;

(B) the Lessee has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Lessee's creditors, or the Lessee has taken advantage of any insolvency statute or debtor/creditor law, or the Lessee's affairs have been put in the hands of a receiver;

(C) the Lessee has failed to obtain the approval of the County where required by this Agreement;

(D) the Lessee has failed to provide adequate assurances as required under Sub-Article 12.07 (Adequate Assurances);

(E) the Lessee has failed to comply with any provision of Sub-Article 14.04 "Affirmative Action, Community Small Business Enterprise, and Disadvantaged Business Enterprise Programs);

(F) the Lessee has failed in a representation or warranty stated herein; or

(G) the Lessee has received three (3) notices of default, of any kind, within a twenty-four (24) month period.

12.02 Payment Defaults: Failure of the Lessee to make all payments of rentals, fees and charges required to be paid herein when due shall constitute a default, and the County may, at its option, terminate this

Agreement after five (5) calendar days notice in writing to the Lessee, unless the default is cured within the notice period.

12.03 Insurance Defaults: The County shall have the right, upon fifteen (15) calendar days written notice to the Lessee, to terminate this Agreement if the Lessee fails to provide evidence of insurance coverage in strict compliance with Article 11 (Insurance) prior to commencement of operations, or fails to provide a renewal of said evidence upon its expiration; provided, however, that such termination shall not be effective if the Lessee provides the required evidence of insurance coverage within the notice or grace period.

12.04 Other Defaults: The County shall have the right, upon thirty (30) calendar days written notice to the Lessee, to terminate this Agreement upon the occurrence of any one (1) or more of the following, unless the same shall have been corrected within such period:

(A) Failure of the Lessee to comply with any covenants of this Agreement, other than those that constitute a default pursuant to Sub-Article 12.02 (Payment Default).

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

12.05 Habitual Default: Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly or repetitively defaulted in the performance of or breach any of the terms, covenants and conditions required herein, to be kept and performed by the Lessee, on [five (5)] occasions regardless of whether the Lessee has cured each individual condition of breach or default as provided for in Sub-Article 12.02 (Payment Default), Sub-Article 12.03 (Insurance Defaults), and Sub-Article 12.04 (Other Defaults) above, the Lessee shall be determined by the Airport Manager to be an "habitual violator". At the time that such determination is made the Department shall issue to the Lessee a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Lessee that there shall be no further notice or grace periods to correct any subsequent breach(s) or default(s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the County may terminate this Agreement upon the giving of written notice of termination to the Lessee, such termination to be effective upon the seventh (7th) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder. Immediately upon receipt of said termination, the Lessee shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with Sub-Article 12.09 (Actions at Termination) hereof.

12.06 Notice of Default and Opportunity to Cure: If an Event of Default occurs, the Department shall notify the Lessee (the "Default Notice"), specifying the basis for such default, and advising the Lessee that

such default must be cured immediately or this Agreement with the County may be terminated. The Lessee can cure and rectify the default, to the Department's reasonable satisfaction, within thirty (30) days of actual notice of the Default Notice (the "Cure Period") or such other timeframe as delineated in the Agreement. The Department may extend the Cure Period and grant an additional period of such duration as the Department shall deem appropriate without waiver of any of the County's rights hereunder, so long as, the Lessee has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the Department prescribes. The Default Notice shall specify the date by when the Lessee shall discontinue the services (the "Termination Date").

12.07 Adequate Assurances: When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Lessee's ability to perform the work or any portion thereof, the County may request that the Lessee, within the time frame set forth in the County's request, provide adequate assurances to the County, in writing, of the Lessee's ability to perform in accordance with terms of this Agreement. In the event that the Lessee fails to provide to the County the requested assurances within the prescribed time frame, the County may:

(A) treat such failure as a repudiation of this Agreement; and

(B) resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the work or any part thereof either by itself or through others.

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

(A) Termination for Abandonment

This Agreement shall be automatically terminated in its entirety upon (i) the abandonment by the Lessee of the Premises or (ii) the discontinuance of Lessee's operations at the Airport and occupy the Premises for one or more of the purposes permitted under this Agreement for a period of time exceeding for fifteen (15) days, unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Lessee's use of the Premises for the purposes authorized in Article 2 (Use of Premises).

(B) Termination for Cause

The County may terminate this Agreement, effective immediately if: (i) the Lessee fails to cure an event of Default during the Cure Period; (ii) a lien is filed against the leasehold interest of the Lessee and not removed within a reasonable time; (iii) an individual, firm, corporation, joint venture, or other entity attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (iv) a principal of the Lessee is convicted of a felony during the lease term.

The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or joint venture or other entity has with the County and that such individual, corporation or joint venture or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

The foregoing notwithstanding, any individual, firm, corporation, joint venture, or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform, and all other reasons set forth in § 10-38 of the Code.

(C) 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 there from for a period in excess of ninety (90) consecutive days, provided that nothing contained herein shall be deemed to constitute a waiver by the Lessee of any right it may have against the United States to just compensation in the event of any such assumption.

(D) The issuance by any court of competent jurisdiction of any injunction in any way substantially preventing or restraining the use of the Airport, and the remaining in force of such injunction for a period in excess of ninety (90) days. In such event of termination, this lease may be reinstated by the County and extended for a period of time equal to the number of days that the injunction was in effect in excess of said ninety (90) days.

12.09 Actions at Termination:

(A) The Lessee shall vacate, quit, surrender up and deliver the Premises to the County on or before the Termination Date, whether by lapse of time or otherwise. The Lessee shall surrender the Premises in the condition required under Sub-Article 4.03 (Maintenance and Repairs) herein. All repairs for which the Lessee is responsible shall be completed prior to surrender. On or before the Termination Date, except in the instance of termination pursuant to Sub-Article 12.08 (Other Terminations), in which event the Lessee shall be allowed up to five (5) calendar days, the Lessee shall remove all of its personal property from the Premises. Any personal property of the Lessee not removed in accordance with this Sub-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 Termination Date shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be in the best interests of the County.

(B) If the County advises the Lessee that it has reason to believe that any hazardous substance

or environmental contaminant has been released within the premises or into the ground under the Premises, then the Lessee at its expense shall retain an approved environmental consultant to perform whatever environmental assessment may be required to determine the extent of such release. The Lessee shall comply with the recommendations and conclusions of such consultant regarding environmental clean up efforts that may be required, and shall comply with any other clean up requirements imposed on the Lessee by federal, state or County laws, statutes, ordinances, rules, regulations or codes.

(C) In the event of termination for default, the County shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the Agreement, the following amounts as damages: (1) the reasonable costs of re-entry and re-leasing including without limitation the cost of any clean up, alteration, repair, maintenance, refurbishment, removal or property and fixtures of the Lessee, or any other expense occasioned by failure of the Lessee to quit the Premises upon termination and to leave them in the required condition, any remodeling costs, attorneys fees and court costs, including all appellate proceedings; and (2) the loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts could have been secured.

12.10 Holdover Tenant: If the Lessee (or anyone claiming through Lessee) shall remain in possession of the Premises or any part thereof after the termination of this Lease and Concession Agreement, without a written agreement executed by the County, then without limiting the County's other rights and remedies, the person or entity remaining in possession shall be deemed a tenant at sufferance otherwise subject to all of the provisions of this Agreement, and the Lessee shall thereafter pay on account of its holdover use and occupancy of the Premises a sum, **at a rate equal to two times (2x) the rental amount payable monthly for the twelve (12) month period immediately preceding such termination**, and with all additional fees and charges also payable as provided in this Agreement (the "Holdover Charges"). The Holdover Charges shall be payable weekly in advance. Notwithstanding the above, the Lessee shall remain liable to the County for all damages resulting from such breach, with the amount of any Holdover Charges accepted by the County on account of the holdover considered as mitigation of such damages. The covenant in this Sub-Article shall survive the Agreement term.

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

12.12 Right to Show Premises: At any time within six (6) months of the scheduled expiration date of this Agreement or anytime after the Lessee has been given a Default Notice or notice of termination pursuant to Article 12 (Termination) hereof, the County shall have the right to enter the Premises to show said Premises to prospective tenants or users during regular business hours.

ARTICLE 13
Special Conditions

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

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 County's Obligations: The Lessee, in recognition of the County's obligation, pursuant to Section 22 of Part V of the FAA's standard grant assurances, to enforce the provisions of Sub-Articles 13.01 (Quality of Services) and 13.02 (Nondiscriminatory Prices) above, agrees that the Department may, promulgate standards, methods and procedures, and monitor and test the provision of services hereunder, and may require the Lessee to provide copies of schedules of service charges and the bases for discounts, rebates and similar types of price reductions. Should the Department determine that the Lessee is not in compliance with the provisions of Sub-Articles 13.01 (Quality of Services) and 13.02 (Nondiscriminatory Prices) above, the first such occurrence shall be considered a curable default, pursuant to Article 12.04 (Other Defaults) hereof, and subsequent occurrence(s) shall be considered a material breach of this Agreement, entitling the County to the remedies provided in this Agreement or by law.

13.04 Air Shows and Special Events: Upon at least sixty (60) days written notice from the Department, the County may require the Lessee to surrender portions of the Premises for certain periods of time during the term of this Agreement for the purpose of allowing the use of designated portions of the Premises by others in connection with air shows and other special events. Said use will not exceed ten (10) days per occurrence, or more than three (3) events per year. For any day or part of a day that the Premises are so used, rental payments under Sub-Article 3.01 (Rentals) will be abated. The Department shall actively keep the Lessee advised of all of the planning for such events, air shows, or County sponsored special events, if portions of the Premises are required.

13.05 Right of Flight: There is hereby reserved to the County, its successors and assigns, for the use and benefit of the County and the public, a right of flight for the passage of aircraft in the air space above

the surface of the Premises herein leased, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said air space or landing at, taking off from or operating on the Airport.

ARTICLE 14
Nondiscrimination

14.01 Employment Discrimination: The Lessee shall not discriminate against any employee or applicant for employment to with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of age, sex, race, color, religion, national origin, ancestry, or disability. The Lessee shall comply with applicable provisions of the Americans with Disabilities Act, including, but not limited to, provisions pertaining to employment.

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, ancestry or disability 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 such land and the furnishings of services thereon, no person on the grounds of race, color, sex, national origin, ancestry or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Lessee shall operate hereunder in compliance with the American with Disabilities Act, 42 U.S.C. § 12101 et seq., 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.

14.03 Breach of Nondiscrimination Covenants: In the event it has been determined that the Lessee has breached the nondiscrimination covenants contained in Sub-Articles 14.01 (Employment Discrimination) and 14.02 (Nondiscriminatory Access to Premises and Services) above, pursuant to the complaint procedures contained in the applicable Code of Federal Regulations, and the Lessee fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to Sub-Article 12.04 (Other Defaults) hereof.

14.04 Affirmative Action, Community Small Business Enterprise, and Disadvantaged Business Enterprise Programs: The Lessee acknowledges that the provisions of Miami-Dade County Ordinance No. 97-52 for Community Small Business Enterprises ("CSBE"), and/or the provisions 49 C.F.R. Part 23, Disadvantaged Business Enterprises ("DBE"), and 14 C.F.R. Part 152, Affirmative Action Employment Programs, are applicable to the activities of the Lessee under the terms of this Agreement, unless exempted by said regulations. The Lessee hereby agrees to comply with all requirements of the Department, FAA, and the United States Department of Transportation ("DOT"). These requirements may include, but be not limited to, (i) compliance with CSBE, DBE and/or Employment Affirmative Action participation goals, (ii) keeping of certain records of good faith compliance efforts, and (iii) submission of various reports, including, if directed by the Department, the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises. In the event it has been determined, in accordance with applicable regulations, that the Lessee has defaulted in the requirement to comply with this section, and the Lessee thereafter fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Lessee to terminate this Agreement pursuant to Sub-Article 12.04 (Other Defaults) hereof.

ARTICLE 15
Security and Special Provisions

15.01 Security: The Lessee acknowledges and accepts full responsibility for the security and protection of the Premises, any improvements thereon, and its equipment and property on the Airport. The Lessee fully understands and acknowledges that any security measures deemed necessary by the Lessee for the protection of said Premises, improvements, equipment and property shall be the sole responsibility of the Lessee and shall involve no cost to the County.

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

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

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

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

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 Miami-Dade County Ordinance No. 92-15 The County shall have the right, upon thirty (30) days written notice to the Lessee, to terminate this Agreement in the event the Lessee fails to provide, as of each anniversary of the Commencement Date of this Agreement, the annual re-certification affidavit as required by the ordinance; provided, however, that such termination shall not be effective if the Lessee submits the required affidavit within the notice period.

Further, this Agreement shall be terminated upon not less than fifteen (15) calendar days written notice to the Lessee and without liability to the County, if the Department or the County Manager determines any of the following:

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

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

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

workplace as required by the ordinance.

ARTICLE 16
Employees

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

16.02 Employee Covenants Violations: In the event the Lessee is in default of the covenants in Sub-Article 16.01 (Control of Employees) for failure to properly control its employees, the County shall have the right to require the Lessee take immediate action to correct the discrepancy.

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 in Miami-Dade County, Florida, and any action to determine the rights or obligations of the parties hereto shall be brought in the appropriate courts of the State of Florida.

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

17.03 Registered Office/Agent; Jurisdiction: Notwithstanding the provisions of Sub-Article 17.02 (Notice of Commencement of Civil Action), the Lessee, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, such designations to be filed with the Florida Department of State in accordance with Section 607.0501, Florida Statutes. If the Lessee is a natural person, he and his personal representative hereby submit themselves to the jurisdiction of the courts of this State for any cause of action based in whole or in part on an alleged breach of this Agreement.

ARTICLE 18
Trust Agreement

18.01 Incorporation of Trust Agreement by Reference: Not-withstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Amended and Restated Trust Agreement dated as of the 15th day of December, 2002, by and between the County and the JP Morgan as Trustee and Wachovia National Bank as Co-Trustee (the "Trust Agreement"), which Trust Agreement is incorporated herein by reference, shall prevail and govern in the event of any conflict or inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rentals, fees or charges required herein, and their modification or adjustment. A copy of the Trust Agreement is available for inspection in the offices of the Department during normal business hours.

18.02 Adjustment of Terms and Conditions: If, at any time during the term of this Agreement, a court or federal agency of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the rentals, fees and charges required to be paid hereunder to the County by the Lessee or by other lessees under other agreements of the County for the lease or use of facilities used for similar purposes, are unjustly discriminatory, the County shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals, fees and charges required to be paid under this Agreement in such a manner as the County shall determine is necessary and reasonable so that the rentals, fees and charges payable by the Lessee and others shall not thereafter be unjustly discriminatory to any user of like facilities and shall not result in any violation of the Trust Agreement or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement. In the event the County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the County pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions including the adjustment for rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

18.03 Lessee Right to Terminate: In the event the terms and conditions of this Agreement, including the rentals, fees and charges payable hereunder, have been substantially modified pursuant to Sub-Article 18.02 (Adjustment of Terms and Conditions) above, the Lessee at any time within one (1) year following the effective date of such modification, may terminate this Agreement by giving ninety (90) days written notice to the County, without liability by either party to the other.

ARTICLE 19
Rights Reserved to the County

19.01 Rights Reserved: All rights not specifically granted the Lessee by this Agreement are reserved to the County.

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

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

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

ARTICLE 20
Agreement Subject to Rights of United States Government

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

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

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

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

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

(C) Any monies paid by the Government to the County as rental for the use of the Premises shall be retained by the County; provided, however, that if the Lessee shall elect to suspend this Agreement for the period of the Government's use of the Premises, pursuant to subparagraph (A)(2) above, and rentals are paid by the Government for the use of any

personal property or unamortized capital improvements installed thereon by Lessee, the rentals received by the County for use of the Lessee's personal property or unamortized capital improvements shall be for the benefit of the Lessee and paid thereto.

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

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

ARTICLE 21
Other Provisions

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

21.02 Headings: Any headings preceding the text of any articles, sub-articles, paragraphs or sections of this Agreement shall be solely for convenience of reference and shall neither constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

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

As to the County or Miami-Dade Aviation Department:

Director
Miami-Dade Aviation Department
P.O. Box 025504
Miami, Florida 33102-5504

As to the Lessee:

President
Cuban Pilots Association
PO Box 720328
Miami, FL 33272

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

21.04 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.

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

21.06 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.

21.07 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 said invalid provision(s) of this Agreement are severable.

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

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

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

20.11 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.

21.12 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.

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

(A) Total Destruction

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

(B) If the damaged portion of the Premises is not rendered tenantable by the County within a reasonable period of time, and the Lessee shall determine that 1) the loss of the damaged portion of the Premises shall have a material adverse impact on the ability of the Lessee to utilize the Premises for the purposes described in Article 2 (Use of Premises), or 2) would require the Lessee to obtain other space off the Premises in order to substantially conduct the operations of the Lessee originally conducted within the Premises, then in either such event, upon written notice to the County, the Lessee may cancel this Agreement as of a date which shall be no earlier than three (3) months from the written notice date, (i) if the repairs are not completed within ninety (90) days following such written notice of intent to cancel, or (ii) if the repairs cannot be reasonably completed within such ninety (90) day period and the County has not commenced the repairs within such time. In the event of cancellation, the rent for the untenantable portion of the Premises shall be paid only to the date of such fire, windstorm, flood, or other casualty. If the Agreement is not canceled following any such casualty, the rental shall be abated as to the portion of the Premises rendered untenantable.

If the casualty was caused in whole or in part by the Lessee, its officers, employees, agents, contractors, vendors, suppliers, subsidiaries, invitees, or trespassers, then the Lessee shall not have the right to terminate this Agreement and shall be responsible under other provisions of this Agreement for payment to the County of all damage to the Premises, plus the loss of rentals attributable to the damaged or destroyed Premises.

21.14 Quiet Enjoyment: Subject to the terms of this Agreement, specifically including but not limited to (i) the environmental remediation steps to be taken under Sub-Article 8.02 (Environmental Compliance), (ii) County's right and obligation to make certain repairs, alterations, and additions under Article 5 (Maintenance by County) and Sub-Article 19.02 (Rights of County at Airport), which, for purposes of this clause includes any and all demolition, in whole or in part, of buildings and runways, and roadway systems on or off the Airport, and (iii) the reservation of easement rights to the airspace under Sub-Article 15.02 (Right of Flight), all of which provisions and others in the Agreement the Lessee acknowledges may cause disruption and disturbance to the Lessee, and upon the observance by the Lessee of all the terms, provisions, covenants and conditions imposed upon the Lessee hereunder, the Lessee shall peaceably and quietly hold and enjoy the Premises for the term of this Agreement; provided, however, that the County shall not be liable for any violation of this clause or for any disturbance or disruption in or to the Lessee's business, for acts or omissions of tenants, users of the Airport, third parties, Acts of God, or when any department or agency of the County is acting in its governmental capacity.

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

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

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

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

BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA

By: _____
Miami-Dade Aviation Director

ATTEST: Harvey Ruvin, Clerk

By: _____
Deputy Clerk

(SEAL)

CUBAN PILOTS ASSOCIATION

By: Cantillo
President

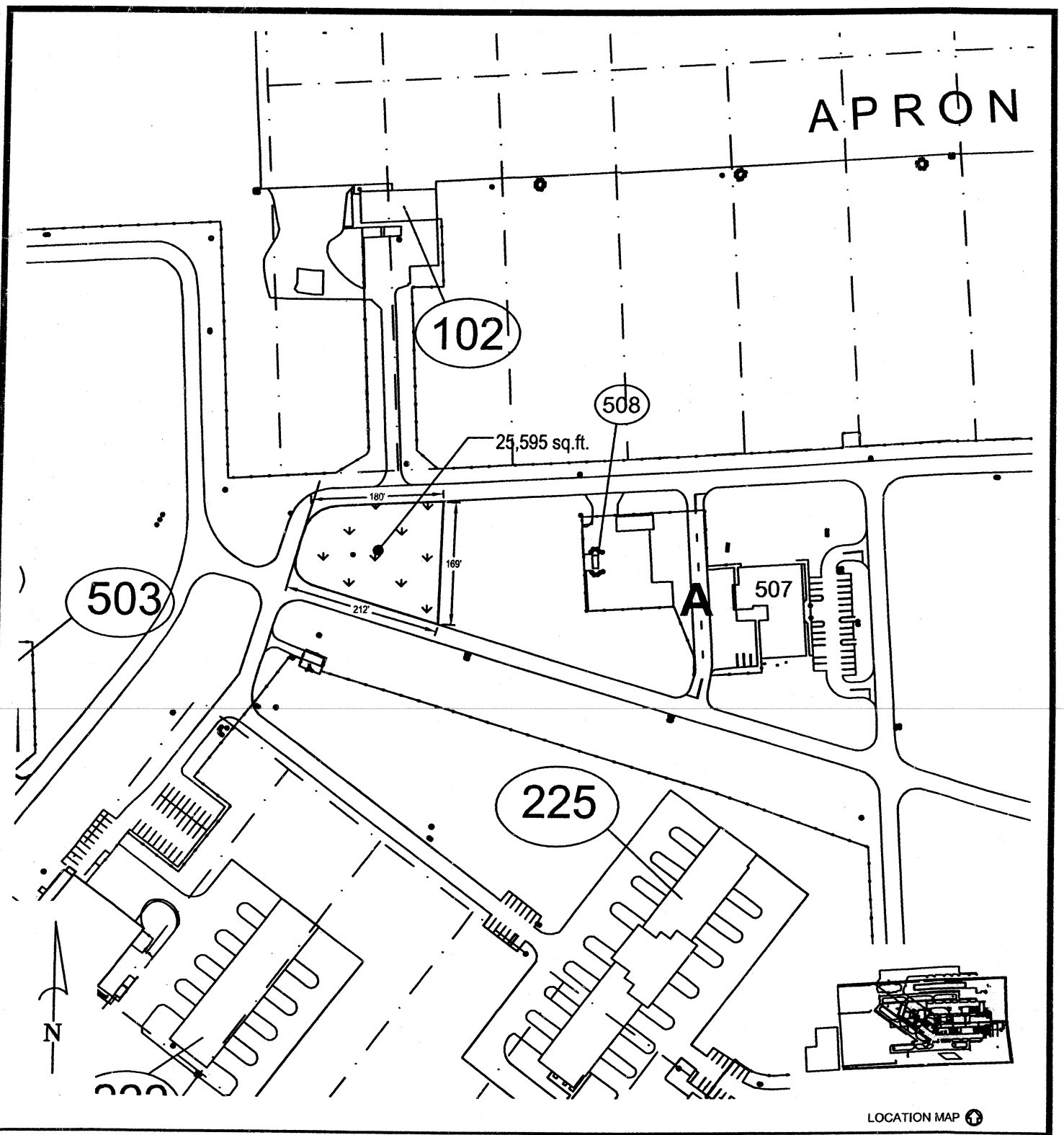
AMADO CANTILLO
Print Name

ATTEST:

Corporate Secretary

MIGUEL PENTON
Print Name

(CORP. SEAL)



CODE:	SPACE CLASS	SQ. FT.
	LAND	25,595

MIAMI DADE
AVIATION DEPARTMENT
KENDALL-TAMIAMI AIRPORT

EXHIBIT A
CUPA

SCALE: 1/16"-1'-0"	EFS #: T0069	DATE: 1-01-07