

Memorandum



Date: October 21, 2014

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
County Mayor 

Subject: Award Recommendation for Management Agreement for Operation of Certain Aviation Fueling Facilities at Miami International Airport, ITB No. MDAD-02-14, with a management fee in the amount of \$4,500,000 over the ten (10) year term

Agenda Item No. 8(A)(2)

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the award of a Management Agreement for operation of certain aviation fueling facilities at Miami International Airport (MIA) to Allied Aviation Fueling of Miami, Inc. (Allied) in the amount of \$4,500,000 over the ten (10) year term and authorize the Mayor or designee to execute the attached Agreement.

SCOPE

Miami International Airport is located primarily within Chairwoman Rebeca Sosa's District Six; however, the impact of this agenda item is Countywide in nature as MIA is a regional asset.

DELEGATED AUTHORITY

In accordance with Miami-Dade County Code Section 2-8.3 related to identifying delegation of Board authority contained within the subject agreement, the County Mayor or Mayor's designee has the authority to exercise renewal options, terminate the Agreement and exercise all rights and privileges granted to the County.

FISCAL IMPACT/FUNDING SOURCE

The source of funding for this Agreement is the Miami-Dade Aviation Department (MDAD) Operating and Reserve Maintenance budgets, and bond proceeds. The Board approved contract amount (Management Fee) for the initial seven (7) year term and the additional three (3) one (1) year options is \$4,500,000. However, total contract expenditures are estimated at \$100,000,000.00. This amount includes all estimated reimbursable operating expenses and an annual management fee of \$450,000.00. The estimated reimbursable operating expenses are based on ten-year historical data. Allied will submit for MDAD's approval an annual operating budget for each fiscal year. Allied's budget will then be incorporated into the Department's overall budget which is approved by the Board. The annual operating budget contains all approved direct costs of operation such as material costs, payroll and related expenses, variable and fixed expenses, utilities, bonds and insurance, audits, capital operating equipment and maintenance.

TRACK RECORD/MONITOR

Allied has performed satisfactorily as the current operator under the existing Agreement. MDAD Chief of Civil Environmental Engineering Gustavo Leal will monitor this Agreement.

DUE DILIGENCE

Pursuant to Resolution No. R-187-12, due diligence was conducted to determine Allied's responsibility, including verifying corporate status and that no performance or compliance issues exist. The following searches revealed no adverse findings for the bidding entity: Small Business Development database, Dun & Bradstreet Comprehensive Insight Plus Report, County Debarred Contractor's Report, State of

Florida convicted vendors, delinquent contractors, suspended vendors, and federal excluded parties list.

BACKGROUND

An Invitation to Bid was advertised on May 28, 2014, to solicit bids for the operation, maintenance and management of certain MIA fueling facilities. The required services will be performed in accordance with all applicable Federal, State and County regulations, statutes and ordinances and in accordance with or in excess of applicable industry specifications, standards, and practices. The operator will take such actions as are necessary to ensure the continued, uninterrupted operation of the facilities, including but not limited to the following and all associated equipment and appurtenances, systems under construction and any new systems not yet constructed:

- The bulk fuel storage facility's storage tanks and piping systems, load and offload systems, pumping and filtration systems, main distribution system, and fire suppression systems;
- The Terminal hydrant systems;
- The West Cargo load rack and diesel tank;
- The Midfield gas and diesel facility; and
- The emergency vehicle gas tank at the Internal Services Department's 20th street facility.

In accordance with all applicable Federal, State, and County regulations, statutes, and ordinances and applicable industry specifications, standards, and practices the operator will:

- A. Schedule, monitor, receive and distribute fuel and maintain all required records relating to fuel scheduled, received, stored, and distributed;
- B. Provide fuel quality surveillance and testing in accordance with or in excess of applicable industry specifications, standards and practices and maintain all required quality surveillance records and fuel samples;
- C. Apply for and maintain in good standing all Federal, State and County licenses and permits required for the operation of the facilities;
- D. In cooperation with the Department, develop and periodically review the fees and charges assessed for the use of the storage system, the distribution system, and the loading facilities and procedures for prompt collection of fees and charges;
- E. Maintain an on-site inventory and records updated annually of essential parts, supplies and equipment necessary to keep the facilities in good operating condition and effectively respond to jet fuel spills;
- F. When requested by the Department, contract for the design and construction of repairs and maintenance, replacements, refurbishments and additions to the facilities with expenditures in accordance with MDAD budget and procurement procedures;
- G. Provide or contract for the provision of security services to protect the facilities as required by MDAD;
- H. When requested by the Department, operate and maintain a gas station(s) providing gas and diesel fuel to ramp vehicles to include the acquisition of fuel at wholesale price for resale to users;
- I. In cooperation with the Department, develop and periodically review the fees and charges assessed for the use of the gas station(s) and develop and periodically review the procedures for assessing and promptly collecting fees and charges; and
- J. Develop and maintain a program to provide 24-hour-a-day response for the immediate containment and clean-up of all jet fuel spills.

Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
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On June 30, 2014, bids were received and opened from Swissport Fueling Inc. and Allied Aviation Fueling of Miami, Inc. The County Attorney's Office responsiveness opinion dated July 3, 2014, deemed Swissport Fueling Inc.'s bid non-responsive because it lacked a bid bond. Allied submitted an estimated budget in response to ITB No. MDAD-02-14 with a management fee of \$465,000 annually, however, MDAD and Allied have negotiated a fee of \$450,000 annually as reflected in the MDAD management agreement submitted for approval by the Board. MDAD, therefore, recommends awarding the Management Agreement for operation of certain MIA aviation fueling facilities to Allied Aviation Fueling of Miami, Inc.

PROJECT: Management Agreement for operation of certain MIA aviation fueling facilities

PROJECT NO.: ITB NO. MDAD-02-14

COMPANY NAME: Allied Aviation Fuelling of Miami, Inc.

COMPANY PRINCIPAL(S): Robert L. Rose, President

LOCATION OF COMPANY: Miami International Airport
4450 NW 20th Street
Miami, Florida 33122

GENDER/ETHNICITY OWNERSHIP: White Male, Non-Hispanic 100%.

YEARS IN BUSINESS: Allied Aviation Fueling of Miami Inc. (10 years)

PAYMENTS FROM THE COUNTY: \$450,000.00 annual management fee

CONTRACT MEASURES: SBE Goal 2.76% (\$2,760,000.00)

CONTRACT MEASURES ACHIEVED: 2.76% (\$2,760,000.00)

SBE SUBCONSULTANTS:

Integrity Janitorial Service Corp. 0.10%	(\$100,000.00)
A&B Hardware Inc. 0.36%	(\$360,000.00)
Haynes Security Service 2.3%	(\$2,300,000.00)

PREVIOUS AGREEMENTS WITH THE COUNTY WITHIN THE PAST FIVE (5) YEARS: Current agreement (MDAD-05-03)

TERM: Seven (7) years

OPTION(S) TO RENEW: Three (3) one (1) year terms at the County's sole discretion

USING AGENCY: Miami-Dade Aviation Department

Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
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INSPECTOR GENERAL:

Provisions included.



Jack Osterholt, Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: October 21, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(A)(2)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(2)
10-21-14

RESOLUTION NO. _____

RESOLUTION AWARDING THE MANAGEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND ALLIED AVIATION FUELING OF MIAMI, INC. FOR OPERATION OF CERTAIN AVIATION FUELING FACILITIES AT MIAMI INTERNATIONAL AIRPORT ("MIA"), PROJECT NO. ITB NO. MDAD-02-14; FOR A TERM OF TEN YEARS, INCLUSIVE OF OPTIONS TO RENEW, AND IN THE MAXIMUM AMOUNT OF \$4,500,000.00 IN MANAGEMENT FEES; AND AUTHORIZING COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND TO EXERCISE RENEWAL OPTIONS, THE TERMINATION PROVISIONS AND ALL OTHER RIGHTS CONTAINED THEREIN

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 the Board hereby approves the Management Agreement ("Agreement") between Miami-Dade County and Allied Aviation Fueling of Miami Inc., for the Operation of Certain Aviation Fueling Facilities at MIA, Project No. ITB NO. MDAD-02-14, in substantially the form attached hereto, for a term of ten (10) years, inclusive of option years, and for a total management fee of \$4,500,000.00, all as more particularly set forth in the accompanying memorandum from the County Mayor; this Board authorizes the County Mayor or Mayor's designee to execute the same for and on behalf of the County, and to exercise the renewal options, the termination provisions and all other rights contained therein.

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

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of October, 2014. 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.



David M. Murray

**MANAGEMENT AGREEMENT FOR OPERATION
OF CERTAIN AVIATION FUELING FACILITIES
AT MIAMI INTERNATIONAL AIRPORT**

made as of the _____ day of _____ in the year
Two Thousand Fourteen.

Between the County:

Miami-Dade County Florida, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns.

And the Management:

**ALLIED AVIATION FUELING OF MIAMI, INC.
MIAMI INTERNATIONAL AIRPORT
4450 N.W. 20TH STREET, BLDG. 3050
MIAMI, FLORIDA 33122**

Which term shall include its officers, partners, employees, successors, legal representatives and assigns.

Description of the Project:

Provide for the operations required to maintain, operate, and manage the Facilities in accordance with all applicable Federal, State, and County regulations, statutes, and ordinances, in accordance with or in excess of applicable industry specifications, standards, and practices taking such actions as are necessary to ensure the continued, uninterrupted operation of the Facilities, and in accordance with the mandates of the Aviation Department.

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Attachments to the Form of Lease Agreement:

- Exhibit A-1:** Maps
- Exhibit A-2:** See Section 1.4 of this RFQ
- Exhibit A-3:** See Section 1.4 of this RFQ
- Exhibit A-4:** See Section 1.4 of this RFQ
- Exhibit A-5:** See Section 1.4 of this RFQ
- Exhibit A-6:** See Section 1.4 of this RFQ
- Exhibit B:** Deposit Report
- Exhibit C:** Accounting and Internal Control Procedures
- Exhibit D:** Revenue Summary
- Exhibit E:** Not Used
- Exhibit F:** Not Used
- Exhibit G:** Reimbursable Operating Expenses
- Exhibit H:** Request for Replenishment
- Exhibit I:** Implementing Order 3-58 First Source Hiring Referral Program
- Exhibit J:** Implementing Order 3-41 and executed SBE Schedule of Intent (SOI) from Successful Bidder (refer to Appendix H)
- Exhibit K:** Performance Bond
- Exhibit L:** Airport Customs Security Area Bond
- Exhibit M:** Tenant Airport Construction – Reimbursable (TAC-R) Procedures
- Exhibit N:** Fuel Hydrant System / Fuel Facilities Management Systems
- Exhibit O:** Management Fee (inserted for Successful Bidder)
- Exhibit P:** Executed Affidavits and Certificates of Insurance (inserted for Successful Bidder)

MANAGEMENT AGREEMENT

**MANAGEMENT AGREEMENT FOR OPERATION OF CERTAIN AVIATION
FUELING FACILITIES, MIAMI INTERNATIONAL AIRPORT**

THIS MANAGEMENT AGREEMENT ("Agreement"), is made and entered into as of the day of _____ 201_____, between MIAMI-DADE COUNTY, FLORIDA, ("County") and Allied Aviation Fueling of Miami, Inc., a corporation, authorized to do business in the State of Florida ("Management" or "Operator").

WITNESSETH:

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

DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The term "Additional Facilities" or "Improvements" means any additional facilities, agreed to be built.
- b) The term "Air Carrier" means any "air carrier" or "foreign air carrier" certified by the Federal Aviation Administration of the Department of Transportation and which is operating at the Airport on a regularly scheduled basis.
- c) The term "Airport" means Miami International Airport (MIA).
- d) The term "Authorized in Writing by the Department" shall mean authorized by the Aviation Director.
- e) The term "Aviation Director" means the Director of the Miami-Dade Aviation Department or his or her designee.
- f) The term "Aviation Fuel" or "Jet Fuel" means Kerosene based jet aircraft fuel meeting the specifications of ASTM D1655.
- g) The term "Bonded Fuel" means Aviation Fuel that is produced outside the United States of America, remains segregated as determined by the United States Customs Service and is boarded on aircraft with destinations outside the United States of America.
- h) The word "Code" refers to the Code of Miami-Dade County, Florida.
- i) The word "County" means Miami-Dade County, a political subdivision of the State of Florida.
- j) The word "Days" means calendar days.
- k) The word "Department" means the Miami-Dade Aviation Department (MDAD).

- l) The term "Effective Date" means the date that appears in the first paragraph of the Management Agreement.
- m) The word "Facilities" shall have the meaning stated in Subarticle 1.03 of this Management Agreement.
- n) The term "Fuel Storage Facility" shall mean, but is not limited to, storage tanks and piping systems, load and offload systems, pumping and filtration systems, main distribution system, fire suppression systems, buildings and all associated equipment and appurtenances including all systems under construction and any new systems not yet constructed but which may be added to the storage facility.
- o) The words "General Manager" mean an individual employed by Management on a full time basis, devoting his or her time exclusively to managing Management's operations of the Management Agreement at the Airport who shall have overall responsibility for the work to be performed by Management under the Management Agreement. The General Manager shall be the contact person for Management, and correspondence concerning the Agreement shall be directed to the General Manager. This individual shall have the authority to sign on behalf of and bind the firm for all matters connected with the Agreement. The General Manager shall be qualified and experienced and must have recent management experience at similar facilities of significant size or an equivalent approved by the Department.
- p) The term "Into-plane Agent" means any person that (a) executes a Fuel System Access Agreement; and (b) obtains all necessary approvals and permits to perform into-plane fueling services for users at the Airport.
- q) The words "Management" or "Operator" mean the Successful Bidder that receives the award of the Management Agreement from the County as a result of the Solicitation.
- r) The word "Person" or "person" means any natural person, firm, partnership, corporation, governmental body or other legal entity.
- s) The words "Bidder", "Submitter", "Respondent" or "Bidder", "mean the person, firm, entity or organization submitting a response to the Solicitation."
- t) The words "Scope of Services" mean Article 2 of this Agreement, which details the work to be performed by the Successful Bidder.
- u) The words "Subcontractor" or "Subconsultant" mean any person, firm, entity or organization, other than the employees of the Management, who contracts with the Management to furnish labor, or labor and materials, in connection with the Work or Services to the County, whether directly or indirectly, on behalf of the Management.
- v) The word "Supplier" means a person who has a contract to supply aviation fuel at this Airport.
- w) The words "Work", "Services", "Program", "Project" or "Engagement" mean all matters and things that will be required to be done by Management in accordance with Article 2, "Services" herein.
- x) The words "Work Order" mean a document that defines and describes the parameters of individual projects assigned or awarded by the County to the Management in accordance with the terms of the Management Agreement.

ARTICLE 1
Term and Facilities

1.01 Term: The County hereby engages Management and Management hereby agrees to manage, operate and maintain the Facilities as described in Subarticle 1.03 hereof, at Miami International Airport ("Airport"), for a term of seven (7) years and the County reserves the right to extend this Management Agreement for up to three (3) consecutive separate terms of one (1) year each, on the same terms and conditions contained herein, unless terminated under provisions contained herein, but in any case, not to exceed ten (10) years.

1.02 Termination: At any time during the term of this Agreement, the County may terminate this Agreement, without cause, by giving written notice of cancellation to Management and its Surety at least ten (10) days prior to the Effective Date of such cancellation. Management may terminate this Agreement, without cause, upon not less than one (1) year advance written notice to the Department. Management may not provide such notice until at least two (2) years have elapsed on the term of this Agreement.

1.03 Facilities: The facilities to be operated by Management hereunder specifically include, but are not necessarily limited to, the fuel storage facility land and facilities as shown on Exhibit A attached hereto and made a part hereof, and include all County owned appurtenances thereto, including, but not necessarily limited to, storage tanks, buildings, underground fuel lines, hydrants and hydrant pits, pipes, pumps, motors, filters, lines, valves and the like, which are collectively referred to as the "Facilities." Such Facilities shall also include administrative office space to be provided by the Department. Such offices shall not be used for any purpose other than support of operations under this Agreement. The Department reserves the unlimited right, without liability to Management, to add, delete, alter, change, modify or close all or any portion of the Facilities listed on Exhibit A for purposes of refurbishment, modification, expansion, renovation, improvement or repair or for other Airport purposes. The Department may add new or additional facilities or delete existing Facilities from Exhibit A by providing written notice and a revised Exhibit A to Management. Neither the addition, nor the deletion of Facilities to be operated by Management hereunder shall change the compensation due Management, pursuant to Article 6 hereof. Management shall not use the Facilities provided hereunder other than for the provision of the services required pursuant to this Agreement and said Facilities shall not be used by any subsidiary or affiliate of Management, except as pursuant to Subarticle 4.11 or as otherwise provided in this Agreement. The Facilities currently include, but are not limited to, the following:

- A. The bulk fuel storage facility which includes, but is not limited to, storage tanks and piping systems, load and offload systems, pumping and filtration systems, main distribution system, fire suppression systems, buildings and all associated equipment and appurtenances including all systems under construction and any new systems not yet constructed but which may be added to the storage facility; and
- B. The terminal hydrant systems including all systems under construction and any new systems not yet constructed, all associated equipment and appurtenances; and
- C. The West Cargo Load Rack and all associated equipment and appurtenances including a vehicular diesel tank and dispenser;

- D. The Midfield gas and diesel facility, and all associated equipment and appurtenances, and
- E. Vehicular Gasoline emergency tank located at the gas station at 20 street.

1.04 User Agreements: Management shall enter into agreements, substantially in a form common to the industry, with airlines, fuel suppliers and other users of the Airport relative to their use of and access to the Facilities and aviation fuel products delivered to, stored or distributed therefrom. These agreements are subject to the prior approval of the Department, as to forms of any agreements to be used, classes of users, the rights of users to individually audit the costs and revenues of the operation, language as to ownership, commingling, inventorying, and reconciliation of fueling the Facilities, and the schedule of fees and charges to be paid by users. All such agreements and arrangements shall be subordinate to the terms of this Agreement and shall terminate or be assignable to the County or others upon the termination of this Agreement. Management shall provide copies of all user agreements to the Department at the time each agreement is executed or amended.

1.05 Bid Incorporated: Management acknowledges that it has submitted to the County a Bid ("Bid") that was the basis for the award of this Agreement and upon which the County has relied. The Bid of Management, where not inconsistent with the terms of this Agreement, is hereby incorporated into this Agreement by reference.

1.06 Not Used

1.07 Leasehold Interest: The Department may, at any time during the term of this Agreement, require Management to execute the County's Lease Agreement ("Lease Agreement"), pursuant to which this Agreement was awarded to Management. The Department is hereby authorized to execute said Lease Agreement on behalf of the County. Rental payments required pursuant to the Lease Agreement are not reimbursable hereunder. Any leasehold interest so created shall not give Management any greater rights than those provided herein, except as to such leasehold interest. Management agrees that such leasehold interest shall automatically terminate at the same time this Agreement is terminated, and, notwithstanding any provision in such Lease Agreement to the contrary, Management agrees that it shall have no leasehold rights in any of the Facilities upon termination of this Agreement and the Lease Agreement, nor shall Management have any rights of a lessee or tenant under such Lease Agreement upon termination, all of which rights Management hereby waives by execution of this Agreement. Notwithstanding the foregoing, the County shall be entitled to resort to all remedies provided by the Lease Agreement, this Agreement or by law to secure orders and writs of eviction and possession, if necessary, to recover possession of the Facilities. Management, for itself, its assigns and subcontractors waives any and all rights that otherwise might be provided by the Lease Agreement as a condition precedent to obtaining any such order or writ, or to notices from the County, and waives all rights to cure defects or defaults or otherwise to retain possession of the Facilities following termination of this Agreement.

ARTICLE 2
Services

2.01 Services – General: Management is required to provide all air carriers with fair and non-discriminatory access to the services to be provided under the Management Agreement, including the right and ability of each air carrier to select its own supplier(s) of jet fuel and into-plane services.

Management is required to maintain, operate, and manage the Facilities in accordance with all applicable Federal, State, and County regulations, statutes, and ordinances, in accordance with or in excess of applicable industry specifications, standards, and practices taking such actions as are necessary to ensure the continued, uninterrupted operation of the Facilities, and in accordance with the mandates of the Aviation Department authorized by the Aviation Director.

Further, in accordance with all applicable Federal, State, and County regulations, statutes, and ordinances and applicable industry specifications, standards, and practices, Management shall:

- A. Schedule, monitor, receive, and distribute fuel inventory records and maintain all required records relating to fuel scheduled, received, stored, and distributed. Provide fuel quality surveillance and testing in accordance with or in excess of applicable industry specifications, standards, and practices and maintain all required quality surveillance records and fuel samples.
- B. Apply for and maintain in good standing all Federal, State, and County licenses and permits required for the operation of the Facilities.
- C. In cooperation with the Department, Management shall develop and periodically review the fees and charges assessed for the use of the fuel storage system, the distribution system, and the loading facilities. In cooperation with the Department, Management shall also develop and periodically review the procedures for assessing and promptly collecting fees and charges. All such fees and charges must be approved in writing by the Aviation Director and provided to all users of the facilities.
- D. Maintain an on-site inventory of essential parts, supplies, and equipment necessary to keep the Facilities in good operating condition and to effectively respond to a jet fuel spill. Maintain an on-site inventory records which shall be updated at least annually.
- E. When requested in writing by the Department, Management shall contract for the design and construction of repairs and maintenance, replacements, refurbishments, and additions to the Facilities. Management shall at all times follow the Department's Tenant Airport Construction – Reimbursable (TAC-R) procedures (see Exhibit M) in effect at the time of such design and construction. All design and construction expenses and the related supporting documentation shall be undertaken in accordance with the budget and procurement procedures of the Department. The maximum amount of all construction to be done per year under this Agreement shall not exceed ten million dollars (\$10,000,000), except that design and construction required to address an imminent threat to health, safety, or the environment shall not count towards this maximum amount.

- F. Management shall be responsible for the provision or contract for the provision of security services at the Facilities. All security service expenses shall be undertaken only with the prior written approval of the Department and the expenses shall be reimbursable and shall be undertaken in accordance with the budget and procurement procedures of the Department. The provider of such security services must have the following minimum qualifications: A copy of a current Class "B" license for the Security Agency and a current Class "MB" license for the Security Agency manager, both licenses issued by the Florida Department of Agriculture and Consumer Services – Division of Licensing, in accordance with the Florida Statutes Chapter 493. The Department reserves the right to provide Security Services at the Facilities if the Department deems it necessary.
- G. When requested by the Department, Management shall operate and maintain a gas station(s) providing motor gas and diesel fuel to ramp vehicles. This requirement shall include the acquisition of motor gas and diesel fuel at the wholesale price for resale to users. In cooperation with the Department, Management shall develop and periodically review the fees and charges assessed for the use of the gas station(s). In cooperation with the Department, Management shall also develop and periodically review the procedures for assessing and promptly collecting fees and charges. All such fees and charges must be approved in writing by the Department and provided to all users of the facilities.
- H. Management shall develop and maintain a program to provide 24 hour a day response for the immediate containment and clean up of all jet fuel spills. All employees assigned to fuel spill clean-ups shall receive appropriate training, certifications, and medical monitoring as required by 29 CFR 1910 and other applicable Federal, State, and County regulations, statutes, and ordinances.

2.02 Registration of Quality Management System

- A. Management must register its quality management system for the Facilities to ISO 9001 within 18 months after the Effective Date of this Agreement and Management must maintain this registration during the term of this Agreement.
- B. The Department has registered the Facilities to ISO 14001. To support this registration, Management shall participate in continual improvement and pollution prevention programs, and assist the Department in achieving and maintaining compliance with environmental legislation and other requirements. Management shall also participate assisting in surveillance pre-audits, participating in surveillance audits, assisting in reassessments, and participating in reassessments, and other activities need to maintain this registration.
- C. From time to time, the Department applies for and participates in various environmental and pollution prevention programs and emergency drills. Management shall actively participate in these programs to the extent required by the Department.
- D. Failure by Management to comply with A, B, or C above, shall subject Management to default, pursuant to Subarticle 18.02 hereof.

ARTICLE 3
Gross Revenues and Deposits

3.01 Gross Revenues: All Gross Revenues generated from the operation of the Facilities pursuant to Subarticle 2.01 under this Agreement shall accrue to the County. "Gross Revenues" shall mean all monies, paid or payable to Management for transactions made and for services rendered by Management in the operation of the Facilities, including, but not limited to, monies paid or payable to the Department by users of the Facilities, regardless of when or where the transactions are made or the services are rendered, whether paid or unpaid, whether on a cash or credit basis.

3.02 Deposit of Gross Revenues: Management shall deposit Gross Revenues in a revenue depository account of and to the credit of the County, in such banks and other depositories as the Department shall designate in the manner similar to the attached Exhibit B. Deposits of Gross Revenues shall be made as soon as practical, but not later than the next banking day following receipt of any such Gross Revenue.

3.03 Reports: Management shall deliver to the Department copies of such daily, weekly and other periodic activity reports, related to the generation of Gross Revenues and operations hereunder, prepared by Management in the normal course of business, as the Department shall reasonably require from time to time. (See Exhibit D, Revenue Summary)

3.04 Deposits and Receivables Procedures: Revenue deposits and receivables shall be processed in accordance with Generally Accepting Accounting Principles, standard internal control procedures and with the normal procedures and controls contained in Management's procedures manuals, which shall incorporate the required accounting and internal control procedures described in, but not limited to, Exhibit C and be approved in writing by the Department. Management shall be obligated to actively pursue collection of all accounts receivable and shall be and remain responsible for the amount of same until the Department shall approve a write-off of said receivables in writing, authorized by the Aviation Director or her designee. Delinquent accounts receivable, which shall accrue late payment charges at the rate of 1.5% per month, shall be reviewed by Management and the Department on a quarterly basis. Receivables will be approved for write off only when they meet the County's criteria for writing off bad debts. In the event the Department declines to write-off the accounts of bankrupt debtors in order to pursue a claim in the Bankruptcy Courts, Management shall not be held liable for such bad debts.

ARTICLE 4
Budgets and Reports

4.01 Annual Operating Budget: Annually, but no later than January 1 of each year of this Agreement or in accordance with a schedule to be published by the Department, Management shall submit to the Department an Annual Operating Budget for the next fiscal year of the County, from October 1 to September 30. The Annual Operating Budget is to be prepared in accordance with instructions from the Department and must conform to Departmental requirements and be approved by the Department as part of its annual budget prior to adoption.

The Annual Operating Budget shall reflect the projections of Management as to monthly and annual totals for revenues and expenses for each major financial account and line item, and, to the extent applicable, each discrete group of revenue and expense centers, including estimated requirements for overtime and operational contingencies, equipment acquisitions, and the distribution of overhead and management compensation. It shall be presented in a monthly format, in total and, if applicable, by operating unit with comparisons to the prior year and the current year budget and actual. The Annual Operating Budget shall include a detailed listing of recommended staffing for the Facilities, wage rates and all other Employee Expenses information in accordance with the requirements of Subarticle 4.02 of this Agreement.

Management shall submit a written narrative with the Budget outlining and supporting the bases and assumptions used in preparing said Budget in accordance with Department requirements and instructions. If requested by MDAD, Management shall certify the Budget and Narrative in accordance with the requirements of the County's False Claims Ordinance.

Management, in making expenditures hereunder, shall not exceed the dollar expenditure amounts that are approved annually in each line item of the approved Annual Operating Budget without the prior written approval of the Department. Any requests for deviations from budgeted amounts must be submitted to the Department in writing for approval prior to incurring the expense.

Within thirty (30) calendar days of the date of this Agreement, Management shall submit to the Department for its consideration a proposed Annual Operating Budget for the period of this Agreement through September 30, 20__, as appropriate.

4.02 Detail of Budgeted Employee Expenses: The Annual Operating Budget shall include the projections of Management for the twelve-month period beginning October 1 concerning staffing for the Facilities and wage rates and fringe benefits for employees of Management ("Employee Expenses") including the following:

- A. The total number of reimbursable employees of Management under this Agreement;
- B. A classification title and job description of each job to be performed by employees of Management hereunder, including a designation of which classifications are considered management and supervisory;
- C. The number of full time equivalent employees who will be performing each job classification hereunder;
- D. The wages or salary to be paid each employee hereunder according to job classification;
- E. The fringe benefits (subject to the approval of the Department), including holidays and holiday pay, annual, sick and other types of leave, hospital and life insurance, pension plan, overtime policy and the like. Contracts for the provision of any of these benefits shall not be executed without prior written approval of the Aviation Director. Such contracts shall be awarded under the procurement terms of this Agreement and shall be cancelable at all times by the Department.

Management shall not change, alter or modify any of the above without prior written approval of the Department.

4.03 Changes in Employee Expenses by the Department: The Department may, at any time, require Management to provide, change, alter or modify any or all of the Employee Expenses defined in Subarticle 4.02 (A) through (E). Nothing herein shall require Management to take actions inconsistent with the terms and conditions of any applicable collective bargaining agreements in effect as of the Effective Date of this Agreement or subsequently approved by the Department pursuant to Subarticle 7.14. If any such change, alteration or modification results in an increase or decrease in Employee Expenses, then the Annual Operating Budget and Reimbursable Operating Expenses, as defined in Subarticle 5.01, shall be adjusted accordingly by the Department.

4.04 Not Used

4.05 Not Used.

4.06 Monthly Financial Reports: As soon as practical, but no later than fifteen (15) days following the close of each monthly period, Management shall provide the Department with comparative Monthly Financial Reports prepared in accordance with Generally Accepted Accounting Principles which shall reflect, in detail, budgeted and actual monthly, same month prior year and year-to-date revenue and expense balances and the variances between them, and, if appropriate, for any individual and consolidated groups of revenue and expense centers under the control of Management hereunder. Such Financial Reports totals shall reflect the current month request for replenishment, reimbursement invoices, accruals and amortization schedule. These reports shall include the status of all accounts receivable and collection action taken for those in excess of thirty (30) days past due, as well as projections for the remainder of the fiscal year based on actual results. These reports shall be accompanied by a memorandum from Management explaining the month's performance and all budget variances. Management shall include in its narrative explanations of conditions, trends and fluctuations in comparing the current month's operating results with budget and the same month in the prior year. The Department may require, among other information, that these Monthly Financial Reports, as well as quarterly and Annual Financial Reports, reflect costs and expenses absorbed directly or indirectly by the County, such as, but not limited to, utilities, amortization of investments and attributable debt service thereon, foregone rentals at a rate(s) established by the Department, and the like. If requested by MDAD, Management shall certify the Report and Memorandum in accordance with the requirements of the County's False Claims Ordinance.

4.07 Inventory Report: As soon as practical, but no later than forty five (45) business days following the close of each fiscal year, unless the Department prescribes or approves a greater or lesser frequency or a different period, Management shall conduct a complete physical inventory of all County owned consumable supplies and capital inventory in its possession. The Department, at its discretion and without notice, may elect to observe and/or participate in the taking of the physical inventory. The Department may hire an independent third party to conduct or audit the inventory

In addition to the physical inventory required above, on the Effective Date of this Agreement, at 12:01 a.m., or at such other times and dates as the parties shall mutually agree, the Department and Management shall jointly cause to be completed an inventory of all parts, supplies and expendable commodities and capital inventories (furniture, fixtures and equipment),

pursuant to Subarticle 8.08 hereof, in the Facilities. Authorized representatives of both parties shall attest to its accuracy and completeness in writing.

4.08 Not Used:

4.09 Annual Audit: Annually, as soon as practical following the close of the County's fiscal year, the Department shall assign an independent, external firm of certified public accountants licensed in the State of Florida to provide audited financial statements for the operation of the Facilities under this Agreement, reflecting full disclosure for the period ending September 30th of each year, and a management letter resulting from a review of the operations, compliance with the contract, internal controls and other observations. If an unqualified opinion cannot be given because of Management's actions or inactions, then Management shall be subject to default, pursuant to Subarticle 18.02 hereof. Notwithstanding the provisions of this Subarticle 4.09, the Department and the County shall have the right to perform, directly by Department staff or through the County's internal or external auditors, such other audits or examinations of any of Management's books, records, operating data, facilities and equipment, including performance and operational audits, as it deems necessary.

4.10 Other Reports: Management shall provide the Department with the following reports:

- A. Copies of all reports submitted to Federal, State and County agencies, including such matters as employee health and safety, the Spill Prevention and Control plan for the Facilities, environmental remediation status, and the like.
- B. As soon as possible following the end of each calendar month, a monthly reconciliation report of fuels, consistent with industry standards and the requirements of: Subarticle 1.04, User Agreements, including opening and closing product inventories, by product owner (fuel supplier or airline), bonded and domestic, pre-purchased or in-stock, including flowage through the Facilities and dispensed to aircraft. The difference (variance) between the month-end book and physical inventory balances shall be explained if the amount exceeds $\frac{1}{4}$ of 1% of total issuances. Documentation supporting the variance explanation may be requested and subject to additional inquiry at the Department's discretion.
- C. The Department may require Management to provide the Department with such other daily, weekly and monthly reports as are generated or are reasonably capable of being generated by Management in the normal course of operations, or that the Department deems necessary

4.11 Related Party Purchases: As soon as practical, but no later than ten days following the close of each calendar month, Management shall inform the Department, in writing, of all purchases of products or services which constitute a Reimbursable Operating Expense hereunder which have been made from Related Parties, or revenue transactions which have been made with Related Parties. "Related Parties" shall mean Management itself and any entity which has a direct or indirect ownership interest in Management, or in which Management has a direct or indirect ownership interest, or in which a parent company has a direct or indirect ownership interest. As to each expense transaction, Management shall provide the following information:

date of transaction, dollar value of transaction, copy of invoice(s), copy of check(s), a disclosure of any allowances, discounts or rebates applicable to such transaction(s), the bases for calculating the charge and a description of the relationship of Management with such parties. Management shall also provide a written explanation of why the expense was not incurred through Department approved procurement procedures.

As to revenue transactions, Management shall provide the following information: dates of transactions, dollar values of transactions and underlying components such as billing rates and cost calculations and support, invoice date and number, payment date and amount. All revenue and receivables transactions shall be processed in accordance with Subarticle 3.02 to insure billings, payments and deposits are made on a timely basis. Management shall request prior approval from the Department of any and all transactions to be made from or with Related Parties which are not covered by prior approvals. The County, directly through its staff or through its internal or external auditors, reserves the right to inspect the original copies of all applicable documents supporting Related Party transactions, in the possession of Management and Related Parties, and the methods used for allocating and distributing costs and credits.

4.12 Records: Except to the extent that Management may be required by applicable Federal, State or County regulations to retain the original copies of certain records, Management shall deliver all original documents and records pertaining to the operation of the Facilities at the Airport to the Department for records retention at regular intervals specified by the Department. The Department shall have the right to inspect, examine, copy and audit all such documents and records, including, but not limited to, payroll and personnel records, prior to the documents and records being delivered to the Department. All such original documents and records are the property of the County held in the care and custody of Management until delivered to the Department, and shall be retained by Management for at least five (5) years in Miami-Dade County. If Management fails to provide records requested by the Department through its staff or auditors within a time period determined by the Department, Management shall be subject to default, pursuant to Sub-article 18.02 hereof.

ARTICLE 5

Cost Reimbursements

5.01 Reimbursable Operating Expenses: Management shall cause all obligations arising from operation of the Facilities to be paid when due. All unbudgeted expenditures require prior approval by the Department. The County shall pay or reimburse Management for all approved direct costs of operation hereunder, including, but not limited to, material costs, payroll and related expenses, variable and fixed expenses, utilities, bonds and insurance, audits, capital operating equipment, maintenance and such other operating expenses approved by the Department or described in the approved Annual Operating Budget. Such expenses, as further defined in Exhibit G attached hereto, shall be referred to as "Reimbursable Operating Expenses". Reimbursable Operating Expenses shall include Employee Expenses, as defined in Subarticle 4.02. Except as otherwise authorized in connection with emergencies, the County shall not pay or reimburse Management for any Employee Expenses in excess of the amounts set forth in the Annual Operating Budget, except as provided in Subarticles 4.02 and 4.03. It is the intent of this Agreement and specifically Sub-articles 5.01 and 5.02 that Management shall be paid or reimbursed for all reasonable and appropriate expenditures made pursuant to this Agreement not

inconsistent with the terms contained herein and incurred in accordance with standard County procurement practices.

5.02 Imprest Operating Account: Management, with prior approval from the Department, shall establish an Imprest Operating Account to be used exclusively for Management's payment by check of Reimbursable Operating Expenses, excluding those paid from other accounts or funds pursuant to this Agreement. The Imprest Operating Account shall be funded by the County in such amounts as the Department shall deem necessary to ensure that payments are made on a timely basis. The balance of the Imprest Operating Account may be increased or decreased by the Department from time to time, based on experience. The Department and Management shall designate authorized signatories for this Imprest Operating Account, including such County, Department, and Management representatives as the Department shall deem appropriate and authorize, in writing, from time to time. Management shall cause bank statements and cancelled checks pertaining to the Imprest Operating Account to be sent directly to the Department from the bank. Said documents shall thereafter be obtained from the Department by Management for reconciliation and shall be returned to the Department within five (5) working days thereafter.

5.03 Imprest Payroll Account: Management, with prior approval from the Department, shall establish an Imprest Payroll Account to be used exclusively for the payment of net payroll costs. The Department and Management shall designate authorized signatories for this Imprest Payroll Account including such County, Department and Management representatives as the Department shall deem appropriate and authorize in writing, from time to time. Management shall cause bank statements and cancelled checks pertaining to the Imprest Operating Account to be sent directly the Department from the bank. Said documents shall thereafter be obtained from the Department by Management for reconciliation and shall be returned to the Department within five (5) working days thereafter.

5.04 Imprest Checking Account: Management, with prior approval from the Department, shall establish an Imprest Checking Account to be used exclusively for the payment by Management by check for certain purchases and expenses which must be paid for on delivery. The balance of such Account shall be in such amount as deemed adequate by the Department. The Department and Management shall designate authorized signatories for this Imprest Payroll Account, including such County, Department, and Management representatives as the Department shall deem appropriate and authorize in writing, from time to time. The Imprest Checking Account shall be accounted for in the same manner as the Imprest Operating Account.

5.05 Petty Cash Fund: Management shall establish and fund in an amount sufficient to fulfill its intended purpose, in its name and to its credit, a Petty Cash Fund to be used for making those petty cash disbursements which may be necessary from time to time. Petty cash expenditures shall be recorded on pre-numbered vouchers, with receipts attached, and shall be reimbursed in accordance with Subarticle 5.06 below. The Department shall provide or approve in writing procedures for the establishment and operation of the Petty Cash Fund.

5.06 Invoices for Reimbursable Operating Expenses: Management's invoices for Reimbursable Operating Expenses, other than those subject to the reimbursement/replenishment procedures contained in Subarticle 5.09 herein, shall be recorded weekly, or such lesser frequency as the Department may authorize, on the Department's Periodic Invoice Report form. Information shall be recorded separately for each transaction and shall include the vendor's name, invoice number, invoice date, invoice amount net of maximum available purchase discounts, invoice due date, and expense classification in accordance with the Chart of Accounts

approved by the Department. The Periodic Invoice Report and supporting original invoices, and all other supporting documentation requested by the Department, duly approved by Management, shall be summarized on a Request for Replenishment form (Exhibit H) and shall be delivered to the Department for review, verification, funding and approval. The Department reserves the right to require Management to supply any additional information pertaining to invoices that the Department considers necessary. Except as otherwise specifically provided herein, Management shall not pay any invoices listed on a Periodic Invoice Report until same are approved by the Department. In the event that Management has paid, from the Imprest Operating Account, any invoices listed on a Periodic Invoice Report which are not subsequently approved by the Department on a Request for Replenishment as defined in Subarticle 5.09 herein, Management shall pay the amount of such non-approved invoices into the Imprest Operating Account. If such payment is not made within ten (10) days of the date such payments are disapproved, the Department shall either deduct such amount from the Monthly Management Fee or invoice Management for such costs and such nonpayment by Management and Management may be subject to default, pursuant to Subarticle 18.02 hereof.

5.07 Payment of Payroll Expenses: In accordance with the pay period frequency agreed to by Management and the Department, Management shall write a check on the Imprest Operating Account to the Imprest Payroll Account in an amount equal to reimbursable net payroll costs reflected on the Payroll journal of Management for such period. Employee payroll checks shall be processed in accordance with the normal procedures and controls of Management, subject to required internal control procedures described in Exhibit C. The Department may, at any time, monitor and audit the paying of reimbursable employees. Payroll checks shall only be written against and be accounted for in the Imprest Payroll Account.

5.08 Account Replenishment: The Imprest Operating, Imprest Payroll and Imprest Checking Accounts shall be maintained on an imprest (i.e., an advance of County funds to be used for County purposes) basis. Disbursements from the Imprest Checking Account shall be listed in the manner shown in Exhibit H indicating check number, date issued, payee amount, and expense classification with original copies of invoices, delivery slips and like documents attached.

5.09 Replenishment of Imprest Operating Account: The Imprest Operating Account shall be replenished by the County, as needed, by check or wire transfer drawn on County banking resources, other than the accounts and funds established pursuant to this Agreement, deposited directly into said Imprest Operating Account. In order to initiate such replenishment, Management shall submit a Request for Imprest Operating Account Replenishment, in the form shown in Exhibit H hereto ("Request for Replenishment"), prepared by Management, covering Reimbursable Operating Expenses paid for the seven-day period beginning each Sunday and ending each Saturday, or such other period as shall be approved by the Department, during the term of this Agreement. Such Request for Replenishment shall contain the following information:

Section A - Amount of Replenishment. The total value of invoices reflected on approved Invoice Reports paid during said period.

Section B - Invoice Report, including daily totals processed during the specified period.

Section C - Payroll Summaries, summarizing attached certified payroll, with time sheets to be submitted with invoices for all employees, except managers.

The Department shall have the right to require the submittal of separate Requests for Replenishment for separate expense categories. Requests for Replenishment of approved

Reimbursable Operating Expenses reflected on the Invoice Reports shall be accompanied by the original copies of corresponding invoices. The County shall only replenish the Imprest Operating Account to cover Reimbursable Operating Expenses supported by invoices or as otherwise provided herein. Payments shall be made by check drawn on the Imprest Operating Account, paying only approved invoices reflected in the Request for Replenishment approved by the Department. Management shall deliver copies of the Imprest Operating Account check register to the Department within three business days of their production in the ordinary course of operations of Management.

Management shall maintain separate paid invoices files for operations covered by this Agreement for a period of five (5) years, and said paid invoices files, including supporting documents, such as, but not limited to, purchase orders, shipping and receiving slips and the like, shall be County property, held in fiduciary possession by Management. Management shall deliver to the Department all paid invoices files related to operations pursuant to this Agreement, not previously provided to the Department pursuant to other provisions hereof.

5.10 Request for Reimbursement - Payroll Related Costs: In accordance with the pay period frequency approved pursuant to Subarticle 5.07, Management shall pay from its own funds and request reimbursement for the costs of employer paid payroll taxes and employee fringe benefits of Management. Said Request for Reimbursement shall be prepared in accordance with the timing of the actual expenditures for such employer paid payroll taxes and employee benefits. Such periodic Request for Reimbursement covering reimbursable employer paid payroll taxes and employee fringe benefits, shall be accompanied by photocopies of payroll tax deposits, payroll tax returns, and such other supporting documentation as may be requested by the Department under the circumstances. Upon review of the request, the Department will issue a Department Check for the approved expenses. Management shall not be reimbursed for employee severance pay, or for the cost of fringe benefits not earned or accrued during the term of this Agreement, or, while an employee has worked for Management, other than at the Facilities. Periodically, but no less often than quarterly, Management shall prepare a detailed reconciliation of actual payroll and payroll related costs and deliver same, along with copies of corresponding Requests for Replenishment and Federal and State quarterly tax returns, to the Department as soon as practical, but no later than twenty (20) days following the close of every calendar quarter.

5.11 Not Used

5.12 Special Requests for Payment-Management Compensation: The Monthly Management Fee provided for in Article 6 shall be billed through a special request for payment on Management's letterhead, signed by the General Manager, accompanied by Financial Reports in accordance with Subarticle 4.06.

The Department shall withhold payment of the Monthly Management Fee until all the requirements of this Section are met.

5.13 Financial Policies and Procedures Manuals: Unless otherwise specifically addressed in this Article 5, invoices for authorized costs incurred in operations controlled by Management, including payroll, shall be processed in accordance with, but not limited to, the procedures and controls prescribed by the Department, (see Exhibit C). The Department shall

provide Management with copies of all such procedures. Any subsequent modifications thereto shall only be made with the prior written approval of the Department.

5.14 Non-reimbursable Expenses: Unless otherwise specifically authorized in writing, in advance, by the Director of the Department, Management shall not be reimbursed for expenses of the following and of like kind:

- A. Management's overhead including corporate taxes and cost allocations.
- B. Management's legal and accounting fees; provided, however, fees related to specific accounting requirements of this Agreement shall be reimbursable hereunder, if approved in advance by the Department in writing.
- C. Charitable and political contributions.
- D. Travel, not a part of the normal course of business of Management under this Agreement; provided, however, that all such business travel to be reimbursed must have been approved in advance by the Department, in writing. All reimbursable travel expenses must conform to State and County statutes and regulations.
- E. Corporate public relations, gifts, dues, memberships, entertainment, and expenses related to ISO 9001 registration.
- F. Salary and benefits of the General Manager, including, but not limited to, salary, fringe benefits, pension contributions, automotive allowances, insurance and payroll related taxes and continuing professional education programs.
- G. Employee social functions, including, but not limited to, Christmas parties, company picnics, recognition dinners.
- H. All cash losses as referenced in Sub-article 5.16.
- I. Housing for employees or Management.
- J. Any penalties, assessments, or fines assessed by any Authority Having Jurisdiction, or any judgment assessed Management by any Court related to the operation of the Facilities, provided that the penalty, assessment, judgment, or fine resulted from actions, error or failure to act or perform by Management and not the Department.
- K. Employee severance pay, Employee severance pay, and the cost of fringe benefits not earned or accrued during the time of the Agreement or while the employee has worked for Management other than at the Facilities.
- L. Charge-backs which resulted from the failure to apply controls as described in Article 5, Cost Reimbursements.
- M. Any component of the Management Fee specified in Article 6.
- N. Costs incurred pursuant to Management's indemnity obligations hereunder.
- O. Costs incurred by Management to cure any breach of this Agreement by Management.
- P. Any other cost which does not otherwise specified or allocated herein which does not provide a direct benefit to the facilities.

5.15 Governmental Fines and Penalties: The parties hereto recognize that it is of paramount importance that the various licenses and permits from U.S. Customs, for the handling of bonded fuel, and from applicable Federal, State and County agencies, as to environmental issues, be maintained. Management shall be liable for the payment of any fines or penalties levied by any Federal, State or County agency, provided that the penalty or fine resulted from actions, error or failure to act or perform by Management and not the Department. It is the intent of this Article that Management shall be liable for the payment of any such penalties or fees that Management could have avoided. The County shall not be liable for the payment of any such penalties or fines that may be covered by the terms and conditions of this Agreement, unless Management specifically and timely notifies the Department, in writing, of any situation or condition which exists that could cause a penalty or fine assessment by a regulatory or enforcement agency and the County then fails to correct or authorize correction of such situation or condition. Such notification must be given prior to the assessment of any fine or penalty in sufficient time to permit correction of the situation or condition. The County shall likewise be liable for paying or reimbursing the cost of a fine or penalty when such results from an action of Management which has been required by the Department in its administration of this Agreement, provided that Management has timely advised the Department, in writing, that such action could result in the issuance of a penalty or fine.

5.16 Cash Losses: All cash losses shall be the responsibility of and be reimbursed by Management. Cash losses shall include, but are not limited to, the loss of debit and credit card media, losses due to employee theft, petty cash shortage and any other form of payment of Gross Revenues.

5.17 Prompt Payment: Management shall be fully responsible for making prompt and timely payment of all obligations arising out of this Agreement, so as to maximize the potential for available discounts and commissions and so as to comply with the Florida Prompt Payment Act Part VII, Chapter 218, Florida Statutes, and any other applicable statutes or County ordinances. All discounts, allowances, premiums and commissions paid or received hereunder shall be to the credit and benefit of the County. Management shall pay from its own funds and shall not be reimbursed for any financial penalty, fine or like assessment, resulting from any late or delayed payment of an obligation hereunder; provided, Management has not been unduly delayed in making payment of such obligation by action or inaction of the County.

5.18 Timely Payment: All payments required to be made to Management by the County hereunder shall be due and payable within twenty (20) days of receipt by the Department of billings from Management as provided herein; provided, however, that the County may withhold payment of those portions of any billings, which, in good faith, are in question or dispute. The Department shall advise Management, in writing, of any such questioned or disputed portions of a billing within the twenty (20) day payment period and shall remit the undisputed balance as provided for herein.

5.19 Emergency Expenditures: Notwithstanding anything contained herein, in the event of an emergency, or other severe operational necessity, which could impact the uninterrupted operation or the fuel capacity of the Facilities or create any hazard to life, property or the environment, Management shall take all necessary and appropriate actions, including committing to expenditures otherwise reimbursable hereunder, to prevent or alleviate the emergency or severe operational necessity, without the need for prior Department approval. As

soon as possible, but not later than within twenty four (24) hours, Management shall advise the Department in writing as to the actions taken, including the expenditures made and the impact, if any, on the Approved Operating Budget.

ARTICLE 6
Compensation to Management

Management Fee: The County shall pay to Management, as consideration for managing, operating and maintaining the Facilities and providing the services required herein, a monthly management fee of **\$37,500.00**, payable upon billing by Management, in accordance with Subarticle 5.12 hereof, after the end of each calendar month of this Agreement. Payments for any partial months shall be prorated. The Department may, but shall not be required to, adjust the monthly management fee, as may be proposed by Management to address unforeseen changes in market conditions. However, in no case shall such adjustment exceed the cumulative change in the Consumer Price Index, Miami-Fort Lauderdale, All Items, through the date of such adjustment. In the event that the County does not approve such adjustment, Management shall continue to diligently provide service under this agreement consistent with the expected standard of care.

If at any time any activity is directed at Management which results or could result in the curtailment or discontinuance of services performed hereunder and the Department determines that Management cannot continue operations without negatively affecting airline operations at the Airport, the Department shall have the right during said period to cause the services required to be provided under this Agreement to be performed by others.

Payment of this Management Fee will be considered full and complete compensation to Management for its profit, overhead, home office support, SG&A, indirect costs, and costs, both direct and indirect, of the General Manager.

ARTICLE 7
Personnel

7.01 General Manager: Management shall hire and assign, at its sole cost and expense, a full-time General Manager ("General Manager") responsible for the competent performance and fulfillment of the duties and responsibilities of Management under this Agreement and to accept service of all notices provided for herein. The General Manager shall be qualified and experienced and must have recent management experience at similar facilities of significant size, or an equivalent approved by the Department. The General Manager shall have no other duties or responsibilities other than pursuant to this Agreement and shall maintain no office other than within the Facilities or elsewhere on the Airport, as designated by the Department. The General Manager shall be subject to approval by the Department, if different than the General Manager named in the Bid. Vacations and extended absences to be taken by the General Manager shall be subject to the prior written approval of both Management and the Department. The cost of unauthorized absences will be deducted from the Management Fee on a prorated basis. If not a resident of Miami-Dade County, the General Manager shall relocate to Miami-Dade County within six (6) months and shall maintain such residence throughout the duration of his or her

tenure. Costs for such residency shall not be reimbursed, nor shall weekend travel to any prior place of residency.

Management must at all times during the term of this Agreement employ a General Manager, full time, who shall be responsible for operations under this Agreement, with qualifications equal to or better than the qualifications which were submitted with the Bid. Failure to maintain such General Manager shall be a ground for default in accordance with Subarticle 18.02.

7.02 Personnel: Subject to the Annual Operating Budget and such other approvals as the Department may, from time to time, require, Management shall recruit, screen and employ such full-time and part-time personnel as are required for Management to competently fulfill its obligations under the terms of this Agreement. The Department shall have the right to approve personnel to be employed in any positions at the Facilities, including specifically, but not limited to, the Facilities Manager. For any managerial and/or administrative position, Management must submit for consideration and approval, the qualifications of three(3) potential candidates to be approved by the Department. There shall be a Facilities Manager who shall have the same residency requirements as the General Manager, and who shall perform such duties related to operation and maintenance of the Facilities, as assigned by the General Manager. Management shall comply with State and County laws pertaining to nepotism.

7.03 Personnel Standards: Management shall properly control its employees, who shall present a clean, neat, well-groomed and professional appearance at all times, and discharge their duties in a cooperative, courteous and efficient manner. The appearance of employees shall be appropriate given the nature of the duties to be performed. Compliance with these requirements shall be the condition of continued employment of all employees of Management hereunder. Management shall require all personnel, except non-public contact and managerial employees, to wear visibly on their person, at all times while on duty, a distinctive name tag identifying the individual by name, as an employee of Management and, if appropriate, displaying an employee number or title. Management shall require all its hourly paid personnel to be properly uniformed. All uniforms shall be subject to the prior approval of the Department.

7.04 Employment Procedures Manual: Management shall, within thirty (30) days following the Effective Date of this Agreement, prepare a detailed Employment Procedures Manual covering, but not necessarily limited to, such topics as compensation and its adjustment, hours, promotions, job titles, job descriptions, job assignment criteria, fringe benefits, discipline, including counseling, reprimands and discharge, layoffs, the adjustment of grievances and other matters dealing with terms and conditions of employment. The Employment Procedures Manual shall be subject to review and written approval by the Department, and may be subsequently amended as the Department, on behalf of the County, determines, in its sole discretion, to be necessary or appropriate. Management shall comply with and shall not change any provision of the Employment Procedures Manual without the prior written approval of the Department which approval may be withheld for any or no reason. Management shall take employment actions, which may involve any of the matters described in the Employment Procedures Manual, as the Department may require.

7.05 Secured Areas/Airfield Operations Area (AOA) Sterile Areas Security – The Management acknowledges and accepts full responsibility for compliance with all applicable Federal, State, and Local laws, rules and regulations including those of the Homeland Security, Transportation Security Administration's (TSA) Code of Federal Regulations 49 CFR Part 1542 et al, Federal Aviation Administration FAA, Customs and Border Protection CBP, the MDAD Airport Security Plan and applicable Security Directives issued by TSA and the Aviation

Department as set forth from time to time relating to Management's activities at the Miami International Airport (MIA).

In order to maintain high levels of security at MIA, the Management must obtain MDAD photo identification badges for all the Management employees who are authorized access to the Secured/AOA/Security Identification Display Area (SIDA), Sterile Concourse Areas or any other restricted areas of the Airport as may be required and designated in the Airport's Security Plan. All Management employees will be required to obtain photo identification badges and will be subject to fingerprint-based criminal history records checks.

The Management shall be responsible for requesting MDAD to issue identification badges to all employees who the Management requests to be authorized access to the Secured/AOA/SIDA/Sterile Concourse Areas and any other restricted areas of the airport as may be required and designated in the Airport's Security Plan and shall be further responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of the ID badges of all personnel transferred from Airport assignment or terminated from the employer of the Management or upon final acceptance of the work or termination of this Agreement. The Management will be responsible for fees associated with lost and unaccounted for badges as well as the fee(s) for fingerprinting and ID issuance.

All employees of the Management who must work within MDAD Secured/AOA/SIDA/Sterile Concourse areas or any other restricted areas at MIA shall be supplied with MDAD identification badges as specified above, which must be worn at all times while within the referenced secured areas. Badges shall be worn/displayed on outer garments above the waist so as to be clearly visible in order to distinguish, on sight, employees assigned to a particular company area. Each employee must complete the Security Identification Display Area SIDA training program conducted by the MDAD Security Division Credentialing Office before any ID badge is issued to such employee and comply with all other TSA, Homeland Security, FAA, CBP and MDAD requirements as specified by the MDAD at the time of application for the ID badge before an ID badge is issued.

Management Ramp Permits will be issued to the Management authorizing vehicle entrance to the Airfield Operations Area (AOA) through specified Miami-Dade Aviation Department vehicle access control gates for the term of any Project. These permits will be issued only for those vehicles that must have access to the site during the performance of the work. These permits will be only issued to company owned vehicles or company leased vehicles (leased from a commercial leasing company). AOA decals, passes, or permits to operate within the AOA will not be issued to privately owned or privately leased vehicles. All vehicles operating within the AOA must have conspicuous company identification signs (minimum of three inch lettering) displayed on both sides of the vehicles.

All vehicles operating within the AOA must be provided with the Automobile Liability Insurance required elsewhere in this Agreement. Proof of such insurance is provided to MDAD Airside Operations Division upon request.

Only Management staff with proper access zone pictured MDAD SIDA ID badges shall be allowed to operate a motor vehicle on the AOA without a MDAD escort. The Management shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course, Reoccurring AOA Driver and Movement Area Driver training programs conducted periodically by the Department. The

privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.

The Management agrees that its personnel, vehicles, cargo, goods, and other personal property are subject to being searched when attempting to enter, leave or while on the AOA. It is further agreed that the MDAD has the right to prohibit an individual, agent, or employee of the Management from entering the AOA, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage, or other unlawful activities, including repeated failure to comply with MDAD's or the TSA, Homeland Security, FAA, CBP, SIDA access control policies, rules and regulations. Any person, denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a review hearing before the Director or his/her authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA should be advised, in writing, of the reason for such denial.

The Management acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts cargo tampering, aircraft sabotage, and other unlawful activities at the Airport and to maximize compliance with TSA, Homeland Security, FAA/Federal Inspection Services agencies and MDAD access control and security policies and procedures as may be required and designated in the Airport Security Plan and the Miami-Dade Aviation Department Rules and Regulations Chapter 25.

The Management understands and agrees that vehicle and equipment shall not be parked/stored on the AOA in areas not designated or authorized by MDAD nor in any manner contrary to any posted regulatory signs, traffic control devices, or pavement markings.

The Management understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Management in areas under the jurisdiction or control of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies who enter such areas are subject to fines, which shall be borne entirely by the persons and/or the Management.

Notwithstanding the specific provisions of this Article, the Owner shall have the right to add to, amend, or delete any portion hereof in order to meet reasonable security requirements of MDAD or of the TSA/Homeland Security/FAA/Federal Inspection Services agencies.

The Management shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as MDAD or appropriate Federal agencies may from time to time require.

Management agrees that it will include in all contracts and subcontracts with its MIA sub-consultants, service providers, and suppliers an obligation by such parties to comply with all security requirements applicable to their operations at the Airport. The Management agrees that in addition to all remedies, Damages, and sanctions that may be imposed by TSA, Homeland Security, FAA, Federal Inspection Services Agencies or MDAD upon Management sub-consultants, suppliers, and their individual employees for a violation of applicable security provisions. The Management shall be responsible to the Owner for all such violations and shall

indemnify and hold the Owner harmless for all costs, fines and Damages arising there from, such costs to include reasonable attorneys' fees.

7.06 Restricted Area Access – Identification Badges - Management shall be responsible for requesting the Department to issue identification badges to all employees and other personnel under its control who require access to restricted areas on the Airport as a part of their regularly assigned duties, and shall return the identification badges of all personnel transferred or terminated from the employ of Management or Airport assignment and upon termination of this Agreement. Management shall promptly report to the Department the names of all persons who were employed by Management from whom they were unable to obtain the return of Department issued identification badges. In the event that an identification badge is not returned because of a failure by Management, Management shall pay, from its own funds, the Department's established charge for lost or stolen identification badges. The Department shall have the right to require Management to conduct background investigations, criminal history checks and to furnish certain data on such employees before the issuance of such identification badges, to include the fingerprinting of employee applicants for such badges.

7.07 Security Identification Display Area (SIDA) Access – Identification Badges: Management shall be subject to all Departmental requirements and Transportation Security Administration (TSA) mandates pertaining to the issuance of airport identification badges, including, but not limited to, employee completion of SIDA training conducted by the Department and a fingerprint based FBI criminal history records check, as required by the TSA.

Management shall be responsible for submitting to the Department the request for airport identification badges for all employees and other personnel under its control who require access to the Airport's Security Identification Display Areas (SIDA) as part of their regularly assigned duties. Management shall be responsible for maintaining control of said identification badges and ensure that all of its personnel comply with MDAD and TSA security regulations and mandates. Management shall be accountable for all ID badges issued and is required to return the identification badges of all personnel transferred or terminated from the employ of Management at the Airport or upon termination of this Agreement. Management shall notify the Department of any lost or stolen identification badges and of the names of all persons who were employed by Management from whom they were unable to obtain the return of Department issued identification badges. In the event that an identification badge is not returned, Management shall pay from its funds the Department's established fee for lost, stolen and/or unaccounted for identification badges.

Management shall be required to submit all its personnel applying for identification badges for a fingerprint based criminal history records check. Employees of Management who do not successfully pass the criminal history records check will not be issued airport identification badges. The Department shall also have the right to require Management to conduct background investigations and to furnish certain data on such employee before the issuance of such identification badges.

7.08 AOA - Right to Search: It is understood that the Department has a strong interest in maintaining good Airport security and intends to implement increased security measures for companies having access to the Airside Operations Area ("AOA") of the Airport. Management agrees that its vehicles, cargo, goods and other personal property are subject to being searched when entering or leaving the AOA. Management further agrees, when required by the

Department, that it shall not authorize any employee requiring regular access to the AOA as part of his/her regular duties, to enter the AOA unless and until such employee has executed a written consent to search form acceptable to the Department. Persons not executing such consent to search form shall not be employed by Management pursuant to this Agreement.

It is further agreed that the Department has the right to prohibit an individual, agent or employee of Management from entering the AOA, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage or other unlawful activities. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a hearing before a designated management representative of the Department within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial. Persons denied such access shall not be employed by Management hereunder.

Management acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of theft, cargo tampering, aircraft sabotage and other unlawful activities.

7.09 AOA- Driver Training: Before Management shall permit any employee to operate a motor vehicle on the AOA, Management shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course conducted periodically by the Department. All persons operating fueling vehicles, of any type, on the Airport and/or the AOA must possess a current, valid Commercial Driver's License, of the proper Class and with the proper endorsements, as required by law. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.

7.10 Federal Agencies Right to Consent: Management understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies, including the bonded portions of the Facilities, may be subject to the consent and approval of such agencies, which may also require receipt by individual employees of special airport security area badges issued by U.S. Customs pursuant to 19 CFR 122.82. Persons not approved or consented to by the Federal Inspection Services agencies may not be employed by Management in areas under jurisdiction or control of such Inspection Services agencies.

7.11 Employment Related Examinations: The Department shall have the right to require Management to use properly validated and lawful tests and procedures as a pre-employment screening mechanism for all or designated classifications of employees to assist Management in determining the accuracy of employment applications and the integrity of employment applicants. The Department may likewise require the use of undercover operatives and other investigatory techniques for determining the on-the-job integrity of employees. In addition, the Department may require Management to have polygraph examinations administered in individual instances, fully in compliance with the requirements and limitations of Federal law.

7.12 Relationship of Parties: Officers, agents, and employees of Management shall not be deemed to be employees of the County for any purpose whatsoever nor shall officers, agents and employees of Management be deemed to be third party beneficiaries of this Agreement.

7.13 Wage Rates: All employees of Management shall be paid at rates not to exceed those established in the Annual Operating Budget approved by the Department.

7.14 Employee Relations Expenses: Management shall not be reimbursed by the Department for any legal or other services with respect to employee relations matters applicable to employees of Management, unless prior written approval is granted by the Department.

7.15 Time Clock: A recording-type time clock shall be used by all employees, except Managers. Management shall require employees to clock in or out within a twenty (20) minute span at shift change time; not earlier than seven (7) minutes before or ten (10) minutes after the specified time, unless some other procedure or time recording device is authorized in approved Procedures Manuals. The Department reserves the right to change or waive this time clock requirement or to waive the requirement for individuals or classes of employees, where the use of a time clock is not considered practical, cost effective or appropriate. Management shall establish written procedures, subject to advance written approval by the Department to prevent any improper use of the time clock.

7.16 Other Agreements: Management shall not, without the specific advance written approval of the Department, which approval may be withheld without stated cause, enter into any contract, agreement or arrangement of any kind, which would or could in any way serve to increase Reimbursable Operating Expenses for wages or fringe benefits, to modify or change the duties, work rules, working hours or responsibilities of reimbursable employees of Management hereunder or any other matter dealt with in the Employment Procedures Manual pursuant to Subarticle 7.04 hereof, or to delegate or assign to any other party the right to make decisions as to such matters.

7.17 Alcohol and Drug Testing: Management acknowledges that the County, as a public agency sponsor under the provisions of the Airport and Airway Improvement Act of 1982, as amended, has the obligation to establish a drug-free workplace and to establish policies and programs to ensure airport safety and security. Management acknowledges that the Department, on behalf of the County, has the right to require persons doing business at the Airport, other than passengers, to establish reasonable programs to further the achievement of the obligations described herein. Accordingly, Management 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 upon a reasonable suspicion that an employee, while on duty at the Airport, may be under the influence of alcohol or drugs. Further, to the extent permitted by law and/or contract, Management shall establish a program for the random alcohol and drug screening of all its employees who are authorized, pursuant to other provisions of this Agreement, to operate any type or kind of motorized equipment or vehicle on the AOA. Management shall make reasonable good faith efforts to try to negotiate amendments to any existing contract(s) which may serve as a bar to Management's implementation of its obligations hereunder. Notwithstanding the above, Management specifically acknowledges that the County, acting through the Department, has the right and obligation to deny access to the AOA and to withdraw AOA driving privileges from any person who it has a reasonable suspicion to believe is under the influence of alcohol or drugs.

ARTICLE 8
Miscellaneous Provisions

8.01 Standards of Operations: The Department shall have the exclusive right to approve, establish and revise fees to be charged by Management, supply sources, services offered, and standards for the type and quality of service, maintenance of the Facilities and other matters pertaining to operations and procedures under this Agreement. Management is expected to periodically make recommendations concerning these matters to the Department and the decisions of the Department shall be final.

8.02 Revision of Operating Programs: The Department has implemented and is planning to implement a number of programs and improvements relating to services provided under management agreements, including but not limited to, the development of wrap-up bond and insurance programs, joint purchasing arrangements, back-office computer accounting systems integrated with other computer systems of the Department, and other programs impacting operations and Reimbursable Operating Expenses. Management shall, when requested by the Department, cooperate fully with the Department and others in the development and implementation of such programs and improvements, and all expenses borne by Management in connection herewith shall be a Reimbursable Operating Expense, or a reimbursable capital cost, or a direct or prepaid expense as provided herein. To the extent that such programs serve to modify the terms and conditions of this Agreement, such terms and conditions shall be administratively amended by the Department in the manner and subject to the same requirements as in Subarticle 25.04.

8.03 Policy and Procedures Manuals: Within ninety (90) days following the Effective Date of this Agreement, Management shall submit to the Department for its review and approval, such policies and procedure manuals, as are necessary to govern the operation and maintenance of the Facilities and the provision of services hereunder. When approved, such manuals become the property of the County. Such manuals, without limiting the scope thereof, shall cover at least the following:

- A. Employee Training Manuals, with an emphasis on safety, security and environmental protection, and those matters specified in Subarticle 7.04 hereof.
- B. Financial and inventory control procedures, not covered by Subarticle 5.13 hereof.
- C. Facilities maintenance programs.
- D. Maintenance and operations manuals relating to the storage and distribution of aviation fuel, including bonded fuel in accordance with U.S. Customs regulations, meeting the requirements of Subarticle 2.01 hereof and at least as restrictive as the most restrictive of the standards of the airline users.
- E. Procedures to obtain and maintain the Department's ISO 14001 certification.
- F. Procedures to obtain and maintain the Facilities' ISO 9001 certification.

Once any policy and procedure manual required under the terms of this Agreement is approved by the Department, it shall not be modified or amended without the further approval of the Department. The manuals required pursuant to this Subarticle 8.03 and Subarticles 5.13 and

7.04 shall be developed based on the operation of Management at the Airport pursuant to this Agreement.

8.04 Customer Charges: Except as may otherwise be specifically authorized in writing by the Department, Management shall charge all users of the Facilities and services provided hereunder, the fees and charges approved or established by the Department.

8.05 Commodities and Equipment: Management shall procure and maintain a sufficient supply of parts and expendable commodities and supplies, as recommended by the manufacturer or as determined by the Department to properly maintain and operate the Facilities, including those necessary to clean up emergency fuel spills, and provide the services required hereunder, as authorized in the Annual Operating Budget, or authorized in writing by the Department, with title to same being vested in the County upon delivery to the Airport or installation at the Facilities and payment or reimbursement thereof by the County.

8.06 Injury or Damage: In the event of any injury to any person or loss or damage to any property in the Facilities coming to the attention of Management or its employees, Management shall immediately notify the Department and promptly furnish copies of relevant reports in connection therewith.

8.07 Consulting Assistance: The Department reserves the right, to require Management, using Management's personnel, without additional compensation or reimbursement, except as to out of pocket expenses related to out of town travel, to provide specialized consulting assistance and advice with regard to the operation and development of the Facilities, beyond that normally expected from Management under the terms of this Agreement. Alternatively, upon the direction of the Department, using selection procedures approved by the Department, Management shall engage special consultants to assist in facility development, administrative procedures and other matters related to the operation of the Facilities. All costs and expenses incurred by Management, related to the engagement of special consultants pursuant to this Subarticle 8.07, shall be either a Reimbursable Operating Expense or Reimbursable Capital Expense hereunder. Any travel expense costs that may be incurred by Management and/or special consultants shall be considered a Reimbursable Operating Expense, subject to the travel expense limits set forth in County Implementing Order 6-1, as amended. All such travel shall require the prior written approval of the Department.

8.08 Capital Inventories: On or before the Effective Date of this Agreement, and thereafter as determined by the Department, but not less often than annually, and on or before termination of this Agreement, the Department and Management will cause an inventory to be taken listing all property with a cost or value in excess of \$1,000 and having a normal useful life in excess of one (1) year, made available by the Department to Management to be used in the operation of the Facilities or otherwise purchased with County funds for use hereunder. Such inventory shall include, but not be limited to, furniture, fixtures, equipment and vehicles. Management shall enforce appropriate controls including, but not limited to, those provided in Exhibit C, by the Department, to prevent pilferage, thefts, disappearances or other losses of property from inventory. Management, throughout the term of this Agreement, shall maintain a current and up-to-date capital inventory listing and promptly advise the Department, in writing, of all additions to or deletions from the inventory. Following the completion of each inventory

required herein, except that required prior to the Effective Date of this Agreement, Management shall pay to the County the net book value of any losses from inventory. Nothing contained herein shall be construed to authorize Management to dispose of any capital property of the County without the prior written approval of the Department.

8.09 Permits and Licenses: Management shall obtain, pay for, and maintain current all permits and licenses as required for its operation hereunder.

8.10 Right to Audit: The Department, through any of its staff, and the auditors of the County (internal and external) or any other auditing entity the Department shall designate, shall have the right, without limitation, at any time, to audit, check, inspect and review all operating procedures of Management hereunder and all books and records including but not limited to operating statements, inventory records, copies of Federal Income Tax and State sales tax returns, work papers and supporting documents relating to operations of Management hereunder, and other pertinent information as may be determined to be needed or desirable by the Department, in order to determine Management's compliance hereunder. Upon specific approval from the Department, air carriers and suppliers shall be permitted to conduct financial and operational audits of the Facilities, at their sole cost and expense.

8.11 Purchasing: Management shall solicit bids or quotes for all purchases of goods or services used in the operation of the Facilities in a manner similar to, but not limited to, County Mayor's Implementing Order 3-38, as amended, and Exhibit C. Notwithstanding any provisions of Implementing Order No. 3-38, as amended, approval for all purchases and invoices shall be authorized in writing by the Department, and purchases shall not require approval of ISD or the County Mayor. Management shall make such purchases from the responsive and responsible vendor quoting/bidding the lowest amount, except in cases of sole source purchases. Management shall provide to the Department such documentation of such bids/quotes as the Department may require. In accordance with Subarticle 21.04 hereof and appropriate County Ordinances and Resolutions, the Department shall have the right to require Management to include Disadvantaged Business Enterprise and Small Business Enterprise participation goals as criteria in the award of purchases hereunder, or to require bidding only among one or more of such business enterprise classes. Notwithstanding any provision of Implementing Order 3-38, bids or quotes must be obtained for all purchases without regard to the dollar amount thereof.

8.12 Contracts/Agreements: Any and all contracts or agreements to be entered into by Management solely to support operations hereunder shall be approved in advance by the Department and shall contain a provision that such contract or agreement shall be assignable, upon notice from the Department, to the County or to another party as designated by the Department.

8.13 Subcontracting: It is the intent of this Agreement that Management shall be the primary provider of the services specified in this Agreement. Therefore, Management shall not subcontract the provision of services required hereunder without the prior written approval of the Department.

8.14 Compliance with U.S. Customs Regulations: Management shall at all times under this Agreement and for continuing obligations provided herein that survive the termination of

this Agreement be responsible for compliance with all U.S. Customs requirements and regulations in regard to operation of the Fuel Facilities as a bonded facility.

8.15 Suppliers: Management shall obtain prior approval from the Department and the suppliers to dispose of or sell fuel not conforming to ASTM D1655 (American Society of Testing Materials).

ARTICLE 9

Maintenance by Management

9.01 Cleaning of Facilities: Management shall maintain and keep the Facilities clean at all times. If the Facilities are not properly maintained and kept clean, as determined by the Department, Management will be so advised and shall take immediate corrective action.

9.02 Repair of Damage: Management shall repair all damage to the Facilities caused by Management, its employees, agents, independent contractors or patrons. Unless such damage is due to the negligence or misconduct of Management or its employees, the cost of repairs shall be considered a Reimbursable Operating Expense.

9.03 Garbage and Trash Disposal and Pest Control: Management shall remove from the Facilities all garbage, trash and refuse of any nature whatsoever which might accumulate and arise from the operations hereunder. Such garbage, trash and refuse shall be stored and disposed of only in the manner approved by the Department and/or as required by appropriate environmental regulations. Management shall undertake all reasonable measures to reduce the numbers of rodents, insects and other pests.

9.04 Maintenance of Utilities: Management shall operate and maintain all the components of the electrical distribution, air conditioning, ventilating, fire protection, hot and cold water, and industrial and sanitary sewerage systems and facilities within the boundaries of the Facilities, or directly supporting only the Facilities; unless otherwise directed by the Department. The Department reserves the right to make arrangements for emergency maintenance and repair of said systems and facilities.

9.05 Maintenance and Repair: Management shall maintain and repair the interior of the Facilities and shall make all repairs as required in and about the Facilities including, but not limited to, painting, doors, windows, fixtures, furnishings, appurtenances, replacement of light bulbs, ballasts and tubes and the replacement of all broken glass, which repairs shall be in quality and class equal to or better than the original work to preserve the same in good order and condition, subject to ordinary wear and tear. Management shall at all times, maintain the Facilities in compliance with the provisions and requirements of Air Transport Association ("ATA") Specification No. 103, as a minimum standard. The cost of such maintenance or repair shall be considered a reimbursable operating expense unless the need therefore is caused by the negligence or misconduct of Management or its employees.

9.06 Unbudgeted Maintenance: Management shall obtain the express written authorization from the Department before undertaking any unbudgeted maintenance work. The Department shall have the discretion to perform the work itself, enter into a contract for the performance of the work, or require Management to perform or contract for the performance of the work.

9.07 Alterations and Signs: Management shall not alter the Facilities in any way whatsoever, erect any signs nor permit any advertising of any nature without prior written approval from the Department.

9.08 Maintenance Contractors: Upon direction by the Department, Management shall retain a prequalified pool of electrical, mechanical, and general contractors to perform maintenance work for the Facilities.

ARTICLE 10

Design and Construction of Facilities

10.01 Design and Construction: As authorized pursuant to Section 125.012(24), Florida Statutes, as amended, when requested by the Department, Management, as the agent of the County, shall contract for the design and construction of repairs and maintenance, replacements, refurbishments and additions to the Facilities and other closely related facilities requiring interfacing with the Facilities operated hereunder ("Improvements"), designated by the Department. Management shall at all times follow the Miami-Dade Aviation Department Tenant Airport Construction Reimbursement (MDAD TAC-R) procedures, Exhibit M, at the time of such design and construction. All design and construction expenses shall be undertaken only in accordance with the budget procedures of the Department.

10.02 Tenant Airport Construction Reimbursement Contracts: From time to time, Management and the County through its County Mayor or authorized designee shall be entitled to enter into Tenant Airport Construction ("TAC") contracts for the purpose of enabling Management to construct facilities or improvements deemed necessary or appropriate for Management's construction and use of its improvements as described herein. Such contracts shall comply with the MDAD's then current TAC contract requirements and shall provide for the County's reimbursement of Management's cost pursuant to any such contract as may be determined by MDAD.

10.03 Not Used:

10.04 Architect and Engineer Services: Upon the express written authorization of the Department, Management shall contract for professional services in accordance with the Miami-Dade Aviation Department's TAC-R Design and Construction procedures.

10.05 Not Used

10.06 Certain Construction Contract Terms: All contracts entered into by Management for the construction of the Improvements shall require completion of the Improvements within a specified time period following the award of a bid and shall contain reasonable and lawful provisions for the payment of actual or liquidated damages and the retention of up to ten (10) percent of construction costs until completion of the contracted work. Management agrees that it will use its best efforts to take all necessary action available under such construction contracts to enforce the timely completion of the work covered thereby.

10.07 Improvements Free and Clear: The Improvements, upon completion, shall immediately become the property of the County, free and clear of any liens or encumbrances whatsoever. Management agrees that any contract for construction, alteration or repairing of Facilities, or for the purchase of material to be used, or for work and labor to be performed, shall be in writing and shall contain provisions to protect the County from the claims of any laborers, subcontractors or materialmen against Facilities or Improvements.

10.08 Right to Audit: The County shall have the right to audit the costs of construction of the improvements, which shall include any Department approved changes.

10.09 Contracts Assignable: All design and construction contracts entered into by Management shall be assignable by Management to the County or others as designated by the Department, upon the request of the Department. Upon such assignment, Management shall be relieved from any further responsibility to the County under such design and construction contracts.

10.10 Indemnification by the Contractor: Management shall include the following clause in all its construction contracts:

The Contractor shall defend, indemnify and save harmless the County, the Consulting Engineers, the Architect/Engineer, the Field Representative, Management of the premises, and their officers (elected or otherwise), employees and agents, (collectively "Indemnitees") from any and all claims, demands, liability, losses, expenses and causes of actions arising from personal injury (including death), property damage (including loss of use thereof), economic loss, or any other loss or damage due in any manner to the negligence, act or failure to act of the Contractor or its contractors, subcontractors, sub-subcontractors, materialmen or agents of any tier or their respective employees arising out of or relating to the performance of the work covered by these Contract Documents except as expressly limited herein. The Contractor shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits, in the name of the County, when applicable, including appellate proceedings, and shall pay all costs and judgments which may issue thereon, provided however, that the Contractor's obligation to indemnify or hold harmless the Indemnitees for damages to persons or property caused in whole or in part by any act, omission or default of any indemnitee arising from the contract or its performance shall be limited to the greater of \$1 million or the Contract Amount. Further, this indemnification requirement shall not be construed so as to require the Contractor to indemnify any of the above-listed Indemnitees to the extent of such Indemnitees' own gross negligence, or willful, wanton or intentional misconduct of the indemnitee or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused in whole or in part by or result from the acts or omissions of the indemnitor or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees. This indemnification provision is in addition to and cumulative with any other right of indemnification or contribution which any indemnitee may have in law, equity or otherwise.

ARTICLE 11
Maintenance by Department

The Department shall operate and maintain all components of the roads, water, sanitary sewerage and storm water drainage facilities that lie outside the boundaries of the Facilities.

ARTICLE 12
Bonds

12.01 Performance Bond: Within ten (10) calendar days after notice of award by the Board of County Commissioners, and prior to the commencement of operations hereunder, Management shall provide a Performance Bond from a surety meeting the qualifications set forth in Subarticle 14.02 hereof, (see Exhibit K) in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000), which Bond shall be kept in full force throughout the term of this Agreement. The Bond shall be submitted in a form approved by the Department. The Department may increase or decrease the amount of the Bond based upon experience and the potential for loss based on improper or non-performance by Management.

12.02 Fidelity Bond: Within ten (10) calendar after notice of award by the Board of County Commissioners, Management shall provide a Commercial Blanket Fidelity Bond in the amount of \$100,000 that guarantees an employees' honesty up to the bond penalty. Miami-Dade County must be shown as an obligee with respect to this bond.

12.03 U.S. Customs Security Seal Area Bond: Management must comply with the U.S. Customs Service in providing the required bond for employees needing access to the Customs Security Areas, as depicted in Exhibit L.

12.04 U.S. Customs Warehouse Bond: Based on an understanding between the Department and U.S. Customs, the County, as the owner of the Facilities, shall acquire and maintain in force throughout the term of this Agreement such warehouse bonds as are required for the continuation of the ability to provide bonded fuel to the air carriers at the Airport. If it is determined that the Performance Bond required pursuant to Subarticle 12.01 is not acceptable or sufficient to cover Management's liabilities for the payment of U.S. Customs fines and penalties or if U.S. Customs requires a separate or additional warehouse bond, Management shall acquire and maintain same in force throughout the term of this Agreement.

ARTICLE 13
Indemnification

Management shall defend, indemnify and hold the County and its officers, employees, agents and instrumentalities harmless from any and all liability, losses and damages, including attorney's fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits or causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the negligent performance or willful misconduct of Management or its employees, agents, servants, partners, principals or subcontractors. The Management shall pay all claims and losses in connection

therewith and shall investigate and defend all claims, suits or action of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorneys fees which may issue thereon. The Management expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Management shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Management shall proportionally reimburse the suppliers for any fuel losses exceeding ¼ of 1% in any quarter or more often if directed by the Department. This expense is not reimbursable.

ARTICLE 14
Insurance

14.01 Insurance Required: In addition to such other insurance as may be required by law, within ten (10) calendar days after notice of award by the Board of County Commissioners, Management shall obtain and provide evidence of required insurance to the following:

Miami-Dade Aviation Department
c/o Risk Management
P.O. Box 025504
Miami, Florida 33102-5504

All insurance shall be maintained throughout the term of the Agreement and any Extensions thereof.

The limits for each type of insurance may be revised upon MDAD Risk Management's review and approval of the Management's operations. Additional types of insurance coverage or increased limits may be required if, upon review of the operations, the Department determines that such coverage is necessary or desirable. Also note: The Department will not accept self-insurance and all policies must be separate policies insuring the Facilities at Miami International Airport alone.

Certificate(s) of insurance from Management must show coverage has been obtained that meets the requirements as outlined below during the provision of Services at the Facilities:

- A. Workers' Compensation as required by Chapter 440, Florida Statutes.
- B. Commercial General Liability Insurance on a comprehensive basis including Contractual Liability, Board Form Property Damage and Products and Completed Operations in an amount not less than \$250,000,000 per occurrence for Bodily Injury and Property Damage combined. This policy shall include Miami-Dade County as an additional insured with respect to this coverage.

The Commercial General Liability Insurance coverage shall include those classifications, as listed in Standard Liability Insurance Manuals, which are applicable to the operations of the Management in the performances of this Agreement.

- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with this agreement in an amount not less than \$500,000* per occurrence for bodily injury and property damage combined.

*Under no circumstances is Management allowed on the Airside Operation Area (AOA) without increasing automobile coverage to \$5,000,000 as approved by the Risk Management Office.

- D. Pollution Liability Insurance in an amount not less than \$20,000,000 for third party claims, remediation expenses, and legal defense expenses arising from on-site and off-site loss, or expense or claim related to the release or threatened release of hazardous materials.

Certificates will show that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

14.02 Certificates of Insurance - Management shall furnish certificates of insurance to MDAD Risk Management prior to commencing any operations under this Agreement, which certificates shall clearly indicate:

- a) the Management has obtained insurance in the type, amount and classifications as required for strict compliance with this Sub-Article;
- b) the County is named as an additional insured; and
- c) no material change or cancellation of said insurance shall be effective without thirty (30) days prior written notice to the County. The County reserves the right to require Management to provide such reasonably amended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to Management.

14.03 Certificates of Renewal - Management shall furnish certificates evidencing renewal or replacement of required insurance coverage, thirty (30) days prior to expiration or cancellation. The Department reserves the right to reasonably amend the insurance requirements or to assume direct responsibility for carrying all or any of the required insurance coverage by the issuance of notice in writing to Management. In the event the Department exercises its right to assume direct responsibility for any of the required insurance coverage, Management shall be named as an additional insured, where applicable provided the Department does not self-insure. Compliance with the foregoing requirements shall not relieve Management of its liability and obligation under any other portion of this Agreement.

14.04 Certificates of Continuity Management shall be responsible for assuring that the insurance certificates required in conjunction with Article 15, "Insurance" remain in force for the duration of the Agreement, including any and all Extensions, if applicable. If insurance certificates are scheduled to expire during the Agreement period, Management, shall be responsible for submitting new or renewed insurance certificates to the MDAD Risk Management Office at a minimum of thirty (30) calendar days before such expiration.

14.05 Insurance Company Rating Requirements: All insurance policies and bonds required above from Management shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to financial strength, and no less than "Class VII" as to financial size, according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the MDAD's Risk Management Office.

Certificates will show that no modification or change in insurance shall be made without thirty (30) calendar days written advance notice to the certificate holder.

14.06 Right to Examine: The Department reserves the right, and upon reasonable notice, to examine the original policies of insurance (including, but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. Management agrees to permit such inspection at the offices of the Department. In addition, upon request (but no later than five (5) days from the date of request, unless such longer period is agreed to by the Department) Management agrees to provide copies to the Department, at Management's sole cost and expense.

14.07 Personal Property: Any personal property of Management, or of others, placed in the Facilities shall be at the sole risk of Management or the owners thereof, and the County shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage.

14.08 Cancellation of Insurance - Cancellation of any insurance or non-payment of any premiums for any insurance policies required by this Agreement shall constitute a breach of this Agreement.

14.09 Other Insurance Indemnification - Management represents and warrants that any insurance protection required by this Agreement or otherwise provided by its Managements and subcontractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, consultants, agents and instrumentalities as herein provided.

14.10 Management Liable - Compliance with the requirements of this Article 15 "Insurance" shall not relieve Management from its liability under any other portion of this Agreement.

14.11 Survival of Provisions - The provisions of this Article 15, "Insurance" shall survive the expiration or earlier termination of this Agreement.

14.12. Workers Compensation - EMR Calculations. For the purposes of calculating reimbursement to Management for costs of workers compensation insurance, the Experience Modification Rating (EMR) imposed on the Management, or its subcontractors, or individual classes of employee employed by the Management or its subcontractors, shall be deemed to be one (1) irrespective of the actual rating imposed. For example, if the EMR for the Management is (1.1), reimbursement for workers compensation by MDAD would be calculated as if the EMR

were (1), and Management would be solely responsible for payment to its insurance carrier of the difference in costs between those imposed by the carrier, inclusive of actual EMR, and those reimbursed by MDAD, pursuant to this section. If the Management's EMR is less than (1), Management shall be reimbursed as if it's EMR were (1), and it shall be entitled to keep all such funds in excess of those needed to pay its carrier.

14.13. Reimbursable Policies - Management shall not purchase any reimbursable insurance coverage, or any policy which provides for return of any portion of premium based on claims history or avoidance, without the prior written consent of MDAD. If MDAD approves such policy, MDAD shall be entitled to all such reimbursements or returned premiums, without limitation.

ARTICLE 15

No Assignment or Sale of Controlling Interest

Unless approved in writing by the Department, Management shall not assign, transfer, or sell its controlling interest ("Ownership"), or pledge or otherwise encumber this Agreement or any of the rights, privileges and obligations of Management hereunder. The requirements of this Agreement and the Bid documents must be satisfied in the event of any such approved assignment, transfer or sale.

ARTICLE 16

Trademarks and Licenses

The County may, from time to time, permit Management to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the County in the performance of this Agreement, which patents, copyrights, trademarks, trade names, logos, computer software and intellectual property may have been created pursuant to the terms of this Agreement. Such permission, when granted, shall be evidenced by a nonexclusive license executed by Management and the Department, on behalf of the County, granting Management the right, license and privilege to use a specific patent, copyright, trademark, trade name, logo, computer software or other intellectual property without requiring payment of fees therefor. Failure of the parties, to execute a formal license agreement shall not vest title or interest in such patent, copyright, trademark, trade name, logo, computer software or intellectual property in the using party.

ARTICLE 17

Labor Activity

If at any time any strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Management at the Airport, which results or could result in the curtailment or discontinuance of services performed hereunder, and the Department, within its sole discretion, determines that Management cannot continue operations without negatively affecting airline operations at the Airport, the Department shall have the right, during said period, to cause the services required to be provided under this Agreement to be performed by others. During such period, if the services are being provided by others the County's obligation to pay a management fee pursuant to Article 6, shall be abated.

ARTICLE 18
Termination by County

18.01 Automatic Termination: The occurrence of any of the following shall cause this Agreement to be automatically terminated:

- A. To the extent permitted by law, institution by Management of any voluntary proceedings in the U. S. Bankruptcy Courts.
- B. To the extent permitted by law, institution against Management of any involuntary proceedings in the U. S. Bankruptcy Courts, and continuation thereof for a period in excess of 90 days.
- C. To the extent permitted by law, appointment of a custodian as defined in Section 101(10) of the U. S. Bankruptcy Code.
- D. Abandonment by Management of, or, unless approved in advance by the Department, discontinuance of operations and services required under this Agreement for any period of time exceeding two (2) hours, unless done for force majeure, or pursuant to Article 17.
- E. Unless waived by the Department, in writing, the bringing of any action by the County against the Performance or Fidelity Bond required pursuant to Subarticles 12.01 and 12.02 hereof.

18.02 Defaults: The County shall have the right to terminate this Agreement if Management has defaulted upon any of its obligations under this Agreement. Prior to such termination, MDAD shall provide written notice to Management of the obligation Management has defaulted, and provide Management 10 days to cure such default. If, despite the best efforts of Management, the default cannot be cured within ten days, MDAD may, but is not required, to allow additional time for Management to cure the default. As an alternative to termination, the County shall have the right to abate the responsibilities of Management hereunder and the further payment of not yet obligated or unearned Management Compensation and Reimbursable Operating Expenses until such default is cured.

Without limiting the preceding, Management acknowledges and agrees that the material defaults of this Agreement for which termination or abatement is warranted include, but are not limited to:

- A. Failure of Management to promptly and properly deposit monies or to provide reports, receipts, records, books of accounts, summaries, audits, including, but not limited to, certifications and other requirements under this Agreement. The conduct by Management of any business, offering of any service, or sale of any product not specifically authorized by the Department.
- B. Nonperformance by Management of any other covenant of this Agreement, including, but not limited to, the failure or inability of Management to qualify for and/or maintain the reasonable levels of bond and insurance coverages required pursuant to Articles 12 and 14 hereof.

- C. The occurrence of any illegal act within or in regard to the Facilities, of which Management had prior knowledge or could reasonably have been expected to have prior knowledge of, and failed to correct or bring to the attention of the Department or other competent authority.
- D. Into-plane Agent: Management shall not serve as an into-plane agent, unless specifically authorized by the Department on a limited basis, when such, in the opinion of the Department, is necessary to ensure service to an airline on a temporary basis, or, in the discretion of the Department, to permit Management to fulfill its obligations under pre-existing agreements of limited duration. This provision shall not prevent subsidiaries and/or affiliates of Management from serving as into-plane fuelers at the Airport, providing such subsidiaries or affiliates are separate operating entities and are readily separately identifiable.
- E. Any violation of Subarticle 25.11 of this Agreement.
- G. Failure to perform the work or failure to provide sufficient workers, equipment or materials to assure completion of work in accordance with the terms of the Contract, and the approved Progress Schedule, or
- H. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, after written directions from the PM, or
- I. Discontinues the prosecution of the work, or
- J. Failure to resume work which has been discontinued within a reasonable time after notice to do so, or
- K. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or failure to maintain a qualifier, or
- L. Allows any final judgment to stand against him unsatisfied for a period of 10 days, or
- M. Makes an assignment for the benefit of creditors, or
- N. For any other cause whatsoever, fails to carry on the work in an acceptable manner.
- O. The County may terminate this Contract if the Operator is found to have submitted a false certification or to have been, or is subsequently during the term of this Contract, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

18.03 Other Terminations or Abatement: The County shall have the right to terminate this Agreement or abate the responsibilities of Management hereunder and the further payment of not yet obligated or unearned Management Compensation and Reimbursable Operating Expenses upon 24 hours written notice to the other party, without liability by one party to the other, at any time after the-occurrence of one or more of the following:

- (1) Issuance by any court of competent jurisdiction of an injunction substantially restricting the use of the Airport for airport purposes.
- (2) Assumption by the United States Government or any authorized agency thereof, or any governmental agency, of the operation, control or use of the Airport facilities or any substantial part, or parts thereof, in such a manner as substantially to restrict services and operations under this Agreement.
- (3) Suspension of all commercial flight operations whether such suspension be due to governmental action, an Act of God, the public enemy or other circumstances.

ARTICLE 19
Termination by Management

Management shall have the right to terminate this Agreement upon the occurrence of any one or more of the following, unless cured within the notice period:

- A. Upon not less than forty five (45) days written notice to the Department, for failure of the County to deposit sufficient funds into the Imprest Operating Account to cover approved Requests for Replenishment, pursuant to Subarticle 5.09 hereof.
- B. Upon not less than fifteen (15) days written notice to the Department, for failure of the County to make any payment or reimbursement to Management, within forty five (45) days of the due date, provided all or part of a particular payment or reimbursement is not being questioned, objected to or contested by the Department, in good faith, and provided the County does not make an appropriate partial payment for the uncontested portion of the payment or reimbursement.

ARTICLE 20
Damage or Destruction to Facilities

If the Facilities or a substantial portion thereof are rendered unfit or unusable for the use and purpose for which this Agreement is granted, without fault on the part of Management, its employees, agents or independent contractors, either party shall have the option, without liability to the other party, upon five (5) days notice in writing, to terminate this Agreement.

ARTICLE 21
Nondiscrimination

21.01 Equal Employment Opportunity: In accordance with Title 14 Code of Federal Regulation (CFR) Part 152 (Affirmative Action Employment Program), Operator shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, in accordance with the Americans with Disabilities Act, discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. Operator shall take affirmative actions' to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship.

Operator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this Equal Employment Opportunity clause. Operator shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, revised order No. 4 issued December 1, 1951, as amended, and the Americans with Disabilities Act. The Age Discrimination in Employment Act effective June 12, 1968, Executive Order 13166 issued August 11, 2000, Improving Access to Services for

persons with Limited English Proficient (LEP), the rules, regulations and relevant orders of the Secretary of Labor, Florida Statutes §112.041, §112.042, §112.043 and the Miami-Dade County Code Sections 11A1 through 13A1, Articles 3 and 4.

Operator shall assign responsibility to one of its officials to develop procedures that will assure that the policies of Equal Employment Opportunity and Affirmative Action are understood and implemented.

21.02 Nondiscriminatory Access to Facilities: Management, for itself, its personal representatives, successors in interest, and assigns, as 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, creed, color, sex, national origin, age, disability or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that Management shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended; (3) the Management shall use the premises in compliance with all other requirements imposed by or pursuant to the enforceable regulations of the Department of Transportation as amended from time to time; and (4) the Management shall obligate their Sub-contractor and sub-consultants to the same nondiscrimination requirements imposed on the Management and assure said requirements are included in those sub-agreements.

21.03 Breach of Nondiscrimination Covenants: In the event it has been determined that Management has breached any enforceable nondiscrimination covenants contained in Subarticles 21.01 "Equal Employment Opportunity" and 21.02 "Nondiscriminatory Access to Facilities" above, pursuant to the complaint procedures contained in the applicable federal regulations, and Management 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 the default provisions of Subarticle 18.02 hereof.

21.04 Nondiscrimination: During the performance of this Agreement, Management agrees as follows: Management shall, in all solicitations or advertisements for employees placed by or on behalf of Management, state that all qualified applicants shall receive consideration for employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability. Management shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Management's books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain by the compliance with such rules, regulations, and orders.

In the event of Management's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be cancelled, terminated, or suspended in whole or in part in accordance with default provisions pursuant to Subarticle 18.02 hereof and Management may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

Management shall include Subarticles 21.01 and 21.02 above in all Management's subcontracts in excess of \$10,000, unless exempted by the rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, so that such provisions shall be binding upon each Sub-consultant.

21.05 Disability Nondiscrimination Certification: By entering into this Agreement with the County and signing the Disability Nondiscrimination Certification, Management attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If Management or any owner, subsidiary or other firm affiliated with or related to Management is found by the responsible enforcement officer, courts, or the County to be in violation of the act or the resolution, such violation shall render this Agreement terminable in accordance with default provisions pursuant to Subarticle 18.02 hereof. This Agreement shall be void if Management submits a false certification pursuant to this Resolution or if Management violates the Act or the Resolution during the term of this Agreement.

21.06 Affirmative Action/Non Discrimination of Employment, Promotion and Procurement Practices: In accordance with the requirements of County Code Section 2-8.1.5, all firms with annual gross revenues in excess of five million (\$5,000,000) seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and Procurement Policy on file with the County's Department of Procurement Operator. Said firms must also submit, as a part of their Agreement to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit. Firms whose Boards of Directors are representative of the population make-up of the nation are exempt from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to the County's Department of Procurement Operator. Firms claiming exemption must submit, as part of their Agreement to be filed with the Clerk of the Board, an appropriately completed and signed Exemption Affidavit in accordance with County Code Section 2-8.1.5. These submittals shall be subject to periodic reviews to assure that the entities do not discriminate in their employment and procurement practices against minorities and women/owned businesses.

It will be the responsibility of each firm to provide verification of their gross annual revenues to determine the requirement for compliance with the County Code section. Those firms that do not exceed \$5 million annual gross revenues must clearly state so in their Agreement.

21.07 Contract Measures: Management is required under this Agreement to achieve the following Contract Measures applied to this project as shown on the attached Schedule of Intent as presented in Management's Bid:

<u>Measure</u>	<u>Program</u>
2.76% Goal	Small Business Enterprises

The Director may declare Management in default of this Agreement for failure of Management to comply with the requirements of this paragraph.

ARTICLE 22
Rules and Regulations

22.01 Rules and Regulations: Management, notwithstanding anything to the contrary contained herein, shall comply with the ordinances of the County, including the Rules and Regulations of the Department, Chapter 25, and the County's Department of Environmental Resources Management, Chapter 24, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives issued thereunder, all additional laws, 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.

22.02 Violations of Rules and Regulations: Management agrees to pay on behalf of the County any penalty, assessment or fine issued against the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the Federal, State or County governments, based in whole or substantial part upon a claim or allegation that Management, its agents, employees or invitees, have violated any law, ordinance, regulation or rule described in Subarticle 22.01 above and any plan or program developed in compliance therewith. Any such penalty, assessment, fine or costs and expenses of defense including, but not limited to, attorney's fees, shall not be a Reimbursable Operating Expense hereunder. Management further agrees that the substance of this Subarticle 22.02 and Subarticle 22.01 above shall be included in every contract and other agreement which Management may enter into related to its operations and activities under this Agreement and that any such contract and other agreement shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary of this Agreement and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

ARTICLE 23
Civil Actions

23.01 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 courts of the State of Florida.

23.02 Notice of Commencement of Civil Action: In the event that the County or Management commence a civil action in the State or Federal courts, where such action is based in whole or in part on an alleged breach of this Agreement, the County and Management agree to waive the procedure for initial service of process mandated by Chapters 48 and 83, Florida Statutes, Rule 1.070, Florida Rules of Civil Procedure and Rule 4(c), Federal Rules of Civil Procedure. In such event the County and Management agree to submit themselves to the jurisdiction of the court in which the action has been filed when initial service has been made in the following manner:

- A. Upon the County: by Certified Mail, Return Receipt Requested set to (i) the party indicated in Subarticle 25.09 on behalf of the County and (ii) with a copy to the County Attorney, Aviation Division, P. O. Box 025504, Miami, FL 33102-5504.

- B. Upon Management: by personal service or by Certified Mail, Return Receipt Requested, upon the General Manager or the party indicated in Subarticle 25.09 on behalf of Management, with a copy to whatever attorney Management has designated in writing, if any.

23.03 Registered Office/Agent; Jurisdiction: Notwithstanding the provisions of Subarticle 23.02 above, and in addition thereto, Management shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, such designations to be filed with the Florida Department of State in accordance with Section 607.034, Florida Statutes, as amended. If Management 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 the alleged breach of this Agreement.

ARTICLE 24 **Actions at Termination**

24.01 Surrender of Facilities: On or before the termination date of this Agreement, whether by lapse of time or otherwise, in accordance with the provisions contained herein, Management shall vacate, quit and surrender and shall account for the Facilities, all furnishings, fixtures, equipment, vehicles, records, funds, inventories, commodities, supplies and other property of the County in as good order and condition as they were upon commencement of this Agreement or date of subsequent acquisition, reasonable and normal wear and tear excepted. Management reaffirms its obligations under Subarticle 1.07 and its grant of powers of attorney to the County to obtain in Management's name appropriate orders and writs of eviction and possession in order for the County to regain possession of the Facilities.

24.02 Amounts Due and Payable: Upon termination of this Agreement, all amounts due and owing between the parties shall become immediately due and payable and any outstanding orders or contracts for goods and services, which cannot be cancelled, shall be assigned by Management to the County or such other party as the Department shall designate.

24.03 Removal of Personal Property: On or before the termination date of this Agreement, except in instances of termination pursuant to Subarticles 18.01 and 18.03 hereof, in which event Management shall be allowed up to five (5) calendar days, Management shall remove all of its personal property from the Facilities. Any personal property of Management not removed in accordance with these Subarticles may be removed by the Department for storage at the cost of Management. Failure on the part of Management to reclaim its personal property within thirty (30) days from the date of termination shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be in the best interest of the County.

24.04 Environmental Remediation: Prior to termination of this Agreement, Management shall ensure that it has completely remediated any environmental contamination for which it is responsible, as a non-reimbursable expense, or it shall have made arrangements for such remediation acceptable to the Department. Failure of Management to comply with Subarticle 24.04 shall subject Management to forfeiture of its Performance Bond and such other consequences as the Department deems appropriate.

ARTICLE 25
Other Provisions

25.01 Payment of Taxes: Management shall pay any taxes lawfully assessed against Management arising out of its operations hereunder; provided, however, that Management shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay same after the ultimate adverse conclusion of such contest shall constitute a default, pursuant to Subarticle 18.02.

25.02 No Possessory Interests: No clause, phrase, sentence, paragraph or article of this Agreement shall vest any possessory or leasehold interest in any real property, the Facilities, the Improvements or the personal property of the County described herein in Management nor shall such be construed as creating any landlord and tenant or partnership or joint venture relationship between the County and Management.

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

25.04 Administrative Modifications: It is understood and agreed that the Department, upon advance written notice to Management, shall have the right to modify administratively and to revise the budget, revenue processing, reimbursement, replenishment, payment and design and construction procedures, contained in Articles 3, 4, 5 and 10, other technical requirements hereof, and the exhibits hereto; provided, however, such revisions shall not have a materially adverse effect on the right of Management to be reimbursed for costs and expenses incurred on a timely basis or to receive reasonable compensation for its services hereunder or on the security of the funds and assets of the County.

25.05 Approvals: Wherever in this Agreement approval by the County or Department is required, the County or the Department may approve or disapprove same without providing a stated cause for such action.

25.06 Not Used

25.07 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 Management.

25.08 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 or the Facilities, 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, any part thereof, or the Facilities 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 the United States of America shall be suspended.

25.09 Notices: Any notices given under the provisions of this Agreement shall be in writing and shall be hand-delivered or sent by Registered or Certified Mail, Return Receipt Requested to:

To the County:
Director
Miami-Dade Aviation Department
Post Office Box 025504
Miami, Florida 33102-5504

To Management, in care of the General Manager, or to:
Allied Aviation Fueling of Miami, Inc.
Miami International Airport
4450 N.W. 20th Street, Bldg. 3050
Miami, Florida 33122

or to such other respective addresses as the parties may designate to each other in writing from time to time. Notices by Registered or Certified Mail shall be deemed given on the delivery date indicated on the Return Receipt from the U.S. Postal Service.

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

25.11 Authorized Uses Only: Notwithstanding anything to the contrary herein, Management shall not use or permit the use of the Facilities or the Airport for any illegal or unauthorized purpose, nor, for any purpose which would invalidate any insurance policies of the County or any policies of insurance written on behalf of Management under this Agreement. Failure to comply with this Subarticle shall result in default pursuant to Subarticle 18.02(F)

25.12 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 or of any subsequent breach, default or non-performance hereof by the other party.

25.13 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 Management or its operations.

25.14 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.

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

25.16 Inspector General Reviews

A INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW

Pursuant to Miami-Dade County Implementing Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General ("IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, Management shall make available, to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement or any subsequent award, for inspection and copying. The County will be responsible for the payment of these IPSIG services. The terms of this provision herein, apply to Management, its officers, agents, employees and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities and performance of Management. The terms of this provision are neither intended nor shall they be construed to impose any liability on the County by Management or a third party.

B. MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit of any Contract issued as a result of this Agreement shall be one quarter (1/4) of one (1) percent of the total contract amount. The audit cost shall also be included in all amendments and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. **Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one-quarter (1/4) of one percent in any exempted contract at the time of award.**

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above.

25.17 Employment Eligibility Verification (E-VERIFY): Management is required to enroll in the United States Citizenship and Immigration Services E-Verify system, and to utilize that system to verify the employment eligibility of all persons performing work for Management under this Agreement. Management shall incorporate this requirement into all of its subcontracts as well.

25.18 First Source Hiring Referral Program ("FSHRP"): Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the successful Bidder, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of three to five days, the successful Bidder is free to fill its vacancies from other sources. Successful Bidders will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Management performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at <https://iapps.southfloridaworkforce.com/firstsource/> or by contacting the SFWIB at (305) 594-7615, Extension 407 (see **Exhibit I**).

25.19 Headings: The headings of the various Articles and Subarticles of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope context or intent of this Agreement or any part or parts of this Agreement.

25.20 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 of Article 15 hereof.

25.20 Performance: The parties expressly agree that time is of the essence in the performance of this Agreement and that the failure by one party to complete performance within the time specified, or within a reasonable time, if no time is specified herein, shall not relieve the other party of any obligation to accept such performance.

ARTICLE 26

Environmental Compliance

26.01 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 Management or against or with respect to the Facilities or any

condition, use or activity on the Facilities (including any such action against County), and any claim at any time threatened or made by any person against Management or against or with respect to the Facilities or any condition, use or activity on the Facilities (including any such claim against County), relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Material or any Environmental Requirement.

- B. "Environmental Law" means any federal, state or local law, statute, ordinance, code, rule, regulation, license, authorization, decision, order, injunction, decree, or rule of common law, and any judicial or agency interpretation of any of the foregoing, which pertains to health, safety, any Hazardous Material, or the environment (including, but not limited to, ground or air or water or noise pollution or contamination, and underground or aboveground tanks) and shall include without limitation, the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Hazardous Materials Transportation Act 49 U.S.C. § 1801 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Clean Air Act 42 U.S.C. § 7401 *et seq.*; the Toxic Materials Control Act 15 U.S.C. § 2601 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*; Chapters 403, 376 and 373, Florida Statutes; Chapters 24 and 25 of the Miami-Dade County Code, and any other local, state or federal environmental statutes, codes, or ordinances, and all rules, regulations, orders and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.
- C. "Environmental Requirement" means any Environmental Law, agreement or restriction (including, but not limited to, any condition or requirement imposed by any insurance or surety company), as the same now exists or may be changed or amended or come into effect in the future, which pertains to health, safety, any Hazardous Material, or the environment including, but not limited to, ground or air or water or noise pollution or contamination, and underground or aboveground tanks.
- D. "Hazardous Material" means any substance, whether solid, liquid or gaseous, which is listed, defined or regulated as a "hazardous substance, a hazardous waste" or "solid waste," or pesticide, or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Requirement; or which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, or motor fuel or other petroleum hydrocarbons; or which causes or poses a threat to cause contamination or a nuisance on the Facilities or any adjacent Facilities or a hazard to the environment or to the health or safety of persons on the Facilities.
- E. "On" or "in" when used with respect to the Facilities or any Facilities adjacent to the facilities, means "on, in, under, above or about."
- F. "Recognized Environmental Condition" shall have the meaning set forth in ASTM E 1527-97, Section 3.3.28.

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

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

- A. Hazardous Materials may be present on the Facilities. The County is currently engaged in a significant environmental remediation program at MIA and does not desire to accept any additional risk attributable to environmental conditions at the Facilities.
- B. Under Subarticle 26.06 of this Agreement, Management is provided the opportunity to conduct an independent investigation of the Facilities and the physical condition thereof, including the potential presence of any Hazardous Materials on or about the Facilities. Whether Management has conducted such an investigation or not, Management is fully aware of the condition of the Facilities and the properties surrounding Facilities, and is willing to proceed with this Agreement in light of the environmental condition of the Facilities. Management's report on the investigation, if any such report has been prepared, will be provided to the County.
- C. Because of the possible presence of environmental contaminants on the Facilities, County has made no express, implied, or other representations of any kind in connection with the physical condition of the Facilities, 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 Facilities, and Management has relied solely on Management'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, Management expressly assumes the risk that Hazardous Materials that are or may be present on the Facilities at the commencement of this Agreement may affect the suitability or usability of the Facilities for Management's proposed or intended use. Management agrees that, except to the extent of County's remediation obligations provided in Subarticle 26.04, County shall have no responsibility or liability with respect to any Hazardous Materials on the Facilities. In no event shall County be liable to Management 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 Facilities at any time during this Agreement.

26.04 County's Disclosure of Soil and Groundwater Contamination:

- A. The County shall conduct response actions mandated by existing Environmental Requirements for Hazardous Materials disclosed in the Baseline Audit as defined in Subarticle 26.05 and the Management Audit as defined in Subarticle 26.06. If this Agreement contemplates construction by Management, any Hazardous Material

discovered during any Construction Period as defined in Subarticle 26.01(E) shall be presumed to be a County obligation under this Agreement except to the extent the Department demonstrates to the satisfaction of the Department of Environmental Resources Management ("DERM") that the Hazardous Materials were introduced by Management, Management's agents, employees, contractors, invitees or trespassers, in which case the responsibility therefor is Management's. After any Construction Period, any Hazardous Material discovered on the Facilities and not previously identified in the Baseline Audit or Management Audit shall be the responsibility of Management, except to the extent that Management demonstrates to the satisfaction of DERM that such Hazardous Materials originated from (1) a discharge, disposal or release outside of the Facilities, unless such discharge, disposal or release was caused by Management, Management's agents, employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the facilities prior to Management's first occupancy of the Facilities and not caused by Management, Management's agents, employees, contractors, invitees, or trespassers.

- B. County's responsibility for remediation under Subarticle 26.04 shall be limited to the Recognized Environmental Conditions required to be remediated under then-existing Environmental Requirements. If County is permitted to leave any Hazardous Material in place under existing Environmental Requirements, County shall have the option of so doing unless a governmental authority requires the removal of Hazardous Materials for Management to be able to continue with construction or occupancy of the Facilities.
- C. (1) To the extent they exist, the County has made available to Management copies of Contamination Assessment Reports ("CARs") and Remedial Action Plans ("RAPs") regarding any soil and groundwater contamination at the Facilities. Such CARs and RAPs are listed in Exhibit "N" to this Agreement. The County may have already installed or may have plans to install remediation systems to clean up the contamination described in such CARs and RAPs to the extent they exist. Management agrees that during the term of this Agreement, County's authorized representatives shall have the right to enter the Facilities 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 Management's use of the Facilities caused by the Remedial Action and Management agrees that it shall not interfere with or obstruct the Remedial Action. County and Management 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 Management have to be temporarily relocated to permit the Remedial Action to be performed, the Management will effect such relocation at no expense to the County.

- (3) If Remedial Action equipment or materials need to be temporarily stored in a secure location on the Facilities, the Management will provide reasonable storage inside the building on the Facilities for such equipment and materials at no expense to the County. The Management will provide the County with water and electrical service in connection with the Remedial Action, without charge. Management acknowledges that Remedial Action may be conducted at the Facilities 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.

26.05 Baseline Audit: Unless Management has agreed to extend the delivery date until thirty (30) days after the commencement of this Agreement, the County has provided Management with a copy of an environmental audit of the Facilities, 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 Subarticle 26.04(B), during the term of this Agreement. Unless this is a renewal lease, Management may terminate this Agreement within thirty (30) days of receipt of the Baseline Audit if Management, in its sole discretion, determines that the Recognized Environmental Conditions disclosed in such Baseline Audit are unacceptable, provided Management notifies the Department in writing twenty (20) days prior to termination. If this is a renewal lease, Management shall be responsible for all Recognized Environmental Conditions disclosed in the Baseline Audit unless Management demonstrates to the County's satisfaction that the Recognized Environmental Conditions originated from (1) a discharge, disposal or release outside of the Facilities, unless such discharge, disposal or release was caused by Management, Management's agents, employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the facilities prior to Management's first occupancy of the Facilities and not caused by Management, Management's agents, employees, contractors, invitees, or trespassers.

26.06 Management Audit: Management, 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 Facilities (the "Management Audit"), through an independent environmental consultant approved in writing by the Department, such approval not to be unreasonably withheld or delayed. If Management elects to conduct a Management Audit, it shall furnish the Department a copy of the Management Audit within thirty (30) days of receipt of the Baseline Audit. The purpose of the Management Audit is to determine whether there are present on the Facilities any Recognized Environmental Conditions and to delineate the vertical and horizontal extent of any soil or groundwater contamination not identified in the Baseline Audit or any CARs or RAPs. Within thirty (30) days of receipt of such Management Audit, the County shall notify Management if it disputes the Recognized Environmental Conditions or the delineation of subsurface conditions described in the Management Audit. Any such dispute shall be resolved by DERM, which resolution shall be binding on the parties as to the existence of Recognized

Environmental Conditions on the Facilities as of the commencement of this Agreement. If the Management Audit reveals any Recognized Environmental Conditions or delineates any subsurface contamination not disclosed in any CARs, RAPs, or Baseline Audit, then, unless this is a renewal lease, the County, at its option, shall: (i) allow Management to terminate this Agreement within fifteen (15) days of receipt of such notice to the County; or (ii) notify Management that it has agreed to be responsible for such Recognized Environmental Conditions and delineated subsurface contamination to the same extent as the County is responsible for the Recognized Environmental Conditions and subsurface contamination disclosed in any CARs, RAPs, and the Baseline Audit. If the County allows Management to terminate the Agreement and Management elects not to terminate, Management's failure to terminate shall constitute a waiver of Management's rights to terminate its obligations under this Agreement and a waiver of any claim it may have against the County with respect to Recognized Environmental Conditions and subsurface contamination disclosed in such Management Audit. If this is a renewal lease, Management shall be responsible for all Recognized Environmental Conditions disclosed in the Management Audit unless Management demonstrates to the County's satisfaction that the Recognized Environmental Conditions originated from (1) a discharge, disposal or release outside of the Facilities, unless such discharge, disposal or release was caused by Management, Management's agents, employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the facilities prior to Management's first occupancy of the Facilities and not caused by Management, Management's agents, employees, contractors, invitees, or trespassers.

26.07 Environmental Maintenance of Facilities: Except for the obligations of the County under this Article 26, Management shall, at its sole cost and expense, keep, maintain, use, and operate the Facilities at all times in compliance with all Environmental Laws, and shall maintain the Facilities in good and sanitary order, condition, and repair.

26.08 Management's Use of Hazardous Materials: Management shall not use, store, generate, treat, transport, or dispose of any Hazardous Material on the Facilities without first obtaining County's written approval. Management shall notify County and seek such approval in writing at least thirty (30) days prior to bringing any Hazardous Material onto the Facilities. County may withdraw approval of any such Hazardous Material at any time, for reasonable cause related to the threat of site contamination, or damage or injury to persons, Facilities or resources on or near the Facilities. Upon withdrawal of such approval, Management 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 Management's obligations under this Agreement, including Management's duty to remedy or remove releases or threatened releases; to comply with Environmental Laws relating to the use, storage, generation, treatment, transportation, and/or disposal of any such Hazardous Materials; or to indemnify County against any harm or damage caused thereby. Management shall promptly and completely answer periodic questionnaires from the County concerning Management's practices regarding the generation, use, storage, and disposal of Hazardous Materials.

26.09 Entry by County: Notwithstanding any other right of entry granted to County under this Agreement, County shall have the right to enter the Facilities or to have consultants enter the Facilities throughout the Term of this Agreement for the purposes of: (1) determining

whether the Facilities are in conformity with Environmental Law; (2) conducting an environmental audit or investigation of the Facilities; (3) determining whether Management has complied with the environmental requirements of this Agreement; (4) determining the corrective measures, if any, required of Management to ensure the safe use, storage, and disposal of Hazardous Materials; or (5) removing Hazardous Materials (except to the extent used, stored, or disposed of by Management in compliance with Environmental Requirements and the terms of this Agreement). Management agrees to provide access and assistance for such inspections. Inspections shall be conducted in a manner so as to reasonably minimize interruptions of business operations on the Facilities.

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

26.10 Permits and Licenses: The Management 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 Management to conduct its obligations under this Agreement. Upon request, Management shall provide to County copies of all permits, licenses, certificates of occupancy, approvals, consent orders, or other authorizations issued to Management under applicable Environmental Requirements.

26.11 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 Facilities in connection with Management's operation thereon; or (b) any Environmental Claim affecting Management from any person or entity resulting from Management's use of the Facilities, then Management 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 Management is not promptly commencing the response to either of such events, County shall have the right but not the obligation to enter onto the Facilities 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 Facilities or

any part thereof, which if true, could result in an order, suit or other action against the County. If Management 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 deducted from Management's Management Fee.

- B. With regard to any reporting obligation arising out of Management's operations or during the Agreement, Management 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, Management shall submit to County an emergency action plan/contingency plan setting forth in detail Management's procedures for responding to spills, releases, or discharges of Hazardous Materials. The emergency action plan/contingency plan shall identify Management's emergency response coordinator and Management's emergency response contractor.

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

26.13 Periodic Environmental Audits: Management shall establish and maintain, at its sole expense, a system to assure and monitor continued compliance on the Facilities 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 the Department may approve. Management shall provide the Department 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, Management 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.

26.14 Remediation of Hazardous Material Release: If any Hazardous Materials are released, discharged, or otherwise come to be located on or about the Facilities in violation of this Article, Management shall promptly take all actions, at its sole expense as are necessary to return the affected portion of the Facilities 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 Management 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 Management's best efforts, it is not possible to obtain County's consent before taking remedial action to abate such immediate threat, provided that: (a) Management shall notify County as soon as possible and shall thereafter obtain County's consent as otherwise provided in this paragraph; and (b) Management 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 Management and Management's consultants and contractors in any meetings with representatives of the governmental authorities, and Management 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 Management shall not be withheld so long as County determines, in its sole, good faith judgment, that such activities will not cause any material adverse long-term or short-term effect on the Facilities, or other adjoining property owned by County.

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

- A. This indemnity specifically includes the direct obligation of Management 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: Management shall perform all such work in its own name in accordance with applicable laws. Management acknowledges that the County's regulatory power in this regard is independent of the County's contractual undertakings herein, and nothing herein shall affect the County's right in its regulatory capacity to impose its environmental rules, regulations, and authorities upon the Management 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. Management shall permit County or its designated representative access to the Facilities to perform such remedial activities.
- C. Whenever County has incurred costs described in this section, Management 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 1½% per month or legal rate, whichever is greater.
- D. Without limiting its obligations under any other paragraph of this Agreement, Management 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 Facilities. Management'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. Management shall assume, pursuant to the Indemnity provision set forth in this Article 26, any liabilities or responsibilities which are assessed against County in any action described under this paragraph.

26.16 Environmental Insurance: Unless otherwise agreed to in writing by the County, or due to the existence of such coverage in other policies or for other reasons, Management shall obtain pollution liability insurance to cover the risks associated with the handling, storage, use, disposal, and possible release of Hazardous Materials at the Facilities in an amount not less than \$20,000,000 as required in Article 14. In any such policy, the County shall be named as an additional insured and Management, upon execution of this Agreement, shall deliver to County a copy of the insurance certificate consistent with this paragraph.

26.17 Waiver and Release: Management, on behalf of itself and its heirs, successors and assigns, hereby waives, releases, acquits and forever discharges County, its principals, officers, directors, employees, agents, representatives and any other person acting on behalf of the County, and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Management 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 Facilities, including, without limitation, any Hazardous Material, in, at, on,

under or related to the Facilities, or any violation or potential violation of any environmental law applicable thereto; provided, however, this Subarticle 26.17 shall not apply to a waiver or release of any obligation of County under Subarticle 26.04(A). Management acknowledges that the County would not enter into this Agreement without Management's agreement to the waiver and release provided herein.

26.18 Surrender of Facilities: Management shall surrender the Facilities to County upon the expiration or earlier termination of this Agreement free of debris, waste, and Hazardous Materials used, stored, or disposed of by Management or its agents, employees, contractors or invitees or otherwise discharged on the Facilities during the term of this Agreement; provided, however, Management shall not be responsible to the extent of County's obligations under Subarticle 26.04(A). The Facilities 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.

26.19 Breach: Any breach by Management of any provision of this Article 26 shall constitute a default of this Agreement and shall entitle County to exercise any and all remedies provided in this Agreement, or as otherwise permitted by law.

26.20 Survivability of Terms: The terms and conditions of this Article 26, including the indemnification, waiver, and release provisions, shall survive the termination of this Agreement.

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

BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA

By: _____
County Mayor

Attest: Harvey Ruvin, Clerk

By _____
Clerk

(COUNTY SEAL)

MANAGEMENT: Allied Aviation Fueling of Miami Inc.

By: Robert L. Rose
President

Print Name Robert L. Rose

Attest: Alice R. Nicholas
Asst. Secretary

Print Name ALICE R. NICHOLAS

(CORP. SEAL)