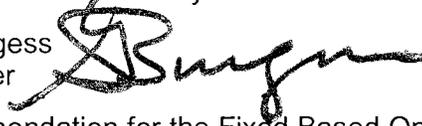


Date: January 20, 2011

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

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager



Resolution No. R-12-11

Subject: Award Recommendation for the Fixed Based Operator Agreement at Miami International Airport, RFP No. MDAD-02-09

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the award to Landmark Aviation Miami, LLC of the Fixed Base Operator ("FBO") Agreement at Miami International Airport ("MIA") under which Landmark shall provide General Aviation services at MIA for a ten-year period of time following the expiration of the current FBO Agreement with Signature Flight Support Corp. and authorize the Mayor or designee to execute the attached Agreement, with exhibits on file with the Clerk, and to exercise any cancellation or terminations contained therein.

SCOPE

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

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Code of Miami-Dade County related to identifying delegation of Board authority contained within the subject agreement, the Aviation Director is allowed to take all actions under the Agreement on behalf of the County, including the right to terminate the agreement, adjust rental rates following their approval by the Board, approve signage proposed by the Lessee, enforce the environmental compliance requirements under the agreement, approve assignments and mortgages of lessee's leasehold interests, amend insurance coverage requirements, modify terms of the agreement as may be directed by a court of competent jurisdiction, and determine times and conditions of reconstruction of any improvements that are destroyed or damaged by casualty.

FISCAL IMPACT/FUND SOURCE

The Agreement for this project is revenue generating through rental and opportunity fee payments to the Miami-Dade Aviation Department (MDAD). However, the Agreement requires Landmark to make a \$6.072 million lump-sum payment to MDAD in order for the Department to use such payment to discharge the County's obligation under the prior tenant's lease to pay the prior tenant for the unamortized cost of improvements made to Premises by such tenant, with the County reimbursing Landmark for such lump-sum payment through rental credits against certain portions of the rental stream during the first part of the Agreement. Because the rental and opportunity fee stream will be in excess of such rental credit, there is no expenditure of either Aviation Department or County funds associated with this Agreement.

TRACK RECORD/MONITOR

The Lessee, Landmark Aviation Miami, LLC, is a newly created company and does not have any prior Agreements with Miami-Dade County. The monitor for the Agreement will be Gregory C. Owens, MDAD Division Director of Real Estate Management and Development.

COMPLIANCE DATA

There is no history of violations for this firm.

BACKGROUND

Even though the County is entitled under state statute to negotiate aviation leases, the availability of this lease for a Fixed Base Operator at MIA was let for public bid. The advertised Request for Proposals advised potential bidders that there were two subject areas for which proposers would be graded and receive points: Technical Criteria, for which a maximum of 100 points per Committee member could be given, and the Price Proposal, for which a maximum of 100 points per Committee member could be given. The Price Proposal required each Proposer to bid a Minimum Annual Guarantee (“MAG”) that the Proposer would pay the Aviation Department during each year of the 10-year Agreement, with the lowest acceptable MAG being \$2,100,000.

The existing FBO operator is Signature Flight Support Corp, (“Signature”) whose lease expires on June 10, 2011. Under Signature’s lease, the County is required to pay Signature the unamortized portion of the improvements that Signature made to the premises during its lease term. MDAD has determined that the buy-out amount is \$6,072,097.31, although Signature does not agree with this calculation. The RFP provided that the successful Proposer will be required to pay \$6,072,097.31 in cash to MDAD, which MDAD will then submit to Signature. MDAD will return this amount to the successful Proposer through rental credits given to the successful Proposer over the lease term.

After advertising the availability of the FBO Agreement, the prescreening meeting (the first Selection Committee meeting) was held on September 10, 2010, to officially review the proposals received for the subject project. During the course of the meeting, the Selection Committee that consisted of seven (7) members recommended that all six proposers appear before the Selection Committee for oral presentations of their Proposals. One of the six responding firms elected not to make a presentation due to privacy issues. The Committee met again on September 29, 2010, for oral presentations by the five companies and, at the conclusion of the Technical Criteria presentations, the sealed price envelopes were opened. As a result of adding the points for both the Technical Criteria and Price Proposals for each Proposer, the final results were as follows:

Overall Adjusted Score	Price (Minimum Annual Guarantee)	Proposer
1,352	\$ 9,000,000.00	Landmark Aviation Miami, LLC
1,245	\$ 7,500,000.00	Signature Flight Support Corp
1,087	\$ 6,000,000.00	Miami Executive Aviation LLC
1,012	\$ 4,800,000.00	Jet Aviation of America, Inc.
797	\$ 3,050,000.00	Million Air Interlink, Inc
660	\$ 2,100,000.00	AAR Services Inc.

It is therefore recommended that the Board award the FBO Agreement to Landmark and approve the attached Agreement with Landmark Aviation Miami, LLC.

PROJECT: Fixed Based Operator

PROJECT LOCATION: Miami International Airport

DESCRIPTION OF PROJECT:

Miami-Dade County (the "County"), as represented by the Miami-Dade Aviation Department ("MDAD"), requires the services of a qualified firm to enter into an Agreement for Fixed Base Operations ("FBO") at Miami International Airport. MDAD solicited the proposals of experienced companies/individuals interested in entering into a 10-year Agreement with Miami-Dade County for the lease of existing Buildings 836 (ground equipment shop), 839 (Hangar), and 840 (the FBO terminal building), as well as adjacent aircraft and vehicular pavement and land from which to provide the FBO services listed in Section 1.2 of the RFP to general aviation and non-scheduled commercial based and transient aircraft. The successful proposer will provide essential and elective general aviation services as defined in the scope of services. (Refer to the attached negotiation report for the full scope of services).

TERM OF CONTRACT:

Ten (10) years

CONTRACT MEASURES:

Goals were not established for this project because the project is privately funded and not subject to ACDBE or DBE participation.

**CONTRACT MEASURES
ACHIEVED:**

N/A

PAYMENTS TO THE COUNTY:

Landmark proposed a Minimum Annual Guarantee amount of \$9,000,000.00. The payment structure was established as follows:

MAG or Revenue Items. Under the Agreement for the Premises, the Successful Proposer will be required to pay MDAD on a monthly basis the higher of the monthly Minimum Annual Guarantee (the "MAG") that is bid by the Proposer, or the sum of the following four (4) major monthly Revenue Items owing to MDAD for the Proposer's use of the Premises:

- (1) Payment of land and Improvements Rent. ("Improvements" include Premises as defined in Article 3 of the Agreement and existing pavement, both aircraft and vehicular);
- (2) Payment of an Opportunity Fee of 3% of the gross revenues derived by the Proposer for its aircraft maintenance services provided in, on, or about the Premises during the prior month,

- and 7% of the Proposer's gross revenues derived by the Proposer for all other goods and services (excluding fuels and lubricants and monies collected on behalf of the Department such as landing fees) provided in, on, or about the Premises during the prior month;
- (3) Payment of a Fuel Flowage Fee of the currently-applicable eight cents (\$.08) per gallon of AvGas, Jet Fuel and lubricants pumped into aircraft or sold by the Proposer; and
 - (4) Payment of all other charges arising out of the Agreement and the County's regulatory requirements (referred to herein as the "Incidental Charges").

COMPANY NAME:

Landmark Aviation Miami, LLC

**COMPANY PRINCIPALS:
GENDER, ETHNICITY AND
OWNERSHIP BREAKDOWN:**

Dan Bucaro, President; Jim Hopkins, Vice President; Isaac Lee, General Manager. Landmark Aviation Miami, LLC, a wholly owned subsidiary of Landmark FBO, LLC

LOCATION OF COMPANY:

1500 CityWest Blvd., Suite 600
Houston, TX 77042

**PREVIOUS AGREEMENTS
WITH THE COUNTY IN LAST
FIVE (5) YEARS:**

None

LIVING WAGE:

Not Applicable

INSPECTOR GENERAL:

Provisions for Inspector General and Independent Private-Sector Inspector General activities were included in the RFP

USER AGENCY:

Miami-Dade Aviation Department



Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez **DATE:** January 20, 2011
and Members, Board of County Commissioners

FROM: R. A. Cuevas, Jr. **SUBJECT:** Agenda Item No. 8(A)(1)(C)
County Attorney

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 Manager'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)(1)(C)
1-20-11

RESOLUTION NO. R-12-11

RESOLUTION APPROVING THE LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND LANDMARK AVIATION MIAMI, LLC (“LANDMARK”) FOR THE OPERATION OF A FIXED BASED OPERATION (“FBO”) FACILITY AT MIAMI INTERNATIONAL AIRPORT, PROJECT NO. RFP-MDAD-02-09, FOR A PERIODIC LEASE PAYMENT OF THE GREATER OF LANDMARK’S MINIMUM ANNUAL GUARANTEE OF \$9,000,000.00 OR THE DESIGNATED RENTAL AND OTHER PAYMENTS UNDER THE LEASE; AUTHORIZING THE MAYOR OR MAYOR’S DESIGNEE TO EXECUTE SUCH AGREEMENT AND TO EXERCISE THE TERMINATION PROVISIONS THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Lease Agreement between Miami-Dade County and Landmark Aviation Miami, LLC (“Landmark”), under which Landmark will operate a lease for Buildings 836 (ground equipment shop), 839 (Hangar), and 840 (the FBO terminal building) as well as the adjacent aircraft and vehicular pavement and land from which to provide general aviation services. Under the Lease Agreement, Landmark will pay the greater of Landmark’s minimum annual guarantee in the amount of \$9,000,000.00 or the sum of the four (4) major monthly revenue items defined in the attached justification for a term of ten (10) years; and authorizes the Mayor or Mayor’s designee to execute the Lease Agreement and the termination provisions therein.

The foregoing resolution was offered by Commissioner **Bruno A. Barreiro**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

	Joe A. Martinez, Chairman	aye
	Audrey M. Edmonson, Vice Chairwoman	aye
Bruno A. Barreiro	aye	Lynda Bell
Jose "Pepe" Diaz	aye	Carlos A. Gimenez
Sally A. Heyman	absent	Barbara J. Jordan
Jean Monestime	absent	Dennis C. Moss
Natacha Seijas	absent	Rebeca Sosa
Sen. Javier D. Souto	aye	

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2011. 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Thomas P. Abbott

NEGOTIATION REPORT

Memorandum



Date: December 20, 2010

To: George M. Burgess
County Manager

From: Gregory C. Owens, MDAD Chairperson
Negotiation Committee 

Subject: Negotiation Committee Report for Fixed Based Operator at Miami International Airport, RFP No. MDAD-02-09

Attached are six (6) copies of the proposed Fixed Based Operator (FBO) Agreement at Miami International Airport ("MIA") for the Miami-Dade Aviation Department ("MDAD") negotiated by the Negotiation Committee with the following firm: Landmark Aviation Miami, LLC (d/b/a Landmark Aviation) ("Landmark").

Note that the Premises to be leased to the Successful Proposer were improved by the present FBO Operator, Signature. Signature's current lease will expire on June 10, 2011. Under the lease, the County is required to buy-out Signature's current interest in the Improvements. MDAD has determined that under the buy-out formula set forth in the Signature's lease, the buy-out amount as of June 10, 2011 is \$6,072,097.31.

DESCRIPTION OF SERVICES

Miami-Dade County (the "County"), as represented by the Miami-Dade Aviation Department ("MDAD") solicited proposals from experienced companies/individuals interested in entering into a ten (10) year Agreement with Miami-Dade County for the lease of existing Buildings 836 (ground equipment shop), 839 (Hangar), and 840 (the FBO terminal building), as well as adjacent aircraft and vehicular pavement and land from which to provide the FBO services listed in Section 1.2 of the Request for Proposal (RFP) to general aviation and non-scheduled commercial based and transient aircraft for the Miami International Airport.

The Successful Proposer will be responsible for the essential and elective services as follows:

- A. **ESSENTIAL SERVICES:** The Successful Proposer shall be required to provide the following Essential Services at a minimum:
 - (1) Ramp services for general aviation and charter aircraft with a qualified attendant available 24 hours a day seven days a week to include but not be limited to: aircraft arrival and departure guidance, aircraft parking services, aircraft tie-down, aircraft ground power, disabled aircraft removal, aircraft marshalling and towing, courtesy ground transportation, two way aviation-band radio communication, and, upon eight hours advance notice from the customer, oxygen, nitrogen and compressed air services.

- (2) Sale and dispensing of a selection of aircraft fuels, propellants and lubricants of sufficient ratings, grades, quality, and quantity to meet the demand and at prices to keep MIA competitive with other large airport FBOs.
- (3) Maintenance service to general aviation aircraft, accessories and radio (avionics) equipment including overhauling, rebuilding, repairing and inspection; such services may be performed by the FBO utilizing a qualified subcontractor with a separate written permit from MDAD to access MIA.
- (4) First-class facilities provided on a 24/7 basis for patrons, guests, and invitees, and services which include but are not limited to passenger and crew services and amenities, flight planning, communications, customer assistance service, ground transportation services, air-conditioned lounge, sanitary and clean restroom facilities, and local telephone services. Such services may be performed by the FBO utilizing qualified subcontractor(s) with a separate written permit from MDAD to access MIA.

B. ELECTIVE SERVICES

The FBO will also have the non-exclusive privilege to provide any one or more of the following Elective Services through its own employees or through an authorized subtenant or contractor having a written permit from MDAD to provide the relevant service:

- (1) Aircraft rental
- (2) Aircraft charter
- (3) Aircraft sales
- (4) Specialty shops
- (5) On a case by case basis any aircraft services that a Specialized Aircraft Service Operator (SASO) may provide if such activities are not in conflict with applicable building, fire and environmental codes, other commercial operations and air and ground traffic operations at MIA and are approved in writing by the Department.
 - (a) Examples of SASO services may include but not be limited to:
 - (i) Air taxi, aerial spraying, aerial survey, aerial photography and mapping services.
 - (ii) Specialized aircraft repair or refurbishment airframe and power plant maintenance, brake repair, engine repair, avionics.
 - (iii) Specialty services and amenities

FEE, SOURCE OF FUNDING, AND TERM OF AGREEMENT

The fee is as follows:

As provided in the Landmark price proposal, the Lessee shall pay a yearly Minimum Annual Guarantee (MAG) of \$9,000,000.00.

The payment structure is as follows:

MAG or Revenue Items. Under the Agreement for the Premises, the Successful Proposer will be required to pay MDAD on a monthly basis the higher of the monthly Minimum Annual Guarantee (the "MAG") that is bid by the Proposer, or the sum of the following four (4) major monthly Revenue Items owing to MDAD for the Proposer's use of the Premises:

- (1) Payment of land and Improvements Rent. ("Improvements" include Premises as defined in Article 3 of the Agreement and existing pavement, both aircraft and vehicular);
- (2) Payment of an Opportunity Fee of 3% of the gross revenues derived by the Proposer for its aircraft maintenance services provided in, on, or about the Premises during the prior month, and 7% of the Proposer's gross revenues derived by the Proposer for all other goods and services (excluding fuels and lubricants and monies collected on behalf of the Department such as landing fees) provided in, on, or about the Premises during the prior month;
- (3) Payment of a Fuel Flowage Fee of the currently-applicable eight cents (\$.08) per gallon of AvGas, Jet Fuel and lubricants pumped or sold by the Proposer; and
- (4) Payment of all other charges arising out of the Agreement and the County's regulatory requirements (referred to herein as the "Incidental Charges").

The funding source is as follows:

County funds are not associated with this project as the Agreement for this project is revenue generating.

Term is as follows:

The term of the Agreement is ten (10) years.

SELECTION PROCESS

The following six proposers responded to the solicitation for the subject project:

- Jet Aviation of America, Inc. c/o The Corporation Trust Company
- Million Air Interlink, Inc.
- AAR Services, Inc. dba Aircraft Services- Miami, a company duly organized and existing under the laws of Illinois (Filed with the State as AAR Aircraft Services, Inc.)
- Signature Flight Support Corporation
- Landmark Aviation Miami, LLC (d/b/a Landmark Aviation)
- Miami Executive Aviation, LLC

The Evaluation Selection/Committee (Committee) met for the first committee meeting (prescreening) on Friday, September 10, 2010. The Contracting Officer, Lenora Allen-Johnson chaired the meeting. During the course of the meeting, the Committee agreed to invite all six (6) of the responding firms to make an oral presentation before the Committee at a publicly noticed meeting. The oral presentation meeting was set for and held on Wednesday, September 29, 2010 and five (5) of the six (6) responding proposers made presentations. One of the responding proposers, Million Air elected not to present. Million Air was however rated on their proposal only.

At the conclusion of the presentations, the two-tier scoring process (Technical and price) was applied and based on the overall scoring, Landmark was recognized as the first ranked proposer. The Committee then voted to recommend the first ranked proposer, Landmark, for negotiations to the County Manager. Note that all six (6) of the proposing firms were deemed responsible by the Committee and responsive by the Assistant County Attorney assigned to the project, Tim Abbott.

A request was then sent to the County Manager for authorization to negotiate with Landmark by the Contracting Officer. Upon receipt of the authorization from the County Manager, the Contracting Officer scheduled the first and only negotiation meeting for November 5, 2010, the meeting was held as scheduled.

A pre-meeting was held for the first half hour of the November 5th meeting. As chairperson for the Negotiation Committee, I expressed concern regarding the language in the Agreement regarding land rent, that the Agreement may not have adequately portrayed land rent as a separate necessary item. However, it was pointed out that there was land rent language in the Agreement, and although it did not appear as the language discussed during the preparation phase of the RFP document, I agreed to proceed with the language as it currently exists in the Agreement.

George M. Burgess, County Manager
Negotiation Committee Report
Agreement for RFP No. MDAD-02-09
Page 5

Negotiation Committee member Oscar Garcia expressed concern regarding the definition for gross revenue. Mr. Garcia thought that both MDAD and Landmark should have a clear understanding of this definition.

The Negotiation Committee meeting with Landmark then commenced. The Negotiation Committee requested and received a marked up copy of the advertised agreement from Landmark prior to the Negotiation Committee meeting, and this document became the point of discussion as well as the concerns Mr. Garcia and I expressed. Landmark requested changes to various sections of the agreement as follows: Scope of Service (essential and elective) language, rental and payments language which includes a definition for gross revenues, terminal improvements and signage, and the environmental language. Landmark also requested changes to the assignment and subletting language, insurance and minor corrections to the language in other areas such as the termination language and the equal employment opportunity nondiscrimination language.

To the scope, Landmark proposed to add the following to the elective services language "Airline fueling provided Lessee complies with all Department regulations applicable thereto". Assistant County Attorney Tim Abbott agreed to the addition along with the Negotiation Committee with the exception that the new language is accompanied by the following: "To the extent allowed by the Aviation Department". Changes proposed by Landmark to the environmental and insurance language were sent to the respective Division heads for their review. The Environmental division did not approve any of the changes to their language. However, the Risk Management division approved their language with the addition of a new paragraph addressing pollution liability.

Discussions regarding the addition of the Terminal Improvement language provided a segue into the Tenant Airport Construction–Non-reimbursable (TAC-N) requirements. Landmark was informed of their responsibilities regarding TAC-N and Assistant County Attorney Tim Abbott and I informed Landmark that MDAD would provide the TAC-N documents and language to Landmark. Landmark also requested to know the permitting process. I informed them that we had a permitting facility currently in operation for airport projects on-site, and that permitting was a necessary part of the process going forward. The LEED requirements were also discussed.

Discussion was also had regarding the timeline for concluding the process, the approval time for the Federal Aviation Administration (FAA), if necessary, and the Board of County Commission approval were of special interest with Landmark. Landmark requested information regarding the County Manager's approval time, and what triggers the end of the "Cone of Silence". The protest period and the process involved were also discussed.

The negotiation meeting ended with the Negotiation Committee agreeing not to meet again, but to let the attorneys from both MDAD and Landmark work together to finalize the agreement.

A more detailed analysis of the evaluation and selection process is included in the attached Evaluation/Selection Committee Report.

Attachments

c: Clerk of the Board of County Commissioners

EVALUATION / SELECTION COMMITTEE:

Lenora Allen-Johnson, MDAD (Non-voting, Chairperson)
Gregory C. Owens, MDAD
Michele Raymond, MDAD
John O'Neal, MDAD
James Burchett, Airport and Aviation Professionals
John J. Pokryfke, Ft. Lauderdale Airport
Oscar S. Garcia, InterFlight Global Corporation
Stuart A. Klaskin, Jetstream Aviation Capital, LLC

NEGOTIATION COMMITTEE

Gregory C. Owens, MDAD
Michele Raymond, MDAD
Oscar S. Garcia, InterFlight Global Corporation

Lease No. C- _____
Cust. No. _____
Doc. _____

LEASE AGREEMENT BETWEEN MIAMI-DADE
COUNTY, FLORIDA, AS LESSOR, AND
LANDMARK AVIATION MIAMI, LLC, AS LESSEE,
MIAMI INTERNATIONAL AIRPORT

THIS LEASE AGREEMENT ("Agreement"), is made and entered into as of the _____ day of _____, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida (County), acting through its Aviation Department ("MDAD", or sometimes the "Department"), and LANDMARK AVIATION MIAMI, LLC, a company authorized to do business in the State of Florida ("Lessee").

WITNESSETH:

FOR, and in consideration of the premises and of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE 1

Term, Premises; Suitability, Relocation and County Buy-Out and Early Termination of the Lease, and Applicable RFP Terms

1.01 Term: The County hereby leases to the Lessee, and the Lessee hereby leases from the County, for a term of ten years, commencing on June 11, 2011 (or earlier if the parties mutually agree) ("Commencement Date"), unless terminated sooner as provided for herein, the premises described in Article 1.02 (Premises) hereof, for the purposes and uses set forth in Article 2 (Use of Premises) hereof.

1.02 Premises: The premises leased herein are located directly south of NW 36th Street and west of NW 57th Avenue on the north side of Miami International Airport ("Airport"), and are more particularly described as follows and as shown on Exhibit A-1, A-2, A--3, P-1, P-2, P-3 & P-4 dated February 27, 2009 said Exhibits being attached hereto and made a part hereof ("Premises"):

Building 840:

<u>Exhibit</u>	<u>ID</u>	<u>Description</u>	<u>Square Feet</u>
A-1	168401102	Terminal area	4,568
A-1	88401107	A/C office	7,749
P-1	25-11G02	Landside veh pavement	37,552
P-4	23-11H05	Airside aircraft pavement	223,946
P-4	27-11G05	Non Fit line Land	4,763
P-4	27-11G06	Non Fit line Land	5,251
P-4	27-11G07	Non Fit line Land	1,511

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P-4	27-11G08	Non Fit line Land	5,113
P-4	27-11J06	Non Fit line Land	68,960
P-4	27-11N06	Non Fit line Land	1,755
P-4	27-11N07	Non Fit line Land	1,529

Building 839:

<u>Exhibit</u>	<u>ID</u>	<u>Description</u>	<u>Square Feet</u>
A-2	138391201	Hangar	20,117
A-2	88391202	A/C office	2,143
P-2	25-11H02	Landside veh pavement	5,149

Building 836:

<u>Exhibit</u>	<u>ID</u>	<u>Description</u>	<u>Square Feet</u>
A-3	88361100	A/C office	1,333
P-3	25-11J02	Veh. Parking	6,865
P-3	25-11M05	Veh. Parking	7,814
P-4	23-11J05	Airside aircraft pavement	153,124
P-4	27-11M06	Non fit line Land	6,964
P-4	27-11M07	Non fit line Land	4,117

1.03 Suitability of Premises: The Lessee acknowledges that the Premises are suitable for the Lessee's proposed use and that the County has no obligation to perform or cause to be performed any maintenance, repairs, clean-ups, painting, or the like. The Lessee's obligation under this Agreement, such as in Article 6.01(B) (Permits and Licenses) to obtain all operating permits required of the Lessee, shall not require the County to take any action or perform any tasks within the Premises to enable the Lessee to obtain such permits other than to provide reasonable cooperation to Lessee.

1.04 Relocation of Premises: The Premises are subject to relocation, modification, or deletion, at the sole discretion of the Aviation Department of the County and this Agreement may be administratively revised to reflect such modification or deletion upon 30 days written notice to the Lessee by the Department or such relocation upon 180 days written notice to the Lessee by the Department. Relocated space may not be similar in size, configuration, or location to the Premises leased herein.

1.05 County Buy-Out and Early Termination of the Lease:

- A. At any time during the term of this Agreement, if the Premises leased hereunder are required by the County for airport development purposes, as determined by the Board of County Commissioners, or if the Airport is permanently abandoned by the County for any reason whatsoever, the County shall have the right to terminate this Agreement as to the entire Premises or any affected portion thereof without liability to Lessee except for the County's continued obligation for repayment of the buy-out funds advanced by the Lessee as a condition to receiving this Lease Agreement. Such termination shall be without penalty to the County which must provide Lessee with not less than six (6) months' written notice of County's intent to buy-out the Lessee's interest and terminate the Agreement under this Article 1.05. If, at the effective date of the early termination of the Agreement for the reasons set forth in this Article 1.05, the buy-out funds have been fully amortized on a simple interest, declining

balance basis, then the County shall owe Lessee nothing other than any accrued liabilities of the County otherwise specifically provided under this Lease Agreement, and Lessee shall leave the Premises or the affected portion thereof in the manner required by Article 13.06. On the other hand, if a termination hereunder applies to the entire Premises and the buyout funds have not been fully amortized by the monthly Improvements Rents credit application, then the County shall pay the Lessee in one lump sum payment the then-current principal amount of the buy out payment that has not been paid through the improvements rent credit, and Lessee shall leave the portion of the Premises in the manner required by Article 13.06.

- B. If less than one-half of the Premises are terminated under this Article 1.05 (such one-half portion determined by reference to the fair market rent applicable to the portion being terminated as compared to the fair market rent applicable to the entire Premises), then, in addition to the rent abatement applicable to the portion being terminated, Lessee shall be entitled to a continued Improvements Rent credit equal to the Improvements Rent applicable to the remaining portion, with the balance, if any, being paid to lessee in one lump sum payment on the termination date. If the portion to be taken is greater than one-half in rental value, then the Lessee shall have the option to terminate the agreement or else continue the Agreement as to the remaining portion, with the rent credits to continue during the remainder of the lease term, with MDAD having the obligation to make a one-time lump sum payment of the buy-out payment that has not been paid through Improvements Rent credits. At the point in time, if any, during the lease term that the buy-out payment has been fully paid to Lessee through Improvements Rent credits, Lessee shall commence payment in cash of all of the then-current rents for the remaining Premises, including the Improvements Rent.

1.06 INCORPORATION OF LESSEE'S REPRESENTATIONS HEREIN: Except to the extent specifically provided otherwise in this Agreement, all representations, promises, and assurances provided by the Lessee in its documents submitted to Lessor in response to the Lessor's Request for Proposals are hereby incorporated herein, and Lessee agrees that it will complete and comply with all such representations, promises, and assurances except as specifically provided otherwise in this Agreement.

ARTICLE 2

Use of Premises

2.01 Use of Premises: The Lessee shall use the Premises leased herein for the purpose of providing full service FBO facilities and services as provided below, and shall not use the Premises for any other purpose without the advance written approval of the Department.

- (A) Essential Services: Throughout the term of this Lease Agreement, Lessee shall be obligated to provide the following services on the Premises provided herein (See Article 1.02):
- (1) Ramp services for general aviation and charter aircraft with a qualified attendant available 24 hours a day seven days a week to include but not be limited to: aircraft arrival and departure guidance, aircraft hangar storage and hangar rental, aircraft parking services, aircraft tie-down, aircraft ground power, disabled aircraft removal, aircraft marshalling and towing, courtesy ground transportation, two way aviation-band radio communication, and, upon eight hours advance notice from a customer, oxygen, nitrogen and compressed air services.

- (2) Sale and dispensing of a selection of aircraft fuels, propellants and lubricants of sufficient ratings, grades, quality, and quantity to meet the demand and at prices to keep MIA competitive with other large airport FBOs.
- (3) Maintenance service to general aviation aircraft, accessories and radio (avionics) equipment including overhauling, rebuilding, repairing and inspection; such services may be performed by the FBO utilizing a qualified subcontractor with a separate written permit from MDAD to access MIA.
- (4) First-class facilities on a 24/7 basis for patrons, guests, and invitees, with services that includes but are not limited to: passenger and crew services and amenities, flight planning, communications, customer assistance service, ground transportation services, air-conditioned lounge, sanitary and clean restroom facilities, and local telephone services. Such services may be performed by the FBO utilizing qualified subcontractor(s) with a separate written permit from MDAD to access MIA.

(B) ELECTIVE SERVICES

The Lessee has the non-exclusive privilege to provide any one or more of the following Elective Services through its own employees or through an authorized subtenant or contractor having a written permit from MDAD to provide the relevant service.

- (1) Aircraft rental
- (2) Aircraft charter
- (3) Aircraft sales
- (4) Specialty shops
- (5) On a case by case basis any aircraft services that a Specialized Aircraft Service Operator (SASO) may provide if such activities are not in conflict with applicable building, fire and environmental codes, other commercial operations and air and ground traffic operations at MIA and are approved in writing by the Department.
- (6) Lessee acknowledges the Department's interest in limiting the number of entities that are allowed to provide fueling services to Airlines at MIA. The Department therefore may, but is not obligated to, permit Lessee to engage in Airline fueling provided Lessee complies with all Department regulations applicable thereto as they may be amended and added to from time to time.

Examples of SASO services may include but not be limited to:

- (1) Air taxi, aerial spraying, aerial survey, aerial photography and mapping services.
- (2) Specialized aircraft repair or refurbishment airframe and power plant maintenance, brake repair, engine repair, avionics
- (3) Specialty services and amenities

All providers of aviation services and any person or entity engaging in aviation operations and/or aeronautical activities in connection with the Lessee's use of the Premises throughout the term of this Lease, specifically including the successful proposer, will be subject to all applicable federal, state, local regulations including State and County issued ordinances, codes, County and departmental directives.

Aviation petroleum products may only be purchased through a supplier/distributor with a current MDAD fuel supply agreement or permit.

(C) FACILITY, FUEL EQUIPMENT, GENERAL EQUIPMENT AND FBO PERSONNEL REQUIREMENT

(1) Building, aircraft and vehicular parking Facility

The Lessee shall maintain a minimum of 12,000 square feet for customer and administrative space and a minimum of cumulative maintenance and storage hangar space of 20,000 square feet. The Lessee must also maintain a minimum of 377,070 square feet of aircraft parking and 37,000 square feet of vehicular parking.

(2) Fuel Equipment

The Lessee must have at least two jet fuel-refueling vehicles with a capacity of at least 5,000 gallons and at least one 1,000 gallon AVGAS refueling vehicle. All fueling vehicles should have the capability of defueling.

(3) General Equipment:

The Lessee must have available on the Premises and in good operating order at least:

(a) Two (2) courtesy vehicles to transport its patrons and their baggage to and from Miami Area destinations in a reasonable distance from the airport.

(b) At least (2) mobile aircraft battery recharging or energizing units.

(c) At least two (2) each belt loaders, lavatory carts, and water carts.

(d) At least one mobile adjustable aircraft stair unit.

(e) At least two ramp vehicles for transporting customers to and from aircraft and the FBO terminal.

(f) A minimum of two aircraft heavy duty tow vehicles, with tow bars, with at least one having a rated draw bar capacity.

(g) Appropriate spill kit and supplies either towed in a spill cart or carried in the company's vehicle(s) and containing:

(1) Six absorbent berms to contain the spill (varying lengths).

(2) Absorbent material (such as Oil Dry) to absorb the spill within the containment berm.

(3) Two shovels to recover the used absorbent material and berms and an approved container to deposit the used absorbent.

(4) Traffic cones and danger tape to keep people away from spill areas.

(5) Emergency telephone numbers of company managers, emergency cleanup company, and the Fire Department in case the spill is very large and cannot be controlled by the kit. The DERM 24-hour Complaints Hotline number is (305)

372-6955 if the spill impacts open ground or a storm drain.

- (h) An adequate number of approved and regularly inspected dry chemical fire extinguishers within all hangars, on apron areas, at fuel service facilities, and on all grounding handling and refueling vehicles. The number of dry chemical fire extinguishers will depend on the size of the area and whether they are to be used for AVGAS or jet fuel.
- (i) All equipment reasonably necessary for the proper performance of aircraft maintenance in accordance with applicable FAA regulations and manufacturers' specifications.
- (j) Identification of the environmental company Proposer intends to use to respond to environmental spills on the Premises.

4. Personnel

- (a) Personnel, while on duty, shall be clean, neat in appearance, courteous, and at all times properly uniformed, except for management and administrative personnel who may wear professional attire.
 - (b) Personnel uniforms shall identify the name of the Lessee and that of the employee.
 - (c) The Lessee shall have properly trained and qualified employees, on each shift, to provide aircraft fueling, parking, as well as customer and ground services and support. All personnel providing fueling must be certified.
 - (d) One supervisory employee shall have been trained in an FAA approved Fire Safety Program (14 CFR Part 139.321) as amended from time to time.
- (D) The Lessee shall have available within four (4) hours notice an FAA licensed airframe and power plant mechanic who is properly trained and qualified to perform aircraft maintenance on aircraft normally frequenting the Premises .

2.02 Prohibited Activities: In no instance shall any non-operating or derelict aircraft be parked or stored on the premises for a period in excess of 60 consecutive days, without the Lessee's having obtained the prior written approval of the Department. Failure of the Lessee to remove non-flyable aircraft shall result in the Department declaring said aircraft derelict and subject to removal pursuant to Chapter 25-10.24 of the Code of Miami-Dade County.

2.03 Non-exclusive Activities: The activities permitted in Article 2.01 are not exclusive to Lessee and the County reserves the right to permit other companies to provide all or any part of such services. The County also reserves the right to grant exclusive or non exclusive leases, franchises, concessions, agreements or permits for restaurants, vending machine services of all kinds, bars, gift counters , duty free merchandise sales, car rentals, taxicab and other ground transportation services and all other activities at the Airport and to establish fees for the landing and parking of all or special classes of aircraft at the Airport; provided that the County's grant of such exclusive or non exclusive leases, franchises, concessions, agreements or permits shall not limit or impair Lessee's rights to use the premises for the uses specifically permitted under Article 2.01

2.04 Collection of Certain fees and Charges: The Lessee, as a further consideration for this Agreement, shall be required, when directed in writing by the Department, to collect and promptly remit to the Department aviation fees, landing fees, and other aviation charges, approved by the County, accruing to the Department, and collected by Lessee from customers parking aircraft on the leasehold or utilizing the services of the Lessee or the Airport. The method of collection and remittance of such fees and charges shall be as determined and directed by the Department in writing. A failure to collect and pay same shall constitute a default under Article 13.03 (Other Defaults). The Lessee shall be permitted to retain five percent of such fees and charges collected on behalf of the Department, which amount shall be considered as full and final payment to the Lessee for the cost of collecting and remitting the fees and charges, and shall not be considered as part of gross revenues.

ARTICLE 3
Rentals and Payments

3.01 MAG AND RENT PAYMENTS:

- (A) The Minimum Annual Guarantee due from Lessee to Lessor shall be Nine Million Dollars (\$9,000,000) payable in equal monthly installments of Seven Hundred Fifty Thousand Dollars (\$750,000) ("Monthly MAG") subject to this Article 3. The first monthly payment due MDAD of the Monthly MAG must be made on or before June 11, 2011, or such other day as determined by MDAD, and shall be prorated if necessary so that such payment encompasses the period of time extending to the tenth (10th) day of the following month. Such first payment must necessarily be a Monthly MAG payment inasmuch as Lessee will not have had any revenue activity from which to calculate the Opportunity Fee and Fuel Flowage Fee for a prior month so as to determine if the Monthly MAG payment exceeds the Revenue Items for that month or not.
- (B) On or before the tenth (10th) day of each month thereafter, the Lessee shall pay the Department the greater of (i) the Monthly MAG, or (ii) the total of all monthly Land and Improvements Rents, Opportunity Fees, Fuel Flowage Fees, and Incidental Charges arising under this Agreement (collectively referred to as the "Revenue Items"), plus applicable taxes including sales taxes. If the Lessee's Revenue Items in any month, including the Revenue Items for Opportunity Fees and Fuel Flowage Fees for the Lessee's prior month's activities, are less than the Monthly MAG, then the Lessee's payment of the Monthly MAG shall be in lieu of, and in full satisfaction of, Lessee's obligation to pay said Revenue Items. In any month in which the Revenue items plus applicable taxes exceed the Monthly MAG, then the Lessee shall pay the Department the total of such Revenue Items which will constitute full satisfaction of Lessee's obligation to pay the Monthly MAG. All monthly payments, whether the Monthly MAG or the Revenue Items, are due on or before the 10th day of each month with or without billing, in advance, and in U.S. funds in the manner prescribed by MDAD from time to time.
- (C) Because the Lessee's last scheduled payment on the 10th day of the last month of this Agreement takes into account the Opportunity Fee and Fuel Flowage Fee for the month prior to such last month but does not take into account such fees for the last month itself, Lessee shall make one final payment to MDAD on or before the 10th day of the month following termination of this Agreement that reflects any Opportunity Fee and Fuel Flowage Fee due to MDAD for Lessee's activities in the last month of this Agreement.

3.02 Opportunity Fee: The Opportunity Fee that is part of the Revenue Items payable by Lessee monthly shall include (i) three percent (3%) of Lessee's Gross Revenues for aircraft maintenance and (ii) 7% for all other non-aircraft maintenance revenues for that month. On or before the tenth (10th) day of each

month, the Lessee shall determine the Gross Revenues for the previous month for its aircraft maintenance operation and other revenue operations, as "Gross Revenues" are defined in Article 3.16, and then subtract from non-aircraft maintenance Gross Revenues the amount representing such month's sales of fuel and lubricants (including Fuel Flowage Fees), Opportunity Fees, and any amounts that the Lessee has collected on behalf of the Department under Article 2.04 hereof, including but not limited to airport landing fees (including Lessee's 5% thereof). The percentage fees payable on any unreported Gross Revenues, determined by the annual audit required pursuant to Article 3.19 (Annual Audit Required) shall be considered, for the purposes of Article 3.13 (Late Payment Charge), as having been due on the tenth day of the month following the month during which such unreported Gross Revenues were received or accrued. The County acknowledges that the Opportunity Fee is not a payment for the lease or license to use the Premises, but rather is a payment for the Lessee's privilege of doing business on the Airport. The first Opportunity Fee shall be paid on or before the 10th day of the second month of this Agreement to reflect Lessee's activities during the first month hereof, and the last Opportunity Fee payment shall be made on or before the 10th day of the month following the month in which this Agreement expires or is terminated.

3.03 Fuel Flowage Fee: Throughout the term of the lease, the Proposer shall pay MDAD a fuel flowage fee, currently established at eight cents (\$.08) per gallon for the sale of AVGAS, Jet Fuel and all lubricants, which fee shall be subject to change by the Lessor from time to time for all similarly situated users. All such payments, their calculations, and their methods of payment shall be in accordance with the requirements of MDAD as they may be amended from time to time.

3.04 Buy-out Payment; Improvements Rent Credit:

- (A) Not later than March 10, 2011, Lessee shall pay to MDAD \$6,072,097.31, in cash or other acceptable form of third party payment. No interest will be paid on this sum between March 10, 2011 and the start of the new lease on June 11, 2011, but interest at a rate to be approved by MDAD which shall be the then current monthly prime interest rate plus 2%, in any case not to exceed 7%, will start as of June 11, 2011 and be added thereafter to the outstanding principal balance on a declining balance basis. The initial interest rate shall be the prime interest rate prevailing on May 1, 2011 plus 2% but in no case to exceed 7%. The method of calculating the interest shall be as set forth in Section 1.4(D) of the Request for Proposal (RFP) associated with this Agreement. MDAD shall have the right to access the \$6,072,097.31 or such other buy-out payment at any time after March 10, 2011 for the purpose of completing the buy-out of the prior tenant's interest in the improvements.
- (B) MDAD shall re-pay Lessee the buy-out payment by way of credits against the Improvements Rent until the buy-out payment, plus interest on a declining balance basis, is exhausted by the rental credits against the Improvements Rent. At the time at which such buy-out payment credit is exhausted, Lessee must commence paying MDAD on a monthly basis the greater of the Monthly MAG or the total of the four Revenue Items owing to MDAD as described above.
- (C) The improvement Rents credit shall be applied in the manner set forth in Section 1.4(D) of the RFP associated with this Agreement.
- (D) MDAD reserves the right, at its sole discretion, to pre-pay any principal amounts then owing on the buy-out amount. The pre-payment may be in the form of cash or additional credits to be given to the Lessee. No penalty or charge shall apply to any such pre-payment, and the interest payments due on the balance of the buy-out amount then remaining after a partial pre-payment shall apply only to the remaining principal amount owing, on a simple interest, declining balance basis. MDAD shall provide three months' notice of any such intent to pre-

pay any principal amounts.

3.05 No Improvements Rent Payment During Improvements Rent Credit Period: Notwithstanding anything to the contrary in this Agreement, during the period of this Lease when MDAD is re-paying Lessee for the buy-out payment by way of rent credits against the Improvements Rent, Lessee shall continue to calculate the amount of the Revenue Items then owing as if Lessee were obligated to pay the Improvement Rent along with the other rents for the Premises. If in any month the Revenue Items exceed the Monthly MAG, Lessee shall pay MDAD the amount represented by the total of the Revenue Items less the amount of the then-current Improvements Rent. If in any month the Monthly MAG exceeds the Revenue items, Lessee shall pay MDAD the Monthly MAG less the amount of the then-current Improvements Rent. At the point in time during the lease when the improvements rent credit has fully paid back the buy-out amount plus interest, Lessee shall commence including the then-current monthly Improvements Rent amount in its payment of the greater of the Monthly MAG or the Revenue Items.

3.06 Improvements Rent: The improvements on the Premises subject to the Improvement Rent Credit include (i) Hangar Building 839, (ii) the General Aviation Terminal Building facility known as Building 840, (iii) Ground Service Equipment Building 836, (iv) approximately 377,070 square feet of paved aircraft ramp area, and (v) 57,380 square feet of paved automobile parking area.

3.07 Annual Rental: As rental for the lease of the Premises, and assuming the following rates are the rates in effect as of June 11, 2011, the Lessee shall pay to the county commencing on the effective date of this Lease Agreement, the annual sum of \$1,702,339.70 to be paid in equal monthly installments of \$141, 861.64, in U.S. funds, on June 11, 2011 for the first payment (such rents to be pro rated) and on the first day of each and every month in advance thereafter and without billing, at the offices of the Department as set forth in Article 3.12 (Address for Payments), subject to the Lessee's right not to pay the Improvements Rent portion for the duration of the Improvements Rent Credit period as set forth in Article 3.05. Said rental is computed as follows, with such rental rates being adjusted as of the commencement of the Agreement to reflect then-current fair market value rents and adjusted annually thereafter in the manner set forth in Article 3.10.

<u>Exhibit</u>	<u>ID</u>	<u>Description</u>	<u>sq. ft.</u>	<u>Rate</u>	<u>Annual</u>	<u>Monthly</u>
Bldg. 840						
A-1	168401102	Terminal area	4,568	\$ 20.00	\$ 91,360.00	\$ 7,613.33
A-1	88401107	A/C office	7,749	\$ 20.00	\$ 154,980.00	\$ 12,915.00
P-1	25-11G02	Landside veh. Pvmnt	37,552	\$ 0.25	\$ 9,388.00	\$ 782.33
Bldg. 839						
A-2	138391201	Hangar	20,116	\$ 12.00	\$ 241,392.00	\$ 20,116.00
A-2	88391202	A/C office	2,143	\$ 16.00	\$ 34,288.00	\$ 2,857.33
P-2	25-11H02	Landside veh. Pvmnt	5,149	\$ 0.25	\$ 1,287.25	\$ 107.27
Bldg.836						
A-3	88361100	Shop/Office	1,333	\$ 13.50	\$ 17,995.50	\$ 1,499.63
P-3	25-11J02	Landside veh. pvmnt	6,865	\$ 0.25	\$ 1,716.25	\$ 143.02
P-3	25-11M05	Landside veh. pvmnt	7,814	\$ 0.25	\$ 1,953.50	\$ 162.79
P-4	23-11H05	Airside aircraft pvmnt	223,946	\$ 0.70	\$ 156,762.20	\$ 13,063.52
P-4	23-11J05	Airside aircraft pvmnt	153,124	\$ 0.70	\$ 107,186.80	\$ 8,932.23
		Total improvement rent			\$ 818,309.50	\$ 68,192.46
		Building and pavement land & rent	470,359	\$ 1.55	\$ 729,056.45	\$ 60,754.70
P-4	27-11G05	Non flight line land	4,763	\$ 1.55	\$ 7,382.65	\$ 615.22
	27-11G06	Non flight line land	5,251	\$ 1.55	\$ 8,139.05	\$ 678.25
	27-11G07	Non flight line land	1,511	\$ 1.55	\$ 2,342.05	\$ 195.17
	27-11G08	Non flight line land	5,113	\$ 1.55	\$ 7,925.15	\$ 660.43
	27-11J06	Non flight line land	68,960	\$ 1.55	\$ 106,888.00	\$ 8,907.33
	27-11M06	Non flight line land	6,964	\$ 1.55	\$ 10,794.20	\$ 899.52
	27-11M07	Non flight line land	4,117	\$ 1.55	\$ 6,381.35	\$ 531.78
	27-11N06	Non flight line land	1,755	\$ 1.55	\$ 2,720.25	\$ 226.69
	27-11N07	Non flight line land	1,529	\$ 1.55	\$ 2,369.95	\$ 197.50
			99,963		\$ 154,942.65	\$ 12,911.89
		Total land & rent	570,322		\$ 883,999.10	\$ 73,666.59
		Total rent (improvement and land)			\$ 1,702,308.60	\$ 141,859.05

Plus Applicable State sales tax

3.08 Security Deposit and First Month's Rent :

(A) Lessee shall initially pay and maintain a security deposit of two times the monthly Land rent plus applicable State sales tax in advance. Because Lessee is providing the Buy-Out Payment amount against which the Improvement Rent credit shall apply, no security deposit shall be required for the Improvements Rent portion of the total rent until such time as the Improvements Rent credit is exhausted, at which time Lessee shall promptly deposit with the Department the three month's security deposit based on the total of the then-current rents due under the Agreement.

(B) Said deposit shall be in addition to any rental payments required hereunder, and the Department shall be entitled to apply such payment to any debt of the Lessee to the

Department that may then exist, as permitted by law, including but not limited to the rentals required hereunder. In lieu of the security deposit being made in cash, the Department, in its sole discretion, may authorize the Lessee to provide an irrevocable Letter of Credit, in a form provided by the Department, in like amount. The amount of the security deposit is subject to adjustment by the Department at any time there is a change in the annual or monthly rentals pursuant to the terms of this Agreement; provided further, that the Department shall have the right to demand an increase in the security deposit requirement of up to an additional four months rental to provide the Department with adequate assurance of the Lessee's payment of its obligations, which assurance is required because of the Lessee's defaults in the timely payment of rents, fees and charges due hereunder, or because the Department has reason to believe, based on published reports, that the Lessee's future ability to pay such rentals, fees and charges, on a timely basis, is in jeopardy.

3.09 Common Use Service Charges: In addition to the monthly rentals required herein, the Lessee shall pay each month during the term of this Agreement an applicable portion of the costs incurred by the County in providing certain common use services for the benefit of the Lessee, including, but not necessarily limited to, security, servicing of dumpsters provided by the Department pursuant to Article 4.02 (Removal of Trash), and Industrial waste systems, as applicable and actually used by or provided to the Lessee. Such costs, including administrative costs, shall be determined by the Department and billed periodically. These service charges shall be adjusted and billed retroactively from time to time based on changes in usages and in costs to the County.

3.10 Rental Rate Review: On each October 1 and on each annual anniversary thereafter (or on such other date as may be determined by the Lessor for all tenants at the Airport), the rental rates stated in Article 3.07 (Annual Rental) above shall be subject to review and adjustment as set forth hereafter. When such rental rate adjustments are approved by the Board of County Commissioners, and new or revised rental rates applicable in whole or in part to the Premises are established by said Board, the Department shall notify the Lessee in writing of such rates and this Agreement shall be considered and deemed to have been administratively amended to incorporate the revised rental rates effective as of such date. Payments for any retroactive rental adjustments shall be due upon billing by the Department and payable within ten calendar days of same.

3.11 Double Rental: In the event that the Lessee remains in possession of the Premises beyond the expiration or termination of this Agreement, the Lessee shall be bound by all of the terms and conditions of this Agreement to the same extent as if this Agreement were in full force and effect during the time beyond the expiration or termination date of this Agreement. Any such holding over shall not reinstate or extend the terms of this Agreement. However, during any such possession of the Premises as a holdover tenant after the County has demanded the return of the Premises, the Lessee shall be liable for double rentals for so long as the Lessee remains in possession after such demand, such rentals to be based upon the rental rates applicable from time to time in whole or in part to the Premises.

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

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

Payments may be made by hand-delivery to the offices of the Department during normal working hours.

3.13 Late Payment Charge: In the event the Lessee fails to make any payments, as required to be paid under the provisions of this Agreement, within ten days after same shall become due, interest at the rates established from time to time by the Board of County Commissioners of Miami-Dade County, Florida (currently set at 1½% per month), shall accrue against the delinquent payment(s) from the original due date until the Department actually receives payment. The right of the County to require payment of such interest and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the rights of the County to enforce other provisions herein, including termination of this Agreement, and to pursue other remedies provided by law.

3.14 Dishonored Check or Draft: In the event that the Lessee delivers a dishonored check or draft to the County in payment of any obligation arising under the terms of this Agreement, the Lessee shall incur and pay a service fee of TWENTY-FIVE DOLLARS, if the face value of the dishonored check or draft is \$50.00 or less, THIRTY DOLLARS, if the face value of the dishonored check or draft is more than \$50.00 and less than \$300.00, or FORTY DOLLARS, if the face value of the dishonored check or draft is \$300.00 or more, or Five Percent of the face value of such dishonored check or draft, whichever is greater. Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's check or other means acceptable to the Department.

3.15 Utilities: Unless the Premises are separately metered and billed directly to the Lessee by the utility company or included in the rental rates and noted in Article 3.07, the Lessee hereby agrees to pay monthly, upon billing by the Department, for utilities consumption in the Premises. This monthly charge will be based on a survey conducted by or on behalf of the Department of the consumption by the Lessee and current nondiscriminatory rates charged others at the Airport. This monthly charge may also be adjusted and billed retroactively, from time to time, based on changes in consumption and rates. The Lessee shall pay for all other utilities used by it. In the event the Premises are metered and billed to the Department, the Lessee shall pay for utility consumption based on the metered charge. The County shall have no obligation to provide utilities to the Premises other than those existing as of the effective date of this Agreement.

3.16 Gross Revenues: The term "Gross Revenues", as used in this Agreement means all moneys paid or payable to, or considerations of determinable value received by the Lessee for sales made, transactions had, fees charged (including sums collected for the Opportunity Fees) or services rendered in the operation of its business under this Agreement and from the subleasing of office space or other portions of the Premises, regardless of when or where the order therefor is received, whether paid or unpaid, whether on a cash or credit basis or in consideration of any other thing of value; provided, however, that any sales refunds and taxes imposed by law which are separately stated to and actually paid by a customer and directly payable by the Lessee to a taxing authority shall be excluded therefrom. The term shall exclude fuel and lubricant sales, and amounts collected by the Lessee on behalf of the Department, such as but not limited to landing fees. The term shall include all charges by Lessee that are stated on invoices or other documents of Lessee as being charges "passed through" to the customer except as may be specifically exempted from the term Gross Revenues in this Article 3.16.

3.17 Records and Reports: The Lessee shall keep in Miami-Dade County, during the term of this Agreement, all books of account, records and reports used in its operation necessary to report Gross Revenues and to calculate the percentage Opportunity Fees and Fuel Flowage Fee payable hereunder and as may, from time to time, be required by the Department to document its activities pursuant to this agreement. All Gross Revenues hereunder shall be accounted for in accordance with generally accepted accounting principles. The form of all such books of account, records and reports shall be subject to the approval of the Department and/or the auditors of the County (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by the Department, the County's Department of Audit and Management Services or the auditors of the State of Florida). Recommendations for change, additions or deletions to such books of account, records and reports by the auditors of the County shall be complied with by the Lessee when requested by the department. The auditors of the County shall be permitted, during normal working hours, to audit and examine all books of account, records and

reports relating to the operations of the Lessee hereunder, including, but not limited to, balance sheets, profit and loss statements, deposit receipts, Florida State Sales tax reports and such other documents as many be determined by the Department to be necessary and appropriate; provided, however, that the Lessee shall not be required to retain such records in Dade County, Florida, for more than three years following termination of this Agreement.

3.18 Monthly Report of Gross Revenues: On or before the tenth day following the end of each calendar month throughout the term of this Agreement, the Lessee shall furnish to the Department, in addition to the Lessee's payment of the Monthly MAG or Revenue Items then due, a statement of monthly Gross Revenues for the preceding calendar month and certify as to the accuracy of such Gross Revenues in the form prescribed by the Department. In the event there are no Gross Revenues a monthly report will be submitted stating such.

3.19 Annual Audit Required: Within sixty days of each anniversary of the Commencement Date and within sixty days following termination of this Agreement, the Lessee shall, at its sole cost and expense, provide to the Department on an annual (or portion thereof) basis an audit report of monthly Gross Revenues, containing an unqualified opinion, prepared and attested to by an independent certified public accounting firm, licensed in the State of Florida. The report shall include a schedule of Gross Revenues and percentage Opportunity and Fuel Flowage Fees paid to the County under this Agreement, prepared in accordance with the comprehensive basis of accounting defined under terms of this Agreement and reported in the format as subsequently prescribed by the Department. The audit shall be conducted in accordance with generally accepted auditing standards and include issuance of a management letter, which will contain the findings discovered during the course of the examination, such as recommendations to improve internal controls and other significant matters related to this Agreement. In addition, the audit shall include comprehensive compliance procedures to determine whether the books of account, records and reports were kept in accordance with the terms of this Agreement for the period of examination. The last such report shall include the last day(s) of operations.

3.20 Right to Inspect: The Department and the auditors of the County shall have the right, without limitation, to enter upon the Premises at anytime during normal operating hours of the Lessee to: (1) inspect, review, verify and check all or any portion(s) of the Lessee's procedures for recording or compiling Gross Revenue information by day or month, and (2) audit, check, inspect and review all books of account, records, financial reports, financial statements, operating statements, inventory records, copies of State sales tax returns, and work papers relating to the operation of the Lessee, and other pertinent information as may be determined to be needed or desirable by the Department.

3.21 Other Fees and Charges: The Lessee acknowledges that the Board of County Commissioners has or will establish or direct the establishment, from time to time, of various fees and charges for the use of various facilities, equipment and services provided by the County and not leased to or specifically provided to the Lessee hereunder, and procedures relating to the payment of same. The Lessee shall pay, upon billing, for its use of such facilities, equipment and services those fees and charges which are billed monthly. For other fees and charges which are based on usage, the Lessee shall, unless otherwise directed by the Department in writing, report its uses of applicable facilities, equipment and services and pay the applicable fees and charges at such frequency and in such manner as may be prescribed by the Department.

ARTICLE 4

Maintenance And Repair by Lessee

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

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

4.03 Maintenance and Repairs: The Lessee shall repair and maintain in good condition the Premises and all improvements or alterations thereto, except for those items for which the County is responsible pursuant to Article 5 (Maintenance by County). Such repair and maintenance shall at all times be based on a standard of care reflecting prudent property management. Maintenance and repairs shall be in quality and class equal to or better than the original work to preserve the Premises in good order and condition. The Lessee shall repair all damage caused by the Lessee and its employees, agents, independent contractors, patrons, servants, invitees, or trespassers. Prior to or at termination of this Agreement, injury done by the installation or removal of furniture and personal property of the Lessee shall be repaired so as to restore the Premises to their original state, except as the Premises may have been altered by the Lessee with the approval of the Department pursuant to Article 7.01 (Alterations), and to quit and surrender up the Premises in the same good order and condition as it was at the commencement of this Agreement, reasonable wear and tear and damage caused by an Act of God excepted; provided however, that such return of the Premises under this Article 4.03 shall not relieve the Lessee of its obligations for damages to the Premises that may be specifically provided elsewhere in this Agreement.

4.04 Inspections: The Department and/or its designated representatives shall have the right, during normal working hours, to inspect the Premises to identify those items of maintenance, repair, replacement, modification and refurbishment required of the Lessee or the County, pursuant to Article 5 (Maintenance by County), to keep the Premises in good order and condition. The Lessee shall perform all corrective work required of it, identified in such inspection(s) within 30 days of receipt of written notice from the Department. Trash and debris problems shall be corrected within 24 hours following receipt of either oral or written notice from the Department.

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

4.06 Grassed Areas and Shrubbery: The Lessee shall maintain the Premises in a neat, orderly and attractive condition. Any land areas not grassed or paved shall be stabilized by the Lessee and the Premises shall be so utilized that use of the same will not cause dust, debris or waste to be blown about or raised so as to be ingested by aircraft or otherwise interfere with or disturb the use or enjoyment of others of their premises.

ARTICLE 5 Maintenance by County

5.01 County Maintenance: The County shall operate and maintain in good condition all components of the existing water, sanitary sewerage and storm water drainage facilities that lie outside the boundaries of the Premises. The County shall have no maintenance responsibility within the Premises. If any of such facilities are damaged or destroyed by the operations of the Lessee, the Department may make the necessary repairs or replacements and shall bill the Lessee for the costs of same, plus 25% for administrative costs, in the manner specified in Article 4.05 (Failure to Maintain) hereof.

5.02 County Maintenance Subject to Certain Conditions: Such maintenance by the County may be subject to interruption caused by repairs, strikes, lockouts, labor controversies, inability to obtain, fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, acts of God, and other conditions beyond the control of the County. Upon any such happening, the Lessee shall have no claim for damages for the County's failure to furnish or to furnish in a timely manner any such maintenance; provided, however, that the Department, in its sole discretion, may provide a rent abatement for that portion of the Premises rendered unusable for the period of time that the County is unable to make the repairs required by Article 5.01 (County Maintenance). The County shall exercise reasonable diligence to remedy and/or cure any such interruptions; to the extent such interruptions are within the County's control.

ARTICLE 6
Regulations, Licenses and Permits

6.01 Rules and Regulations - General:

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

(B) Permits and Licenses:

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

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

(C) Violations of Rules and Regulations: The Lessee 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 the Lessee, its agents, employees, invitees, or trespassers have

violated any law, ordinance, regulation, rule or directive described in Article 6.01 (Rules and Regulations - General) above or any plan or program developed in compliance therewith. The Lessee further agrees that the substance of this Article 6.01 (Rules and Regulations - General) above shall be included in every sublease, contract and other agreement, which the Lessee may enter into related to its operations and activities under this Agreement and that any such sublease, contract and other agreement shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

6.02 Aircraft Noise Abatement Regulations Compliance: The Lessee hereby specifically acknowledges its awareness that the noise generated by aircraft, while on the ground and in flight, may cause annoyance to residential areas in proximity to the Airport and/or under or near flight corridors serving the Airport and that the County, as proprietor of the Airport, may, therefore, from time to time adopt certain lawful policies, procedures and/or regulations, not inconsistent with the Airport Noise and Capacity Act of 1990, unless otherwise approved by the Federal Aviation Administration, and not inconsistent with aircraft safety, intended to abate the effects of aircraft noise. Said policies, procedures and/or regulations may deal with, but are not necessarily limited to, nighttime engine run-ups, preferential runway usage, aircraft arrival and departure patterns, use of displaced runway thresholds, and the like. The Lessee specifically understands and agrees that a violation of such noise abatement policies, procedures and/or regulations may result in the arrest or citation of the offending party, with the imposition of fines, and that a violation of same shall constitute a material breach hereunder and may result in termination of this Agreement pursuant to the provisions hereof.

ARTICLE 7

Alteration of Premises and Erection of Signs

7.01 Terminal Improvements: Lessee shall, at its sole cost and expense, remodel the Executive Terminal Building (Building 840) to include lobby expansion and improvements designed to achieve LEED certification at a minimum expenditure by Lessee of \$1,500,000.00. The remodeling construction shall be substantially completed on or before August 31, 2012; provided, however, that should any required permitting be delayed for reasons beyond the control of Lessee, the date by which construction must be substantially completed shall be extended to a date which is reasonably set to allow finalization of such required permitting.

7.02 Tenant Airport Construction Process: Lessee shall complete all Improvements made by Lessee on the Premises in accordance with Lessor's "Tenant Airport Construction/Non-Reimbursable" Program ("TAC-N"). The TAC-N Program procedures are modified from time to time by Lessor, and prior to commencement of design and construction for any Improvement, Lessee shall request from the Department the then-current TAC-N procedures that will be applicable to such Improvement project.

7.03 Alteration: Except as provided in Article 7.01, the Lessee shall not alter the Premises in any material manner whatsoever without the prior written approval of the Department. In the event the Lessee is given approval to make any alterations to the Premises, including the approval granted in Article 7.01, the Lessee shall comply with the terms and conditions of the approval document from the Department, in effect, and Article 6 (Regulations, Licenses and Permits). The Lessee's failure to do so shall constitute a default pursuant to Article 13.03 (Other Defaults) hereof.

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

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

ARTICLE 8
Environmental Compliance

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

- (A) "Baseline Environmental Conditions" means the presence or release of Hazardous Materials, at, on, under, or from the Premises prior to Lessee's Occupancy Date, the presence or release of which was not caused by Lessee or Lessee's agents, employees, contractors, invitees or trespassers. Solely for purposes of this Agreement, it shall be presumed that the Baseline Environmental Conditions consist of the conditions identified in any existing (as of the date of this Agreement) Miami-Dade County maintained records, including contamination assessment reports and any other technical reports, data bases, remedial action plans, the Baseline Audit or the presence, discharge, disposal or release of any other Hazardous Materials originating prior to the Occupancy Date that comes to be located on the Premises and not caused by Lessee or Lessee's agents, employees, contractors, invitees or trespassers.
- (B) "Environmental Claim" means any investigative, enforcement, cleanup, removal, containment, remedial or other private, governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Requirement, against Lessee with respect to its operations at Miami International Airport or against or with respect to the Premises or any condition, use or activity on the Premises (including any such action against County), and any claim at any time threatened or made by any person against Lessee with respect to its operations at Miami International Airport or against or with respect to the Premises or any condition, use or activity on the Premises (including any such claim against County), relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Material or any applicable Environmental Requirement.
- (C) "Environmental Law" means any applicable federal, state or local law, statute, ordinance, code, rule, or regulation, or license, authorization, decision, order, injunction, or decree, any of which may be issued by a judicial or regulatory body of competent jurisdiction, or rule of common law including, without limitation, actions in nuisance or trespass, 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 Miami-Dade County Code, and any other applicable local, state or federal environmental statutes, codes, or ordinances, and all rules, regulations, orders and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.
- (D) "Environmental Requirement" means any Environmental Law, or any agreement or restriction entered into or applicable by law (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.

With regard to any environmental agreements or restrictions entered into by MDAD, MDAD agrees to use reasonable efforts to apprise the Miami Airport Affairs Committee (the "MAAC"), which represents the interests of the airlines at the Airport, of any such agreements or restrictions and to obtain the MAAC's input into such items.

- (E) "Hazardous Material" means any substance, whether solid, liquid or gaseous, which is listed, defined or regulated as a hazardous substance, a hazardous waste or pesticide, or otherwise classified as hazardous or toxic, in or pursuant to any applicable Environmental Requirement; or which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, or motor fuel or other petroleum hydrocarbons; or which causes or poses a threat to cause contamination or a nuisance on the Premises, any adjacent Premises or a hazard to the environment or to the health or safety of persons on the Premises or Other Airport Property.
- (F) "Initial Construction Period" means for any lease which contemplates construction or renovation for Premises not previously occupied in whole or in part by Lessee under this Agreement and/or any previous Agreement, a period of time not to exceed six (6) months commencing with the date on which Lessee breaks ground on the Premises for construction of foundations or commences such renovation.
- (G) "Occupancy Date" means the date Lessee first entered, occupied or took possession of the Premises under any written or verbal agreement.
- (H) "On" or "in" when used with respect to the Premises or any premises adjacent to the Premises, means "on, in, under, above or about."
- (I) "Other Airport Property" means property on the Airport occupied or used by Lessee, or upon which Lessee performs operations, but which is not subject to a lease, sublease or other legal agreement governing the terms of Lessee's occupation, use or operations at such property.
- (J) "Recognized Environmental Condition" shall have the meaning set forth in ASTM E 1527-05, Section 1.1.1, as such provision may be amended or superseded from time to time.
- (K) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment.
- (L) "Remediation" means any investigation, clean-up, removal action, remedial action, restoration, repair, response action, corrective action, monitoring, sampling and analysis, installation, reclamation, closure, or post-closure in connection with the suspected, threatened or actual release of Hazardous Materials.
- (M) "Trespassers" means third parties who have entered the Premises and whose actions while on the Premises have resulted in Release of Hazardous Materials directly onto the Premises. Notwithstanding the foregoing, for purposes of this Agreement, Trespassers shall not include those third parties whose actions took place off of the Premises and which resulted in the presence of Hazardous Materials on the Premises due to the migration of Hazardous Materials from that off-Premises location.

8.02 Lessee's Industrial Classification: Lessee represents and warrants to County that Lessee's Standard Industrial Classification ("SIC") code number, as published in the most recent SIC Manual from the United States Office of Management and Budget, and as used on Lessee's Federal Tax Return is 4581 corresponding to NAICS Code 48819.

8.03 Lessee's Acceptance of the Risks and Condition of Premises As-Is: Lessee agrees that the Premises shall be leased and delivered to Lessee in its current "as-is/with all faults" condition (but it is not intended by this provision that County be relieved from its duties expressly set forth in this Agreement or any other applicable agreement). Lessee hereby agrees, and acknowledges that:

(A) Hazardous Materials may be present on the Premises and Other Airport Property. The County is currently engaged in a significant environmental remediation program at MIA.

(B) Under Article 8.06 below, Lessee is provided the opportunity to conduct an independent investigation of the Premises and the physical condition thereof, including the potential presence of any Hazardous Materials on or about the Premises. Lessee's report on the investigation, if any such report has been prepared, has been provided to the County and is listed in Exhibit K attached to this Agreement. Whether Lessee has conducted such an investigation or not, Lessee is willing to proceed with this Agreement notwithstanding the environmental conditions of the premises or the properties surrounding the premises, subject to Lessee's right to terminate this Agreement as otherwise provided herein.

(C) Because of the possible presence of environmental contaminants on the Premises or other Airport property, County has made no express, implied, or other representations of any kind with respect to the suitability or usability of the Premises or other Airport Property, or any improvements appurtenant thereto, including, without limitation, the suitability or usability of any building materials, building systems, soils or groundwater conditions (due to the presence of Hazardous Materials in, on, under, or about the Premises or other Airport property), for Lessee's proposed or intended use, and Lessee has relied solely on Lessee's own inspection and examination of such matters.

(D) Except as to County's obligations set forth in this Article or elsewhere in this Agreement, Lessee expressly assumes the risk that Hazardous Materials that are or may be present on the Premises at the commencement of this Agreement may affect the suitability or usability of the Premises for Lessee's proposed or intended use. Lessee agrees that, except to the extent of County's Remediation obligations provided in this Article 8, or any other discharge, disposal or release of Hazardous Materials or violation of Environmental Requirements, caused by County, its agents, employees or contractors and except with respect to Baseline Environmental Conditions, County shall have no responsibility or liability with respect to any Hazardous Materials on the Premises. Notwithstanding the foregoing, in no event shall County be liable to Lessee for damages relating to physical or personal injury, business interruptions relocation costs or any other cost (other than a cost for which County is liable under this Article 8) resulting from the presence of Hazardous Materials on the Premises at any time during this Agreement.

8.04 Responsibilities for Hazardous Materials:

(A) Unless the parties agree otherwise in writing, the County shall conduct response actions mandated by existing Environmental Requirements applicable to the County for (i) Hazardous Materials disclosed in the Lessee Audit to the extent required by Article 8.06 and (ii) Baseline Environmental Conditions, provided however that:

- 1) To the extent this Agreement covers Premises not previously occupied by Lessee and if this Agreement contemplates construction or renovation by the Lessee, any Hazardous Material discovered during the Initial Construction Period as defined in Article 8.01(F), shall be presumed to be a Baseline Environmental Condition under this Agreement except to the extent the Aviation Department demonstrates to the satisfaction of Lessee by written notice setting forth the Aviation Department's explanation as to why the Hazardous Material originated from a discharge, disposal or release that was caused by Lessee, Lessee's agents, employees, contractors, invitees or Trespassers. Should Lessee determine that such a demonstration has not been made to Lessee's satisfaction, County may invoke the dispute resolution provision of 8.16. Until such time as the parties reach an agreement or such time as the dispute is otherwise resolved, responsibility for such Hazardous Material shall remain with the Aviation Department.
 - 2) To the extent this Agreement covers premises previously occupied by Lessee, and except for Baseline Environmental Conditions, Remediation of any Hazardous Material discovered on the Premises shall be the responsibility of the Lessee, except to the extent that Lessee demonstrates to the satisfaction of Aviation Department Management by written notice setting forth Lessee's explanation as to why the Hazardous Material originated from (1) a discharge, disposal or release outside of the Premises, unless such discharge, disposal or release was caused by Lessee, Lessee's agents, employees, contractors or invitees. (2) a discharge, disposal or release of Hazardous Material on the Premises prior to the date upon which Lessee first occupied the premises and not caused by Lessee or Lessee's agents, employees, contractors, invitees or Trespassers; or (3) a discharge, disposal or release caused by the County, its agents, employees, contractors or any third party. Should the Aviation Department determine that such a demonstration has not been made to Aviation Department's satisfaction, Lessee may invoke the dispute resolution provision of 8.16. Until such time as the parties reach an agreement or such time as the dispute is otherwise resolved, responsibility for such Hazardous Material shall remain with Lessee
- (B) County's responsibility for Remediation under this Article 8.04 shall be limited to the Recognized Environmental Conditions required to be remediated under applicable Environmental Requirements. If County is permitted to leave any Hazardous Material in place under applicable Environmental Requirements, County shall have the option of so doing, unless a governmental authority requires at any time the removal of Hazardous Materials for Lessee to be able to continue with construction or occupancy of the Premises. The County shall notify Lessee of any such decision to leave Hazardous Material in place.
- (C) Contamination:
- (1) To the extent they exist, the County has made available to Lessee a listing of contamination assessment reports and remedial action plans regarding any soil and groundwater contamination at the Premises. Such list is found on Exhibit K 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 reports to the extent they exist. Lessee agrees that during the term of the Agreement, County's authorized representatives shall have the right to enter the Premises in order to

operate, inspect, maintain, relocate and replace any such installed 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 Aviation Department or other governmental authorities may require or recommend, utilizing such methods as the Aviation Department or the applicable governmental authorities may elect in order to remediate the contamination described in any such reports.

- (2) County shall utilize reasonable efforts to minimize any disturbance of the Lessee's use of the Premises caused by any Remediation it undertakes and shall provide Lessee prior written notice of such Remediation. Lessee agrees that it shall not unreasonably interfere with or obstruct such Remediation. County and Lessee each agree to take such action as may be reasonable to coordinate their operations so as to minimize any interference with the other party. If vehicles, equipment, or materials belonging to the Lessee have to be temporarily relocated to permit the Remediation to be performed, the Lessee will effect such relocation at no expense to the County. Attached to Exhibit K is a site sketch of the Premises describing any existing or currently planned Remediation equipment and depicting the current and proposed future location of such equipment.
- (3) If Remediation equipment or materials need to be temporarily stored in a secure location on the Premises, the Lessee will provide reasonable storage inside the building on the Premises for such equipment and materials at no expense to the County, provided, however, that Lessee shall bear no liability and otherwise shall have no responsibility for any theft of and/or damage to such equipment or materials so stored, to the extent Lessee took reasonable measures to prevent, such theft and/or damage and such theft and/or damage was not caused by Lessee or Lessee's employees. To the extent that water and electrical service within the Premises are not metered and the Lessee does not pay for such services directly, the Lessee will provide the County with water and electrical service from the Premises in connection with the Remediation, without charge. The Lessee acknowledges the Remediation may be conducted at the locations depicted on the site sketch attached to Exhibit K at any time during the term of the Agreement and may continue until such time as a no further action letter is obtained from the appropriate regulatory authorities.

8.05 Baseline Audit: The County has provided Lessee with a copy of an environmental audit of the Premises, conducted to identify any Recognized Environmental Conditions associated with the Premises, which audit may include analyses of soil and groundwater samples (the initial "Baseline Audit"). Except to the extent Lessee previously occupied the Premises, the County shall be responsible for any Recognized Environmental Conditions within the meaning of ASTM E 1527-05, or most recent version, disclosed by the Baseline Audit. Except to the extent Lessee previously occupied the Premises, Lessee may terminate this Agreement within sixty (60) days of receipt of the Baseline Audit if Lessee, in its sole discretion, determines that the Recognized Environmental Conditions disclosed in such Baseline Audit are unacceptable. To the extent Lessee previously occupied the Premises, Lessee, subject to its right to invoke the dispute resolution provision of 8.16, shall be responsible for all Recognized Environmental Conditions disclosed in the Baseline Audit, which are not otherwise Baseline Environmental Conditions, unless Lessee demonstrates to the County's satisfaction that the Recognized Environmental Conditions originated from (1) a discharge, disposal or release outside of the Premises, unless such discharge, disposal or release was caused by Lessee, Lessee's agents employees, contractors or invitees; or (2) a discharge, disposal or release of Hazardous Material on the Premises prior to Lessee's first occupancy of the Premises and not caused by Lessee, Lessee's agents, employees, contractors, invitees, or Trespassers.

8.06 Lessee Audit: Lessee, at its sole cost and expense, shall have the right to conduct, within sixty (60) days from the receipt of the Baseline Audit, an environmental inspection of the Premises (the "Lessee Audit"), through an independent environmental consultant approved in writing by County, such approval not to be unreasonably withheld or delayed. If Lessee elects to conduct a Lessee Audit, it shall furnish County a copy of the Lessee Audit within thirty (30) days of Lessee's receipt of the Lessee Audit. The purpose of the Lessee Audit is to determine whether there are present on the Premises any Recognized Environmental Conditions not identified in the Baseline Audit, any previous audits, or any contamination assessment reports or remedial action plans, to the extent any such documents exist. Within thirty (30) days of receipt of such Lessee Audit, the County shall notify Lessee if it disputes the Recognized Environmental Conditions or the delineation of any subsurface conditions described in the Lessee Audit. If the Lessee Audit reveals any Recognized Environmental Conditions or delineates any subsurface contamination not disclosed in any contamination assessment reports, remedial action plans, or the Baseline Audit, and which are not otherwise considered Baseline Environmental Conditions under the terms of this Agreement, then, except to the extent that Lessee previously occupied the Premises, the County, at its option, shall: (i) allow Lessee to terminate the Agreement, without penalty, within sixty (60) days of receipt of such notice of dispute from the County; or (ii) notify Lessee that it has agreed to be responsible for such Recognized Environmental Conditions and delineated subsurface contamination to the same extent as the County is responsible for the Recognized Environmental Conditions and subsurface contamination disclosed in any contamination assessment reports, remedial action plans and the Baseline Audit. If the County allows Lessee to terminate the Agreement and Lessee elects not to terminate, Lessee's failure to terminate shall constitute a waiver of 1) Lessee's rights to terminate its obligations under this Agreement as to any findings in such Lessee Audit, except as to its right to cancel the lease on thirty (30) days notice under Article 1.01 (B) and, 2) as provided in Article 8.04, any claim it may have against the County with respect either to Recognized Environmental Conditions and subsurface contamination disclosed in such Lessee Audit. To the extent the Lessee previously occupied the Premises, Lessee shall be responsible for all Recognized Environmental Conditions disclosed in the Lessee Audit that are not Baseline Environmental Conditions unless Lessee demonstrates to the satisfaction of Aviation Department Management by written notice setting forth Lessee's explanation why the Recognized Environmental Conditions originated from (1) a discharge, disposal or release outside of the Premises, unless such discharge, disposal or release was caused by Lessee, Lessee's agents, employees, contractors, or invitees; (2) a discharge, disposal or release of Hazardous Material on the Premises prior to the Occupancy Date and not caused by Lessee or Lessee's agents, employees, contractors, invitees or Trespassers; or (3) a discharge, disposal or release caused by County or third party. Should the Aviation Department determine that such a demonstration has not been made to Aviation Department's satisfaction, Lessee may invoke the dispute resolution provision of 8.16 Until such time as the parties reach an agreement or until such time as the dispute is otherwise resolved, responsibility for such Recognized Environmental Condition shall remain with Lessee.

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

8.08 Lessee's Use of Hazardous Materials: Exhibit Z is a complete list of all Hazardous Materials which Lessee currently intends to use on the Premises or Other Airport Property during the term of the Agreement which have been approved by the County, and the use, storage and transportation of which on or about the Premises shall not be subject to County's approval or objections. Except for those Hazardous Materials listed on Exhibit Z, Lessee shall not use, store, generate, treat, transport, or dispose of any Hazardous Material on the Premises or Other Airport Property without first providing the County thirty (30) days written notice prior to bringing such Hazardous Material upon the premises. To the extent certain Hazardous Materials are needed to be used by Lessee on a non-routine basis, such as for emergency repairs, Lessee may provide such notice within twenty-four (24) hours of bringing such Hazardous Material upon the premises. Notwithstanding the foregoing, County may object to the use of any previously approved Hazardous Material should County reasonably determine that the continued use of the Hazardous Material by Lessee presents a material increased risk of site contamination, damage or injury to persons, Premises, resources on or near the Premises or, other Airport Property, or noncompliance due to a change in

regulation of such Hazardous Material under applicable Environmental Law. Upon County's objection, Lessee shall immediately remove the Hazardous Material from the site. This section 8.08 shall not apply to Hazardous Materials which are not used, generated, treated or disposed of by Lessee but which are otherwise transported by Lessee solely in the course of Lessee's business, such as cargo operations, and for which Lessee has no knowledge as to the identity of such hazardous materials prior to such transport. County's objection or failure to object to the use, storage, generation, treatment, transportation, or disposal of Hazardous Material under this paragraph, or the exclusion of certain Hazardous Materials under this paragraph, shall not limit or affect Lessee's obligations under this Agreement, including Lessee's duty to remedy or remove releases or threatened releases; to comply with applicable Environmental Law and/or Environmental Requirements relating to the use, storage, generation, treatment, transportation, and/or disposal of any such Hazardous Materials; or to indemnify County against any harm or damage caused thereby. Lessee shall promptly and completely answer periodic questionnaires from the County concerning Lessee's practices regarding the generation, use, storage, and disposal of Hazardous Materials under this Agreement.

8.09 Entry by County:

- (A) Notwithstanding any other right of entry granted to County under this Agreement, and subject to the requirements set forth in Article 8.09(B), MDAD shall have the right, at its own expense and upon reasonable notice, to enter the Premises or to have consultants enter the Premises throughout the Term of this Agreement for the purposes of: (1) determining whether the Premises are in conformity with applicable Environmental Law; (2) conducting an environmental review or investigation of the Premises; (3) determining whether Lessee has complied with the applicable environmental requirements of this Agreement; (4) determining the corrective measures, if any, required of Lessee to ensure the safe use, storage, and disposal of Hazardous Materials; or (5) removing Hazardous Materials (except to the extent used, stored, generated, treated, transported, or disposed of by Lessee in compliance with applicable Environmental Requirements and the terms of this Agreement). Lessee agrees to provide access and reasonable assistance for such inspections. MDAD shall use its best efforts to reasonably minimize interruptions of business operations on the Premises.
- (B) Such inspections may include, but are not limited to, entering the Premises or adjacent property with drill rigs or other machinery for the purpose of obtaining laboratory samples of environmental conditions or soil or groundwater conditions. Lessee shall have the right to collect split samples of any samples collected by MDAD, MDAD shall not be limited in the number of such inspections during the Term of this Agreement MDAD will conduct such inspections during Lessee's normal business hours, but MDAD may conduct such inspections in other than normal business hours if the circumstances so require. For inspections conducted by MDAD, MDAD agrees to provide Lessee with reasonable notice (not less than twenty four (24) hours) prior to inspecting the Premises; provided however, that such notice period shall not apply under circumstances in which MDAD reasonably determines that there exists an immediate threat to the health, safety, or welfare of any persons. Based on the results of such inspections, should MDAD reasonably determine that Hazardous Materials have been released, discharged, stored, or used on the Premises in violation of the terms of this Agreement, Lessee shall, in a timely manner, at its expense, remove such Hazardous Materials in a manner not inconsistent with applicable Environmental Law and otherwise comply with the reasonable recommendations of MDAD and any regulatory authorities related to the results of such inspections. The right granted to MDAD herein to inspect the Premises shall not create a duty on MDAD's part to inspect the Premises, nor liability of MDAD for Lessee's use, storage, or disposal of Hazardous Materials, it being understood that Lessee shall be solely responsible for all liability in connection therewith. MDAD shall provide the results of such inspections to the Lessee in a timely manner if requested to do so in writing. Nothing herein shall be construed to limit, restrain, impair or interfere with County's regulatory

authority to conduct inspections and/or the manner in which it conducts such inspections. Lessee shall not be liable or otherwise responsible for any property damage to the Premises or injury to any person caused by County, its agents or consultants during County's inspection under this Section 8.09.

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

8.11 Notice of Discharge to County:

- (A) In the event of: (i) the happening of any material event involving the spill, release, leak, seepage, discharge or clean up of any Hazardous Material on the Premises or Other Airport Property in connection with Lessee's operation thereon; or (ii) any written Environmental Claim affecting Lessee from any person or entity resulting from Lessee's use of the Premises or Other Airport Property, then Lessee shall immediately notify County orally within twenty-four (24) hours and in writing within three (3) business days of said notice. If County is reasonably satisfied that Lessee is not promptly commencing the response to either of such events. County shall have the right but not the obligation to enter onto the Premises or to take such other actions as it shall deem reasonably necessary or advisable to clean up, remove, resolve or minimize the impact of or otherwise deal with any such Hazardous Material or Environmental Claim following receipt of any notice from any person or any entity having jurisdiction asserting the existence of any Hazardous Material or an Environmental Claim pertaining to the Premises, which if true, could result in an order, suit or other action against the County. If Lessee is unable to resolve such action in a manner which results in no liability on the part of County, all reasonable costs and expenses incurred by County shall be deemed additional rent due County under this Agreement and shall be payable by Lessee upon demand, except to the extent they relate to a Baseline Environmental Condition.
- (B) With regard to any reporting obligation arising out of Lessee's operations or during the Agreement, Lessee shall timely notify the State of Florida Department of Environmental Protection, Miami-Dade County Department of Environmental Resources Management, and the United States Environmental Protection Agency, as appropriate, with regard to any and all applicable reporting obligations while simultaneously providing written notice to County.
- (C) Within sixty (60) days of execution of this Agreement, Lessee shall submit to County an emergency action plan/contingency plan setting forth in detail Lessee's procedures for responding to spills, releases, or discharges of Hazardous Materials. The emergency action plan/contingency plan shall identify Lessee's emergency response coordinator and Lessee's emergency response contractor.

8.12 Reports to County: For any year in which any Hazardous Materials have been used, generated, treated, stored, transported or otherwise been present on or in the Premises, (or on or in other Airport property for purposes related to Lessee's operations on the Premises), Lessee shall provide County with a written report listing: the Hazardous Materials which were present on the Premises or other Airport property; all releases of Hazardous Material that occurred or were discovered on the Premises or other Airport property and which were required to be reported to regulatory authorities under applicable Environmental Laws; all enforcement actions related to such Hazardous Materials, including all, consent agreements or other non-privileged documents relating to such enforcement actions during that time period. In addition, Lessee shall provide County with copies of any reports filed

in accordance with the Emergency Planning and Community Right to Know Act (EPCRA) and shall make available for review upon request by County copies of all manifests for hazardous wastes generated from operations on the Premises. Lessee shall provide the report required under this section to the County by April 1 of each year for the preceding calendar year.

8.13 Periodic Environmental Audits: Lessee shall establish and maintain, at its sole expense, a system to assure and monitor its continued compliance on the Premises with all applicable Environmental Laws, which system shall include, no less than once each year a detailed review of such compliance (the "Environmental Audit") by such consultant or consultants as County may approve, which approval shall not be unreasonably withheld, delayed or conditioned. Alternatively, if the Aviation Department approves, which approval shall not be unreasonably withheld, delayed, or conditioned, such Environmental Audit may be conducted by Lessee's personnel but in either case Lessee shall provide County with a copy or summary of its report of its annual Environmental Audit, which shall be consistent with ASTM's "Practice for Environmental Regulatory Compliance Audits" which shall include in its scope the items listed in Exhibit E hereto or other recognized format approved by County. If the Environmental Audit indicates any unresolved violation of any applicable Environmental Law and/or Environmental Requirements, Lessee shall, at the request of County, provide a detailed review of the status of any such violation within thirty (30) days of the County's request.

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

8.15 Indemnity: Lessee shall indemnify, defend (with counsel reasonably satisfactory to County), and hold County, its directors, officers, employees, agents, assigns, and any successors to County's interest in the Premises, harmless from and against any and all loss, cost, damage, expense (including reasonable attorneys' fees), claim, cause of action, judgment, penalty, fine, or liability, directly or indirectly, relating to or arising from the use, storage, release, discharge, handling, or presence of Hazardous Materials on, under, or about the Premises or Other Airport Property and caused by Lessee, Lessee's agents, employees, contractors, invitees or trespassers. This indemnification shall include without limitation: (a) personal injury claims; (b) the payment of liens; (c) diminution in the value of the Premises or Other Airport Property; (d) damages for the loss or restriction on use of the Premises or

Other Airport Property; (e) sums paid in settlement of claims; (f) reasonable 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, but shall not extend to such claims, payment, diminution, damages, sums, fees or costs to the extent caused (i) solely by an act of God or (ii) by the negligent or willful misconduct of the County, its officers, employees, contractors or agents. For any legal proceedings or actions initiated in connection with the Hazardous Materials Release, County shall have the right at its expense but not the obligation to join and participate in such proceedings or actions in which the County is a named party, and control that portion of the proceedings in which it is a named party. 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; provided, however, claims for which Lessee may be liable pursuant to this Article 8.15 shall not be settled without Lessee's consent. Any costs or expenses incurred by County for which Lessee is responsible under this paragraph or for which Lessee has indemnified County: (i) shall be paid to County on demand, during the term of this Agreement as additional rent; and (ii) from and after the expiration or earlier termination of the Agreement shall be reimbursed by Lessee on demand. Lessee's obligations pursuant to the foregoing indemnity shall survive the expiration or termination of this Agreement and shall bind Lessee's successors and assignees and inure to the benefit of County's successors and assignees. Notwithstanding any other provision of this Agreement, this Article 8.15 does not apply to Baseline Environmental Conditions or a discharge, disposal or release caused by the County, its officers, employees, contractors or agents.

- (A) This indemnity specifically includes the direct obligation of Lessee to perform, at its sole cost and expense, any remedial or other activities required or ordered by court or agency having competent jurisdiction over the subject matter, or otherwise necessary to avoid or minimize injury or liability to any person, or to prevent the spread of Hazardous Materials.
- (B) In addition, because costs of Hazardous Materials discharges are passed on to airlines through the residual rate charging mechanism at Miami International Airport and the charges to Lessee will be increased to offset such costs. Lessee agrees in order to minimize its obligations in this regard to use best efforts to assist the Aviation Department in responding to Hazardous Materials spills in or Airport property reasonably close to the Premises used by Lessee by making Lessee's remediation equipment and personnel available for such emergency remediation activity. However, Lessee may provide such assistance only at the direct request of the Aviation Department and only if Lessee's remediation equipment is intended to be utilized for the Hazardous Material spill at issue and only if Lessee's personnel have been trained to respond to the Hazardous Material spill at issue. If Lessee is directed to perform any remedial work under this Article 8.15(B) for which it is later determined that Lessee is not responsible, the Aviation Department shall reimburse Lessee for all costs associated with or arising out of Lessee's performance of such remedial work. Lessee shall cooperate with the Aviation Department in any subsequent effort by the Aviation Department to recover from the responsible parties all costs involved with the remediation effort that utilized Lessee's equipment and personnel. Lessee shall perform all such work in its own name in accordance with applicable laws. Lessee acknowledges that the County's regulatory power in this regard is independent of the County's contractual undertakings herein, and nothing herein shall affect the County's right in its regulatory capacity to impose its environmental rules, regulations, and authorities upon the Lessee in accordance with the law.
- (C) In the event Lessee fails to perform its obligations in Article 8.15(A) above, and without waiving its rights hereunder, County may, at its option, perform such remedial work as described in Article 8.15(A) above, and thereafter seek reimbursement for the costs thereof. In accordance with this Article 8, Lessee shall permit County or its designated representative access to the Premises areas to perform such remedial activities.

- (D) Whenever County has incurred costs described in this section as a result of the failure of Lessee to perform its obligations hereunder, Lessee shall, within thirty (30) days of receipt of notice thereof, reimburse County for all such expenses together with interest at the rate of 1½% per month on the outstanding balance commencing on the thirty-first date following Lessee's receipt of such notice until the date of payment.
- (E) To the extent of Lessee's responsibility under this Article and without limiting its obligations under any other paragraph of this Agreement, and except to the extent of County's responsibility for environmental conditions set forth in this Article 8, Lessee shall be solely and completely responsible for responding to and complying with any administrative notice, order, request or demand, or any third party claim or demand relating to potential or actual Hazardous Materials contamination on the Premise. Lessee's responsibility under this paragraph includes but is not limited to responding to such orders on behalf of County and defending against any assertion of County's financial responsibility or individual duty to perform under such orders. Lessee shall assume, pursuant to the indemnity provision set forth in this Article 8, any liabilities or responsibilities which are assessed against County in any action described under this paragraph.

8.16 Dispute Resolution: County and Lessee agree that any dispute between them relating to this Article 8 will first be submitted, by written notice, to a designated representative of both County and Lessee who will meet at County's place of business or other mutually agreeable location, or by teleconference, and confer in an effort to resolve such dispute. Any decision of the representatives will be final and binding on the parties. In the event the representatives are unable to resolve any dispute within ten (10) days after submission to them, either party may refer the dispute to mediation, or institute any other available legal or equitable proceeding in order to resolve the dispute.

8.17 Waiver and Release: Lessee, on behalf of itself and its heirs, successors and assigns, hereby waives, releases, acquits and forever discharges County, its principals, officers, directors, employees, agents, representatives and any other person acting on behalf of the County, and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Lessee or any its heirs, successors, or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present or future physical characteristic or condition of the Premises, including, without limitation, any Hazardous Material, in, at, on, under or related to the Premises, or any violation or potential violation of any Environmental Law applicable thereto; provided, however, this Article 8.17 shall not constitute a waiver or release of any obligation of County under this Article 8. Lessee acknowledges that County would not enter into this Agreement without Lessee's agreement to the waiver and release provided herein.

8.18 No Waiver of Rights, Causes of Actions or Defenses. Notwithstanding any language in this Agreement, including without limitation Articles 8.03, 8.04, 8.05, 8.06, 8.14, 8.15 and 8.16, Lessee does not agree to waive or release any rights, causes of action or defenses it may have against Miami-Dade County or any other party related to allegations made by the County in (i) Case No. 01-8758 CA 25 which has been filed by the County in the Florida Circuit Court of the Eleventh Judicial Circuit, and (ii) a letter dated April 9, 2001, to Lessee and others (who are referred to as "responsible parties" or "RPs"). Nothing herein shall be construed to limit or expand upon any releases previously granted to or exchanged between the parties as a result of judgments or settlements obtained in proceedings between the parties, including, without limitation, settlements in bankruptcy or settlements entered under Case No. 01-8758 CA 25 which has been filed by the County in the Florida Circuit Court of the Eleventh Judicial Circuit.

8.19 Surrender of Premises: Lessee shall surrender the Premises used by Lessee to County upon the expiration or earlier termination of this Agreement free of debris, waste, and Hazardous Materials used, stored, or disposed of by Lessee or its agents, employees, contractors, invitees or Trespassers, or otherwise discharged on the

Premises or Other Airport Property for which Lessee is responsible during the term of this Agreement. The Premises shall be surrendered in a condition that complies with all applicable Environmental Requirements, and such other reasonable environmental requirements as may be imposed by County. Lessee shall not be responsible under this Article 8.19 to the extent of County's obligations under this Article 8.

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

8.21 Survivability of Terms: The terms and conditions of this Article 8, including the indemnity, waiver, and release, shall survive the termination of this Agreement.

8.22 Right to Regulate: As provided for in Article 20.12 of this Agreement, nothing within this Article 8 shall be construed to waive or limit, restrain, impair or interfere with the County's regulatory authority.

ARTICLE 9

Indemnification and Hold Harmless

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

ARTICLE 10

Assignment and Subletting and Conditions of Mortgage or Financing

10.01 Assignment and Subletting: Except as provided in 10.2 below and except as specifically approved in writing by MDAD, the Lessee shall not assign, transfer, pledge or otherwise encumber this Agreement, nor sublet all or any portion of the Premises and Improvements, or allow others to use the Premises and Improvements, except as provided for in Article 2; provided, however, that to the extent that a public offering or a sale of a controlling interest in Landmark FBO, LLC is considered an assignment, such assignment may be made with Lessor's prior written consent which shall not be withheld unreasonably.

10.02 Limited Right to Mortgage: Except to the extent necessary to finance the Buyout, Lessee shall not mortgage, pledge, hypothecate or otherwise encumber Lessee's leasehold interest in the Premises and Improvements.

10.03 Conditions of Mortgage or Financing for Approved Improvements Costs:

- (A) Lessee shall have the right to secure private financing for the Buyout sum. Such financing shall be in amount not to exceed the Buyout amount and shall be consistent with the requirements of this Article 10.3. No mortgage or encumbrance shall extend to or be a lien or

encumbrance upon County's interest in the Premises or any part thereof or any appurtenant rights thereto, nor shall County be required to subordinate County's interest in the Premises.

- (B) County shall have the right to approve the financing documents as which approval shall not be unreasonably withheld. Lessee shall submit drafts of the financing documents to County for review and approval in sufficient time for the County to make such review. The County, through the County Manager or his designee, shall indicate such approval of the documents appropriate to the transaction.
- (C) Such financing documents may provide that upon the occurrence of a default by Lessee, the County shall give a copy of such notice of default to the mortgagee or financing institution (the "mortgagee"), and allow the mortgagee a reasonable period of time to cure the default stated therein while the Lessee continues as the nominal or actual Lessee. Such documents may also provide for: (a) a conditional assignment of this Lease to the mortgagee or any other Successor Lessee in the manner provided below, and (b) upon notice of intent to terminate this Agreement for any event of default, the mortgagee may cause the Agreement to continue to full force and effect for a period not to exceed six (6) months from the date of such notice, for the purpose of permitting mortgagee to submit for County's approval a Successor Lessee under the Agreement. During such six (6) month period, mortgagee and any entity in possession of the Premises and Improvements with County's approval must comply with all terms of the Agreement, including payment of all rentals and obligations hereunder in a timely manner. County shall have the right to approve a Successor Lessee only if such Lessee would have been an acceptable Lessee for the Premises and Improvements in the exercise of County's reasonable judgment, considering the Successor Lessee's experience, financial strength, history of meeting contractual obligations and a satisfactory business plan consistent with County's plan for operating Miami International Airport.
- (D) The financing documents shall also provide that in the event of any damage to or destruction of the Premises and/or the Improvements, all insurance proceeds pertaining to such damage shall be used for the restoration or reconstruction of the Premises or Improvements and not for a reduction in the mortgage principal.
- (E) The financing documents shall also provide for the County's right to purchase the Improvements under Article 3, with the right of the parties to effect a complete discharge of the mortgage or encumbrance interests created hereunder at the time of such purchase.

ARTICLE 11

Insurance

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

- (A) Commercial General Liability Insurance on a comprehensive basis, including Contractual Liability, to cover the Lessee's Premises and operations, in an amount not less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage. The County must be shown as an additional insured with respect to this coverage.
- (B) Automobile Liability Insurance covering all owned, non-owned and hired vehicles used by the Lessee in connection with its operations under this Agreement in an amount not less than:



- (1) \$5,000,000 combined single limit per occurrence for bodily injury and property damage.
 - (2) \$300,000 combined single limit per occurrence for bodily injury and property damage covering vehicles when being used by the Lessee off of the Air Operations Area ("AOA").
- (C) Pollution and Remediation Legal Liability insurance in an amount not less than \$2,000,000 covering third party claims, remediation expenses, and legal defense expenses arising from on-site and off-site loss, or expense or claim related to the release or threatened release of Hazardous Materials at the Lessee's Premises.

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

11.02 Insurance Certificates Required: Prior to the effective date of this Agreement, and annually thereafter, Lessee shall furnish or cause to be furnished certificates of insurance to the Department which certificates shall clearly indicate that:

- (A) The Lessee has obtained insurance in the types, amounts and classifications as required for strict compliance with this Article;
- (B) The policy cancellation notification provisions specify at least 30 days advance written notice of cancellation to the County; and
- (C) The County is named as an additional insured with respect to the Lessee's public liability policies.

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

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

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

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

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

damage, except to the extent such loss or damage was caused by the sole active negligence of the County, as limited by Section 768.28, Florida Statutes.

ARTICLE 12
Use of Public Facilities

The County grants to the Lessee, in common with all others desiring to use the Airport, and only to the extent necessary or reasonably desirable, so long as such use does not conflict with the County's operation of the Airport, to carry out the rights granted the Lessee hereunder, the nonexclusive privilege to use the runways, taxiways, roads of egress and ingress, service roads and such other facilities and improvements as may be now in existence or hereafter constructed for the use of persons lawfully using the Airport; provided, however, that such usage shall be subject to the payment of nondiscriminatory fees and other charges established by the County. Nothing herein contained shall grant to the Lessee the right to use any leasable space or area improved or unimproved which is leased to a third party, or which the County has not leased herein.

ARTICLE 13
Termination

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

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

13.03 Other Defaults: The County shall have the right, upon 30 calendar days written notice to the Lessee, to terminate this Agreement upon the occurrence of any one or more of the following, unless the same shall have been corrected within such period, or, if correction cannot reasonably be completed within such 30-day period, in the sole discretion of the Department, the Lessee has commenced substantial corrective steps within such 30-day period and diligently pursues same to completion:

- (A) Failure of the Lessee to comply with any covenants of this Agreement, other than the covenants to pay rentals, fees and charges when due, and the covenants to provide required evidence of insurance coverage.
- (B) The conduct of any business, the performance of any service, or the merchandising of any product or service not specifically authorized herein, by the Lessee.
- (C) Failure of the Lessee to comply with any Environmental Law or Environmental Requirement as those terms are defined in Article 8.01 of this Agreement.

13.04 Habitual Default: Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly or repetitively defaulted in the performance of or breached any of the terms, covenants and conditions required herein to be kept and performed by the Lessee, in the sole opinion of the County and regardless of whether the Lessee has cured each individual condition of breach or default as provided in Articles 13.01 (Payment Defaults), 13.02 (Insurance Defaults) and 13.03 (Other Defaults) hereinabove, the Lessee shall be determined by the Director

to be an "habitual violator." At the time that such determination is made, the Department shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefor. Such notice shall also advise the Lessee that there shall be no further notice or grace periods to correct any subsequent breach(es) or default(s) and that any subsequent breach(es) or default(s), of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and, collectively, shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the County may cancel this Agreement upon the giving of written notice of termination to the Lessee, such termination to be effective upon the tenth day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder.

13.05 Reduction of Buy-Out Payment Obligation: In the event the County suffers any losses or damages caused by Lessee or others for whom Lessee is liable hereunder, including but not limited to any losses or damages resulting from a termination of this Agreement under this Article 13, and such losses or damages are not otherwise compensated by Lessee, the County may offset such losses or damages against the then-current principal amount of the buy-out payment that otherwise would be re-paid to Lessee through Improvements Rent credits. County thereafter will be responsible only for payment of the buy-out payment amount, less such offset amount. Interest on any such adjusted buy-out payment amount will be recalculated as of the date the County suffered the losses or damages.

13.06 Termination by Abandonment: This Agreement may be terminated by the County upon the abandonment by the Lessee of the Premises or the voluntary discontinuance of Lessee's services at the Airport for any period of time exceeding twenty-four (24) consecutive hours, unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Lessee from providing services at the Premises for the purposes authorized in Article 2 "Use of Premises". Such termination shall constitute an event of default, and the County shall be entitled to all remedies for such default provided for in this Agreement.

13.07 Actions at Termination:

- (A) The Lessee shall vacate, quit, surrender up and deliver the Premises to the County on or before the termination date of this Agreement, whether by lapse of time or otherwise. The Lessee shall surrender the Premises in the condition required under Article 4.03 (Maintenance and Repairs) herein. All repairs for which the Lessee is responsible shall be completed prior to surrender. The Lessee shall deliver to the Department all keys to the Premises upon surrender. On or before the termination date of this Agreement, except in the instance of termination pursuant to Article 13.06 (Termination by Abandonment), in which event the Lessee shall be allowed up to five calendar days from date of termination, and provided that the Lessee is not in default in the payment of any rentals, fees or charges required to be paid herein, the Lessee shall remove all of its personal property from the Premises. Any personal property of the Lessee not removed in accordance with this Article may be removed by the Department for storage at the cost of the Lessee. Failure on the part of the Lessee to reclaim its personal property within 30 days from the date of termination shall constitute a gratuitous transfer of title thereof to the County for whatever disposition is deemed to be in the best interest of the County.
- (B) The Lessee shall, at its expense, take all actions required by Federal, State and local laws, regulations or codes to remove from the Premises any hazardous substance or environmental contaminant, whether stored in drums, or found in vats, containers, distribution pipe lines, or the like. All such substances and contaminants shall be removed by the Lessee in a manner approved and authorized by such Federal, State or local laws, regulations or codes.

- (C) If the County advises the Lessee that it has reasonable grounds to believe that any hazardous substance or environmental contaminant has been released within the Premises or into the ground under the Premises, during the term of this Agreement or during the terms of any prior leases between the Lessee and the County for the same or substantially the same Premises, then the Lessee at its sole cost and expense shall retain an approved environmental consultant to perform whatever environmental assessment may be required to determine the extent of such release. The Lessee shall comply with the recommendations and conclusions, contingent upon County approval, of such consultant regarding environmental cleanup efforts that may be required, and shall comply with any other clean up requirements imposed on the Lessee by Federal, State or local law, regulations or codes.

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

13.09 Right to Show Premises: At any time after the Lessee has been given notice of termination or default, pursuant to Article 13 (Termination) hereof, the County shall have the right to enter on the Premises for the purpose of showing the Premises to prospective tenants or users.

13.10 County Defaults: This Agreement shall be subject to termination by the Lessee in the event of a default by the County in the performance of any covenant or agreement herein required to be performed by the County and the failure of the County to remedy same within a reasonable period of time following receipt of written notice from the Lessee of such default.

13.11 Other Terminations: This Agreement shall be subject to termination by the County or the Lessee in the event of any one or more of the following, with neither party owing the other any compensation as a result thereof:

- (A) The permanent abandonment of the Airport.
- (B) The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to substantially restrict the Lessee from operating therefrom for a period in excess of 90 consecutive days, provided that nothing contained herein shall be deemed to constitute a waiver by the Lessee of any right it may have against the United States to just compensation in the event of any such assumption.
- (C) The issuance by any court of competent jurisdiction of any injunction in any way substantially preventing or restraining the use of the Airport, and the remaining in force of such injunction for a period in excess of 90 days.

ARTICLE 14 Special Conditions

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

14.02 Nondiscriminatory Prices: The Lessee shall charge fair, reasonable, customary and not unjustly discriminatory prices for each unit of sale or service; provided, however, that the Lessee may make reasonable,

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

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

ARTICLE 15

Equal Employment Opportunity, Nondiscrimination and Affirmative Action

15.01 Equal Employment Opportunity:

- (A) In accordance with Title 14 Code of Federal Regulation (CFR) Part 152 (Affirmative Action Employment Program), the Lessee 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. The Lessee shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but are 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.
- (B) The Lessee 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. The Lessee 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 Section 11A1 through 13A1, Articles 3 and 4.
- (C) The Lessee 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.

15.02 Nondiscriminatory Access to Premises: The Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant that: (1) no person on the grounds of race, color, sex, national origin or ancestry shall be excluded from

participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that the Lessee 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.

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

15.04 Nondiscrimination:

(A) During the performance of this Agreement, the Lessee agrees as follows: The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will 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. The Lessee shall furnish all information and reports required by Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to The Lessee books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain the compliance with such rules, regulations, and orders. In the event of the Lessee's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be canceled, terminated, or suspended in whole or in part in accordance with the Termination of Agreement section hereof and the Lessee may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 113155 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 113155 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.

(B) The Lessee will include Article 15.01 (Equal Employment Opportunity) and Article 15.02 (Nondiscriminatory Access to Premises) of this Article in the Lessee's sub-contracts in excess of \$10,000.00, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, so that such provisions will be binding upon each sub-consultant. The Lessee shall take such action with respect to any sub-contract as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Lessee becomes involved in, or is threatened with, litigation with a sub-consultant as the result of such direction by the County or by the United States, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

15.05 Disability Nondiscrimination Affidavit: By entering into this Agreement with the County and signing the Disability Nondiscrimination Affidavit, the Lessee attests that this 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 the Lessee or any owner, subsidiary or other firm affiliated with or related to the Lessee is found by the responsible enforcement officer of the Courts or the County to be in violation of the Act or the Resolution, such violation shall render this Contract terminable in accordance with the Termination of Agreement section hereof. This Agreement shall be voidable if (a) the Lessee submits a false affidavit pursuant to this Resolution or (b) the Lessee violated the Act or the Resolution during the term of this Agreement, even if the Lessee was not in violation at the time it submitted its affidavit.

15.06 Affirmative Action/Nondiscrimination of Employment Promotion and Procurement Practices(County Code Section 2-8.1.5):

- (A) In accordance with the requirements of County Code Section 2-8.1.5, all firms with annual gross revenues in excess of \$5 million 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 Management. Said firms must also submit, as a part of their Lease to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit.
- (B) 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 Management. Firms claiming exemption must submit, as part of their Lease 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.
- (C) 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 Lease.

15.07 Minority Participation: If Lessor adopts any minority participation requirements applicable to Lessee and its activities hereunder, Lessee shall comply therewith.

ARTICLE 16

Security and Special Provisions

16.01 Security: The Lessee acknowledges and accepts full responsibility for the security and protection of the Premises, any improvements thereon, its equipment and property on the Airport and control of access to the Air Operations Area ("AOA") through the Premises by persons and vehicles. The Lessee fully understands and acknowledges that any security measures deemed necessary by the Lessee for the protection of said Premises, equipment and property and access to the AOA through the Premises shall be the sole responsibility of the Lessee and shall involve no cost to the County. All such security measures by the Lessee shall be in accordance with Title 49 of the Code of Federal Regulations (CFR) Parts 1542, and the Airport Security Plan.

16.02 Security Identification Display Areas Access - Identification Badges: The Lessee shall be responsible for requesting the Department to issue identification ("ID") badges to all employees who are authorized access to Security Identification Display Areas ("SIDA") on the Airport, designated in the Airport's security program and shall be further responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of

the ID badges of all personnel transferred from Airport assignment or terminated from the employ of the Lessee or upon termination of this Agreement. Each employee must complete the SIDA training program conducted by the Department, before an ID badge is issued. The Lessee shall pay, or cause to be paid, to the Department such nondiscriminatory charges, as may be established from time to time, for lost or stolen ID badges and those not returned to the Department in accordance with this Article. The Department shall have the right to require the Lessee to conduct background investigations and to furnish certain data on such employees before the issuance of such ID badges, which data may include the fingerprinting of employee applicants for such badges.

16.03 AOA - Driver Training: Before the Lessee shall permit any employee to operate a motor vehicle of any kind or type on the AOA, the Lessee shall require such employee to attend and successfully complete the AOA Driver Training Course conducted from time to time by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department for any violation of AOA driving rules. Notwithstanding the above, the Lessee shall be responsible for ensuring that all such vehicle operators possess current, valid, appropriate Florida driver's licenses.

16.04 Alcohol and Drug Testing: The Lessee acknowledges that the County, as a public agency sponsor under the provisions of the Airport and Airway Improvement Act of 1982, as amended (the "Act"), has the obligation to establish a drug free workplace and to establish policies and programs to ensure airport safety and security. The Lessee acknowledges that the Department, on behalf of the County, has the right to require users of the Airport (Lessees, Permittees, Licensees, etc.) to establish reasonable programs to further the achievement of the objectives described herein. Accordingly, the Lessee shall establish programs for pre-employment alcohol and drug screening for all candidates for employment at the Airport who will as a part of their duties (a) be present on the AOA; (b) operate a motor vehicle of any type on the AOA; or (c) operate any equipment, motorized or not, on the AOA and for the same or similar screening based upon a reasonable suspicion that an employee, while on duty on the AOA, may be under the influence of alcohol or drugs. Notwithstanding the above, the Lessee 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.

16.05 Drug-Free Workplace:

- (A) The Lessee acknowledges it has provided to the County a Drug-Free Workplace Affidavit certifying that it is providing a drug-free workplace for its employees, as required by County Ordinance No. 92-15, adopted on March 17, 1992, as may be amended from time to time ("Ordinance"). Based on the provisions of said Ordinance, the County shall have the right, upon 30 days written notice to the Lessee, to terminate this Agreement in the event the Lessee fails to provide, as of each anniversary of the effective date of this Agreement, the annual re-certification affidavit as required by the Ordinance; provided, however, that such termination shall not be effective if the Lessee submits the required Affidavit within the notice period.
- (B) Further, this Agreement shall be terminated upon not less than fifteen calendar days written notice to the Lessee and without liability to the County, if the Department or the County Manager determines any of the following:
 - (1) That the Lessee has made a false certification in its execution of the Affidavit submitted or in its annual re-certification as required by the Ordinance;
 - (2) That the Lessee has violated its original or renewal certification by failing to carry out any of the specific requirements of the Ordinance, other than the annual re-certification; or

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

16.06 Special Programs: The Lessee shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as the Department or appropriate Federal agencies may from time to time require.

16.07 Vehicle Permit and Company Identification: Motor vehicles and equipment of the Lessee operating on the AOA must have an official motor vehicle identification permit issued pursuant to Operational Directives of the Department. In addition, company identification must be conspicuously displayed thereon.

16.08 Federal Agencies Right to Consent: The Lessee 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 Lessee in areas under the jurisdiction or control of such federal inspection agencies.

16.09 AOA - Right to Search:

- (A) The Lessee agrees that its vehicles, cargo, goods and other personal property are subject to being searched when attempting to enter or leave and while on the AOA. The Lessee further agrees that it shall not authorize any employee or agent to enter the AOA unless and until such employee or agent 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 the Lessee at the Airport, in any job requiring access to the AOA.
- (B) It is further agreed that the Department has the right to prohibit an individual, agent or employee of the Lessee 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 the Director of the Department or his authorized designee 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.
- (C) The Lessee 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.

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

16.11 Height Restrictions: The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the leased premises to such a height so

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

ARTICLE 17
Control of Employees

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

17.02 Lessee's Responsibility for Employee's Violations: In the event the Lessee is in default of the covenants of Article 17.01 (Control of Employees) for failure to properly control its employees or by permitting its employees to improperly use the facilities provided by the County, the Department shall have the right to require the Lessee to conduct an investigation into any claimed violation of the covenants; if such investigation substantiates a violation, Lessee agrees to administer the appropriate discipline up to and including discharge of the offending employee.

ARTICLE 18
Civil Actions

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

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

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

ARTICLE 19
Trust Agreement

19.01 Incorporation of Trust Agreement by Reference: Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that, to the extent of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, and the level of rents, fees or charges required hereunder and their periodic modification or adjustment as may be required by the provisions of the Amended and Restated Trust Agreement dated as of the 15th day of December 2002, as amended, by and between the County and J P Morgan Chase Bank as Trustee and Wachovia Bank, National Association as Co-Trustee, and specifically the terms of Section 501 thereof, shall prevail and govern at all times during the term of this Agreement. Copies of the Trust Agreement are available for inspection in the offices of the Department during normal working hours.

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

ARTICLE 20 Other Provisions

20.01 No Representation: The County makes no representation, warranty, guarantee, or averment of any nature whatsoever concerning the physical condition of the Premises, and it is agreed that County will not be responsible for any loss, damage or costs which may be incurred by the Lessee by reason of any such physical condition, except as may be provided in Article 8.

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

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

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

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

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

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

As to the County or Aviation Department:

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

As to the Lessee:

Chief Financial Officer – Landmark Aviation
1500 CityWest Blvd., Suite 600
Houston, TX 77042

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

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

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

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

20.11 No Waiver: There shall be no waiver of the right of either party to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by either party, unless such waiver is explicitly made in writing by the other party. Any previous waiver or course of dealing shall not affect the right of either party to demand strict performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence of any subsequent breach, default or non-performance hereof by the other party.

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

20.13 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.

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

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

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

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

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

20.18 Destruction of or Damage to the Premises: In the event the Premises or any portion thereof shall be destroyed or so damaged or injured by fire, windstorm, flood or other casualty (and in each such event the Lessee was not at fault in whole or in part) during the life of this Agreement that the Premises or any portion thereof are rendered untenable, the following shall apply:

- (A) To the extent of (i) any insurance proceeds applicable to the destroyed or damaged Premises, or (ii) any reconstruction funds then available to MDAD as solely determined by MDAD, MDAD (or Lessee, at MDAD's direction) may use such proceeds or funds to reconstruct the Premises.
- (B) If insurance proceeds or MDAD funds are insufficient or unavailable, the County shall have no obligation to reconstruct the Premises to the condition of the Premises prior to the destruction or damage. If the parties agree to make use of whatever insurance proceeds or funds are available for reconstruction of the Premises, then Lessee shall undertake such reconstruction to the extent of such insurance proceeds or funds. If Lessee declines to complete the reconstruction work with such proceeds or funds, Lessee shall take whatever steps are then necessary to demolish the Premises at Lessee's cost in accordance with state and local requirements.

- (C) If the destruction or damage to the Improvements on the Premises is significant and the Lessee has reasonably determined that its inability to use the destroyed or damaged portion of the Premises will have a materially adverse impact on the ability of the Lessee to utilize the entirety of the Premises for the purposes described in Article 2, and if MDAD is unable to reconstruct the Premises because of a lack of insurance proceeds or insufficient MDAD funds, then the Lessee upon written notice to the County may cancel this Agreement as of a date which shall be not later than three (3) months from the giving of such notice. In the event of such cancellation, (1) the rent for the untenable portion of the Premises shall be paid only to the date of the destruction or damage of the Premises, and (2) County shall have no further liability to Lessee for payment of the balance of the buy-out payment.
- (D) If insurance proceeds or MDAD funds are available for reconstruction of the Premises, the County shall determine a reasonable period of time within which the reconstruction must occur. From the date of the destruction or damage of the affected portion of the Premises to the last day of the reconstruction period as determined by MDAD, the Improvements Rent credit shall apply only to those Improvements on the Premises that are used or occupied by Lessee. Following such last day of the established reconstruction period, the Improvements Rent credit shall increase to reflect either (i) the then-current Improvements Rent applicable to the reconstructed portion of the Premises or (ii) an imputed Improvements Rent on the reconstructed portion measured by the fair market value of the proposed facility as if it had been reconstructed to its completion in a timely manner or the fair market value of a facility of like kind and size of the destroyed or damaged facility if no reconstruction at all has occurred.
- (E) If the destruction or damage was caused in whole or in part by Lessee, its officers, employees, agents, contractors, invitees, or trespassers, then the Lessee shall not have the right to terminate this Agreement under Article 20.18(C) and shall be responsible under other provisions of this Agreement for payment to the County of all damage to the Premises, plus payment of the loss of rentals and Improvements Rent credits attributable to the damaged or destroyed premises. The remedies provided to Lessee in this Article 20.18 as to any portion of destroyed or damaged premises are exclusive, and Lessee shall be entitled to no other remedies in the event of a complete or partial destruction of or damage to the Premises or portions thereof.

20.19 Quiet Enjoyment: Subject to the terms of this Agreement, specifically including, but not limited to, environmental remediation steps to be taken under Article 8, the County's right and obligation to make certain repairs, alterations, and additions under Articles 5 (Maintenance by County) and 20.09 (Rights of County at Airport), which, for purposes of this clause, includes any and all demolition, in whole or in part, of buildings and runways, and roadway systems on or off the Airport, and the reservation of easement rights to the airspace under Article 16.10 (Right of Flight), all of which provisions and others in this Agreement, the Lessee acknowledges may cause disruption and disturbance to the Lessee, and upon the observance by the Lessee of all the terms, provisions, covenants, and conditions imposed upon the Lessee hereunder, the Lessee shall peaceably and quietly hold and enjoy the Premises for the term of this Agreement; provided, however, that the County shall not be liable for any violation of this clause or for any disturbance or disruption in or to the Lessee's business, for acts or omissions of tenants, users of the Airport, third parties, Acts of God, or when any department or agency of the County is acting in its governmental capacity.

20.20 Force Majeure: Except as provided herein any prevention, delay or stoppage attributable to strikes, lockouts, labor disputes, acts of God, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (collectively, the Force Majeure) will excuse the performance of that party for a period equal to the reasonable duration of the prevention, delay or stoppage. If, therefore, this

Agreement specifies a time period for performance of an obligation by either party, a delay that a Force Majeure causes will extend the period within which the party must complete its performance. The foregoing provisions of this Article 20.20 will not apply to (i) the obligations imposed with regard to rent payment and other charges Lessee must pay in accordance with the terms of this Agreement, (ii) the obligations imposed upon the County to pay any amount becoming due to Lessee under the terms of this Agreement, and (iii) the provisions of Article 20.18.

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

20.22 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.

20.23 Request For Proposals Incorporated and Order of Preference: The Lessee acknowledges that it has submitted to the County a Proposal that was the basis for the award of this Agreement and upon which the County has relied. RFP No. MDAD-02-09, addenda, and concomitant documents are incorporated by reference into this Agreement. In the event a conflict exists between the RFP documents and this Agreement, the conflict shall be resolved by giving preference to the provisions of the documents in the following priority: (1) the terms of this Agreement; (2) the exhibits to this Agreement; the RFP Addenda; and (4) the RFP and associated documents.

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) the Scope of Services in the Agreement, and 2) these terms and conditions other than the Scope of Services.

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

BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA

By: _____
County Manager

ATTEST: Harvey Ruvin, Clerk

By: _____
Deputy Clerk

(SEAL)

LANDMARK AVIATION MIAMI, LLC:

By: *Daniel T. Bucco*
President or Authorized Representative

Daniel T. Bucco, President
Print Name and Title

ATTEST:

The Secretary of the entity, or is the officer thereof, who is responsible for certifying documents and actions of the company/entity. I hereby certify that the person signing this above document is the president or other authorized Representative and who, by the laws of the county or state in which the company or entity is established, and by the authority provided by the company/entity's internal regulations, is authorized by such laws and regulations to execute this document on behalf of the Lessee.

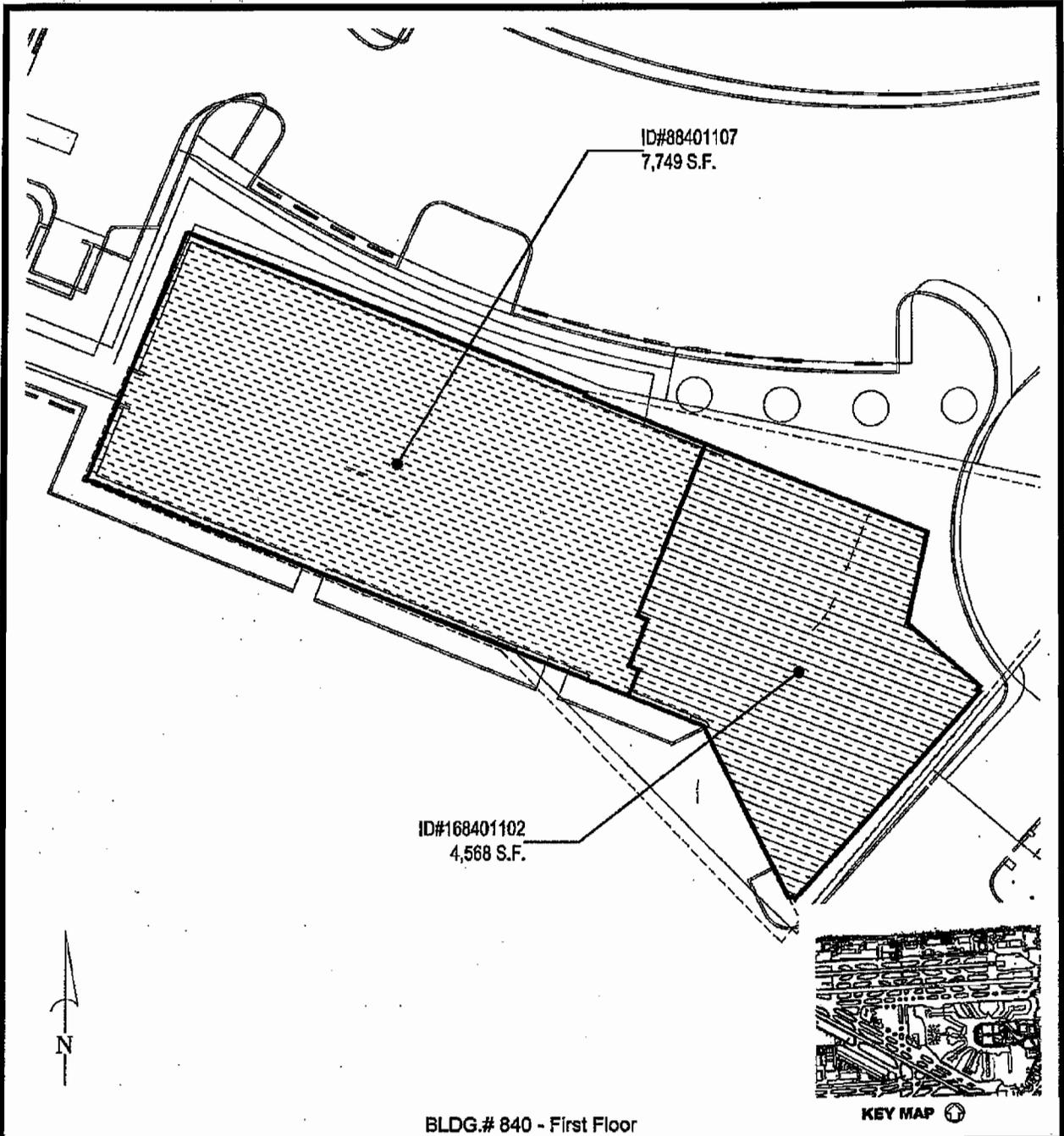
By: *[Signature]*
Secretary

R. Allen Ashcraft, Jr.
Print Name

(Corporate or Company Seal or Stamp)

Resolution No.: _____

Date: _____



BLDG.# 840 - First Floor

CODE:	SPACE CLASS	SQ. FT.
	A/C Office space	7,749
	Terminal Area	4,568
		12,317

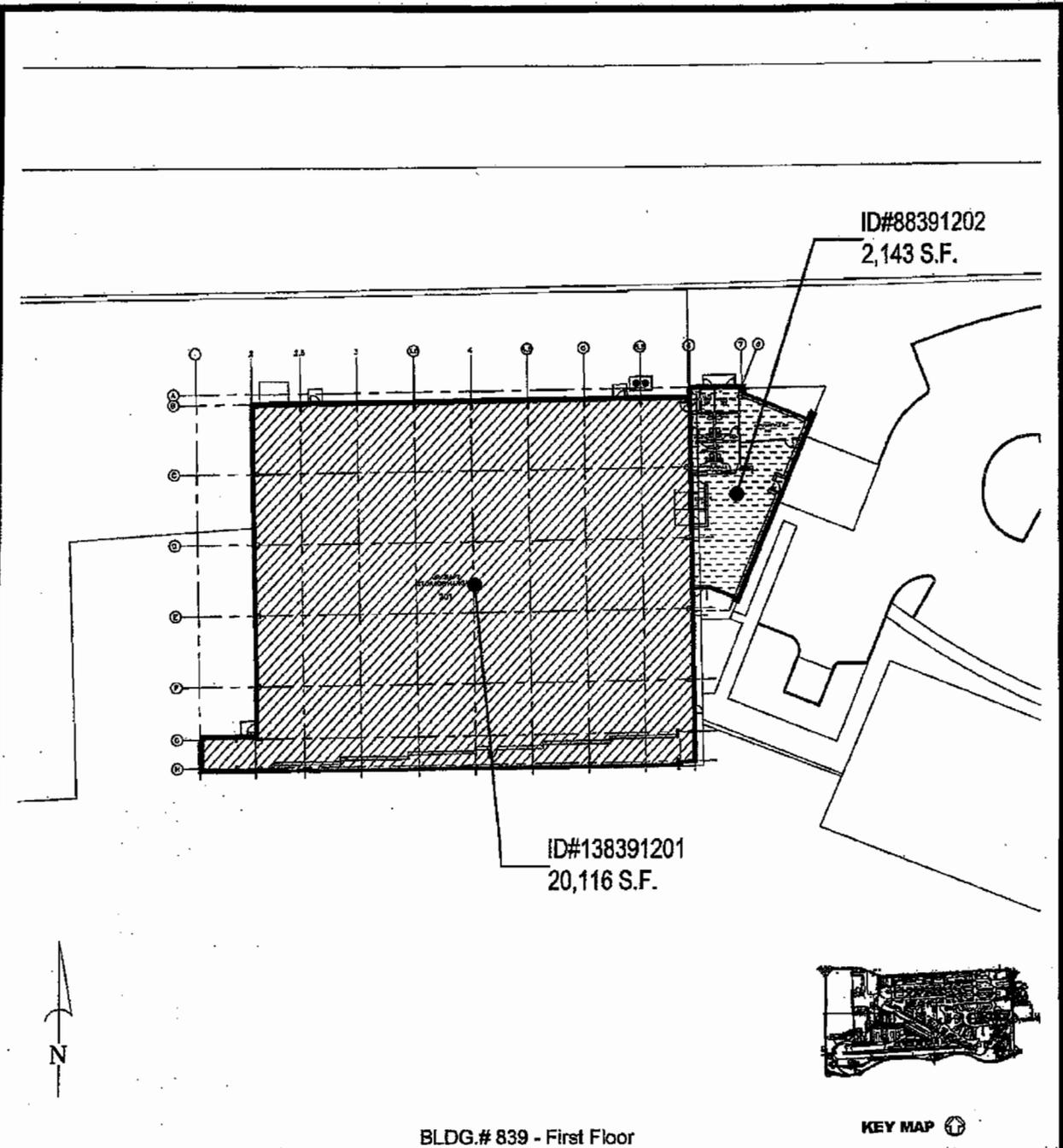
MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A-1
MIAMI DADE AVIATION DEPARTMENT FBO

SCALE: 1/32" = 1'-0" EFS #. 60578 DATE: 2/27/2009

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[Handwritten signature]



BLDG.# 839 - First Floor

KEY MAP

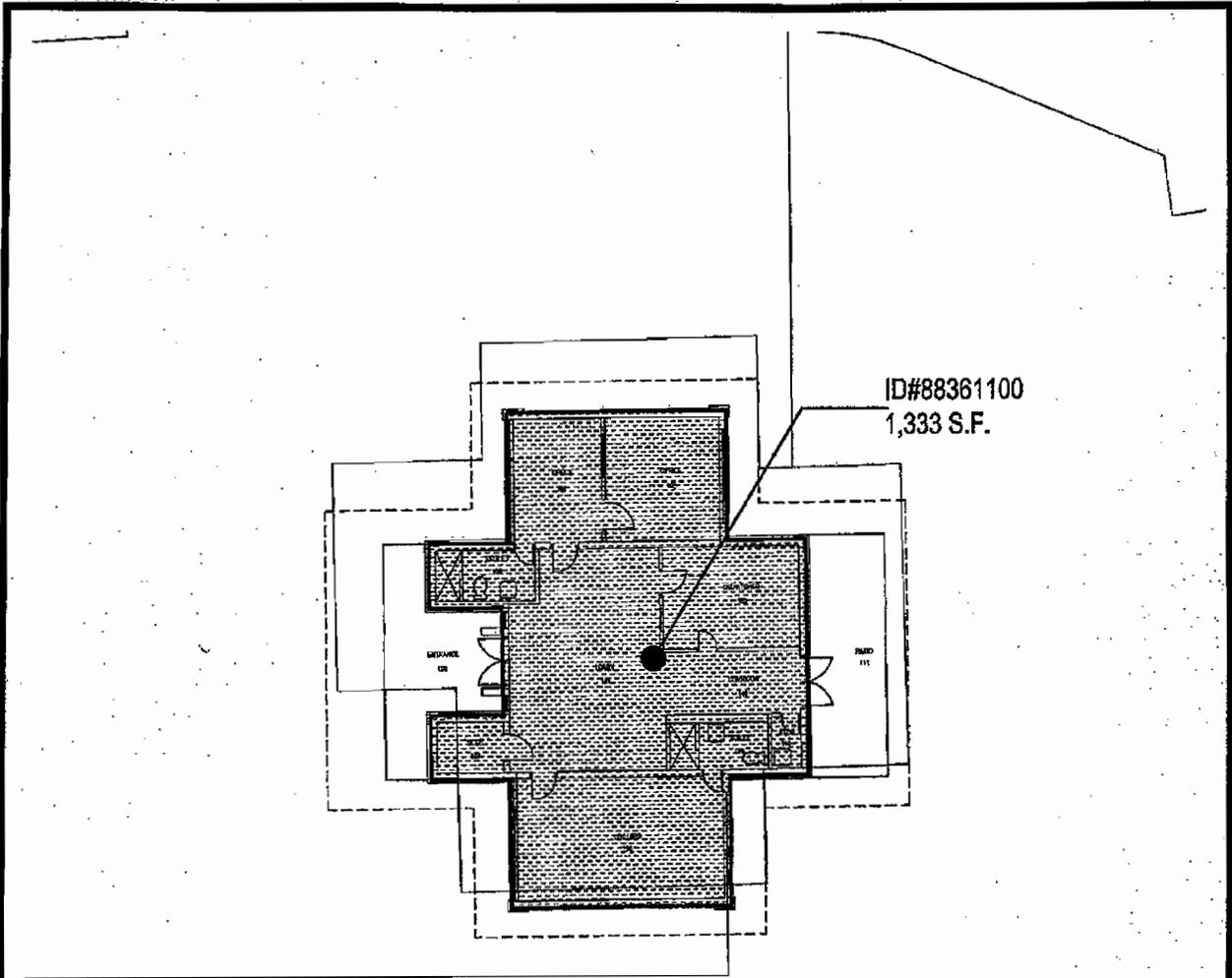
CODE:	SPACE CLASS	SQ. FT.
	Hangar space	20,116
	A/C Office space	2,143
		22,259

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

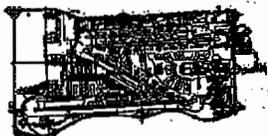
EXHIBIT A-2
MIAMI DADE AVIATION
DEPARTMENT FBO

SCALE: 1" = 50' EFS #: DRAFT DATE: 2/27/2009





ID#88361100
1,333 S.F.



BLDG.# 836 - First Floor

KEY MAP

CODE:	SPACE CLASS	SQ. FT.	MIAMI DADE AVIATION DEPARTMENT MIAMI INTERNATIONAL AIRPORT
	A/C Office space	1,333	
		1,333	
SCALE: 1/16" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009	

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JM

EXHIBIT - E

(ARTICLE 8.13 Periodic Environmental Audits)

Miami-Dade Aviation Department Civil Environmental Engineering Division

TENANT AUDIT SUMMARY MINIMUM REQUIREMENTS

Environmental Compliance Audit:

The audits shall conform with the most current ASTM standard E-2107. At a minimum the audit scope shall include the areas listed below, detailed visual inspection of the tenant leasehold and operations; a review of documents made available by the facility; interviews with knowledgeable site representatives; the completion of a detailed compliance audit questionnaire; photographic documentation of selected site conditions; and any follow-up visits.

Areas of Concern:

- Environmental Management Systems
- Air Emissions
- Asbestos and Polychlorinated Biphenyls (PCBs)
- Hazardous Materials and Waste
- Oil Pollution Management
- Pesticides
- Solid Waste
- Storage Tanks
- Water Supply and Wastewater

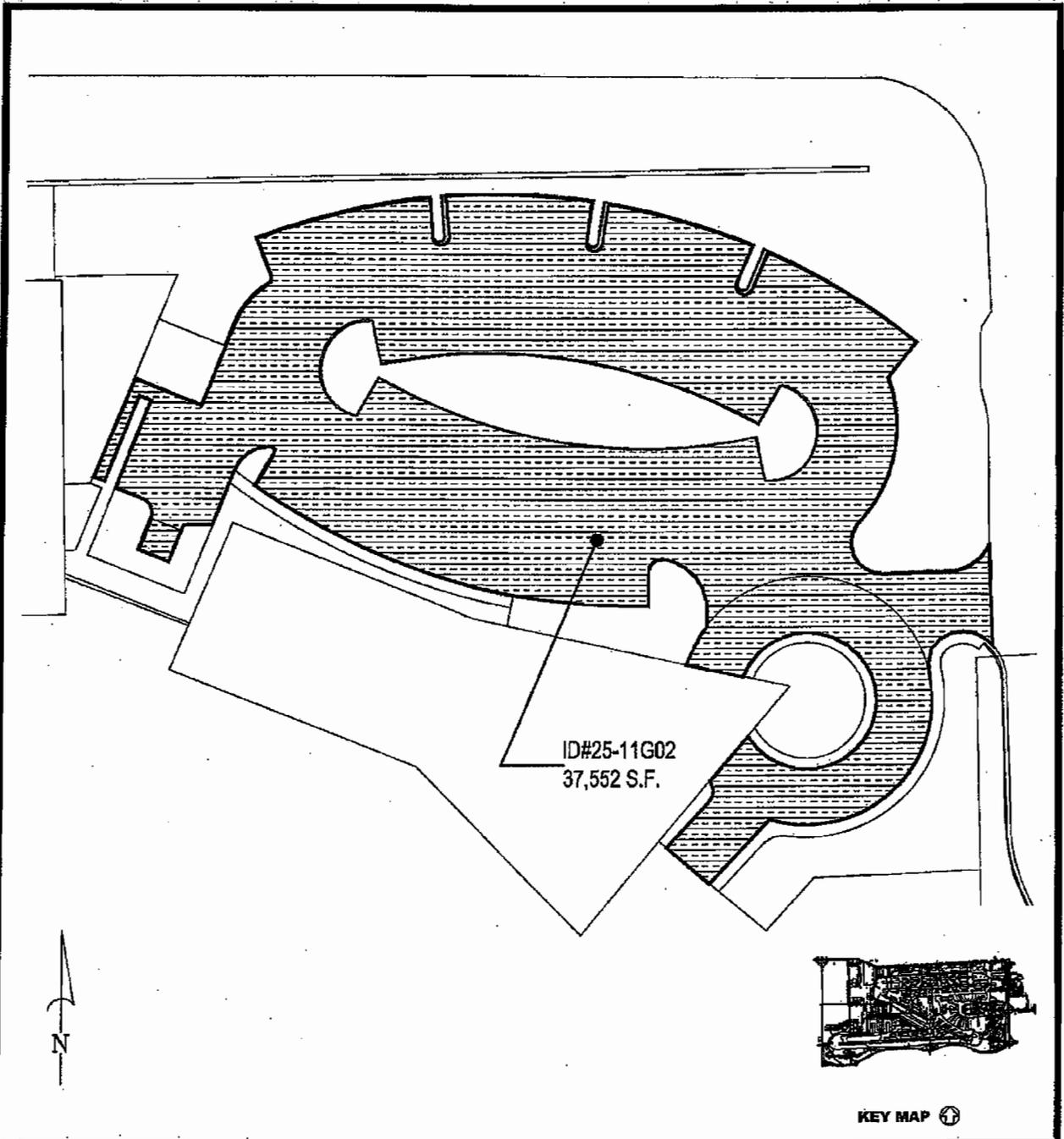
Documentation:

- Permits, Licenses, Certifications, etc.
- All regulatory activities by any environmental agency.
- Standard Operating Procedures (SOPs)
- Best Management Practices (BMPs)
- Emergency Response (spills, etc.)
- SPCC Plan, if required
- Dangerous Goods
- Employees Training Programs and Records.

EXHIBIT K

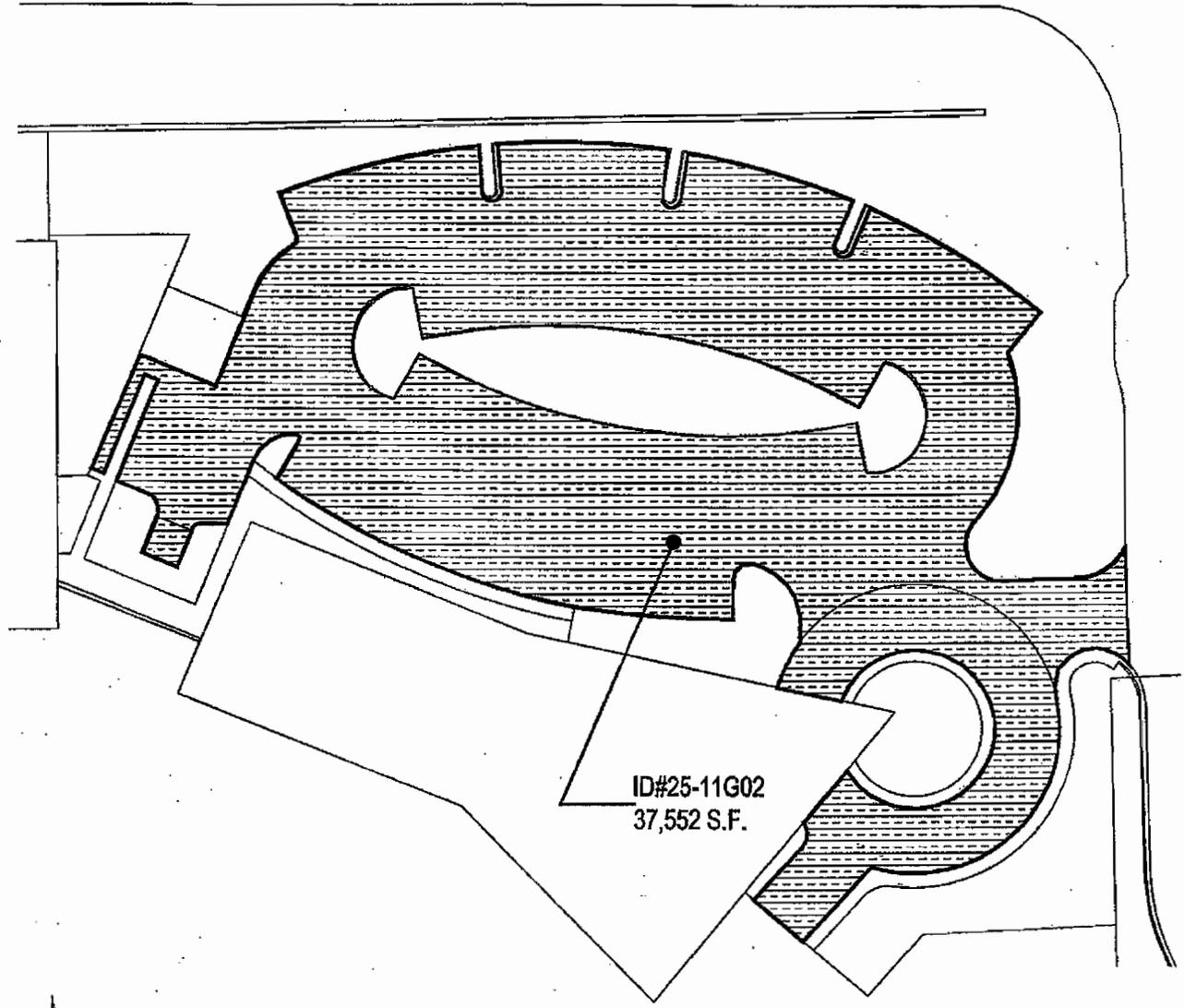
As referenced in Article 8.04(C)(1), Article 8.04(C)(2), and Article 8.04(C)(3), this Exhibit K contains (i) the list of CARs and RAPs that may apply to the Premises, (ii) a site sketch showing the location of any remediation equipment on the Premises, and (iii) a site sketch showing the locations on the Premises where Remediation may be conducted by Lessor during the term of the Agreement. Lessor reserves the right to attach such documents to this Exhibit K if they are not so attached as of the execution date of the Agreement.

In addition, as provided in Articles 8.03(B) and 8.06, if Lessee conducts its own audit under the terms of Article 8.06, and to the extent the County has agreed under Article 8.06 to accept Lessee's audit, such audit shall be added to Exhibit K in accordance with the time provisions of such articles.

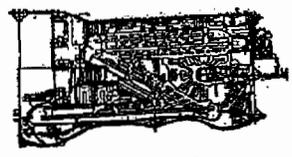


CODE:	SPACE CLASS	SQ. FT.	MIAMI DADE AVIATION DEPARTMENT MIAMI INTERNATIONAL AIRPORT
	Landside Vehicular Pavement	37,552	
SCALE: N.T.S. EFS #: DRAFT DATE: 2/27/2009			EXHIBIT P MIAMI DADE AVIATION DEPARTMENT FBO
37,552			

Handwritten signature/initials



ID#25-11G02
37,552 S.F.



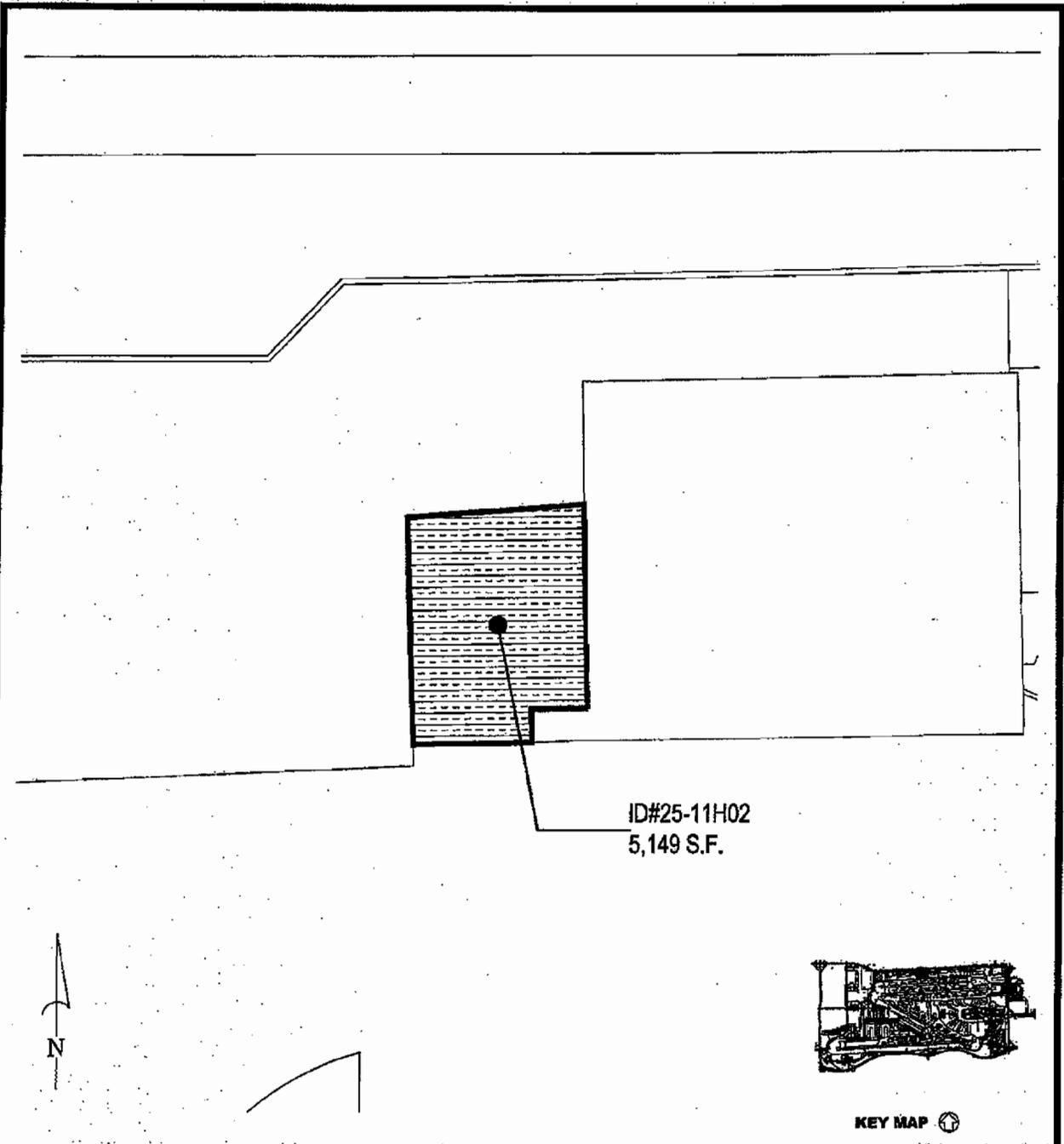
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	Landside Vehicular Pavement	37,552
		37,552
SCALE: N.T.S.	EFS #: DRAFT	DATE: 2/27/2009

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT P-1
MIAMI DADE AVIATION
DEPARTMENT FBO

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ID#25-11H02
5,149 S.F.

CODE:	SPACE CLASS	SQ. FT.
	Landside Vehicular Pavement	5,149
		5,149

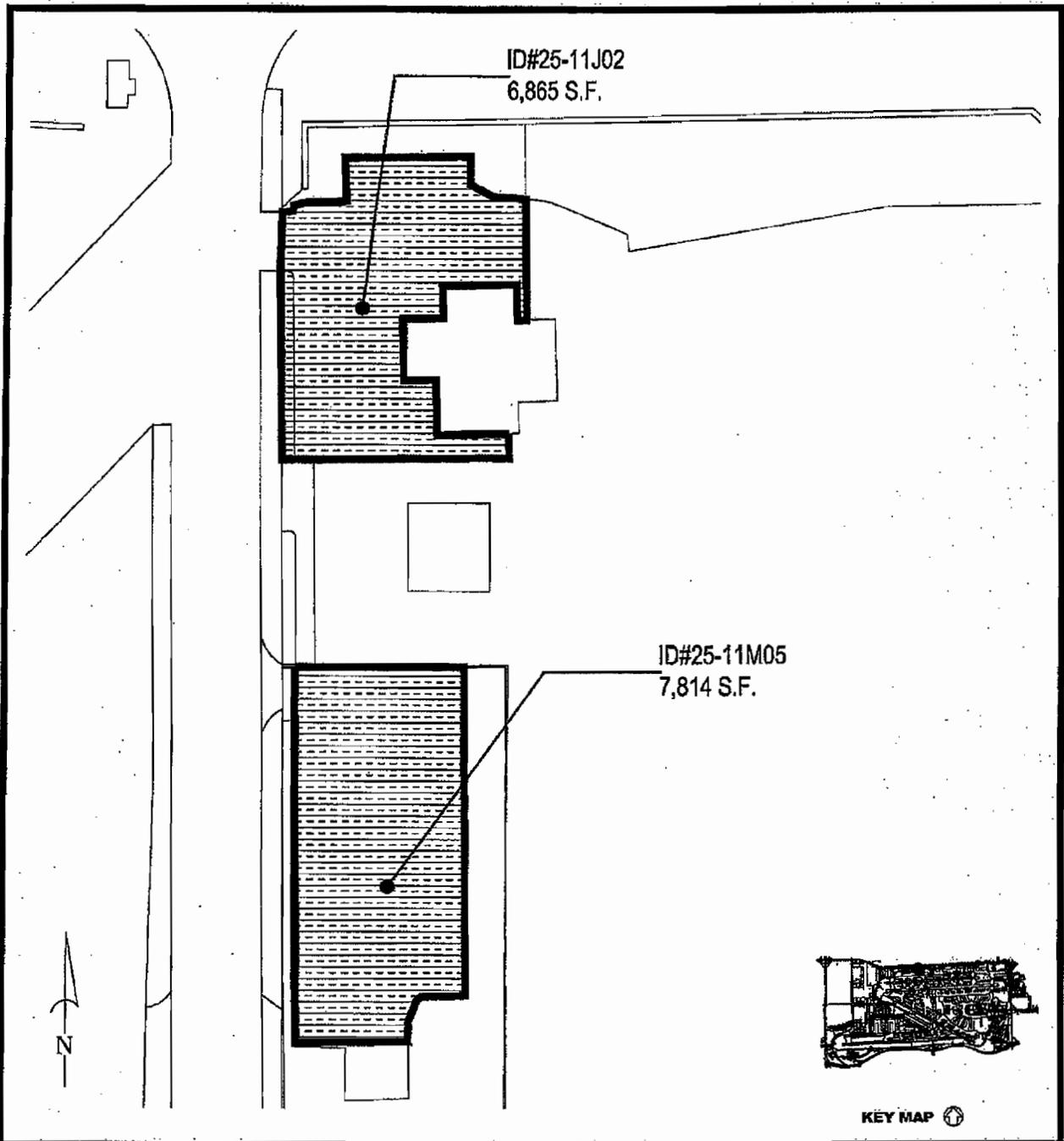
MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT P-2
MIAMI DADE AVIATION
DEPARTMENT FBO

SCALE: N.T.S. EFS #: DRAFT 839 DATE: 2/27/2009

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Handwritten initials



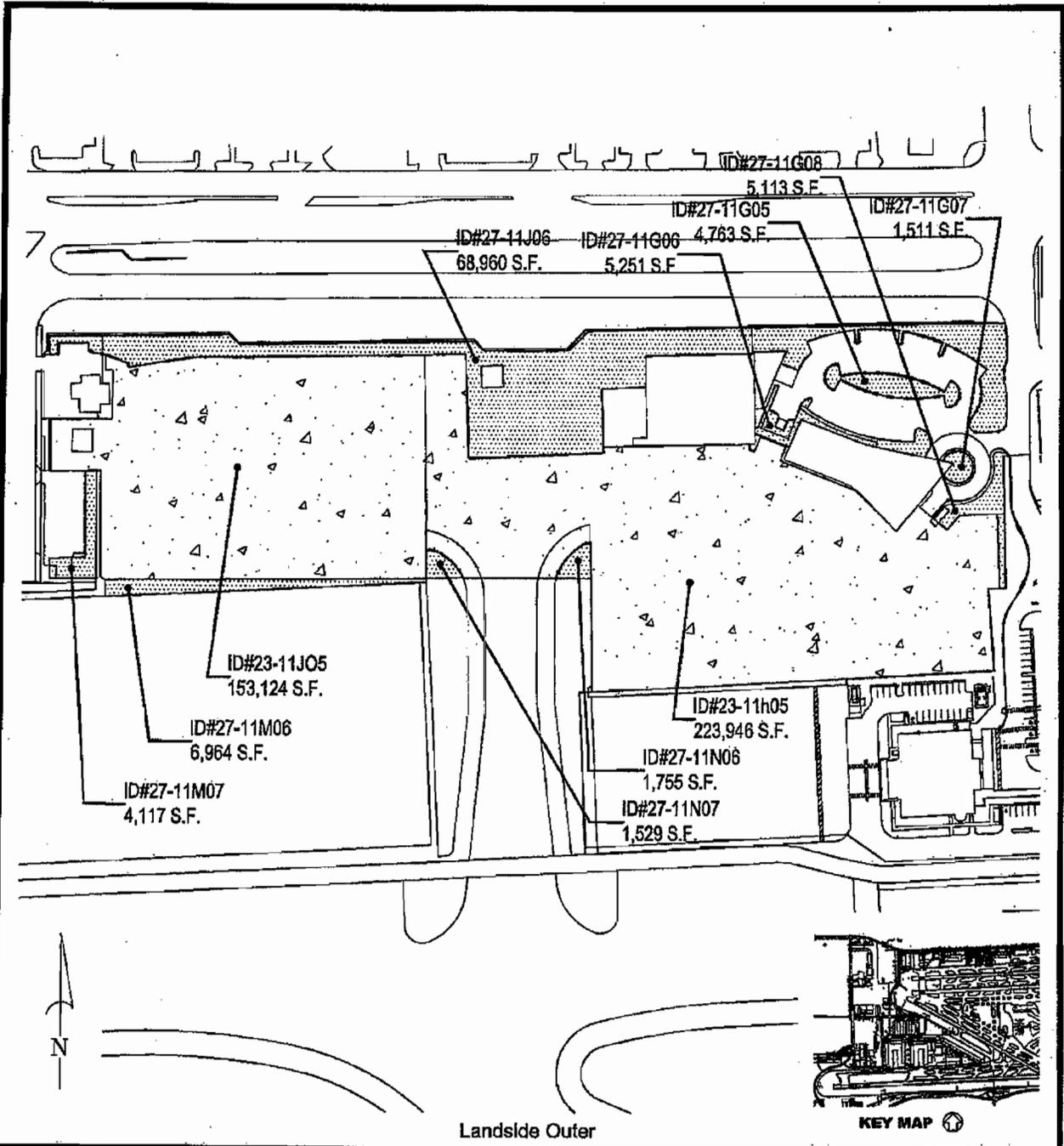
CODE:	SPACE CLASS	SQ. FT.
	Landside Vehicular Pavement	14,679
		14,679

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT P-3
MIAMI DADE AVIATION
DEPARTMENT FBO

SCALE: 1" = 50' EFS #: DRAFT 836 DATE: 2/27/2009

Handwritten initials



CODE:	SPACE CLASS	SQ. FT.
	Non-Flight Line Land	99,963
	Airside Aircraft Pavement	377,070
TOTAL		477,033
SCALE: 1" = 100'	EFS #: draft SIG-BLDG	DATE: 2/27/2009

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT P-4
MIAMI DADE AVIATION
DEPARTMENT FBO

Handwritten initials/signature

Exhibit Z

List of Proposed Hazardous Materials

Jet-A Jet Fuel	Lead Acid Batteries
Jet-A Jet Fuel with FSII	NiCad Batteries
Anti-icing fuel additive (FSII)	CO ₂ with Life Raft
100LL Aviation Gasoline (AVGAS)	Misc. Cleaners, Detergents, and Degreasers
Velcon Fuel Filters	Lavatory Waste with flushing fluid (Blue Juice)
Used Velcon Fuel Filters	Isopropyl Alcohol
Diesel Fuel	Methanol
Automotive Gasoline (MOGAS)	Propylene Glycol
Aviation Motor Oil	Fire Extinguishers
Jet Oil	Fluorescent Bulbs
Skydrol	Waste Fluorescent Bulbs
Automotive Motor Oil	Silicone Sealer
Gear Oil	Caulk
2 Cycle Engine Oil	Drain Cleaner
WD-40	Bleach
Lock-Ease	Disinfecting Spray
Anti-Seize	Rat & Mouse Killer
Starting Fluid	White Out
Carb, Choke & Throttle Cleaner	Krazy Glue
Fuel Injector Cleaner	Adhesive Cement
Mineral Spirits	Magnaflux Penetrant
Engine Coolant/Anti-freeze	Smoke Detector Tester
Hydraulic Fluid	Goof Off
Brake Fluid	Latex Paint
Brake Cleaner	Kilz Stain Blocker
Battery Terminal Cleaner	Spray Paint
Lubricating Grease	Spray Adhesive
Waste Fuel	Battery Acid (Electrolyte)
Used Oil	Toluene
Floor Dry	Acetylene
Fuel soaked absorbent materials	Ethylene Glycol
Oxygen	Isopropyl Alcohol
Nitrogen	
Argon	