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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# Memorandum

MIAMI-DADE COUNTY

Date: September 4, 2012

Agenda Item No. 8(A)(2)

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

From: Carlos A. Gimenez
Mayor

Resolution No. R-672-12

Subject: Development Lease Agreement between Miami-Dade County, as Lessor and The Cylinder Shop, Inc., as Lessee, at Opa-Locka Executive Airport

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**RECOMMENDATION**

It is recommended that the Board of County Commissioners (Board) approve a 25-year Development Lease Agreement (Lease Agreement) with The Cylinder Shop, Inc., for the construction of a taxi lane, a ramp area, a hangar, and office space, along with all infrastructure and utilities at Opa-locka Executive Airport (OPF).

**SCOPE**

Opa-Locka is located within Commissioner Barbara Jordan's, District 1.

**FISCAL IMPACT/FUNDING SOURCE**

This lease agreement is revenue-generating. The Cylinder Shop will be paying an annual land rent of $26,136 as of the commencement date of this Lease Agreement for 130,680 square feet (3 acres). In addition, The Cylinder Shop is required to invest a minimum of $750,000, which is consistent with the Miami-Dade Aviation Department's (MDAD) minimum development requirement at General Aviation Airports of $10,000 per acre per initial term years ($10,000 x 3 acres x 25 = $750,000).

**TRACK RECORD/MONITOR**

The Cylinder Shop has a good record of rental payments to the County. The Property Manager Daniel Dooling, MDAD Real Estate Management & Development, will monitor this Lease Agreement.

**BACKGROUND**

MDAD is actively pursuing development at Opa-locka Executive Airport. The Cylinder Shop currently leases space from AA Acquisitions. The Cylinder Shop contacted MDAD expressing their desire to directly negotiate with MDAD for 3 acres of available undeveloped land to construct a taxi lane, ramp area, a hangar, and office space, along with all infrastructure and utilities on a three-acre tract investing a minimum of $750,000.

The Cylinder Shop will lease this property for a term of 25 years from the commencement date of this Lease Agreement with no renewal terms. The County may terminate the Lease Agreement if The Cylinder Shop fails to obtain a permit to begin construction of the hangar within one year, or to complete the construction within two years. The County may reduce the term of this Lease Agreement if the lessee fails to make the minimum investment, or does not obtain a Certificate of Occupancy (CO) or Temporary CO for the improvements within 24 months. The reduced term will maintain the investment ratios per acre per year consistent with the County's criteria for General Aviation Airport development ($10,000 per acre per lease year).

Jack Osterholt, Deputy Mayor

# MEMORANDUM
(Revised)

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

**DATE:** September 4, 2012

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

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

Resolution No. R- 672-12

**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)(2)

9-4-12

RESOLUTION NO. R-672-12

RESOLUTION RELATING TO OPA-LOCKA EXECUTIVE AIRPORT; APPROVING DEVELOPMENT LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CYLINDER SHOP INC., FOR CONSTRUCTION OF A STORAGE HANGAR, RAMP, OFFICE SPACE, AND RELATED FACILITIES AT OPA-LOCKA AIRPORT AT A COST OF NOT LESS THAN $750,000; AUTHORIZING MAYOR OR DESIGNEE TO EXECUTE AND ENFORCE THE TERMS OF SUCH AGREEMENT ON BEHALF OF MIAMI-DADE COUNTY

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

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board approves the attached Development Lease Agreement between Miami-Dade County and the Cylinder Shop Inc., under which the Cylinder Shop, Inc. will construct a hangar, ramp, office space, and related facilities at Opa-Locka Airport at a cost of not less than $750,000; authorizes the Mayor or Designee to execute such Agreement, to enforce the terms of the Lease, and authorizes the Mayor or Designee to execute the termination provisions thereof.

The foregoing resolution was offered by Commissioner **José "Pepe" Diaz** who moved its adoption. The motion was seconded by Commissioner **Audrey M. Edmonson** 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 | **aye** |
| Esteban L. Bovo, Jr. | **aye** | Jose "Pepe" Diaz | **aye** |
| Sally A. Heyman | **aye** | Barbara J. Jordan | **aye** |
| Jean Monestime | **absent** | Dennis C. Moss | **aye** |
| Rebeca Sosa | **aye** | Sen. Javier D. Souto | **aye** |
| Xavier L. Suarez | **absent** | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 6 day of September, 2012. 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: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray

Agreement No.: **OPF-6402**

Cust. No.: _____

**DEVELOPMENT LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY, FLORIDA, AS LESSOR, AND THE CYLINDER SHOP INC., AS LESSEE, AT OPA-LOCKA EXECUTIVE AIRPORT.**

THIS DEVELOPMENT LEASE AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, _____, (the "Commencement Date"), by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, acting by and through its Aviation Department ("Lessor" or sometimes "County"), and THE CYLINDER SHOP INC., a corporation authorized to do business in the State of Florida ("Lessee ").

**W I T N E S S E T H**

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

**WHEREAS**, the Lessee operates a Flight School and a Aircraft Storage facility and is a non-scheduled Part 135 Air Carrier desiring to relocate its operation to the southern area of OPF; and

**WHEREAS,** Lessee desires to lease a parcel of undeveloped land consisting of 3 acres upon which Lessee intends to construct a taxilane, a ramp area, a hangar, and an office facility, along with all infrastructure and utilities that may be needed for such facilities, and Lessor is willing to lease such undeveloped parcel conditioned upon Lessee's construction of such Improvements at the minimum level of cost and within the stated period of time as provided herein; and

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

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

## ARTICLE 1
## Term and Premises

1.01 Term:

(A) The Lessor hereby leases to the Lessee, and the Lessee leases from the Lessor, the Premises as set forth in Article 1.03 ("Premises"), consisting of approximately 3 acres, for the purposes and uses set forth in Article 2 (Use of Premises) and Article 4 (Improvements to the Premises), with the right of Lessee to construct or cause to be constructed and thereafter occupy and make use of those infrastructure facilities, utilities, building and land Improvements, structures, and facilities described in Article 4 (hereinafter the "Improvements"), all for a lease term of twenty (25) years from the date first written above (Commencement Date).

(B) Lessee acknowledges that the term of this Agreement as it applies to the entire 3 acre Premises shall be reduced in accordance with Article 1.06 if Lessee fails to complete construction in a timely manner or fails to make the minimum construction investment required herein.

(C) The Lessor and Lessee agree that Lessee may occupy for not longer than 24 months from the Commencement Date the premises hereunder by use of trailers and like temporary facilities.

1.02 Investment: The Lessee shall expend as a Minimum Development Investment SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) in design and construction costs on the Premises for all the facilities to be constructed, including a hangar facility, office building, ramp, and taxilane along with all necessary infrastructure and utilities (herein, the "Improvements"). The construction may be completed in phases or as one project, at Lessee's discretion, but Lessee must expend the Minimum Development Investment of $750,000.00 within two (2) years of the Commencement Date for all of such Improvements. At the end of the two year period, all Improvements must be completed and have a Certificate of Occupancy ("CO") or a Temporary Certificate of Occupancy ("TCO") issued for each facility requiring a CO or TCO, with Approved Improvements Costs for such facilities amounting to not less than $750,000 as determined under Article 4.09. If Lessee fails to make the minimum investments in the total amount of $ 750,000.00 within the two year period, or fails to construct the Improvements within such two year period, Lessor shall have the remedies set forth in Article 1.06 below.

1.03 Premises: The Premises leased herein consist of the undeveloped 3 acre (130,680 square feet) site located at Opa-locka Executive Airport and are more particularly described below and as shown on Exhibit A of this Agreement:

**Exhibit A**

| **Description of Premises** | **Square Footage** |
|---|---|
| Aviation Land | 130,680 |

1.04 Suitability of Premises; Contribution of other Tenants to Lessee's Infrastructure Costs:

(A) The Lessee acknowledges that the Premises are totally undeveloped and have no infrastructure or utilities on the Premises, and that (a) the Lessor has made no representations as to the Premises or the suitability of the Premises for the purposes of the Lessee, (b) the Premises are suitable for the Lessee's proposed use, (c) the Lessor has no obligation to perform or cause to be performed any maintenance, repairs, renovations, cleanups, painting, or the like of the existing facilities on the leased Premises which are leased in an as is condition, except to the extent of Lessor's responsibilities for environmental conditions under Article 9, (d) Lessee has made whatever site inspections it deems necessary so as to be apprised of the conditions of the premises, both above ground and below ground, and has made its own determination that the Premises are suitable for its intended use (e) Lessee has reviewed all documents applicable to the Premises and the adjacent areas of OPF, (f) Lessee has otherwise satisfied itself that the conditions of the Premises, and the lack of infrastructure and utilities on the Premises are satisfactory to the Lessee, and (g) Lessor has no obligation to construct or install any infrastructure or utility Improvements on the Airport that are not constructed or installed as of the commencement date. The Lessee's obligation under this Agreement, such as in Article 7.01(B) (Permits and Licenses), to obtain all land use, construction, and operating permits and approvals required of the Lessee at the Lessee's sole cost and expense, shall not require the Lessor to take any action or perform any tasks within the Premises to enable the Lessee to obtain such permits and approvals, including, but not limited to, certificates of occupancy, which shall remain the Lessee's exclusive obligation to take or perform in order to obtain such permits and approvals. The Lessee further acknowledges that, by executing this Lease, the Lessee at its own cost, risk, and expense must make the necessary investments and all Improvements to the Premises, including all infrastructure Improvements and utilities services necessary for Lessee's construction and use of the Premises, to make the Premises suitable for the Lessee's use and to satisfy the County's building, life, safety, fire and occupancy requirements, and that the Lessor shall have no obligation to Lessee to compensate or reimburse Lessee for such cost, risk, expense, investment, and Improvements.

(B) If any infrastructure improvements or utilities are constructed or installed on Lessee's Premises that will enable other tenants in the immediate area of the Premises to make use of their Premises without having to construct or install their own improvements or utilities or that will be a particular benefit to such other tenants, Lessor shall use reasonable efforts to require such other tenants to contribute a fair share of Lessee's infrastructure and utilities costs, such fair share to be determined by Lessor whose decision shall be final. The fair share as determined by Lessor shall be incorporated into the rental and payment provisions of the leases for such other tenants

and remitted to Lessee in a manner, and at the times, that Lessor in its reasonable determination shall establish.

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

1.06 Failure to Develop: Lessor has granted this Agreement for a twenty-five (25) year term on the basis of Lessee's assurance that Lessee will expend not less than SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) for the design and construction of the Improvements on the Premises. If Lessee fails to obtain a permit to begin construction of the hangar within one year from the Commencement Date or complete the construction of all such previously-described Improvements within two (2) years from the Commencement Date, the Lessor may terminate this Lease. If Lessee constructs the Improvements on the Premises but fails either to make the minimum investment of SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) for construction of the Improvements on the Premises and/or obtain a CO or TCO for the Improvements within twenty-four (24) months of the Commencement Date, Lessor shall be entitled to reduce the length of the Term of this Agreement to maintain the investment ratios per acre per year consistent with the County's criteria for aviation development ($10,000 per acre per lease year).

1.07 Approval or Review: Lessee acknowledges that (a) the Agreement and the construction of Improvements under this Agreement is subject to the approval of the Trustees under the Amended and Restated Trust Agreement dated December 15, 2002, such Trust agreement being further described in Article 19 of this Agreement; and (b) This Lease Agreement (the "Agreement") is subject to the review of the Federal Aviation Administration (FAA), and shall not be effective until completion of such FAA review and the parties' acceptance of any changes hereto required as a result of the FAA review. If the FAA indicates that any portion of this Agreement is not consistent with the requirements of federal law or grant assurances, or else raises an objection to

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

1.08 Early Termination for Airport Purposes:

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

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

(C) In the event such notice is given after completion of any Improvements to be terminated under the notice, the notice shall provide Lessee with a reasonable period of time to vacate the Improvements, which shall be not less than sixty (60) days after Lessee's receipt of the notice. Lessor shall be responsible for paying to Lessee the fair market value of the Improvements, determined by a qualified appraiser selected and paid for by the Lessor. If Lessee does not accept the appraised value of Lessor's appraiser, Lessee shall have the right to select and pay for its own appraiser. If Lessor does not accept the Lessee's appraised value determined by the Lessee's appraiser, the two appraisers shall select a third appraiser, whose costs shall be paid equally by

Lessor and Lessee. Any appraiser selected hereunder must be a member of the Master Appraisal Institute or equivalent. All three appraised values shall be added together and divided by three to obtain the appraised value Lessor is required to pay the Lessee. Lessor shall cause Lessee to be paid the appraised value within sixty (60) days of determining the appraised value in accordance with this sub article.

## ARTICLE 2

## Use of Premises

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

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

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

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

(C) Use of Hangars: Lessee shall use all T-Hangers, and shall require all sub-tenants using T-Hangers, to comply with MDAD's requirements as to proper T-Hangar use, as MDAD modifies, alters, or adds to such requirements from time to time. As to personal property that may be stored in T-Hangars, the following may be stored or used in the T-hanger unless otherwise advised by MDAD:

(I) A reasonable amount of aviation oil and fluids in approved containers sufficient to service the aircraft in the immediate future. The T-Hangar user may not stockpile such items in the amount beyond a few months' supply of such items.

(II) Cleaning equipment, materials and liquids that may be purchased in any standard grocery store, to be used solely for cleaning the aircraft, approved personal property stored in the T-Hangar, and the T-Hangar itself.

(III) A small refrigerator and a microwave provided sufficient electrical current is provided for such use.

(IV) Patio-style (or other) comfortable furniture to accommodate small seating arrangement. (4 chairs and one sofa).

(V) An automobile or motorcycle that is used by the T-Hangar tenant to transport himself or herself to the T-Hangar. (Automobiles or motorcycles may not be stored in the T-Hangar when the T-Hangar is occupied by an aircraft.)

(VI). A single TV and a single radio.

(VII). A reasonable amount of reading material.

(VIII) A fan reasonable in size for the T-Hangar's occupants while using the T- Hangar.

(IX) A tool box containing appropriate aircraft maintenance tools for the aircraft being stored in the T-Hangar, along with a reasonable amount of materials and replacement parts reasonably needed for maintenance of such aircraft.

(X) A motorized vehicle (such as a golf cart or riding mower or the like) to tow the craft.

(XI) A Lavatory Cart.

(XII) An Auxiliary power unit (APU) is a device on a vehicle that provides energy for functions other than propulsion. They are commonly found on large aircraft, as well as some large land vehicles.

2.02 Use of Premises: The Lessee shall use the Premises leased herein for (a) operating a flight school, (b) making use of office space for Lessee's operation, (c) sales of pilot supplies, (d) providing aircraft storage for (i) aircraft owned or leased by Lessee and (ii) non-owned and non-leased aircraft in accordance with MDAD' Minimum Standards as may be amended from time to time, (e) providing light maintenance on aircraft owned or leased by Lessee, and (e) operating as a Part 135 Air Carrier.

2.03 Non-Flyable Aircraft: In no instance shall any non-flyable aircraft be parked or stored on the Premises for a period in excess of 60 consecutive days, without the prior written approval of the Department. After such 60-day period, the Lessee shall remove any non-flyable aircraft from the Premises within 15 days, when notified in writing by the Department to do so, unless such aircraft is then and there undergoing maintenance as authorized herein. Failure of the Lessee to remove non-flyable aircraft shall result in the Department declaring said aircraft derelict and subject to removal pursuant to Chapter 25-10.24 of the Miami-Dade County Code, as well as the Department's termination of this Agreement.

2.04 Concession Services: The Lessor reserves the right to establish fees and require permits for the operation of concessions, restaurants, car rentals, taxicab and other ground transportation services and other commercial activities at the Airport.

2.05 Collection of Certain Fees and Charges: The Lessor reserves the right to establish fees for the landing and parking of all or special classes of aircraft at the Airport. The Lessee, as a further consideration for this Agreement, shall be required, when directed in writing by the Lessor, to collect and promptly remit to the Lessor aviation fees and other aviation charges, approved by the County and payable to the Lessor. The method of collection and remittance of such fees and charges shall be as determined and directed by the Lessor in writing. A failure to collect and pay same shall constitute a default under Article 13.03 (Other Defaults) hereof. The Lessee shall be permitted to retain five percent of such fees and charges collected on behalf of the Lessor, which amount shall be considered as full and final payment to the Lessee for the cost of collecting and remitting the fees and charges, and shall not be considered as part of gross revenues earned by Lessee.

2.06 Lessee's Rights Not Exclusive: Notwithstanding anything herein contained that may be, or that may appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this agreement are non-exclusive and Lessor reserves the right to grant similar privileges and similar leases to other lessees on other parts of the airport and to take any and all actions (including the leasing of property for any lawful purpose) that Lessor is permitted to take under federal, state, and local law pertaining to the airport on which the Premises herein are located.

## ARTICLE 3
## Rentals and Payments

3.01 Rentals:

(A) Annual and Monthly Rent: As annual rental for the lease of the Premises, the Lessee shall pay to the County Prior on the commencement date listed above, the sum of **$27,965.52** said sum to be prorated and payable in equal monthly installments of **$2,330.46** in U.S. funds on the first day of each and every month, in advance and without billing, at the offices of the Department as set forth in Article 3.05 (Address for Payments). Said rental is computed as follows:

| EXHIBIT | LEASEHOLD | SQ.FT. | RATE | ANNUAL | MONTHLY |
|---|---|---|---|---|---|
| A | Aviation Land | 130,680 | .20 | $26,136.00 | $2,178.00 |
| | | | TOTAL | $26,136.00* | $2,178.00* |
| | | Security Deposit | | $4,660.92 | |
| | | | | | |

***Plus applicable sales tax as required by law***

(B) Periodic Calculation of Rent: As to the land located on the Premises, Lessee shall pay on a monthly basis, ground rent (land and pavement) that is determined by the County to be fair market value (FMV) rental rates established through appraisal and approved by the Board of County Commissioners beginning on the commencement

date. Ground rent on the Premises shall be paid beginning with the Commencement Date at the applicable rates established by the County on an annual basis, or on a greater or lesser period of time as determined by the County.

(C) Date of Beneficial Occupancy: The Date of Beneficial Occupancy ("DBO") is defined to be the earliest of (i) the date on which Substantial Completion of the Work associated with any Improvements on the Premises has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy or a Temporary Certificate of Occupancy that enables the Lessee to occupy or utilize the Improvements in any manner for its intended use, (ii) the date on which the Lessee commences the use of any Improvements for its intended use (with or without a TCO or CO), or (iii) the date on which Substantial Completion of the Improvements would have occurred and on which the appropriate code enforcement agency would have issued a Certificate of Occupancy or Temporary Certificate of Occupancy but for the occurrence of Lessee's delays, all as determined in the sole reasonable discretion of the County.

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

(E) Improvements Rent; Title to Improvements:

(1) Lessee shall commence paying Lessor a monthly Improvements Rent, equal to the appraised annual lease value of the Improvements as determined by Lessor's appraisers, starting on the Twenty Fifth (25th) Anniversary from the Commencement Date, divided by twelve. Lessee may challenge such lease value determination with an appraisal of its own and submit such appraisal to the Lessor for its consideration. The Lessor's determination of the Improvements Rent to be charged, after reasonable consideration of such appraisal by the Lessee, shall be final.

(2) Unless the parties have otherwise agreed, title to all Improvements made on or under the Premises by Lessee shall revert to the Lessor on the first day of the first month of the twenty-fifth anniversary of the Commencement Date. Lessee shall provide reasonable documentation to Lessor confirming transfer of such title to the Lessor.

3.02 Security Deposit: Prior to occupancy or use of any Improvements on the Premises, the Lessee shall pay to the Lessor an amount equal to (2), two times the required total monthly ground rent and Improvements Fee for the Improvements as determined pursuant to Article 3.01 above, plus applicable State sales tax on such security deposit amount, as security for the payment of the Lessee's obligations hereunder. Said deposit shall be in addition to any rental payments required hereunder, and the Lessor shall be entitled to apply such payment to any debt of the Lessee to the Lessor that may then

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

3.03 Rental Rate Review: Annually as of October 1 of each year during the term of this Agreement, or such other date as may be established by the Board of County Commissioners, the ground rental rates, existing building rentals, and Improvements Fees applicable to the Premises as stated in Article 3 (Rentals and Paymnets) above shall be subject to review and adjustment in accordance with the adjustment of rental rates for the entire Airport. If the Board does not make any change in the FMV rental rates for land, then the FMV rental rates for land may be adjusted by the Department effective on October 1 of each year of this Agreement based on the changes in the Consumer Price Index (the CPI), for Miami-Dade County.

When such rental rate adjustments are established by the Board of County Commissioners or as directed by the Aviation Director pursuant to Resolution No. R-186-01 or made for annual CPI adjustments and new or revised rental rates applicable in whole or in part to the Premises are established, this Agreement shall be deemed to have been administratively amended to incorporate the revised rental rates effective as of such effec-tive date. Such revised rental rates shall be reflected herein by means of a letter between the Department and the Lessee to be attached hereto. Payments for any retroactive rental ad-justments shall be due upon billing to the Lessee by the Department and payable by the Lessee within thirty calendar days of same. Notwithstanding anything to the contrary provided herein, the adjustment of rental rates for the Premises shall be based on a non-discriminatory application of the rental rates for the entire Airport as adjusted by the Board of County Commissioners or according to annual CPI changes pursuant to Article 3.01.

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

demand, such rentals to be based upon the rental rates then applicable in whole or in part to the Premises.

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

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

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

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

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

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

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

in such manner as may be prescribed by the Department. Notwithstanding the absence of any identification in this Agreement of particular charges to be paid by Lessee for its use of the Premises and the Airport, Lessee agrees to pay whatever charges are imposed by the County on all tenants and users of the Airport.

## ARTICLE 4
## Improvements to Premises

4.01 Improvements to Premises:

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

(B) Notwithstanding Lessee's right to complete construction of the Improvements within two years from the Commencement Date, Lessee hereby agrees to invest not less than SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) in accordance with Article 1.02 (Investment) to design and construct Improvements and infrastructure on the Premises as detailed in Article 2.02 (Use of Premises). Expenditures that satisfy such minimum investment requirement shall be limited to actual expenditures made by Lessee that relate directly to the design and construction of the Improvements and infrastructure as reasonably determined by the Lessor, but as further described in Article 4.09 below, specifically excluding (i) costs associated with the design, purchase and installation of personal property, and (ii) accounting and legal fees.

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

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

(2) design and construction of the Improvements and infrastructure, including but not limited to utilities, roads, parking lots, landscaping, taxiways, and ramps;

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

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

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

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

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

4.02 Design of Improvements:

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

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

(C) As described in subsection (1) below, the Lessee shall submit to the Facilities Division of the Department the Contract Documents for each Improvement for the

Department's review, modifications, and approval. In no event shall the Department's review hereunder be unreasonably withheld, conditioned or delayed. The Department's failure to submit modifications within fourteen (14) business days from the date the complete Contract Documents are submitted by the Lessee to the Department shall be deemed as a consent by MDAD for Lessee to apply for permits from the appropriate County Departments; provided, however, that if the Department has requested changes on such Contract Documents, Lessee shall not go forward with the project until it has incorporated such changes in its Contract Documents and resubmitted them to the Department for confirmation that the changes in the Contract Documents have been made.

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

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

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

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

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

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

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

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

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

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

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

(3) Proof of the Pollution and Remediation Legal Liability insurance required under Article 12.01(C); and

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

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

(1) A check made payable to the Department in the amount that represents one percent (1%) of the budgeted construction hard costs for reimbursement

of Building Department fees pursuant to Article 4.03 (B) together with a copy of the construction contract awarded to the lowest bidder or as negotiated. If the final construction hard costs are higher or lower than the budgeted amount, the difference shall be multiplied by 1% and shall either be paid by Lessee to the Department if the resulting number is a positive amount in accordance with the time frame established under Article 4.05 herein or refunded to the Lessee by the Department if the resulting number is negative. Such fee shall be non-refundable. In addition, if Lessee obtains a building permit and allows the permit to expire prior to completion of the Improvements then Lessee shall be required to pay an additional one-half of one percent (½ of 1%) of the budgeted construction hard costs as administrative fees for plans processing reviews required by Building Department staff to issue a building permit. Such fee shall be non-refundable and shall be payable in addition to the 1% fee required pursuant to this Article 4.03(B) (1); and

(2) Copy of Lessee Audit pursuant to Article 9.05; and

(3) Copy of Lessee's Financing Documents pursuant to Article 11:03(B)

(C) Lessee shall not be authorized to begin construction until the above-listed items have been submitted to the Department. If Lessee begins construction prior to submission of the Documents and Fees in the required form and amounts, satisfactory to the Department, as required pursuant to this Article 4.03, the Department shall be authorized to halt Lessee's construction activities without any liability to the County until such time as Lessee satisfies this requirement. In such event, no extensions of time shall be granted by the Department to Lessee.

(D) During construction, the Department's Project Manager or a designee will be permitted by Lessee to observe all aspects of the progress of the work.

4.04 Construction of Improvements: Promptly following Lessor's approval of the Contract Documents in accordance with Article 4.02 (Design of Improvements), but not more than one hundred and eighty (180) days thereafter, the Lessee shall finalize and enter into a contract(s) for the construction of the Improvements, in accordance with the terms and conditions of the approved Improvements Documents. The Lessee shall cause the construction of the Improvements to be completed within the time period specified in the Contract Documents, excluding any delays not within Lessee's reasonable control, unless an extension of such period is approved, in writing, by the Department, but notwithstanding any periods of time set forth in the Contract Documents and except for any extension of time granted by the Department, no later than sixty (18) months following the Commencement Date for the Improvements. In no event shall any approval hereunder be unreasonably withheld, conditioned or delayed.

4.05 Failure to Complete on a Timely Basis:

(A) The Lessee shall complete construction of each Improvements, as evidenced by a Certificate of Occupancy, not later than the time periods set forth in the

Contract Documents and in any event not later than the time periods set forth in Article 1.02 (Investment) and Article 4.04 (Construction of Improvements), unless an extension is granted, subject, however, to any delays caused by casualty, Act of God or other cause beyond the control of the Lessee.

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

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

4.07 Construction Bonds and Insurance Required; Insurance Company Rating:

(A) All contracts for the construction of any Improvements shall require that Lessee shall maintain, or cause to be maintained, the following construction bonding and insurance during the construction of the Improvements:

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

(2) A contract completion bond from the Lessee to the County as security for the completion of and payment for the construction of the Improvements free and clear of all claims of any nature whatsoever in the full amount of the cost of the contracts for construction of the Approved Improvements. In lieu of a contract completion bond, the County may accept substitute documents that provide the

Aviation Department with assurance that the Lessee will complete the Improvements. If Lessee obtains a performance and payment bond that names the Lessee and its general contractor as joint obliges, County will accept such bond in satisfaction of the requirement for a contract completion bond, provided such bond is in a form reasonably acceptable to the County.

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

(4) Commercial General Liability Insurance as specified in Article 12 (Insurance) herein.

(5) Workers Compensation as required by Florida Statutes.

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

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

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

4.08 Construction Completion Documents: Within thirty (30) days following the completion of construction of any Improvements for which a Certificate or Temporary Certificate of Occupancy is issued; the Lessee shall furnish the following documents to the Department:

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

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

(C) Certificate of Occupancy for the Improvements;

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

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

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

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

4.09 Final and Approved Improvements Costs:

(A) For purposes of verifying Lessee's expenditure of not less than $500,000 in design and construction costs of the Improvements on the Premises, within ninety days of completion of construction of the Improvements, the Lessee shall submit to the Finance Division of the Department, a certified audit of the monies actually expended in the design and construction of the Improvements, including all infrastructure and utility facilities (collectively in this agreement, unless specifically stated otherwise, the "Improvements"), in accordance with the Contract Documents described above in Article 4.02 (A), prepared by an independent certified public accounting firm ("Auditor") approved in advance by the Department, which approval shall not be unreasonably withheld, conditioned or delayed. Eligible costs for such Improvements are those costs for project management, any design costs paid by the Lessee which are not attributable to items considered to be nonreimbursable obligations of the Lessee, and construction in accordance with the Contract Documents and any changes thereto requested by the Lessee and approved by the Department, including the costs of required bonds and construction insurance ("Approved Improvements Costs"). The Lessee shall be responsible for documenting for the Auditor that the monies were expended and that they are true and correct. The Department's failure to disapprove the audit submitted by Lessee as required in this Article 4.09 within ninety (90) days from the date of submission shall constitute an unconditional approval. In the event of any disputes between the Department and the Lessee as to whether certain costs are to be included in Approved Improvements Costs, said dispute(s) shall be submitted to the Consulting Engineers under the County's Trust Agreement, as defined in Article 19.01 (Incorporation of Trust Agreement by Reference) hereof. The decision of said Consulting Engineers shall be final and binding upon the parties hereto.

(B) Approved Improvements Costs shall include the actual expenditures as certified under the construction audit for architectural and engineering design, construction, site development, required bonds, construction and liability insurance,

construction financing fees and interest, building permit, impact and concurrency fees, and the construction audit, but shall exclude the costs of any other consultant (unless otherwise approved in advance by the County) or accountant fees, financing charges or legal fees whether arising out of construction claims or lawsuits or any other matter, interior decorations (other than standard County approved finishes) special finishes, wall tile or other special wall finishes and coverings, construction photographs, special external and internal lighting and signage, and furniture and other personal property of the Lessee. In the event of any questions as to whether certain costs are to be included in the Approved Improvements Costs, the County through its Consulting Engineers shall make a determination and its decision shall be final.

4.10 Temporary Structures: Trailers or temporary structures used for construction purposes and for business purposes shall be allowed on the leased Premises during the period of construction of the Improvements subject to all required permitting. All trailers or temporary structures must comply with the Florida Building Code and must be removed prior to or upon the ending of construction. Copies of the building permits shall be submitted to the Department's Facilities Project Manager within ten (10) calendar days of issuance to Lessee.

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

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

4.13 Assignment of Contract Documents to Lessor and Assumption of Construction of Improvements by County: In the event that Lessee fails to perform its material obligations under Article 4 of this Agreement, the Lessor may provide Lessee written notice of such default specifying those matters constituting such default. Material obligations shall include, but not be limited to, compliance with the Contract Documents and compliance with any regulatory requirement. If such default continues for a period of thirty (30) days following Lessee's receipt of the notice or Lessee fails to diligently commence to cure such default within such thirty (30) day period if such default is of a

nature that it cannot be cured within thirty (30) days, the Lessor may either terminate this Agreement or else terminate Lessee's rights with respect to the construction of the Improvements or portions thereof and thereafter assume the obligations of Lessee under this Article 4 of the Agreement and complete the construction of the Improvements or portions thereof.

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

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

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

## ARTICLE 5
## Maintenance and Repair by Lessee

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

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

5.03 Maintenance and Repairs:

(A) The Lessee shall be exclusively responsible for maintenance and repair of the Premises (including unpaved and landscaped areas and whether or not Improvements certificates of occupancy or temporary certificates of occupancy have been issued), and each Improvements thereon except for those off-premises items for which the Lessor is responsible under Article 6 (Maintenance by Lessor). Maintenance and repairs by Lessee shall be in quality and class equal to or better than the original work to preserve the Premises in good order and condition. The Lessee shall repair all damage caused by the Lessee and its employees, agents, independent contractors, patrons, servants or invitees. Lessee's maintenance of the Premises site shall begin upon transfer of possession in accordance with Article 1.01(a).

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

(C) Any injury or damage caused by the installation or removal of personal property of the Lessee shall be repaired so as to restore Improvements on the Premises to their original state, except as such Improvements may have been altered by the Lessee with the approval of the Lessor pursuant to Article 8.01 (Alterations), and to quit and surrender up the Premises in the same good order and condition as it was at the commencement of this Agreement, except for reasonable wear and tear and damage caused by an Act of God; provided however, that such return of the Premises in the condition required under this Article 5.04 shall not relieve the Lessee of its obligations for damages to the Premises that may be specifically provided elsewhere in this Agreement.

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

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

5.07 Industrial Waste Facilities: The Lessee shall be fully responsible for all industrial wastes exiting or resulting from Lessee's operations on the Premises and in response thereto shall provide, operate and maintain adequate facilities on the Premises for separating, neutralizing and treating industrial wastes and foreign materials and the proper disposal thereof, in accordance with applicable laws, rules and regulations.

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

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

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

## ARTICLE 6
## Maintenance by Lessor

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

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

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

## ARTICLE 7
## Regulations, Licenses and Permits

7.01 Rules and Regulations - General:

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

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

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

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

## ARTICLE 8
## Alteration of Premises and Erection of Signs

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

8.02 Removal of Alterations: Any alterations pursuant to Article 8.01 (Alteration) above constructed or installed by the Lessee at its sole expense, including signage and

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

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

## ARTICLE 9
## Environmental Compliance

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

(A) "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 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.

9.02 Lessee's Acceptance of the Risks and Condition of Premises As-Is: Lessee agrees that the Premises shall be leased and delivered to Lessee in its current "as-is/with all faults" condition (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, warrants, covenants, 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 9.05 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 Tab B (Contamination Assessment Reports (CARS), Remedial Action Plans (RAPS) and other documents) 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 of 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 of 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 9, 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 9) resulting from the presence of Hazardous Materials on the Premises at any time during this Agreement.

9.03 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 9.05 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 9.01(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 9.16 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.

(A) 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 9.15. 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 9.03 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)(1) To the extent they exist, the County has made available to Lessee a listing of contamination assessment reports, remedial action plans and other documents regarding any soil and groundwater contamination at the Premises. Such documentation is listed in Tab B 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 Tab A (Leased Space Exhibits) 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 Tab A (Leased Space Exhibits) at any time during the term of the Agreement and may continue until such time as a no further action letter is obtained from the appropriate regulatory authorities.

9.04 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 9.15, 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.

9.05 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 term 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 or 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 9.03, 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 9.16 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.

9.06 Environmental Maintenance of Premises: Except for the obligations of the County under this Article 9, 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.

9.07 Lessee's Use of Hazardous Materials: Tab C (Lessee's Hazardous Material List) 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 Tab C, 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 of 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 9.08 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.

9.08 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 9.08(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 of 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 9.08.

9.09 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.

9.10 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.

9.11 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.

9.12 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 Exhibit E") 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 Tab C (Lessee's Hazardous Material List) 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.

9.13 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 be 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.

9.14 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, fess 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 9.14 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 section 9.15 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 9.14(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 9.14(A) above, and without waiving its rights hereunder, County may, at its option, perform such remedial work as described in Article 9.13(A) above, and thereafter seek reimbursement for the costs thereof. In accordance with this Article 9, 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 1 ½ % per month on the outstanding balance commencing on the thirty-first day 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 9, 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 9, any liabilities or responsibilities which are assessed against County in any action described under this paragraph.

9.15 Dispute Resolution: County and Lessee agree that any dispute between them relating to this Article 9 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.

9.16 Waiver and Release: Lessee, on behalf of itself and its heirs, successors and assigns, hereby waives, releases, acquits and forever discharges County, its principals, officers, directors, employees, agents, representatives and any other person acting on behalf of the County, and the successors and assigns of any of the preceding, of and

from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Lessee or any its heirs, successors, or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present or future physical characteristic or condition of the Premises, including, without limitation, any Hazardous Material, in at, on, under or related to the Premises, or any violation or potential violation of any Environmental Law applicable thereto; provided, however, this Article 9.16 shall not constitute a waiver or release of any obligation of County under this Article 9. Lessee acknowledges that County would not enter into this Agreement without Lessee's agreement to the waiver and release provided herein.

9.17 No Waiver of Rights, Causes of Actions or Defenses. Notwithstanding any language in this Agreement, including without limitation Articles 9.02, 9.03, 9.04, 9.05, 9.13, 9.14 and 9.15, 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.

9.18 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 section 9.18 to the extent of County's obligations under this Article 9.

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

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

9.22 Right to Regulate: As provided for in Article 20 of this Agreement, nothing within this Article 9 shall be construed to waive or limit, restrain, impair or interfere with the County's regulatory authority.

## ARTICLE 10
## Indemnification

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

## ARTICLE 11
## Assignment and Subletting and Conditions of Financing

11.01 Assignment and Transfer; Assignment Fee:

(A) Except as provided in Article 11.03, the Lessee shall not, in any manner, assign, transfer, mortgage, pledge, hypothecate, encumber or otherwise convey an interest in this Agreement, or authorize others to exercise the rights granted to the Lessee herein, without the express written approval of the Department. Lessee may not assign the whole of sublet any portion of the Premises and Improvements, or permit their use by any others, without the County's prior written consent, which shall not be unreasonably withheld, including without limitations any sublease to third party operator. In the event the Lender seeks provisions in the assignment affecting the interests or requiring certain actions by the County, such provisions must be approved by the County; however, such provisions shall not be unreasonably withheld or delayed by MDAD for so long as the Use of Premises as provided for in Article 2 (Use of Premises) remain the same and are assigned or transferred to an entity deemed by MDAD to be reputable and credit worthy meeting the County requirements stated under Article 11.03 (D) (5) (Transfer To A "Transferee" or "Successor Lessee").

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

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

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

11.03 Conditions of Financing for Approved Improvements Costs:

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

(B) Lessor Approval of Financing Documents. The Lessor reserves the right to approve the documents memorializing any financing that Lessee secures on the authority of Article 11.03 (A), which approval shall not be unreasonably withheld. Lessee must submit for the Lessor's review and approval drafts of the financing documents in advance of Lessee's execution of those documents or documentation verifying Lessee's ability to self-finance the Improvements (Exhibit "C").

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

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

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

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

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

(4) LEASEHOLD MORTGAGEE'S OPTION FOR ISSUANCE OF NEW LEASE. Prior to the expiration of the one (1) year period provided above in Article 11.03(D)(3), the Leasehold Mortgagee must request the Lessor to

execute and deliver a new lease for the Premises in favour of a successor Lessee meeting the criteria of Article 11.03(D)(5) (a "Successor Lessee"). That new lease will have a term that coincides with what would have been the remainder of the Term had termination of this Agreement not occurred and will otherwise be on the same terms and conditions as those set forth in this Agreement. The new lease will also have the same priority as this Agreement with respect to any lien or other encumbrance affecting the Premises, including any fee mortgage. In order for the Lessor to be obligated to execute and deliver the new lease, the Leasehold Mortgagee must request the execution and delivery of the new lease by the delivery of written notice to the Lessor within one year after the termination of this Agreement occurs, and acknowledge and return the new lease to the County for execution on the Lessor's part within 20 days after the date on which the Lessor tenders the new lease to it for signature. Simultaneously with the delivery of the new lease, the Successor Lessee must also execute and deliver to the Lessor a written plan to rectify within a reasonable period of time any default that exists at that time in respect of any of Lessee's obligations under the terms of this Agreement, including, without limitation, any default that may exist in respect of Lessee's obligations arising under the terms of Article 9 (Environmental Compliance); that plan must set forth in reasonable detail the manner in which the Successor Lessee plans to rectify each default.

(5) TRANSFER TO A "TRANSFEREE" OR "SUCCESSOR LESSEE". A transfer of Lessee's interest in the Premises to the Leasehold Mortgagee, or a corporate nominee affiliated with the Leasehold Mortgagee (herein a "nominee"), or a purchaser at a foreclosure sale that occurs by virtue of the Leasehold Mortgagee's acceptance of a deed in lieu of foreclosure or the exercise of any remedy available to it under the terms of the Leasehold Mortgage (herein a "Transferee") will not constitute an assignment requiring the Lessor's consent under the terms of Article 11.01 (Assignment and Transfer) above. The provisions of Article 2 (Use of Premises) will govern any use of the Premises that occurs prior to and after a transfer to the Transferee. The Transferee may make a subsequent transfer of Lessee's interest in the Premises only with the Lessor's prior written consent as provided in Article11.01. The Lessor will, however, consent to the subsequent transfer to a Successor Lessee or Lessees if the proposed successor or successors to the Lessee's interest would have been acceptable to the Lessor for the Premises in the reasonable exercise of the Lessor's judgment considering the successors experience, financial strength, history of meeting contractual obligations and intent to implement a business plan consistent with the Lessor's plan for operating the Airport. The parties agree that the Transferee will be subject to the termination provisions of Article 13 (Termination by Lessor or Lessee). After succeeding to Lessee's interest in the Premises, a Transferee that is not a Successor Lessee must use reasonable best efforts to find a Successor Lessee satisfying the criteria set forth above in this Article 11.03(D)(5), but in any event no later than one (1) year following the date of

termination provided in Lessor's default notice. If no Successor Lessee or Lessees are found in such one (1) year period to occupy at least 50% of the Premises and Improvements, then all of the Lessee's, Leasehold Mortgagee's and Transferee's interests in the Premises, the Improvements, and this Lease shall terminate in their entirety, without any right of recovery or compensation from the Lessor.

(6) NO OBLIGATIONS OF TRANSFEREE; LESSOR'S RIGHT TO TERMINATE IF OBLIGATIONS NOT SATISFIED. If a Transferee succeeds to Lessee's interest in the Premises by virtue of the Leasehold Mortgagee's acceptance of a deed in lieu of foreclosure or the exercise of any remedy available to the Leasehold Mortgagee under the terms of the Leasehold Mortgage, the Transferee and its successors and assigns will only have personal liability for the performance of those obligations incumbent upon Lessee under the terms of this Agreement that arise or accrue during the period between the time at which the Transferee succeeds to Lessee's interest in the Premises and the time at which it divests itself of that interest. The foregoing limitation will not preclude the Lessor from terminating this Agreement if the Transferee fails to rectify without cost to Lessor any default existing in respect of Lessee's obligations at the time the Transferee succeeds to Lessee's interest in the Premises, including, without limitation, any obligation arising under the terms of Article 9 (Environmental Compliance).

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

(8) RIGHTS OF LEASEHOLD MORTGAGEE IN INSURED LOSSES. The Leasehold Mortgagee will have the right to participate in the adjustment of any insured losses that becomes necessary by reason of damage or destruction

occurring to the Improvements, as may be applicable, and the right to supervise and control the receipt and disbursement of insurance proceeds to the extent provided in agreements among Lessee, Leasehold Mortgagees and any Lessee's holding an interest with respect to the Premises; provided, however, that any distribution of insurance proceeds must comply with the requirements of Article 12 (Insurance) of this Agreement.

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

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

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

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

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

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

be a third party beneficiary to the terms of this Agreement, and that such third party beneficiary status shall be unaffected by the rejection or disaffirmance of this Agreement in any bankruptcy proceeding by any party.

## ARTICLE 12
## Insurance

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

(A) Commercial General Liability Insurance on a comprehensive basis, including Contractual Liability, to cover the Lessee's Premises and operations, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.

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

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

12.02 Insurance Certificates Required: Prior to the commencement of operations hereunder and annually thereafter, the Lessee shall furnish or cause to be furnished certificates of insurance, and a copy of the insurance policy to the County 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

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

On said insurance certificates/policy, unless specifically shown to be excluded thereon, comprehensive commercial general 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.

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

12.04 Right to Examine: The County 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.

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

## ARTICLE 13
## Termination

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

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

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

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

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

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

13.05 Actions at Termination:

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

(B) If the Lessor advises the Lessee that it has reason to believe that any hazardous substance or environmental contaminant has been released within the Premises or into the ground under the Premises, then the Lessee at its expense shall retain an approved environmental consultant to perform whatever environmental

assessment may be required to determine the extent of such release. The Lessee shall comply with the recommendations and conclusions of such consultant regarding environmental clean-up efforts that may be required, and shall comply with any other clean-up requirements imposed on the Lessee by Federal, State or County laws, regulations or codes.

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

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

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

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

(A) The permanent abandonment of the Airport.

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

(C) The issuance by any court of competent jurisdiction of any injunction in any way substantially preventing or restraining the use of the Airport, and the remaining in force of such injunction for a period in excess of ninety (90) days. In the event of termination for such reason, Lessee's exclusive remedy shall be termination or

reinstatement of this lease by the County, at its sole discretion, for a period of time equal to the number of days that the injunction was in effect in excess of said ninety (90) days.

13.09 Habitual Default: Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly or repetitively defaulted in the performance of or breach any of the terms, covenants and conditions required herein, to be kept and performed by the Lessee, on [five (5)] occasions regardless of whether the Lessee has cured each individual condition of breach or default as provided for in Sub-Article 13.01 (Payment Default), Sub-Article 13.02 (Insurance Defaults), and Sub-Article 13.03 (Other Defaults) above, the Lessee shall be determined by the Airport Manager to be an "habitual violator". At the time that such determination is made the Department shall issue to the Lessee a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Lessee that there shall be no further notice or grace periods to correct any subsequent breach(s) or default(s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the County may terminate this Agreement upon the giving of written notice of termination to the Lessee, such termination to be effective upon the seventh (7th) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder. Immediately upon receipt of said termination, the Lessee shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with Sub-Article 13.05 (Actions at Termination) hereof.

13.10 Termination by Abandonment: This Agreement shall be automatically terminated upon the abandonment by the Lessee of Premises or voluntary discontinuance of operations at the Airport for any period of time exceeding fifteen (15) consecutive calendar days, unless such abandonment or discontinuance has been caused by casualty or governmental order that prevent the lessee's use of the Premises for the purposes authorized in Article 2.02 (Use of Premises) hereof.

## ARTICLE 14

## Special Conditions

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

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

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

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

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

## ARTICLE 15
## Nondiscrimination

15.01 Equal Employment Opportunity: The Lessee shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place or birth or national origin, ancestry, nor with accordance with the American with Disabilities Act, discriminate against any otherwise qualified employee or applicant for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodations. The Lessee shall take affirmative action's to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place or birth or national origin, ancestry or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by the County setting forth provisions of this Equal Employment Opportunity clause. The Lessee shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11375, revised Order No. 4 of December 1, 1971, as amended, the

Americans with Disabilities Act, the Age Discrimination Act effective June 12, 1968, the rules, regulations and relevant orders of the Secretary of Labor, Sections 112.042 and 112.043, Florida Statutes 2002 and Article 3 and 4 of Section 11A-23 of the Miami-Dade County Code, as such provisions may be amended from time to time.

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

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

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

prescribed, the County shall have the right, upon written notice to the Lessee to terminate this Agreement pursuant to Article 13.03 (Other Defaults) hereof.

15.05 Notification of Lessee's Nondiscrimination Policy; Reports:

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

(B) The Lessee shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Lessee's books, records, accounts by the county and Compliance Review Agencies for purposes of investigation to ascertain compliance with such rules, regulations and orders. In the event of the Lessee's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be cancelled, terminated, or suspended in whole or in part in accordance with Article 13.03 (Other Defaults) hereof and the Lessee may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

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

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

during the term of this Agreement, even if the Lessee was not in violation at the time it submitted its affidavit.

## ARTICLE 16
## Security and Special Provisions

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

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

16.03 Height Restrictions: The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the leased Premises to such a height so as to comply with Federal Aviation Regulations, Part 77 and with the Code of Miami-Dade County, whichever is more restrictive.

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

16.05 Drug-Free Workplace Affidavit; Default:

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

(B) Further, this Agreement shall be terminated upon not less than fifteen calendar days written notice to the Lessee and without liability to the Lessor, if the Lessor 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.

## ARTICLE 17
## Employees

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

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

## ARTICLE 18
## Civil Actions

18.01 Governing Law; Venue: This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this

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

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

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

## ARTICLE 19
## Trust Agreement

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

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

including any adjustment of the rentals, fees and charges required to be paid to the County pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions including the adjustment or rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

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

## ARTICLE 20
## Rights Reserved to the Lessor

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

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

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

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

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

21.01 Quit-Claim Deed: It is specifically understood and agreed between the parties hereto that Miami-Dade County holds title to the property of which the Premises are a part by virtue of a Quit-Claim Deed, dated the 16th day of November 1961, from the United States of America ("Government"), acting by and through the Administrator of General Services, which Quit-Claim Deed was filed on the 30th day of November 1961 in the Official Records of Miami-Dade County, Book No. 2909, page 351 ("Quit Claim Deed"). Lessee agrees that it will conduct no operations or take any actions that causes Lessor to be in violation of any term of such deed.

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

21.03 Government Use of Airport:

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

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

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

(3) Any monies paid by the Government to the County as rental for the use of the Premises shall be retained by the County; provided, however, that if the Lessee shall elect to suspend this Agreement for the period of the Government's use of the Premises, pursuant to subparagraph (A) (1) above, and rentals are paid by the Government for the use of any personal property or unamortized capital Improvements installed thereon by Lessee, the rentals received by the County for use of the Lessee's said property or Improvements shall be for the benefit of the Lessee and paid thereto.

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

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

## ARTICLE 22
## Other Provisions

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

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

22.03 Notices: All notices required or permitted to be given under the terms and provisions of this Agreement by either party to the other shall be in writing and, for notices to Lessee, shall be (i) hand delivered, (ii) sent by registered or certified mail, return receipt requested, (iii) sent my facsimile to Lessee's facsimile phone number located in Lessee's Premises, or (iv) sent by email to the email address of Lessee's business operation in the Premises, and for notices to Lessor shall be (i) hand delivered or (ii) sent by registered or certified mail, return receipt requested, as follows:

As to the Lessee:

Mr. Wayman Luy
Wayman Aviation
14351 NW 41st Avenue
Bldg. 209
Opa-locka, Florida 33054
Phone: (305) 685-6468
FAX (305) 685-6449
Email: wluy@wayman.net

As to the County or Aviation Department:

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

With a copy to:

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

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

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

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

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

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

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

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

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

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

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

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

22.13 Destruction of Premises: Because Lessee is constructing the Improvements at Lessee's expense and is retaining title to the Improvements for the initial twenty-five year term of this lease; Lessee shall be responsible for promptly replacing any damaged or destroyed Improvements during the initial term, using Lessee's insurance proceeds or its own funds. Lessee must continue to pay land and pavement rent during any period the Improvements are being renovated or reconstructed. Lessee must replace all damaged or destroyed Improvements to essentially their original condition, unless Lessor in its sole discretion permits Lessee in writing to renovate or reconstruct a damaged or destroyed Improvements in a manner that results in a different Improvements than the Improvements that was damaged or destroyed, or permits Lessee not to renovate or reconstruct the damaged or destroyed Improvements in any manner.

22.14 Quiet Enjoyment: Subject to the terms of this Agreement, specifically including but not limited to the environmental remediation steps to be taken under Article 9 (Environmental Compliance) Lessor's right and obligation to make certain repairs, alterations, and additions under Articles 5 (Maintenance by Lessor and 20.02 (Rights of Lessor at Airport), which, for purposes of this clause includes any and all demolition, in whole or in part, of buildings and runways, and roadway systems on or off the Airport, and the reservation of easement rights to the airspace under Article 16.02 (Right of Flight), all of which provisions and others in the Agreement the Lessee acknowledges may cause disruption and disturbance to the Lessee, and upon the observance by the Lessee of all the terms, provisions, covenants and conditions imposed upon the Lessee hereunder, the Lessee shall peaceably and quietly hold and enjoy the Premises for the term of this Agreement; provided, however, that the Lessor shall not be liable for any violation of this clause or for any disturbance or disruption in or to the Lessee's business, for acts or omissions of tenants, users of the Airport, third parties, or when any department or agency of the Lessor is acting in its governmental capacity, or by Acts of God.

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

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

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

22.18 Release of Lessor and Waiver of Claims: Lessee hereby releases Lessor and waives any and all claims Lessee has or may have against the County from the beginning of the world to the date of this Lease. In addition, Lessee agrees to dismiss itself as a claimant in the Part 16 proceeding now pending before the Federal Aviation Administration in which certain claims are made by Lessee and others against the Lessor.

22:19 Force Majeure: The terms and conditions of this Agreement (with the exception of the obligation of the Lessee to pay the amounts required by terms of this Agreement) shall be subject to force majeure. Neither the County nor the Lessee shall be considered in default in the performance of its obligations hereunder, if such performance is prevented or delayed because of war, hostilities, revolution, civil commotion, strike, lock-out, epidemic, fire, wind, flood or because of any law, order, proclamation, regulation or ordinance of any government or of any subdivision thereof beyond the reasonable control of the party affected, provided that notice of such force

majeure is given by the affected party, to the other within ten days of the beginning of said force majeure. Should one or both of the parties be prevented from fulfilling its contractual obligations by a state of force majeure lasting continuously for a period of six months, the parties shall consult with each other regarding the future implementation of this Agreement.

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

**BOARD OF COUNTY COMMISSIONERS**
**OF MIAMI-DADE COUNTY, FLORIDA**

By: _____
County Mayor

ATTEST: Harvey Ruvin, Clerk

By: _____
Deputy Clerk

(SEAL)

**THE CYLINDER SHOP, INC.**

BY: Rosa Luy
President

Rosa Luy
Print Name

ATTEST:

Corporate Secretary

Wayman Eduardo Luy
Print Name